

Senate Engrossed

state hospital; governing board; governance

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1716

AN ACT

AMENDING SECTIONS 36-103.01, 36-137, 36-201, 36-202, 36-204 AND 36-205, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-205.01; AMENDING SECTIONS 36-206, 36-209, 36-545.01 AND 36-545.08, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO THE ARIZONA STATE HOSPITAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-103.01, Arizona Revised Statutes, is amended
3 to read:

4 36-103.01. Governmental units succeeded; statutory references
5 to succeeded governmental units

6 A. The department succeeds to the authority, powers, duties and
7 responsibilities of the following:

- 8 1. State department of health.
- 9 2. Arizona health planning authority.
- 10 3. Crippled children's services.

11 ~~4. Arizona state hospital.~~

12 ~~5.~~ 4. Anatomy board.

13 B. In the Arizona Revised Statutes, references to the agencies and
14 departments listed in subsection A of this section shall be deemed to be
15 references to the department of health services or its appropriate
16 organizational units.

17 C. In the Arizona Revised Statutes, references to the state board
18 of health, when used in the context of and in connection with the adoption
19 of rules, the appellate or original review of administrative decisions, or
20 the approval of decisions by department officers, shall be references to
21 the director of the department of health services. In all other places,
22 references to the state board of health shall be references to the
23 department of health services.

24 D. In this title, and in the Arizona Revised Statutes, references
25 to the commissioner of health shall be references to the director of the
26 department of health services.

27 Sec. 2. Section 36-137, Arizona Revised Statutes, is amended to
28 read:

29 36-137. Annual report of director

30 The director shall submit annually to the governor, the president of
31 the senate and the speaker of the house of representatives a copy of the
32 annual report setting forth:

- 33 1. The condition of public health in the state.
- 34 2. The activities of the department during the preceding fiscal
35 year.
- 36 3. The work done in each county.
- 37 4. The character and extent of all diseases reported.
- 38 5. The expenditures of the department and of each county or
39 district health department.
- 40 6. Recommendations the director deems advisable for protection of
41 the public health.

42 ~~7. The financial statement of the affairs of the Arizona state~~
43 ~~hospital.~~

1 ~~8.~~ 7. The operations and administration of the program of service
2 for children with a physical disability or who are suffering from
3 conditions that lead to a physical disability.

4 Sec. 3. Section 36-201, Arizona Revised Statutes, is amended to
5 read:

6 36-201. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Chief medical officer" means the chief medical officer of the
9 state hospital.

10 ~~2. "Department" means the department of health services.~~

11 ~~3.~~ 2. "Director" means the director of the ~~department of health~~
12 ~~services~~ STATE HOSPITAL.

13 ~~4.~~ 3. "Employee" means an officer or employee of the state
14 hospital.

15 4. "GOVERNING BOARD" MEANS THE STATE HOSPITAL GOVERNING BOARD.

16 5. "State hospital" means THE Arizona state hospital.

17 ~~6. "Superintendent" means the superintendent of the state hospital.~~

18 Sec. 4. Section 36-202, Arizona Revised Statutes, is amended to
19 read:

20 36-202. Arizona state hospital; purpose; facilities and
21 equipment

22 A. A state hospital shall be maintained for the care and treatment
23 of persons with mental disorders and persons with other personality
24 disorders or emotional conditions who will benefit from care and
25 treatment. Admissions to the state hospital shall be in accordance with
26 law. The hospital shall be called the Arizona state hospital.

27 B. Subject to legislative appropriation, the state hospital may
28 provide services to persons suffering from alcoholism and to persons
29 suffering from drug abuse.

30 C. The state hospital shall have adequate facilities and equipment
31 for enlightened and scientific treatment of nervous and mental diseases in
32 accordance with approved methods of mental therapeutics. The facilities
33 shall include, among other things:

34 1. Facilities for medical and psychiatric treatment with special
35 attention to occupational therapy and other special therapies.

36 2. Facilities for proper segregation and care of child patients.

37 3. Facilities for recreation and physical training.

38 4. An institutional library for the use of patients.

39 5. A properly equipped dental department.

40 6. A properly equipped laboratory and x-ray department.

41 7. A patient tracking system approved by the director that monitors
42 individual progress on an inpatient basis and ensures suitable aftercare
43 placement.

1 D. The state hospital shall be under the charge and control of the
2 GOVERNING BOARD AND THE director ~~of the department of health services,~~
3 pursuant to this article.

