

REFERENCE TITLE: **secure state mental health facilities**

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

SB 1678

Introduced by
Senators Gowan: Shamp

AN ACT

AMENDING SECTIONS 13-712, 13-4501, 36-425.06 AND 36-4001, 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 AS DEFINED IN SECTION 13-4501 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 13-4501, Arizona Revised Statutes, is amended to
38 read:

39 13-4501. Definitions

40 In this chapter, unless the context otherwise requires:

41 1. "Clinical liaison" means a mental health expert or any other
42 individual who has experience and training in mental health or
43 developmental disabilities and who is qualified and appointed by the court
44 to aid in coordinating the treatment or training of individuals who are

1 found incompetent to stand trial. If intellectual disability is an issue,
2 the clinical liaison shall be an expert in intellectual disabilities.

3 2. "Dangerous" means that, as a result of a mental illness, defect
4 or disability, a person's continued behavior can reasonably be expected,
5 on the basis of a mental health expert's opinion, to result in serious
6 physical harm or death to another person.

7 3. "Incompetent to stand trial" means that as a result of a mental
8 illness, defect or disability a defendant is unable to understand the
9 nature and object of the proceeding or to assist in the defendant's
10 defense. In the case of a person under eighteen years of age when the
11 issue of competency is raised, incompetent to stand trial also means a
12 person who does not have sufficient present ability to consult with the
13 person's lawyer with a reasonable degree of rational understanding or who
14 does not have a rational and factual understanding of the proceedings
15 against the person. The presence of a mental illness, defect or
16 disability alone is not grounds for finding a defendant incompetent to
17 stand trial.

18 4. "Mental health expert" means a physician who is licensed
19 pursuant to title 32, chapter 13 or 17 or a psychologist who is licensed
20 pursuant to title 32, chapter 19.1 and who is:

21 (a) Familiar with this state's competency standards and statutes
22 and criminal and involuntary commitment statutes.

23 (b) Familiar with the treatment, training and restoration programs
24 that are available in this state.

25 (c) Certified by the court as meeting court developed guidelines
26 using recognized programs or standards.

27 5. "Mental illness, defect or disability" means a psychiatric or
28 neurological disorder that is evidenced by behavioral or emotional
29 symptoms, including congenital mental conditions, conditions resulting
30 from injury or disease and developmental disabilities as defined in
31 section 36-551.

32 6. "Secure state mental health facility" means a secure behavioral
33 health residential facility that is licensed pursuant to section 36-425.06
34 OR THE ARIZONA STATE HOSPITAL.

35 7. "Threat to public safety" means charged with the commission of
36 any of the following:

37 (a) A crime involving the discharge, use or threatening exhibition
38 of a deadly weapon or dangerous instrument or the infliction of physical
39 injury on another person.

40 (b) A dangerous crime against children pursuant to section 13-705.

41 (c) Two or more nondangerous felonies within a period of
42 twenty-four months.

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

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

A. The department shall license secure behavioral health residential facilities to provide secure twenty-four-hour on-site supportive treatment and supervision by staff with behavioral health training for persons who have been determined to be seriously mentally ill, who are chronically resistant to treatment for a mental disorder and who are placed in the facility pursuant to a court order issued pursuant to section 36-550.09 or who have been committed pursuant to a court order issued pursuant to section 13-4521. ~~A secure behavioral health residential facility may provide services only to persons placed in or committed to the facility pursuant to a court order issued pursuant to section 36-550.09 or 13-4521 and may not provide services to any other persons on that facility's premises.~~

A secure behavioral health residential facility may not have more than sixteen beds. A **SECURE BEHAVIORAL HEALTH RESIDENTIAL FACILITY THAT PROVIDES SERVICES TO PERSONS WHO ARE:**

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

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

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

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

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

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

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

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

1 Sec. 4. Section 36-4001, Arizona Revised Statutes, is amended to
2 read:

3 36-4001. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Attorney for the state" means the county attorney in the county
6 where the committed defendant was found to be a committed defendant, or
7 the attorney general, who represents this state at any proceedings held
8 pursuant to this chapter.

9 2. "Biannually" means twice per year.

10 3. "Committed defendant":

11 (a) Means a person who has been determined to be incompetent and
12 nonrestorable and dangerous pursuant to title 13, chapter 41.

13 (b) Includes the committed defendant's attorney or the committed
14 defendant's court-appointed guardian, if any.

15 4. "Competent professional" means a person who is:

16 (a) Familiar with this state's criminal and involuntary commitment
17 statutes and standards that are available in this state for persons with a
18 mental illness, defect or disability.

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

21 5. "Dangerous" means that, as a result of a mental illness, defect
22 or disability, a person's continued behavior can reasonably be expected,
23 on the basis of a mental health expert's opinion, to result in serious
24 physical harm or death to another person.

25 6. "Less restrictive alternative" means court-ordered treatment in
26 a setting that is less restrictive than total confinement.

27 7. "Medical director" means the medical director of the secure
28 behavioral health residential facility in which the committed defendant
29 resides.

30 8. "Mental illness, defect or disability" means a psychiatric or
31 neurological disorder that is evidenced by behavioral or emotional
32 symptoms, including a congenital mental condition, a condition resulting
33 from injury or disease or a developmental disability as defined in section
34 36-551.

35 9. "Secure state mental health facility" means a secure behavioral
36 health residential facility that is licensed pursuant to section 36-425.06
37 OR THE ARIZONA STATE HOSPITAL.