

Senate Engrossed House Bill
mental health; voluntary evaluations; payment

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2041

AN ACT

AMENDING SECTIONS 36-501, 36-522, 36-540 AND 36-545.05, ARIZONA REVISED
STATUTES; RELATING TO MENTAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-501, Arizona Revised Statutes, is amended to
3 read:

4 36-501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Administration" means the Arizona health care cost containment
7 system administration.

8 2. "Admitting officer" means a psychiatrist or other physician or
9 psychiatric and mental health nurse practitioner with experience in
10 performing psychiatric examinations who has been designated as an
11 admitting officer of the evaluation agency by the person in charge of the
12 evaluation agency.

13 3. "Authorized transporter" means a transportation entity that is
14 contracted with a city, town or county to provide services pursuant to
15 this chapter and that is either:

16 (a) An ambulance service that holds a valid certificate of
17 necessity.

18 (b) A transportation provider authorized by this state to provide
19 safe behavioral health transportation for individuals requiring
20 transportation pursuant to this chapter.

21 4. "Chief medical officer" means the chief medical officer under
22 the supervision of the superintendent of the state hospital.

23 5. "Contraindicated" means that access is reasonably likely to
24 endanger the life or physical safety of the patient or another person.

25 6. "Court" means the superior court in the county in this state in
26 which the patient resides or was found before screening or emergency
27 admission under this title.

28 7. "Criminal history" means police reports, lists of prior arrests
29 and convictions, criminal case pleadings and court orders, including a
30 determination that the person has been found incompetent to stand trial
31 pursuant to section 13-4510.

32 8. "Danger to others" means that the judgment of a person who has a
33 mental disorder is so impaired that the person is unable to understand the
34 person's need for treatment and as a result of the person's mental
35 disorder the person's continued behavior can reasonably be expected, on
36 the basis of competent medical opinion, to result in serious physical
37 harm.

38 9. "Danger to self":

39 (a) Means behavior that, as a result of a mental disorder:

40 (i) Constitutes a danger of inflicting serious physical harm on
41 oneself, including attempted suicide or the serious threat thereof, if the
42 threat is such that, when considered in the light of its context and in
43 light of the individual's previous acts, it is substantially supportive of
44 an expectation that the threat will be carried out.

1 (ii) Without hospitalization will result in serious physical harm
2 or serious illness to the person.

3 (b) Does not include behavior that establishes only the condition
4 of having a grave disability.

5 10. "Department" means the department of health services.

6 11. "Detention" means the taking into custody of a patient or
7 proposed patient.

8 12. "Director" means the director of the administration.

9 13. "Evaluation" means:

10 (a) A professional multidisciplinary analysis that may include
11 firsthand observations or remote observations by interactive audiovisual
12 media and that is based on data describing the person's identity,
13 biography and medical, psychological and social conditions carried out by
14 a group of persons consisting of not less than the following:

15 (i) Two licensed physicians who are qualified psychiatrists, if
16 possible, or at least experienced in psychiatric matters, and who shall
17 examine and report their findings independently. The person against whom
18 a petition has been filed shall be notified that the person may select one
19 of the physicians. A psychiatric resident in a training program approved
20 by the American medical association or by the American osteopathic
21 association may examine the person in place of one of the psychiatrists if
22 the resident is supervised in the examination and preparation of the
23 affidavit and testimony in court by a qualified psychiatrist appointed to
24 assist in the resident's training, and if the supervising psychiatrist is
25 available for discussion with the attorneys for all parties and for court
26 appearance and testimony if requested by the court or any of the
27 attorneys.

28 (ii) Two other individuals, one of whom, if available, is a
29 psychologist and in any event a social worker familiar with mental health
30 and human services that may be available placement alternatives
31 appropriate for treatment. An evaluation may be conducted on an inpatient
32 basis, an outpatient basis or a combination of both, and every reasonable
33 attempt shall be made to conduct the evaluation in any language preferred
34 by the person.

35 (b) A physical examination that is consistent with the existing
36 standards of care and that is performed by one of the evaluating
37 physicians or by or under the supervision of a physician who is licensed
38 pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner
39 who is licensed pursuant to title 32, chapter 15 if the results of that
40 examination are reviewed or augmented by one of the evaluating physicians.

