

REFERENCE TITLE: Mental Evaluation, Treatment

State of Arizona
Senate
Thirty-first Legislature
First Regular Session

S. B. **1167**

Jack Brown
Howard Adams
Jim Doolittle

Introduced by *Sen Alexander*
Sen Lina
Sen L. Mitchell
Konglas Holclaw
Frank Kelly
AN ACT

RELATING TO PUBLIC HEALTH; PROVIDING FOR MENTAL HEALTH EVALUATION, COMMITMENT AND TREATMENT OF PERSONS SUFFERING MENTAL DISORDERS; PROVIDING PROCEDURES, RIGHTS, DUTIES AFFECTING SUCH PERSONS; PROVIDING CERTAIN GUARDIANSHIPS; REPEALING TITLE 36, CHAPTER 5, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 5; AMENDING SECTIONS 11-584 AND 14-863, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 6 AND 7, AND AMENDING SECTION 31-224, ARIZONA REVISED STATUTES.

Frank Kelly
Al B...

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. Legislative intent
- 3 It is the intent of the legislature that:
- 4 1. The inappropriate and indefinite involuntary hospitalization
- 5 and treatment of mentally disordered persons shall be ended.
- 6 2. Public safety shall be guaranteed and protected.
- 7 3. Mentally disordered persons shall be provided prompt evaluation
- 8 and treatment.
- 9 4. Gravely disabled persons shall receive individualized treatment
- 10 and care by use of a guardianship procedure.
- 11 Sec. 2. Repeal
- 12 Title 36, chapter 5, Arizona Revised Statutes, is repealed.
- 13 Sec. 3. Title 36, Arizona Revised Statutes, is amended by adding
- 14 a new chapter 5, articles 1 through 6, to read:

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CHAPTER 5
MENTAL HEALTH SERVICES
ARTICLE 1. GENERAL PROVISIONS

36-501. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ADMITTING OFFICER" MEANS A LICENSED PHYSICIAN WHO, IF POSSIBLE, IS A PSYCHIATRIST AND WHO HAS BEEN DESIGNATED IN WRITING BY THE PROFESSIONAL PERSON IN CHARGE OF A DESIGNATED EVALUATION FACILITY AS AN ADMITTING OFFICER OF THAT FACILITY.
2. "BOARD" MEANS THE STATE HOSPITAL BOARD.
3. "DANGER TO OTHERS" MEANS A PERSON WHO HAS ATTEMPTED TO INFLECT, OR HAS INFLECTED, SUBSTANTIAL BODILY HARM UPON A PERSON WITHIN TWELVE MONTHS PRECEDING THE HEARING ON INVOLUNTARY TREATMENT AND WHO AT THE TIME OF THE HEARING PRESENTS A THREAT OF COMMITTING SUBSTANTIAL BODILY HARM TO OTHERS.
4. "DANGER TO SELF" MEANS BEHAVIOR WHICH CAUSES SEVERE OR IRREPARABLE INJURY TO REPUTATION OR ESTATE OR BODILY HARM TO SELF, INCLUDING ATTEMPTED SUICIDE. DANGER TO SELF IS NOT PRESENT IF THE HAZARDS TO SELF ARE RESTRICTED TO THOSE WHICH MAY ARISE FROM CONDITIONS DEFINED UNDER GRAVE DISABILITY.
5. "EVALUATION" MEANS A MULTIDISCIPLINARY PROFESSIONAL ANALYSIS OF A PERSON'S MEDICAL, PSYCHOLOGICAL, SOCIAL, FINANCIAL AND LEGAL CONDITIONS. PERSONS PROVIDING EVALUATION SERVICES SHALL BE PROPERLY QUALIFIED. TWO PSYCHIATRIC EXAMINATIONS SHALL BE PERFORMED BY QUALIFIED PSYCHIATRISTS, IF POSSIBLE, AND SHALL BE PERFORMED IN ALL CASES BY LICENSED PHYSICIANS, WHO SHALL BE EXPERIENCED IN SUCH MATTERS.
6. "EXAMINATION" MEANS AN EXPLORATION OF THE PERSON'S PAST PSYCHIATRIC HISTORY, OF THE CIRCUMSTANCES LEADING UP TO THE PERSON'S PRESENTATION AND A PSYCHIATRIC EXPLORATION OF THE PERSON'S PRESENT MENTAL CONDITION.
7. "GRAVELY DISABLED" MEANS A CONDITION IN WHICH A PERSON IS UNABLE TO PROVIDE FOR HIS BASIC PERSONAL NEEDS FOR FOOD, CLOTHING AND SHELTER AS A RESULT OF A MENTAL DISORDER OF A TYPE WHICH HAS:

1 (a) DEVELOPED OVER A LONG PERIOD OF TIME AND HAS BEEN OF LONG
2 DURATION; OR

3 (b) DEVELOPED AS A MANIFESTATION OF DEGENERATIVE BRAIN DISEASE
4 DURING OLD AGE; OR

5 (c) DEVELOPED AS A MANIFESTATION OF SOME OTHER DEGENERATIVE
6 PHYSICAL ILLNESS OF LONG DURATION.

7 8. "INDEPENDENT EVALUATOR" MEANS A LICENSED PHYSICIAN OR CERTIFIED
8 PSYCHOLOGIST SELECTED BY A PROPOSED PATIENT, PROPOSED WARD, BY A PERSON
9 SEEKING REVIEW OF AN ORDER FOR HIS INVOLUNTARY TREATMENT OR OF HIS STATUS
10 AS A WARD, OR BY THE ATTORNEY OF ONE OF SUCH PERSONS.

