

REFERENCE TITLE: state hospital; governing board; governance

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1103

Introduced by
Senators Miranda: Fernandez, Gonzales, Hernandez, Shope, Wadsack;
Representatives Hernandez C, Schwiebert, Terech

AN ACT

AMENDING SECTIONS 3-607, 8-201, 11-812 AND 23-618.01, ARIZONA REVISED STATUTES; REPEALING SECTION 36-103.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-132, 36-136, 36-137, 36-201, 36-202, 36-202.01, 36-203, 36-204 AND 36-205, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-205.01 AND 36-205.02; AMENDING SECTIONS 36-206, 36-208, 36-209, 36-210, 36-212 AND 36-213, ARIZONA REVISED STATUTES; REPEALING SECTION 36-214, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-216, 36-217 AND 36-218, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-220; AMENDING SECTIONS 36-407.03, 36-420.03, 36-501, 36-502.01, 36-503.03, 36-533, 36-541, 36-545.01, 36-545.08, 36-1672, 36-3701, 36-3702, 36-3704, 36-3705, 36-3707, 36-3708, 36-3709, 36-3710, 36-3711, 36-3712, 36-3714, 36-3717, 37-802, 37-803, 41-2752, 41-3803 AND 49-104, 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 3-607, Arizona Revised Statutes, is amended to
3 read:

4 3-607. Annual licenses; inspections; revocation; fees;
5 exceptions

6 A. A person shall not operate a milk distributing plant or a
7 manufacturing milk processing plant, engage in the business of
8 producer-distributor or producer-manufacturer, or engage in the business
9 of selling at wholesale milk or dairy products, or both, without a
10 license. This section does not require:

11 1. An Arizona dairy farm producing raw milk for sale to be
12 processed to secure a license to operate.

13 2. A retailer or wholesaler to secure a license from the division
14 to convert a pasteurized mix into frozen dessert.

15 3. A food establishment regulated by the department of health
16 services to secure a license from the division to manufacture frozen
17 desserts using pasteurized milk or pasteurized milk-based products if the
18 frozen dessert is manufactured and sold at the same food establishment for
19 consumption on the premises and the food establishment has submitted a
20 plan for approval to the regulatory authority under title 36 demonstrating
21 that the manufacturing process complies with the rules adopted pursuant to
22 section 36-136, subsection ~~H~~ H, including pasteurization as defined in
23 rule. The division or the regulatory authority under title 36 may require
24 a food establishment that manufactures frozen desserts using pasteurized
25 milk or pasteurized milk-based products to provide samples of the frozen
26 dessert to verify that the frozen dessert is pasteurized.

27 B. An application for a license shall be in writing in the form the
28 associate director prescribes and shall be accompanied by the required
29 filing fee. On receipt of an application, the associate director or an
30 authorized representative shall examine the premises in which the
31 applicant proposes to do business, and if it appears that the applicant
32 has complied with all provisions of law, the license shall be issued.

33 C. After issuance of the first annual license, a license may be
34 issued on inspection of the premises and payment not later than February
35 1 of each year of the required fee. The inspection shall be made by the
36 associate director or an authorized representative to determine whether
37 the premises are maintained in compliance with law. A written report of
38 the inspection shall be filed in the division office. An annual license
39 is valid for the period beginning January 1 and ending December 31 of each
40 year, and a license that is not renewed on or before February 1 of each
41 year is void.

42 D. An application for a license to produce grade A milk for human
43 consumption shall be made in the manner prescribed by subsections A and B
44 of this section. The license shall be valid until revoked for failure to
45 comply with the provisions of this article relating to the production of

1 milk. The associate director may suspend a license pending correction of
2 deficiencies that violate this article. If the identified deficiencies
3 are not corrected within a reasonable time after the licensee is notified,
4 the associate director may proceed to revoke the license. Notice of a
5 pending revocation shall be in writing, stating the cause, and setting a
6 time during which the licensee may correct the cause for revocation. If
7 the cause for revocation is not corrected within the time specified, the
8 associate director, after a hearing and three days' notice of intention,
9 may revoke the license. The director shall review the associate
10 director's action on request of any person adversely affected by the
11 action. A person holding a permit issued by a governmental agency
12 operating outside of this state whose requirements are substantially the
13 same as the requirements of this state shall be deemed to have a license
14 meeting the requirements of this article, provided the facilities have
15 first been inspected and approved also by a resident Arizona inspector, if
16 in the opinion of the associate director such an inspection should be
17 made. Any expense incurred for such an inspection shall be at the expense
18 of the licensee.

19 E. Fees shall be paid as follows:

20 1. For a license or renewal of a license to operate a milk
21 distributing plant or business, \$50.

22 2. For a license or renewal of a license to operate a manufacturing
23 milk processing plant, \$50.

24 3. For a license or renewal of a license to engage in the business
25 of producer-distributor or producer-manufacturer, \$25.

26 4. For a license or renewal of a license to engage in the business
27 of selling at wholesale milk or dairy products, or both, \$25.

28 F. The associate director or dairy inspectors are authorized to
29 inspect premises affected by this article and located outside of this
30 state, and they shall receive subsistence and travel expenses in the
31 amount provided for state officers, which shall be paid to the inspector
32 by the owner of the premises inspected.

33 G. This section does not apply to a producer of raw milk.

34 Sec. 2. Section 8-201, Arizona Revised Statutes, is amended to
35 read:

36 8-201. Definitions

37 In this title, unless the context otherwise requires:

38 1. "Abandoned" means the failure of the parent to provide
39 reasonable support and to maintain regular contact with the child,
40 including providing normal supervision. Abandoned includes a judicial
41 finding that a parent has made only minimal efforts to support and
42 communicate with the child. Failure to maintain a normal parental
43 relationship with the child without just cause for a period of six months
44 constitutes prima facie evidence of abandonment.

1 2. "Abuse" means the infliction or allowing of physical injury,
2 impairment of bodily function or disfigurement or the infliction of or
3 allowing another person to cause serious emotional damage as evidenced by
4 severe anxiety, depression, withdrawal or untoward aggressive behavior and
5 which emotional damage is diagnosed by a medical doctor or psychologist
6 and is caused by the acts or omissions of an individual who has the care,
7 custody and control of a child. Abuse includes:

8 (a) Inflicting or allowing sexual abuse pursuant to section
9 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual
10 assault pursuant to section 13-1406, molestation of a child pursuant to
11 section 13-1410, commercial sexual exploitation of a minor pursuant to
12 section 13-3552, sexual exploitation of a minor pursuant to section
13 13-3553, incest pursuant to section 13-3608 or child sex trafficking
14 pursuant to section 13-3212.

15 (b) Physical injury that results from allowing a child to enter or
16 remain in any structure or vehicle in which volatile, toxic or flammable
17 chemicals are found or equipment is possessed by any person for the
18 purpose of manufacturing a dangerous drug as defined in section 13-3401.

19 (c) Unreasonable confinement of a child.

20 3. "Adult" means a person who is eighteen years of age or older.

21 4. "Adult court" means the appropriate justice court, municipal
22 court or criminal division of the superior court that has jurisdiction to
23 hear proceedings concerning offenses committed by juveniles as provided in
24 sections 8-327 and 13-501.

25 5. "Award" or "commit" means to assign legal custody.

26 6. "Child", "youth" or "juvenile" means an individual who is under
27 eighteen years of age.

28 7. "Complaint" means a written statement of the essential facts
29 constituting a public offense that is any of the following:

30 (a) Made on an oath before a judge or commissioner of the superior
31 court or an authorized juvenile hearing officer.

32 (b) Made pursuant to section 13-3903.

33 (c) Accompanied by an affidavit of a law enforcement officer or
34 employee that swears on information and belief to the accuracy of the
35 complaint pursuant to section 13-4261.

36 8. "Criminal conduct allegation" means an allegation of conduct by
37 a parent, guardian or custodian of a child or an adult member of the
38 victim's household that, if true, would constitute any of the following:

39 (a) A violation of section 13-3623 involving child abuse.

40 (b) A felony offense that constitutes domestic violence as defined
41 in section 13-3601.

42 (c) A violation of section 13-1404 or 13-1406 involving a minor.

43 (d) A violation of section 13-1405, 13-1410 or 13-1417.

44 (e) Any other act of abuse that is classified as a felony.

1 (f) An offense that constitutes domestic violence as defined in
2 section 13-3601 and that involves a minor who is a victim of or was in
3 imminent danger during the domestic violence.

4 9. "Custodian" means a person, other than a parent or legal
5 guardian, who stands in loco parentis to the child or a person to whom
6 legal custody of the child has been given by order of the juvenile court.

7 10. "DCS report" means a communication received by the centralized
8 intake hotline that alleges child abuse or neglect and that meets the
9 criteria for a report as prescribed in section 8-455.

10 11. "Delinquency hearing" means a proceeding in the juvenile court
11 to determine whether a juvenile has committed a specific delinquent act as
12 set forth in a petition.

13 12. "Delinquent act" means an act by a juvenile that if committed
14 by an adult would be a criminal offense or a petty offense, a violation of
15 any law of this state, or of another state if the act occurred in that
16 state, or a law of the United States, or a violation of any law that can
17 only be violated by a minor and that has been designated as a delinquent
18 offense, or any ordinance of a city, county or political subdivision of
19 this state defining crime. Delinquent act does not include an offense
20 under section 13-501, subsection A or B if the offense is filed in adult
21 court. Any juvenile who is prosecuted as an adult or who is remanded for
22 prosecution as an adult shall not be adjudicated as a delinquent juvenile
23 for the same offense.

24 13. "Delinquent juvenile" means a child who is adjudicated to have
25 committed a delinquent act.

26 14. "Department" means the department of child safety.

27 15. "Dependent child":

28 (a) Means a child who is adjudicated to be:

29 (i) In need of proper and effective parental care and control and
30 who has no parent or guardian, or one who has no parent or guardian
31 willing to exercise or capable of exercising such care and control.

32 (ii) Destitute or who is not provided with the necessities of life,
33 including adequate food, clothing, shelter or medical care.

34 (iii) A child whose home is unfit by reason of abuse, neglect,
35 cruelty or depravity by a parent, a guardian or any other person having
36 custody or care of the child.

37 (iv) Under eight years of age and who is found to have committed an
38 act that would result in adjudication as a delinquent juvenile or
39 incorrigible child if committed by an older juvenile or child.

40 (v) Incompetent or not restorable to competency and who is alleged
41 to have committed a serious offense as defined in section 13-706.

42 (b) Does not include a child who in good faith is being furnished
43 Christian Science treatment by a duly accredited practitioner if none of
44 the circumstances described in subdivision (a) of this paragraph exists.

1 16. "Detention" means the temporary confinement of a juvenile who
2 requires secure care in a physically restricting facility that is
3 completely surrounded by a locked and physically secure barrier with
4 restricted ingress and egress for the protection of the juvenile or the
5 community pending court disposition or as a condition of probation.

6 17. "Director" means the director of the department.

7 18. "Health professional" has the same meaning prescribed in
8 section 32-3201.

9 19. "Incorrigible child" means a child who:

10 (a) Is adjudicated as a child who refuses to obey the reasonable
11 and proper orders or directions of a parent, guardian or custodian and who
12 is beyond the control of that person.

13 (b) Is habitually truant from school as defined in section 15-803,
14 subsection C.

15 (c) Is a runaway from the child's home or parent, guardian or
16 custodian.

17 (d) Habitually behaves in such a manner as to injure or endanger
18 the morals or health of self or others.

19 (e) Commits any act constituting an offense that can only be
20 committed by a minor and that is not designated as a delinquent act.

21 (f) Fails to obey any lawful order of a court of competent
22 jurisdiction given in a noncriminal action.

23 20. "Independent living program" includes a residential program
24 with supervision of less than twenty-four hours a day.

25 21. "Juvenile court" means the juvenile division of the superior
26 court when exercising its jurisdiction over children in any proceeding
27 relating to delinquency, dependency or incorrigibility.

28 22. "Law enforcement officer" means a peace officer, sheriff,
29 deputy sheriff, municipal police officer or constable.

30 23. "Medical director of a mental health agency":

31 (a) Means a psychiatrist, or licensed physician experienced in
32 psychiatric matters, who is designated in writing by the governing body of
33 the agency as the person in charge of the medical services of the agency,
34 or a psychiatrist designated by the governing body to act for the
35 director.

36 (b) Includes the ~~superintendent~~ DIRECTOR of the state hospital.

37 24. "Mental health agency" means any private or public facility
38 that is licensed by this state as a mental health treatment agency, a
39 psychiatric hospital, a psychiatric unit of a general hospital or a
40 residential treatment center for emotionally disturbed children and that
41 uses secure settings or mechanical restraints.

42 25. "Neglect" or "neglected" means:

43 (a) The inability or unwillingness of a parent, guardian or
44 custodian of a child to provide that child with supervision, food,
45 clothing, shelter or medical care if that inability or unwillingness

1 causes substantial risk of harm to the child's health or welfare, except
2 if the inability of a parent, guardian or custodian to provide services to
3 meet the needs of a child with a disability or chronic illness is solely
4 the result of the unavailability of reasonable services.

5 (b) Allowing a child to enter or remain in any structure or vehicle
6 in which volatile, toxic or flammable chemicals are found or equipment is
7 possessed by any person with the intent and for the purpose of
8 manufacturing a dangerous drug as defined in section 13-3401.

9 (c) A determination by a health professional that a newborn infant
10 was exposed prenatally to a drug or substance listed in section 13-3401
11 and that this exposure was not the result of a medical treatment
12 administered to the mother or the newborn infant by a health professional.
13 This subdivision does not expand a health professional's duty to report
14 neglect based on prenatal exposure to a drug or substance listed in
15 section 13-3401 beyond the requirements prescribed pursuant to section
16 13-3620, subsection E. The determination by the health professional shall
17 be based on one or more of the following:

18 (i) Clinical indicators in the prenatal period including maternal
19 and newborn presentation.

20 (ii) History of substance use or abuse.

21 (iii) Medical history.

22 (iv) Results of a toxicology or other laboratory test on the mother
23 or the newborn infant.

24 (d) Diagnosis by a health professional of an infant under one year
25 of age with clinical findings consistent with fetal alcohol syndrome or
26 fetal alcohol effects.

27 (e) Deliberate exposure of a child by a parent, guardian or
28 custodian to sexual conduct as defined in section 13-3551 or to sexual
29 contact, oral sexual contact or sexual intercourse as defined in section
30 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
31 materials as defined in section 13-3507.

32 (f) Any of the following acts committed by the child's parent,
33 guardian or custodian with reckless disregard as to whether the child is
34 physically present:

35 (i) Sexual contact as defined in section 13-1401.

36 (ii) Oral sexual contact as defined in section 13-1401.

37 (iii) Sexual intercourse as defined in section 13-1401.

38 (iv) Bestiality as prescribed in section 13-1411.

39 26. "Newborn infant" means a child who is under thirty days of age.

40 27. "Petition" means a written statement of the essential facts
41 that allege delinquency, incorrigibility or dependency.

42 28. "Prevention" means the creation of conditions, opportunities
43 and experiences that encourage and develop healthy, self-sufficient
44 children and that occur before the onset of problems.

1 29. "Protective supervision" means supervision that is ordered by
2 the juvenile court of children who are found to be dependent or
3 incorrigible.

4 30. "Qualified young adult" means a former dependent child who is
5 at least eighteen years of age and not over twenty-one years of age, who
6 meets the criteria for an extended foster care program pursuant to section
7 8-521.02 and who signs a voluntary agreement to participate in the
8 program.

9 31. "Referral" means a report that is submitted to the juvenile
10 court and that alleges that a child is dependent or incorrigible or that a
11 juvenile has committed a delinquent or criminal act.

12 32. "Secure care" means confinement in a facility that is
13 completely surrounded by a locked and physically secure barrier with
14 restricted ingress and egress.

15 33. "Serious emotional injury" means an injury that is diagnosed by
16 a medical doctor or a psychologist and that does any one or a combination
17 of the following:

18 (a) Seriously impairs mental faculties.

19 (b) Causes serious anxiety, depression, withdrawal or social
20 dysfunction behavior to the extent that the child suffers dysfunction that
21 requires treatment.

22 (c) Is the result of sexual abuse pursuant to section 13-1404,
23 sexual conduct with a minor pursuant to section 13-1405, sexual assault
24 pursuant to section 13-1406, molestation of a child pursuant to section
25 13-1410, child sex trafficking pursuant to section 13-3212, commercial
26 sexual exploitation of a minor pursuant to section 13-3552, sexual
27 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
28 section 13-3608.

29 34. "Serious physical injury" means an injury that is diagnosed by
30 a medical doctor and that does any one or a combination of the following:

31 (a) Creates a reasonable risk of death.

32 (b) Causes serious or permanent disfigurement.

33 (c) Causes significant physical pain.

34 (d) Causes serious impairment of health.

35 (e) Causes the loss or protracted impairment of an organ or limb.

36 (f) Is the result of sexual abuse pursuant to section 13-1404,
37 sexual conduct with a minor pursuant to section 13-1405, sexual assault
38 pursuant to section 13-1406, molestation of a child pursuant to section
39 13-1410, child sex trafficking pursuant to section 13-3212, commercial
40 sexual exploitation of a minor pursuant to section 13-3552, sexual
41 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
42 section 13-3608.

43 35. "Shelter care" means the temporary care of a child in any
44 public or private facility or home that is licensed by this state and that
45 offers a physically nonsecure environment that is characterized by the

1 absence of physically restricting construction or hardware and that
2 provides the child access to the surrounding community.

3 36. "Young adult administrative review" means an administrative
4 review of a voluntary extended foster care case plan with the qualified
5 young adult, the department's case specialist or designee, an independent
6 party who is not responsible for the case management of or the delivery of
7 services to the qualified young adult and any other individual the young
8 adult invites.

9 Sec. 3. Section 11-812, Arizona Revised Statutes, is amended to
10 read:

11 11-812. Restriction on regulation; exceptions; aggregate
12 mining regulation; definitions

13 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
14 shall NOT:

15 1. Affect existing uses of property or the right to its continued
16 use or the reasonable repair or alteration of the property for the purpose
17 for which used at the time the ordinance affecting the property takes
18 effect.

19 2. Prevent, restrict or otherwise regulate the use or occupation of
20 land or improvements for railroad, mining, metallurgical, grazing or
21 general agricultural purposes, if the tract concerned is five or more
22 contiguous commercial acres. For the purposes of this paragraph:

23 (a) "General agricultural purposes" includes agritourism as defined
24 in section 3-111, but does not include any of the following:

25 (i) Food establishments THAT ARE under the authority of the
26 department of health services pursuant to section 36-136, subsection ~~H~~ H
27 AND that are associated with an agritourism business.

28 (ii) Rodeo events that are open to the general public and that sell
29 tickets for admission. For the purposes of this item, rodeo events do not
30 include generally accepted agricultural practices associated with
31 livestock and equine operations.

32 (iii) The cultivation of cannabis as defined in section 13-3401 or
33 marijuana as defined in section 13-3401 or 36-2801.

34 (b) "Mining" has the same meaning prescribed in section 27-301.

35 3. Prevent, restrict or otherwise regulate the use or occupation of
36 land or improvements for agricultural composting, if the tract is five or
37 more contiguous commercial acres. An agricultural composting operation
38 shall notify in writing the board of supervisors and the nearest fire
39 department of the location of the composting operation. If the nearest
40 fire department is located in a city, town or fire district where the
41 agricultural composting is not located, the agricultural composting
42 operation shall also notify in writing the fire district in which the
43 operation is located. Agricultural composting is subject to sections
44 3-112 and 49-141. For the purposes of this paragraph, "agricultural

1 composting" has the same meaning prescribed in section 9-462.01,
2 subsection G.

3 4. Prevent, restrict or otherwise regulate the otherwise lawful
4 discharge of a firearm or air gun or use of archery equipment on a private
5 lot or parcel of land that is not open to the public on a commercial or
6 membership basis.

7 B. A nonconforming business use within a district may expand if the
8 expansion does not exceed one hundred ~~per cent~~ PERCENT of the area of the
9 original business.

10 C. For the purposes of subsection A, paragraph 2 of this section,
11 mining does not include aggregate mining operations in an aggregate mining
12 operations zoning district established pursuant to this section. The
13 board of supervisors of any county with a population of more than two
14 million persons shall designate and establish the boundaries of an
15 aggregate mining operations zoning district on the petition of at least
16 one hundred persons who reside within one-half mile of an existing
17 aggregate mining operation. In addition, the board of supervisors of any
18 county may establish, in its discretion and on the board's initiative, one
19 or more aggregate mining operations zoning districts. Aggregate mining
20 operations zoning districts may only be located in areas that are
21 inventoried and mapped as areas of known reserves or in areas with
22 existing aggregate mining operations. Subject to subsections E and F of
23 this section, a county and the state mine inspector may jointly adopt, as
24 internal administrative regulations, reasonable aggregate mining
25 operations zoning district standards limited to permitted uses, procedures
26 for approval of property development plans and site development standards
27 for dust control, height regulations, setbacks, days and hours of
28 operation, off-street parking, screening, noise, vibration and air
29 pollution control, signs, roadway access lanes, arterial highway
30 protection and property reclamation for which aggregate mining operations
31 are not otherwise subject to federal, state or local regulation or a
32 governmental contractual obligation. Regulations ~~THAT ARE~~ jointly adopted
33 pursuant to this subsection by the county and the state mine inspector
34 shall not prohibit the activities included in the definition of mine
35 pursuant to section 27-301, ~~paragraph 8~~ or duplicate, conflict with or be
36 more stringent than applicable federal, state or local laws.