41 14. "Evaluation agency" means a health care agency that is licensed
42 by the department and that has been approved pursuant to this title,
43 providing those services required of such agency by this chapter.

- 1 15. "Family member" means a spouse, parent, adult child, adult
2 sibling or other blood relative of a person undergoing treatment or
3 evaluation pursuant to this chapter.
- 4 16. "Grave disability" means a condition evidenced by behavior in
5 which a person, as a result of a mental disorder, is likely to come to
6 serious physical harm or serious illness because the person is unable to
7 provide for the person's own basic physical needs.
- 8 17. "Health care decision maker" has the same meaning prescribed in
9 section 12-2801.
- 10 18. "Health care entity" means a health care provider, the
11 department, the administration or a regional behavioral health authority
12 that is under contract with the administration.
- 13 19. "Health care provider" means a health care institution as
14 defined in section 36-401 that is licensed as a behavioral health provider
15 pursuant to department rules or a mental health provider.
- 16 20. "Independent evaluator" means a licensed physician, psychiatric
17 and mental health nurse practitioner or psychologist who is selected by
18 the person to be evaluated or by ~~such~~ THE person's attorney.
- 19 21. "Informed consent" means a voluntary decision following
20 presentation of all facts necessary to form the basis of an intelligent
21 consent by the patient or guardian with no minimizing of known dangers of
22 any procedures.
- 23 22. "Least restrictive treatment alternative" means the treatment
24 plan and setting that infringe in the least possible degree with the
25 patient's right to liberty and that are consistent with providing needed
26 treatment in a safe and humane manner.
- 27 23. "Licensed physician" means any medical doctor or doctor of
28 osteopathy who is either:
29 (a) Licensed in this state.
30 (b) A full-time hospital physician licensed in another state and
31 serving on the staff of a hospital operated or licensed by the United
32 States government.
- 33 24. "Medical director of an evaluation agency" means a
34 psychiatrist, or other licensed physician experienced in psychiatric
35 matters, who is designated in writing by the governing body of the agency
36 as the person in charge of the medical services of the agency for the
37 purposes of this chapter and may include the chief medical officer of the
38 state hospital.
- 39 25. "Medical director of a mental health treatment agency" means a
40 psychiatrist, or other licensed physician experienced in psychiatric
41 matters, who is designated in writing by the governing body of the agency
42 as the person in charge of the medical services of the agency for the
43 purposes of this chapter and includes the chief medical officer of the
44 state hospital.

1 26. "Mental disorder" means a substantial disorder of the person's
2 emotional processes, thought, cognition or memory. Mental disorder is
3 distinguished from:

4 (a) Conditions that are primarily those of drug abuse, alcoholism
5 or intellectual disability, unless, in addition to one or more of these
6 conditions, the person has a mental disorder.

7 (b) The declining mental abilities that directly accompany
8 impending death.

9 (c) Character and personality disorders characterized by lifelong
10 and deeply ingrained antisocial behavior patterns, including sexual
11 behaviors that are abnormal and prohibited by statute unless the behavior
12 results from a mental disorder.

13 27. "Mental health provider" means any physician or provider of
14 mental health or behavioral health services who is involved in evaluating,
15 caring for, treating or rehabilitating a patient.

16 28. "Mental health treatment agency" means the state hospital or a
17 health care agency that is licensed by the department and that provides
18 those services that are required of the agency by this chapter.

19 29. "Outpatient treatment" or "combined inpatient and outpatient
20 treatment" means any treatment program not requiring continuous inpatient
21 hospitalization.

22 30. "Outpatient treatment plan" means a treatment plan that does
23 not require continuous inpatient hospitalization.

24 31. "Patient" means any person who is undergoing examination,
25 evaluation or behavioral or mental health treatment under this chapter.

26 32. "Peace officers" means sheriffs of counties, constables,
27 marshals and policemen of cities and towns.

28 33. "Persistent or acute disability" means a severe mental disorder
29 that meets all the following criteria:

30 (a) Significantly impairs judgment, reason, behavior or capacity to
31 recognize reality.

32 (b) If not treated, has a substantial probability of causing the
33 person to suffer or continue to suffer severe and abnormal mental,
34 emotional or physical harm.

35 (c) Substantially impairs the person's capacity to make an informed
36 decision regarding treatment, and this impairment causes the person to be
37 incapable of understanding and expressing an understanding of the
38 advantages and disadvantages of accepting treatment and understanding and
39 expressing an understanding of the alternatives to the particular
40 treatment offered after the advantages, disadvantages and alternatives are
41 explained to that person.