11 9. "LICENSED PHYSICIAN" MEANS ANY PHYSICIAN OR SURGEON LICENSED
12 BY THIS STATE TO PRACTICE MEDICINE PURSUANT TO TITLE 32, CHAPTER 13 OR
13 17.

14 10. "MENTAL DISORDER" MEANS, FOR PURPOSES OF INVOLUNTARY EVALUATION
15 OR TREATMENT OF MENTALLY DISORDERED PERSONS, A SUBSTANTIAL DISORDER OF
16 THOUGHT, AFFECT, COGNITION OR MEMORY, BUT WHICH IS DISTINGUISHED FROM
17 CONDITIONS WHICH ARE PRIMARILY THOSE OF DRUG ABUSE, ALCOHOLISM OR MENTAL
18 RETARDATION. "MENTAL DISORDER" IS FURTHER DISTINGUISHED FROM THE DECLIN-
19 ING MENTAL ABILITIES THAT DIRECTLY ACCOMPANY IMPENDING DEATH AND FROM
20 THE MENTAL MANIFESTATIONS ASSOCIATED WITH TRANSITORY PHYSICAL ILLNESS.

21 11. "MENTAL HEALTH EVALUATION AGENCY" MEANS A HEALTH CARE INSTI-
22 TUTION LICENSED BY THE STATE DEPARTMENT OF PUBLIC HEALTH WHICH HAS BEEN
23 APPROVED, PURSUANT TO SECTION 36-421, FOR A MODIFICATION OF SERVICE TO
24 INCLUDE THOSE SERVICES REQUIRED OF SUCH AGENCY BY THIS CHAPTER.

25 12. "MENTAL HEALTH SCREENING AGENCY" MEANS A HEALTH CARE INSTITU-
26 TION LICENSED BY THE STATE DEPARTMENT OF PUBLIC HEALTH WHICH HAS BEEN
27 APPROVED PURSUANT TO SECTION 36-421 FOR A MODIFICATION OF SERVICE TO
28 INCLUDE THOSE SERVICES REQUIRED OF SUCH AGENCY BY THIS CHAPTER.

29 13. "MENTAL HEALTH TREATMENT FACILITY" MEANS A HEALTH CARE
30 INSTITUTION LICENSED BY THE STATE DEPARTMENT OF PUBLIC HEALTH WHICH HAS
31 BEEN APPROVED PURSUANT TO SECTION 36-421 FOR A MODIFICATION OF SERVICE
32 TO INCLUDE THOSE SERVICES WHICH ARE REQUIRED OF SUCH FACILITY BY THIS
33 CHAPTER.

1 14. "PREPETITION SCREENING" MEANS THE REVIEW OF EACH PETITION
2 REQUESTING COURT-ORDERED EVALUATION, INCLUDING AN INVESTIGATION OF
3 FACTS ALLEGED IN SUCH PETITION, AN INTERVIEW WITH EACH PETITIONER AND
4 AN INTERVIEW, IF POSSIBLE, WITH THE PROPOSED PATIENT OR PROPOSED WARD.
5 THE PURPOSE OF THE INTERVIEW WITH THE PROPOSED PATIENT OR PROPOSED WARD
6 IS TO ASSESS THE PROBLEM, EXPLAIN THE PETITION AND, WHEN INDICATED,
7 ATTEMPT TO PERSUADE THE PROPOSED PATIENT OR PROPOSED WARD TO RECEIVE,
8 ON A VOLUNTARY BASIS, EVALUATION OR OTHER SERVICES.

9 15. "PRESCRIBED FORM" MEANS A FORM ESTABLISHED BY THE RULES
10 OF THE BOARD.

11 16. "PROFESSIONAL PERSON IN CHARGE OF A FACILITY" MEANS A PSY-
12 CHIATRIST WHO IS DESIGNATED IN WRITING BY THE GOVERNING BOARD, AGENCY
13 OR PERSON HAVING CONTROL OF THE FACILITY AS THE PROFESSIONAL PERSON IN
14 CHARGE OF THE FACILITY FOR THE PURPOSES OF THIS CHAPTER, AND INCLUDES
15 THE SUPERINTENDENT OF THE STATE HOSPITAL. IF A LICENSED PHYSICIAN WHO
16 IS A PSYCHIATRIST IS NOT AVAILABLE TO THE FACILITY FOR THE PURPOSE OF
17 BEING DESIGNATED, A LICENSED PHYSICIAN MAY BE DESIGNATED.

18 17. "PROPOSED PATIENT" MEANS A PERSON FOR WHOM A REQUEST FOR
19 EVALUATION HAS BEEN MADE PURSUANT TO ARTICLE 2 OR FOR WHOM A PETITION
20 HAS BEEN FILED PURSUANT TO ARTICLE 4.

21 18. "PROPOSED WARD" MEANS A PERSON FOR WHOM A REQUEST FOR
22 EVALUATION HAS BEEN MADE PURSUANT TO ARTICLE 2, OR FOR WHOM A PETITION
23 HAS BEEN FILED PURSUANT TO TITLE 14, CHAPTER 6, ARTICLE 6.

24 19. "PSYCHIATRIST" MEANS A LICENSED PHYSICIAN WHO HAS COMPLETED
25 THREE YEARS GRADUATE TRAINING IN PSYCHIATRY IN A PROGRAM APPROVED BY THE
26 AMERICAN MEDICAL ASSOCIATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION.

