

REFERENCE TITLE: mental health court; incompetency; diversion

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

SB 1597

Introduced by
Senator Wadsack: Representative Hernandez C

AN ACT

AMENDING TITLE 22, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTIONS 22-603 AND 22-604; RELATING TO MENTAL HEALTH COURTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 22, chapter 6, article 1, Arizona Revised
3 Statutes, is amended by adding sections 22-603 and 22-604, to read:

4 22-603. Eligibility for mental health courts; requirements

5 A. A PERSON IS ELIGIBLE TO ENTER A MENTAL HEALTH COURT IF ALL OF
6 THE FOLLOWING APPLY:

7 1. THE PERSON IS EIGHTEEN YEARS OF AGE OR OLDER.

8 2. THE PERSON IS CURRENTLY EXPERIENCING A SEVERE MENTAL ILLNESS AND
9 HAS A DIAGNOSIS THAT IS IDENTIFIED IN THE DISORDER CLASS OF SCHIZOPHRENIA
10 SPECTRUM AND OTHER PSYCHOTIC DISORDERS AS DEFINED IN THE MOST CURRENT
11 VERSION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS. THIS
12 SECTION DOES NOT ESTABLISH ELIGIBILITY BASED ON EITHER OF THE FOLLOWING:

13 (a) A PSYCHOTIC DISORDER THAT IS DUE TO A MEDICAL CONDITION OR IS
14 NOT PRIMARILY PSYCHIATRIC IN NATURE, INCLUDING PHYSICAL HEALTH CONDITIONS
15 SUCH AS TRAUMATIC BRAIN INJURY, AUTISM, DEMENTIA OR NEUROLOGIC CONDITIONS.

16 (b) A CURRENT DIAGNOSIS OF SUBSTANCE USE DISORDER UNLESS THE PERSON
17 ALSO MEETS THE REQUIRED CRITERIA IN THIS SECTION.

18 3. THE PERSON IS NOT CLINICALLY STABILIZED IN ONGOING VOLUNTARY
19 TREATMENT.

20 4. AT LEAST ONE OF THE FOLLOWING APPLIES:

21 (a) THE PERSON IS UNLIKELY TO SURVIVE SAFELY IN THE COMMUNITY
22 WITHOUT SUPERVISION AND THE PERSON'S CONDITION IS SUBSTANTIALLY
23 DETERIORATING.

24 (b) THE PERSON IS IN NEED OF SERVICES AND SUPPORTS IN ORDER TO
25 PREVENT A RELAPSE OR DETERIORATION THAT WOULD BE LIKELY TO RESULT IN GRAVE
26 DISABILITY OR SERIOUS HARM TO THE PERSON OR OTHERS.

27 5. PARTICIPATION IN A MENTAL HEALTH COURT WOULD BE THE LEAST
28 RESTRICTIVE ALTERNATIVE NECESSARY TO ENSURE THE PERSON'S RECOVERY AND
29 STABILITY.

30 6. IT IS LIKELY THAT THE PERSON WILL BENEFIT FROM PARTICIPATION IN
31 A MENTAL HEALTH COURT.

32 B. NOTWITHSTANDING ANY OTHER LAW, A MENTAL HEALTH COURT PROCEEDING
33 MAY BE COMMENCED IN ANY OF THE FOLLOWING COUNTIES:

34 1. THE COUNTY IN WHICH THE PERSON RESIDES.

35 2. THE COUNTY WHERE THE PERSON IS FOUND.

36 3. THE COUNTY WHERE THE PERSON IS FACING CRIMINAL PROCEEDINGS.

37 C. NOTWITHSTANDING SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, IF
38 THE PERSON DOES NOT RESIDE IN THE COUNTY IN WHICH PROCEEDINGS ARE
39 INITIATED, WITH THE PERSON'S CONSENT, THE PROCEEDINGS SHALL BE TRANSFERRED
40 TO THE COUNTY OF RESIDENCE AS SOON AS REASONABLY FEASIBLE. IF THE PERSON
41 DOES NOT CONSENT TO THE TRANSFER, THE PROCEEDINGS SHALL CONTINUE IN THE
42 COUNTY WHERE THE PERSON WAS FOUND.

