

House Engrossed Senate Bill

~~secure state mental health facilities~~
(now: secure behavioral health residential facilities)

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

SENATE BILL 1678

AN ACT

AMENDING SECTIONS 13-712, 13-4521 AND 36-425.06, ARIZONA REVISED STATUTES;
RELATING TO DANGEROUS AND INCOMPETENT PERSONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-712, Arizona Revised Statutes, is amended to
3 read:

4 13-712. Calculation of terms of imprisonment

5 A. A sentence of imprisonment commences when sentence is imposed if
6 the defendant is in custody or surrenders into custody at that time.
7 Otherwise it commences when the defendant becomes actually in custody.

8 B. All time actually spent in custody pursuant to an offense until
9 the prisoner is sentenced to imprisonment for such offense shall be
10 credited against the term of imprisonment otherwise provided for by this
11 chapter. A person who is found competent to stand trial after an
12 involuntary commitment pursuant to section 13-4521 shall receive credit
13 for all time that the person spent under the jurisdiction of the secure
14 state mental health facility OR THE ARIZONA STATE HOSPITAL against a term
15 of imprisonment for any of the charges that were the basis for the
16 involuntary commitment.

17 C. If a sentence of imprisonment is vacated and a new sentence is
18 imposed on the defendant for the same offense, the new sentence is
19 calculated as if it had commenced at the time the vacated sentence was
20 imposed, and all time served under the vacated sentence shall be credited
21 against the new sentence.

22 D. If a person serving a sentence of imprisonment escapes from
23 custody, the escape interrupts the sentence. The interruption continues
24 until the person is apprehended and confined for the escape or is confined
25 and subject to a detainer for the escape. Time spent in actual custody
26 before return under this subsection shall be credited against the term
27 authorized by law if custody rested on an arrest or surrender for the
28 escape itself, or if the custody arose from an arrest on another charge
29 which culminated in a dismissal or an acquittal, and the person was denied
30 admission to bail pending disposition of that charge because of a warrant
31 lodged against such person arising from the escape.

32 E. The sentencing court shall include the time of commencement of
33 sentence under subsection A of this section and the computation of time
34 credited against sentence under subsection B, C or D of this section in
35 the original or an amended commitment order, under procedures established
36 by rule of court.

37 Sec. 2. Section 13-4521, Arizona Revised Statutes, is amended to
38 read:

39 13-4521. Dangerous and incompetent defendants; proof evident
40 hearing; commitment trial; disposition; findings;
41 annual report

42 A. If a court enters an order pursuant to section 13-4517,
43 subsection A, paragraph 4, the court shall hold a hearing within ten days
44 after the order is issued to determine if the proof is evident or the
45 presumption great that the defendant committed the act that constitutes a

1 serious offense as defined in section 13-706. If the court does not find
2 the proof is evident or the presumption great that the defendant committed
3 the act, the court shall proceed pursuant to section 13-4517, subsection
4 A, paragraph 1, 2 or 3.

5 B. If the court does find the proof is evident or the presumption
6 great pursuant to subsection A of this section, the court shall hold a
7 trial within one hundred twenty days after the court issued the order
8 pursuant to section 13-4517, subsection A, paragraph 4 to determine if the
9 defendant is dangerous and should be involuntarily committed. Unless the
10 state or defendant requests a jury trial, a trial held pursuant to this
11 subsection shall be before the court.

12 C. The Arizona rules of evidence and the Arizona rules of civil
13 procedure apply to proceedings held pursuant to this section, except that
14 the court may consider evidence that is not admissible under the Arizona
15 rules of evidence when making a determination pursuant to subsection A of
16 this section.

17 D. If there has not been a previous evaluation to determine whether
18 the defendant is dangerous, the defendant shall be examined by mental
19 health experts in accordance with the requirements of section 13-4509,
20 subsection D to determine if the defendant should be considered dangerous.
21 The state and the defendant may each retain a mental health expert to
22 examine the defendant and present the defendant's mental health evaluation
23 at the trial.

24 E. At a trial to determine if the defendant is dangerous, the state
25 shall establish beyond a reasonable doubt that the defendant is dangerous
26 and should be involuntarily committed. If the factfinder does not find
27 that the defendant is dangerous or does not find that the defendant should
28 be involuntarily committed, the court shall proceed pursuant to section
29 13-4517, subsection A, paragraph 1, 2 or 3.

30 F. If the factfinder finds that the defendant is dangerous and
31 should be involuntarily committed, the court shall dismiss the charges
32 against the defendant without prejudice and order the defendant to be
33 committed to a secure state mental health facility OR THE ARIZONA STATE
34 HOSPITAL. The defendant shall receive education, care, supervision and
35 treatment to render the defendant either competent or nondangerous.

36 G. If the court issues a commitment order pursuant to this section:

37 1. All further proceedings for the defendant's continued treatment
38 and the circumstances under which the defendant may be released shall be
39 conducted pursuant to title 36, chapter 40.

40 2. The order shall require that the defendant remain committed to a
41 secure state mental health facility OR THE ARIZONA STATE HOSPITAL until
42 any of the following occurs:

43 (a) The court finds that the defendant is competent to stand trial.

44 (b) The court finds that the defendant is no longer dangerous.