27 20. "STATE HOSPITAL" MEANS THE ARIZONA STATE HOSPITAL.

28 21. "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF THE STATE HOSPITAL.

29 36-502. Voluntary admissions; transportation

30 A. PURSUANT TO RULES AND REGULATIONS OF THE BOARD, THE STATE
31 HOSPITAL MAY HOSPITALIZE FOR EVALUATION, CARE AND TREATMENT ANY PERSON
32 WHO IS MENTALLY DISORDERED AND WHO VOLUNTARILY MAKES WRITTEN PETITION
33 THEREFOR ON A PRESCRIBED FORM. IF SUCH PERSON IS LESS THAN EIGHTEEN

1 YEARS OF AGE THE PETITION SHALL BE SIGNED BY THE PARENT, GUARDIAN OR
2 ADULT NEXT OF KIN OF SUCH PERSON. IF THE MINOR IS FOURTEEN YEARS OF
3 AGE OR OLDER AND NOT UNDER GUARDIANSHIP OF THE PERSON, THE WRITTEN
4 PETITION SHALL ALSO BE SIGNED BY THE MINOR. IN ALL OTHER WRITTEN
5 PETITIONS FOR VOLUNTARY ADMISSION SIGNED BY A PARENT, GUARDIAN OR
6 ADULT NEXT OF KIN SUCH PATIENT SHALL BE ADMITTED ONLY UPON THE WRITTEN
7 APPROVAL OF THE SUPERINTENDENT.

8 B. THE BOARD OF SUPERVISORS OF THE COUNTY OF RESIDENCE OF A
9 PERSON WHO HAS SUBMITTED A PETITION PURSUANT TO SUBSECTION A SHALL
10 PROVIDE TRANSPORTATION TO THE STATE HOSPITAL FOR SUCH PERSON IF IT
11 APPEARS THAT THE PERSON IS ELIGIBLE FOR VOLUNTARY ADMISSION TO THE
12 STATE HOSPITAL AFTER CONSULTATION BETWEEN THE STATE HOSPITAL AND AN
13 EXAMINER OF THE PATIENT DESIGNATED BY THE COUNTY TO PROVIDE SUCH
14 SERVICES.

15 36-503. Discharge of voluntary patients

16 A. THE SUPERINTENDENT SHALL DISCHARGE ANY PERSON ADMITTED
17 VOLUNTARILY WHO HAS EITHER RECOVERED OR IS NOT LIKELY TO BE A DANGER
18 TO OTHERS, TO HIMSELF OR TO BE GRAVELY DISABLED IF HE IS NO LONGER
19 BENEFITING FROM THE EVALUATION, CARE OR TREATMENT AVAILABLE.

20 B. A PERSON ADMITTED VOLUNTARILY SHALL BE GIVEN A DISCHARGE
21 WITHIN SEVENTY-TWO HOURS AFTER HE REQUESTS THE SAME IN WRITING OR,
22 IF UNDER THE AGE OF EIGHTEEN, WITHIN SEVENTY-TWO HOURS AFTER A REQUEST
23 FOR HIS DISCHARGE HAS BEEN MADE IN WRITING BY HIS PARENT, GUARDIAN OR
24 ADULT NEXT OF KIN, EXCEPT THAT IF THE SUPERINTENDENT REASONABLY BELIEVES
25 THE VOLUNTARILY ADMITTED PERSON IS A DANGER TO OTHERS OR TO HIMSELF THE
26 SUPERINTENDENT MAY PROCEED PURSUANT TO SECTION 36-519 WITHIN SEVENTY-
27 TWO HOURS AFTER THE REQUEST AND SHALL POSTPONE THE DISCHARGE. FURTHER
28 PROCEEDINGS SHALL BE CONDUCTED PURSUANT TO ARTICLE 4.

29 36-504. Patient reimbursements; indigents; disposition
30 of funds

31 THE BOARD SHALL ESTABLISH THE AMOUNT WHICH WILL FULLY REIMBURSE
32 THE STATE FOR THE EXPENSE OF EVALUATING, CARING FOR, TREATING, MAINTAIN-
33 ING AND PROVIDING CUSTODY FOR ANY PERSON ADMITTED VOLUNTARILY TO THE

1 STATE HOSPITAL. IT SHALL CHARGE THE PERSON ALL OR SUCH PORTION OF THE
2 ESTABLISHED AMOUNT AS THE PERSON CAN AFFORD. IF THE PERSON IS INDIGENT,
3 NO CHARGE SHALL BE MADE. THE BOARD SHALL REQUIRE PROMPT PAYMENT OF THE
4 CHARGE. PAYMENT SHALL BE TO THE STATE TREASURER FOR DEPOSIT IN THE
5 STATE GENERAL FUND.

6 36-505. Limitation of liability

7 ANY PERSON ACTING IN GOOD FAITH UPON EITHER ACTUAL KNOWLEDGE OR
8 RELIABLE INFORMATION AND ACTING WITHIN THE SCOPE OF HIS AUTHORITY, PUR-
9 SUANT TO THIS CHAPTER, IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY
10 FOR SUCH ACTS.

11 36-506. Cruelty to mentally disordered person; penalty

12 A PERSON GUILTY OF ANY HARSH, CRUEL OR OTHER TREATMENT NOT WITHIN
13 THE SCOPE OF HIS AUTHORITY, OR OF ANY NEGLECT OF DUTY TOWARD A MENTALLY
14 DISORDERED PERSON IS GUILTY OF A MISDEMEANOR.

