

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1682

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 3-607, Arizona Revised Statutes, is amended to
3 read:

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

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

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

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

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

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

7 C. After issuance of the first annual license, a license may be
8 issued on inspection of the premises and payment not later than February
9 1 of each year of the required fee. The inspection shall be made by the
10 associate director or an authorized representative to determine whether the
11 premises are maintained in compliance with law. A written report of the
12 inspection shall be filed in the division office. An annual license is
13 valid for the period beginning January 1 and ending December 31 of each
14 year, and a license that is not renewed on or before February 1 of each
15 year is void.

16 D. An application for a license to produce grade A milk for human
17 consumption shall be made in the manner prescribed by subsections A and B
18 of this section. The license shall be valid until revoked for failure to
19 comply with the provisions of this article relating to the production of
20 milk. The associate director may suspend a license pending correction of
21 deficiencies that violate this article. If the identified deficiencies are
22 not corrected within a reasonable time after the licensee is notified, the
23 associate director may proceed to revoke the license. Notice of a pending
24 revocation shall be in writing, stating the cause, and setting a time
25 during which the licensee may correct the cause for revocation. If the
26 cause for revocation is not corrected within the time specified, the
27 associate director, after a hearing and three days' notice of intention,
28 may revoke the license. The director shall review the associate director's
29 action on request of any person adversely affected by the action. A person
30 holding a permit issued by a governmental agency operating outside of this
31 state whose requirements are substantially the same as the requirements of
32 this state shall be deemed to have a license meeting the requirements of

1 this article, provided the facilities have first been inspected and
2 approved also by a resident Arizona inspector, if in the opinion of the
3 associate director such an inspection should be made. Any expense incurred
4 for such an inspection shall be at the expense of the licensee.

5 E. Fees shall be paid as follows:

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

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

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

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

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

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

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

21 8-201. Definitions

22 In this title, unless the context otherwise requires:

23 1. "Abandoned" means the failure of the parent to provide reasonable
24 support and to maintain regular contact with the child, including providing
25 normal supervision. Abandoned includes a judicial finding that a parent
26 has made only minimal efforts to support and communicate with the
27 child. Failure to maintain a normal parental relationship with the child
28 without just cause for a period of six months constitutes prima facie
29 evidence of abandonment.

30 2. "Abuse" means the infliction or allowing of physical injury,
31 impairment of bodily function or disfigurement or the infliction of or
32 allowing another person to cause serious emotional damage as evidenced by

1 severe anxiety, depression, withdrawal or untoward aggressive behavior and
2 which emotional damage is diagnosed by a medical doctor or psychologist and
3 is caused by the acts or omissions of an individual who has the care,
4 custody and control of a child. Abuse includes:

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

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

16 (c) Unreasonable confinement of a child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 12. "Delinquent act" means an act by a juvenile that if committed by
23 an adult would be a criminal offense or a petty offense, a violation of any
24 law of this state, or of another state if the act occurred in that state,
25 or a law of the United States, or a violation of any law that can only be
26 violated by a minor and that has been designated as a delinquent offense,
27 or any ordinance of a city, county or political subdivision of this state
28 defining crime. Delinquent act does not include an offense under section
29 13-501, subsection A or B if the offense is filed in adult court. Any
30 juvenile who is prosecuted as an adult or who is remanded for prosecution
31 as an adult shall not be adjudicated as a delinquent juvenile for the same
32 offense.

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

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

4 15. "Dependent child":

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

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

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

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

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

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

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

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

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

28 18. "Health professional" has the same meaning prescribed in section
29 32-3201.

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

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

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

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

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

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

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

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

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

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

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

22 (a) Means a psychiatrist, or licensed physician experienced in
23 psychiatric matters, who is designated in writing by the governing body of
24 the agency as the person in charge of the medical services of the agency,
25 or a psychiatrist designated by the governing body to act for the
26 director.

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

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

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

2 (a) The inability or unwillingness of a parent, guardian or
3 custodian of a child to provide that child with supervision, food,
4 clothing, shelter or medical care if that inability or unwillingness causes
5 substantial risk of harm to the child's health or welfare, except if the
6 inability of a parent, guardian or custodian to provide services to meet
7 the needs of a child with a disability or chronic illness is solely the
8 result of the unavailability of reasonable services.

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

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

22 (i) Clinical indicators in the prenatal period including maternal
23 and newborn presentation.

24 (ii) History of substance use or abuse.

25 (iii) Medical history.

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

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

31 (e) Deliberate exposure of a child by a parent, guardian or
32 custodian to sexual conduct as defined in section 13-3551 or to sexual

1 contact, oral sexual contact or sexual intercourse as defined in section
2 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
3 materials as defined in section 13-3507.

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

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

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

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

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

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

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

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

17 29. "Protective supervision" means supervision that is ordered by
18 the juvenile court of children who are found to be dependent or
19 incorrigible.

20 30. "Qualified young adult" means a former dependent child who is at
21 least eighteen years of age and not over twenty-one years of age, who meets
22 the criteria for an extended foster care program pursuant to section
23 8-521.02 and who signs a voluntary agreement to participate in the program.

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

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

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

1 (a) Seriously impairs mental faculties.

2 (b) Causes serious anxiety, depression, withdrawal or social
3 dysfunction behavior to the extent that the child suffers dysfunction that
4 requires treatment.

5 (c) Is the result of sexual abuse pursuant to section 13-1404,
6 sexual conduct with a minor pursuant to section 13-1405, sexual assault
7 pursuant to section 13-1406, molestation of a child pursuant to section
8 13-1410, child sex trafficking pursuant to section 13-3212, commercial
9 sexual exploitation of a minor pursuant to section 13-3552, sexual
10 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
11 section 13-3608.

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

14 (a) Creates a reasonable risk of death.

15 (b) Causes serious or permanent disfigurement.

16 (c) Causes significant physical pain.

17 (d) Causes serious impairment of health.

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

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

26 35. "Shelter care" means the temporary care of a child in any public
27 or private facility or home that is licensed by this state and that offers
28 a physically nonsecure environment that is characterized by the absence of
29 physically restricting construction or hardware and that provides the child
30 access to the surrounding community.

31 36. "Young adult administrative review" means an administrative
32 review of a voluntary extended foster care case plan with the qualified

1 young adult, the department's case specialist or designee, an independent
2 party who is not responsible for the case management of or the delivery of
3 services to the qualified young adult and any other individual the young
4 adult invites.

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

7 11-812. Restriction on regulation; exceptions; aggregate
8 mining regulation; definitions

9 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
10 shall NOT:

11 1. Affect existing uses of property or the right to its continued
12 use or the reasonable repair or alteration of the property for the purpose
13 for which used at the time the ordinance affecting the property takes
14 effect.

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

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

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

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

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

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

31 3. Prevent, restrict or otherwise regulate the use or occupation of
32 land or improvements for agricultural composting, if the tract is five or

1 more contiguous commercial acres. An agricultural composting operation
2 shall notify in writing the board of supervisors and the nearest fire
3 department of the location of the composting operation. If the nearest
4 fire department is located in a city, town or fire district where the
5 agricultural composting is not located, the agricultural composting
6 operation shall also notify in writing the fire district in which the
7 operation is located. Agricultural composting is subject to sections 3-112
8 and 49-141. For the purposes of this paragraph, "agricultural composting"
9 has the same meaning prescribed in section 9-462.01, subsection G.

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

14 B. A nonconforming business use within a district may expand if the
15 expansion does not exceed one hundred ~~percent~~ PERCENT of the area of the
16 original business.

17 C. For the purposes of subsection A, paragraph 2 of this section,
18 mining does not include aggregate mining operations in an aggregate mining
19 operations zoning district established pursuant to this section. The board
20 of supervisors of any county with a population of more than two million
21 persons shall designate and establish the boundaries of an aggregate mining
22 operations zoning district on the petition of at least one hundred persons
23 who reside within one-half mile of an existing aggregate mining operation.
24 In addition, the board of supervisors of any county may establish, in its
25 discretion and on the board's initiative, one or more aggregate mining
26 operations zoning districts. Aggregate mining operations zoning districts
27 may only be located in areas that are inventoried and mapped as areas of
28 known reserves or in areas with existing aggregate mining operations.
29 Subject to subsections E and F of this section, a county and the state mine
30 inspector may jointly adopt, as internal administrative regulations,
31 reasonable aggregate mining operations zoning district standards limited to
32 permitted uses, procedures for approval of property development plans and

1 site development standards for dust control, height regulations, setbacks,
2 days and hours of operation, off-street parking, screening, noise,
3 vibration and air pollution control, signs, roadway access lanes, arterial
4 highway protection and property reclamation for which aggregate mining
5 operations are not otherwise subject to federal, state or local regulation
6 or a governmental contractual obligation. Regulations THAT ARE jointly
7 adopted pursuant to this subsection by the county and the state mine
8 inspector shall not prohibit the activities included in the definition of
9 mine pursuant to section 27-301, ~~paragraph 8~~ or duplicate, conflict with or
10 be more stringent than applicable federal, state or local laws.

11 D. The board of supervisors of any county that establishes an
12 aggregate mining operations zoning district shall appoint an aggregate
13 mining operations recommendation committee for the district. The committee
14 consists of not more than seven operators, or representatives of operators,
15 of active aggregate mining operations in any district within the county and
16 an equal number of private citizens, who are not operators, who are not
17 employed by operators and who do not represent operators, residing within
18 three miles of the boundaries of aggregate mining operations or a proposed
19 aggregate mining operation in the district for which the committee is
20 established. The initial members appointed to the committee shall be
21 deemed the primary members, and the board of supervisors shall appoint not
22 more than five alternate members who represent operators and shall appoint
23 not more than five alternate members who are private citizens. Alternate
24 members may serve at meetings of the committee when a primary member is
25 unable to attend. An aggregate mining operator may serve on more than one
26 committee in the same county. The board of supervisors shall determine the
27 length of terms of members of the committee and shall stagger the initial
28 appointments so that not all members' terms expire at the same time.
29 Members of the committee who no longer qualify for membership as provided
30 by this subsection are subject to removal and replacement by the board of
31 supervisors. The committee shall elect a member who is an aggregate mining
32 operator to serve as chairperson for the first year in which the committee

1 is created. For each year thereafter, the chairperson shall be elected by
2 the members of the committee with a member who is a private citizen and a
3 member who is an aggregate mining operator serving as chairperson in
4 alternate years. The committee is subject to the open meeting requirements
5 of title 38, chapter 3, article 3.1.

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

11 1. By a majority vote of all members, make recommendations to the
12 board of supervisors for aggregate mining zoning districts and
13 administrative regulations as provided in this section. The board of
14 supervisors may adopt or reject the recommendations but may not make any
15 modifications to the recommendations unless the modification is approved by
16 a majority of the members of the recommendation committee.

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

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

26 F. Any administrative regulations adopted by a board of supervisors
27 pursuant to this section are not effective until the regulations are
28 approved by the state mine inspector. The [STATE MINE](#) inspector may
29 disapprove the administrative regulations adopted by the board of
30 supervisors only if they duplicate, conflict with or are more stringent
31 than applicable federal, state or local laws, rules or regulations. If the
32 [STATE MINE](#) inspector disapproves the administrative regulations, the [STATE](#)

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

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

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

24 I. For the purposes of this section:

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

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

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

30 4. "Operators" means persons who are actively engaged in aggregate
31 mining operations within the zoning district or proposed zoning district

1 and who have given notice to the state mine inspector pursuant to section
2 27-303.

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

5 23-618.01. Definition of hospital

6 "Hospital" means an institution ~~which~~ THAT has been licensed,
7 certified, or approved by the ARIZONA STATE department of health SERVICES
8 as a hospital.