4 Sec. 5. Section 36-204, Arizona Revised Statutes, is amended to
5 read:

6 36-204. Duties of director

7 The director shall:

8 1. Adopt rules for inpatient services that ensure proper review of
9 treatment and discharge plans, arrangement for aftercare placements,
10 transfer of medical records and assistance with medications.

11 2. If deemed advisable, establish a nurses' training school in
12 connection with the state hospital, ~~which shall be under the supervision~~
13 ~~of the superintendent.~~

14 3. Prescribe forms of complaints, certificates of mental illness
15 and commitments.

16 4. Adopt rules for ~~the commitment of~~ COMMITTING mentally ill
17 persons that are not inconsistent with provisions of law.

18 5. Adopt rules for ~~the administration of~~ ADMINISTERING the state
19 hospital and to carry out the purposes of this article.

20 Sec. 6. Section 36-205, Arizona Revised Statutes, is amended to
21 read:

22 36-205. Director of state hospital; appointment;
23 compensation; qualifications; chief medical officer

24 A. ~~There shall be a superintendent~~ THE DIRECTOR of the state
25 hospital ~~who~~ shall be appointed by and under the supervision of the
26 ~~director~~ GOVERNING BOARD. THE DIRECTOR IS THE CHIEF ADMINISTRATIVE
27 OFFICER OF THE STATE HOSPITAL.

28 B. The compensation to be paid to the ~~superintendent~~ DIRECTOR shall
29 be determined pursuant to section 38-611.

30 C. The ~~superintendent shall be removed~~ GOVERNING BOARD MAY REMOVE
31 THE DIRECTOR only for cause.

32 D. The ~~superintendent~~ DIRECTOR shall have the following
33 qualifications:

34 1. HOSPITAL administrative experience in the private sector.

35 2. An educational background that prepares the ~~superintendent~~
36 DIRECTOR for the administrative responsibilities assigned to the position.

37 3. Mental health-related experience in both an institutional and
38 community setting.

39 E. The ~~superintendent~~ DIRECTOR, with the approval of the ~~director~~
40 GOVERNING BOARD, shall appoint a chief medical officer of the state
41 hospital who is a physician ~~and who is~~ licensed pursuant to title 32,
42 chapter 13 or 17. The chief medical officer shall have ~~not less than~~ AT
43 LEAST three years' experience in ~~the treatment of~~ TREATING psychiatric
44 disorders and shall be board-certified in psychiatry by the board of
45 psychiatry and neurology. The chief medical officer is eligible for

1 compensation pursuant to section 38-611. The chief medical officer is
2 responsible for the clinical administration of the hospital and shall
3 report directly to the ~~superintendent~~ DIRECTOR.

4 Sec. 7. Title 36, chapter 2, article 1, Arizona Revised Statutes,
5 is amended by adding section 36-205.01, to read:

6 36-205.01. State hospital governing board; membership;
7 appointments; duties; compensation

8 A. THE STATE HOSPITAL GOVERNING BOARD IS ESTABLISHED CONSISTING OF
9 FIVE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION
10 38-211. NOT MORE THAN THREE MEMBERS MAY BE OF THE SAME POLITICAL PARTY.
11 MEMBERS OF THE GOVERNING BOARD SHALL HAVE EXPERIENCE IN A HOSPITAL OR IN
12 HEALTH CARE ADMINISTRATION. APPOINTMENTS ARE FOR A TERM OF FIVE YEARS AND
13 EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE APPROPRIATE YEAR. THE
14 CHAIRPERSON OF THE INDEPENDENT OVERSIGHT COMMITTEE AT THE ARIZONA STATE
15 HOSPITAL ESTABLISHED PURSUANT TO SECTION 41-3803 SHALL SERVE AS A
16 NONVOTING MEMBER OF THE GOVERNING BOARD AND IS NOT COUNTED FOR THE PURPOSE
17 OF DETERMINING IF A QUORUM IS PRESENT.

18 B. A GOVERNING BOARD MEMBER MAY BE REMOVED ONLY FOR CAUSE. A BOARD
19 MEMBER WHO IS REMOVED FOR CAUSE MUST BE PROVIDED WRITTEN NOTICE AND AN
20 OPPORTUNITY TO RESPOND. THE GOVERNOR MAY REMOVE A GOVERNING BOARD MEMBER
21 BASED ON WRITTEN FINDINGS THAT SPECIFY THE REASON FOR REMOVAL.