15 36-507. Transfers of persons

16 A. THE PROFESSIONAL PERSON IN CHARGE OF A FACILITY MAY TRANSFER
17 A PATIENT TO THE HOME OF A KNOWN RELATIVE OR FRIEND IN ANOTHER STATE OR
18 TO A PROPER AUTHORITY IN ANOTHER STATE IF HE DETERMINES THAT IT WOULD BE
19 IN THE BEST INTERESTS OF THE PATIENT, IF THE RELATIVE, FRIEND OR PROPER
20 AUTHORITY AND THE PATIENT OR HIS GUARDIAN AGREE TO THE TRANSFER.

21 B. THE PROFESSIONAL PERSON IN CHARGE OF A FACILITY MAY TRANSFER
22 A PATIENT TO ANY OTHER FACILITY WITHIN THE STATE IF HE DETERMINES THAT
23 IT WOULD BE IN THE BEST INTERESTS OF THE PATIENT, IF THE FACILITY AND
24 THE PERSON OR HIS GUARDIAN AGREE TO THE TRANSFER.

25 C. TRANSFER TO A FEDERAL AGENCY SHALL BE PURSUANT TO SECTION
26 14-898.

27 36-508. Costs

28 A. EXCEPT AS PROVIDED IN THIS CHAPTER, COSTS OF COURT PROCEEDINGS
29 UNDER THIS CHAPTER ARE A CHARGE AGAINST THE COUNTY IN WHICH SUCH PROCEED-
30 INGS OCCUR.

31 B. EXCEPT AS PROVIDED IN THIS SECTION, COSTS OF SERVICES PROVIDED
32 BY A COUNTY PURSUANT TO ARTICLE 2 ARE A CHARGE AGAINST THE COUNTY.

33 C. IF AN ORDER FOR INVOLUNTARY TREATMENT IS ISSUED THE BUSINESS

1 MANAGER OF THE STATE HOSPITAL SHALL INQUIRE INTO THE ABILITY OF THE
2 PATIENT TO PAY THE COSTS OF COURT PROCEEDINGS AND TREATMENT. SUCH
3 MANAGER SHALL FILE WITH THE CLERK OF THE COURT A WRITTEN REPORT OF HIS
4 FINDINGS AND THE BASIS THEREFOR.

5 D. THE COURT SHALL ORDER PAYMENT OF SUCH COURT COSTS AS THE
6 PATIENT CAN AFFORD AND SHALL ORDER PAYMENT TO THE STATE HOSPITAL OF
7 SUCH AMOUNT OF THE MONTHLY COSTS OF THE PATIENT'S TREATMENT AT THE
8 STATE HOSPITAL AS THE PATIENT CAN AFFORD. THE COURT MAY INCREASE OR
9 DECREASE THE MONTHLY COST PAYABLE BY THE PATIENT UPON PETITION OF
10 ANY PERSON AFTER NOTICE AS PRESCRIBED BY THE COURT TO ALL INTERESTED
11 PARTIES AND A HEARING CONDUCTED BY THE COURT. NO COSTS SHALL BE
12 CHARGED TO A PATIENT FOUND BY A COURT OF COMPETENT JURISDICTION TO
13 HAVE BEEN UNLAWFULLY COMMITTED.

14 E. ANY FEDERAL, STATE, PUBLIC OR PRIVATE MEDICAL BENEFITS
15 WHICH ARE PAYABLE TO THE STATE HOSPITAL WHERE THE PATIENT IS RECEIVING
16 CARE AND TREATMENT AND NOT PAYABLE TO THE PATIENT MAY BE ACCEPTED BY
17 THE STATE HOSPITAL WITHOUT A COURT ORDER, EXCEPT THAT THE STATE HOSPITAL
18 SHALL NOT ACCEPT ANY SUCH BENEFITS WHICH, ALONE OR IN ADDITION TO ANY
19 AMOUNTS PAYABLE PURSUANT TO SUBSECTION D OF THIS SECTION, EXCEED THE
20 PER CAPITA COST FOR THE PATIENT.

21 F. THE COURT SHALL APPOINT A GUARDIAN OF THE ESTATE OF THE
22 PATIENT PURSUANT TO TITLE 14, CHAPTER 6, IF THE COURT DETERMINES THAT
23 SUCH APPOINTMENT IS NECESSARY.

24 G. MONIES PAID TO THE STATE HOSPITAL PURSUANT TO SUBSECTION D
25 SHALL BE PAID TO THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL
26 FUND.

27 H. COSTS OF SERVICES TO A PATIENT IN A MENTAL HEALTH TREATMENT
28 FACILITY OTHER THAN THE STATE HOSPITAL SHALL NOT BE A CHARGE AGAINST
29 THE STATE OR COUNTY. IF THE PATIENT, HIS PARENTS, SPOUSE OR GUARDIAN
30 CEASES OR REFUSES TO PAY SUCH COSTS AND THE FACILITY DOES NOT FOREGO
31 SUCH PAYMENT, THE PATIENT SHALL BE TRANSFERRED TO THE STATE HOSPITAL.

32 I. IF THE PATIENT ORDERED TO UNDERGO INVOLUNTARY TREATMENT IS A
33 MINOR, THE COURT SHALL INQUIRE INTO THE ABILITY OF THE PARENTS OF SUCH

1 MINOR TO PAY THE CHARGES AND EXPENSES PURSUANT TO THIS SECTION. ALL
2 DUTIES, OBLIGATIONS, CHARGES, LIENS AND COSTS THAT ARE IMPOSED UPON
3 A PATIENT PURSUANT TO THIS SECTION ARE IMPOSED UPON THE PARENTS OF
4 SUCH MINOR.

