

REFERENCE TITLE: jails; mental health; evaluations; treatment

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1077

Introduced by
Senator Shope

AN ACT

AMENDING SECTION 36-501, 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~~ AT LEAST 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 EITHER OF THE FOLLOWING:

42 (a) A health care agency that is licensed by the department AND
43 THAT HAS BEEN APPROVED PURSUANT TO THIS TITLE TO PROVIDE THE SERVICES
44 REQUIRED OF THAT AGENCY BY THIS CHAPTER.

1 (b) A FACILITY THAT IS EXEMPT FROM LICENSURE PURSUANT TO SECTION
2 36-402, THAT POSSESSES AN ACCREDITATION FROM EITHER A NATIONAL COMMISSION
3 ON CORRECTIONAL HEALTH CARE OR AN AMERICAN CORRECTIONAL ASSOCIATION and
4 that has been approved pursuant to this title, ~~providing those~~ TO PROVIDE
5 THE services required of ~~such agency~~ THAT FACILITY by this chapter.

6 15. "Family member" means a spouse, parent, adult child, adult
7 sibling or other blood relative of a person undergoing treatment or
8 evaluation pursuant to this chapter.

9 16. "Grave disability" means a condition evidenced by behavior in
10 which a person, as a result of a mental disorder, is likely to come to
11 serious physical harm or serious illness because the person is unable to
12 provide for the person's own basic physical needs.

13 17. "Health care decision maker" has the same meaning prescribed in
14 section 12-2801.

15 18. "Health care entity" means a health care provider, the
16 department, the administration or a regional behavioral health authority
17 that is under contract with the administration.

18 19. "Health care provider" means a health care institution as
19 defined in section 36-401 that is licensed as a behavioral health provider
20 pursuant to department rules or a mental health provider.

21 20. "Independent evaluator" means a licensed physician, psychiatric
22 and mental health nurse practitioner or psychologist who is selected by
23 the person to be evaluated or by such person's attorney.

24 21. "Informed consent" means a voluntary decision following
25 presentation of all facts necessary to form the basis of an intelligent
26 consent by the patient or guardian with no minimizing of known dangers of
27 any procedures.

28 22. "Least restrictive treatment alternative" means the treatment
29 plan and setting that infringe in the least possible degree with the
30 patient's right to liberty and that are consistent with providing needed
31 treatment in a safe and humane manner.

32 23. "Licensed physician" means any medical doctor or doctor of
33 osteopathy who is either:

34 (a) Licensed in this state.

35 (b) A full-time hospital physician licensed in another state and
36 serving on the staff of a hospital operated or licensed by the United
37 States government.

38 24. "Medical director of an evaluation agency" means a
39 psychiatrist, or other licensed physician experienced in psychiatric
40 matters, who is designated in writing by the governing body of the agency
41 as the person in charge of the medical services of the agency for the
42 purposes of this chapter and may include the chief medical officer of the
43 state hospital.

44 25. "Medical director of a mental health treatment agency" means a
45 psychiatrist, or other licensed physician experienced in psychiatric

1 matters, who is designated in writing by the governing body of the agency
2 as the person in charge of the medical services of the agency for the
3 purposes of this chapter and includes the chief medical officer of the
4 state hospital.

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

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

11 (b) The declining mental abilities that directly accompany
12 impending death.

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

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

20 28. "Mental health treatment agency" means ANY OF THE FOLLOWING:

21 (a) The state hospital. ~~or~~

22 (b) A health care agency that is licensed by the department AND
23 THAT PROVIDES THE SERVICES THAT ARE REQUIRED OF THE AGENCY BY THIS
24 CHAPTER.

25 (c) A FACILITY THAT IS EXEMPT FROM LICENSURE PURSUANT TO SECTION
26 36-402, THAT POSSESSES AN ACCREDITATION FROM EITHER A NATIONAL COMMISSION
27 ON CORRECTIONAL HEALTH CARE OR AN AMERICAN CORRECTIONAL ASSOCIATION and
28 that provides ~~those~~ THE services that are required of the ~~agency~~ FACILITY
29 by this chapter.

30 29. "Outpatient treatment" or "combined inpatient and outpatient
31 treatment" means any treatment program not requiring continuous inpatient
32 hospitalization.

33 30. "Outpatient treatment plan" means a treatment plan that does
34 not require continuous inpatient hospitalization.

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

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

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

41 (a) Significantly impairs judgment, reason, behavior or capacity to
42 recognize reality.

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

1 (c) Substantially impairs the person's capacity to make an informed
2 decision regarding treatment, and this impairment causes the person to be
3 incapable of understanding and expressing an understanding of the
4 advantages and disadvantages of accepting treatment and understanding and
5 expressing an understanding of the alternatives to the particular
6 treatment offered after the advantages, disadvantages and alternatives are
7 explained to that person.

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

10 34. "Prepetition screening" means the review of each application
11 requesting court-ordered evaluation, including an investigation of facts
12 alleged in the application, an interview with each applicant and an
13 interview, if possible, with the proposed patient. The purpose of the
14 interview with the proposed patient is to assess the problem, explain the
15 application and, when indicated, attempt to persuade the proposed patient
16 to receive, on a voluntary basis, evaluation or other services.

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

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

23 37. "Proposed patient" means a person for whom an application for
24 evaluation has been made or a petition for court-ordered evaluation has
25 been filed.

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

29 39. "Psychiatric and mental health nurse practitioner" means a
30 registered nurse practitioner as defined in section 32-1601 who has
31 completed an adult or family psychiatric and mental health nurse
32 practitioner program and who is certified as an adult or family
33 psychiatric and mental health nurse practitioner by the state board of
34 nursing.

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

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

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

- 1 (a) Materials that are prepared in connection with utilization
2 review, peer review or quality assurance activities, including records
3 that a health care provider prepares pursuant to section 36-441, 36-445,
4 36-2402 or 36-2917.
- 5 (b) Recorded telephone and radio calls to and from a publicly
6 operated emergency dispatch office relating to requests for emergency
7 services or reports of suspected criminal activity.
- 8 43. "Regional behavioral health authority" has the same meaning
9 prescribed in section 36-3401.
- 10 44. "Screening agency" means a health care agency that is licensed
11 by the department and that provides those services required of such agency
12 by this chapter.
- 13 45. "Social worker" means a person who has completed two years of
14 graduate training in social work in a program approved by the council of
15 social work education and who has experience in mental health.
- 16 46. "State hospital" means the Arizona state hospital.
- 17 47. "Superintendent" means the superintendent of the state
18 hospital.