

Senate Engrossed

court-ordered treatment; guardians; notice; release

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SENATE BILL 1243

AN ACT

AMENDING SECTIONS 36-541.01 AND 36-543, ARIZONA REVISED STATUTES; RELATING
TO COURT-ORDERED TREATMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-541.01, Arizona Revised Statutes, is amended
3 to read:

4 36-541.01. Release or discharge from treatment before
5 expiration of period ordered by court;
6 notification of intent to release or discharge;
7 hearing; immunity

8 A. A patient who is found to have a grave disability or a
9 persistent or acute disability and who is ordered to undergo treatment
10 pursuant to this article may be released from inpatient treatment when, in
11 the opinion of the medical director of the mental health treatment agency,
12 the level of care offered by the MENTAL HEALTH TREATMENT agency is no
13 longer required. The patient may agree to continue treatment voluntarily.
14 If the patient is to be released, the medical director OF THE MENTAL
15 HEALTH TREATMENT AGENCY shall arrange for an appropriate alternative
16 placement. If the patient who is to be released from inpatient treatment
17 is under a guardianship, the medical director of the mental health
18 treatment agency shall notify the guardian and any relevant regional
19 behavioral health authority AT LEAST ten days before the intended release
20 date that the patient no longer requires the level of care that is offered
21 by the MENTAL HEALTH TREATMENT agency. The guardian and, if relevant, the
22 regional behavioral health authority shall arrange alternative placement
23 with the advice and recommendations of the medical director of the mental
24 health treatment agency. THE GUARDIAN AND, IF RELEVANT, THE REGIONAL
25 BEHAVIORAL HEALTH AUTHORITY MAY WAIVE THE TEN-DAY NOTICE REQUIRED BY THIS
26 SUBSECTION.

27 B. A patient who is ordered to undergo treatment pursuant to this
28 article may be released from treatment before the expiration of the period
29 ordered by the court if, in the opinion of the medical director of the
30 mental health treatment agency, the patient no longer is, as a result of a
31 mental disorder, a danger to others or a danger to self or no longer has a
32 persistent or acute disability or a grave disability. ~~A person who is~~
33 ~~ordered to undergo treatment as a danger to others or who has had a~~
34 ~~petition filed by a prosecutor pursuant to section 13-4517 may not be~~
35 ~~released or discharged from treatment before the expiration of the period~~
36 ~~for treatment ordered by the court unless the medical director first gives~~
37 ~~notice of intention to do so as provided by this section.~~ IF THE PATIENT
38 WHO IS TO BE RELEASED FROM TREATMENT IS UNDER A GUARDIANSHIP, AT LEAST TEN
39 DAYS BEFORE THE INTENDED RELEASE DATE THE MEDICAL DIRECTOR OF THE MENTAL
40 HEALTH TREATMENT AGENCY SHALL NOTIFY THE GUARDIAN THAT IN THE OPINION OF
41 THE MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY THE PATIENT NO
42 LONGER IS, AS A RESULT OF A MENTAL DISORDER, A DANGER TO OTHERS OR A
43 DANGER TO SELF OR NO LONGER HAS A PERSISTENT OR ACUTE DISABILITY OR A
44 GRAVE DISABILITY AND THAT THE MENTAL HEALTH TREATMENT AGENCY INTENDS TO

1 RELEASE THE PATIENT FROM TREATMENT. A GUARDIAN IS NOT REQUIRED TO FILE A
2 DEMAND FOR NOTICE PURSUANT TO THIS SUBSECTION.

3 C. Before the release or discharge of a patient who is ordered to
4 undergo treatment PURSUANT TO THIS ARTICLE AND BEFORE THE EXPIRATION OF
5 THE PERIOD FOR TREATMENT ORDERED BY THE COURT, the medical director of the
6 mental health treatment agency shall notify the following of the ~~medical~~
7 ~~director's~~ intention OF THE MEDICAL DIRECTOR OF THE MENTAL HEALTH
8 TREATMENT AGENCY to release or discharge the patient:

9 1. The presiding judge of the court that entered the order for
10 treatment.

11 2. Any relative or victim of the patient who has filed a demand for
12 notice with the ~~treatment agency~~ COURT.

13 3. Any person found by the court to have a legitimate reason for
14 receiving notice.

15 4. THE PATIENT'S GUARDIAN.