5 36-509. Compensation of physicians, psychologists

6 IF A PHYSICIAN OR PSYCHOLOGIST IS NOT OTHERWISE COMPENSATED FOR
7 EVALUATING AN INDIGENT PERSON OR FOR TESTIFYING AT A HEARING, OR BOTH,
8 UNDER THE PROVISIONS OF THIS CHAPTER, THE PHYSICIAN OR PSYCHOLOGIST SHALL
9 BE PAID BY THE COUNTY AN AMOUNT DETERMINED BY THE COURT, SUBJECT TO
10 LIMITATIONS SIMILAR TO THOSE IMPOSED UPON COMPENSATION FOR ATTORNEYS IN
11 SANITY HEARINGS, AS PROVIDED BY SECTION 13-1673.

12 36-510. County services

13 A. EACH COUNTY SHALL PROVIDE DIRECTLY OR BY CONTRACT THE SERVICES
14 OF A MENTAL HEALTH SCREENING AGENCY AND A MENTAL HEALTH EVALUATION
15 FACILITY FOR THE PURPOSES OF THIS CHAPTER.

16 B. UPON A REQUEST MADE BY A RESIDENT OF THE COUNTY PURSUANT TO
17 THIS CHAPTER, A COUNTY SHALL BE REQUIRED TO PROVIDE MENTAL HEALTH
18 SCREENING OR MENTAL HEALTH EVALUATION.

19 ARTICLE 2. COURT ORDERED EVALUATION

20 36-512. Who may be given an evaluation

21 ANY PERSON ALLEGED TO BE, AS A RESULT OF MENTAL DISORDER, A DANGER
22 TO OTHERS OR TO HIMSELF, OR GRAVELY DISABLED, MAY BE GIVEN AN EVALUATION
23 OF HIS CONDITION PURSUANT TO THIS ARTICLE.

24 36-513. Petition for evaluation

25 A. ANY RESPONSIBLE PERSON MAY APPLY TO A MENTAL HEALTH SCREENING
26 AGENCY FOR A PETITION ALLEGING THAT A PERSON IN THE COUNTY IS, AS A
27 RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF, OR GRAVELY
28 DISABLED, AND REQUESTING THAT AN EVALUATION BE MADE PURSUANT TO THIS
29 SECTION.

30 B. THE MENTAL HEALTH SCREENING AGENCY SHALL PREPARE THE PETITION
31 AND OTHER FORMS REQUIRED IN THE PROCEEDING AND ONLY SUCH AGENCY MAY FILE
32 THE PETITION AND OTHER FORMS REQUIRED IN A SUPERIOR COURT WITHIN THE
33 COUNTY. THE MENTAL HEALTH SCREENING AGENCY SHALL PRIOR TO SUCH FILING

1 PROVIDE PREPETITION SCREENING TO DETERMINE WHETHER THERE IS PROBABLE
2 CAUSE TO BELIEVE THE ALLEGATIONS IN THE PETITION, WHETHER THE PROPOSED
3 PATIENT OR WARD WILL VOLUNTARILY RECEIVE EVALUATION AT A SCHEDULED TIME
4 AND PLACE AND WHETHER HE IS LIKELY TO PRESENT A DANGER TO OTHERS OR
5 HIMSELF UNTIL SUCH VOLUNTARY EVALUATION. THE MENTAL HEALTH SCREENING
6 AGENCY SHALL FILE THE PETITION IF, BASED UPON THE PREPETITION SCREENING,
7 THE AGENCY DETERMINES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
8 PROPOSED PATIENT OR WARD IS, AS A RESULT OF MENTAL DISORDER, A DANGER
9 TO OTHERS OR TO HIMSELF, OR GRAVELY DISABLED, AND THAT HE WILL NOT
10 VOLUNTARILY RECEIVE EVALUATION OR IS LIKELY TO PRESENT A DANGER TO
11 OTHERS OR HIMSELF BEFORE RECEIVING A VOLUNTARY EVALUATION.

12 C. A PETITION, IF FILED, SHALL BE ACCOMPANIED BY A PREPETITION
13 SCREENING REPORT CONTAINING THE FINDINGS OF THE MENTAL HEALTH SCREENING
14 AGENCY. IF THE PETITION IS NOT FILED BECAUSE IT HAS BEEN DETERMINED
15 THAT THE PROPOSED PATIENT OR PROPOSED WARD WILL VOLUNTARILY RECEIVE
16 AN EVALUATION AND IS UNLIKELY TO PRESENT A DANGER TO OTHERS OR HIMSELF
17 UNTIL SUCH VOLUNTARY EVALUATION, THE MENTAL HEALTH EVALUATION FACILITY
18 PROVIDED FOR BY THE COUNTY SHALL BE IMMEDIATELY NOTIFIED AND SHALL
19 PROVIDE EVALUATION OF THE PROPOSED PATIENT OR WARD AT A SCHEDULED TIME
20 AND PLACE WITHIN FIVE DAYS OF SUCH NOTICE.

21 D. THE PETITION FOR EVALUATION SHALL BE VERIFIED UPON A PRESCRIBED
22 FORM AND CONTAIN THE FOLLOWING INFORMATION:

23 1. THE NAME AND ADDRESS OF THE PERSON WHO APPLIED FOR THE PETITION
24 AND HIS INTEREST IN THE CASE, INCLUDING A STATEMENT OF THE FACTS WHICH
25 CALLED THE PROPOSED PATIENT OR WARD TO THE PETITIONER'S ATTENTION.