9 Sec. 5. Repeal

10 SECTION 36-103.01, ARIZONA REVISED STATUTES, IS REPEALED.

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

13 36-132. Department of health services; functions; contracts

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

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

17 2. Promote the development, maintenance, efficiency and
18 effectiveness of local health departments or districts of sufficient
19 population and area that they can be sustained with reasonable economy and
20 efficient administration, provide technical consultation and assistance to
21 local health departments or districts, provide financial assistance to
22 local health departments or districts and services that meet minimum
23 standards of personnel and performance and in accordance with a plan and
24 budget submitted by the local health department or districts to the
25 department for approval, and recommend the qualifications of all personnel.

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

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

3 5. Conduct a statewide program of health education relevant to the
4 powers and duties of the department, prepare educational materials and
5 disseminate information as to conditions affecting health, including basic
6 information to promote good health on the part of individuals and
7 communities, and prepare and disseminate technical information concerning
8 public health to the health professions, local health officials and
9 hospitals. In cooperation with the department of education, the department
10 of health services shall prepare and disseminate materials and give
11 technical assistance for the purpose of educating children in hygiene,
12 sanitation and personal and public health, and provide consultation and
13 assistance in community organization to counties, communities and groups of
14 people.

15 6. Administer or supervise a program of public health nursing,
16 prescribe the minimum qualifications of all public health nurses engaged in
17 official public health work, and encourage and aid in coordinating local
18 public health nursing services.

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

22 8. Encourage and aid in coordinating local programs concerning
23 maternal and child health, including midwifery, antepartum and postpartum
24 care, infant and preschool health and the health of schoolchildren,
25 including special fields such as the prevention of blindness and
26 conservation of sight and hearing.

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

29 10. Encourage, administer and provide dental health care services
30 and aid in coordinating local programs concerning dental public health, in
31 cooperation with the Arizona dental association. The department may bill
32 and receive payment for costs associated with providing dental health care

1 services and shall deposit the monies in the oral health fund established
2 by section 36-138.

3 11. Establish and maintain adequate serological, bacteriological,
4 parasitological, entomological and chemical laboratories with qualified
5 assistants and facilities necessary for routine examinations and analyses
6 and for investigations and research in matters affecting public health.

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

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

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

22 15. Recruit and train personnel for state, local and district health
23 departments.

24 16. Conduct continuing evaluations of state, local and district
25 public health programs, study and appraise state health problems and
26 develop broad plans for use by the department and for recommendation to
27 other agencies, professions and local health departments for the best
28 solution of these problems.

29 17. License and regulate health care institutions according to
30 chapter 4 of this title.

31 18. Issue or direct the issuance of licenses and permits required by
32 law.

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

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

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

6 (b) Comprehensive prenatal health care.

7 (c) Maternity, delivery and postpartum care.

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

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

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

24 B. The department may accept from the state or federal government,
25 or any agency of the state or federal government, and from private donors,
26 trusts, foundations or eleemosynary corporations or organizations grants or
27 donations for or in aid of the construction or maintenance of any program,
28 project, research or facility authorized by this title, or in aid of the
29 extension or enforcement of any program, project or facility authorized,
30 regulated or prohibited by this title, and enter into contracts with the
31 federal government, or an agency of the federal government, and with
32 private donors, trusts, foundations or eleemosynary corporations or

1 organizations, to carry out such purposes. All monies made available under
2 this section are special project grants. The department may also expend
3 these monies to further applicable scientific research within this state.

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

9 D. The department may enter into contracts with organizations that
10 perform nonrenal organ transplant operations and organizations that
11 primarily assist in the management of end-stage renal disease and related
12 problems to provide, as payors of last resort, prescription medications
13 necessary to supplement treatment and transportation to and from treatment
14 facilities. The contracts may provide for department payment of
15 administrative costs it specifically authorizes.

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

18 36-136. Powers and duties of director; compensation of
19 personnel; rules; definitions

20 A. The director shall:

21 1. Be the executive officer of the department of health services and
22 the state registrar of vital statistics but shall not receive compensation
23 for services as registrar.

24 2. Perform all duties necessary to carry out the functions and
25 responsibilities of the department.

26 3. Prescribe the organization of the department. The director shall
27 appoint or remove personnel as necessary for the efficient work of the
28 department and shall prescribe the duties of all personnel. The director
29 may abolish any office or position in the department that the director
30 believes is unnecessary.

31 4. Administer and enforce the laws relating to health and sanitation
32 and the rules of the department.

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

4 6. Exercise general supervision over all matters relating to
5 sanitation and health throughout this state. When in the opinion of the
6 director it is necessary or advisable, a sanitary survey of the whole or of
7 any part of this state shall be made. The director may enter, examine and
8 survey any source and means of water supply, sewage disposal plant,
9 sewerage system, prison, public or private place of detention, asylum,
10 hospital, school, public building, private institution, factory, workshop,
11 tenement, public washroom, public restroom, public toilet and toilet
12 facility, public eating room and restaurant, dairy, milk plant or food
13 manufacturing or processing plant, and any premises in which the director
14 has reason to believe there exists a violation of any health law or rule of
15 this state that the director has the duty to administer.

16 7. Prepare sanitary and public health rules.

17 8. Perform other duties prescribed by law.

18 B. If the director has reasonable cause to believe that there exists
19 a violation of any health law or rule of this state, the director may
20 inspect any person or property in transportation through this state, and
21 any car, boat, train, trailer, airplane or other vehicle in which that
22 person or property is transported, and may enforce detention or
23 disinfection as reasonably necessary for the public health if there exists
24 a violation of any health law or rule.

25 ~~C. The director, after consultation with the department of~~
26 ~~administration, may take all necessary steps to enhance the highest and~~
27 ~~best use of the state hospital property, including contracting with third~~
28 ~~parties to provide services, entering into short-term lease agreements with~~
29 ~~third parties to occupy or renovate existing buildings and entering into~~
30 ~~long-term lease agreements to develop the land and buildings. The director~~
31 ~~shall deposit any monies collected from contracts and lease agreements~~
32 ~~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.~~

~~C.~~ 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.

~~D.~~ 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

1 districts for local health work may be allocated or reallocated in a manner
2 designed to ensure the accomplishment of recognized local public health
3 activities and delegated functions, powers and duties in accordance with
4 applicable standards of performance. If in the director's opinion there is
5 cause, the director may terminate all or a part of any delegation and may
6 reallocate all or a part of any ~~funds~~ MONIES that may have been conditioned
7 on the further performance of the functions, powers or duties conferred.

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

10 ~~G.~~ F. The director may make and amend rules necessary for the
11 proper administration and enforcement of the laws relating to the public
12 health.

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

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

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

29 2. Define and prescribe reasonably necessary measures, in addition
30 to those prescribed by law, regarding the preparation, embalming,
31 cremation, interment, disinterment and transportation of dead human bodies
32 and the conduct of funerals, relating to and restricted to communicable

1 diseases and regarding the removal, transportation, cremation, interment or
2 disinterment of any dead human body.

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

7 4. Except as relating to the beneficial use of wildlife meat by
8 public institutions and charitable organizations pursuant to title 17,
9 prescribe reasonably necessary measures to ensure that all food or drink,
10 including meat and meat products and milk and milk products sold at the
11 retail level, provided for human consumption is free from unwholesome,
12 poisonous or other foreign substances and filth, insects or disease-causing
13 organisms. The rules shall prescribe reasonably necessary measures
14 governing the production, processing, labeling, storing, handling, serving
15 and transportation of these products. The rules shall prescribe minimum
16 standards for the sanitary facilities and conditions that shall be
17 maintained in any warehouse, restaurant or other premises, except a ~~meat~~
18 ~~packing~~ MEATPACKING plant, slaughterhouse, wholesale meat processing plant,
19 dairy product manufacturing plant or trade product manufacturing plant.
20 The rules shall prescribe minimum standards for any truck or other vehicle
21 in which food or drink is produced, processed, stored, handled, served or
22 transported. The rules shall provide for the inspection and licensing of
23 premises and vehicles so used, and for abatement as public nuisances of any
24 premises or vehicles that do not comply with the rules and minimum
25 standards. The rules shall provide an exemption relating to food or drink
26 that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

31 6. Prescribe reasonably necessary measures regarding production,
32 processing, labeling, handling, serving and transportation of bottled water

1 to ensure that all bottled drinking water distributed for human consumption
2 is free from unwholesome, poisonous, deleterious or other foreign
3 substances and filth or disease-causing organisms. The rules shall
4 prescribe minimum standards for the sanitary facilities and conditions that
5 shall be maintained at any source of water, bottling plant and truck or
6 vehicle in which bottled water is produced, processed, stored or
7 transported and shall provide for inspection and certification of bottled
8 drinking water sources, plants, processes and transportation and for
9 abatement as a public nuisance of any water supply, label, premises,
10 equipment, process or vehicle that does not comply with the minimum
11 standards. The rules shall prescribe minimum standards for
12 bacteriological, physical and chemical quality for bottled water and for
13 ~~the submission of~~ SUBMITTING samples at intervals prescribed in the
14 standards.

15 7. Define and prescribe reasonably necessary measures governing ice
16 production, handling, storing and distribution to ensure that all ice sold
17 or distributed for human consumption or for preserving or storing food for
18 human consumption is free from unwholesome, poisonous, deleterious or other
19 foreign substances and filth or disease-causing organisms. The rules shall
20 prescribe minimum standards for the sanitary facilities and conditions and
21 the quality of ice that shall be maintained at any ice plant, storage and
22 truck or vehicle in which ice is produced, stored, handled or transported
23 and shall provide for inspection and licensing of the premises and
24 vehicles, and for abatement as public nuisances of ice, premises,
25 equipment, processes or vehicles that do not comply with the minimum
26 standards.

27 8. Define and prescribe reasonably necessary measures concerning
28 sewage and excreta disposal, garbage and trash collection, storage and
29 disposal, and water supply for recreational and summer camps, campgrounds,
30 motels, tourist courts, trailer coach parks and hotels. The rules shall
31 prescribe minimum standards for preparing food in community kitchens,
32 adequacy of excreta disposal, garbage and trash collection, storage and

1 disposal and water supply for recreational and summer camps, campgrounds,
2 motels, tourist courts, trailer coach parks and hotels and shall provide
3 for inspection of these premises and for abatement as public nuisances of
4 any premises or facilities that do not comply with the rules. Primitive
5 camp and picnic grounds offered by this state or a political subdivision of
6 this state are exempt from rules adopted pursuant to this paragraph but are
7 subject to approval by a county health department under sanitary
8 regulations adopted pursuant to section 36-183.02. Rules adopted pursuant
9 to this paragraph do not apply to two or fewer recreational vehicles as
10 defined in section 33-2102 that are not park models or park trailers, that
11 are parked on owner-occupied residential property for less than sixty days
12 and for which no rent or other compensation is paid. For the purposes of
13 this paragraph, "primitive camp and picnic grounds" means camp and picnic
14 grounds that are remote in nature and without accessibility to public
15 infrastructure such as water, electricity and sewer.

16 9. Define and prescribe reasonably necessary measures concerning the
17 sewage and excreta disposal, garbage and trash collection, storage and
18 disposal, water supply and food preparation of all public schools. The
19 rules shall prescribe minimum standards for sanitary conditions that shall
20 be maintained in any public school and shall provide for inspection of
21 these premises and facilities and for abatement as public nuisances of any
22 premises that do not comply with the minimum standards.