42 (d) Has a reasonable prospect of being treatable by outpatient,
43 inpatient or combined inpatient and outpatient treatment.

1 34. "Prepetition screening" means the review of each application
2 requesting court-ordered evaluation, including an investigation of facts
3 alleged in the application, an interview with each applicant and an
4 interview, if possible, with the proposed patient. The purpose of the
5 interview with the proposed patient is to assess the problem, explain the
6 application and, when indicated, attempt to persuade the proposed patient
7 to receive, on a voluntary basis, evaluation or other services.

8 35. "Prescribed form" means a form established by a court or the
9 rules of the administration in accordance with the laws of this state.

10 36. "Professional" means a physician who is licensed pursuant to
11 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to
12 title 32, chapter 19.1 or a psychiatric and mental health nurse
13 practitioner who is certified pursuant to title 32, chapter 15.

14 37. "Proposed patient" means a person for whom an application for
15 evaluation has been made or a petition for court-ordered evaluation has
16 been filed.

17 38. "Prosecuting agency" means the county attorney, attorney
18 general or city attorney who applied or petitioned for an evaluation or
19 treatment pursuant to this chapter.

20 39. "Psychiatric and mental health nurse practitioner" means a
21 registered nurse practitioner as defined in section 32-1601 who has
22 completed an adult or family psychiatric and mental health nurse
23 practitioner program and who is certified as an adult or family
24 psychiatric and mental health nurse practitioner by the state board of
25 nursing.

26 40. "Psychiatrist" means a licensed physician who has completed
27 three years of graduate training in psychiatry in a program approved by
28 the American medical association or the American osteopathic association.

29 41. "Psychologist" means a person who is licensed under title 32,
30 chapter 19.1 and who is experienced in the practice of clinical
31 psychology.

32 42. "Records" means all communications that are recorded in any
33 form or medium and that relate to patient examination, evaluation or
34 behavioral or mental health treatment. Records include medical records
35 that are prepared by a health care provider or other providers. Records
36 do not include:

37 (a) Materials that are prepared in connection with utilization
38 review, peer review or quality assurance activities, including records
39 that a health care provider prepares pursuant to section 36-441, 36-445,
40 36-2402 or 36-2917.

41 (b) Recorded telephone and radio calls to and from a publicly
42 operated emergency dispatch office relating to requests for emergency
43 services or reports of suspected criminal activity.

44 43. "Regional behavioral health authority" has the same meaning
45 prescribed in section 36-3401.

1 44. "Screening agency" means a health care agency that is licensed
2 by the department and that provides those services required of ~~such~~ THE
3 agency by this chapter.

4 45. "Social worker" means a person who has completed two years of
5 graduate training in social work in a program approved by the council of
6 social work education and who has experience in mental health.

7 46. "State hospital" means the Arizona state hospital.

8 47. "Superintendent" means the superintendent of the state
9 hospital.

10 48. "VOLUNTARY EVALUATION" MEANS THE ONGOING COLLECTION AND
11 ANALYSIS OF A PERSON'S MEDICAL, PSYCHOLOGICAL, PSYCHIATRIC AND SOCIAL
12 CONDITIONS IN ORDER TO INITIALLY DETERMINE IF A HEALTH DISORDER EXISTS AND
13 IF THERE IS A NEED FOR BEHAVIORAL HEALTH SERVICES AND, ON AN ONGOING
14 BASIS, TO ENSURE THAT THE PERSON'S SERVICE PLAN IS DESIGNED TO MEET THE
15 PERSON'S AND THE PERSON'S FAMILY'S CURRENT NEEDS AND LONG-TERM GOALS.