37 D. The board of supervisors of any county that establishes an
38 aggregate mining operations zoning district shall appoint an aggregate
39 mining operations recommendation committee for the district. The
40 committee consists of not more than seven operators, or representatives of
41 operators, of active aggregate mining operations in any district within
42 the county and an equal number of private citizens, who are not operators,
43 who are not employed by operators and who do not represent operators,
44 residing within three miles of the boundaries of aggregate mining
45 operations or a proposed aggregate mining operation in the district for

1 which the committee is established. The initial members appointed to the
2 committee shall be deemed the primary members, and the board of
3 supervisors shall appoint not more than five alternate members who
4 represent operators and shall appoint not more than five alternate members
5 who are private citizens. Alternate members may serve at meetings of the
6 committee when a primary member is unable to attend. An aggregate mining
7 operator may serve on more than one committee in the same county. The
8 board of supervisors shall determine the length of terms of members of the
9 committee and shall stagger the initial appointments so that not all
10 members' terms expire at the same time. Members of the committee who no
11 longer qualify for membership as provided by this subsection are subject
12 to removal and replacement by the board of supervisors. The committee
13 shall elect a member who is an aggregate mining operator to serve as
14 chairperson for the first year in which the committee is created. For
15 each year thereafter, the chairperson shall be elected by the members of
16 the committee with a member who is a private citizen and a member who is
17 an aggregate mining operator serving as chairperson in alternate years.
18 The committee is subject to the open meeting requirements of title 38,
19 chapter 3, article 3.1.

20 E. Within ninety days after an aggregate mining operations
21 recommendation committee is established, the committee shall notify all
22 existing aggregate mining operators in the district of the application of
23 this section and title 27, chapter 3, article 6 to the aggregate mining
24 operation. In addition, the committee shall:

25 1. By a majority vote of all members, make recommendations to the
26 board of supervisors for aggregate mining zoning districts and
27 administrative regulations as provided in this section. The board of
28 supervisors may adopt or reject the recommendations but may not make any
29 modifications to the recommendations unless the modification is approved
30 by a majority of the members of the recommendation committee.

31 2. Serve as a forum for mediation of disputes between members of
32 the public and aggregate mining owners or operators. If the committee is
33 unable to resolve a dispute, the committee shall transmit the matter to
34 the state mine inspector, with written findings and recommendations, for
35 further action.

36 3. Hear written complaints filed with the state mine inspector
37 regarding alleged material deviations from approved community notices for
38 aggregate mining operations and make written recommendations to the state
39 mine inspector pursuant to section 27-446.

40 F. Any administrative regulations adopted by a board of supervisors
41 pursuant to this section are not effective until the regulations are
42 approved by the state mine inspector. The STATE MINE inspector may
43 disapprove the administrative regulations adopted by the board of
44 supervisors only if they duplicate, conflict with or are more stringent
45 than applicable federal, state or local laws, rules or regulations. If

1 the STATE MINE inspector disapproves the administrative regulations, the
2 STATE MINE inspector must provide written reasons for the disapproval.
3 The STATE MINE inspector shall not make any modification to the
4 administrative regulations as adopted by the board of supervisors unless
5 the modification is approved by a majority of the members of the board of
6 supervisors.

7 G. A person or entity is subject to this chapter if the use or
8 occupation of land or improvements by the person or entity consists of or
9 includes changing, remanufacturing or treating human sewage or sludge for
10 distribution or resale. These activities are not exempt from this chapter
11 under subsection A, paragraph 2 of this section.

12 H. A county shall not require as a condition for a permit or for
13 any approval, or otherwise cause, an owner or possessor of property to
14 waive the right to continue an existing nonconforming outdoor advertising
15 use or structure without acquiring the use or structure by purchase or
16 condemnation and paying just compensation unless the county, at its
17 option, allows the use or structure to be relocated to a comparable site
18 in the county with the same or a similar zoning classification, or to
19 another site in the county acceptable to both the county and the owner of
20 the use or structure, and the use or structure is relocated to the other
21 site. The county shall pay for relocating the outdoor advertising use or
22 structure, including the cost of removing and constructing the new use or
23 structure that is at least the same size and height. This subsection does
24 not apply to county rezoning of property at the request of the property
25 owner to a more intensive zoning district.

26 I. For the purposes of this section:

27 1. "Aggregate" has the same meaning prescribed in section 27-441.

28 2. "Aggregate mining" has the same meaning prescribed in section
29 27-441.

30 3. "Aggregate mining operation" means property that is owned,
31 operated or managed by the same person for aggregate mining.

32 4. "Operators" means persons who are actively engaged in aggregate
33 mining operations within the zoning district or proposed zoning district
34 and who have given notice to the state mine inspector pursuant to section
35 27-303.

36 Sec. 4. Section 23-618.01, Arizona Revised Statutes, is amended to
37 read:

38 23-618.01. Definition of hospital

39 "Hospital" means an institution ~~which~~ THAT has been licensed,
40 certified, ~~or~~ approved by the ~~Arizona state~~ department of health SERVICES
41 as a hospital.

42 Sec. 5. Repeal

43 Section 36-103.01, Arizona Revised Statutes, is repealed.

1 Sec. 6. Section 36-132, Arizona Revised Statutes, is amended to
2 read:

3 36-132. Department of health services; functions; contracts

4 A. The department, in addition to other powers and duties vested in
5 it by law, shall:

6 1. Protect the health of the people of the state.

7 2. Promote the development, maintenance, efficiency and
8 effectiveness of local health departments or districts of sufficient
9 population and area that they can be sustained with reasonable economy and
10 efficient administration, provide technical consultation and assistance to
11 local health departments or districts, provide financial assistance to
12 local health departments or districts and services that meet minimum
13 standards of personnel and performance and in accordance with a plan and
14 budget submitted by the local health department or districts to the
15 department for approval, and recommend the qualifications of all
16 personnel.

17 3. Collect, preserve, tabulate and interpret all information
18 required by law in reference to births, deaths and all vital facts, and
19 obtain, collect and preserve information relating to the health of the
20 people of this state and the prevention of diseases as may be useful in
21 the discharge of functions of the department not in conflict with chapter
22 3 of this title and sections 36-693, 36-694 and 39-122.

23 4. Operate sanitariums, hospitals or other facilities assigned to
24 the department by law or by the governor.

25 5. Conduct a statewide program of health education relevant to the
26 powers and duties of the department, prepare educational materials and
27 disseminate information as to conditions affecting health, including basic
28 information to promote good health on the part of individuals and
29 communities, and prepare and disseminate technical information concerning
30 public health to the health professions, local health officials and
31 hospitals. In cooperation with the department of education, the
32 department of health services shall prepare and disseminate materials and
33 give technical assistance for the purpose of educating children in
34 hygiene, sanitation and personal and public health, and provide
35 consultation and assistance in community organization to counties,
36 communities and groups of people.

37 6. Administer or supervise a program of public health nursing,
38 prescribe the minimum qualifications of all public health nurses engaged
39 in official public health work, and encourage and aid in coordinating
40 local public health nursing services.

41 7. Encourage and aid in coordinating local programs concerning
42 control of preventable diseases in accordance with statewide plans that
43 shall be formulated by the department.

44 8. Encourage and aid in coordinating local programs concerning
45 maternal and child health, including midwifery, antepartum and postpartum

1 care, infant and preschool health and the health of schoolchildren,
2 including special fields such as the prevention of blindness and
3 conservation of sight and hearing.

4 9. Encourage and aid in coordinating local programs concerning
5 nutrition of the people of this state.

6 10. Encourage, administer and provide dental health care services
7 and aid in coordinating local programs concerning dental public health, in
8 cooperation with the Arizona dental association. The department may bill
9 and receive payment for costs associated with providing dental health care
10 services and shall deposit the monies in the oral health fund established
11 by section 36-138.

12 11. Establish and maintain adequate serological, bacteriological,
13 parasitological, entomological and chemical laboratories with qualified
14 assistants and facilities necessary for routine examinations and analyses
15 and for investigations and research in matters affecting public health.

16 12. Supervise, inspect and enforce the rules concerning the
17 operation of public bathing places and public and semipublic swimming
18 pools adopted pursuant to section 36-136, subsection ~~F~~ H, paragraph 10.

19 13. Take all actions necessary or appropriate to ensure that
20 bottled water sold to the public and water used to process, store, handle,
21 serve and transport food and drink are free from filth, disease-causing
22 substances and organisms and unwholesome, poisonous, deleterious or other
23 foreign substances. All state agencies and local health agencies involved
24 with water quality shall provide to the department any assistance
25 requested by the director to ensure that this paragraph is effectuated.

26 14. Enforce the state food, caustic alkali and acid laws in
27 accordance with chapter 2, article 2 of this title, chapter 8, article
28 1 of this title and chapter 9, article 4 of this title, and collaborate in
29 enforcing the federal food, drug, and cosmetic act (52 Stat. 1040; 21
30 United States Code sections 1 through 905).

31 15. Recruit and train personnel for state, local and district
32 health departments.

33 16. Conduct continuing evaluations of state, local and district
34 public health programs, study and appraise state health problems and
35 develop broad plans for use by the department and for recommendation to
36 other agencies, professions and local health departments for the best
37 solution of these problems.

38 17. License and regulate health care institutions according to
39 chapter 4 of this title.

40 18. Issue or direct the issuance of licenses and permits required
41 by law.

42 19. Participate in the state civil defense program and develop the
43 necessary organization and facilities to meet wartime or other disasters.

1 20. Subject to the availability of monies, develop and administer
2 programs in perinatal health care, including:

3 (a) Screening in early pregnancy for detecting high-risk
4 conditions.

5 (b) Comprehensive prenatal health care.

6 (c) Maternity, delivery and postpartum care.

7 (d) Perinatal consultation, including transportation of the
8 pregnant woman to a perinatal care center when medically indicated.

9 (e) Perinatal education oriented toward professionals and
10 consumers, focusing on early detection and adequate intervention to avert
11 premature labor and delivery.

12 21. License and regulate the health and safety of group homes and
13 behavioral-supported group homes [AS DEFINED IN SECTION 36-551](#) for persons
14 with developmental disabilities. The department shall issue a license to
15 an accredited facility for a period of the accreditation, except that a
16 licensing period shall not be longer than three years. The department is
17 authorized to conduct an inspection of an accredited facility to ensure
18 that the facility meets health and safety licensure standards. The
19 results of the accreditation survey shall be public information. A copy
20 of the final accreditation report shall be filed with the department of
21 health services. For the purposes of this paragraph, "accredited" means
22 accredited by a nationally recognized accreditation organization.

23 B. The department may accept from the state or federal government,
24 or any agency of the state or federal government, and from private donors,
25 trusts, foundations or eleemosynary corporations or organizations grants
26 or donations for or in aid of the construction or maintenance of any
27 program, project, research or facility authorized by this title, or in aid
28 of the extension or enforcement of any program, project or facility
29 authorized, regulated or prohibited by this title, and enter into
30 contracts with the federal government, or an agency of the federal
31 government, and with private donors, trusts, foundations or eleemosynary
32 corporations or organizations, to carry out such purposes. All monies
33 made available under this section are special project grants. The
34 department may also expend these monies to further applicable scientific
35 research within this state.

36 C. The department, in establishing fees authorized by this section,
37 shall comply with title 41, chapter 6. The department shall not set a fee
38 at more than the department's cost of providing the service for which the
39 fee is charged. State agencies are exempt from all fees imposed pursuant
40 to this section.

41 D. The department may enter into contracts with organizations that
42 perform nonrenal organ transplant operations and organizations that
43 primarily assist in the management of end-stage renal disease and related
44 problems to provide, as payors of last resort, prescription medications
45 necessary to supplement treatment and transportation to and from treatment

1 facilities. The contracts may provide for department payment of
2 administrative costs it specifically authorizes.

3 Sec. 7. Section 36-136, Arizona Revised Statutes, is amended to
4 read:

5 36-136. Powers and duties of director; compensation of
6 personnel; rules; definitions

7 A. The director shall:

8 1. Be the executive officer of the department of health services
9 and the state registrar of vital statistics but shall not receive
10 compensation for services as registrar.

11 2. Perform all duties necessary to carry out the functions and
12 responsibilities of the department.

13 3. Prescribe the organization of the department. The director
14 shall appoint or remove personnel as necessary for the efficient work of
15 the department and shall prescribe the duties of all personnel. The
16 director may abolish any office or position in the department that the
17 director believes is unnecessary.

18 4. Administer and enforce the laws relating to health and
19 sanitation and the rules of the department.

20 5. Provide for the examination of any premises if the director has
21 reasonable cause to believe that on the premises there exists a violation
22 of any health law or rule of this state.

23 6. Exercise general supervision over all matters relating to
24 sanitation and health throughout this state. When in the opinion of the
25 director it is necessary or advisable, a sanitary survey of the whole or
26 of any part of this state shall be made. The director may enter, examine
27 and survey any source and means of water supply, sewage disposal plant,
28 sewerage system, prison, public or private place of detention, asylum,
29 hospital, school, public building, private institution, factory, workshop,
30 tenement, public washroom, public restroom, public toilet and toilet
31 facility, public eating room and restaurant, dairy, milk plant or food
32 manufacturing or processing plant, and any premises in which the director
33 has reason to believe there exists a violation of any health law or rule
34 of this state that the director has the duty to administer.

35 7. Prepare sanitary and public health rules.

36 8. Perform other duties prescribed by law.

37 B. If the director has reasonable cause to believe that there
38 exists a violation of any health law or rule of this state, the director
39 may inspect any person or property in transportation through this state,
40 and any car, boat, train, trailer, airplane or other vehicle in which that
41 person or property is transported, and may enforce detention or
42 disinfection as reasonably necessary for the public health if there exists
43 a violation of any health law or rule.

44 ~~C. The director, after consultation with the department of~~
45 ~~administration, may take all necessary steps to enhance the highest and~~

~~best use of the state hospital property, including contracting with third parties to provide services, entering into short-term lease agreements with third parties to occupy or renovate existing buildings and entering into long-term lease agreements to develop the land and buildings. The director shall deposit any monies collected from contracts and lease agreements entered into pursuant to this subsection in the Arizona state hospital charitable trust fund established by section 36-218. At least thirty days before issuing a request for proposals pursuant to this subsection, the department of health services shall hold a public hearing to receive community and provider input regarding the highest and best use of the state hospital property related to the request for proposals. The department shall report to the joint committee on capital review on the terms, conditions and purpose of any lease or sublease agreement entered into pursuant to this subsection relating to state hospital lands or buildings or the disposition of real property pursuant to this subsection, including state hospital lands or buildings, and the fiscal impact on the department and any revenues generated by the agreement. Any lease or sublease agreement entered into pursuant to this subsection relating to state hospital lands or buildings or the disposition of real property pursuant to this subsection, including state hospital lands or buildings, must be reviewed by the joint committee on capital review.~~

~~D.~~ C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

~~E.~~ D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health ~~agency~~ DEPARTMENT, environmental ~~agency~~ DEPARTMENT or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director of the department of health services.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. If in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any ~~funds~~ MONIES that may

1 have been conditioned on the further performance of the functions, powers
2 or duties conferred.

3 ~~F.~~ E. The compensation of all personnel shall be as determined
4 pursuant to section 38-611.

5 ~~G.~~ F. The director may make and amend rules necessary for the
6 proper administration and enforcement of the laws relating to the public
7 health.

8 ~~H.~~ G. Notwithstanding subsection ~~I.~~ H, paragraph 1 of this
9 section, the director may define and prescribe emergency measures for
10 detecting, reporting, preventing and controlling communicable or
11 infectious diseases or conditions if the director has reasonable cause to
12 believe that a serious threat to public health and welfare exists.
13 Emergency measures are effective for not longer than eighteen months.

14 ~~I.~~ H. The director, by rule, shall:

15 1. Define and prescribe reasonably necessary measures for
16 detecting, reporting, preventing and controlling communicable and
17 preventable diseases. The rules shall declare certain diseases
18 reportable. The rules shall prescribe measures, including isolation or
19 quarantine, that are reasonably required to prevent the occurrence of, or
20 to seek early detection and alleviation of, disability, insofar as
21 possible, from communicable or preventable diseases. The rules shall
22 include reasonably necessary measures to control animal diseases **THAT ARE**
23 transmittable to humans.

24 2. Define and prescribe reasonably necessary measures, in addition
25 to those prescribed by law, regarding the preparation, embalming,
26 cremation, interment, disinterment and transportation of dead human bodies
27 and the conduct of funerals, relating to and restricted to communicable
28 diseases and regarding the removal, transportation, cremation, interment
29 or disinterment of any dead human body.

30 3. Define and prescribe reasonably necessary procedures that are
31 not inconsistent with law in regard to the use and accessibility of vital
32 records, delayed birth registration and the completion, change and
33 amendment of vital records.

34 4. Except as relating to the beneficial use of wildlife meat by
35 public institutions and charitable organizations pursuant to title 17,
36 prescribe reasonably necessary measures to ensure that all food or drink,
37 including meat and meat products and milk and milk products sold at the
38 retail level, provided for human consumption is free from unwholesome,
39 poisonous or other foreign substances and filth, insects or
40 disease-causing organisms. The rules shall prescribe reasonably necessary
41 measures governing the production, processing, labeling, storing,
42 handling, serving and transportation of these products. The rules shall
43 prescribe minimum standards for the sanitary facilities and conditions
44 that shall be maintained in any warehouse, restaurant or other premises,
45 except a ~~meat packing~~ **MEATPACKING** plant, slaughterhouse, wholesale meat

1 processing plant, dairy product manufacturing plant or trade product
2 manufacturing plant. The rules shall prescribe minimum standards for any
3 truck or other vehicle in which food or drink is produced, processed,
4 stored, handled, served or transported. The rules shall provide for the
5 inspection and licensing of premises and vehicles so used, and for
6 abatement as public nuisances of any premises or vehicles that do not
7 comply with the rules and minimum standards. The rules shall provide an
8 exemption relating to food or drink that is:

9 (a) Served at a noncommercial social event such as a potluck.

10 (b) Prepared at a cooking school that is conducted in an
11 owner-occupied home.

12 (c) Not potentially hazardous and prepared in a kitchen of a
13 private home for occasional sale or distribution for noncommercial
14 purposes.

15 (d) Prepared or served at an employee-conducted function that lasts
16 less than four hours and is not regularly scheduled, such as an employee
17 recognition, an employee fundraising or an employee social event.

18 (e) Offered at a child care facility and limited to commercially
19 prepackaged food that is not potentially hazardous and whole fruits and
20 vegetables that are washed and cut on-site for immediate consumption.

21 (f) Offered at locations that sell only commercially prepackaged
22 food or drink that is not potentially hazardous.

23 (g) A cottage food product that is not potentially hazardous or a
24 time or temperature control for safety food and that is prepared in a
25 kitchen of a private home for commercial purposes, including fruit jams
26 and jellies, dry mixes made with ingredients from approved sources, honey,
27 dry pasta and roasted nuts. Cottage food products must be packaged at
28 home with an attached label that clearly states the name and registration
29 number of the food preparer, lists all the ingredients in the product and
30 the product's production date and includes the following statement: "This
31 product was produced in a home kitchen that may process common food
32 allergens and is not subject to public health inspection." If the product
33 was made in a facility for individuals with developmental disabilities,
34 the label must also disclose that fact. The person preparing the food or
35 supervising the food preparation must complete a food handler training
36 course from an accredited program and maintain active certification. The
37 food preparer must register with an online registry established by the
38 department pursuant to paragraph 13 of this subsection. The food preparer
39 must display the preparer's certificate of registration when operating as
40 a temporary food establishment. For the purposes of this subdivision,
41 "not potentially hazardous" means cottage food products that meet the
42 requirements of the food code published by the United States food and drug
43 administration, as modified and incorporated by reference by the
44 department by rule.

1 (h) A whole fruit or vegetable grown in a public school garden that
2 is washed and cut on-site for immediate consumption.

3 (i) Produce in a packing or holding facility that is subject to the
4 United States food and drug administration produce safety rule (21 Code of
5 Federal Regulations part 112) as administered by the Arizona department of
6 agriculture pursuant to title 3, chapter 3, article 4.1. For the purposes
7 of this subdivision, "holding", "packing" and "produce" have the same
8 meanings prescribed in section 3-525.

9 (j) Spirituous liquor produced on the premises licensed by the
10 department of liquor licenses and control. This exemption includes both
11 of the following:

12 (i) The area in which production and manufacturing of spirituous
13 liquor occurs, as defined in an active basic permit on file with the
14 United States alcohol and tobacco tax and trade bureau.

15 (ii) The area licensed by the department of liquor licenses and
16 control as a microbrewery, farm winery or craft distiller that is open to
17 the public and serves spirituous liquor and commercially prepackaged food,
18 crackers or pretzels for consumption on the premises. A producer of
19 spirituous liquor may not provide, allow or expose for common use any cup,
20 glass or other receptacle used for drinking purposes. For the purposes of
21 this item, "common use" means the use of a drinking receptacle for
22 drinking purposes by or for more than one person without the receptacle
23 being thoroughly cleansed and sanitized between consecutive uses by
24 methods prescribed by or acceptable to the department.