22 C. THE GOVERNING BOARD SHALL ADMINISTER THE LAWS OF THIS STATE
23 RELATING TO THE STATE HOSPITAL.

24 D. THE MEMBERS OF THE GOVERNING BOARD ARE ELIGIBLE TO RECEIVE
25 COMPENSATION FOR PERFORMING OFFICIAL DUTIES OF THE GOVERNING BOARD AS
26 DETERMINED PURSUANT TO SECTION 38-611.

27 Sec. 8. Section 36-206, Arizona Revised Statutes, is amended to
28 read:

29 36-206. Duties of director; cost estimate; program
30 assessment; funded capacity and allocation formula

31 A. The director has charge of the state hospital and ~~the~~
32 ~~superintendent~~ shall supervise and direct its activities. ~~;~~ ~~subject to the~~
33 ~~provisions of law and approval of the director. The superintendent is~~
34 ~~directly responsible to the director for carrying out the purposes for~~
35 ~~which the hospital is maintained. Subject to the approval of the~~
36 ~~director;~~ The ~~superintendent~~ DIRECTOR may deputize any qualified officer
37 of the state hospital to do or perform any act the ~~superintendent~~ DIRECTOR
38 is empowered to do or charged with the responsibility of doing by law.

39 B. ~~The superintendent~~ In December each year THE DIRECTOR shall
40 estimate the probable daily per capita cost of ~~treatment~~ TREATING and
41 ~~maintenance of~~ MAINTAINING each category of patients for the next ensuing
42 year as determined in accordance with standard accounting practices. THE
43 DIRECTOR SHALL PROVIDE a statement of the estimate ~~shall be provided~~ to
44 the ~~director~~ GOVERNING BOARD in January of the following year.

1 C. The ~~superintendent~~ DIRECTOR, on request, shall provide to the
2 ~~director~~ GOVERNING BOARD a clinical assessment of the state hospital's
3 programs.

4 D. On or before August 1 of each year, the director shall establish
5 maximum funded capacity and a percentage allocation formula for forensic
6 and civil bed capacity at the Arizona state hospital based on census data
7 collected pursuant to sections 13-3992, 13-4512, 36-202.01 and 36-503.03.
8 ~~By~~ ON OR BEFORE June 1 of each year, the director shall solicit and
9 consider the recommendations of representatives of the county board of
10 supervisors, the Arizona prosecuting attorneys' advisory council and the
11 superior court when establishing this formula. In addition to
12 establishing the formula, the director, the county board of supervisors,
13 the Arizona prosecuting attorneys' advisory council and the superior court
14 shall develop a contingency plan for ~~the placement of~~ PLACING patients
15 subject to sections 13-3992, 13-4512, 36-202.01 and 36-503.03 in times of
16 emergency and other unforeseen circumstances. The director shall notify
17 the GOVERNING BOARD, THE governor, the president of the senate, the
18 speaker of the house of representatives and the chairperson of each county
19 board of supervisors of the funded capacity and allocation formula for the
20 current fiscal year. Thirty days before the notification of the forensic
21 and civil bed funded capacity formula, the director shall provide this
22 information to the representatives of the county board of supervisors, the
23 Arizona prosecuting attorneys' advisory council and the superior court for
24 comment. The director shall include these comments when issuing the
25 formula.

26 Sec. 9. Section 36-209, Arizona Revised Statutes, is amended to
27 read:

28 36-209. Reports by director and governing board

29 A. At ~~such A~~ time ~~as~~ the ~~director~~ GOVERNING BOARD designates, the
30 ~~superintendent~~ DIRECTOR shall submit to the ~~director~~ GOVERNING BOARD a
31 report of the activities of the state hospital during the preceding fiscal
32 year, including:

33 1. The number of patients received, conditionally discharged and
34 discharged and voluntary patients treated.

35 2. Methods of treatment used and the results.

36 3. The total number, including the number of such persons who were
37 committed on a voluntary and involuntary basis, of seriously mentally ill
38 patients as defined in section 36-550 and the place to which each person
39 was discharged.

40 4. Census data for treatment programs pursuant to sections 13-3992,
41 13-4512, 36-202.01 and 36-503.03.

42 5. A complete employment and personnel record.