23 10. Prescribe reasonably necessary measures to prevent pollution of
24 water used in public or semipublic swimming pools and bathing places and to
25 prevent deleterious health conditions at these places. The rules shall
26 prescribe minimum standards for sanitary conditions that shall be
27 maintained at any public or semipublic swimming pool or bathing place and
28 shall provide for inspection of these premises and for abatement as public
29 nuisances of any premises and facilities that do not comply with the
30 minimum standards. The rules shall be developed in cooperation with the
31 director of the department of environmental quality and shall be consistent

1 with the rules adopted by the director of the department of environmental
2 quality pursuant to section 49-104, subsection B, paragraph 12.

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

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

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

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

21 ~~†~~ I. The rules adopted under the authority conferred by this
22 section shall be observed throughout ~~the~~ **THIS** state and shall be enforced
23 by each local board of health or public health services district, but this
24 section does not limit the right of any local board of health or county
25 board of supervisors to adopt ordinances and rules as authorized by law
26 within its jurisdiction, ~~provided that~~ **IF** the ordinances and rules do not
27 conflict with state law and are equal to or more restrictive than the rules
28 of the director.

29 ~~†~~ J. The powers and duties prescribed by this section do not apply
30 in instances in which regulatory powers and duties relating to public
31 health are vested by the legislature in any other state board, commission,
32 agency or instrumentality, except that with regard to the regulation of

1 meat and meat products, the department of health services and the Arizona
2 department of agriculture within the area delegated to each shall adopt
3 rules that are not in conflict.

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

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

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

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

1 ~~P.~~ **O.** Until the department adopts an exclusion by rule as required
2 by subsection ~~F~~ **H**, paragraph 14 of this section, the standardized survey
3 known as "the hospital consumer assessment of healthcare providers and
4 systems" may not include patients who experience a fetal demise.

5 ~~P.~~ **P.** Until the department adopts exemptions by rule as required by
6 subsection ~~F~~ **H**, paragraph 4, subdivision (j) of this section, spirituous
7 liquor and commercially prepackaged food, crackers or pretzels that meet
8 the requirements of subsection ~~F~~ **H**, paragraph 4, subdivision (j) of this
9 section are exempt from the rules prescribed in subsection ~~F~~ **H** of this
10 section.

11 ~~R.~~ **Q.** For the purposes of this section:

12 1. "Cottage food product":

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

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

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

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

26 36-137. Annual report of director

27 The director shall submit annually to the governor, the president of
28 the senate and the speaker of the house of representatives a copy of the
29 annual report setting forth:

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

31 2. The activities of the department during the preceding fiscal
32 year.

- 1 3. The work done in each county.
- 2 4. The character and extent of all diseases reported.
- 3 5. The expenditures of the department and of each county or district
- 4 health department.
- 5 6. Recommendations the director deems advisable for protection of
- 6 the public health.

7 ~~7. The financial statement of the affairs of the Arizona state~~

8 ~~hospital.~~

9 ~~8.~~ 7. The operations and administration of the program of service

10 for children with a physical disability or who are suffering from

11 conditions that lead to a physical disability.

12 Sec. 9. Section 36-201, Arizona Revised Statutes, is amended to

13 read:

14 36-201. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Chief medical officer" means the chief medical officer of the

17 state hospital.

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

19 ~~3.~~ 2. "Director" means the director of the ~~department of health~~

20 ~~services~~ STATE HOSPITAL.

21 ~~4.~~ 3. "Employee" means an officer or employee of the state

22 hospital.

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

24 5. "State hospital":

25 (a) Means THE Arizona state hospital.

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

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

28 Sec. 10. Section 36-202, Arizona Revised Statutes, is amended to

29 read:

30 36-202. Arizona state hospital; purpose; facilities and equipment

31 A. A state hospital shall be maintained for the care and treatment

32 of persons with mental disorders and persons with other personality

1 disorders or emotional conditions who will benefit from care and treatment.
2 Admissions to the state hospital shall be in accordance with law. The
3 hospital shall be called the Arizona state hospital.

4 B. Subject to legislative appropriation, the state hospital may
5 provide services to persons suffering from alcoholism and to persons
6 suffering from drug abuse.

7 C. The state hospital shall have adequate facilities and equipment
8 for enlightened and scientific treatment of nervous and mental diseases in
9 accordance with approved methods of mental therapeutics. The facilities
10 shall include, among other things:

11 1. Facilities for medical and psychiatric treatment with special
12 attention to occupational therapy and other special therapies.

13 2. Facilities for proper segregation and care of child patients.

14 3. Facilities for recreation and physical training.

15 4. An institutional library for the use of patients.

16 5. A properly equipped dental department.

17 6. A properly equipped laboratory and x-ray department.

18 7. A patient tracking system approved by the director that monitors
19 individual progress on an inpatient basis and ensures suitable aftercare
20 placement.

21 D. The state hospital shall be under the charge and control of the
22 GOVERNING BOARD AND THE director ~~of the department of health services,~~
23 pursuant to this article.

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

26 36-202.01. Admission of juveniles to state hospital

27 The ~~Arizona~~ state hospital shall collect census data for juvenile
28 treatment programs to establish maximum capacity and the allocation formula
29 required pursuant to section 36-206, subsection D. The ~~Arizona~~ state
30 hospital is not required to provide services to juveniles that exceed the
31 funded capacity. If the ~~Arizona~~ state hospital reaches its funded capacity
32 for juveniles, the ~~superintendent of the state hospital~~ DIRECTOR shall

1 establish a waiting list for admission based on the date of the commitment
2 or treatment order.

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

5 36-203. Persons with intellectual disabilities; admission to
6 state hospital; governing board duties

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

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

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

29 D. The ~~department~~ GOVERNING BOARD, on the application of a parent or
30 guardian of a minor with an intellectual disability or the guardian of an
31 adult with an intellectual disability or on the request of an adult with an
32 intellectual disability, when the person has been authorized for discharge

1 from the state hospital, may provide interim care and custody for that
2 person pending the availability of intellectual disability programs and
3 services in accordance with section 36-556.

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

6 36-204. Duties of director

7 The director shall:

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

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

14 3. Prescribe forms of complaints, certificates of mental illness and
15 commitments.

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

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

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

22 36-205. Director of state hospital; appointment; compensation;
23 qualifications; chief medical officer

24 A. ~~There shall be a superintendent~~ THE DIRECTOR of the state
25 hospital ~~who~~ shall be appointed by and under the supervision of the
26 ~~director~~ GOVERNING BOARD. THE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER
27 OF THE STATE HOSPITAL.

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

30 C. The ~~superintendent shall be removed~~ GOVERNING BOARD MAY REMOVE
31 THE DIRECTOR only for cause.

1 D. The ~~superintendent~~ DIRECTOR shall have the following
2 qualifications:

- 3 1. Administrative experience in the private sector.
4 2. An educational background that prepares the ~~superintendent~~
5 DIRECTOR for the administrative responsibilities assigned to the position.
6 3. Mental health-related experience in both an institutional and
7 community setting.

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

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

20 36-205.01. State hospital governing board; membership;
21 appointments; duties; emergency members;
22 compensation

23 A. THE STATE HOSPITAL GOVERNING BOARD IS ESTABLISHED CONSISTING OF
24 FIVE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211.
25 EACH MEMBER OF THE GOVERNING BOARD SHALL:

- 26 1. MEET AT LEAST ONE OF THE FOLLOWING QUALIFICATIONS:
27 (a) HAVE HELD AN EXECUTIVE LEVEL POSITION AT A PSYCHIATRIC OR ACUTE
28 CARE HOSPITAL.
29 (b) HAVE ADMINISTRATIVE EXPERIENCE IN A BEHAVIORAL HEALTH FACILITY.
30 (c) HAVE HELD A CLINICAL LEADERSHIP POSITION FOR A BEHAVIORAL HEALTH
31 SERVICES PROVIDER.

1 (d) HAVE ADMINISTRATIVE EXPERIENCE AT A HEALTH PLAN THAT PROVIDES
2 BEHAVIORAL HEALTH SERVICES.

3 2. BEFORE APPOINTMENT BY THE GOVERNOR, SUBMIT A FULL SET OF
4 FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND
5 FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW
6 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA
7 WITH THE FEDERAL BUREAU OF INVESTIGATION.

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

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

12 5. NOT BE ON EITHER THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
13 SERVICES OFFICE OF INSPECTOR GENERAL'S LIST OF EXCLUDED INDIVIDUALS AND
14 ENTITIES OR THE UNITED STATES GENERAL SERVICES ADMINISTRATION'S SYSTEM FOR
15 AWARD MANAGEMENT DATABASE.

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

19 7. NOT HAVE HAD A LICENSE OR CERTIFICATION REVOKED OR SUSPENDED BY
20 ANY HEALTH PROFESSION LICENSING BOARD IN THIS OR ANY OTHER STATE.

21 B. GOVERNING BOARD APPOINTMENTS ARE FOR A TERM OF FIVE YEARS AND
22 EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE APPROPRIATE YEAR. THE
23 CHAIRPERSON OF THE INDEPENDENT OVERSIGHT COMMITTEE AT THE ARIZONA STATE
24 HOSPITAL ESTABLISHED PURSUANT TO SECTION 41-3803 SHALL SERVE AS A NONVOTING
25 MEMBER OF THE GOVERNING BOARD AND IS NOT COUNTED FOR THE PURPOSE OF
26 DETERMINING IF A QUORUM IS PRESENT. THE GOVERNING BOARD SHALL MEET AT
27 LEAST ONCE EVERY MONTH.

28 C. EACH GOVERNING BOARD MEMBER:

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

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

4 3. IS SUBJECT TO THE PROVISIONS OF TITLE 38, CHAPTER 3, ARTICLE 8
5 RELATING TO CONFLICT OF INTEREST, SHALL SIGN A CONFLICT OF INTEREST
6 STATEMENT THAT IDENTIFIES AND DISCLOSES ANY POTENTIAL CONFLICT OF INTEREST
7 AND MAY NOT PARTICIPATE, IN ANY MANNER, IN ANY MATTER IN WHICH THE
8 GOVERNING BOARD MEMBER HAS A CONFLICT OF INTEREST. FOR THE PURPOSES OF
9 THIS PARAGRAPH, "CONFLICT OF INTEREST" MEANS THE OWNERSHIP AND CONTROL OF
10 ANY HEALTH CARE DELIVERY ORGANIZATION THAT IS CORPORATELY AND FUNCTIONALLY
11 RELATED TO THE STATE HOSPITAL.

12 4. MAY NOT VOTE ON ANY MEASURE IN WHICH THE GOVERNING BOARD MEMBER
13 OR A FAMILY MEMBER OR PARTNER OF THE GOVERNING BOARD MEMBER HAS A PECUNIARY
14 INTEREST.

15 5. MAY NOT MISS MORE THAN ONE MEETING WITHIN A SIX-MONTH PERIOD.

16 D. THE GOVERNOR MAY REMOVE A GOVERNING BOARD MEMBER ONLY FOR CAUSE.
17 A BOARD MEMBER WHO IS REMOVED FOR CAUSE MUST BE PROVIDED WRITTEN NOTICE AND
18 AN OPPORTUNITY TO RESPOND. THE GOVERNOR MAY REMOVE A GOVERNING BOARD
19 MEMBER BASED ON WRITTEN FINDINGS THAT SPECIFY THE REASON FOR REMOVAL.

20 E. INDIVIDUALS WHO ARE MEMBERS OF THE ARIZONA STATE HOSPITAL
21 GOVERNING BODY ON THE EFFECTIVE DATE OF THIS SECTION MAY SERVE AS ADVISORY,
22 NONVOTING MEMBERS OF THE GOVERNING BOARD. ADVISORY MEMBERS OF THE
23 GOVERNING BOARD DO NOT COUNT FOR THE PURPOSES OF DETERMINING THE PRESENCE
24 OF A QUORUM.