26 2. THE NAME OF THE PROPOSED PATIENT OR WARD AND, IF KNOWN OR
27 READILY DISCOVERABLE, THE ADDRESS, AGE, MARITAL STATUS AND OCCUPATION
28 OF THE PROPOSED PATIENT OR WARD AND THE NAME AND ADDRESS OF THE PROPOSED
29 PATIENT'S OR WARD'S NEAREST RELATIVES.

30 3. THE FACTS UPON WHICH THE ALLEGATIONS ARE BASED.

31 4. A STATEMENT BY THE PERSON APPLYING FOR THE PETITION OF THE
32 SPECIFIC NATURE OF THE DANGER OR GRAVE DISABILITY.

33 5. SUCH OTHER INFORMATION AS THE COURT MAY REQUIRE.

1 36-514. Order for involuntary evaluation and detention;
2 peace officer's conduct

3 A. IF, FROM THE PETITION FOR EVALUATION, THE COURT DETERMINES THAT
4 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPOSED PATIENT IS, AS A
5 RESULT OF A MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF, OR IS
6 GRAVELY DISABLED, AND THAT THE PERSON IS LIKELY TO PRESENT A DANGER TO
7 OTHERS OR TO HIMSELF PRIOR TO HIS HEARING ON INVOLUNTARY TREATMENT, THE
8 COURT SHALL ORDER THE PROPOSED PATIENT MAINTAINED OR TAKEN INTO CUSTODY
9 AND EVALUATED AT A MENTAL HEALTH EVALUATION FACILITY.

10 B. IF, FROM THE PETITION FOR EVALUATION, THE COURT DOES NOT
11 DETERMINE THAT THE PROPOSED PATIENT IS LIKELY TO PRESENT A DANGER TO
12 OTHERS OR TO HIMSELF PRIOR TO HIS HEARING ON INVOLUNTARY TREATMENT BUT
13 DETERMINES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPOSED
14 PATIENT IS, AS A RESULT OF A MENTAL DISORDER, A DANGER TO OTHERS OR TO
15 HIMSELF OR IS GRAVELY DISABLED, THE COURT SHALL ISSUE AN ORDER DIRECTING
16 THE PROPOSED PATIENT TO SUBMIT TO AN EVALUATION AT A DESIGNATED TIME
17 AND PLACE. THE JUDGE SHALL ALSO ORDER THAT IF THE PERSON DOES NOT SO
18 SUBMIT THAT HE BE TAKEN INTO CUSTODY BY A POLICE OFFICER AND DELIVERED
19 TO A MENTAL HEALTH EVALUATION FACILITY.

20 C. WHEN POSSIBLE, THE PEACE OFFICERS TAKING THE PROPOSED PATIENT
21 INTO CUSTODY FOR EMERGENCY DETENTION SHALL DRESS IN PLAIN CLOTHES,
22 TRAVEL IN UNMARKED VEHICLES, CARRY IDENTIFICATION OF THEIR OFFICIAL
23 STATUS AND PERFORM THEIR DUTIES IN THE DAYLIGHT HOURS.

24 36-515. Possible dispositions after order for evaluation
25 is issued

26 UNLESS A PETITION FOR JUDICIALLY ORDERED INVOLUNTARY TREATMENT
27 IS FILED ON A PERSON EVALUATED PURSUANT TO A COURT ORDER HE SHALL BE
28 EITHER RELEASED AT OR BEFORE THE EXPIRATION OF THREE DAYS FROM THE
29 DATE OF THE COURT ORDER FOR EVALUATION, EXCLUDING SATURDAYS, SUNDAYS
30 AND HOLIDAYS, IF EVALUATION IS NOT AVAILABLE ON THOSE DAYS, GIVEN SUCH
31 FURTHER CARE AND TREATMENT AS IS APPROPRIATE ON A VOLUNTARY BASIS OR
32 RECOMMENDED FOR GUARDIANSHIP PURSUANT TO THE PROVISIONS OF TITLE 14,
33 ARTICLE 6.

1 ARTICLE 3. EMERGENCY DETENTION
2 AND EVALUATION

3 36-516.01. Who may be detained for emergency evaluation

4 ANY PERSON WHO IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO
5 OTHERS, OR TO HIMSELF, OR GRAVELY DISABLED, MAY BE TAKEN INTO CUSTODY
6 AND INVOLUNTARILY DETAINED FOR EVALUATION PURSUANT TO THE PROVISIONS
7 OF THIS ARTICLE IN A MENTAL HEALTH EVALUATION FACILITY, WHEN THE PERSON
8 WILL NOT VOLUNTARILY AGREE TO EVALUATION OR IS LIKELY TO PRESENT A
9 DANGER TO HIMSELF OR OTHERS BEFORE RECEIVING VOLUNTARY EVALUATION AND
10 AN ORDER OF THE COURT PURSUANT TO ARTICLE 2 CANNOT BE OBTAINED IN TIME
11 TO PREVENT HARM TO HIMSELF OR OTHERS.