16 Sec. 2. Section 36-522, Arizona Revised Statutes, is amended to
17 read:

18 36-522. Voluntary evaluations; consent; failure to complete;
19 definitions

20 A. ON RECEIPT OF AN APPLICATION FOR COURT-ORDERED EVALUATION, if
21 the petition for court-ordered evaluation is not filed because it has been
22 determined that the proposed patient will voluntarily receive an
23 evaluation and is unlikely to present a danger to self or others until the
24 voluntary evaluation, the evaluation agency provided for by the county, or
25 A LICENSED BEHAVIORAL HEALTH PROVIDER selected by the proposed patient,
26 shall be immediately notified BY THE EVALUATION AGENCY and shall provide A
27 VOLUNTARY evaluation of the proposed patient at a scheduled time and place
28 within ~~five~~ TEN days ~~of~~ AFTER the notice. The voluntary evaluation may be
29 on an inpatient or outpatient basis AND ON COMPLETION SHALL BE IMMEDIATELY
30 DELIVERED TO THE EVALUATION AGENCY PROVIDED FOR BY THE COUNTY. THE
31 EVALUATION AGENCY PROVIDED FOR BY THE COUNTY SHALL CONFIRM RECEIPT OF THE
32 VOLUNTARY EVALUATION. IF THE VOLUNTARY EVALUATION RECOMMENDS THAT THE
33 PATIENT RECEIVE A COURT-ORDERED EVALUATION, THE RECOMMENDATION MUST BE
34 ACCOMPANIED WITH AN APPLICATION FOR COURT-ORDERED EVALUATION.

35 B. Voluntary inpatient evaluation is subject to article 3 of this
36 chapter.

37 C. Voluntary outpatient evaluation shall conform to the
38 requirements of section 36-530, subsection D and section 36-531,
39 subsections B, C and D and shall proceed only after the person to be
40 evaluated has given consent to be evaluated by signing a form prescribed
41 by the director that includes information to the proposed patient that the
42 patient-physician privilege does not apply and that the evaluation may
43 result in a petition for the person to undergo court-ordered treatment or
44 for guardianship. ~~Voluntary evaluation may be carried out only if chosen~~

1 ~~by the patient during the course of a prepetition screening after an~~
2 ~~application for evaluation has been made.~~

3 D. IF THE PERSON WHO REQUESTED A VOLUNTARY EVALUATION DOES NOT
4 APPEAR OR DOES NOT COMPLETE THE APPOINTMENTS SCHEDULED, THE EVALUATION
5 AGENCY PROVIDED FOR BY THE COUNTY SHALL BE IMMEDIATELY NOTIFIED BY THE
6 PROVIDER WHO WAS TO CONDUCT THE EVALUATION. THE EVALUATION AGENCY SHALL
7 THEN PROVIDE PREPETITION SCREENING OF THE APPLICATION FOR COURT-ORDERED
8 EVALUATION IN ACCORDANCE WITH SECTIONS 36-521 AND 36-521.01.

9 E. FOR THE PURPOSES OF THIS SECTION:

10 1. "LICENSED BEHAVIORAL HEALTH PROVIDER" MEANS ANY OF THE
11 FOLLOWING:

12 (a) A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 33 AND
13 WHOSE SCOPE OF PRACTICE ALLOWS THE PERSON TO EITHER:

14 (i) INDEPENDENTLY ENGAGE IN THE PRACTICE OF BEHAVIORAL HEALTH.

15 (ii) EXCEPT FOR A LICENSED SUBSTANCE ABUSE TECHNICIAN, ENGAGE IN
16 THE PRACTICE OF BEHAVIORAL HEALTH UNDER DIRECT SUPERVISION.

17 (b) A PSYCHIATRIST.

18 (c) A PSYCHOLOGIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER
19 19.1.

20 (d) A REGISTERED NURSE PRACTITIONER WHO IS LICENSED PURSUANT TO
21 TITLE 32, CHAPTER 15 AND WHO IS CERTIFIED AS AN ADULT PSYCHIATRIC AND
22 MENTAL HEALTH NURSE.

23 2. "PRACTICE OF BEHAVIORAL HEALTH" HAS THE SAME MEANING PRESCRIBED
24 IN SECTION 32-3251.

25 Sec. 3. Section 36-540, Arizona Revised Statutes, is amended to
26 read:

27 36-540. Court options; immunity; rules

28 A. If the court finds by clear and convincing evidence that the
29 proposed patient, as a result of mental disorder, is a danger to self, is
30 a danger to others or has a persistent or acute disability or a grave
31 disability and is in need of treatment, and is either unwilling or unable
32 to accept voluntary treatment, the court shall order the patient to
33 undergo one of the following:

34 1. Treatment in a program of outpatient treatment.

35 2. Treatment in a program consisting of combined inpatient and
36 outpatient treatment.