25 5. Prescribe reasonably necessary measures to ensure that all meat
26 and meat products for human consumption handled at the retail level are
27 delivered in a manner and from sources approved by the Arizona department
28 of agriculture and are free from unwholesome, poisonous or other foreign
29 substances and filth, insects or disease-causing organisms. The rules
30 shall prescribe standards for sanitary facilities to be used in ~~identity,~~
31 ~~storage~~ IDENTIFYING, STORING, handling and ~~sale of~~ SELLING all meat and
32 meat products sold at the retail level.

33 6. Prescribe reasonably necessary measures regarding production,
34 processing, labeling, handling, serving and transportation of bottled
35 water to ensure that all bottled drinking water distributed for human
36 consumption is free from unwholesome, poisonous, deleterious or other
37 foreign substances and filth or disease-causing organisms. The rules
38 shall prescribe minimum standards for the sanitary facilities and
39 conditions that shall be maintained at any source of water, bottling plant
40 and truck or vehicle in which bottled water is produced, processed, stored
41 or transported and shall provide for inspection and certification of
42 bottled drinking water sources, plants, processes and transportation and
43 for abatement as a public nuisance of any water supply, label, premises,
44 equipment, process or vehicle that does not comply with the minimum
45 standards. The rules shall prescribe minimum standards for

1 bacteriological, physical and chemical quality for bottled water and for
2 ~~the submission of~~ SUBMITTING samples at intervals prescribed in the
3 standards.

4 7. Define and prescribe reasonably necessary measures governing ice
5 production, handling, storing and distribution to ensure that all ice sold
6 or distributed for human consumption or for preserving or storing food for
7 human consumption is free from unwholesome, poisonous, deleterious or
8 other foreign substances and filth or disease-causing organisms. The
9 rules shall prescribe minimum standards for the sanitary facilities and
10 conditions and the quality of ice that shall be maintained at any ice
11 plant, storage and truck or vehicle in which ice is produced, stored,
12 handled or transported and shall provide for inspection and licensing of
13 the premises and vehicles, and for abatement as public nuisances of ice,
14 premises, equipment, processes or vehicles that do not comply with the
15 minimum standards.

16 8. Define and prescribe reasonably necessary measures concerning
17 sewage and excreta disposal, garbage and trash collection, storage and
18 disposal, and water supply for recreational and summer camps, campgrounds,
19 motels, tourist courts, trailer coach parks and hotels. The rules shall
20 prescribe minimum standards for preparing food in community kitchens,
21 adequacy of excreta disposal, garbage and trash collection, storage and
22 disposal and water supply for recreational and summer camps, campgrounds,
23 motels, tourist courts, trailer coach parks and hotels and shall provide
24 for inspection of these premises and for abatement as public nuisances of
25 any premises or facilities that do not comply with the rules. Primitive
26 camp and picnic grounds offered by this state or a political subdivision
27 of this state are exempt from rules adopted pursuant to this paragraph but
28 are subject to approval by a county health department under sanitary
29 regulations adopted pursuant to section 36-183.02. Rules adopted pursuant
30 to this paragraph do not apply to two or fewer recreational vehicles as
31 defined in section 33-2102 that are not park models or park trailers, that
32 are parked on owner-occupied residential property for less than sixty days
33 and for which no rent or other compensation is paid. For the purposes of
34 this paragraph, "primitive camp and picnic grounds" means camp and picnic
35 grounds that are remote in nature and without accessibility to public
36 infrastructure such as water, electricity and sewer.

37 9. Define and prescribe reasonably necessary measures concerning
38 the sewage and excreta disposal, garbage and trash collection, storage and
39 disposal, water supply and food preparation of all public schools. The
40 rules shall prescribe minimum standards for sanitary conditions that shall
41 be maintained in any public school and shall provide for inspection of
42 these premises and facilities and for abatement as public nuisances of any
43 premises that do not comply with the minimum standards.

44 10. Prescribe reasonably necessary measures to prevent pollution of
45 water used in public or semipublic swimming pools and bathing places and

1 to prevent deleterious health conditions at these places. The rules shall
2 prescribe minimum standards for sanitary conditions that shall be
3 maintained at any public or semipublic swimming pool or bathing place and
4 shall provide for inspection of these premises and for abatement as public
5 nuisances of any premises and facilities that do not comply with the
6 minimum standards. The rules shall be developed in cooperation with the
7 director of the department of environmental quality and shall be
8 consistent with the rules adopted by the director of the department of
9 environmental quality pursuant to section 49-104, subsection B,
10 paragraph 12.

11 11. Prescribe reasonably necessary measures to keep confidential
12 information relating to diagnostic findings and treatment of patients, as
13 well as information relating to contacts, suspects and associates of
14 communicable disease patients. ~~in no event shall~~ Confidential information
15 **MAY NOT** be made available for political or commercial purposes.

16 12. Prescribe reasonably necessary measures regarding human
17 immunodeficiency virus testing as a means to control the transmission of
18 that virus, including the designation of anonymous test sites as dictated
19 by current epidemiologic and scientific evidence.

20 13. Establish an online registry of food preparers that are
21 authorized to prepare cottage food products for commercial purposes
22 pursuant to paragraph 4 of this subsection. A registered food preparer
23 shall renew the registration every three years and shall provide to the
24 department updated registration information within thirty days after any
25 change.

26 14. Prescribe an exclusion for fetal demise cases from the
27 standardized survey known as "the hospital consumer assessment of
28 healthcare providers and systems".

29 ~~I.~~ I. The rules adopted under the authority conferred by this
30 section shall be observed throughout ~~the~~ **THIS** state and shall be enforced
31 by each local board of health or public health services district, but this
32 section does not limit the right of any local board of health or county
33 board of supervisors to adopt ordinances and rules as authorized by law
34 within its jurisdiction, ~~provided that~~ **IF** the ordinances and rules do not
35 conflict with state law and are equal to or more restrictive than the
36 rules of the director.

37 ~~K.~~ J. The powers and duties prescribed by this section do not
38 apply in instances in which regulatory powers and duties relating to
39 public health are vested by the legislature in any other state board,
40 commission, agency or instrumentality, except that with regard to the
41 regulation of meat and meat products, the department of health services
42 and the Arizona department of agriculture within the area delegated to
43 each shall adopt rules that are not in conflict.

1 ~~K.~~ K. The director, in establishing fees authorized by this
 2 section, shall comply with title 41, chapter 6. The department shall not
 3 set a fee at more than the department's cost of providing the service for
 4 which the fee is charged. State agencies are exempt from all fees imposed
 5 pursuant to this section.

6 ~~M.~~ L. After consultation with the state superintendent of public
 7 instruction, the director shall prescribe the criteria the department
 8 shall use in deciding whether or not to notify a local school district
 9 that a pupil in the district has tested positive for the human
 10 immunodeficiency virus antibody. The director shall prescribe the
 11 procedure by which the department shall notify a school district if,
 12 pursuant to these criteria, the department determines that notification is
 13 warranted in a particular situation. This procedure shall include a
 14 requirement that before notification the department shall determine to its
 15 satisfaction that the district has an appropriate policy relating to
 16 nondiscrimination of the infected pupil and confidentiality of test
 17 results and that proper educational counseling has been or will be
 18 provided to staff and pupils.

19 ~~N.~~ M. Until the department adopts exemptions by rule as required
 20 by subsection ~~I~~ H, paragraph 4, subdivision (f) of this section, food and
 21 drink are exempt from the rules prescribed in subsection ~~I~~ H of this
 22 section if offered at locations that sell only commercially prepackaged
 23 food or drink that is not potentially hazardous, without a limitation on
 24 its display area.

25 ~~O.~~ N. Until the department adopts exemptions by rule as required
 26 by subsection ~~I~~ H, paragraph 4, subdivision (h) of this section, a whole
 27 fruit or vegetable grown in a public school garden that is washed and cut
 28 on-site for immediate consumption is exempt from the rules prescribed in
 29 subsection ~~I~~ H of this section.

30 ~~P.~~ O. Until the department adopts an exclusion by rule as required
 31 by subsection ~~I~~ H, paragraph 14 of this section, the standardized survey
 32 known as "the hospital consumer assessment of healthcare providers and
 33 systems" may not include patients who experience a fetal demise.

34 ~~Q.~~ P. Until the department adopts exemptions by rule as required
 35 by subsection ~~I~~ H, paragraph 4, subdivision (j) of this section,
 36 spirituous liquor and commercially prepackaged food, crackers or pretzels
 37 that meet the requirements of subsection ~~I~~ H, paragraph 4, subdivision
 38 (j) of this section are exempt from the rules prescribed in subsection
 39 ~~I~~ H of this section.

40 ~~R.~~ Q. For the purposes of this section:

41 1. "Cottage food product":

42 (a) Means a food that is not potentially hazardous or a time or
 43 temperature control for safety food as defined by the department in rule
 44 and that is prepared in a home kitchen by an individual who is registered
 45 with the department.

1 (b) Does not include foods that require refrigeration, perishable
2 baked goods, salsas, sauces, fermented and pickled foods, meat, fish and
3 shellfish products, beverages, acidified food products, nut butters or
4 other reduced-oxygen packaged products.

5 2. "Fetal demise" means a fetal death that occurs or is confirmed
6 in a licensed hospital. Fetal demise does not include an abortion as
7 defined in section 36-2151.

8 Sec. 8. Section 36-137, Arizona Revised Statutes, is amended to
9 read:

10 36-137. Annual report of director

11 The director shall submit annually to the governor, the president of
12 the senate and the speaker of the house of representatives a copy of the
13 annual report setting forth:

14 1. The condition of public health in ~~the~~ THIS state.

15 2. The activities of the department during the preceding fiscal
16 year.

17 3. The work done in each county.

18 4. The character and extent of all diseases reported.

19 5. The expenditures of the department and of each county or
20 district health department.

21 6. Recommendations the director deems advisable for protection of
22 the public health.

23 ~~7. The financial statement of the affairs of the Arizona state~~
24 ~~hospital.~~

25 ~~8.~~ 7. The operations and administration of the program of service
26 for children with a physical disability or who are suffering from
27 conditions that lead to a physical disability.

28 Sec. 9. Section 36-201, Arizona Revised Statutes, is amended to
29 read:

30 36-201. Definitions

31 In this article, unless the context otherwise requires:

32 1. "Chief medical officer" means the chief medical officer of the
33 state hospital.

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

35 ~~3.~~ 2. "Director" means the director of the ~~department of health~~
36 ~~services~~ STATE HOSPITAL.

37 ~~4.~~ 3. "Employee" means an officer or employee of the state
38 hospital.

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

40 5. "State hospital":

41 (a) Means THE Arizona state hospital.

42 (b) INCLUDES THE ARIZONA COMMUNITY PROTECTION AND TREATMENT CENTER.

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

1 Sec. 10. Section 36-202, Arizona Revised Statutes, is amended to
2 read:

3 36-202. Arizona state hospital; purpose; facilities and
4 equipment

5 A. A state hospital shall be maintained for the care and treatment
6 of persons with mental disorders and persons with other personality
7 disorders or emotional conditions who will benefit from care and
8 treatment. Admissions to the state hospital shall be in accordance with
9 law. The hospital shall be called the Arizona state hospital.

10 B. Subject to legislative appropriation, the state hospital may
11 provide services to persons suffering from alcoholism and to persons
12 suffering from drug abuse.

13 C. The state hospital shall have adequate facilities and equipment
14 for enlightened and scientific treatment of nervous and mental diseases in
15 accordance with approved methods of mental therapeutics. The facilities
16 shall include, among other things:

- 17 1. Facilities for medical and psychiatric treatment with special
18 attention to occupational therapy and other special therapies.
- 19 2. Facilities for proper segregation and care of child patients.
- 20 3. Facilities for recreation and physical training.
- 21 4. An institutional library for the use of patients.
- 22 5. A properly equipped dental department.
- 23 6. A properly equipped laboratory and x-ray department.
- 24 7. A patient tracking system approved by the director that monitors
25 individual progress on an inpatient basis and ensures suitable aftercare
26 placement.

27 D. The state hospital shall be under the charge and control of the
28 **GOVERNING BOARD AND THE** director ~~of the department of health services,~~
29 pursuant to this article.

30 Sec. 11. Section 36-202.01, Arizona Revised Statutes, is amended to
31 read:

32 36-202.01. Admission of juveniles to state hospital

33 The ~~Arizona~~ state hospital shall collect census data for juvenile
34 treatment programs to establish maximum capacity and the allocation
35 formula required pursuant to section 36-206, subsection D. The ~~Arizona~~
36 state hospital is not required to provide services to juveniles that
37 exceed the funded capacity. If the ~~Arizona~~ state hospital reaches its
38 funded capacity for juveniles, the ~~superintendent of the state hospital~~
39 **DIRECTOR** shall establish a waiting list for admission based on the date of
40 the commitment or treatment order.

1 Sec. 12. Section 36-203, Arizona Revised Statutes, is amended to
2 read:

3 36-203. Persons with intellectual disabilities; admission to
4 state hospital; governing board duties

5 A. The ~~department of health services~~ GOVERNING BOARD shall develop
6 and provide, in coordination with the department of economic security,
7 specialized treatment programs for persons with an intellectual disability
8 who have been admitted to the state hospital. The ~~department of health~~
9 ~~services~~ GOVERNING BOARD may contract with the department of economic
10 security in providing these programs.

11 B. The ~~department~~ GOVERNING BOARD, to the extent practicable, shall
12 provide separate areas at the state hospital for persons WHO ARE diagnosed
13 with intellectual disabilities and, to the extent practicable, shall
14 provide that treatment programs developed pursuant to subsection A of this
15 section are separate from treatment programs for other patients and for
16 separate use of facilities by persons WHO ARE diagnosed with intellectual
17 disabilities.

18 C. The ~~department of health services~~ GOVERNING BOARD, on request of
19 a parent or guardian of a minor with an intellectual disability or the
20 guardian of an adult with an intellectual disability or on the request of
21 an adult with an intellectual disability, shall notify the department of
22 economic security before the release of that person from the state
23 hospital and request that the department of economic security provide
24 placement evaluation and case management services for that person. The
25 evaluation shall consider the person's needs for housing, day programs,
26 employment training, employment and support services.

27 D. The ~~department~~ GOVERNING BOARD, on the application of a parent
28 or guardian of a minor with an intellectual disability or the guardian of
29 an adult with an intellectual disability or on the request of an adult
30 with an intellectual disability, when the person has been authorized for
31 discharge from the state hospital, may provide interim care and custody
32 for that person pending the availability of intellectual disability
33 programs and services in accordance with section 36-556.

34 Sec. 13. Section 36-204, Arizona Revised Statutes, is amended to
35 read:

36 36-204. Duties of director

37 The director shall:

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

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

44 3. Prescribe forms of complaints, certificates of mental illness
45 and commitments.

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

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

5 Sec. 14. Section 36-205, Arizona Revised Statutes, is amended to
6 read:

7 36-205. Director of state hospital; appointment;
8 compensation; qualifications; chief medical officer

9 A. ~~There shall be a superintendent~~ THE DIRECTOR of the state
10 hospital ~~who~~ shall be appointed by and under the supervision of the
11 ~~director~~ GOVERNING BOARD. THE DIRECTOR IS THE CHIEF ADMINISTRATIVE
12 OFFICER OF THE STATE HOSPITAL.

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

15 ~~C. The superintendent shall be removed only for cause.~~

16 C. THE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE GOVERNING BOARD.

17 D. The ~~superintendent~~ DIRECTOR shall have the following
18 qualifications:

19 1. Administrative experience in the private sector.

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

22 3. Mental health-related experience in both an institutional and
23 community setting.

24 E. The ~~superintendent~~ DIRECTOR, with the approval of the ~~director~~
25 GOVERNING BOARD, shall appoint a chief medical officer of the state
26 hospital who is a physician ~~and who is~~ licensed pursuant to title 32,
27 chapter 13 or 17. The chief medical officer shall have ~~not less than~~ AT
28 LEAST three years' experience in ~~the treatment of~~ TREATING psychiatric
29 disorders and shall be board-certified in psychiatry by the board of
30 psychiatry and neurology. The chief medical officer is eligible for
31 compensation pursuant to section 38-611. The chief medical officer is
32 responsible for the clinical administration of the hospital and shall
33 report directly to the ~~superintendent~~ DIRECTOR.

34 Sec. 15. Title 36, chapter 2, article 1, Arizona Revised Statutes,
35 is amended by adding sections 36-205.01 and 36-205.02, to read:

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

38 A. THE STATE HOSPITAL GOVERNING BOARD IS ESTABLISHED CONSISTING OF
39 SEVEN MEMBERS WHO ARE APPOINTED AS FOLLOWS:

40 1. FIVE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.

41 2. ONE MEMBER WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

42 3. ONE MEMBER WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
43 REPRESENTATIVES.

1 B. NOT MORE THAN THREE MEMBERS OF THE GOVERNING BOARD MAY BE OF THE
2 SAME POLITICAL PARTY, AND NOT MORE THAN THREE MEMBERS MAY BE RESIDENTS OF
3 THE SAME COUNTY. MEMBERS OF THE GOVERNING BOARD SHALL:

4 1. HAVE AT LEAST ONE OF THE FOLLOWING QUALIFICATIONS:

5 (a) HELD AN EXECUTIVE LEVEL POSITION AT A PSYCHIATRIC OR ACUTE CARE
6 HOSPITAL.

7 (b) ADMINISTRATIVE EXPERIENCE IN A BEHAVIORAL HEALTH FACILITY.

8 (c) HELD A CLINICAL LEADERSHIP POSITION FOR A BEHAVIORAL HEALTH
9 SERVICES PROVIDER.

10 (d) ADMINISTRATIVE EXPERIENCE AT A HEALTH PLAN THAT PROVIDES
11 BEHAVIORAL HEALTH SERVICES.

12 2. BEFORE APPOINTMENT, SUBMIT A FULL SET OF FINGERPRINTS TO THE
13 APPOINTING ENTITY FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL
14 CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.
15 THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH
16 THE FEDERAL BUREAU OF INVESTIGATION.

17 3. NOT HAVE ANY FAMILIAL RELATIONSHIP WITH A PATIENT IN ANY OF THE
18 FACILITIES LOCATED ON THE GROUNDS OF THE STATE HOSPITAL.

19 4. NOT BE A PARTY TO OR REPRESENT ANY PARTY IN ANY CURRENT PENDING
20 LITIGATION AGAINST THE STATE HOSPITAL OR ANY OF ITS EMPLOYEES.

21 5. NOT BE ON EITHER THE UNITED STATES DEPARTMENT OF HEALTH AND
22 HUMAN SERVICES OFFICE OF INSPECTOR GENERAL'S LIST OF EXCLUDED INDIVIDUALS
23 AND ENTITIES OR THE UNITED STATES GENERAL SERVICES ADMINISTRATION'S SYSTEM
24 FOR AWARD MANAGEMENT DATABASE.

25 6. NOT BE CURRENTLY EMPLOYED BY, OR OTHERWISE ASSOCIATED WITH,
26 ANOTHER PSYCHIATRIC OR BEHAVIORAL ENTITY THAT MAY REFER PATIENTS FOR
27 ADMISSION TO THE STATE HOSPITAL.

28 7. NOT HAVE HAD A LICENSE OR CERTIFICATION REVOKED OR SUSPENDED BY
29 ANY HEALTH PROFESSION LICENSING BOARD.

30 C. GOVERNING BOARD APPOINTMENTS ARE FOR A TERM OF FIVE YEARS AND
31 EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE APPROPRIATE YEAR. THE
32 CHAIRPERSON OF THE INDEPENDENT OVERSIGHT COMMITTEE AT THE ARIZONA STATE
33 HOSPITAL ESTABLISHED PURSUANT TO SECTION 41-3803 SHALL SERVE AS A
34 NONVOTING MEMBER OF THE GOVERNING BOARD AND IS NOT COUNTED FOR THE PURPOSE
35 OF DETERMINING IF A QUORUM IS PRESENT. THE GOVERNING BOARD SHALL MEET AT
36 LEAST ONCE EVERY THREE MONTHS.

37 D. EACH GOVERNING BOARD MEMBER:

38 1. SHALL SIGN AN AGREEMENT TO COMPLY WITH ALL CONFIDENTIALITY
39 REQUIREMENTS OF MATTERS THAT COME BEFORE THE GOVERNING BOARD.

40 2. MAY NOT HAVE ANY OFFICIAL COMMUNICATION WITH STATE HOSPITAL
41 PATIENTS OR THE PATIENTS' FAMILIES OUTSIDE OF MEETINGS OF THE GOVERNING
42 BOARD, UNLESS AUTHORIZED BY THE GOVERNING BOARD.

43 3. IS SUBJECT TO THE PROVISIONS OF TITLE 38, CHAPTER 3, ARTICLE 8
44 RELATING TO CONFLICT OF INTEREST, SHALL ANNUALLY SIGN A CONFLICT OF
45 INTEREST STATEMENT THAT IDENTIFIES AND DISCLOSES ANY POTENTIAL CONFLICT OF

1 INTEREST AND MAY NOT PARTICIPATE, IN ANY MANNER, IN ANY MATTER IN WHICH
2 THE GOVERNING BOARD MEMBER HAS A CONFLICT OF INTEREST. FOR THE PURPOSES
3 OF THIS PARAGRAPH, "CONFLICT OF INTEREST" MEANS THE OWNERSHIP AND CONTROL
4 OF ANY HEALTH CARE DELIVERY ORGANIZATION THAT IS CORPORATELY AND
5 FUNCTIONALLY RELATED TO THE STATE HOSPITAL.

6 4. SHALL RECEIVE ANNUAL TRAINING IN FIDUCIARY OVERSIGHT AND
7 CONFLICT OF INTEREST AND SHALL ATTEST TO RECEIVING THE TRAINING.