12 36-516.02. Application for involuntary evaluation

13 A. A WRITTEN APPLICATION FOR INVOLUNTARY EVALUATION SHALL BE
14 REQUIRED BY A MENTAL HEALTH EVALUATION FACILITY BEFORE A PERSON MAY BE
15 INVOLUNTARILY DETAINED IN SUCH FACILITY PURSUANT TO THE PROVISIONS OF THIS
16 ARTICLE. SUCH APPLICATION SHALL BE UPON A PRESCRIBED FORM AND SHALL
17 INCLUDE A STATEMENT BY THE APPLICANT THAT HE BELIEVES AS A RESULT OF
18 HIS PERSONAL OBSERVATIONS THAT THE PERSON IS, AS A RESULT OF MENTAL
19 DISORDER, A DANGER TO OTHERS, OR TO HIMSELF, OR GRAVELY DISABLED. THE
20 APPLICATION SHALL ALSO INCLUDE A STATEMENT BY THE APPLICANT OF THE
21 SPECIFIC NATURE OF THE DANGER OR GRAVE DISABILITY AND A STATEMENT OF
22 HIS OBSERVATIONS UPON WHICH HE BASES THE ABOVE STATEMENT OF DANGER OR
23 GRAVE DISABILITY, AND A STATEMENT OF THE FACTS WHICH CALLED THE PERSON
24 TO THE ATTENTION OF THE APPLICANT.

25 B. AN APPLICATION FOR INVOLUNTARY EVALUATION MAY BE MADE BY ANY
26 RESPONSIBLE PERSON.

27 36-516.03. Apprehension and transportation by peace officers

28 A. A PEACE OFFICER MAY TAKE A PERSON INTO CUSTODY AND TRANSPORT
29 HIM TO A DESIGNATED EVALUATION FACILITY IF SUCH OFFICER HAS PROBABLE
30 CAUSE TO BELIEVE THAT THE PERSON MEETS THE CRITERIA SET FORTH IN SECTION
31 36-516.01.

32 B. WHENEVER POSSIBLE, PEACE OFFICERS TAKING A PERSON INTO CUSTODY
33 AND TRANSPORTING HIM PURSUANT TO THE PROVISION OF PARAGRAPH A OF THIS

1 SECTION SHALL DRESS IN PLAIN CLOTHES AND TRAVEL IN UNMARKED VEHICLES
2 AND SHALL CARRY IDENTIFICATION OF THEIR OFFICIAL STATUS.

3 36-516.04. Admission and mandatory discharge

4 A. UPON PRESENTATION OF THE PERSON ALLEGED TO BE, AS A RESULT
5 OF MENTAL DISORDER, A DANGER TO OTHERS, OR TO HIMSELF, OR GRAVELY
6 DISABLED, AN ADMITTING OFFICER OF A MENTAL HEALTH EVALUATION FACILITY
7 SHALL PERFORM AN EXAMINATION OF THE PERSON AND MAY ADMIT THE PERSON
8 TO SUCH FACILITY AS AN INVOLUNTARY PATIENT IF SUCH ADMITTING OFFICER
9 FINDS, AS A RESULT OF HIS EXAMINATION AND HIS INVESTIGATION OF THE
10 APPLICATION FOR INVOLUNTARY EVALUATION, THAT THE PERSON MEETS THE
11 CRITERIA SET FORTH IN SECTION 36-516.01.

12 B. THE PROFESSIONAL PERSON IN CHARGE OF THE DESIGNATED EVALUA-
13 TION FACILITY SHALL PETITION THE COURT PURSUANT TO THE PROVISIONS OF
14 ARTICLE 2 OF THIS CHAPTER ON THE SUCCEEDING WORKDAY.

15 C. EACH PERSON ADMITTED PURSUANT TO THE PROVISIONS OF THIS
16 ARTICLE FOR EVALUATION AND TREATMENT MAY BE INVOLUNTARILY DETAINED
17 FOR A PERIOD NOT TO EXCEED THREE DAYS.

18 36-516.05. Evaluation, treatment and release

19 EACH PERSON ADMITTED TO A MENTAL HEALTH EVALUATION FACILITY PUR-
20 SUANT TO THE PROVISIONS OF THIS ARTICLE SHALL RECEIVE AN EVALUATION AS
21 SOON AFTER HE IS ADMITTED AS POSSIBLE, AND SHALL RECEIVE SUCH TREATMENT
22 AND CARE AS HIS CONDITION REQUIRES FOR THE FULL PERIOD HE IS DETAINED.
23 SUCH PERSON DETAINED UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE
24 RELEASED BEFORE THREE DAYS HAVE ELAPSED IF, IN THE OPINION OF THE PRO-
25 FESSIONAL PERSON IN CHARGE OF THE MENTAL HEALTH EVALUATION FACILITY THE
26 PERSON IS NO LONGER, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS,
27 OR TO HIMSELF, OR GRAVELY DISABLED, UNLESS THE PERSON AGREES TO RECEIVE
28 FURTHER CARE AND TREATMENT ON A VOLUNTARY BASIS AS MAY BE BENEFICIAL
29 TO HIM IN THE JUDGMENT OF THE PROFESSIONAL PERSON IN CHARGE OF THE
30 MENTAL HEALTH EVALUATION FACILITY.