16 D. If the patient is undergoing court-ordered treatment as the
17 result of a petition filed by a ~~prosecuting agency~~ PROSECUTOR pursuant to
18 section 13-4517, ALL OF THE FOLLOWING APPLY:

19 1. THE PERSON MAY NOT BE RELEASED OR DISCHARGED FROM TREATMENT
20 BEFORE THE EXPIRATION OF THE PERIOD FOR TREATMENT ORDERED BY THE COURT
21 UNLESS THE MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY FIRST
22 GIVES NOTICE AS PROVIDED IN THIS SUBSECTION.

23 2. The medical director of the mental health treatment agency shall
24 notify the court and the prosecuting agency if a civil commitment order
25 issued pursuant to this chapter expires or is terminated, or if the
26 patient is discharged to outpatient treatment.

27 3. The medical director OF THE MENTAL HEALTH TREATMENT AGENCY shall
28 provide this notice by mail at least five days before the anticipated date
29 of the expiration, termination or discharge.

30 4. This subsection does not apply to amended orders that are a
31 result of the patient's need for acute or emergency care during the period
32 of court-ordered treatment.

33 ~~E. If the medical director of the mental health treatment agency is~~
34 ~~unable to determine, based on the information submitted pursuant to~~
35 ~~subsection F of this section, that a person who has filed a demand for~~
36 ~~notice is a victim, the medical director shall inform that person that~~
37 ~~that person's demand for notice is denied and that notice will not be~~
38 ~~given unless ordered by the court pursuant to subsection G of this~~
39 ~~section.~~

40 ~~F.~~ E. A demand for notice by a relative or victim, and a petition
41 for notice by other persons, shall be FILED WITH THE COURT AND SHALL BE
42 MADE on a form prescribed by the administration, ~~and shall include~~
43 INCLUDING the following information:

44 1. THE FULL NAME OF THE PATIENT AND THE MENTAL HEALTH NUMBER
45 ASSIGNED TO THE CASE BY THE SUPERIOR COURT.

1 ~~1.~~ 2. The full name of the person to receive notice.
2 ~~2.~~ 3. The address to which notice is to be mailed.
3 ~~3.~~ 4. The telephone number of the person to receive notice.
4 ~~4.~~ 5. The FAMILIAL relationship OF THE PERSON to the patient, if
5 any, ~~or the reasons why the person believes the person has a legitimate~~
6 ~~reason to receive notice.~~
7 6. THE FACTUAL BASIS FOR THE PERSON'S CLAIM THAT THE PERSON IS A
8 VICTIM ENTITLED TO NOTICE PURSUANT TO THIS SECTION.
9 7. THE REASONS WHY THE PERSON BELIEVES THE PERSON HAS A LEGITIMATE
10 REASON TO RECEIVE NOTICE.
11 ~~5.~~ 8. A statement that the person will advise the MENTAL HEALTH
12 treatment agency in writing by certified mail, return receipt requested,
13 of any change in the address to which notice is to be mailed.
14 ~~6. The full name of the patient who is ordered to undergo treatment~~
15 ~~as a danger to others or who has had a petition filed by a prosecutor~~
16 ~~pursuant to section 13-4517.~~
17 ~~7. The mental health number assigned to the case by the superior~~
18 ~~court.~~
19 ~~6.~~ F. ~~if~~ WHEN the court receives a demand for notice by a relative
20 or victim, IF THE COURT DETERMINES THAT THE RELATIVE OR VICTIM FILING THE
21 DEMAND FOR NOTICE IS ENTITLED TO NOTICE BEFORE RELEASING OR DISCHARGING
22 THE PATIENT, the court shall order the medical director of the mental
23 health treatment agency not to release or discharge the patient before the
24 expiration of the period of court-ordered treatment without first giving
25 notice to the relative or victim as provided in subsection ~~H-G~~ of this
26 section. After considering a petition for notice, if the court finds that
27 the petitioner has a legitimate reason for receiving prior notice, the
28 court may order the medical director of the mental health treatment agency
29 not to release or discharge the patient from inpatient treatment before
30 the expiration of the period of court-ordered treatment without first
31 giving notice to the petitioner as provided in subsection ~~H-G~~ of this
32 section. Any order for notice shall be delivered to the mental health
33 treatment agency and shall be filed with the patient's clinical record. If
34 the patient is transferred to another agency or institution, any orders
35 for notice shall be transferred with the patient.
36 ~~H.~~ G. A notice of intention to release or discharge shall include
37 the following information:
38 1. The name of the patient to be released or discharged.
39 2. The type of release or discharge.
40 3. The date of anticipated release or discharge. ~~Notices~~
41 H. A NOTICE OF INTENTION TO RELEASE OR DISCHARGE shall be placed in
42 the mail, postage prepaid and addressed to the court and to each person
43 for whom notice has been ordered OR WHO IS ENTITLED TO RECEIVE NOTICE
44 PURSUANT TO THIS SECTION, at least ten days before the date of intended
45 release or discharge, except that notice shall be sent to the prosecuting

1 agency at least five days before the date of intended release or
2 discharge. For purposes of computing the notice requirement, the day of
3 mailing shall not be counted.