37 3. Inpatient treatment in a mental health treatment agency, in a
38 hospital operated by or under contract with the United States department
39 of veterans affairs to provide treatment to eligible veterans pursuant to
40 article 9 of this chapter, in the state hospital or in a private hospital,
41 if the private hospital agrees, subject to the limitations of section
42 36-541.

43 B. The court shall consider all available and appropriate
44 alternatives for the treatment and care of the patient. The court shall
45 order the least restrictive treatment alternative available.

1 C. The court may order the proposed patient to undergo outpatient
2 or combined inpatient and outpatient treatment pursuant to subsection A,
3 paragraph 1 or 2 of this section if the court:

4 1. Determines that all of the following apply:

5 (a) The patient does not require continuous inpatient
6 hospitalization.

7 (b) The patient will be more appropriately treated in an outpatient
8 treatment program or in a combined inpatient and outpatient treatment
9 program.

10 (c) The patient will follow a prescribed outpatient treatment plan.

11 (d) The patient will not likely become dangerous or suffer more
12 serious physical harm or serious illness or further deterioration if the
13 patient follows a prescribed outpatient treatment plan.

14 2. Is presented with and approves a written treatment plan that
15 conforms with the requirements of section 36-540.01, subsection B. If the
16 court determines that the patient meets the requirements of section
17 36-550.09, the court may order the patient to be placed in a secure
18 behavioral health residential facility that is licensed by the department
19 pursuant to section 36-425.06. If the treatment plan presented to the
20 court pursuant to this subsection provides for supervision of the patient
21 under court order by a mental health agency that is other than the mental
22 health agency that petitioned or requested the county attorney to petition
23 the court for treatment pursuant to section 36-531, the treatment plan
24 must be approved by the medical director of the mental health agency that
25 will supervise the treatment pursuant to subsection E of this section.

26 D. An order to receive treatment pursuant to subsection A,
27 paragraph 1 or 2 of this section shall not exceed three hundred sixty-five
28 days. The period of inpatient treatment under a combined treatment order
29 pursuant to subsection A, paragraph 2 of this section shall not exceed the
30 maximum period allowed for an order for inpatient treatment pursuant to
31 subsection F of this section.

32 E. If the court enters an order for treatment pursuant to
33 subsection A, paragraph 1 or 2 of this section, all of the following
34 apply:

35 1. The court shall designate the medical director of the mental
36 health treatment agency that will supervise and administer the patient's
37 treatment program.

38 2. The medical director shall not use the services of any person,
39 agency or organization to supervise a patient's outpatient treatment
40 program unless the person, agency or organization has agreed to provide
41 these services in the individual patient's case and unless the department
42 has determined that the person, agency or organization is capable and
43 competent to do so.

1 3. The person, agency or organization assigned to supervise an
2 outpatient treatment program or the outpatient portion of a combined
3 treatment program shall be notified at least three days before a referral.
4 The medical director making the referral and the person, agency or
5 organization assigned to supervise the treatment program shall share
6 relevant information about the patient to provide continuity of treatment.

7 4. The court may order the medical director to provide notice to
8 the court of any noncompliance with the terms of a treatment order.

9 5. During any period of outpatient treatment under subsection A,
10 paragraph 2 of this section, if the court, on its own motion or on motion
11 by the medical director of the patient's outpatient mental health
12 treatment facility, determines that the patient is not complying with the
13 terms of the order or that the outpatient treatment plan is no longer
14 appropriate and the patient needs inpatient treatment, the court, without
15 a hearing and based on the court record, the patient's medical record, the
16 affidavits and recommendations of the medical director, and the advice of
17 staff and physicians or the psychiatric and mental health nurse
18 practitioner familiar with the treatment of the patient, may enter an
19 order amending its original order. The amended order may alter the
20 outpatient treatment plan or order the patient to inpatient treatment
21 pursuant to subsection A, paragraph 3 of this section. The amended order
22 shall not increase the total period of commitment originally ordered by
23 the court or, when added to the period of inpatient treatment provided by
24 the original order and any other amended orders, exceed the maximum period
25 allowed for an order for inpatient treatment pursuant to subsection F of
26 this section. If the patient refuses to comply with an amended order for
27 inpatient treatment, the court, on its own motion or on the request of the
28 medical director, may authorize and direct a peace officer to take the
29 patient into protective custody and transport the patient to the agency
30 for inpatient treatment. Any authorization, directive or order issued to
31 a peace officer to take the patient into protective custody shall include
32 the patient's criminal history and the name and telephone numbers of the
33 patient's case manager, guardian, spouse, next of kin or significant
34 other, as applicable. When reporting to or being returned to a treatment
35 agency for inpatient treatment pursuant to an amended order, the patient
36 shall be informed of the patient's right to judicial review and the
37 patient's right to consult with counsel pursuant to section 36-546.