1 H. A commitment order issued pursuant to this section may not be in
2 effect for more than the presumptive sentence the defendant could have
3 received for the highest charged offense pursuant to section 13-702 or
4 13-703, section 13-704, subsection A, B, C, D or E, section 13-705,
5 section 13-706, subsection A, section 13-708, subsection D or section
6 13-751 or any section for which a specific sentence is authorized. In
7 making this determination, the court may not consider the sentence
8 enhancements under section 13-703 or 13-704 for prior convictions. The
9 court shall consider all time a defendant has been in custody, including
10 pretrial detention and custody under title 36.

11 I. The court shall retain jurisdiction over a defendant who is
12 committed pursuant to this section until the court discharges the
13 defendant from treatment. If a defendant is discharged or released on the
14 expiration of a commitment order issued pursuant to this section, the
15 medical director of the secure state mental health facility OR THE ARIZONA
16 STATE HOSPITAL from which the defendant is discharged or released or the
17 state may file a petition stating that the defendant requires further
18 treatment pursuant to title 36, chapter 5 or the appointment of a guardian
19 pursuant to title 14.

20 J. Findings by the court made pursuant to this section and, except
21 as provided in section 13-4508, any statements made by the defendant
22 during an examination by a mental health expert pursuant to section
23 13-4509 are inadmissible in any proceeding other than a proceeding under
24 title 36, chapters 5 and 40.

25 K. A person who is involuntarily committed to a secure state mental
26 health facility OR THE ARIZONA STATE HOSPITAL pursuant to this section
27 shall receive credit for all time spent under the jurisdiction of the
28 secure state mental health facility OR THE ARIZONA STATE HOSPITAL if the
29 person is found competent to stand trial and is subsequently sentenced to
30 the state department of corrections for any of the charges that were the
31 basis for the involuntary commitment.

32 L. The court shall annually report the following information for
33 the previous year to the Arizona criminal justice commission:

34 1. The number of court orders for a trial pursuant to section
35 13-4517, subsection A, paragraph 4, including the number of jury trials
36 that were held.

37 2. The number of defendants who are committed after a trial
38 pursuant to this section.

39 3. The number of committed defendants who are conditionally
40 released to a less restrictive alternative.

41 4. The number of committed defendants who are restored to
42 competency or determined to not be dangerous and who are discharged.

1 Sec. 3. Section 36-425.06, Arizona Revised Statutes, is amended to
2 read:

3 36-425.06. Secure behavioral health residential facilities;
4 license; annual reports; definition

5 A. The department shall license secure behavioral health
6 residential facilities to provide secure twenty-four-hour on-site
7 supportive treatment and supervision by staff with behavioral health
8 training for persons who have been determined to be seriously mentally
9 ill, who are chronically resistant to treatment for a mental disorder and
10 who are placed in the facility pursuant to a court order issued pursuant
11 to section 36-550.09 or who have been committed pursuant to a court order
12 issued pursuant to section 13-4521. ~~A secure behavioral health~~
13 ~~residential facility may provide services only to persons placed in or~~
14 ~~committed to the facility pursuant to a court order issued pursuant to~~
15 ~~section 36-550.09 or 13-4521 and may not provide services to any other~~
16 ~~persons on that facility's premises.~~ A secure behavioral health
17 residential facility may not have more than sixteen beds. A **SECURE**
18 **BEHAVIORAL HEALTH RESIDENTIAL FACILITY THAT PROVIDES SERVICES TO PERSONS**
19 **WHO ARE:**

20 1. **PLACED IN THE SECURE BEHAVIORAL HEALTH RESIDENTIAL FACILITY**
21 **PURSUANT TO A COURT ORDER ISSUED PURSUANT TO SECTION 36-550.09 MAY NOT**
22 **PROVIDE SERVICES TO ANY OTHER PERSONS ON THAT FACILITY'S PREMISES.**

23 2. **COMMITTED TO THE SECURE BEHAVIORAL HEALTH RESIDENTIAL FACILITY**
24 **PURSUANT TO A COURT ORDER ISSUED PURSUANT TO SECTION 13-4521 MAY NOT**
25 **PROVIDE SERVICES TO ANY OTHER PERSONS ON THAT FACILITY'S PREMISES.**

26 B. On or before September 1 of each year: ~~;~~

27 1. The director of the Arizona health care cost containment system
28 administration shall submit a report to the governor, the legislature and
29 the supreme court that includes ~~all of~~ the following information:

30 ~~1.~~ (a) An accounting of where the monies appropriated to the
31 Arizona health care cost containment system administration for secure
32 behavioral health residential facilities were used during the previous
33 year.

34 ~~2.~~ (b) The number of available beds in each secure behavioral
35 health residential facility **FOR PERSONS WHO ARE PLACED PURSUANT TO SECTION**
36 **36-550.09.**

37 2. **THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM SHALL SUBMIT A**
38 **REPORT TO THE GOVERNOR, THE LEGISLATURE AND THE SUPREME COURT ON THE**
39 **NUMBER OF AVAILABLE BEDS IN EACH SECURE BEHAVIORAL HEALTH RESIDENTIAL**
40 **FACILITY FOR PERSONS WHO ARE COMMITTED PURSUANT TO SECTION 13-4521.**

41 C. For the purposes of this section, "secure" means premises that
42 limit a patient's egress in the least restrictive manner consistent with
43 the patient's court-ordered treatment plan.