8 5. MAY NOT VOTE ON ANY MEASURE IN WHICH THE GOVERNING BOARD MEMBER
9 OR A FAMILY MEMBER OR PARTNER OF THE GOVERNING BOARD MEMBER HAS A
10 PECUNIARY INTEREST.

11 6. MAY NOT MISS MORE THAN ONE MEETING WITHIN A SIX-MONTH PERIOD.

12 E. THE APPOINTING ENTITY MAY REMOVE A GOVERNING BOARD MEMBER ONLY
13 FOR CAUSE. A BOARD MEMBER WHO IS REMOVED FOR CAUSE MUST BE PROVIDED
14 WRITTEN NOTICE AND AN OPPORTUNITY TO RESPOND. THE APPOINTING ENTITY MAY
15 REMOVE A GOVERNING BOARD MEMBER BASED ON WRITTEN FINDINGS THAT SPECIFY THE
16 REASON FOR REMOVAL.

17 F. THE APPOINTING ENTITY SHALL MAKE AN APPOINTMENT TO FILL ANY
18 VACANCY ON THE GOVERNING BOARD WITHIN SIXTY DAYS AFTER A VACANCY ON THE
19 GOVERNING BOARD OCCURS.

20 G. THE GOVERNING BOARD SHALL ADMINISTER THE LAWS OF THIS STATE
21 RELATING TO THE STATE HOSPITAL.

22 H. THE MEMBERS OF THE GOVERNING BOARD ARE ELIGIBLE TO RECEIVE
23 COMPENSATION OF NOT MORE THAN \$200 PER DAY FOR EACH DAY SPENT IN THE
24 DISCHARGE OF THEIR DUTIES AND ALL EXPENSES NECESSARILY AND PROPERLY
25 INCURRED IN ATTENDING MEETINGS.

26 36-205.02. Governing board; duties

27 IN ACCORDANCE WITH STATE LICENSING RULES, THE REGULATIONS OF THE
28 CENTERS FOR MEDICARE AND MEDICAID SERVICES AND THE JOINT COMMISSION'S
29 ACCREDITATION STANDARDS, THE GOVERNING BOARD SHALL:

30 1. REVIEW, MODIFY AS NECESSARY AND ADOPT THE ARIZONA STATE HOSPITAL
31 GOVERNING BOARD BYLAWS AT LEAST EVERY TWO YEARS.

32 2. IN CONSULTATION WITH THE DIRECTOR, SET GOALS FOR THE STATE
33 HOSPITAL AND FOR ACHIEVING THOSE GOALS.

34 3. ADVISE THE DIRECTOR REGARDING STATE HOSPITAL FACILITIES,
35 MAINTENANCE, STAFFING, PROGRAMS, SERVICES AND POLICIES.

36 4. ENSURE COMPLIANCE WITH STANDARDS FOR STATE HOSPITAL PATIENTS'
37 RIGHTS.

38 5. REVIEW AND APPROVE BUDGET REQUESTS FOR THE STATE HOSPITAL'S
39 ANNUAL BUDGET.

40 6. ASSIST IN EDUCATING THE COMMUNITY CONCERNING THE ROLE OF THE
41 STATE HOSPITAL.

42 7. ENSURE THAT THE STATE HOSPITAL COORDINATES SERVICES, PROGRAMS
43 AND POLICIES BETWEEN THE STATE HOSPITAL AND COMMUNITY MENTAL HEALTH CARE
44 PROGRAMS AND FACILITIES, INCLUDING ADMISSION, DISCHARGE AND AFTERCARE.

1 8. REVIEW AND APPROVE CONTRACTS FOR THE USE OF STATE HOSPITAL
2 FACILITIES FOR OTHER PROGRAMS, SERVICES AND AGENCIES.

3 9. ENSURE THAT ALL GOVERNING BOARD MEMBERS ARE PROVIDED WITH AN
4 ORIENTATION TO THE STATE HOSPITAL.

5 10. PROVIDE FOR ONGOING, EFFECTIVE COMMUNICATION BETWEEN THE
6 GOVERNING BOARD, THE STATE HOSPITAL ADMINISTRATION AND THE STATE HOSPITAL
7 MEDICAL STAFF.

8 11. ENSURE FULL DISCLOSURE OF OWNERSHIP AND CONTROL OF THE STATE
9 HOSPITAL AS REQUIRED BY STATUTE AND RELATED ACCREDITING AND OVERSIGHT
10 AGENCIES.

11 12. PARTICIPATE IN ACCREDITATION, CERTIFICATION AND LICENSURE
12 PROCESSES, AND BE AVAILABLE TO ATTEND SUMMATION AND EXIT CONFERENCES.

13 13. EVALUATE THE STATE HOSPITAL'S PERFORMANCE ANNUALLY IN RELATION
14 TO ITS VISION, MISSION AND GOALS.

15 14. REVIEW AND APPROVE THE STATE HOSPITAL'S QUALITY ASSURANCE AND
16 PERFORMANCE IMPROVEMENT PLAN AND INSTITUTIONAL PLAN AND BUDGET AT LEAST
17 ANNUALLY.

18 15. EVALUATE AND MODIFY, AS NECESSARY, THE STATE HOSPITAL'S
19 STAFFING ACUITY PLAN AT LEAST ANNUALLY.

20 16. ENSURE FULL IMPLEMENTATION OF THE STATE HOSPITAL'S QUALITY
21 ASSURANCE AND PERFORMANCE IMPROVEMENT PLAN AND PROVIDE FEEDBACK TO THE
22 STATE HOSPITAL'S DEPARTMENTS AND TEAMS REGARDING IMPROVEMENT ACTIVITIES.

23 17. REQUEST INFORMATION AS NEEDED TO MONITOR THE STATUS OF
24 INDIVIDUAL PROJECTS OF THE STATE HOSPITAL.

25 18. REVIEW ALL STATE HOSPITAL REPORTS.

26 19. REVIEW AND APPROVE THE STATE HOSPITAL MEDICAL STAFF BYLAWS AND
27 THE MEDICAL STAFF RULES AND REGULATIONS TO ADDRESS SELF-GOVERNANCE AND
28 ENSURE THAT THE MEDICAL STAFF IS ACCOUNTABLE TO THE GOVERNING BOARD FOR
29 THE QUALITY OF MEDICAL CARE, TREATMENT AND SERVICES.

30 20. PERFORM ALL FUNCTIONS AND DUTIES REQUIRED FOR GOVERNANCE BY THE
31 JOINT COMMISSION, THE CENTERS FOR MEDICARE AND MEDICAID SERVICES AND THE
32 DEPARTMENT OF HEALTH SERVICES FOR STATE LICENSURE.

33 21. REVIEW REPORTS OF STATE HOSPITAL CONTRACTOR PERFORMANCE FOR
34 DIRECT CARE PATIENT SERVICES AT LEAST ANNUALLY.

35 22. AUTHORIZE, APPROVE AND SUPPORT THE STATE HOSPITAL MEDICAL STAFF
36 BY:

37 (a) REVIEWING CREDENTIALS AND APPROVING OR DENYING INDIVIDUAL
38 PRIVILEGES.

39 (b) APPROVING INDIVIDUALS FOR MEDICAL STAFF MEMBERSHIP AFTER
40 CONSIDERING THE RECOMMENDATIONS OF THE EXISTING MEDICAL STAFF.

41 (c) ENSURING THAT THE CRITERIA FOR SELECTION ARE INDIVIDUAL
42 CHARACTER, COMPETENCE, TRAINING, EXPERIENCE AND JUDGMENT AND THAT STAFF
43 MEMBERSHIP OR PROFESSIONAL PRIVILEGES IN THE STATE HOSPITAL ARE NOT
44 ACCEPTED DEPENDING SOLELY ON CERTIFICATION, FELLOWSHIP OR MEMBERSHIP IN A
45 SPECIALTY BODY OR SOCIETY.

1 (d) RENDERING THE FINAL DETERMINATION CONCERNING INDIVIDUAL
2 CREDENTIALS AND PRIVILEGES.

3 (e) PRESCRIBING THE PROCEDURES BY WHICH MEMBERSHIP OF THE MEDICAL
4 STAFF MAY BE TERMINATED.

5 (f) PRESCRIBING FAIR HEARING PROCEDURES AT THE MEDICAL EXECUTIVE
6 COMMITTEE LEVEL.

7 (g) PROVIDING FOR APPEALS OF MEDICAL EXECUTIVE COMMITTEE
8 CREDENTIALING AND PRIVILEGING DECISIONS TO THE GOVERNING BOARD.

9 23. CONSULT DIRECTLY WITH THE STATE HOSPITAL CHIEF MEDICAL OFFICER
10 PERIODICALLY ON MATTERS RELATED TO THE QUALITY OF MEDICAL CARE PROVIDED TO
11 STATE HOSPITAL PATIENTS.

12 24. ENSURE THAT SYSTEMS ARE IN PLACE AND OPERATIONAL AT THE STATE
13 HOSPITAL FOR TRACKING ALL INFECTION SURVEILLANCE, PREVENTION AND CONTROL
14 AND ANTIBIOTIC USE ACTIVITIES IN ORDER TO DEMONSTRATE THE IMPLEMENTATION,
15 SUCCESS AND SUSTAINABILITY OF SUCH ACTIVITIES.

16 25. ENSURE THAT ALL STATE HOSPITAL-ACQUIRED INFECTIONS AND OTHER
17 INFECTIOUS DISEASES IDENTIFIED BY THE INFECTION PREVENTION AND CONTROL
18 PROGRAM AS WELL AS ANTIBIOTIC USE ISSUES IDENTIFIED BY THE ANTIBIOTIC
19 STEWARDSHIP PROGRAM ARE ADDRESSED IN COLLABORATION WITH STATE HOSPITAL
20 QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT LEADERSHIP.

21 Sec. 16. Section 36-206, Arizona Revised Statutes, is amended to
22 read:

23 36-206. Duties of director; deputies; cost estimate; program
24 assessment; funded capacity and allocation formula

25 A. The director has charge of the state hospital and ~~the~~
26 ~~superintendent~~ shall supervise and direct its activities. ~~, subject to the~~
27 ~~provisions of law and approval of the director. The superintendent is~~
28 ~~directly responsible to the director for carrying out the purposes for~~
29 ~~which the hospital is maintained. Subject to the approval of the~~
30 ~~director;~~ The ~~superintendent~~ DIRECTOR may deputize any qualified officer
31 of the state hospital to do or perform any act the ~~superintendent~~ DIRECTOR
32 is empowered to do or IS charged with the responsibility of doing by law.

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

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

42 D. On or before August 1 of each year, the director shall establish
43 maximum funded capacity and a percentage allocation formula for forensic
44 and civil bed capacity at the ~~Arizona~~ state hospital based on census data
45 collected pursuant to sections 13-3992, 13-4512, 36-202.01 and 36-503.03.

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

19 Sec. 17. Section 36-208, Arizona Revised Statutes, is amended to
20 read:

21 36-208. Employees; compensation

22 A. Except as otherwise provided by this article, SUBJECT TO TITLE
23 41, CHAPTER 4, ARTICLE 4, the director shall employ all employees of the
24 state hospital. The director may employ necessary medical consultants ~~on~~
25 ~~recommendation of the superintendent~~. The director may permit ALLOW
26 members of the medical staff to act as consultants in psychiatry.

27 ~~B. Subject to the laws of this state governing state personnel~~
28 ~~administration, the superintendent may discharge an employee for cause.~~
29 ~~An employee so discharged, on request, may have the reasons for the~~
30 ~~discharge reviewed and determined by the director. The superintendent~~
31 ~~shall file a written report with the director of each discharge setting~~
32 ~~forth the reasons for the discharge.~~

33 ~~C.~~ B. The compensation of employees of the state hospital shall be
34 as determined pursuant to section 38-611.

35 Sec. 18. Section 36-209, Arizona Revised Statutes, is amended to
36 read:

37 36-209. Reporting requirements; director; governing board

38 A. At ~~such~~ A time ~~as~~ the ~~director~~ GOVERNING BOARD designates, the
39 ~~superintendent~~ DIRECTOR shall submit to the ~~director~~ GOVERNING BOARD a
40 report of the activities of the state hospital during the preceding fiscal
41 year, including:

42 1. The number of patients received, conditionally discharged and
43 discharged and voluntary patients treated.

44 2. THE methods of treatment used and the results.

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

5 4. Census data for treatment programs pursuant to sections 13-3992,
6 13-4512, 36-202.01 and 36-503.03.

7 5. A complete employment and personnel record.

8 6. The condition of existing equipment.

9 7. Recommendations for ~~improvement of~~ IMPROVING the ~~institution~~
10 STATE HOSPITAL.

11 8. Other matters required by the ~~director~~ GOVERNING BOARD or deemed
12 advisable by the ~~superintendent~~ DIRECTOR to present a complete description
13 of the condition and activities of the STATE hospital.

14 B. Not later than the fifteenth day of each month, the ~~director~~
15 GOVERNING BOARD shall prepare in duplicate a financial statement of the
16 affairs of the state hospital, including:

17 1. The amounts appropriated for the current fiscal year for
18 operation, maintenance and improvement.

19 2. The amount ~~expended~~ SPENT during the preceding calendar month.

20 3. The balance on hand.

21 4. The estimated expenditures for the current month.

22 5. An inventory report.

23 C. The original report and statements required by this section
24 shall be filed with and retained as records of the ~~director~~ GOVERNING
25 BOARD and duplicates filed with the director of the department of
26 administration.

27 D. At ~~such A~~ time ~~as~~ the ~~director~~ GOVERNING BOARD designates, the
28 ~~superintendent~~ DIRECTOR OF THE STATE HOSPITAL shall submit to the ~~director~~
29 GOVERNING BOARD a financial statement of the affairs of the state hospital
30 during the preceding fiscal year in a form prescribed by the director of
31 the department of administration.

32 E. ~~By~~ ON OR BEFORE October 1 of each year, the ~~director~~ GOVERNING
33 BOARD shall submit to the governor a comprehensive report of the
34 activities of the state hospital during the preceding fiscal year, which
35 shall include the annual reports of the ~~superintendent~~ DIRECTOR, and shall
36 contain:

37 1. An account of the work done.

38 2. Recommendations for improvements.

39 3. Financial statements that clearly reflect the origin and
40 disposition of all monies that have come into the hands of the ~~director~~
41 GOVERNING BOARD or an employee through appropriations or otherwise.

42 F. The ~~director~~ GOVERNING BOARD shall make such supplemental
43 reports as the governor or the legislature requests.

44 G. The annual report prescribed by subsection E of this section
45 shall be published for the information of the public, and five copies

1 shall be delivered to the chief clerk of the house of representatives and
2 the secretary of the senate, respectively, who shall keep them on file for
3 the use of the members of each house.

4 Sec. 19. Section 36-210, Arizona Revised Statutes, is amended to
5 read:

6 36-210. Expenditures

7 A. This article does not give the director or any employee
8 authority to create a debt or obligation in excess of the amount
9 appropriated by the legislature to carry out ~~its~~ THE provisions OF THIS
10 ARTICLE. If monies are not appropriated to carry out the purpose of this
11 article, the ~~director~~ GOVERNING BOARD shall submit recommendations to the
12 legislature, with a statement of the cost when an improvement is
13 requested.

14 B. Except as provided by subsection D of this section, the director
15 of the department of administration shall not issue a warrant for
16 expenditures by the state hospital ~~in excess of~~ FOR MORE THAN the estimate
17 contained in the monthly financial statement unless the ~~superintendent~~
18 DIRECTOR OF THE STATE HOSPITAL submits a written request that is approved
19 in writing by the ~~director of the department of health services~~ GOVERNING
20 BOARD and that states the reasons for the request. The director of the
21 department of administration shall not issue warrants ~~in excess of~~ FOR
22 MORE THAN the amount available for the current quarter.

23 C. If a patient in the state hospital requires a health care
24 service that the state hospital or a facility or provider contracted by
25 the state hospital cannot provide, the ~~department of health services~~
26 GOVERNING BOARD shall pay approved claims from a facility or provider that
27 provides these required services as follows:

28 1. For inpatient and outpatient hospital services, ~~the~~ THIS state
29 shall reimburse at a level that does not exceed the reimbursement
30 methodology established in section 36-2903.01, subsection G.

31 2. For health and medical services, ~~the~~ THIS state shall reimburse
32 providers at a level that does not exceed the capped fee-for-service
33 schedule that is adopted by the Arizona health care cost containment
34 system administration pursuant to chapter 29, article 1 of this title and
35 that is in effect at the time the service is delivered.

36 D. Monies appropriated for capital investment may be ~~expended~~ SPENT
37 at any time during the fiscal period for which the monies are appropriated
38 as directed by the ~~director~~ GOVERNING BOARD.

39 Sec. 20. Section 36-212, Arizona Revised Statutes, is amended to
40 read:

41 36-212. Maximum security area required

42 The ~~superintendent~~ DIRECTOR, under the direction of the ~~director~~
43 GOVERNING BOARD, shall equip, staff and supervise the operation of an area
44 consisting of one or more separate buildings on the state hospital grounds
45 in Phoenix to be designated a maximum security area. The ~~superintendent~~

1 DIRECTOR shall designate which patients shall be confined within ~~a~~ THE
2 maximum security area, which shall be equipped, staffed and maintained in
3 order to provide treatment and necessary supervision to prevent the
4 patients from leaving the area without authorization.

5 Sec. 21. Section 36-213, Arizona Revised Statutes, is amended to
6 read:

7 36-213. Store and canteen; outside entity; rental and service
8 charges; state hospital donations fund

9 A. The ~~superintendent~~ DIRECTOR, with the approval of the ~~director~~
10 GOVERNING BOARD, may set aside and designate any space on the grounds of
11 the STATE hospital that is not needed for other authorized purposes ~~for~~
12 ~~the establishment and maintenance of~~ TO ESTABLISH AND MAINTAIN store and
13 canteen facilities ~~for the sale of~~ TO SELL candies, ~~cigarettes,~~ food,
14 nonalcoholic beverages, sundries and other articles to patients and
15 employees and for the benefit of THE patients of the state hospital.

16 B. The ~~superintendent~~ DIRECTOR, with the approval of the ~~director~~
17 GOVERNING BOARD, may contract with an outside firm, individual or agency
18 to lease and operate the store and canteen facilities. The outside firm,
19 individual or agency shall provide a bond in an amount set by the
20 ~~superintendent~~ DIRECTOR with the approval of the ~~director~~ GOVERNING BOARD.
21 The facilities shall be conducted subject to the rules ~~and regulations of~~
22 ~~the department~~ OF THE GOVERNING BOARD, and rental and service charges
23 shall be established by the ~~superintendent~~ DIRECTOR, with the approval of
24 the ~~director~~ GOVERNING BOARD, ~~as will~~ TO reimburse the STATE hospital for
25 the cost ~~thereof~~ OF THE STORE AND CANTEEN FACILITIES.

26 C. THE STATE HOSPITAL DONATIONS FUND IS ESTABLISHED FOR THE BENEFIT
27 OF THE PATIENTS OF THE STATE HOSPITAL. THE DIRECTOR SHALL ADMINISTER THE
28 FUND. THE FUND IS CONTINUOUSLY APPROPRIATED. THE FUND CONSISTS OF any
29 profits derived from the operation of ~~such~~ THE STORE AND CANTEEN
30 facilities, after reimbursement to the STATE hospital, ~~shall be deposited~~
31 ~~in the department of health services donations fund created by authority~~
32 ~~of section 36-132, subsection B~~ AND ANY OTHER DONATIONS RECEIVED BY THE
33 GOVERNING BOARD FOR THE BENEFIT OF THE PATIENTS OF THE STATE HOSPITAL.
34 The monies may be ~~expended~~ SPENT as the director directs for the benefit
35 of the patients of the state hospital. ~~The provisions of~~ Title 35,
36 chapter 1 ~~do~~ DOES not apply to the monies in the fund.

37 Sec. 22. Repeal

38 Section 36-214, Arizona Revised Statutes, is repealed.

39 Sec. 23. Section 36-216, Arizona Revised Statutes, is amended to
40 read:

41 36-216. Budget request; proposed budget

42 A. The ~~department~~ GOVERNING BOARD shall present a budget request
43 that includes all information on the potential availability of other
44 monies, including federal monies, that may be used in the following fiscal
45 year to fund the state hospital.

1 B. The budget request presented pursuant to subsection A of this
2 section shall include a proposed budget for the state hospital, with a
3 specific amount of the total budget estimated to be used for patients who
4 are seriously mentally ill.

5 C. Monies appropriated to the ~~department~~ GOVERNING BOARD for the
6 state hospital programs, fees generated by the ~~department~~ GOVERNING BOARD
7 for these programs and grants and gifts to the ~~department~~ GOVERNING BOARD
8 shall be maintained in the appropriate fund to pay program and
9 administrative costs. The administrative costs of each program shall be
10 separately identified in the accounting records of the ~~department~~
11 GOVERNING BOARD.

12 Sec. 24. Section 36-217, Arizona Revised Statutes, is amended to
13 read:

14 36-217. Annual report; patient health information

15 A. On or before January 1 of each year, the director shall submit
16 to the governor, the speaker of the house of representatives and the
17 president of the senate a financial and programmatic report on the state
18 hospital for the preceding fiscal year. In addition to information that
19 the ~~department~~ GOVERNING BOARD deems relevant, this report shall include
20 all of the following information:

21 1. All revenues and expenditures of the state hospital, including
22 specific identification of administrative costs for and the number of
23 patients served at the state hospital.