4 I. Any person for whom prior notice is required pursuant to this
5 section, or the court, may make a motion within the notification period
6 that requires the court to determine whether the standard for release of
7 the patient before the expiration of the period for court-ordered
8 treatment has been met. A determination that the standard for release has
9 been met may be made by the court based on a review of the record and any
10 affidavits submitted without further hearing. For good cause, the court
11 may order an evidentiary hearing. Whether or not a hearing is held, the
12 court shall make a determination at the earliest possible time but ~~no~~ NOT
13 longer than three weeks after the anticipated date of release pursuant to
14 subsection ~~H-G~~ of this section, and the patient shall be retained for the
15 additional time required for the court's determination. In making its
16 determination the court may order an independent examination of the
17 patient. If a motion is not made, the patient may be released in
18 accordance with the terms set forth in the notice without further court
19 order. If a hearing is held pursuant to this subsection, the court shall
20 order the medical director of the mental health treatment agency to
21 provide the patient's records, including medical and treatment records, to
22 the court, ANY INDEPENDENT EXAMINER and the prosecuting agency.

23 J. IF THE COURT DETERMINES THAT THE STANDARD FOR RELEASE HAS NOT
24 BEEN MET, THE COURT SHALL ORDER THE PATIENT TO CONTINUE TREATMENT UNDER
25 THE COURT ORDER FOR TREATMENT UNTIL THE EXPIRATION OF THE COURT ORDER.

26 ~~J.~~ K. If a motion has not been made pursuant to subsection I of
27 this section, the patient may be released or discharged and the medical
28 director of the mental health treatment agency shall send to the court a
29 certificate that the patient is no longer a danger to others or a danger
30 to self or no longer has a persistent or acute disability or a grave
31 disability as the result of a mental disorder and therefore is released
32 before the expiration of the period ordered for treatment. The court
33 shall enter an order terminating the patient's court-ordered treatment.

34 ~~K.~~ L. The medical director of the mental health treatment agency
35 shall not be held civilly liable for any acts committed by a patient who
36 is released before the expiration of the period of court-ordered treatment
37 if the medical director OF THE MENTAL HEALTH TREATMENT AGENCY has in good
38 faith followed the requirements of this section.

39 Sec. 2. Section 36-543, Arizona Revised Statutes, is amended to
40 read:

41 36-543. Annual review; patients with a grave disability or a
42 persistent or acute disability; notice; court order
43 for continued treatment; rules; immunity

44 A. Within ninety days before the expiration of a court order for
45 treatment, the medical director of the mental health treatment agency

1 shall conduct an annual review of a patient who has been found to have a
2 grave disability or a persistent or acute disability and who is undergoing
3 court-ordered treatment to determine whether the continuation of
4 court-ordered treatment is appropriate and to assess the needs of the
5 patient for guardianship or conservatorship, or both. The annual review
6 shall consist of the mental health treatment and clinical records
7 contained in the patient's treatment file. IN DETERMINING WHETHER A
8 CONTINUATION OF COURT-ORDERED TREATMENT IS APPROPRIATE, AS PART OF ITS
9 ANNUAL REVIEW THE MENTAL HEALTH TREATMENT AGENCY SHALL SOLICIT, ACCEPT AND
10 CONSIDER INFORMATION RELEVANT TO THE HISTORY OF THE PATIENT'S BEHAVIOR
11 DURING AND BEFORE THE PERIOD OF COURT-ORDERED TREATMENT FROM PERSONS KNOWN
12 TO THE MENTAL HEALTH TREATMENT AGENCY WHO HAVE A SIGNIFICANT RELATIONSHIP
13 WITH THE PROPOSED PATIENT, INCLUDING FAMILY MEMBERS AND GUARDIANS. The
14 mental health treatment agency shall keep a record of the annual review.
15 If the medical director OF THE MENTAL HEALTH TREATMENT AGENCY believes
16 that a continuation of court-ordered treatment is appropriate, the medical
17 director of the mental health treatment agency shall appoint one or more
18 psychiatrists to carry out a psychiatric examination of the patient. In
19 any proceeding conducted pursuant to this section, a patient has the right
20 to have an analysis of the patient's mental condition by an independent
21 evaluation pursuant to section 36-538.