25 F. IF THE GOVERNING BOARD DOES NOT HAVE ENOUGH MEMBERS TO TAKE
26 OFFICIAL ACTION, THE FOLLOWING STATE EMPLOYEES IN THE FOLLOWING ORDER SHALL
27 SERVE AS EMERGENCY MEMBERS OF THE GOVERNING BOARD:

28 1. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES OR THE
29 DIRECTOR'S DESIGNEE.

30 2. THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
31 OR THE DIRECTOR'S DESIGNEE.

1 3. THE DIRECTOR OF THE DEPARTMENT OF VETERANS' SERVICES OR THE
2 DIRECTOR'S DESIGNEE.

3 4. THE DIRECTOR OF THE DEPARTMENT OF ECONOMIC SECURITY.

4 5. THE CHIEF MEDICAL OFFICER OR MEDICAL DIRECTOR FROM THE FOLLOWING
5 AGENCIES IN THE FOLLOWING ORDER:

6 (a) THE DEPARTMENT OF HEALTH SERVICES.

7 (b) THE DEPARTMENT OF VETERANS' SERVICES.

8 (c) THE DEPARTMENT OF ECONOMIC SECURITY.

9 G. THE GOVERNING BOARD SHALL ADMINISTER THE LAWS OF THIS STATE
10 RELATING TO THE STATE HOSPITAL.

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

15 36-205.02. Governing board; duties

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

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

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

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

25 4. ENSURE COMPLIANCE WITH STANDARDS FOR STATE HOSPITAL PATIENTS'
26 RIGHTS.

27 5. REVIEW AND APPROVE BUDGET REQUESTS FOR THE STATE HOSPITAL'S
28 ANNUAL BUDGET.

29 6. ASSIST IN EDUCATING THE COMMUNITY CONCERNING THE ROLE OF THE
30 STATE HOSPITAL.

1 7. ENSURE THAT THE STATE HOSPITAL COORDINATES SERVICES, PROGRAMS AND
2 POLICIES BETWEEN THE STATE HOSPITAL AND COMMUNITY MENTAL HEALTH CARE
3 PROGRAMS AND FACILITIES, INCLUDING ADMISSION, DISCHARGE AND AFTERCARE.

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

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

8 10. PROVIDE FOR ONGOING, EFFECTIVE COMMUNICATION BETWEEN THE
9 GOVERNING BOARD, THE STATE HOSPITAL ADMINISTRATION AND THE STATE HOSPITAL
10 MEDICAL STAFF.

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

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

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

18 14. REVIEW AND APPROVE THE STATE HOSPITAL'S QUALITY ASSURANCE AND
19 PERFORMANCE IMPROVEMENT PLAN AND INSTITUTIONAL PLAN AND BUDGET AT LEAST
20 ANNUALLY.

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

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

26 17. REQUEST INFORMATION AS NEEDED TO MONITOR THE STATUS OF
27 INDIVIDUAL PROJECTS OF THE STATE HOSPITAL.

28 18. REVIEW ALL STATE HOSPITAL REPORTS.

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

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

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

6 22. AUTHORIZE, APPROVE AND SUPPORT THE STATE HOSPITAL MEDICAL STAFF
7 BY:

8 (a) REVIEWING CREDENTIALS AND APPROVING OR DENYING INDIVIDUAL
9 PRIVILEGES.

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

12 (c) ENSURING THAT THE CRITERIA FOR SELECTION ARE INDIVIDUAL
13 CHARACTER, COMPETENCE, TRAINING, EXPERIENCE AND JUDGMENT AND THAT STAFF
14 MEMBERSHIP OR PROFESSIONAL PRIVILEGES IN THE STATE HOSPITAL ARE NOT
15 ACCEPTED DEPENDING SOLELY ON CERTIFICATION, FELLOWSHIP OR MEMBERSHIP IN A
16 SPECIALTY BODY OR SOCIETY.

17 (d) RENDERING THE FINAL DETERMINATION CONCERNING INDIVIDUAL
18 CREDENTIALS AND PRIVILEGES.

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

21 (f) PRESCRIBING FAIR HEARING PROCEDURES AT THE MEDICAL EXECUTIVE
22 COMMITTEE LEVEL.

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

25 23. CONSULT DIRECTLY WITH THE STATE HOSPITAL CHIEF MEDICAL OFFICER
26 PERIODICALLY ON MATTERS RELATED TO THE QUALITY OF MEDICAL CARE PROVIDED TO
27 STATE HOSPITAL PATIENTS.

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

1 25. ENSURE THAT ALL STATE HOSPITAL-ACQUIRED INFECTIONS AND OTHER
2 INFECTIOUS DISEASES IDENTIFIED BY THE INFECTION PREVENTION AND CONTROL
3 PROGRAM AS WELL AS ANTIBIOTIC USE ISSUES IDENTIFIED BY THE ANTIBIOTIC
4 STEWARDSHIP PROGRAM ARE ADDRESSED IN COLLABORATION WITH STATE HOSPITAL
5 QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT LEADERSHIP.

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

8 36-206. Duties of director; deputies; cost estimate; program
9 assessment; funded capacity and allocation formula

10 A. The director has charge of the state hospital and ~~the~~
11 ~~superintendent~~ shall supervise and direct its activities. ~~, subject to the~~
12 ~~provisions of law and approval of the director. The superintendent is~~
13 ~~directly responsible to the director for carrying out the purposes for~~
14 ~~which the hospital is maintained. Subject to the approval of the~~
15 ~~director;~~ The ~~superintendent~~ DIRECTOR may deputize any qualified officer
16 of the state hospital to do or perform any act the ~~superintendent~~ DIRECTOR
17 is empowered to do or IS charged with the responsibility of doing by law.

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

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

27 D. On or before August 1 of each year, the director shall establish
28 maximum funded capacity and a percentage allocation formula for forensic
29 and civil bed capacity at the ~~Arizona~~ state hospital based on census data
30 collected pursuant to sections 13-3992, 13-4512, 36-202.01 and 36-503.03.
31 By ON OR BEFORE June 1 of each year, the director shall solicit and
32 consider the recommendations of representatives of the county board of

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

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

19 36-208. Employees; discharges; report; compensation

20 A. Except as otherwise provided by this article, the director shall
21 employ all employees of the state hospital. The director may employ
22 necessary medical consultants ~~on recommendation of the superintendent~~. The
23 director may ~~permit~~ ALLOW members of the medical staff to act as
24 consultants in psychiatry.

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

1 C. The compensation of employees of the state hospital shall be as
2 determined pursuant to section 38-611.

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

5 36-209. Reporting requirements; director; governing board

6 A. At ~~such~~ A time ~~as~~ the ~~director~~ GOVERNING BOARD designates, the
7 ~~superintendent~~ DIRECTOR shall submit to the ~~director~~ GOVERNING BOARD a
8 report of the activities of the state hospital during the preceding fiscal
9 year, including:

10 1. The number of patients received, conditionally discharged and
11 discharged and voluntary patients treated.

12 2. ~~THE~~ methods of treatment used and the results.

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

17 4. Census data for treatment programs pursuant to sections 13-3992,
18 13-4512, 36-202.01 and 36-503.03.

19 5. A complete employment and personnel record.

20 6. The condition of existing equipment.

21 7. Recommendations for ~~improvement~~ of IMPROVING the ~~institution~~
22 STATE HOSPITAL.

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

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

29 1. The amounts appropriated for the current fiscal year for
30 operation, maintenance and improvement.

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

1 3. The balance on hand.

2 4. The estimated expenditures for the current month.

3 5. An inventory report.

4 C. The original report and statements required by this section shall
5 be filed with and retained as records of the ~~director~~ GOVERNING BOARD and
6 duplicates filed with the director of the department of administration.

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

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

16 1. An account of the work done.

17 2. Recommendations for improvements.

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

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

23 G. The annual report prescribed by subsection E of this section
24 shall be published for the information of the public, and five copies shall
25 be delivered to the chief clerk of the house of representatives and the
26 secretary of the senate, respectively, who shall keep them on file for the
27 use of the members of each house.

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

30 36-210. Expenditures

31 A. This article does not give the director or any employee authority
32 to create a debt or obligation in excess of the amount appropriated by the

1 legislature to carry out ~~its~~ THE provisions OF THIS ARTICLE. If monies are
2 not appropriated to carry out the purpose of this article, the ~~director~~
3 GOVERNING BOARD shall submit recommendations to the legislature, with a
4 statement of the cost when an improvement is requested.

5 B. Except as provided by subsection D of this section, the director
6 of the department of administration shall not issue a warrant for
7 expenditures by the state hospital ~~in excess of~~ FOR MORE THAN the estimate
8 contained in the monthly financial statement unless the ~~superintendent~~
9 DIRECTOR OF THE STATE HOSPITAL submits a written request that is approved
10 in writing by the ~~director of the department of health services~~ GOVERNING
11 BOARD and that states the reasons for the request. The director of the
12 department of administration shall not issue warrants ~~in excess of~~ FOR MORE
13 THAN the amount available for the current quarter.

14 C. If a patient in the state hospital requires a health care service
15 that the state hospital or a facility or provider contracted by the state
16 hospital cannot provide, the ~~department of health services~~ GOVERNING BOARD
17 shall pay approved claims from a facility or provider that provides these
18 required services as follows:

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

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

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

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

3 36-212. Maximum security area required

4 The ~~superintendent~~ DIRECTOR, under the direction of the ~~director~~
5 GOVERNING BOARD, shall equip, staff and supervise the operation of an area
6 consisting of one or more separate buildings on the state hospital grounds
7 in Phoenix to be designated a maximum security area. The ~~superintendent~~
8 DIRECTOR shall designate which patients shall be confined within ~~a~~ THE
9 maximum security area, which shall be equipped, staffed and maintained in
10 order to provide treatment and necessary supervision to prevent the
11 patients from leaving the area without authorization.

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

14 36-213. Store and canteen; outside entity; rental and service
15 charges; state hospital donations fund

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

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

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

12 Sec. 22. Repeal

13 SECTION 36-214, ARIZONA REVISED STATUTES, IS REPEALED.

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

16 36-216. Budget request; proposed budget

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

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

25 C. Monies appropriated to the ~~department~~ GOVERNING BOARD for the
26 state hospital programs, fees generated by the ~~department~~ GOVERNING BOARD
27 for these programs and grants and gifts to the ~~department~~ GOVERNING BOARD
28 shall be maintained in the appropriate fund to pay program and
29 administrative costs. The administrative costs of each program shall be
30 separately identified in the accounting records of the ~~department~~ GOVERNING
31 BOARD.

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

3 36-217. Annual report; patient health information

4 A. On or before January 1 of each year, the director shall submit to
5 the governor, the speaker of the house of representatives and the president
6 of the senate a financial and programmatic report on the state hospital for
7 the preceding fiscal year. In addition to information that the ~~department~~
8 **GOVERNING BOARD** deems relevant, this report shall include all of the
9 following information:

10 1. All revenues and expenditures of the state hospital, including
11 specific identification of administrative costs for and the number of
12 patients served at the state hospital.

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

15 (a) Gender.

16 (b) Race.

17 (c) Age.

18 (d) Legal status.

19 (e) County of origin.

20 (f) Program type.

21 (g) Census by unit.

22 (h) Primary diagnosis of each by category.

23 (i) Length of stay.