24 2. A breakdown of the patients served at each facility at the state
25 hospital, including information on the following:

- 26 (a) Gender.
- 27 (b) Race.
- 28 (c) Age.
- 29 (d) Legal status.
- 30 (e) County of origin.
- 31 (f) Program type.
- 32 (g) Census by unit.
- 33 (h) Primary diagnosis of each by category.
- 34 (i) Length of stay.

35 3. Admissions by civil commitment, including the number of
36 admissions and discharges, the time between the request for each admission
37 and the date of the admission or denial of the admission and aggregate
38 data for reason of denial by category.

39 4. Data collected from the state hospital's safety plan, including
40 all of the following:

41 (a) The number and type of all assaults by category, with sexual
42 assaults reported as a separate category.

43 (b) The number of assaults reported to law enforcement, regulatory
44 agencies and accreditation agencies.

1 (c) The number of times law enforcement was called to the state
2 hospital in response to an assault.

3 5. An update on the establishment of a psychiatric center of
4 excellence.

5 B. This section does not require the release of individually
6 identifiable health information of any specific patient.

7 Sec. 25. Section 36-218, Arizona Revised Statutes, is amended to
8 read:

9 36-218. Arizona state hospital charitable trust fund

10 The Arizona state hospital charitable trust fund is established
11 consisting of monies collected from contracts and lease agreements entered
12 into pursuant to section ~~36-136, subsection c~~ 36-220. The director shall
13 administer the fund. Monies in the fund are continuously appropriated and
14 may be spent for the benefit of persons with mental illness in this state.
15 Monies in the fund do not revert to the state general fund at the end of a
16 fiscal year.

17 Sec. 26. Title 36, chapter 2, article 1, Arizona Revised Statutes,
18 is amended by adding section 36-220, to read:

19 36-220. State hospital property; contracts and lease
20 agreements; deposits; public hearing; report;
21 review

22 A. THE DIRECTOR, AFTER CONSULTATION WITH THE DEPARTMENT OF
23 ADMINISTRATION, MAY TAKE ALL NECESSARY STEPS TO ENHANCE THE HIGHEST AND
24 BEST USE OF THE STATE HOSPITAL PROPERTY, INCLUDING CONTRACTING WITH THIRD
25 PARTIES TO PROVIDE SERVICES, ENTERING INTO SHORT-TERM LEASE AGREEMENTS
26 WITH THIRD PARTIES TO OCCUPY OR RENOVATE EXISTING BUILDINGS AND ENTERING
27 INTO LONG-TERM LEASE AGREEMENTS TO DEVELOP THE LAND AND BUILDINGS. THE
28 DIRECTOR SHALL DEPOSIT ANY MONIES COLLECTED FROM CONTRACTS AND LEASE
29 AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION IN THE ARIZONA STATE
30 HOSPITAL CHARITABLE TRUST FUND ESTABLISHED BY SECTION 36-218.

31 B. AT LEAST THIRTY DAYS BEFORE ISSUING A REQUEST FOR PROPOSALS
32 PURSUANT TO THIS SECTION, THE GOVERNING BOARD SHALL HOLD A PUBLIC HEARING
33 TO RECEIVE COMMUNITY AND PROVIDER INPUT REGARDING THE HIGHEST AND BEST USE
34 OF THE STATE HOSPITAL PROPERTY RELATED TO THE REQUEST FOR PROPOSALS. THE
35 GOVERNING BOARD SHALL REPORT TO THE JOINT COMMITTEE ON CAPITAL REVIEW ON
36 THE TERMS, CONDITIONS AND PURPOSE OF ANY LEASE OR SUBLEASE AGREEMENT
37 ENTERED INTO PURSUANT TO THIS SECTION RELATING TO STATE HOSPITAL LANDS OR
38 BUILDINGS OR THE DISPOSITION OF REAL PROPERTY PURSUANT TO THIS SECTION,
39 INCLUDING STATE HOSPITAL LANDS OR BUILDINGS, AND THE FISCAL IMPACT ON THE
40 GOVERNING BOARD AND ANY REVENUES GENERATED BY THE AGREEMENT. ANY LEASE OR
41 SUBLEASE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION RELATING TO STATE
42 HOSPITAL LANDS OR BUILDINGS OR THE DISPOSITION OF REAL PROPERTY PURSUANT
43 TO THIS SECTION, INCLUDING STATE HOSPITAL LANDS OR BUILDINGS, MUST BE
44 REVIEWED BY THE JOINT COMMITTEE ON CAPITAL REVIEW.

1 (a) For health care workers to report workplace violence risks,
2 hazards and incidents.

3 (b) For health care employers to respond to reports of workplace
4 violence.

5 (c) For health care employers to perform a postincident
6 investigation and debriefing of all reported incidents of workplace
7 violence with the participation of health care workers.

8 5. Requires THE health care ~~employers~~ EMPLOYER to provide
9 information to health care workers about a HEALTH CARE worker's ability to
10 report any assault to law enforcement and, on request, to assist the
11 HEALTH CARE worker in reporting the assault.

12 B. Each health care employer shall make its workplace violence
13 prevention plan available at all times to all health care workers and
14 contractors who provide patient care.

15 C. As soon as practicable after a workplace violence incident is
16 reported to the health care employer, the health care employer shall
17 investigate the incident and shall do all of the following:

18 1. Review the circumstances of the incident.

19 2. Solicit input from involved health care workers and supervisors
20 about the cause of the incident and whether further corrective measures
21 could have prevented the incident.

22 3. Document the findings, recommendations and corrective measures
23 taken, if applicable, for each investigation conducted.

24 D. Each health care employer shall provide training and education
25 to its health care workers who may be exposed to workplace violence
26 hazards and risks.

27 E. Each health care employer shall maintain:

28 1. Records that relate to each of the HEALTH CARE employer's
29 workplace violence prevention plans, including identifying, evaluating and
30 correcting hazards and risks and training procedures.

31 2. An incident log for recording all reported workplace violence
32 incidents and records of all incident investigations. The log shall
33 include the date, time and location of the incident, the name of every
34 person who is involved in the incident, a description of the incident and
35 the nature and extent of injuries to health care workers.

36 F. The health care employer shall annually evaluate the
37 implementation and effectiveness of the workplace violence prevention
38 plan, including a review of the violent incident log and compliance with
39 any training. The annual evaluation shall be documented.

40 G. The health care employer shall adopt a policy that prohibits any
41 person from discriminating or retaliating against any health care worker
42 for either:

43 1. Reporting to or seeking assistance or intervention from the
44 HEALTH CARE employer, law enforcement, local emergency services or a
45 government agency or FOR participating in an incident investigation.

1 2. Reasonably acting in self defense or defense of others in
2 response to an imminent threat of physical harm.

3 H. A health care employer may not discriminate or retaliate against
4 a health care worker for either:

5 1. Reporting to or seeking assistance or intervention from the
6 HEALTH CARE employer, law enforcement, local emergency services or a
7 government agency or for exercising any other rights under this section.

8 2. Reasonably acting in self defense or defense of others in
9 response to an imminent threat of physical harm.

10 I. This section does not affect the legal obligations of a health
11 care employer and health care worker pursuant to the protection of
12 patients' rights.

13 J. This section does not apply to the Arizona state hospital or any
14 other licensed facility that is under the jurisdiction of the
15 ~~superintendent~~ DIRECTOR of the Arizona state hospital.

16 K. For the purposes of this section:

17 1. "Health care employer" means a health care institution that is
18 licensed pursuant to this title as a hospital, freestanding emergency
19 services facility or urgent care facility and that has more than fifty
20 employees.

21 2. "Health care worker" means an employee of a health care employer
22 or a person who has a contract with a health care employer to provide
23 health care or related services.

24 Sec. 29.. Section 36-501, Arizona Revised Statutes, is amended to
25 read:

26 36-501. Definitions

27 In this chapter, unless the context otherwise requires:

28 1. "Administration" means the Arizona health care cost containment
29 system administration.

30 2. "Admitting officer" means a psychiatrist or other physician or
31 psychiatric and mental health nurse practitioner with experience in
32 performing psychiatric examinations who has been designated as an
33 admitting officer of the evaluation agency by the person in charge of the
34 evaluation agency.

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

38 (a) An ambulance service that holds a valid certificate of
39 necessity.

40 (b) A transportation provider authorized by this state to provide
41 safe behavioral health transportation for individuals requiring
42 transportation pursuant to this chapter.

43 4. "Chief medical officer" means the chief medical officer under
44 the supervision of the ~~superintendent~~ DIRECTOR of the state hospital.

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

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

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

10 8. "Danger to others" means that the judgment of a person who has a
11 mental disorder is so impaired that the person is unable to understand the
12 person's need for treatment and as a result of the person's mental
13 disorder the person's continued behavior can reasonably be expected, on
14 the basis of competent medical opinion, to result in serious physical
15 harm.

16 9. "Danger to self":

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

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

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

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

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

28 11. "Detention" means the taking into custody of a patient or
29 proposed patient.

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

31 13. "Evaluation" means:

32 (a) A professional multidisciplinary analysis that may include
33 firsthand observations or remote observations by interactive audiovisual
34 media and that is based on data describing the person's identity,
35 biography and medical, psychological and social conditions carried out by
36 a group of persons consisting of at least the following:

37 (i) Two licensed physicians who are qualified psychiatrists, if
38 possible, or at least experienced in psychiatric matters, who shall
39 examine and report their findings independently. The person against whom
40 a petition has been filed shall be notified that the person may select one
41 of the physicians. A psychiatric resident in a training program approved
42 by the American medical association or by the American osteopathic
43 association may examine the person in place of one of the psychiatrists if
44 the resident is supervised in the examination and preparation of the
45 affidavit and testimony in court by a qualified psychiatrist appointed to

1 assist in the resident's training, and if the supervising psychiatrist is
2 available for discussion with the attorneys for all parties and for court
3 appearance and testimony if requested by the court or any of the
4 attorneys.

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

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

18 14. "Evaluation agency" means either of the following:

19 (a) A health care agency that is licensed by the department and
20 that has been approved pursuant to this title to provide the services
21 required of that agency by this chapter.

22 (b) A facility that is exempt from licensure pursuant to section
23 36-402, that possesses an accreditation from either a national commission
24 on correctional health care or an American correctional association and
25 that has been approved pursuant to this title to provide the services
26 required of that facility by this chapter.

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

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

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

36 18. "Health care entity" means a health care provider, the
37 department, the administration or a regional behavioral health authority
38 that is under contract with the administration.

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

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

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

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

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

11 (a) Licensed in this state.

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

15 24. "Medical director of an evaluation agency" means a
16 psychiatrist, or other licensed physician experienced in psychiatric
17 matters, who is designated in writing by the governing body of the agency
18 as the person in charge of the medical services of the agency for the
19 purposes of this chapter and may include the chief medical officer of the
20 state hospital.

21 25. "Medical director of a mental health treatment agency" means a
22 psychiatrist, or other licensed physician experienced in psychiatric
23 matters, who is designated in writing by the governing body of the agency
24 as the person in charge of the medical services of the agency for the
25 purposes of this chapter and includes the chief medical officer of the
26 state hospital.

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

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

33 (b) The declining mental abilities that directly accompany
34 impending death.

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

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

42 28. "Mental health treatment agency" means any of the following:

43 (a) The state hospital.

1 (b) A health care agency that is licensed by the department and
2 that provides the services that are required of the agency by this
3 chapter.

4 (c) A facility that is exempt from licensure pursuant to section
5 36-402, that possesses an accreditation from either a national commission
6 on correctional health care or an American correctional association and
7 that provides the services that are required of the facility by this
8 chapter.

9 29. "Outpatient treatment" or "combined inpatient and outpatient
10 treatment" means any treatment program not requiring continuous inpatient
11 hospitalization.

12 30. "Outpatient treatment plan" means a treatment plan that does
13 not require continuous inpatient hospitalization.

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

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

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

20 (a) Significantly impairs judgment, reason, behavior or capacity to
21 recognize reality.

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

25 (c) Substantially impairs the person's capacity to make an informed
26 decision regarding treatment, and this impairment causes the person to be
27 incapable of understanding and expressing an understanding of the
28 advantages and disadvantages of accepting treatment and understanding and
29 expressing an understanding of the alternatives to the particular
30 treatment offered after the advantages, disadvantages and alternatives are
31 explained to that person.

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

34 34. "Prepetition screening" means the review of each application
35 requesting court-ordered evaluation, including an investigation of facts
36 alleged in the application, an interview with each applicant and an
37 interview, if possible, with the proposed patient. The purpose of the
38 interview with the proposed patient is to assess the problem, explain the
39 application and, when indicated, attempt to persuade the proposed patient
40 to receive, on a voluntary basis, evaluation or other services.

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

43 36. "Professional" means a physician who is licensed pursuant to
44 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to

1 title 32, chapter 19.1 or a psychiatric and mental health nurse
2 practitioner who is certified pursuant to title 32, chapter 15.

3 37. "Proposed patient" means a person for whom an application for
4 evaluation has been made or a petition for court-ordered evaluation has
5 been filed.

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

9 39. "Psychiatric and mental health nurse practitioner" means a
10 registered nurse practitioner as defined in section 32-1601 who has
11 completed an adult or family psychiatric and mental health nurse
12 practitioner program and who is certified as an adult or family
13 psychiatric and mental health nurse practitioner by the state board of
14 nursing.

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

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

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

26 (a) Materials that are prepared in connection with utilization
27 review, peer review or quality assurance activities, including records
28 that a health care provider prepares pursuant to section 36-441, 36-445,
29 36-2402 or 36-2917.

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

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

35 44. "Screening agency" means a health care agency that is licensed
36 by the department and that provides those services required of the agency
37 by this chapter.

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

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

42 ~~47. "Superintendent" means the superintendent of the state~~
43 ~~hospital.~~

44 ~~48.~~ 47. "Voluntary evaluation" means the ongoing collection and
45 analysis of a person's medical, psychological, psychiatric and social

1 conditions in order to initially determine if a health disorder exists and
2 if there is a need for behavioral health services and, on an ongoing
3 basis, to ensure that the person's service plan is designed to meet the
4 person's and the person's family's current needs and long-term goals.

5 Sec. 30. Section 36-502.01, Arizona Revised Statutes, is amended to
6 read:

7 36-502.01. Director of the state hospital; powers and duties;
8 rules; expenditure limit

9 A. The director of the ~~department~~ STATE HOSPITAL shall make rules
10 that include standards for the state hospital when providing services as
11 an evaluation agency or mental health agency and shall prescribe forms as
12 may be necessary for the proper administration and enforcement of those
13 responsibilities. The rules shall be applicable to patients admitted to,
14 evaluated by or treated in the state hospital as set forth in this chapter
15 and shall provide for periodic inspections of the state hospital.

16 B. The director of the ~~department~~ STATE HOSPITAL shall make rules
17 concerning the admission of patients to the state hospital and the
18 transfer of patients between the state hospital and other mental health
19 treatment agencies. A patient undergoing court-ordered treatment may be
20 transferred between the state hospital and another mental health treatment
21 agency in accordance with the rules of the director of the ~~department~~
22 STATE HOSPITAL, subject to the approval of the court. The director of the
23 ~~department~~ STATE HOSPITAL shall consult with the director of the
24 administration on rules relating to transfers to and from the state
25 hospital and other mental health treatment agencies.

26 C. The director of the ~~department~~ STATE HOSPITAL may make rules
27 concerning leaves, visits and absences of patients from the state
28 hospital.

29 D. The total amount of state monies that may be spent in any fiscal
30 year by the ~~department~~ STATE HOSPITAL GOVERNING BOARD for mental health
31 services pursuant to this chapter may not exceed the amount appropriated
32 or authorized by section 35-173 for that purpose. This chapter does not
33 impose a duty on an officer, agent or employee of this state to discharge
34 a responsibility or create any right in a person or group if the discharge
35 or right would require an expenditure of state monies in excess of the
36 expenditure authorized by legislative appropriation for that specific
37 purpose.

38 Sec. 31. Section 36-503.03, Arizona Revised Statutes, is amended to
39 read:

40 36-503.03. Civil commitment treatment population; cap

41 The Arizona state hospital shall collect census data for adult civil
42 commitment treatment programs to establish maximum capacity and the
43 allocation formula required by section 36-206, subsection D. The Arizona
44 state hospital ~~or the department of health services is~~ AND THE STATE
45 HOSPITAL GOVERNING BOARD ARE not required to provide civil commitment

1 treatment that exceeds the funded capacity. If the Arizona state hospital
2 reaches its funded capacity in civil commitment treatment programs, the
3 ~~superintendent~~ DIRECTOR of the state hospital shall establish a waiting
4 list for admission based on the date of the court order issued pursuant to
5 this section.

6 Sec. 32. Section 36-533, Arizona Revised Statutes, is amended to
7 read:

8 36-533. Petition for treatment

9 A. The petition for court-ordered treatment shall allege:

10 1. That the patient is in need of a period of treatment because the
11 patient, as a result of mental disorder, is a danger to self or to others
12 or has a persistent or acute disability or a grave disability.

13 2. The treatment alternatives that are appropriate or available.

14 3. That the patient is unwilling to accept or incapable of
15 accepting treatment voluntarily.

16 B. The petition shall be accompanied by the affidavits of the two
17 physicians who participated in the evaluation and by the affidavit of the
18 applicant for the evaluation, if any. In a county with a population of
19 less than five hundred thousand persons, the petition may be accompanied
20 by the affidavits of one physician and either one physician assistant who
21 is experienced in psychiatric matters or one psychiatric and mental health
22 nurse practitioner who conducted an independent evaluation and by the
23 affidavit of the applicant for the evaluation, if any. The affidavits of
24 the physicians or other health professionals shall describe in detail the
25 behavior that indicates that the person, as a result of mental disorder,
26 is a danger to self or to others or has a persistent or acute disability
27 or a grave disability and shall be based on the physician's or other
28 health professional's observations of the patient and study of information
29 about the patient. A summary of the facts that support the allegations of
30 the petition shall be included. The affidavit shall also include any of
31 the results of the physical examination of the patient if relevant to the
32 patient's psychiatric condition.

33 C. The petition shall request the court to issue an order requiring
34 the person to undergo a period of treatment. If a prosecutor filed a
35 petition pursuant to section 13-4517, the petition must be accompanied by
36 any known criminal history of the person and any previous findings of
37 incompetency.

38 D. The petition shall also include:

39 1. A statement that in the opinion of the petitioner the person
40 does or does not require guardianship or conservatorship, or both, under
41 title 14 and the reasons on which the statement is based.

42 2. A request that the court order an independent investigation and
43 report for the court if in the opinion of the petitioner the person does
44 require guardianship or conservatorship, or both.

1 3. A statement that in the opinion of the petitioner the person
2 does or does not require temporary guardianship or conservatorship, or
3 both, and the reasons on which the statement is based.

4 4. A request that the court appoint a temporary guardian or
5 conservator, or both, if in the opinion of the petitioner the person does
6 require temporary guardianship or conservatorship, or both.

7 5. If the person has an existing guardian, a statement identifying
8 the existing guardian and a request that the court consider imposing
9 additional duties on the existing guardian pursuant to section 14-5312.01.

10 E. If the petition contains a request for court action pursuant to
11 subsection D of this section, a copy of the petition shall be mailed to
12 any person or agency that is nominated as guardian or conservator or the
13 person who is identified as an existing guardian.

14 F. A copy of all petitions shall be mailed to the **superintendent**
15 **DIRECTOR** of the Arizona state hospital.

16 G. On the filing of a petition for court-ordered treatment, if the
17 patient is not detained in an evaluation agency when the petition is
18 filed, the petition shall contain a statement of any facts and
19 circumstances that lead the petitioner to believe that the proposed
20 patient may be safely transported to the evaluation agency pursuant to
21 section 36-535 by an authorized transporter, if available in the
22 jurisdiction, without the assistance of a peace officer.

23 Sec. 33. Section 36-541, Arizona Revised Statutes, is amended to
24 read:

25 36-541. Mandatory local treatment; placement at state
26 hospital

27 A. A patient who is ordered by a court to undergo treatment and who
28 is not hospitalized in the state hospital at the time of the order shall
29 undergo treatment for at least twenty-five days in a local mental health
30 treatment agency that is geographically convenient for the patient before
31 being hospitalized in the state hospital. This section does not apply if
32 the court finds, at a hearing on court-ordered treatment, that the
33 patient's present condition and history demonstrate that the patient will
34 not benefit from the required period of treatment in a local mental health
35 treatment agency or that the state hospital provides a program that is
36 specific to the needs of the patient and is unavailable in the local
37 mental health treatment agency, or when there is no local mental health
38 treatment agency readily available to the patient. Such a finding shall
39 be based at least on the annual written description by the state hospital
40 of programs and services available and appropriate written reports from
41 the medical director of the local mental health treatment agency. The
42 patient may be immediately hospitalized at the state hospital whenever the
43 court determines that this section does not apply.

44 B. A patient who is ordered by a court to undergo treatment may be
45 admitted for treatment if the patient is accepted by the **superintendent**

1 DIRECTOR of the state hospital for treatment at the state hospital or if
2 the court orders placement at the state hospital pursuant to subsection A
3 or C of this section.