38 6. During any period of outpatient treatment under subsection A,
39 paragraph 2 of this section, if the medical director of the outpatient
40 treatment facility in charge of the patient's care determines, in concert
41 with the medical director of an inpatient mental health treatment facility
42 who has agreed to accept the patient, that the patient is in need of
43 immediate acute inpatient psychiatric care because of behavior that is
44 dangerous to self or to others, the medical director of the outpatient
45 treatment facility may order a peace officer to apprehend and transport

1 the patient to the inpatient treatment facility pending a court
2 determination on an amended order under paragraph 5 of this subsection.
3 The patient may be detained and treated at the inpatient treatment
4 facility for a period of not more than forty-eight hours, exclusive of
5 weekends and holidays, from the time that the patient is taken to the
6 inpatient treatment facility. The medical director of the outpatient
7 treatment facility shall file the motion for an amended court order
8 requesting inpatient treatment not later than the next working day
9 following the patient being taken to the inpatient treatment facility.
10 Any period of detention within the inpatient treatment facility pending
11 issuance of an amended order shall not increase the total period of
12 commitment originally ordered by the court or, when added to the period of
13 inpatient treatment provided by the original order and any other amended
14 orders, exceed the maximum period allowed for an order for inpatient
15 treatment pursuant to subsection F of this section. If a patient is
16 ordered to undergo inpatient treatment pursuant to an amended order, the
17 medical director of the outpatient treatment facility shall inform the
18 patient of the patient's right to judicial review and to consult with an
19 attorney pursuant to section 36-546.

20 F. The maximum periods of inpatient treatment that the court may
21 order, subject to the limitations of section 36-541, are as follows:

- 22 1. Ninety days for a person found to be a danger to self.
- 23 2. One hundred eighty days for a person found to be a danger to
24 others.
- 25 3. One hundred eighty days for a person found to have a persistent
26 or acute disability.
- 27 4. Three hundred sixty-five days for a person found to have a grave
28 disability.

29 G. If, on finding that the patient meets the criteria for
30 court-ordered treatment pursuant to subsection A of this section, the
31 court also finds that there is reasonable cause to believe that the
32 patient is an incapacitated person as defined in section 14-5101 or is a
33 person in need of protection pursuant to section 14-5401 and that the
34 patient is or may be in need of guardianship or conservatorship, or both,
35 the court may order an investigation concerning the need for a guardian or
36 conservator, or both, and may appoint a suitable person or agency to
37 conduct the investigation. The appointee may include a court-appointed
38 guardian ad litem, an investigator appointed pursuant to section 14-5308
39 or the public fiduciary if there is no person willing and qualified to act
40 in that capacity. The court shall give notice of the appointment to the
41 appointee within three days after the appointment. The appointee shall
42 submit the report of the investigation to the court within twenty-one
43 days. The report shall include recommendations as to who should be
44 guardian or who should be conservator, or both, and a report of the
45 findings and reasons for the recommendation. If the investigation and

1 report so indicate, the court shall order the appropriate person to submit
2 a petition to become the guardian or conservator, or both, of the patient.

3 H. In any proceeding for court-ordered treatment in which the
4 petition alleges that the patient is in need of a guardian or conservator
5 and states the grounds for that allegation, the court may appoint an
6 emergency temporary guardian or conservator, or both, for a specific
7 purpose or purposes identified in its order and for a specific period of
8 time not to exceed thirty days if the court finds that all of the
9 following are true:

10 1. The patient meets the criteria for court-ordered treatment
11 pursuant to subsection A of this section.

12 2. There is reasonable cause to believe that the patient is an
13 incapacitated person as defined in section 14-5101 or is in need of
14 protection pursuant to section 14-5401, paragraph 2.

15 3. The patient does not have a guardian or conservator and the
16 welfare of the patient requires immediate action to protect the patient or
17 the ward's property.