24 3. Admissions by civil commitment, including the number of
25 admissions and discharges, the time between the request for each admission
26 and the date of the admission or denial of the admission and aggregate data
27 for reason of denial by category.

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

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

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

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

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

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

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

11 36-218. Arizona state hospital charitable trust fund

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

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

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

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

1 B. AT LEAST THIRTY DAYS BEFORE ISSUING A REQUEST FOR PROPOSALS
2 PURSUANT TO THIS SECTION, THE GOVERNING BOARD SHALL HOLD A PUBLIC HEARING
3 TO RECEIVE COMMUNITY AND PROVIDER INPUT REGARDING THE HIGHEST AND BEST USE
4 OF THE STATE HOSPITAL PROPERTY RELATED TO THE REQUEST FOR PROPOSALS. THE
5 GOVERNING BOARD SHALL REPORT TO THE JOINT COMMITTEE ON CAPITAL REVIEW ON
6 THE TERMS, CONDITIONS AND PURPOSE OF ANY LEASE OR SUBLEASE AGREEMENT
7 ENTERED INTO PURSUANT TO THIS SECTION RELATING TO STATE HOSPITAL LANDS OR
8 BUILDINGS OR THE DISPOSITION OF REAL PROPERTY PURSUANT TO THIS SECTION,
9 INCLUDING STATE HOSPITAL LANDS OR BUILDINGS, AND THE FISCAL IMPACT ON THE
10 GOVERNING BOARD AND ANY REVENUES GENERATED BY THE AGREEMENT. ANY LEASE OR
11 SUBLEASE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION RELATING TO STATE
12 HOSPITAL LANDS OR BUILDINGS OR THE DISPOSITION OF REAL PROPERTY PURSUANT TO
13 THIS SECTION, INCLUDING STATE HOSPITAL LANDS OR BUILDINGS, MUST BE REVIEWED
14 BY THE JOINT COMMITTEE ON CAPITAL REVIEW.

15 Sec. 27. Section 36-407.03, Arizona Revised Statutes, is amended to
16 read:

17 36-407.03. Hospitals; visitation policy; exceptions

18 A. A hospital shall develop a visitation policy that allows a
19 patient to have daily in-person visitation by a designated visitor of the
20 patient's choice, which may include the patient's spouse or one parent or
21 child of the patient. A hospital's ~~policies~~ POLICY regarding visitation
22 shall ensure that the patient and the patient's visitors may have physical
23 contact, especially during end-of-life visitation, unless a physician
24 determines based on the patient's condition that the visitation does not
25 meet health and safety standards or is reasonably likely to harm the
26 patient. If a physician denies visitation with a patient pursuant to this
27 section, the patient or the patient's representative, which may include the
28 patient's spouse, parent or child, may request a meeting, as provided by
29 the visitation policy, with the physician and the hospital's chief medical
30 officer, chief of staff or chief executive officer to receive a review and
31 explanation within twenty-four hours ~~of~~ AFTER the physician's decision to
32 deny visitation. If the designated visitor's request to visit is denied or

1 not resolved at the meeting, the visitor may file a complaint with the
2 department. All visitors must comply with reasonable health and safety
3 precautions imposed by the hospital in connection with the visit.

4 B. This section does not apply to the Arizona state hospital, ~~OR~~
5 any other licensed facility under the jurisdiction of the ~~superintendent~~
6 **DIRECTOR** of the Arizona state hospital or chapter 5 of this title.

7 Sec. 28. Section 36-420.03, Arizona Revised Statutes, is amended to
8 read:

9 **36-420.03. Health care employers; workplace violence**
10 **prevention plan; investigation; reporting;**
11 **nondiscrimination; definitions**

12 A. Not later than July 1, 2023, **EACH** health care ~~employers~~ **EMPLOYER**
13 shall develop, implement and maintain a written workplace violence
14 prevention plan that does all of the following:

15 1. Includes components that are specifically tailored to the
16 conditions and hazards of the health care employer's sites and
17 patient-specific risk factors.

18 2. Identifies the individual who is responsible for implementing and
19 overseeing the plan.

20 3. Requires the conspicuous posting of signs in public areas
21 throughout the health care employer's sites, including all emergency
22 facilities, that are at least twelve inches by twelve inches in size and
23 that provide notice that assault on a health care worker may be prosecuted
24 as a felony.

25 4. Includes reporting, incident response and postincident
26 investigation procedures, including procedures:

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

29 (b) For health care employers to respond to reports of workplace
30 violence.

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

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

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

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

14 1. Review the circumstances of the incident.

15 2. Solicit input from involved health care workers and supervisors
16 about the cause of the incident and whether further corrective measures
17 could have prevented the incident.

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

20 D. Each health care employer shall provide training and education to
21 its health care workers who may be exposed to workplace violence hazards
22 and risks.

23 E. Each health care employer shall maintain:

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

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

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

5 G. The health care employer shall adopt a policy that prohibits any
6 person from discriminating or retaliating against any health care worker
7 for either:

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

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

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

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

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

20 I. This section does not affect the legal obligations of a health
21 care employer and health care worker pursuant to the protection of
22 patients' rights.

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

26 K. For the purposes of this section:

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

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

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

6 36-501. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Administration" means the Arizona health care cost containment
9 system administration.

10 2. "Admitting officer" means a psychiatrist or other physician or
11 psychiatric and mental health nurse practitioner with experience in
12 performing psychiatric examinations who has been designated as an admitting
13 officer of the evaluation agency by the person in charge of the evaluation
14 agency.

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

18 (a) An ambulance service that holds a valid certificate of
19 necessity.

20 (b) A transportation provider authorized by this state to provide
21 safe behavioral health transportation for individuals requiring
22 transportation pursuant to this chapter.

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

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

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

30 7. "Criminal history" means police reports, lists of prior arrests
31 and convictions, criminal case pleadings and court orders, including a

1 determination that the person has been found incompetent to stand trial
2 pursuant to section 13-4510.

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

8 9. "Danger to self":

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

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

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

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

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

20 11. "Detention" means the taking into custody of a patient or
21 proposed patient.

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

23 13. "Evaluation" means:

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

29 (i) Two licensed physicians who are qualified psychiatrists, if
30 possible, or at least experienced in psychiatric matters, who shall examine
31 and report their findings independently. The person against whom a
32 petition has been filed shall be notified that the person may select one of

1 the physicians. A psychiatric resident in a training program approved by
2 the American medical association or by the American osteopathic association
3 may examine the person in place of one of the psychiatrists if the resident
4 is supervised in the examination and preparation of the affidavit and
5 testimony in court by a qualified psychiatrist appointed to assist in the
6 resident's training, and if the supervising psychiatrist is available for
7 discussion with the attorneys for all parties and for court appearance and
8 testimony if requested by the court or any of the attorneys.

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

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

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

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

26 (b) A facility that is exempt from licensure pursuant to section
27 36-402, that possesses an accreditation from either a national commission
28 on correctional health care or an American correctional association and
29 that has been approved pursuant to this title to provide the services
30 required of that facility by this chapter.

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

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

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

10 18. "Health care entity" means a health care provider, the
11 department, the administration or a regional behavioral health authority
12 that is under contract with the administration.

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

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

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

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

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

29 (a) Licensed in this state.

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

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

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

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

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

18 (b) The declining mental abilities that directly accompany impending
19 death.

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

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

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

28 (a) The state hospital.

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

31 (c) A facility that is exempt from licensure pursuant to section
32 36-402, that possesses an accreditation from either a national commission

1 on correctional health care or an American correctional association and
2 that provides the services that are required of the facility by this
3 chapter.

4 29. "Outpatient treatment" or "combined inpatient and outpatient
5 treatment" means any treatment program not requiring continuous inpatient
6 hospitalization.

7 30. "Outpatient treatment plan" means a treatment plan that does not
8 require continuous inpatient hospitalization.

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

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

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

15 (a) Significantly impairs judgment, reason, behavior or capacity to
16 recognize reality.

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

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

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

29 34. "Prepetition screening" means the review of each application
30 requesting court-ordered evaluation, including an investigation of facts
31 alleged in the application, an interview with each applicant and an
32 interview, if possible, with the proposed patient. The purpose of the

1 interview with the proposed patient is to assess the problem, explain the
2 application and, when indicated, attempt to persuade the proposed patient
3 to receive, on a voluntary basis, evaluation or other services.

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

6 36. "Professional" means a physician who is licensed pursuant to
7 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to
8 title 32, chapter 19.1 or a psychiatric and mental health nurse
9 practitioner who is certified pursuant to title 32, chapter 15.

10 37. "Proposed patient" means a person for whom an application for
11 evaluation has been made or a petition for court-ordered evaluation has
12 been filed.

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

16 39. "Psychiatric and mental health nurse practitioner" means a
17 registered nurse practitioner as defined in section 32-1601 who has
18 completed an adult or family psychiatric and mental health nurse
19 practitioner program and who is certified as an adult or family psychiatric
20 and mental health nurse practitioner by the state board of nursing.

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

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

26 42. "Records" means all communications that are recorded in any form
27 or medium and that relate to patient examination, evaluation or behavioral
28 or mental health treatment. Records include medical records that are
29 prepared by a health care provider or other providers. Records do not
30 include:

31 (a) Materials that are prepared in connection with utilization
32 review, peer review or quality assurance activities, including records that

1 a health care provider prepares pursuant to section 36-441, 36-445, 36-2402
2 or 36-2917.

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

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

8 44. "Screening agency" means a health care agency that is licensed
9 by the department and that provides those services required of the agency
10 by this chapter.

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

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

15 ~~47. "Superintendent" means the superintendent of the state hospital.~~

16 ~~48.~~ 47. "Voluntary evaluation" means the ongoing collection and
17 analysis of a person's medical, psychological, psychiatric and social
18 conditions in order to initially determine if a health disorder exists and
19 if there is a need for behavioral health services and, on an ongoing basis,
20 to ensure that the person's service plan is designed to meet the person's
21 and the person's family's current needs and long-term goals.

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

24 36-502.01. Director of the state hospital; powers and duties;
25 rules; expenditure limit

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

1 B. The director of the ~~department~~ STATE HOSPITAL shall make rules
2 concerning the admission of patients to the state hospital and the transfer
3 of patients between the state hospital and other mental health treatment
4 agencies. A patient undergoing court-ordered treatment may be transferred
5 between the state hospital and another mental health treatment agency in
6 accordance with the rules of the director of the ~~department~~ STATE HOSPITAL,
7 subject to the approval of the court. The director of the ~~department~~ STATE
8 HOSPITAL shall consult with the director of the administration on rules
9 relating to transfers to and from the state hospital and other mental
10 health treatment agencies.

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

13 D. The total amount of state monies that may be spent in any fiscal
14 year by the ~~department~~ STATE HOSPITAL GOVERNING BOARD for mental health
15 services pursuant to this chapter may not exceed the amount appropriated or
16 authorized by section 35-173 for that purpose. This chapter does not
17 impose a duty on an officer, agent or employee of this state to discharge a
18 responsibility or create any right in a person or group if the discharge or
19 right would require an expenditure of state monies in excess of the
20 expenditure authorized by legislative appropriation for that specific
21 purpose.

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

24 36-503.03. Civil commitment treatment population; cap

25 The Arizona state hospital shall collect census data for adult civil
26 commitment treatment programs to establish maximum capacity and the
27 allocation formula required by section 36-206, subsection D. The Arizona
28 state hospital ~~or the department of health services is~~ AND THE STATE
29 HOSPITAL GOVERNING BOARD ARE not required to provide civil commitment
30 treatment that exceeds the funded capacity. If the Arizona state hospital
31 reaches its funded capacity in civil commitment treatment programs, the
32 ~~superintendent~~ DIRECTOR of the state hospital shall establish a waiting

1 list for admission based on the date of the court order issued pursuant to
2 this section.