4 C. During any period of court-ordered treatment, the medical
5 director of the local mental health treatment agency assigned to supervise
6 and administer the patient's treatment program may file a motion
7 requesting the court to amend the treatment order to place the patient for
8 treatment at the state hospital. After a hearing, if the court finds that
9 the patient's present condition and history demonstrate that the patient
10 will not benefit from a continued period of treatment in or by a local
11 mental health treatment agency, either as an inpatient or an outpatient,
12 or that the state hospital provides a program that is specific to the
13 needs of the patient and is unavailable in a local mental health treatment
14 agency, and that the least restrictive placement to meet the needs of the
15 patient for the foreseeable future is placement in the state hospital and
16 there is a legally available funded bed in the state hospital, the court
17 may amend the original treatment order authorizing the placement of the
18 patient at the state hospital pursuant to section 36-540, subsection A,
19 paragraph 2 or 3. Within five days after receiving notice from the court,
20 the ~~superintendent~~ DIRECTOR OF THE STATE HOSPITAL shall notify the court
21 whether a bed is available in the state hospital.

22 Sec. 34. Section 36-545.01, Arizona Revised Statutes, is amended to
23 read:

24 36-545.01. Costs and expenses; patient ability to pay; power
25 and duty of court; acceptance of other benefits;
26 per capita cost limit; conservatorship; parental
27 liability; lien; enforcement

28 A. When a patient is admitted to the state hospital for
29 court-ordered treatment pursuant to article 5 of this chapter or pursuant
30 to section 13-3992, the business manager of the state hospital shall
31 inquire into the ability of the patient to pay the costs of examination,
32 maintenance and treatment. The business manager shall file with the clerk
33 of the court a written report of the manager's findings and the basis of
34 those findings.

35 B. If the patient is able to pay all or any portion of the charges,
36 the court shall order the ~~payment of~~ PATIENT TO PAY the amount the patient
37 can afford of the per capita cost for examination, treatment and
38 maintenance as estimated by the ~~superintendent~~ DIRECTOR OF THE STATE
39 HOSPITAL. The court, on petition of an interested person and at a hearing
40 of which all concerned parties have received notice, may increase or
41 decrease the maintenance charge payable by the patient or the patient's
42 estate.

43 C. Notwithstanding subsection B of this section, any federal,
44 state, public or private medical benefits that are payable to the state
45 hospital where the patient is receiving care and treatment or that are

1 payable to the patient may be accepted by the state hospital without a
2 court order, except that the state hospital shall not accept any benefits
3 that alone or in addition to any amounts payable pursuant to subsection B
4 of this section exceed the per capita cost for the patient.

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

11 E. If the patient is a minor, the business manager of the state
12 hospital shall inquire into the ability of the minor's parents to bear
13 charges pursuant to this section. All obligations, charges and liens that
14 may be imposed on a patient pursuant to this section shall be imposed on
15 the minor's parents if it is determined that the parents have the ability
16 to pay.

17 F. The charges fixed by the court as provided by this section and
18 ordered paid by the patient or the patient's estate, on filing with the
19 county recorder, become a lien on the property of the patient or the
20 patient's estate.

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

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

27 I. Notwithstanding section 36-545.02, the ~~department~~ STATE HOSPITAL
28 GOVERNING BOARD shall deposit, pursuant to sections 35-146 and 35-147,
29 monies collected through contracts entered into pursuant to section
30 36-3410 in the Arizona state hospital fund established by section
31 36-545.08. The ~~department~~ STATE HOSPITAL GOVERNING BOARD shall use these
32 monies ~~for the treatment of~~ TO TREAT patients at the state hospital or ~~for~~
33 ~~the placement of~~ TO PLACE clients in the community.

34 Sec. 35. Section 36-545.08, Arizona Revised Statutes, is amended to
35 read:

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

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

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

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

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

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

6 C. Monies in the fund deposited under subsection A, paragraphs 1
7 and 3 of this section are subject to legislative appropriation and are
8 designated for state hospital operations. Monies in the fund deposited
9 under subsection A, paragraph 2 of this section are a continuing
10 appropriation and are exempt from the provisions of section 35-190
11 relating to lapsing of appropriations. Monies in the fund deposited under
12 subsection A, paragraph 3 of this section ~~remaining~~ THAT REMAIN unexpended
13 and unencumbered at the end of the fiscal year revert to the state general
14 fund. Monies in the fund deposited under subsection A, paragraph 1 of
15 this section are exempt from the provisions of section 35-190 relating to
16 lapsing of appropriations.

17 Sec. 36. Section 36-1672, Arizona Revised Statutes, is amended to
18 read:

19 36-1672. Local programs

20 A. The department is authorized to develop and conduct local
21 programs ~~for the prevention, detection~~ TO PREVENT, DETECT and ~~treatment of~~
22 TREAT lead-based paint poisoning, subject to legislative appropriation.
23 Such authorization shall include:

24 1. DEVELOPING educational programs intended to communicate the
25 health danger and prevalence of lead-based paint poisoning among children
26 to parents, educators and local health officials.

27 2. ~~Development~~ DEVELOPING and carrying out ~~of~~ community testing
28 programs designed to detect incidence of lead poisoning due to lead-based
29 paint and other sources among community residents and to ensure prompt
30 medical treatment for such afflicted individuals.

31 B. The director may delegate to any local agency the authority to
32 conduct the local program within the local agency's jurisdiction as
33 provided in section 36-136, subsection ~~F~~ D.

34 Sec. 37. Section 36-3701, Arizona Revised Statutes, is amended to
35 read:

36 36-3701. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Agency" means any agency that is authorized to direct the
39 release of a person who is serving a sentence or term of confinement or
40 who is receiving treatment, including a state or federal prison, a county
41 jail and the Arizona state hospital or other mental health treatment
42 agency.

43 2. "Competent professional" means a person who is:

44 (a) Familiar with ~~the~~ THIS state's sexually violent persons
45 statutes and sexual offender treatment programs available in this state.

1 (b) Approved by the superior court as meeting ~~court approved~~
2 COURT-APPROVED guidelines.

3 3. "Conviction" includes a finding of guilt at any time for a
4 sexually violent offense or an order of the juvenile court adjudicating
5 the person delinquent for any sexually violent offense.

6 4. "Less restrictive alternative" means ~~court ordered~~ COURT-ORDERED
7 treatment in a setting that is less restrictive than total confinement and
8 that is conducted in a setting approved by the ~~superintendent~~ DIRECTOR of
9 the state hospital.

10 5. "Mental disorder" means a paraphilia, personality disorder or
11 conduct disorder or any combination of paraphilia, personality disorder
12 and conduct disorder that predisposes a person to commit sexual acts to
13 such a degree as to render the person a danger to the health and safety of
14 others.

15 6. "Sexually violent offense" means any of the following:

16 (a) Indecent exposure to a person who is under fifteen years of age
17 pursuant to section 13-1402, public sexual indecency to a minor pursuant
18 to section 13-1403, sexual conduct with a minor pursuant to section
19 13-1405, sexual assault pursuant to section 13-1406, molestation of a
20 child pursuant to section 13-1410, continuous sexual abuse of a child
21 pursuant to section 13-1417 or sexual assault of a spouse if the offense
22 was committed before August 12, 2005.

23 (b) Second degree murder pursuant to section 13-1104, first degree
24 murder pursuant to section 13-1105, assault pursuant to section 13-1203,
25 aggravated assault pursuant to section 13-1204, unlawful imprisonment
26 pursuant to section 13-1303, kidnapping pursuant to section 13-1304 or
27 burglary in the first degree pursuant to section 13-1508 if the court at
28 the time of sentencing or civil commitment proceedings determines beyond a
29 reasonable doubt that the act was sexually motivated pursuant to section
30 13-118.

31 (c) An attempt, a solicitation, a facilitation or a conspiracy to
32 commit an offense listed in subdivision (a) or (b) of this paragraph.

33 (d) An act committed in another jurisdiction that if committed in
34 this state would be a sexually violent offense listed in subdivision (a),
35 (b) or (c) of this paragraph.

36 (e) A conviction for a felony offense that was in effect before
37 September 1, 1978 and that if committed on or after September 1, 1978
38 would be comparable to a sexually violent offense listed in subdivision
39 (a) or (b) of this paragraph.

40 7. "Sexually violent person" means a person to whom both of the
41 following apply:

42 (a) Has ever been convicted of or found guilty but insane of a
43 sexually violent offense or was charged with a sexually violent offense
44 and was determined incompetent to stand trial.

1 (b) Has a mental disorder that makes the person likely to engage in
2 acts of sexual violence.

3 Sec. 38. Section 36-3702, Arizona Revised Statutes, is amended to
4 read:

5 36-3702. Notice of release; referral; immunity

6 A. If an agency that has jurisdiction over a person who is at least
7 eighteen years of age determines that the person may be a sexually violent
8 person, the agency shall submit a written request that a petition be filed
9 to the county attorney in the county in which the person was convicted,
10 was found incompetent or will be released or to the attorney general not
11 more than one hundred eighty days and not less than thirty days before the
12 person's anticipated release:

13 1. From confinement if the person was convicted at any time of a
14 sexually violent offense.

15 2. If the person was found guilty except insane at any time of
16 committing a sexually violent offense.

17 3. If the person was charged at any time with a sexually violent
18 offense and was determined to be incompetent to stand trial.

19 B. If the person has been found incompetent to stand trial pursuant
20 to title 13, chapter 41 and there is no substantial likelihood that the
21 person will be restored to competency within twenty-one months after the
22 date of the original finding of incompetency, the county attorney may
23 request the court to order a screening of the person pursuant to section
24 13-4518 to determine if the person may be a sexually violent person.

25 C. If the state department of corrections or the Arizona state
26 hospital has jurisdiction over a person who is at least eighteen years of
27 age and who at any time was convicted of a sexually violent offense, was
28 found guilty except insane of committing a sexually violent offense or was
29 charged with a sexually violent offense and was determined to be
30 incompetent to stand trial, the state department of corrections or the
31 Arizona state hospital shall determine if the person may be a sexually
32 violent person. If the agency determines that the person may be a
33 sexually violent person, the agency shall submit a written request that a
34 petition be filed either to the county attorney in the county in which the
35 person was convicted, was found incompetent or will be released or to the
36 attorney general. The agency must submit the written request not more
37 than one hundred eighty days and not less than thirty days before the
38 person's anticipated release. If the person has a pending sentence of
39 imprisonment in another state or federal jurisdiction, in lieu of the
40 written request the director of the state department of corrections may
41 instead enter into a written agreement with the prosecuting authority by
42 which the person was prosecuted, was found incompetent or will be released
43 to have the person retrieved by the other state or federal jurisdiction.

1 D. The agency shall provide the county attorney or attorney general
2 with the following to support the written request that a petition be
3 filed:

4 1. Certified copies of the following court documents:

5 (a) The complaint, information, judgment of conviction and
6 commitment order for the sexually violent offense that forms the basis for
7 the petition and detention orders.

8 (b) The complaint, information, judgment of conviction and
9 commitment order for any other conviction that the submitting agency
10 possesses.

11 2. All records of evaluation and treatment, including any of the
12 following:

13 (a) All psychological and psychiatric tests and assessment reports
14 and supporting information.

15 (b) Group notes, autobiographical notes, progress notes,
16 psychosocial reports or other materials that were prepared by or that
17 relate to the person while the person was in custody or receiving
18 treatment from the submitting agency or any other agency.

19 (c) Presentence investigation reports, whether prepared by the
20 state department of corrections, by a private agency or at the direction
21 of the superior court for sentencing on the sexually violent offense.

22 3. All records of the person's version of the offenses for which
23 the person has been convicted, including the notes and records of all
24 interviews and discussions with the person while the person was in the
25 care of the submitting agency or any other agency.

26 4. A record of all convictions and acquittals regardless of whether
27 those convictions were for sexually violent offenses.

28 5. Police reports that are in the possession of the referring
29 agency and that relate to any sexually violent offense that was committed
30 by the person.

31 6. Institutional records that relate to the person's behavior and
32 conduct while in custody and that are in the possession of the referring
33 agency.

34 7. Information indicating the dates of acceptance and rejection by
35 the person of any recommended or ~~court-ordered~~ COURT-ORDERED psychotropic
36 medication to control the person's mental disorder.

37 8. Information indicating the dates of acceptance and rejection by
38 the person of any recommended or ~~court-ordered~~ COURT-ORDERED psychological
39 or psychiatric counseling for treatment of the person's mental disorder.

40 9. A final release or discharge report, together with any
41 information on which the report is based, that is prepared in anticipation
42 of either the person's release from incarceration or commitment. The
43 report shall include:

44 (a) A report of the person's condition that was completed within
45 the preceding one hundred twenty days and that includes an opinion

1 expressing to a reasonable degree of psychiatric, psychological or
2 professional certainty that the person has a mental disorder and that, as
3 a result of that mental disorder, the person is likely to engage in a
4 sexually violent offense.

5 (b) A list of the names of all treatment providers who have treated
6 or worked with the person.

7 (c) The curriculum vitae of each of the treating individuals that
8 details each individual's education, training and experience.

9 (d) The facility in which the person is located at the time of the
10 referral and in which the person will be residing pending the filing of a
11 petition.

12 E. The agency and the agency's officers and employees providing
13 mental health evaluations and reports are immune from liability for any
14 good faith acts under this article.

15 F. The ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD
16 and the ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD'S
17 officers and employees providing mental health evaluations and reports are
18 immune from liability for any good faith acts under this article.

19 G. An agency's inability to comply with the time requirements under
20 subsection A or C of this section does not preclude the county attorney or
21 the attorney general from filing a petition alleging that a person is a
22 sexually violent person.

23 Sec. 39. Section 36-3704, Arizona Revised Statutes, is amended to
24 read:

25 36-3704. Sexually violent person petition; filing; procedures

26 A. Before a sexually violent person is released from confinement,
27 the following persons may file a petition in superior court alleging that
28 the person is a sexually violent person and stating sufficient facts to
29 support that allegation:

30 1. The county attorney in the county in which a person was found
31 incompetent to stand trial of, found guilty except insane of or convicted
32 of a sexually violent offense.

33 2. The county attorney in the county in which the person will be
34 released or the attorney general if the person was found incompetent to
35 stand trial of, found guilty except insane of or convicted of a sexually
36 violent offense in another jurisdiction outside the state.

37 B. The Arizona rules of evidence and the Arizona rules of civil
38 procedure apply to proceedings under this article. The court may admit
39 evidence of past acts that would constitute a sexual offense pursuant to
40 section 13-1420 and the Arizona rules of evidence.

41 C. The person who is named in the petition is entitled to
42 assistance of counsel at any proceeding that is conducted pursuant to this
43 article. If the person is indigent, the court shall appoint counsel to
44 assist the person. The county board of supervisors may fix a reasonable
45 amount to be paid by the county for the services of an appointed attorney.

1 D. The court's jurisdiction over a person who is civilly committed
2 pursuant to this article continues until the person is discharged by the
3 court.

4 E. At any hearing concerning conditions of detention, commitment or
5 treatment at a licensed facility under the supervision of the
6 ~~superintendent~~ DIRECTOR of the Arizona state hospital, a person who is
7 detained or CIVILLY committed pursuant to this article shall show that the
8 procedures or actions of the licensed facility have no reasonable basis in
9 fact or law.

10 Sec. 40. Section 36-3705, Arizona Revised Statutes, is amended to
11 read:

12 36-3705. Judicial determination of sexually violent person;
13 transfer for evaluation

14 A. On the filing of a petition pursuant to section 36-3704, the
15 judge shall determine if probable cause exists to believe that the person
16 named in the petition is a sexually violent person.

17 B. If the judge determines that probable cause exists to believe
18 that the person named in the petition is a sexually violent person, the
19 judge shall order that the person be detained in a licensed facility under
20 the supervision of the ~~superintendent~~ DIRECTOR of the Arizona state
21 hospital.

22 C. On motion of the respondent filed within ten days after service
23 of the petition, the court shall hold a probable cause hearing.

24 D. Within seventy-two hours after a person is detained pursuant to
25 subsection B of this section, the court shall provide the person with
26 notice of and an opportunity to appear at a probable cause hearing to
27 contest the probable cause finding made by the court pursuant to
28 subsection A of this section. At the hearing, the court shall verify the
29 person's identity and shall determine if probable cause exists to believe
30 that the person is a sexually violent person. At the hearing, the state
31 may rely on the petition that alleges that the person is a sexually
32 violent person and that is filed pursuant to section 36-3704. The state
33 may supplement the information in the petition with additional documentary
34 evidence or live testimony.

35 E. At the probable cause hearing, the person has the following
36 rights:

- 37 1. To present evidence on the person's behalf.
- 38 2. To cross-examine witnesses who testify against the person.
- 39 3. To view and copy all documents and reports in the court file.

40 F. After the hearing, if the court determines probable cause does
41 not exist to believe that the person is a sexually violent person, the
42 court shall dismiss the petition.

43 G. If at the hearing the court reaffirms that probable cause exists
44 to believe that the person is a sexually violent person, the judge shall
45 order an evaluation as to whether the person is a sexually violent

1 person. A person whom the court selects from a list of competent
2 professionals shall conduct the evaluation.

3 H. If the respondent has not requested a probable cause hearing
4 within ten days after service of the petition, the court shall order an
5 evaluation as to whether the respondent is a sexually violent person. A
6 person whom the court selects from a list of competent professionals shall
7 conduct the evaluation.

8 I. The county shall pay the costs of an evaluation conducted
9 pursuant to subsection G or H of this section.

10 J. The referring agency shall make available to the ~~department of~~
11 ~~health services~~ STATE HOSPITAL GOVERNING BOARD all records concerning the
12 person detained pursuant to this section.

13 Sec. 41. Section 36-3707, Arizona Revised Statutes, is amended to
14 read:

15 36-3707. Determining sexually violent person status;
16 commitment procedures

17 A. The court or jury shall determine beyond a reasonable doubt if
18 the person named in the petition is a sexually violent person. If the
19 state alleges that the sexually violent offense on which the petition for
20 commitment is based was sexually motivated, the state shall prove beyond a
21 reasonable doubt that the alleged sexually violent act was sexually
22 motivated.

23 B. If the court or jury determines that the person is a sexually
24 violent person, the court shall either:

25 1. Commit the SEXUALLY VIOLENT person to the custody of the
26 ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD for placement
27 in a licensed facility under the supervision of the ~~superintendent~~
28 DIRECTOR of the Arizona state hospital and WHERE THE SEXUALLY VIOLENT
29 PERSON shall receive care, supervision or treatment until the SEXUALLY
30 VIOLENT person's mental disorder has so changed that the SEXUALLY VIOLENT
31 person would not be a threat to public safety if the SEXUALLY VIOLENT
32 person was conditionally released to a less restrictive alternative or was
33 unconditionally discharged.

34 2. Order that the SEXUALLY VIOLENT person be released to a less
35 restrictive alternative if the conditions under sections 36-3710 and
36 36-3711 are met.

37 C. If the court or jury does not determine beyond a reasonable
38 doubt that the person is a sexually violent person, the court shall order
39 the person's release.

40 D. If the person named in the petition was found incompetent to
41 stand trial, the court first shall hear evidence and determine if the
42 person committed the act or acts charged if the court did not enter a
43 finding before the charges were dismissed. The court shall enter specific
44 findings on whether the person committed the act or acts charged, the
45 extent to which the person's incompetence to stand trial affected the

1 outcome of the hearing, including its effect on the person's ability to
 2 consult with and assist counsel and to testify on the person's own behalf,
 3 the extent to which the evidence could be reconstructed without the
 4 assistance of the person and the strength of the prosecution's case. If
 5 the court finds beyond a reasonable doubt that the person committed the
 6 act or acts charged, the court shall enter a final order to that effect
 7 and may then consider whether the person should be committed pursuant to
 8 this section.

9 Sec. 42. Section 36-3708, Arizona Revised Statutes, is amended to
 10 read:

11 36-3708. Annual examination of committed persons; report

12 A. The psychiatrist, psychologist or other competent professional
 13 of the ARIZONA state hospital or a licensed facility under the supervision
 14 of the ~~superintendent~~ DIRECTOR of the Arizona state hospital shall
 15 annually examine each person who is committed pursuant to this article.
 16 The person who conducts the annual examination shall submit the
 17 examination report to the court. The annual report shall state if
 18 conditional release to a less restrictive alternative is in the best
 19 interest of the person and will adequately protect the community.

20 B. The person may retain, or on the request of an indigent person
 21 the court may appoint, a competent professional to conduct the
 22 examination. A retained or appointed competent professional shall have
 23 access to all records concerning the person. If the person retains or is
 24 appointed a competent professional, the state has the right to have the
 25 committed person evaluated by a competent professional of the state's own
 26 choice. All competent professionals shall have equal access to the person
 27 as well as all records concerning the person.

28 C. The court shall hold a hearing pursuant to section 36-3709 if
 29 any change of release conditions is recommended.

30 Sec. 43. Section 36-3709, Arizona Revised Statutes, is amended to
 31 read:

32 36-3709. Petition for change of status; procedures

33 A. If the ~~superintendent~~ DIRECTOR of the ARIZONA state hospital ~~or~~
 34 ~~the director of the department of health services~~ determines that the
 35 person's mental disorder has so changed that the person is not likely to
 36 engage in acts of sexual violence if conditionally released to a less
 37 restrictive alternative, the ~~superintendent~~ ~~or~~ director shall allow the
 38 person to petition the court for conditional release to a less restrictive
 39 alternative. The person shall serve the petition on the court and the
 40 attorney for the state. The court shall hold a hearing on the petition
 41 for conditional release to a less restrictive alternative within
 42 forty-five days after receiving the petition. The court may continue the
 43 hearing on the request of either party and a showing of good cause or on
 44 its own motion if the respondent will not be substantially prejudiced.
 45 The county attorney or the attorney general shall represent the state at

1 the hearing and may request that the petitioner be examined by a competent
 2 professional selected by the county attorney or the attorney general. The
 3 attorney for the state has the burden of proving beyond a reasonable doubt
 4 that the petitioner's mental disorder has not changed and that the
 5 petitioner remains a danger to others and is likely to engage in acts of
 6 sexual violence if conditionally released to a less restrictive
 7 alternative or unconditionally discharged.