22 B. Each examiner participating in the psychiatric examination of
23 the patient shall submit a report to the medical director of the mental
24 health treatment agency that includes the following:

25 1. The examiner's opinions as to whether the patient continues to
26 have a grave disability or a persistent or acute disability as the result
27 of a mental disorder and be in need of continued court-ordered
28 treatment. In evaluating the patient's need for continued court-ordered
29 treatment, the examiner must consider, along with all other evidence, the
30 patient's history before and during the current period of court-ordered
31 treatment, the patient's compliance with recommended treatment and any
32 other evidence relevant to the patient's ability and willingness to follow
33 recommended treatment with or without a court order.

34 2. A statement as to whether suitable alternatives to court-ordered
35 treatment are available.

36 3. A statement as to whether voluntary treatment would be
37 appropriate.

38 4. A review of the patient's status as to guardianship or
39 conservatorship, or both, the adequacy of existing protections of the
40 patient and the continued need for guardianship or conservatorship, or
41 both. If the examiner concludes that the patient's needs in these areas
42 are not being adequately met, the examiner's report shall recommend that
43 the court order an investigation into the patient's needs.

44 5. If the patient has an existing guardian who does not have the
45 mental health powers authorized pursuant to section 14-5312.01, a

1 recommendation as to whether the additional mental health powers
2 authorized by section 14-5312.01 should be imposed on the existing
3 guardian and whether the patient's needs can be adequately addressed by a
4 guardian with mental health powers without the need for a court order for
5 treatment or whether the court order for treatment should continue
6 regardless of the additional mental health powers imposed on the guardian.

7 6. The results of any physical examination conducted during the
8 period of court-ordered treatment if relevant to the psychiatric condition
9 of the patient.

10 C. After conducting the annual review as prescribed in this
11 section, if the medical director OF THE MENTAL HEALTH TREATMENT AGENCY
12 believes that continued court-ordered treatment is necessary or
13 appropriate, not later than thirty days before the expiration of the court
14 order for treatment, the medical director OF THE MENTAL HEALTH TREATMENT
15 AGENCY shall file with the court an application for continued
16 court-ordered treatment alleging the basis for the application and shall
17 file simultaneously with the application any psychiatric examination
18 conducted as part of the annual review. If the patient is under
19 guardianship, the medical director OF THE MENTAL HEALTH TREATMENT AGENCY
20 shall mail a copy of the application to the patient's guardian. AFTER
21 CONDUCTING THE ANNUAL REVIEW AS PRESCRIBED IN THIS SECTION, IF THE PATIENT
22 IS UNDER A GUARDIANSHIP AND THE MEDICAL DIRECTOR OF THE MENTAL HEALTH
23 TREATMENT AGENCY DECIDES NOT TO FILE AN APPLICATION FOR CONTINUED
24 COURT-ORDERED TREATMENT, THE MENTAL HEALTH TREATMENT AGENCY SHALL NOTIFY
25 THE PATIENT'S GUARDIAN OF THIS DECISION AT LEAST THIRTY DAYS BEFORE THE
26 EXPIRATION OF THE COURT ORDER FOR TREATMENT. THE GUARDIAN MAY REQUEST THAT
27 THE PATIENT BE EVALUATED BY AN INDEPENDENT EVALUATOR PURSUANT TO SECTION
28 36-538.

29 D. AT LEAST FIFTEEN DAYS BEFORE THE EXPIRATION OF THE COURT ORDER
30 FOR TREATMENT, THE PATIENT'S GUARDIAN MAY FILE WITH THE COURT AN
31 APPLICATION FOR CONTINUED COURT-ORDERED TREATMENT ALLEGING THE BASIS FOR
32 THE APPLICATION AND SHALL FILE SIMULTANEOUSLY WITH THE APPLICATION ANY
33 PSYCHIATRIC EXAMINATION CONDUCTED ON THE PATIENT TO SUPPORT THE
34 APPLICATION. THE APPLICATION AND ANY HEARING HELD PURSUANT TO THIS
35 SUBSECTION SHALL COMPLY WITH SUBSECTIONS E, F AND G OF THIS SECTION.

36 ~~D.~~ E. If an application for continued court-ordered treatment is
37 filed, all of the following apply:

38 1. If the patient does not have an attorney, the court shall
39 appoint an attorney to represent the patient.