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

5 36-533. Petition for treatment

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

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

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

11 3. That the patient is unwilling to accept or incapable of accepting
12 treatment voluntarily.

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

30 C. The petition shall request the court to issue an order requiring
31 the person to undergo a period of treatment. If a prosecutor filed a
32 petition pursuant to section 13-4517, the petition must be accompanied by

1 any known criminal history of the person and any previous findings of
2 incompetency.

3 D. The petition shall also include:

4 1. A statement that in the opinion of the petitioner the person does
5 or does not require guardianship or conservatorship, or both, under title
6 14 and the reasons on which the statement is based.

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

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

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

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

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

23 F. A copy of all petitions shall be mailed to the ~~superintendent~~
24 **DIRECTOR** of the Arizona state hospital.

25 G. On the filing of a petition for court-ordered treatment, if the
26 patient is not detained in an evaluation agency when the petition is filed,
27 the petition shall contain a statement of any facts and circumstances that
28 lead the petitioner to believe that the proposed patient may be safely
29 transported to the evaluation agency pursuant to section 36-535 by an
30 authorized transporter, if available in the jurisdiction, without the
31 assistance of a peace officer.

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

3 36-541. Mandatory local treatment; placement at state hospital

4 A. A patient who is ordered by a court to undergo treatment and who
5 is not hospitalized in the state hospital at the time of the order shall
6 undergo treatment for at least twenty-five days in a local mental health
7 treatment agency that is geographically convenient for the patient before
8 being hospitalized in the state hospital. This section does not apply if
9 the court finds, at a hearing on court-ordered treatment, that the
10 patient's present condition and history demonstrate that the patient will
11 not benefit from the required period of treatment in a local mental health
12 treatment agency or that the state hospital provides a program that is
13 specific to the needs of the patient and is unavailable in the local mental
14 health treatment agency, or when there is no local mental health treatment
15 agency readily available to the patient. Such a finding shall be based at
16 least on the annual written description by the state hospital of programs
17 and services available and appropriate written reports from the medical
18 director of the local mental health treatment agency. The patient may be
19 immediately hospitalized at the state hospital whenever the court
20 determines that this section does not apply.

21 B. A patient who is ordered by a court to undergo treatment may be
22 admitted for treatment if the patient is accepted by the ~~superintendent~~
23 **DIRECTOR** of the state hospital for treatment at the state hospital or if
24 the court orders placement at the state hospital pursuant to subsection A
25 or C of this section.

26 C. During any period of court-ordered treatment, the medical
27 director of the local mental health treatment agency assigned to supervise
28 and administer the patient's treatment program may file a motion requesting
29 the court to amend the treatment order to place the patient for treatment
30 at the state hospital. After a hearing, if the court finds that the
31 patient's present condition and history demonstrate that the patient will
32 not benefit from a continued period of treatment in or by a local mental

1 health treatment agency, either as an inpatient or an outpatient, or that
2 the state hospital provides a program that is specific to the needs of the
3 patient and is unavailable in a local mental health treatment agency, and
4 that the least restrictive placement to meet the needs of the patient for
5 the foreseeable future is placement in the state hospital and there is a
6 legally available funded bed in the state hospital, the court may amend the
7 original treatment order authorizing the placement of the patient at the
8 state hospital pursuant to section 36-540, subsection A, paragraph 2 or 3.
9 Within five days after receiving notice from the court, the ~~superintendent~~
10 **DIRECTOR OF THE STATE HOSPITAL** shall notify the court whether a bed is
11 available in the state hospital.

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

14 36-545.01. Costs and expenses; patient ability to pay; power
15 and duty of court; acceptance of other benefits;
16 per capita cost limit; conservatorship; parental
17 liability; lien; enforcement

18 A. When a patient is admitted to the state hospital for
19 court-ordered treatment pursuant to article 5 of this chapter or pursuant
20 to section 13-3992, the business manager of the state hospital shall
21 inquire into the ability of the patient to pay the costs of examination,
22 maintenance and treatment. The business manager shall file with the clerk
23 of the court a written report of the manager's findings and the basis of
24 those findings.

25 B. If the patient is able to pay all or any portion of the charges,
26 the court shall order the ~~payment of~~ **PATIENT TO PAY** the amount the patient
27 can afford of the per capita cost for examination, treatment and
28 maintenance as estimated by the ~~superintendent~~ **DIRECTOR OF THE STATE**
29 **HOSPITAL**. The court, on petition of an interested person and at a hearing
30 of which all concerned parties have received notice, may increase or
31 decrease the maintenance charge payable by the patient or the patient's
32 estate.

1 C. Notwithstanding subsection B of this section, any federal, state,
2 public or private medical benefits that are payable to the state hospital
3 where the patient is receiving care and treatment or that are payable to
4 the patient may be accepted by the state hospital without a court order,
5 except that the state hospital shall not accept any benefits that alone or
6 in addition to any amounts payable pursuant to subsection B of this section
7 exceed the per capita cost for the patient.

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

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

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

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

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

30 I. Notwithstanding section 36-545.02, the ~~department~~ STATE HOSPITAL
31 GOVERNING BOARD shall deposit, pursuant to sections 35-146 and 35-147,
32 monies collected through contracts entered into pursuant to section 36-3410

1 in the Arizona state hospital fund established by section 36-545.08. The
2 ~~department~~ STATE HOSPITAL GOVERNING BOARD shall use these monies ~~for the~~
3 ~~treatment of~~ TO TREAT patients at the state hospital or ~~for the placement~~
4 ~~of~~ TO PLACE clients in the community.

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

7 36-545.08. Arizona state hospital fund; accounts; purpose

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

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

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

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

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

21 C. Monies in the fund deposited under subsection A, paragraphs 1 and
22 3 of this section are subject to legislative appropriation and are
23 designated for state hospital operations. Monies in the fund deposited
24 under subsection A, paragraph 2 of this section are a continuing
25 appropriation and are exempt from the provisions of section 35-190 relating
26 to lapsing of appropriations. Monies in the fund deposited under
27 subsection A, paragraph 3 of this section ~~remaining~~ THAT REMAIN unexpended
28 and unencumbered at the end of the fiscal year revert to the state general
29 fund. Monies in the fund deposited under subsection A, paragraph 1 of this
30 section are exempt from the provisions of section 35-190 relating to
31 lapsing of appropriations.

1 Sec. 36. Section 36-1672, Arizona Revised Statutes, is amended to
2 read:

3 36-1672. Local programs

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

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

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

15 B. The director may delegate to any local agency the authority to
16 conduct the local program within the local agency's jurisdiction as
17 provided in section 36-136, subsection ~~E~~ D.

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

20 36-3701. Definitions

21 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 36-3702. Notice of release; referral; immunity

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

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

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

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

28 B. If the person has been found incompetent to stand trial pursuant
29 to title 13, chapter 41 and there is no substantial likelihood that the
30 person will be restored to competency within twenty-one months after the
31 date of the original finding of incompetency, the county attorney may

1 request the court to order a screening of the person pursuant to section
2 13-4518 to determine if the person may be a sexually violent person.

3 C. If the state department of corrections or the Arizona state
4 hospital has jurisdiction over a person who is at least eighteen years of
5 age and who at any time was convicted of a sexually violent offense, was
6 found guilty except insane of committing a sexually violent offense or was
7 charged with a sexually violent offense and was determined to be
8 incompetent to stand trial, the state department of corrections or the
9 Arizona state hospital shall determine if the person may be a sexually
10 violent person. If the agency determines that the person may be a sexually
11 violent person, the agency shall submit a written request that a petition
12 be filed either to the county attorney in the county in which the person
13 was convicted, was found incompetent or will be released or to the attorney
14 general. The agency must submit the written request not more than one
15 hundred eighty days and not less than thirty days before the person's
16 anticipated release. If the person has a pending sentence of imprisonment
17 in another state or federal jurisdiction, in lieu of the written request
18 the director of the state department of corrections may instead enter into
19 a written agreement with the prosecuting authority by which the person was
20 prosecuted, was found incompetent or will be released to have the person
21 retrieved by the other state or federal jurisdiction.

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

24 1. Certified copies of the following court documents:

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

28 (b) The complaint, information, judgment of conviction and
29 commitment order for any other conviction that the submitting agency
30 possesses.

31 2. All records of evaluation and treatment, including any of the
32 following:

1 (a) All psychological and psychiatric tests and assessment reports
2 and supporting information.

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

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

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

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

16 5. Police reports that are in the possession of the referring agency
17 and that relate to any sexually violent offense that was committed by the
18 person.

19 6. Institutional records that relate to the person's behavior and
20 conduct while in custody and that are in the possession of the referring
21 agency.

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

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

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

1 (a) A report of the person's condition that was completed within the
2 preceding one hundred twenty days and that includes an opinion expressing
3 to a reasonable degree of psychiatric, psychological or professional
4 certainty that the person has a mental disorder and that, as a result of
5 that mental disorder, the person is likely to engage in a sexually violent
6 offense.

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

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

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

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

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

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

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

27 36-3704. Sexually violent person petition; filing; procedures

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

1 B. If the judge determines that probable cause exists to believe
2 that the person named in the petition is a sexually violent person, the
3 judge shall order that the person be detained in a licensed facility under
4 the supervision of the ~~superintendent~~ DIRECTOR of the Arizona state
5 hospital.

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

8 D. Within seventy-two hours after a person is detained pursuant to
9 subsection B of this section, the court shall provide the person with
10 notice of and an opportunity to appear at a probable cause hearing to
11 contest the probable cause finding made by the court pursuant to subsection
12 A of this section. At the hearing, the court shall verify the person's
13 identity and shall determine if probable cause exists to believe that the
14 person is a sexually violent person. At the hearing, the state may rely on
15 the petition that alleges that the person is a sexually violent person and
16 that is filed pursuant to section 36-3704. The state may supplement the
17 information in the petition with additional documentary evidence or live
18 testimony.

19 E. At the probable cause hearing, the person has the following
20 rights:

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

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

27 G. If at the hearing the court reaffirms that probable cause exists
28 to believe that the person is a sexually violent person, the judge shall
29 order an evaluation as to whether the person is a sexually violent
30 person. A person whom the court selects from a list of competent
31 professionals shall conduct the evaluation.

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

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

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

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

13 36-3707. Determining sexually violent person status:
14 commitment procedures

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

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

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

1 2. Order that the **SEXUALLY VIOLENT** person be released to a less
2 restrictive alternative if the conditions under sections 36-3710 and
3 36-3711 are met.

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

7 D. If the person named in the petition was found incompetent to
8 stand trial, the court first shall hear evidence and determine if the
9 person committed the act or acts charged if the court did not enter a
10 finding before the charges were dismissed. The court shall enter specific
11 findings on whether the person committed the act or acts charged, the
12 extent to which the person's incompetence to stand trial affected the
13 outcome of the hearing, including its effect on the person's ability to
14 consult with and assist counsel and to testify on the person's own behalf,
15 the extent to which the evidence could be reconstructed without the
16 assistance of the person and the strength of the prosecution's case. If
17 the court finds beyond a reasonable doubt that the person committed the act
18 or acts charged, the court shall enter a final order to that effect and may
19 then consider whether the person should be committed pursuant to this
20 section.

