

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1678

(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

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 for
13 all time that the person spent under the jurisdiction of the secure state
14 mental health facility OR THE ARIZONA STATE HOSPITAL against a term of
15 imprisonment for any of the charges that were the basis for the involuntary
16 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

1 before return under this subsection shall be credited against the term
2 authorized by law if custody rested on an arrest or surrender for the
3 escape itself, or if the custody arose from an arrest on another charge
4 which culminated in a dismissal or an acquittal, and the person was denied
5 admission to bail pending disposition of that charge because of a warrant
6 lodged against such person arising from the escape.

7 E. The sentencing court shall include the time of commencement of
8 sentence under subsection A of this section and the computation of time
9 credited against sentence under subsection B, C or D of this section in the
10 original or an amended commitment order, under procedures established by
11 rule of court.

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

14 13-4521. Dangerous and incompetent defendants; proof evident
15 hearing; commitment trial; disposition; findings;
16 annual report

17 A. If a court enters an order pursuant to section 13-4517,
18 subsection A, paragraph 4, the court shall hold a hearing within ten days
19 after the order is issued to determine if the proof is evident or the
20 presumption great that the defendant committed the act that constitutes a
21 serious offense as defined in section 13-706. If the court does not find
22 the proof is evident or the presumption great that the defendant committed
23 the act, the court shall proceed pursuant to section 13-4517, subsection A,
24 paragraph 1, 2 or 3.

25 B. If the court does find the proof is evident or the presumption
26 great pursuant to subsection A of this section, the court shall hold a
27 trial within one hundred twenty days after the court issued the order
28 pursuant to section 13-4517, subsection A, paragraph 4 to determine if the
29 defendant is dangerous and should be involuntarily committed. Unless the
30 state or defendant requests a jury trial, a trial held pursuant to this
31 subsection shall be before the court.

1 C. The Arizona rules of evidence and the Arizona rules of civil
2 procedure apply to proceedings held pursuant to this section, except that
3 the court may consider evidence that is not admissible under the Arizona
4 rules of evidence when making a determination pursuant to subsection A of
5 this section.

6 D. If there has not been a previous evaluation to determine whether
7 the defendant is dangerous, the defendant shall be examined by mental
8 health experts in accordance with the requirements of section 13-4509,
9 subsection D to determine if the defendant should be considered dangerous.
10 The state and the defendant may each retain a mental health expert to
11 examine the defendant and present the defendant's mental health evaluation
12 at the trial.

13 E. At a trial to determine if the defendant is dangerous, the state
14 shall establish beyond a reasonable doubt that the defendant is dangerous
15 and should be involuntarily committed. If the factfinder does not find
16 that the defendant is dangerous or does not find that the defendant should
17 be involuntarily committed, the court shall proceed pursuant to section
18 13-4517, subsection A, paragraph 1, 2 or 3.

19 F. If the factfinder finds that the defendant is dangerous and
20 should be involuntarily committed, the court shall dismiss the charges
21 against the defendant without prejudice and order the defendant to be
22 committed to a secure state mental health facility **OR THE ARIZONA STATE**
23 **HOSPITAL**. The defendant shall receive education, care, supervision and
24 treatment to render the defendant either competent or nondangerous.

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

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

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

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

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

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

12 I. The court shall retain jurisdiction over a defendant who is
13 committed pursuant to this section until the court discharges the defendant
14 from treatment. If a defendant is discharged or released on the expiration
15 of a commitment order issued pursuant to this section, the medical director
16 of the secure state mental health facility OR THE ARIZONA STATE HOSPITAL
17 from which the defendant is discharged or released or the state may file a
18 petition stating that the defendant requires further treatment pursuant to
19 title 36, chapter 5 or the appointment of a guardian 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 during
22 an examination by a mental health expert pursuant to section 13-4509 are
23 inadmissible in any proceeding other than a proceeding under title 36,
24 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.

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

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

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

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

10 4. The number of committed defendants who are restored to competency
11 or determined to not be dangerous and who are discharged."

12 Renumber to conform

13 Amend title to conform

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C: MH