

REFERENCE TITLE: incompetent defendant; guardian appointment; costs

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

SB 1075

Introduced by
Senator Barto

AN ACT

AMENDING SECTION 13-4517, ARIZONA REVISED STATUTES; RELATING TO
INCOMPETENCE TO STAND TRIAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-4517, Arizona Revised Statutes, is amended to
3 read:

4 13-4517. Incompetent defendants; disposition; evaluator costs

5 A. If the court finds that a defendant is incompetent to stand
6 trial and that there is no substantial probability that the defendant will
7 regain competency within twenty-one months after the date of the original
8 finding of incompetency, any party may request that the court:

9 1. Remand the defendant to an evaluating agency for the institution
10 of civil commitment proceedings pursuant to title 36, chapter 5. If the
11 defendant is remanded, the prosecutor shall file a petition for evaluation
12 and provide any known criminal history for the defendant.

13 2. Appoint a guardian **AD LITEM TO INVESTIGATE WHETHER THE DEFENDANT**
14 **IS OR MAY BE IN NEED OF A GUARDIAN, A CONSERVATOR OR ANY OTHER PROTECTIVE**
15 **ORDER** pursuant to title 14, chapter 5.

16 3. Release the defendant from custody and dismiss the charges
17 against the defendant without prejudice.

18 B. If the court enters an order pursuant to subsection A, paragraph
19 1 or 2 of this section, the court may also order an assessment of the
20 defendant's eligibility for private insurance or public benefits that may
21 be applied to the expenses of the defendant's medically necessary
22 maintenance and treatment, including services pursuant to title 36,
23 chapter 29, state-only behavioral health services, title XVIII services
24 and medicare part D prescription drug benefits, supplemental security
25 income and supplemental security disability income.

26 C. The court may retain jurisdiction over the defendant until the
27 defendant is committed for treatment pursuant to title 36, chapter 5 or a
28 guardian is appointed pursuant to title 14, chapter 5.

29 D. If the court remands the defendant for the institution of civil
30 commitment proceedings pursuant to title 36, chapter 5 and the court is
31 notified that the defendant has not had a civil commitment evaluation, the
32 court, if it has retained jurisdiction, may order the sheriff to take the
33 defendant into custody so that the court may explore options pursuant to
34 subsection A, paragraph 2 or 3 of this section.

35 E. If the court is notified that the defendant has not been ordered
36 into treatment pursuant to title 36, chapter 5 and the court has retained
37 jurisdiction, the court may order the sheriff to take the defendant into
38 custody so that the court may explore options pursuant to subsection A,
39 paragraph 2 or 3 of this section.

40 **F. A GUARDIAN AD LITEM WHO IS APPOINTED PURSUANT TO THIS SECTION**
41 **AND WHO DETERMINES THAT PROTECTIVE ACTION IS APPROPRIATE SHALL INITIATE**
42 **AND PROSECUTE PROCEEDINGS FOR THE APPOINTMENT OF A GUARDIAN, A CONSERVATOR**
43 **OR ANY OTHER PROTECTIVE ORDER PURSUANT TO TITLE 14, CHAPTER 5. THE COURT,**
44 **ON THE REQUEST OF THE GUARDIAN AD LITEM OR ON ITS OWN MOTION, MAY ORDER AN**
45 **INDEPENDENT EVALUATION OF THE DEFENDANT BY A LICENSED PHYSICIAN, A**

1 LICENSED PSYCHOLOGIST OR A REGISTERED NURSE TO ASSESS WHETHER THE
2 DEFENDANT IS AN INCAPACITATED PERSON AS DEFINED IN SECTION 14-5101 OR IS A
3 PERSON IN NEED OF PROTECTION AS PRESCRIBED IN SECTION 14-5401, SUBSECTION
4 A, PARAGRAPH 2.

5 G. A GUARDIAN AD LITEM AND ANY OTHER EVALUATOR WHO IS APPOINTED
6 PURSUANT TO THIS SECTION IS ENTITLED TO REASONABLE COMPENSATION FOR THE
7 WORK PERFORMED AS A GUARDIAN AD LITEM OR EVALUATOR. IF THE DEFENDANT IS
8 INDIGENT, THE COURT MAY ORDER THE REASONABLE COMPENSATION TO BE A COUNTY
9 EXPENSE.