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

23 36-3708. Annual examination of committed persons; report

24 A. The psychiatrist, psychologist or other competent professional of
25 the **ARIZONA** state hospital or a licensed facility under the supervision of
26 the ~~superintendent~~ **DIRECTOR** of the Arizona state hospital shall annually
27 examine each person who is committed pursuant to this article. The person
28 who conducts the annual examination shall submit the examination report to
29 the court. The annual report shall state if conditional release to a less
30 restrictive alternative is in the best interest of the person and will
31 adequately protect the community.

1 B. The person may retain, or on the request of an indigent person
2 the court may appoint, a competent professional to conduct the
3 examination. A retained or appointed competent professional shall have
4 access to all records concerning the person. If the person retains or is
5 appointed a competent professional, the state has the right to have the
6 committed person evaluated by a competent professional of the state's own
7 choice. All competent professionals shall have equal access to the person
8 as well as all records concerning the person.

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

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

13 36-3709. Petition for change of status; procedures

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

1 violence if conditionally released to a less restrictive alternative or
2 unconditionally discharged.

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

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

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

1 investigate the less restrictive alternative and to submit additional
2 conditions to the court. The court shall give a copy of the conditions of
3 release to the person and to any designated service provider. Other
4 conditions may include any of the following:

- 5 1. Specification of a residence.
- 6 2. Prohibition on any contact with potential or past victims.
- 7 3. Prohibition on the use of alcohol and other drugs.
- 8 4. Supervision by the ~~department of health services~~ STATE HOSPITAL
9 GOVERNING BOARD or the county probation department if the person is serving
10 a term of probation.
- 11 5. A requirement that the person remain in this state unless the
12 person receives prior authorization from the court.
- 13 6. Other conditions that the court or the ~~superintendent~~ DIRECTOR of
14 the ARIZONA state hospital determines are in the best interest of the
15 person or others.

16 E. Following a determination that a person's release to a less
17 restrictive alternative is warranted and after considering the
18 recommendation regarding the duration and amount of treatment by the
19 ~~superintendent~~ DIRECTOR of the ARIZONA state hospital, the court shall
20 require as a condition of release to a less restrictive alternative, that
21 the person participate in outpatient treatment. The outpatient supervision
22 and treatment may include monitoring a person by use of a polygraph or
23 plethysmograph, or both. The treatment shall continue until the court
24 orders a change in the person's treatment requirements or the person is
25 discharged pursuant to section 36-3714.

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

- 30 1. The court.
- 31 2. The facility from which the person was released.

1 immediately to the court, the attorney for the state and the ~~superintendent~~
2 DIRECTOR of the ARIZONA state hospital.

3 3. The person who is conditionally released to a less restrictive
4 alternative has housing arrangements that are sufficiently secure to
5 protect the community and the person or agency that is providing the
6 housing to the conditionally released person agrees in writing to the
7 following conditions:

8 (a) To accept the conditionally released person.

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

10 (c) To immediately report the unauthorized absence of the
11 conditionally released person from the housing arrangement to which the
12 person has been assigned.

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

15 5. The person will comply with the supervision requirements that are
16 imposed by the ~~department of health services~~ STATE HOSPITAL GOVERNING BOARD
17 or the county probation department if the person is serving a term of
18 probation.

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

21 36-3712. Detention and commitment requirements; definition

22 A. A person who is committed or conditionally released to a less
23 restrictive alternative pursuant to this article does not forfeit any legal
24 right and shall not suffer any legal disability as a consequence of any
25 actions taken or orders made except as specifically provided in this
26 article.

27 B. A person who is committed or conditionally released to a less
28 restrictive alternative pursuant to this article shall receive care,
29 supervision or treatment. The ~~superintendent~~ DIRECTOR of the ARIZONA state
30 hospital shall keep records detailing all medical, expert and professional
31 care and treatment that a committed person receives and shall keep copies
32 of all reports of periodic examinations that are made pursuant to this

1 article. These records and reports shall be made available on request only
2 to any of the following:

- 3 1. The committed person.
- 4 2. The committed person's attorney.
- 5 3. The county attorney or the attorney general.
- 6 4. The court.
- 7 5. On proper showing, an expert or professional person who
8 demonstrates a need for access to the records or reports.
- 9 6. Any mental health professional directly responsible FOR or
10 associated with the mental health professional who is directly responsible
11 for the care, control, assessment or treatment of the committed person.

12 C. At the time a person is detained or transferred into a licensed
13 facility pursuant to this article, the person in charge of the facility or
14 the person's designee shall take reasonable precautions to inventory and
15 safeguard the personal property of the detained or transferred person. The
16 staff member who makes an inventory of the person's personal property shall
17 give a signed copy of that inventory to the person. The facility shall
18 allow a responsible relative to inspect the property, subject to any
19 limitations that the person specifically imposes. The facility shall not
20 disclose the contents of the inventory to any other person without the
21 consent of the person or a court order.

22 D. This article does not prohibit a person who is committed or
23 conditionally released to a less restrictive alternative from exercising
24 any right that is available for the purpose of obtaining release from
25 confinement, including the right to petition for a writ of habeas
26 corpus. The committed person must exhaust all direct appeal and
27 postcommitment procedures before exercising the committed person's right to
28 petition for a writ of habeas corpus.

29 E. A person who is indigent may not be conditionally released to a
30 less restrictive alternative or discharged without suitable clothing. When
31 a person is conditionally released to a less restrictive alternative or

1 discharged, the ~~superintendent~~ DIRECTOR of the ARIZONA state hospital shall
2 furnish the person with an amount of money pursuant to section 31-228.

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

4 1. Means the spouse, parent, adult child or adult sibling of the
5 person. ~~And~~

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

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

9 36-3714. Petition for discharge; procedures

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

27 B. This section does not prohibit the committed person from annually
28 petitioning the court for discharge without the approval of the
29 ~~superintendent~~ DIRECTOR of the ARIZONA state hospital ~~or the director of~~
30 ~~the department of health services~~. The ~~director of the department of~~
31 ~~health services~~ STATE HOSPITAL GOVERNING BOARD shall give annual written
32 notice to the committed person of the person's right to petition the court

1 for discharge without the approval of the ~~superintendent or~~ director. The
2 notice shall contain a waiver of rights. The director shall submit the
3 notice and waiver to the court with the annual examination report.

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

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

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

20 **36-3717. Place of proceedings; transportation; immunity**

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

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

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

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

30 4. A hearing on a petition for discharge pursuant to section
31 36-3714.

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

3 6. Any court proceeding **THAT IS** not otherwise specified in this
4 article where the presence of the detainee or **CIVILLY** committed person is
5 required.

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

9 C. Subsection A of this section does not preclude any proceeding
10 from being held on the grounds of the Arizona state hospital or from using
11 a telephonic conference or an interactive audiovisual device. The court
12 shall adopt rules concerning the conduct of proceedings pursuant to this
13 article. The rules shall ensure the safety of all persons. The rules may
14 include provisions that allow for proceedings to be held on the grounds of
15 the Arizona state hospital or for the use of a telephonic conference or an
16 interactive audiovisual device.

17 D. The ~~department of health services~~ **STATE HOSPITAL GOVERNING BOARD**
18 is responsible for the transportation to and from a medical facility of a
19 person who is detained or **CIVILLY** committed pursuant to this article. The
20 ~~department of health services~~ **STATE HOSPITAL GOVERNING BOARD** shall
21 determine the appropriate mode of transportation and level of security and
22 restraint for the transportation needs of the person. In determining the
23 appropriate mode of transportation and level of security and restraint, the
24 ~~department~~ **STATE HOSPITAL GOVERNING BOARD** shall consider the safety of the
25 public, the transporting personnel and the detained or **CIVILLY** committed
26 person.

27 E. The ~~department of health services~~ **STATE HOSPITAL GOVERNING BOARD**
28 and any county sheriff are immune from liability for any good faith acts
29 under this section.

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

3 37-802. Disposition of real property by state agency;
4 alternative fuel delivery systems; definition

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

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

14 1. Real property to another agency of this state, any county,
15 municipality or other political subdivision or any school district of this
16 state without the necessity of a public sale if the real property will be
17 used for an alternative fuel delivery system. The transferee agency shall
18 pay the transferor agency for a conveyance made pursuant to this section
19 based on a current appraisal establishing the fair market value of the
20 property.

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

29 C. The sale shall be for cash or on terms of at least twenty percent
30 down payment with the balance payable in annual amortized installments for
31 ten years, the unpaid balance to bear interest at a rate determined by the
32 director or other chief administrative officer of the state agency.

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

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

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

24 G. For the purposes of this section, "alternative fuel delivery
25 system" means any facility that provides for the fueling of an alternative
26 fuel vehicle.

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

29 37-803. Disposition of real property by state agency

30 A. Unless another procedure is prescribed by law, the director or
31 other chief administrative officer of a state agency may dispose of real
32 property or any right, title or interest in real property as prescribed by

1 this section if the director or officer determines that the real property
2 is no longer needed or used for public purposes by that agency.

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

6 1. The real property to an agency of the federal government, to
7 another agency of this state or to any county, municipality, school
8 district or other political subdivision of this state or charter school in
9 this state without the necessity of a public sale if the director or
10 officer considers the conveyance to be in the public interest and if the
11 real property will be used for a specific purpose in the public
12 interest. The transferee agency shall pay the transferor agency for such a
13 conveyance based on an appraisal prepared within the last one hundred
14 eighty days by a certified real estate appraiser establishing the fair
15 market value of the property to be conveyed.

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

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

29 D. The director or other chief administrative officer of a state
30 agency may execute all deeds or conveyances necessary to convey any real
31 property or interest in the real property to be conveyed under this section
32 and may assess a fee for the costs of preparing and executing any

1 conveyance under this section. The director or officer may insert in any
2 deed or conveyance such conditions, covenants, exceptions and reservations
3 as the director or officer considers to be in the public interest or may
4 convey in fee simple absolute.

5 E. A conclusive presumption exists in favor of any purchaser for
6 value and without notice of any real property or interest in the real
7 property conveyed pursuant to this section that the agency acted within its
8 lawful authority in acquiring the property and that the ~~agency~~ director or
9 other chief administrative officer of the state agency acted under lawful
10 authority in executing any deed, conveyance or lease authorized by this
11 section.

12 F. The agency may adopt rules for using licensed real estate brokers
13 to assist in any disposition of property under this section. The director
14 or other chief administrative officer of the state agency may pay a
15 commission, from proceeds received under this section, to a broker who
16 provides the purchaser unless the broker is the purchaser or lessee or the
17 purchaser is another governmental agency.

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

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

28 41-2752. State competition with private enterprise prohibited;
29 exceptions; definition

30 A. A state agency shall not engage in the manufacturing, processing,
31 sale, offering for sale, rental, leasing, delivery, dispensing,
32 distributing or advertising of goods or services to the public that are

1 also offered by private enterprise unless specifically authorized by law
2 other than administrative law and executive orders.

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

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

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

11 2. Correctional industries established and operated by the state
12 department of corrections if the prices charged for products sold by the
13 correctional industries are not less than the actual cost of producing and
14 marketing the product plus a reasonable allowance for overhead and
15 administrative costs.

16 3. The office of tourism.

17 4. The Arizona highways magazine, operated by the department of
18 transportation.

19 5. Printing and distributing information to the public if the agency
20 is otherwise authorized to do so, and printing or copying public records or
21 other material relating to the public agency's public business and
22 recovering through fees and charges the costs of such printing, copying and
23 distributing.

24 6. The department of public safety.

25 7. The construction, maintenance and operation of state
26 transportation facilities.

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

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

1 10. Agreements executed by the department of economic security with
2 other states to design, develop, install and operate support collection
3 technology systems and related services. The department shall deposit,
4 pursuant to sections 35-146 and 35-147, monies received pursuant to this
5 paragraph in the public assistance collections fund established by section
6 46-295.