- 1 6. The condition of existing equipment.
- 2 7. Recommendations for ~~improvement of~~ IMPROVING the institution.
- 3 8. Other matters required by the ~~director~~ GOVERNING BOARD or deemed
- 4 advisable by the ~~superintendent~~ DIRECTOR to present a complete description
- 5 of the condition and activities of the STATE hospital.
- 6 B. Not later than the fifteenth day of each month, the ~~director~~
- 7 GOVERNING BOARD shall prepare in duplicate a financial statement of the
- 8 affairs of the state hospital, including:
 - 9 1. The amounts appropriated for the current fiscal year for
 - 10 operation, maintenance and improvement.
 - 11 2. The amount ~~expended~~ SPENT during the preceding calendar month.
 - 12 3. The balance on hand.
 - 13 4. The estimated expenditures for the current month.
 - 14 5. An inventory report.
- 15 C. The original report and statements required by this section
- 16 shall be filed with and retained as records of the ~~director~~ GOVERNING
- 17 BOARD and duplicates filed with the director of the department of
- 18 administration.
- 19 D. At ~~such A~~ time ~~as~~ the ~~director~~ GOVERNING BOARD designates, the
- 20 ~~superintendent~~ DIRECTOR OF THE STATE HOSPITAL shall submit to the ~~director~~
- 21 GOVERNING BOARD a financial statement of the affairs of the state hospital
- 22 during the preceding fiscal year in a form prescribed by the director of
- 23 the department of administration.
- 24 E. ~~By~~ ON OR BEFORE October 1 of each year, the ~~director~~ GOVERNING
- 25 BOARD shall submit to the governor a comprehensive report of the
- 26 activities of the state hospital during the preceding fiscal year, which
- 27 shall include the annual reports of the ~~superintendent~~ DIRECTOR, and shall
- 28 contain:
 - 29 1. An account of the work done.
 - 30 2. Recommendations for improvements.
 - 31 3. Financial statements that clearly reflect the origin and
 - 32 disposition of all monies that have come into the hands of the ~~director~~
 - 33 GOVERNING BOARD or an employee through appropriations or otherwise.
- 34 F. The ~~director~~ GOVERNING BOARD shall make such supplemental
- 35 reports as the governor or the legislature requests.
- 36 G. The annual report prescribed by subsection E of this section
- 37 shall be published for the information of the public and five copies shall
- 38 be delivered to the chief clerk of the house of representatives and the
- 39 secretary of the senate, respectively, who shall keep them on file for the
- 40 use of the members of each house.

1 Sec. 10. Section 36-545.01, Arizona Revised Statutes, is amended to
2 read:

3 36-545.01. Payment of costs and expenses; ability to pay;
4 power and duty of court; acceptance of other
5 benefits; per capita cost limitation; guardians;
6 parental liability; lien; duty of county
7 attorney

8 A. When a patient is admitted to the state hospital for
9 court-ordered treatment pursuant to article 5 of this chapter or pursuant
10 to section 13-3992, the business manager of the state hospital shall
11 inquire into the ability of the patient to pay the costs of examination,
12 maintenance and treatment. The business manager shall file with the clerk
13 of the court a written report of the manager's findings and the basis of
14 those findings.

15 B. If the patient is able to pay all or any portion of the charges,
16 the court shall order the payment of the amount the patient can afford of
17 the per capita cost for examination, treatment and maintenance as
18 estimated by the superintendent. The court, on petition of an interested
19 person and at a hearing of which all concerned parties have received
20 notice, may increase or decrease the maintenance charge payable by the
21 patient or the patient's estate.

22 C. Notwithstanding subsection B of this section, any federal,
23 state, public or private medical benefits that are payable to the state
24 hospital where the patient is receiving care and treatment or that are
25 payable to the patient may be accepted by the state hospital without a
26 court order, except that the state hospital shall not accept any benefits
27 that alone or in addition to any amounts payable pursuant to subsection B
28 of this section exceed the per capita cost for the patient.

29 D. The court, if necessary, may appoint a conservator of the
30 patient to carry out this section. If a conservator is appointed, the
31 clerk of the court shall file a certificate so stating. All proceedings
32 relating to that conservatorship shall be had as provided by law for
33 conservators of estates. The conservator shall pay the amount ordered by
34 the court pursuant to subsection B of this section.

35 E. If the patient is a minor, the business manager of the state
36 hospital shall inquire into the ability of the minor's parents to bear
37 charges pursuant to this section. All obligations, charges and liens that
38 may be imposed on a patient pursuant to this section shall be imposed on
39 the minor's parents if it is determined that the parents have the ability
40 to pay.

41 F. The charges fixed by the court as provided by this section and
42 ordered paid by the patient or the patient's estate, on filing with the
43 county recorder, become a lien on the property of the patient or the
44 patient's estate.

1 G. The county attorney of each county, on an order of a judge of
2 the superior court, shall enforce the lien and collect the charges from
3 the person ordered to pay if the charges become delinquent.