40 2. Within ten days after appointment, an attorney appointed
41 pursuant to this subsection, to the extent possible, shall fulfill the
42 duties imposed pursuant to section 36-537, review the ~~medical director's~~
43 report OF THE MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY and
44 the patient's medical records, interview any physician who prepared a
45 report on the annual review and file a response requesting a hearing or

1 submitting the matter to the court for a ruling based on the record
2 without a hearing.

3 3. If a hearing is not requested, the court shall rule on the
4 application or set the matter for hearing. If a hearing is requested, the
5 hearing shall be held within three weeks after the request for hearing is
6 filed. The hearing may be continued for good cause on motion of a party or
7 on the court's own motion, and the expiration of the current court order
8 for treatment may be extended until a ruling by the court on an
9 application filed pursuant to this subsection.

10 4. The patient's attorney must be present at all hearings and may
11 subpoena and cross-examine witnesses and present evidence. The patient has
12 the right to attend all hearings, but may choose not to attend a hearing.
13 The patient's attorney may waive the patient's presence after speaking
14 with the patient and confirming that the patient understands the right to
15 be present and does not desire to attend. If the patient is unable to be
16 present at the hearing for medical or psychiatric reasons and the hearing
17 cannot be conducted where the patient is being treated or confined, or the
18 patient cannot appear by another reasonably feasible means, the court
19 shall require clear and convincing evidence that the patient is unable to
20 be present at the hearing and on such a finding may proceed with the
21 hearing in the patient's absence.

22 5. The evidence presented by the applicant includes the testimony
23 of one or more witnesses acquainted with the patient during the period of
24 court-ordered treatment, which may be satisfied by a statement agreed on
25 by the parties, and the testimony of any physician who performed an annual
26 review of the patient, which may be satisfied by stipulating to the
27 admission of the examining physicians' written report prepared pursuant to
28 subsection B of this section. The court may waive the need for the
29 applicant to present the testimony of witnesses acquainted with the
30 patient as required by this subsection, if it finds that the need for a
31 continued court order for treatment has been established by clear and
32 convincing evidence from the other testimony and evidence presented at the
33 hearing.

34 6. At a hearing held pursuant to this subsection, the court, with
35 notice, may impose on an existing guardian additional powers pursuant to
36 section 14-5312.01. If the court finds that the patient's needs can be
37 adequately met by an existing guardian with the additional powers pursuant
38 to section 14-5312.01 and that a court order for treatment is not
39 necessary to ensure compliance with necessary treatment, the court may
40 terminate the court order for treatment or decline to issue an order
41 continuing court-ordered treatment. The court may also order an
42 investigation into the need for guardianship or conservatorship, or both,
43 and may appoint a suitable person or agency to conduct the investigation.
44 The appointee may include a court-appointed guardian ad litem, a
45 court-appointed investigator pursuant to section 14-5308 or the public

1 fiduciary if there is no person willing and qualified to act in that
2 capacity. The court shall give notice of the appointment to the appointee
3 within three days after the appointment. The appointee shall submit the
4 report of the investigation to the court within twenty-one days. The
5 report shall include recommendations as to who should be guardian or
6 conservator, or both, and the findings and reasons for the recommendation.
7 If the investigation and report so indicate, the court may authorize an
8 appropriate person to file a petition for appointment of a guardian or
9 conservator for the patient.

10 ~~E.~~ F. If a hearing is held pursuant to subsection ~~D~~ E of this
11 section, the party seeking the renewal of the court order must prove all
12 of the following by clear and convincing evidence:

13 1. The patient continues to have a mental disorder and, as a result
14 of that disorder, has either a persistent or acute disability or a grave
15 disability.

16 2. The patient is in need of continued court-ordered treatment.

17 3. The patient is either unwilling or unable to accept treatment
18 voluntarily.

19 ~~F.~~ G. After a hearing held pursuant to subsection ~~D~~ E of this
20 section, the court may order the patient to be released from court-ordered
21 treatment or to undergo continued court-ordered treatment for a period not
22 to exceed the time periods prescribed in section 36-540, subsection D.

23 ~~G.~~ H. The director shall create and operate a program to ensure
24 that the examination and review of persons with grave disabilities or
25 persistent or acute disabilities under court order are carried out in an
26 effective and timely manner. The director shall adopt rules needed to
27 operate this program.

28 ~~H.~~ I. The medical director of the mental health treatment agency
29 is not civilly liable for any acts committed by the released patient if
30 the medical director has in good faith complied with the requirements of
31 this article.