8 B. This section does not prohibit the committed person from
 9 annually petitioning the court for conditional release to a less
 10 restrictive alternative without the approval of the ~~superintendent~~
 11 ~~DIRECTOR~~ of the ARIZONA state hospital ~~or the director of the department~~
 12 ~~of health services~~. The director ~~of the department of health services~~
 13 shall give annual written notice to the committed person of the person's
 14 right to petition the court for conditional release to a less restrictive
 15 alternative without the approval of the ~~superintendent or~~ director. The
 16 notice shall contain a waiver of rights. The director shall submit the
 17 notice and waiver to the court with the annual examination report.

18 C. The committed person may be present at the hearing. The county
 19 attorney or the attorney general may request that the person be examined
 20 by a competent professional selected by the attorney for the state. The
 21 committed person may retain and the court on request of an indigent person
 22 may appoint a competent professional. The attorney for the state has the
 23 burden of proving beyond a reasonable doubt that the person's mental
 24 disorder has not changed and that the person remains a danger to others
 25 and is likely to engage in acts of sexual violence if conditionally
 26 released to a less restrictive alternative. If the state does not meet
 27 its burden of proof, the person shall be discharged from treatment.

28 D. If at the conclusion of a hearing the court finds that there is
 29 no legally sufficient evidentiary basis to conclude that the conditions
 30 prescribed in section 36-3711 have been met, the court shall grant the
 31 state's motion for a judgment on the issue of conditional release to a
 32 less restrictive alternative.

33 Sec. 44. Section 36-3710, Arizona Revised Statutes, is amended to
 34 read:

35 36-3710. Conditional release to a less restrictive
 36 alternative; conditions; reports; review

37 A. If the court determines that conditional release to a less
 38 restrictive alternative is in the best interest of the person and will
 39 adequately protect the community and the court determines that the minimum
 40 conditions under section 36-3711 are met, the court shall enter judgment
 41 and order the person's conditional release to a less restrictive
 42 alternative.

43 B. The court may impose any additional conditions on the person
 44 that the court determines are necessary to ensure the person's compliance
 45 with treatment and to protect the community. If the court finds that

1 conditions do not exist that will both ensure the person's compliance with
2 treatment and protect the community, the court shall remand the person to
3 the custody of the ~~superintendent~~ DIRECTOR of the ARIZONA state hospital
4 for care, supervision or treatment in a licensed facility that is under
5 the supervision of the ~~superintendent~~ DIRECTOR.

6 C. If the provider that is designated to provide inpatient or
7 outpatient treatment or to monitor or supervise any other terms and
8 conditions of a person's placement in a less restrictive alternative is
9 not the state hospital, the provider shall agree in writing to provide the
10 treatment.

11 D. Before the court authorizes a person's conditional release to a
12 less restrictive alternative, the court shall impose any conditions on the
13 person that the court determines are necessary to ensure the safety of the
14 community. The conditions shall include that ~~prior to~~ BEFORE release to a
15 less restrictive alternative, a person shall be required to submit to
16 ninety days of inpatient evaluation at the Arizona state hospital. At the
17 discretion of the ~~superintendent~~ DIRECTOR of the ARIZONA state hospital,
18 the duration of the evaluation period may be less than ninety days. The
19 court shall order the ~~superintendent of the state hospital~~ DIRECTOR to
20 investigate the less restrictive alternative and to submit additional
21 conditions to the court. The court shall give a copy of the conditions of
22 release to the person and to any designated service provider. Other
23 conditions may include any of the following:

- 24 1. Specification of a residence.
- 25 2. Prohibition on any contact with potential or past victims.
- 26 3. Prohibition on the use of alcohol and other drugs.
- 27 4. Supervision by the ~~department of health services~~ STATE HOSPITAL
28 GOVERNING BOARD or the county probation department if the person is
29 serving a term of probation.
- 30 5. A requirement that the person remain in this state unless the
31 person receives prior authorization from the court.
- 32 6. Other conditions that the court or the ~~superintendent~~ DIRECTOR
33 of the ARIZONA state hospital determines are in the best interest of the
34 person or others.

35 E. Following a determination that a person's release to a less
36 restrictive alternative is warranted and after considering the
37 recommendation regarding the duration and amount of treatment by the
38 ~~superintendent~~ DIRECTOR of the ARIZONA state hospital, the court shall
39 require as a condition of release to a less restrictive alternative, that
40 the person participate in outpatient treatment. The outpatient
41 supervision and treatment may include monitoring a person by use of a
42 polygraph or plethysmograph, or both. The treatment shall continue until
43 the court orders a change in the person's treatment requirements or the
44 person is discharged pursuant to section 36-3714.

1 F. Each month or as otherwise directed by the court, each
2 designated service provider shall submit a report that states if the
3 person is complying with the terms and conditions of the conditional
4 release to a less restrictive alternative to:

- 5 1. The court.
- 6 2. The facility from which the person was released.
- 7 3. The county attorney in the county where the person was found to
8 be a sexually violent person or to the attorney general.

9 G. The court shall review the case of each person who is
10 conditionally released to a less restrictive alternative within one year
11 after the person's release and thereafter on motion of either party or the
12 ~~superintendent~~ DIRECTOR of the ARIZONA state hospital or on the court's
13 own motion until the person is discharged. At a case review, the court
14 shall determine only if the person shall continue to be conditionally
15 released to a less restrictive alternative. In making its determination,
16 the court shall consider the periodic reports that are submitted to the
17 court pursuant to subsection F of this section and the opinions of the
18 ~~superintendent of the state hospital~~ DIRECTOR and any other competent
19 professional.

20 H. If a person is conditionally released to a less restrictive
21 alternative, the ~~department of health services~~ STATE HOSPITAL GOVERNING
22 BOARD shall notify the department of public safety of the person's release
23 so that the department of public safety can commence any notification
24 process as provided in section 13-3825.

25 Sec. 45. Section 36-3711, Arizona Revised Statutes, is amended to
26 read:

27 36-3711. Conditional release to a less restrictive
28 alternative; findings

29 Before the court orders that a person be conditionally released to a
30 less restrictive alternative, the court shall find that all of the
31 following apply:

32 1. The person will be treated by a provider who is qualified to
33 provide the necessary treatment in this state.

34 2. The provider presents a specific course of treatment for the
35 person, agrees to assume responsibility for the person's treatment, will
36 report on the person's progress to the court on a regular basis and will
37 report any violations as prescribed in paragraphs 4 and 5 of this section
38 immediately to the court, the attorney for the state and the
39 ~~superintendent~~ DIRECTOR of the ARIZONA state hospital.

40 3. The person who is conditionally released to a less restrictive
41 alternative has housing arrangements that are sufficiently secure to
42 protect the community and the person or agency that is providing the
43 housing to the conditionally released person agrees in writing to the
44 following conditions:

- 45 (a) To accept the conditionally released person.

1 (b) To provide the level of security that the court requires.

2 (c) To immediately report the unauthorized absence of the
3 conditionally released person from the housing arrangement to which the
4 person has been assigned.

5 4. The person will comply with the provider and all of the
6 requirements that are imposed by the provider and the court.

7 5. The person will comply with the supervision requirements that
8 are imposed by the ~~department of health services~~ STATE HOSPITAL GOVERNING
9 BOARD or the county probation department if the person is serving a term
10 of probation.

11 Sec. 46. Section 36-3712, Arizona Revised Statutes, is amended to
12 read:

13 36-3712. Detention and commitment requirements; definition

14 A. A person who is committed or conditionally released to a less
15 restrictive alternative pursuant to this article does not forfeit any
16 legal right and shall not suffer any legal disability as a consequence of
17 any actions taken or orders made except as specifically provided in this
18 article.

19 B. A person who is committed or conditionally released to a less
20 restrictive alternative pursuant to this article shall receive care,
21 supervision or treatment. The ~~superintendent~~ DIRECTOR of the ARIZONA
22 state hospital shall keep records detailing all medical, expert and
23 professional care and treatment that a committed person receives and shall
24 keep copies of all reports of periodic examinations that are made pursuant
25 to this article. These records and reports shall be made available on
26 request only to any of the following:

- 27 1. The committed person.
28 2. The committed person's attorney.
29 3. The county attorney or the attorney general.
30 4. The court.
31 5. On proper showing, an expert or professional person who
32 demonstrates a need for access to the records or reports.

33 6. Any mental health professional directly responsible FOR or
34 associated with the mental health professional who is directly responsible
35 for the care, control, assessment or treatment of the committed person.

36 C. At the time a person is detained or transferred into a licensed
37 facility pursuant to this article, the person in charge of the facility or
38 the person's designee shall take reasonable precautions to inventory and
39 safeguard the personal property of the detained or transferred person.
40 The staff member who makes an inventory of the person's personal property
41 shall give a signed copy of that inventory to the person. The facility
42 shall allow a responsible relative to inspect the property, subject to any
43 limitations that the person specifically imposes. The facility shall not
44 disclose the contents of the inventory to any other person without the
45 consent of the person or a court order.

1 D. This article does not prohibit a person who is committed or
2 conditionally released to a less restrictive alternative from exercising
3 any right that is available for the purpose of obtaining release from
4 confinement, including the right to petition for a writ of habeas corpus.
5 The committed person must exhaust all direct appeal and postcommitment
6 procedures before exercising the committed person's right to petition for
7 a writ of habeas corpus.

8 E. A person who is indigent may not be conditionally released to a
9 less restrictive alternative or discharged without suitable clothing.
10 When a person is conditionally released to a less restrictive alternative
11 or discharged, the ~~superintendent~~ DIRECTOR of the ARIZONA state hospital
12 shall furnish the person with an amount of money pursuant to section
13 31-228.

14 F. For the purposes of this section, "responsible relative":

15 1. Means the spouse, parent, adult child or adult sibling of the
16 person. ~~And~~

17 2. Includes the guardian, conservator or attorney of the person.

18 Sec. 47. Section 36-3714, Arizona Revised Statutes, is amended to
19 read:

20 36-3714. Petition for discharge; procedures

21 A. If the ~~superintendent~~ DIRECTOR of the ARIZONA state hospital ~~or~~
22 ~~the director of the department of health services~~ determines that the
23 person's mental disorder has so changed that the person is not likely to
24 engage in acts of sexual violence if discharged, the ~~superintendent or~~
25 director shall allow the person to petition the court for discharge. The
26 person shall serve the petition on the court and the attorney for the
27 state. The court shall hold a hearing on the petition for discharge
28 within forty-five days after receiving the petition. The court may
29 continue the hearing on the request of either party and a showing of good
30 cause or on its own motion if the respondent will not be substantially
31 prejudiced. The county attorney or the attorney general shall represent
32 the state at the hearing and may request that the petitioner be examined
33 by a competent professional who is selected by the county attorney or the
34 attorney general. The attorney for the state has the burden of proving
35 beyond a reasonable doubt that the petitioner's mental disorder has not
36 changed and that the petitioner remains a danger to others and is likely
37 to engage in acts of sexual violence if discharged.

38 B. This section does not prohibit the committed person from
39 annually petitioning the court for discharge without the approval of the
40 ~~superintendent~~ DIRECTOR of the ARIZONA state hospital ~~or the director of~~
41 ~~the department of health services~~. The ~~director of the department of~~
42 ~~health services~~ STATE HOSPITAL GOVERNING BOARD shall give annual written
43 notice to the committed person of the person's right to petition the court
44 for discharge without the approval of the ~~superintendent or~~ director. The

1 notice shall contain a waiver of rights. The director shall submit the
2 notice and waiver to the court with the annual examination report.

3 C. The committed person may be present at the discharge hearing.
4 The county attorney or the attorney general may request that the person be
5 examined by a competent professional who is selected by the attorney for
6 the state. The committed person may retain and the court on the request
7 of an indigent person may appoint a competent professional. The attorney
8 for the state has the burden of proving beyond a reasonable doubt that the
9 person's mental disorder has not changed and that the person remains a
10 danger to others and is likely to engage in acts of sexual violence if
11 discharged. If the state does not meet its burden of proof, the person
12 shall be discharged from treatment.

13 D. If a person is discharged, the ~~department of health services~~
14 STATE HOSPITAL GOVERNING BOARD shall notify the department of public
15 safety of the person's discharge so that the department of public safety
16 can commence any notification process as provided in section 13-3825.

17 Sec. 48. Section 36-3717, Arizona Revised Statutes, is amended to
18 read:

19 36-3717. Place of proceedings; transportation; immunity

20 A. Except as provided in subsection B of this section, a person who
21 is detained or civilly committed pursuant to this article shall not be
22 transported from a licensed facility under the supervision of the
23 ~~superintendent~~ DIRECTOR of the Arizona state hospital, except that a
24 person may be transported to court for any of the following reasons:

25 1. A probable cause hearing pursuant to section 36-3705.

26 2. A trial pursuant to section 36-3706.

27 3. A hearing on a petition for conditional release to a less
28 restrictive alternative pursuant to section 36-3709.

29 4. A hearing on a petition for discharge pursuant to section
30 36-3714.

31 5. Any evidentiary hearing in which the presence of a person who is
32 detained or civilly committed pursuant to this article is necessary.

33 6. Any court proceeding THAT IS not otherwise specified in this
34 article where the presence of the detainee or CIVILLY committed person is
35 required.

36 B. Subsection A of this section does not apply to any person whom
37 the court has determined is subject to conditional release pursuant to
38 section 36-3710 or to any necessary medical transports.

39 C. Subsection A of this section does not preclude any proceeding
40 from being held on the grounds of the Arizona state hospital or from using
41 a telephonic conference or an interactive audiovisual device. The court
42 shall adopt rules concerning the conduct of proceedings pursuant to this
43 article. The rules shall ensure the safety of all persons. The rules may
44 include provisions that allow for proceedings to be held on the grounds of

1 the Arizona state hospital or for the use of a telephonic conference or an
2 interactive audiovisual device.

3 D. The ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD
4 is responsible for the transportation to and from a medical facility of a
5 person who is detained or CIVILLY committed pursuant to this article. The
6 ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD shall
7 determine the appropriate mode of transportation and level of security and
8 restraint for the transportation needs of the person. In determining the
9 appropriate mode of transportation and level of security and restraint,
10 the ~~department~~ STATE HOSPITAL GOVERNING BOARD shall consider the safety of
11 the public, the transporting personnel and the detained or CIVILLY
12 committed person.

13 E. The ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD
14 and any county sheriff are immune from liability for any good faith acts
15 under this section.

16 Sec. 49. Section 37-802, Arizona Revised Statutes, is amended to
17 read:

18 37-802. Disposition of real property by state agency;
19 alternative fuel delivery systems; definition

20 A. Unless another procedure is prescribed by law, the director or
21 other chief administrative officer of a state agency may lease or convey
22 real property or any right, title or interest in real property as
23 prescribed by this section if the director or officer determines that it
24 is no longer needed or used for public purposes.

25 B. Unless the property is subject to a right of reversion to a
26 previous owner or the previous owner's successors in interest, the
27 director or other chief administrative officer of a state agency may lease
28 or convey:

29 1. Real property to another agency of this state, any county,
30 municipality or other political subdivision or any school district of this
31 state without the necessity of a public sale if the real property will be
32 used for an alternative fuel delivery system. The transferee agency shall
33 pay the transferor agency for a conveyance made pursuant to this section
34 based on a current appraisal establishing the fair market value of the
35 property.

36 2. Other marketable real property to the highest and most
37 responsible bidder at a public auction or by direct sale or exchange after
38 at least thirty days' notice in a newspaper of general circulation in the
39 county in which the property is located. At least two independent
40 appraisals are required for property that is offered, and the property
41 shall not be offered or conveyed for less than the amount of the low
42 appraisal. All purchase offers are public, and any person may submit a
43 subsequent offer that matches or exceeds a previous purchase offer.

44 C. The sale shall be for cash or on terms of at least twenty
45 percent down payment with the balance payable in annual amortized

1 installments for ten years, the unpaid balance to bear interest at a rate
2 determined by the director or other chief administrative officer of the
3 state agency.

4 D. The director or other chief administrative officer of a state
5 agency may execute all deeds or conveyances necessary to lease or convey
6 any real property or interest in the real property to be leased or
7 conveyed under this section and may assess a fee for the costs of
8 preparing and executing any lease or conveyance under this section. The
9 director or officer may insert in any deed or conveyance conditions,
10 covenants, exceptions and reservations the director or officer considers
11 to be in the public interest or may convey in fee simple absolute.

12 E. A conclusive presumption exists in favor of any purchaser for
13 value and without notice of any real property or interest in the real
14 property leased or conveyed pursuant to this section that the agency acted
15 within its lawful authority in acquiring the property and that the
16 director or other chief administrative officer of the state agency acted
17 under lawful authority in executing any deed, conveyance or lease
18 authorized by this section.

19 F. Subsection B of this section does not apply to any lease or
20 sublease of state hospital lands or buildings that is executed by the
21 ~~director of the department of health services~~ ARIZONA STATE HOSPITAL
22 GOVERNING BOARD or the ~~director's~~ GOVERNING BOARD'S designee for the
23 benefit of mentally ill persons in this state. The ~~director of the~~
24 ~~department of health services~~ ARIZONA STATE GOVERNING BOARD or the
25 ~~director's~~ GOVERNING BOARD'S designee shall ensure that the ~~department~~
26 GOVERNING BOARD receives the fair rental value for the leased property.

27 G. For the purposes of this section, "alternative fuel delivery
28 system" means any facility that provides for the fueling of an alternative
29 fuel vehicle.

30 Sec. 50. Section 37-803, Arizona Revised Statutes, is amended to
31 read:

32 37-803. Disposition of real property by state agency

33 A. Unless another procedure is prescribed by law, the director or
34 other chief administrative officer of a state agency may dispose of real
35 property or any right, title or interest in real property as prescribed by
36 this section if the director or officer determines that the real property
37 is no longer needed or used for public purposes by that agency.

38 B. Unless the property is subject to a right of reversion to a
39 previous owner or the previous owner's successors in interest, the
40 director or other chief administrative officer of a state agency may
41 convey:

42 1. The real property to an agency of the federal government, to
43 another agency of this state or to any county, municipality, school
44 district or other political subdivision of this state or charter school in
45 this state without the necessity of a public sale if the director or

1 officer considers the conveyance to be in the public interest and if the
 2 real property will be used for a specific purpose in the public
 3 interest. The transferee agency shall pay the transferor agency for such
 4 a conveyance based on an appraisal prepared within the last one hundred
 5 eighty days by a certified real estate appraiser establishing the fair
 6 market value of the property to be conveyed.

7 2. Other marketable property to the highest and most responsible
 8 bidder at a public auction or by direct sale or exchange after at least
 9 thirty days' notice in a newspaper of general circulation in the county in
 10 which the property is located. At least two independent appraisals are
 11 required for property that is offered and the property shall not be
 12 offered or conveyed for less than or the amount of the low appraisal. All
 13 purchase offers are public and any person may submit a subsequent offer
 14 that matches or exceeds a previous purchase offer.

15 C. The sale shall be for cash or on terms of not less than twenty
 16 percent down payment with the balance payable in annual amortized
 17 installments for ten years, the unpaid balance to bear interest at a rate
 18 determined by the director or other chief administrative officer of the
 19 state agency.

20 D. The director or other chief administrative officer of a state
 21 agency may execute all deeds or conveyances necessary to convey any real
 22 property or interest in the real property to be conveyed under this
 23 section and may assess a fee for the costs of preparing and executing any
 24 conveyance under this section. The director or officer may insert in any
 25 deed or conveyance such conditions, covenants, exceptions and reservations
 26 as the director or officer considers to be in the public interest or may
 27 convey in fee simple absolute.

28 E. A conclusive presumption exists in favor of any purchaser for
 29 value and without notice of any real property or interest in the real
 30 property conveyed pursuant to this section that the agency acted within
 31 its lawful authority in acquiring the property and that the agency
 32 director or other chief administrative officer of the state agency acted
 33 under lawful authority in executing any deed, conveyance or lease
 34 authorized by this section.

35 F. The agency may adopt rules for using licensed real estate
 36 brokers to assist in any disposition of property under this section. The
 37 director or other chief administrative officer of the state agency may pay
 38 a commission, from proceeds received under this section, to a broker who
 39 provides the purchaser unless the broker is the purchaser or lessee or the
 40 purchaser is another governmental agency.

41 G. Subsection B of this section does not apply to any lease or
 42 sublease of state hospital lands or buildings that is executed by the
 43 ~~director of the department of health services~~ ARIZONA STATE HOSPITAL
 44 GOVERNING BOARD or the ~~director's~~ GOVERNING BOARD'S designee for the
 45 benefit of mentally ill persons in this state. The ~~director of the~~

1 ~~department of health services~~ ARIZONA STATE HOSPITAL GOVERNING BOARD or
2 the ~~director's~~ GOVERNING BOARD'S designee shall ensure that the ~~department~~
3 GOVERNING BOARD receives the fair rental value for the leased property.