4 H. Costs of examination, treatment and maintenance shall not be
5 charged to any patient found by a court of competent jurisdiction to be
6 unlawfully detained.

7 I. Notwithstanding section 36-545.02, the ~~department~~ STATE HOSPITAL
8 GOVERNING BOARD shall deposit, pursuant to sections 35-146 and 35-147,
9 monies collected through contracts entered into pursuant to section
10 36-3410 in the Arizona state hospital fund established by section
11 36-545.08. The ~~department~~ STATE HOSPITAL GOVERNING BOARD shall use these
12 monies for ~~the treatment of~~ TREATING patients at the state hospital or for
13 ~~the placement of~~ PLACING clients in the community.

14 Sec. 11. Section 36-545.08, Arizona Revised Statutes, is amended to
15 read:

16 36-545.08. Arizona state hospital fund; accounts; purpose

17 A. The Arizona state hospital fund is established for the purposes
18 prescribed in section 36-545.01, subsection I. The ~~department of health~~
19 ~~services~~ DIRECTOR OF THE STATE HOSPITAL shall administer the fund. The
20 fund consists of the following:

21 1. Monies reimbursed by the federal government under title XIX of
22 the social security act for services provided at the state hospital.

23 2. Monies collected pursuant to section 36-3410 for services to
24 clients at the state hospital.

25 3. Monies collected from counties for the cost of a defendant's
26 inpatient competency restoration treatment.

27 B. The ~~department~~ DIRECTOR OF THE STATE HOSPITAL shall deposit
28 monies collected pursuant to subsection A of this section into three
29 separate accounts.

30 C. Monies in the fund deposited under subsection A, paragraphs 1
31 and 3 of this section are subject to legislative appropriation and are
32 designated for state hospital operations. Monies in the fund deposited
33 under subsection A, paragraph 2 of this section are a continuing
34 appropriation and are exempt from the provisions of section 35-190
35 relating to lapsing of appropriations. Monies in the fund deposited under
36 subsection A, paragraph 3 of this section remaining unexpended and
37 unencumbered at the end of the fiscal year revert to the state general
38 fund. Monies in the fund deposited under subsection A, paragraph 1 of
39 this section are exempt from the provisions of section 35-190 relating to
40 lapsing of appropriations.

41 Sec. 12. Initial terms of members of the Arizona state
42 hospital governing board

43 A. Notwithstanding section 36-205.01, Arizona Revised Statutes, as
44 added by this act, the initial terms of members of the Arizona state
45 hospital governing board are:

1 1. One term ending January 1, 2025.

2 2. Two terms ending January 1, 2026.

3 B. The governor shall make all subsequent appointments as
4 prescribed by statute.

5 Sec. 13. Succession; transfer; effect

6 A. As provided by this act, the Arizona state hospital governing
7 board succeeds to the authority, powers, duties and responsibilities of
8 the department of health services relating to the Arizona state hospital.

9 B. This act does not alter the effect of any actions that were
10 taken or impair the valid obligations of the department of health services
11 relating to the Arizona state hospital in existence before January 1,
12 2023.

13 C. Administrative rules and orders that were adopted by the
14 department of health services relating to the Arizona state hospital
15 continue in effect until superseded by administrative action by the
16 Arizona state hospital governing board.

17 D. All administrative matters, contracts and judicial and
18 quasi-judicial actions, whether completed, pending or in process, of the
19 department of health services relating to the Arizona state hospital on
20 January 1, 2023 are transferred to and retain the same status with the
21 Arizona state hospital governing board.

22 E. All certificates, licenses, registrations, permits and other
23 indicia of qualification and authority that were issued by the department
24 of health services relating to the Arizona state hospital retain their
25 validity for the duration of their terms of validity as provided by law.

26 F. All equipment, records, furnishings and other property, all data
27 and investigative findings, all obligations and all appropriated monies
28 that remain unexpended and unencumbered on January 1, 2023 of the
29 department of health services relating to the Arizona state hospital are
30 transferred to the Arizona state hospital governing board.

31 G. All personnel who are under the state personnel system and
32 employed by the department of health services relating to the Arizona
33 state hospital are transferred to comparable positions and pay
34 classifications in the respective administrative units of the Arizona
35 state hospital governing board on January 1, 2023.

36 Sec. 14. Conforming legislation

37 The legislative council staff shall prepare proposed legislation
38 conforming the Arizona Revised Statutes to the provisions of this act for
39 consideration in the fifty-sixth legislature, first regular session.

40 Sec. 15. Effective date

41 This act is effective from and after December 31, 2022.