1 22-604. Criminal case diversion for mentally incompetent:
2 mental health courts; requirements

3 A. NOTWITHSTANDING ANY OTHER LAW, IF A DEFENDANT IS FOUND MENTALLY
4 INCOMPETENT, THE TRIAL, JUDGMENT OR HEARING ON AN ALLEGED MISDEMEANOR
5 VIOLATION SHALL BE SUSPENDED AND THE COURT MAY CONDUCT A HEARING AND IF
6 THE COURT DEEMS THE DEFENDANT ELIGIBLE, GRANT DIVERSION FOR A PERIOD NOT
7 TO EXCEED ONE YEAR FROM THE DATE THE DEFENDANT IS ACCEPTED INTO DIVERSION
8 OR THE MAXIMUM TERM OF IMPRISONMENT PROVIDED BY LAW FOR THE MOST SERIOUS
9 OFFENSE CHARGED IN THE MISDEMEANOR COMPLAINT, WHICHEVER IS SHORTER. IF
10 THE COURT CONDUCTS A HEARING PURSUANT TO THIS SUBSECTION, THE HEARING
11 SHALL BE HELD WITHIN THIRTY DAYS AFTER THE FINDING OF INCOMPETENCE. IF
12 THE HEARING IS DELAYED BEYOND THIRTY DAYS, THE COURT SHALL ORDER THE
13 DEFENDANT TO BE RELEASED ON THE DEFENDANT'S OWN RECOGNIZANCE PENDING THE
14 HEARING.

15 B. IF THE DEFENDANT PERFORMS SATISFACTORILY ON DIVERSION PURSUANT
16 TO THIS SECTION, AT THE END OF THE PERIOD OF DIVERSION, THE COURT SHALL
17 DISMISS THE CRIMINAL CHARGES THAT WERE THE SUBJECT OF THE CRIMINAL
18 PROCEEDINGS AT THE TIME OF THE INITIAL DIVERSION.

19 C. IF THE COURT FINDS THE DEFENDANT INELIGIBLE FOR DIVERSION BASED
20 ON THE CIRCUMSTANCES, THE COURT, AFTER NOTICE TO THE DEFENDANT, DEFENSE
21 COUNSEL AND THE PROSECUTION, MAY HOLD A HEARING TO DETERMINE WHETHER
22 TO REFER THE DEFENDANT TO A MENTAL HEALTH COURT. A HEARING TO DETERMINE
23 ELIGIBILITY FOR CARE SHALL BE HELD WITHIN FOURTEEN DAYS AFTER THE DATE OF
24 THE REFERRAL. IF THE HEARING IS DELAYED BEYOND FOURTEEN DAYS, THE COURT
25 SHALL ORDER THE DEFENDANT, IF CONFINED IN COUNTY JAIL, TO BE RELEASED ON
26 THE DEFENDANT'S OWN RECOGNIZANCE PENDING THAT HEARING. IF THE DEFENDANT IS
27 ACCEPTED INTO A MENTAL HEALTH COURT, THE CHARGES SHALL BE DISMISSED. IF
28 THE CRIMINAL ACTION IS DISMISSED, THE COURT SHALL TRANSMIT A COPY OF THE
29 ORDER OF DISMISSAL TO THE COUNTY BEHAVIORAL HEALTH DIRECTOR OR THE
30 DIRECTOR'S DESIGNEE.

31 D. A DEFENDANT WHO IS IN A MENTAL HEALTH COURT SHALL RECEIVE MENTAL
32 HEALTH TREATMENT IN A TREATMENT FACILITY AND NOT A JAIL. A TERM OF FOUR
33 DAYS WILL BE DEEMED TO HAVE BEEN SERVED FOR EVERY TWO DAYS SPENT IN ACTUAL
34 CUSTODY AGAINST THE MAXIMUM TERM OF DIVERSION. A DEFENDANT WHO IS NOT IN
35 ACTUAL CUSTODY SHALL OTHERWISE RECEIVE ONE DAY FOR EVERY ONE DAY SERVED AS
36 CREDIT AGAINST THE TERM OF DIVERSION FROM THE DATE THE DEFENDANT IS
37 ACCEPTED INTO DIVERSION.