18 4. The conditions prescribed pursuant to section 14-5310,
19 subsection B or section 14-5401.01, subsection B have been met.

20 I. The court may appoint as a temporary guardian or conservator
21 pursuant to subsection H of this section a suitable person or the public
22 fiduciary if there is no person qualified and willing to act in that
23 capacity. The court shall issue an order for an investigation as
24 prescribed pursuant to subsection G of this section and, unless the
25 patient is represented by independent counsel, the court shall appoint an
26 attorney to represent the patient in further proceedings regarding the
27 appointment of a guardian or conservator. The court shall schedule a
28 further hearing within fourteen days on the appropriate court calendar of
29 a court that has authority over guardianship or conservatorship matters
30 pursuant to this title to consider the continued need for an emergency
31 temporary guardian or conservator and the appropriateness of the temporary
32 guardian or conservator appointed, and shall order the appointed guardian
33 or conservator to give notice to persons entitled to notice pursuant to
34 section 14-5309, subsection A or section 14-5405, subsection A. The court
35 shall authorize certified letters of temporary emergency guardianship or
36 conservatorship to be issued on presentation of a copy of the court's
37 order. If a temporary emergency conservator other than the public
38 fiduciary is appointed pursuant to this subsection, the court shall order
39 that the use of the monies and property of the patient by the conservator
40 be restricted and not be sold, used, transferred or encumbered, except
41 that the court may authorize the conservator to use monies or property of
42 the patient specifically identified as needed to pay an expense to provide
43 for the care, treatment or welfare of the patient pending further hearing.
44 This subsection and subsection H of this section do not:

1 1. Prevent the evaluation or treatment agency from seeking
2 guardianship and conservatorship in any other manner allowed by law at any
3 time during the period of court-ordered evaluation and treatment.

4 2. Relieve the evaluation or treatment agency from its obligations
5 concerning the suspected abuse of a vulnerable adult pursuant to title 46,
6 chapter 4.

7 J. If, on finding that a patient meets the criteria for
8 court-ordered treatment pursuant to subsection A of this section, the
9 court also learns that the patient has a guardian appointed under title
10 14, the court with notice may impose on the existing guardian additional
11 duties pursuant to section 14-5312.01. If the court imposes additional
12 duties on an existing guardian as prescribed in this subsection, the court
13 may determine that the patient needs to continue treatment under a court
14 order for treatment and may issue the order or determine that the
15 patient's needs can be adequately met by the guardian with the additional
16 duties pursuant to section 14-5312.01 and decline to issue the court order
17 for treatment. If at any time after the issuance of a court order for
18 treatment the court finds that the patient's needs can be adequately met
19 by the guardian with the additional duties pursuant to section 14-5312.01
20 and that a court order for treatment is no longer necessary to ensure
21 compliance with necessary treatment, the court may terminate the court
22 order for treatment. If there is a court order for treatment and a
23 guardianship with additional mental health authority pursuant to section
24 14-5312.01 existing at the same time, the treatment and placement
25 decisions made by the treatment agency assigned by the court to supervise
26 and administer the patient's treatment program pursuant to the court order
27 for treatment are controlling unless the court orders otherwise.

28 K. The court shall file a report as part of the court record on its
29 findings of alternatives for treatment.

30 L. Treatment shall not include psychosurgery, lobotomy or any other
31 brain surgery without specific informed consent of the patient or the
32 patient's legal guardian and an order of the superior court in the county
33 in which the treatment is proposed, approving with specificity the use of
34 the treatment.

35 M. The medical director or any person, agency or organization used
36 by the medical director to supervise the terms of an outpatient treatment
37 plan is not civilly liable for any acts committed by a patient while on
38 outpatient treatment if the medical director, person, agency or
39 organization has in good faith followed the requirements of this section.

40 N. A peace officer who in good faith apprehends and transports a
41 patient to an inpatient treatment facility on the order of the medical
42 director of the outpatient treatment facility pursuant to subsection E,
43 paragraph 6 of this section is not subject to civil liability.