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

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

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

16 14. The Arizona commerce authority.

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

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

21 17. Agreements executed by the department of child safety with other
22 states to design, develop, install and operate support collection
23 technology systems and related services. The department shall deposit,
24 pursuant to sections 35-146 and 35-147, monies received pursuant to this
25 paragraph in the child safety collections fund established by section
26 8-461.

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

29 19. The sale or lease of software, computer systems or intellectual
30 property developed by the department of education or associated services
31 provided for the sale or lease of software, computer systems or
32 intellectual property by the department of education. The department shall

1 deposit, pursuant to sections 35-146 and 35-147, sixty percent of the
2 profit from the monies generated pursuant to this paragraph in the state
3 general fund and the remaining forty percent in the department of education
4 intellectual property fund established by section 15-231.04. The
5 department of education may not transfer or expend monies or personnel
6 resources for the purposes of marketing or soliciting goods or services
7 authorized pursuant to this paragraph that were appropriated and authorized
8 for other functions and programs of the department of education.

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

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

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

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

22 41-3803. Independent oversight committee on the mentally ill;
23 membership; community forums; meetings; training
24 plan; Arizona state hospital

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

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

30 B. Each region of this state covered by a regional behavioral health
31 authority shall have at least one independent oversight committee with the
32 authority and responsibilities as prescribed by the department of

1 administration pursuant to rules adopted by the department relating to
2 behavioral health services.

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

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

- 9 1. Psychology.
- 10 2. Law.
- 11 3. Medicine.
- 12 4. Education.
- 13 5. Special education.
- 14 6. Social work.
- 15 7. Mental health.
- 16 8. Housing for the mentally ill.
- 17 9. Criminal justice.
- 18 10. Public safety.

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

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

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

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

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

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

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

30 K. The Arizona state hospital ~~superintendent~~ DIRECTOR and chief
31 medical officer, or their designees, shall attend and participate in
32 scheduled meetings of the independent oversight committee at the Arizona

1 state hospital, except for the public comment period. The ~~superintendent~~
2 DIRECTOR and the chief medical officer, or their designees, shall give a
3 report to and respond to questions from the independent oversight committee
4 members. Questions from the independent oversight committee members to the
5 ~~superintendent~~ DIRECTOR and the chief medical officer, or their designees,
6 are limited to subjects specified in subsection J of this section. The
7 ~~superintendent~~ DIRECTOR shall ensure that the Arizona state hospital
8 administration:

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

11 2. Facilitates and supports the independent oversight committee's
12 activities related to the Arizona state hospital and pursuant to the
13 department of administration's rules.

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

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

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

21 49-104. Powers and duties of the department and director

22 A. The department shall:

23 1. Formulate policies, plans and programs to implement this title to
24 protect the environment.

25 2. Stimulate and encourage all local, state, regional and federal
26 governmental agencies and all private persons and enterprises that have
27 similar and related objectives and purposes, cooperate with those agencies,
28 persons and enterprises and correlate department plans, programs and
29 operations with those of the agencies, persons and enterprises.

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

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

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

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

9 7. Promote and coordinate the protection and enhancement of the
10 quality of water resources consistent with the environmental policy of this
11 state.

12 8. Encourage industrial, commercial, residential and community
13 development that maximizes environmental benefits and minimizes the effects
14 of less desirable environmental conditions.

15 9. Ensure the preservation and enhancement of natural beauty and
16 man-made scenic qualities.

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

21 11. Promote and recommend methods for the recovery, recycling and
22 reuse or, if recycling is not possible, the disposal of solid wastes
23 consistent with sound health, scenic and environmental quality policies.
24 The department shall report annually on its revenues and expenditures
25 relating to the solid and hazardous waste programs overseen or administered
26 by the department.

27 12. Prevent pollution through the regulation of the storage,
28 handling and transportation of solids, liquids and gases that may cause or
29 contribute to pollution.

30 13. Promote the restoration and reclamation of degraded or despoiled
31 areas and natural resources.

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

3 15. Cooperate with the Arizona-Mexico commission in the governor's
4 office and with researchers at universities in this state to collect data
5 and conduct projects in the United States and Mexico on issues that are
6 within the scope of the department's duties and that relate to quality of
7 life, trade and economic development in this state in a manner that will
8 help the Arizona-Mexico commission to assess and enhance the economic
9 competitiveness of this state and of the Arizona-Mexico region.

10 16. Unless specifically authorized by the legislature, ensure that
11 state laws, rules, standards, permits, variances and orders are adopted and
12 construed to be consistent with and ~~not~~ NOT more stringent than the
13 corresponding federal law that addresses the same subject matter. This
14 paragraph does not adversely affect standards adopted by an Indian tribe
15 under federal law.

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

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

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

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

25 3. ~~utilize~~ USE any medium of communication, publication and
26 exhibition when disseminating information, advertising and publicity in any
27 field of its purposes, objectives or duties.

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

31 5. Contract with other agencies, including laboratories, in
32 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. Monies
8 received pursuant to this paragraph shall be deposited in the department
9 fund corresponding to the service, publication or program provided.

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

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

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

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

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

1 (b) Provide that the design documents showing or describing the
2 water supply, sewage disposal and garbage collection facilities be
3 submitted with a fee to the department for review and that no lots in any
4 subdivision be offered for sale before compliance with the standards and
5 rules has been demonstrated by approval of the design documents by the
6 department.

7 12. Prescribe reasonably necessary measures to prevent pollution of
8 water used in public or semipublic swimming pools and bathing places and to
9 prevent deleterious conditions at those places. The rules shall prescribe
10 minimum standards for the design of and for sanitary conditions at any
11 public or semipublic swimming pool or bathing place and provide for
12 abatement as public nuisances of premises and facilities that do not comply
13 with the minimum standards. The rules shall be developed in cooperation
14 with the director of the department of health services and shall be
15 consistent with the rules adopted by the director of the department of
16 health services pursuant to section 36-136, subsection ~~F~~ H, paragraph 10.

17 13. Prescribe reasonable rules regarding sewage collection,
18 treatment, disposal and reclamation systems to prevent the transmission of
19 sewage borne or insect borne diseases. The rules shall:

20 (a) Prescribe minimum standards for the design of sewage collection
21 systems and treatment, disposal and reclamation systems and for operating
22 the systems.

23 (b) Provide for inspecting the premises, systems and installations
24 and for abating as a public nuisance any collection system, process,
25 treatment plant, disposal system or reclamation system that does not comply
26 with the minimum standards.

27 (c) Require that design documents for all sewage collection systems,
28 sewage collection system extensions, treatment plants, processes, devices,
29 equipment, disposal systems, on-site wastewater treatment facilities and
30 reclamation systems be submitted with a fee for review to the department
31 and may require that the design documents anticipate and provide for future
32 sewage treatment needs.

1 (d) Require that construction, reconstruction, installation or
2 initiation of any sewage collection system, sewage collection system
3 extension, treatment plant, process, device, equipment, disposal system,
4 on-site wastewater treatment facility or reclamation system conform with
5 applicable requirements.

6 14. Prescribe reasonably necessary rules regarding excreta storage,
7 handling, treatment, transportation and disposal. The rules may:

8 (a) Prescribe minimum standards for human excreta storage, handling,
9 treatment, transportation and disposal and shall provide for inspection of
10 premises, processes and vehicles and for abating as public nuisances any
11 premises, processes or vehicles that do not comply with the minimum
12 standards.

13 (b) Provide that vehicles transporting human excreta from privies,
14 septic tanks, cesspools and other treatment processes ~~shall~~ be licensed by
15 the department subject to compliance with the rules. The department may
16 require payment of a fee as a condition of licensure. The department may
17 establish by rule a fee as a condition of licensure, including a maximum
18 fee. As part of the rulemaking process, there must be public notice and
19 comment and a review of the rule by the joint legislative budget
20 committee. The department shall not increase that fee by rule without
21 specific statutory authority for the increase. The fees shall be
22 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
23 fund established by section 49-881.

24 15. Perform the responsibilities of implementing and maintaining a
25 data automation management system to support the reporting requirements of
26 title III of the superfund amendments and reauthorization act of 1986
27 (P.L. 99-499) and article 2 of this chapter.

28 16. Approve remediation levels pursuant to article 4 of this
29 chapter.

30 17. Establish or revise fees by rule pursuant to the authority
31 granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this
32 title for the department to adequately perform its duties. All fees shall

1 be fairly assessed and impose the least burden and cost to the parties
2 subject to the fees. In establishing or revising fees, the department
3 shall base the fees on:

4 (a) The direct and indirect costs of the department's relevant
5 duties, including employee salaries and benefits, professional and outside
6 services, equipment, in-state travel and other necessary operational
7 expenses directly related to issuing licenses as defined in title 41,
8 chapter 6 and enforcing the requirements of the applicable regulatory
9 program.

10 (b) The availability of other funds for the duties performed.

11 (c) The impact of the fees on the parties subject to the fees.

12 (d) The fees charged for similar duties performed by the department,
13 other agencies and the private sector.

14 18. Appoint a person with a background in oil and gas conservation
15 to act on behalf of the oil and gas conservation commission and administer
16 and enforce the applicable provisions of title 27, chapter 4 relating to
17 the oil and gas conservation commission.

18 C. The department may:

19 1. Charge fees to cover the costs of all permits and inspections it
20 performs to ensure compliance with rules adopted under section 49-203,
21 except that state agencies are exempt from paying those fees that are not
22 associated with the dredge and fill permit program established pursuant to
23 chapter 2, article 3.2 of this title. For services provided under the
24 dredge and fill permit program, a state agency shall pay either:

25 (a) The fees established by the department under the dredge and fill
26 permit program.

27 (b) The reasonable cost of services provided by the department
28 pursuant to an interagency service agreement.

1 2. Two terms ending January 1, 2029.

2 B. The governor shall make all subsequent appointments as prescribed
3 by statute.

4 Sec. 55. Succession; transfer; effect

5 A. As provided by this act, the state hospital governing board
6 succeeds to the authority, powers, duties and responsibilities of the
7 department of health services relating to the Arizona state hospital.

8 B. This act does not alter the effect of any actions that were taken
9 or impair the valid obligations of the department of health services
10 relating to the Arizona state hospital in existence before January 1, 2026.

11 C. Administrative rules and orders that were adopted by the
12 department of health services relating to the Arizona state hospital
13 continue in effect until superseded by administrative action by the state
14 hospital governing board.

15 D. All administrative matters, contracts and judicial and
16 quasi-judicial actions, whether completed, pending or in process, of the
17 department of health services relating to the Arizona state hospital on
18 January 1, 2026 are transferred to and retain the same status with the
19 state hospital governing board.

20 E. All certificates, licenses, registrations, permits and other
21 indicia of qualification and authority that were issued by the department
22 of health services relating to the Arizona state hospital retain their
23 validity for the duration of their terms of validity as provided by law.

24 F. All equipment, records, furnishings and other property, all data
25 and investigative findings, all obligations and all appropriated monies
26 that remain unexpended and unencumbered on January 1, 2026 of the
27 department of health services relating to the Arizona state hospital are
28 transferred to the state hospital governing board.

29 G. All personnel who are under the state personnel system and
30 employed by the department of health services relating to the Arizona state
31 hospital are transferred to comparable positions and pay classifications in

1 the respective administrative units of the state hospital governing board
2 on January 1, 2026.

3 Sec. 56. Effective date

4 This act is effective from and after December 31, 2025."

5 Amend title to conform

STEVE MONTENEGRO

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C: MH