4 Sec. 51. Section 41-2752, Arizona Revised Statutes, is amended to
5 read:

6 41-2752. State competition with private enterprise
7 prohibited; exceptions; definition

8 A. A state agency shall not engage in the manufacturing,
9 processing, sale, offering for sale, rental, leasing, delivery,
10 dispensing, distributing or advertising of goods or services to the public
11 that are also offered by private enterprise unless specifically authorized
12 by law other than administrative law and executive orders.

13 B. A state agency shall not offer or provide goods or services to
14 the public for or through another state agency or a local agency,
15 including by intergovernmental or interagency agreement, in violation of
16 this section or section 41-2753.

17 C. The restrictions on activities that compete with private
18 enterprise contained in this section do not apply to:

19 1. The development, operation and management of state parks,
20 historical monuments and hiking or equestrian trails.

21 2. Correctional industries established and operated by the state
22 department of corrections if the prices charged for products sold by the
23 correctional industries are not less than the actual cost of producing and
24 marketing the product plus a reasonable allowance for overhead and
25 administrative costs.

26 3. The office of tourism.

27 4. The Arizona highways magazine, operated by the department of
28 transportation.

29 5. Printing and distributing information to the public if the
30 agency is otherwise authorized to do so, and printing or copying public
31 records or other material relating to the public agency's public business
32 and recovering through fees and charges the costs of such printing,
33 copying and distributing.

34 6. The department of public safety.

35 7. The construction, maintenance and operation of state
36 transportation facilities.

37 8. The development, distribution, maintenance, support, licensing,
38 leasing or sale of computer software by the department of transportation.

39 9. Agreements executed by the Arizona health care cost containment
40 system administration with other states to design, develop, install and
41 operate information technology systems and related services or other
42 administrative services pursuant to section 36-2925.

43 10. Agreements executed by the department of economic security with
44 other states to design, develop, install and operate support collection
45 technology systems and related services. The department shall deposit,

1 pursuant to sections 35-146 and 35-147, monies received pursuant to this
2 paragraph in the public assistance collections fund established by section
3 46-295.

4 11. Educational, vocational, treatment, training or work programs
5 of the department of juvenile corrections and contracts between the
6 department of juvenile corrections and this state, a political subdivision
7 of this state or a private entity in order to provide employment or
8 vocational educational experience.

9 12. The aflatoxin control technologies of the cotton research and
10 protection council.

11 13. The lease or sublease of lands or buildings by the department
12 of economic security pursuant to section 41-1958.

13 14. The Arizona commerce authority.

14 15. The Arizona game and fish commission, but only for the sale of
15 goods or services and not firearms.

16 16. The lease or sublease of lands or buildings by the department
17 of child safety pursuant to section 8-460.

18 17. Agreements executed by the department of child safety with
19 other states to design, develop, install and operate support collection
20 technology systems and related services. The department shall deposit,
21 pursuant to sections 35-146 and 35-147, monies received pursuant to this
22 paragraph in the child safety collections fund established by section
23 8-461.

24 18. The lease or sublease of state hospital lands or buildings by
25 the ~~department of health services~~ ARIZONA STATE HOSPITAL GOVERNING BOARD.

26 19. The sale or lease of software, computer systems or intellectual
27 property developed by the department of education or associated services
28 provided for the sale or lease of software, computer systems or
29 intellectual property by the department of education. The department
30 shall deposit, pursuant to sections 35-146 and 35-147, sixty percent of
31 the profit from the monies generated pursuant to this paragraph in the
32 state general fund and the remaining forty percent in the department of
33 education intellectual property fund established by section 15-231.04.
34 The department of education may not transfer or expend monies or personnel
35 resources for the purposes of marketing or soliciting goods or services
36 authorized pursuant to this paragraph that were appropriated and
37 authorized for other functions and programs of the department of
38 education.

39 20. The lease or sublease of any real estate or related
40 infrastructure by the department of emergency and military affairs
41 pursuant to section 26-262, subsection K, paragraph 4.

42 D. The restrictions on activities that compete with private
43 enterprise contained in subsection A of this section do not apply to
44 community colleges and universities under the jurisdiction of a governing
45 board.

1 E. For the purposes of this section, "profit" means any monies
2 generated from the sale or lease of goods and services after accounting
3 for the costs paid by this state, including appropriations from the state
4 general fund.

5 Sec. 52. Section 41-3803, Arizona Revised Statutes, is amended to
6 read:

7 41-3803. Independent oversight committee on the mentally ill;
8 membership; community forums; meetings; training
9 plan; Arizona state hospital

10 A. The independent oversight committee on the mentally ill is
11 established in the department of administration to promote the rights of
12 persons who receive behavioral health services pursuant to:

- 13 1. Section 13-3992 or 13-3994.
- 14 2. Title 36, chapters 5 and 34.

15 B. Each region of this state covered by a regional behavioral
16 health authority shall have at least one independent oversight committee
17 with the authority and responsibilities as prescribed by the department of
18 administration pursuant to rules adopted by the department relating to
19 behavioral health services.

20 C. The director of the department may establish additional
21 committees to serve persons who receive behavioral health services or to
22 oversee the activities of any service provider.

23 D. Each independent oversight committee shall consist of at least
24 seven and not more than fifteen members appointed by the director of the
25 department with expertise in at least one of the following areas:

- 26 1. Psychology.
- 27 2. Law.
- 28 3. Medicine.
- 29 4. Education.
- 30 5. Special education.
- 31 6. Social work.
- 32 7. Mental health.
- 33 8. Housing for the mentally ill.
- 34 9. Criminal justice.
- 35 10. Public safety.

36 E. Each independent oversight committee, if appropriate, shall
37 include at least two parents of children who receive behavioral health
38 services pursuant to title 36, chapter 34.

39 F. Each independent oversight committee shall include at least one
40 member who is a current or former client of the behavioral health system.

41 G. Current or former providers or employees of providers that have
42 contracted with a regional behavioral health authority may serve on an
43 independent oversight committee but may not hold more than two positions
44 on the committee.

1 H. Each independent oversight committee may hold one or more
2 community forums annually to receive comments regarding the experiences of
3 individuals living with serious mental illness, and their family members
4 and caregivers, across the care continuum.

5 I. The department shall ensure that each regional behavioral health
6 authority and its providers develop and implement a human rights training
7 plan to ensure that providers are trained regarding clients' human rights
8 and the duties of the independent oversight committees.

9 J. The independent oversight committee at the Arizona state
10 hospital shall have oversight of patients who have been determined to have
11 a serious mental illness and who are hospitalized and receiving behavioral
12 health services at the civil and forensic hospital pursuant to
13 subsection A of this section. The Arizona state hospital's administration
14 and employees may not retaliate against a patient because the patient or
15 the patient's family participates in the independent oversight committee
16 meetings. A patient or patient's family that alleges retaliation must
17 provide to the independent oversight committee in writing a detailed
18 description of the retaliation and how the retaliation is connected to the
19 patient's or family's participation in the independent oversight committee
20 meetings. This subsection does not preclude the Arizona state hospital's
21 administration from taking action against a patient who violates hospital
22 policies or procedures. The Arizona state hospital shall provide to the
23 committee, subject to state and federal law, information regarding the
24 following:

- 25 1. Seclusion of and the use of restraints on patients.
- 26 2. Incident accident reports.
- 27 3. Allegations of illegal, dangerous or inhumane treatment of
28 patients.
- 29 4. Provisions of services to patients in need of special
30 assistance.
- 31 5. Allegations of neglect and abuse.
- 32 6. Allegations of denial of rights afforded to patients with
33 serious mental illness except if a right may be restricted for the safety
34 of a patient, the state hospital or the public.

35 K. The Arizona state hospital ~~superintendent~~ DIRECTOR and chief
36 medical officer, or their designees, shall attend and participate in
37 scheduled meetings of the independent oversight committee at the Arizona
38 state hospital, except for the public comment period. The ~~superintendent~~
39 DIRECTOR and the chief medical officer, or their designees, shall give a
40 report to and respond to questions from the independent oversight
41 committee members. Questions from the independent oversight committee
42 members to the ~~superintendent~~ DIRECTOR and the chief medical officer, or
43 their designees, are limited to subjects specified in subsection J of this
44 section. The ~~superintendent~~ DIRECTOR shall ensure that the Arizona state
45 hospital administration:

1 1. Fully cooperates with the independent oversight committee in all
2 aspects of its work, as outlined in subsection J of this section.

3 2. Facilitates and supports the independent oversight committee's
4 activities related to the Arizona state hospital and pursuant to the
5 department of administration's rules.

6 3. Responds to the independent oversight committee with information
7 that is responsive to inquiries made pursuant to this subsection or
8 responds in writing as to why a request was denied.

9 L. Each committee shall be organized pursuant to this section and
10 the requirements of section 41-3804.

11 Sec. 53. Section 49-104, Arizona Revised Statutes, is amended to
12 read:

13 49-104. Powers and duties of the department and director

14 A. The department shall:

15 1. Formulate policies, plans and programs to implement this title
16 to protect the environment.

17 2. Stimulate and encourage all local, state, regional and federal
18 governmental agencies and all private persons and enterprises that have
19 similar and related objectives and purposes, cooperate with those
20 agencies, persons and enterprises and correlate department plans, programs
21 and operations with those of the agencies, persons and enterprises.

22 3. Conduct research on its own initiative or at the request of the
23 governor, the legislature or state or local agencies pertaining to any
24 department objectives.

25 4. Provide information and advice on request of any local, state or
26 federal agencies and private persons and business enterprises on matters
27 within the scope of the department.

28 5. Consult with and make recommendations to the governor and the
29 legislature on all matters concerning department objectives.

30 6. Promote and coordinate the management of air resources to ensure
31 their protection, enhancement and balanced utilization consistent with the
32 environmental policy of this state.

33 7. Promote and coordinate the protection and enhancement of the
34 quality of water resources consistent with the environmental policy of
35 this state.

36 8. Encourage industrial, commercial, residential and community
37 development that maximizes environmental benefits and minimizes the
38 effects of less desirable environmental conditions.

39 9. Ensure the preservation and enhancement of natural beauty and
40 man-made scenic qualities.

41 10. Provide for the prevention and abatement of all water and air
42 pollution including that related to particulates, gases, dust, vapors,
43 noise, radiation, odor, nutrients and heated liquids in accordance with
44 article 3 of this chapter and chapters 2 and 3 of this title.

1 11. Promote and recommend methods for the recovery, recycling and
2 reuse or, if recycling is not possible, the disposal of solid wastes
3 consistent with sound health, scenic and environmental quality policies.
4 The department shall report annually on its revenues and expenditures
5 relating to the solid and hazardous waste programs overseen or
6 administered by the department.

7 12. Prevent pollution through the regulation of the storage,
8 handling and transportation of solids, liquids and gases that may cause or
9 contribute to pollution.

10 13. Promote the restoration and reclamation of degraded or
11 despoiled areas and natural resources.

12 14. Participate in the state civil defense program and develop the
13 necessary organization and facilities to meet wartime or other disasters.

14 15. Cooperate with the Arizona-Mexico commission in the governor's
15 office and with researchers at universities in this state to collect data
16 and conduct projects in the United States and Mexico on issues that are
17 within the scope of the department's duties and that relate to quality of
18 life, trade and economic development in this state in a manner that will
19 help the Arizona-Mexico commission to assess and enhance the economic
20 competitiveness of this state and of the Arizona-Mexico region.

21 16. Unless specifically authorized by the legislature, ensure that
22 state laws, rules, standards, permits, variances and orders are adopted
23 and construed to be consistent with and ~~no~~ NOT more stringent than the
24 corresponding federal law that addresses the same subject matter. This
25 paragraph does not adversely affect standards adopted by an Indian tribe
26 under federal law.

27 17. Provide administrative and staff support for the oil and gas
28 conservation commission.

29 B. The department, through the director, shall:

30 1. Contract for the services of outside advisers, consultants and
31 aides reasonably necessary or desirable to enable the department to
32 adequately perform its duties.

33 2. Contract and incur obligations reasonably necessary or desirable
34 within the general scope of department activities and operations to enable
35 the department to adequately perform its duties.

36 3. ~~Utilize~~ USE any medium of communication, publication and
37 exhibition when disseminating information, advertising and publicity in
38 any field of its purposes, objectives or duties.

39 4. Adopt procedural rules that are necessary to implement the
40 authority granted under this title, but that are not inconsistent with
41 other provisions of this title.

42 5. Contract with other agencies, including laboratories, in
43 furthering any department program.

1 6. Use monies, facilities or services to provide matching
2 contributions under federal or other programs that further the objectives
3 and programs of the department.

4 7. Accept gifts, grants, matching monies or direct payments from
5 public or private agencies or private persons and enterprises for
6 department services and publications and to conduct programs that are
7 consistent with the general purposes and objectives of this chapter.
8 Monies received pursuant to this paragraph shall be deposited in the
9 department fund corresponding to the service, publication or program
10 provided.

11 8. Provide for the examination of any premises if the director has
12 reasonable cause to believe that a violation of any environmental law or
13 rule exists or is being committed on the premises. The director shall
14 give the owner or operator the opportunity for its representative to
15 accompany the director on an examination of those premises. Within
16 forty-five days after the date of the examination, the department shall
17 provide to the owner or operator a copy of any report produced as a result
18 of any examination of the premises.

19 9. Supervise sanitary engineering facilities and projects in this
20 state, authority for which is vested in the department, and own or lease
21 land on which sanitary engineering facilities are located, and operate the
22 facilities, if the director determines that owning, leasing or operating
23 is necessary for the public health, safety or welfare.

24 10. Adopt and enforce rules relating to approving design documents
25 for constructing, improving and operating sanitary engineering and other
26 facilities for disposing of solid, liquid or gaseous deleterious matter.

27 11. Define and prescribe reasonably necessary rules regarding the
28 water supply, sewage disposal and garbage collection and disposal for
29 subdivisions. The rules shall:

30 (a) Provide for minimum sanitary facilities to be installed in the
31 subdivision and may require that water systems plan for future needs and
32 be of adequate size and capacity to deliver specified minimum quantities
33 of drinking water and to treat all sewage.

34 (b) Provide that the design documents showing or describing the
35 water supply, sewage disposal and garbage collection facilities be
36 submitted with a fee to the department for review and that no lots in any
37 subdivision be offered for sale before compliance with the standards and
38 rules has been demonstrated by approval of the design documents by the
39 department.

40 12. Prescribe reasonably necessary measures to prevent pollution of
41 water used in public or semipublic swimming pools and bathing places and
42 to prevent deleterious conditions at those places. The rules shall
43 prescribe minimum standards for the design of and for sanitary conditions
44 at any public or semipublic swimming pool or bathing place and provide for
45 abatement as public nuisances of premises and facilities that do not

1 comply with the minimum standards. The rules shall be developed in
2 cooperation with the director of the department of health services and
3 shall be consistent with the rules adopted by the director of the
4 department of health services pursuant to section 36-136, subsection ~~F~~ H,
5 paragraph 10.

6 13. Prescribe reasonable rules regarding sewage collection,
7 treatment, disposal and reclamation systems to prevent the transmission of
8 sewage borne or insect borne diseases. The rules shall:

9 (a) Prescribe minimum standards for the design of sewage collection
10 systems and treatment, disposal and reclamation systems and for operating
11 the systems.

12 (b) Provide for inspecting the premises, systems and installations
13 and for abating as a public nuisance any collection system, process,
14 treatment plant, disposal system or reclamation system that does not
15 comply with the minimum standards.

16 (c) Require that design documents for all sewage collection
17 systems, sewage collection system extensions, treatment plants, processes,
18 devices, equipment, disposal systems, on-site wastewater treatment
19 facilities and reclamation systems be submitted with a fee for review to
20 the department and may require that the design documents anticipate and
21 provide for future sewage treatment needs.

22 (d) Require that construction, reconstruction, installation or
23 initiation of any sewage collection system, sewage collection system
24 extension, treatment plant, process, device, equipment, disposal system,
25 on-site wastewater treatment facility or reclamation system conform with
26 applicable requirements.

27 14. Prescribe reasonably necessary rules regarding excreta storage,
28 handling, treatment, transportation and disposal. The rules may:

29 (a) Prescribe minimum standards for human excreta storage,
30 handling, treatment, transportation and disposal and shall provide for
31 inspection of premises, processes and vehicles and for abating as public
32 nuisances any premises, processes or vehicles that do not comply with the
33 minimum standards.

34 (b) Provide that vehicles transporting human excreta from privies,
35 septic tanks, cesspools and other treatment processes ~~shall~~ be licensed by
36 the department subject to compliance with the rules. The department may
37 require payment of a fee as a condition of licensure. The department may
38 establish by rule a fee as a condition of licensure, including a maximum
39 fee. As part of the rulemaking process, there must be public notice and
40 comment and a review of the rule by the joint legislative budget
41 committee. The department shall not increase that fee by rule without
42 specific statutory authority for the increase. The fees shall be
43 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
44 fund established by section 49-881.

1 15. Perform the responsibilities of implementing and maintaining a
2 data automation management system to support the reporting requirements of
3 title III of the superfund amendments and reauthorization act of 1986
4 (P.L. 99-499) and article 2 of this chapter.

5 16. Approve remediation levels pursuant to article 4 of this
6 chapter.

7 17. Establish or revise fees by rule pursuant to the authority
8 granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this
9 title for the department to adequately perform its duties. All fees shall
10 be fairly assessed and impose the least burden and cost to the parties
11 subject to the fees. In establishing or revising fees, the department
12 shall base the fees on:

13 (a) The direct and indirect costs of the department's relevant
14 duties, including employee salaries and benefits, professional and outside
15 services, equipment, in-state travel and other necessary operational
16 expenses directly related to issuing licenses as defined in title 41,
17 chapter 6 and enforcing the requirements of the applicable regulatory
18 program.

19 (b) The availability of other funds for the duties performed.

20 (c) The impact of the fees on the parties subject to the fees.

21 (d) The fees charged for similar duties performed by the
22 department, other agencies and the private sector.

23 18. Appoint a person with a background in oil and gas conservation
24 to act on behalf of the oil and gas conservation commission and administer
25 and enforce the applicable provisions of title 27, chapter 4 relating to
26 the oil and gas conservation commission.

27 C. The department may:

28 1. Charge fees to cover the costs of all permits and inspections it
29 performs to ensure compliance with rules adopted under section 49-203,
30 except that state agencies are exempt from paying those fees that are not
31 associated with the dredge and fill permit program established pursuant to
32 chapter 2, article 3.2 of this title. For services provided under the
33 dredge and fill permit program, a state agency shall pay either:

34 (a) The fees established by the department under the dredge and
35 fill permit program.

36 (b) The reasonable cost of services provided by the department
37 pursuant to an interagency service agreement.

38 2. Monies collected pursuant to this subsection shall be deposited,
39 pursuant to sections 35-146 and 35-147, in the water quality fee fund
40 established by section 49-210.

41 3. Contract with private consultants for the purposes of assisting
42 the department in reviewing applications for licenses, permits or other
43 authorizations to determine whether an applicant meets the criteria for
44 issuance of the license, permit or other authorization. If the department
45 contracts with a consultant under this paragraph, an applicant may request

1 that the department expedite the application review by requesting that the
2 department use the services of the consultant and by agreeing to pay the
3 department the costs of the consultant's services. Notwithstanding any
4 other law, monies paid by applicants for expedited reviews pursuant to
5 this paragraph are appropriated to the department for use in paying
6 consultants for services.

7 D. The director may:

8 1. If the director has reasonable cause to believe that a violation
9 of any environmental law or rule exists or is being committed, inspect any
10 person or property in transit through this state and any vehicle in which
11 the person or property is being transported and detain or disinfect the
12 person, property or vehicle as reasonably necessary to protect the
13 environment if a violation exists.

14 2. Authorize in writing any qualified officer or employee in the
15 department to perform any act that the director is authorized or required
16 to do by law.

17 Sec. 54. Initial terms of members of the state hospital
18 governing board

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

22 1. Two terms ending January 1, 2027.

23 2. Three terms ending January 1, 2028.

24 B. The appointing entity shall make all subsequent appointments as
25 prescribed by statute.

26 Sec. 55. Succession; transfer; effect

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

30 B. This act does not alter the effect of any actions that were
31 taken or impair the valid obligations of the department of health services
32 relating to the Arizona state hospital in existence before January 1,
33 2025.

34 C. Administrative rules and orders that were adopted by the
35 department of health services relating to the Arizona state hospital
36 continue in effect until superseded by administrative action by the state
37 hospital governing board.

38 D. All administrative matters, contracts and judicial and
39 quasi-judicial actions, whether completed, pending or in process, of the
40 department of health services relating to the Arizona state hospital on
41 January 1, 2025 are transferred to and retain the same status with the
42 state hospital governing board.

43 E. All certificates, licenses, registrations, permits and other
44 indicia of qualification and authority that were issued by the department

1 of health services relating to the Arizona state hospital retain their
2 validity for the duration of their terms of validity as provided by law.

3 F. All equipment, records, furnishings and other property, all data
4 and investigative findings, all obligations and all appropriated monies
5 that remain unexpended and unencumbered on January 1, 2025 of the
6 department of health services relating to the Arizona state hospital are
7 transferred to the state hospital governing board.

8 G. All personnel who are under the state personnel system and
9 employed by the department of health services relating to the Arizona
10 state hospital are transferred to comparable positions and pay
11 classifications in the respective administrative units of the state
12 hospital governing board on January 1, 2025.

13 Sec. 56. Effective date

14 This act is effective from and after December 31, 2024.