1 O. If a person has been found, as a result of a mental disorder, to
2 constitute a danger to self or others or to have a persistent or acute
3 disability or a grave disability and the court enters an order for
4 treatment pursuant to subsection A of this section, the court shall
5 transmit the person's name, sex, date of birth, social security number, if
6 available, and date of the order for treatment to the supreme court. The
7 supreme court shall transmit the information to the department of public
8 safety to comply with the requirements of title 13, chapter 31 and title
9 32, chapter 26. The department of public safety shall transmit the
10 information to the national instant criminal background check system. The
11 superior court may access the information of a person who is ordered into
12 treatment to enforce or facilitate a treatment order.

13 P. On request, the clerk of the court shall provide certified
14 copies of the commitment order to a law enforcement or prosecuting agency
15 that is investigating or prosecuting a prohibited possessor as defined in
16 section 13-3101.

17 Q. If the court does not find a person to be in need of treatment
18 and a prosecutor filed a petition pursuant to section 13-4517, the
19 evaluation agency, within twenty-four hours, shall notify the prosecuting
20 agency of its finding. The court shall order the medical director to
21 detain the person for an additional twenty-four hours to allow the
22 prosecuting agency to be notified. If the court has retained jurisdiction
23 pursuant to section 13-4517, subsection C, the court may remand the person
24 to the custody of the sheriff for further disposition pursuant to section
25 13-4517, subsection A, paragraph 2 or 3.

26 R. After an order for treatment has been issued pursuant to this
27 section, the superior court in a county where a patient under a court
28 order for treatment is found or resides has concurrent jurisdiction with
29 the court in the county that issued the court order for treatment for the
30 purposes of enforcing the court order for treatment, ordering changes to
31 the treatment plan or amending the order to require the patient to undergo
32 further inpatient treatment. If the court in which proceedings are
33 commenced to enforce or administer the order for treatment is not the
34 court that originally entered the order for treatment, unless prevented by
35 an emergency, the court in which the proceedings are pending shall consult
36 with the court of original entry and determine whether to hold hearings
37 and enter orders to facilitate enforcement or administration of the court
38 order, whether to refer the case back to the court of original entry for
39 further proceedings or whether to transfer the entire case to the court of
40 original entry in that county for all further proceedings. The supreme
41 court may adopt rules to govern the procedures to be used in enforcing and
42 administering court orders for treatment in the various counties of this
43 state and the transfer of cases between counties involving court orders
44 for treatment.

1 S. Pursuant to the authority granted in subsection R of this
2 section, for the purpose of enforcing or facilitating treatment of a
3 patient under an active order for treatment, the supreme court shall adopt
4 a rule to establish a program to enable the judges of the superior court,
5 county attorneys, patients' attorneys, HEALTH CARE INSTITUTIONS AS DEFINED
6 IN SECTION 36-401 THAT PROVIDE SERVICES SUBJECT TO THE FEDERAL EMERGENCY
7 MEDICAL TREATMENT AND ACTIVE LABOR ACT, the regional behavioral health
8 authority and behavioral health service providers in any county to
9 determine the existence of an active court order for treatment and the
10 history of court orders for treatment entered for a patient by a superior
11 court in any county in this state. The program shall ensure that the
12 information shared with other persons or entities is necessary only for
13 the purposes stated in this subsection and shall require that the
14 information shared be maintained as confidential by the receiving person
15 or entity.

16 Sec. 4. Section 36-545.05, Arizona Revised Statutes, is amended to
17 read:

18 36-545.05. Treatment by agencies under administration
19 contract; charges; voluntary evaluations;
20 prepetition screenings; court-ordered
21 evaluations; prohibitions

22 A. When a person is given a prepetition screening, or a
23 court-ordered evaluation by a screening agency or evaluation agency
24 pursuant to article 4 of this chapter, the person shall not be charged.

25 B. WHEN A PERSON IS GIVEN A VOLUNTARY EVALUATION PURSUANT TO
26 SECTION 36-522, THE PERSON SHALL PAY ALL OR SUCH PORTION OF THE
27 ESTABLISHED CHARGES AS THE PERSON CAN AFFORD. IF THE PERSON IS INDIGENT,
28 CHARGES MAY NOT BE MADE AGAINST THE PERSON.

29 ~~B.~~ C. When a patient is given voluntary treatment pursuant to
30 article 3 of this chapter or court-ordered treatment pursuant to article 5
31 of this chapter, the patient or proposed patient shall pay all or such
32 portion of the established charges as the patient can afford. If the
33 patient is indigent, no charges shall be made against the patient.