31 36-516.06. Protection of property of person being evaluated

32 A. WITHIN A REASONABLE TIME AFTER THE ADMISSION OF THE PERSON
33 INTO THE DESIGNATED EVALUATION FACILITY PURSUANT TO THE PROVISIONS OF

1 THIS ARTICLE, THE INDIVIDUAL WHO PRESENTED THE PERSON SHALL TAKE
2 NECESSARY PRECAUTIONS TO PRESERVE AND SAFEGUARD THE PERSONAL PROPERTY
3 IN ACTUAL POSSESSION OF OR IN THE PREMISES OCCUPIED BY THE PERSON
4 PENDING EVALUATION AND DISPOSITION OF THE PERSON, UNLESS A RESPONSIBLE
5 RELATIVE OR THE GUARDIAN OF THE PERSON IS IN POSSESSION OF THE PERSON'S
6 PERSONAL PROPERTY. THE INDIVIDUAL WHO PRESENTED THE PERSON SHALL THEN
7 FURNISH TO THE COURT A FULL, COMPLETE AND ITEMIZED REPORT OF THE
8 PERSON'S PROPERTY SO PRESERVED AND SAFEGUARDED AND ITS DISPOSITION,
9 EXCEPT THAT IF A RESPONSIBLE RELATIVE OR THE GUARDIAN OF THE PERSON
10 IS IN POSSESSION OF THE PERSON'S PROPERTY, THE REPORT SHALL INCLUDE
11 ONLY THE NAME OF THE RELATIVE OR GUARDIAN AND THE LOCATION OF THE
12 PROPERTY. WITH THE FILING OF THE REPORT, THE RESPONSIBILITY OF THE
13 INDIVIDUAL IS TERMINATED.

14 B. PENDING THE EVALUATION AND DISPOSITION OF THE PERSON, SUCH
15 ORDERS AS ARE NECESSARY FOR THE PRESERVATION AND SAFEGUARDING OF THE
16 PERSON'S PROPERTY MAY BE MADE AS APPEAR TO THE COURT TO BE IN THE BEST
17 INTERESTS OF THE PERSON.

18 C. AS USED IN THIS SECTION, "RESPONSIBLE RELATIVE" INCLUDES THE
19 SPOUSE, PARENT, ADULT CHILD OR ADULT BROTHER OR SISTER OF THE PERSON.

20 ARTICLE 4. JUDICIALLY ORDERED

21 INVOLUNTARY TREATMENT

22 36-518. Involuntary treatment; time limitation

23 ANY PERSON WHO HAS RECEIVED AN EVALUATION PURSUANT TO THIS CHAPTER
24 MAY BE ORDERED CONFINED FOR INVOLUNTARY TREATMENT FOR A PERIOD NOT TO
25 EXCEED ONE HUNDRED EIGHTY DAYS IF HE IS FOUND BY THE SUPERIOR COURT TO
26 BE, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF.

27 36-519. Petition for involuntary treatment

28 A. AFTER EVALUATION OF A PROPOSED PATIENT'S CONDITION, THE PRO-
29 FESSONAL PERSON IN CHARGE OF THE FACILITY WHICH PROVIDED THE EVALUATION
30 MAY FILE IN THE SUPERIOR COURT IN THE COUNTY FOR WHICH THE FACILITY
31 PROVIDED THE EVALUATION A VERIFIED PETITION REQUESTING JUDICIALLY ORDERED
32 INVOLUNTARY TREATMENT AND ALLEGING:

33 1. THE PROPOSED PATIENT IS IN NEED OF A PERIOD OF TREATMENT

1 BECAUSE HE IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR
2 TO HIMSELF.

3 2. THE PROPOSED PATIENT IS UNWILLING TO ACCEPT OR INCAPABLE OF
4 ACCEPTING TREATMENT VOLUNTARILY.

5 THE PETITION SHALL REQUEST THE COURT TO ISSUE AN ORDER REQUIRING SUCH
6 PERSON TO UNDERGO A PERIOD OF INVOLUNTARY TREATMENT.

7 B. THE PETITION SHALL BE UPON A PRESCRIBED FORM AND SHALL SUM-
8 MARIZE THE FACTS WHICH SUPPORT THE ALLEGATIONS OF SUBSECTION A,
9 PARAGRAPHS 1 AND 2, AND SHALL BE SUPPORTED BY THE AFFIDAVITS OF THE
10 PERSON WHO REQUESTED THE PROPOSED PATIENT'S EVALUATION AND AFFIDAVITS
11 OF THE TWO PHYSICIANS WHO CONDUCTED THE PSYCHIATRIC EXAMINATIONS
12 DURING THE EVALUATION PERIOD PURSUANT TO ARTICLE 2. THE AFFIDAVITS
13 SHALL DESCRIBE IN DETAIL THE BEHAVIOR WHICH INDICATES THAT THE PERSON
14 IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF,
15 AND SHALL BE BASED UPON FACTS WITHIN THE AFFIANT'S PERSONAL KNOWLEDGE.

16 36-520. Detention of proposed patient

17 A. IF, UPON THE FILING OF A PETITION FOR JUDICIALLY ORDERED
18 INVOLUNTARY TREATMENT, THE PROPOSED PATIENT IS NOT THEN DETAINED IN THE
19 FACILITY WHOSE PROFESSIONAL PERSON IN CHARGE FILED THE PETITION, THE
20 COURT SHALL ORDER THE DETENTION OF THE PROPOSED PATIENT IN THE FACILITY
21 WHICH CONDUCTED THE EVALUATION IF THE COURT DETERMINES AT A HEARING THAT
22 THE PROPOSED PATIENT IS LIKELY TO PRESENT A DANGER TO OTHERS OR TO HIM-
23 SELF BEFORE THE CONCLUSION ON THE HEARING OR IS NOT LIKELY TO APPEAR
24 AT THE HEARING ON THE PETITION IF NOT DETAINED. THE COURT SHALL ISSUE
25 SUCH ORDERS AS ARE NECESSARY TO PROVIDE FOR THE APPREHENSION, TRANSPOR-
26 TATION AND DETENTION OF THE PROPOSED PATIENT.

27 B. WHEN POSSIBLE, THE PEACE OFFICERS TAKING THE PROPOSED PATIENT
28 INTO CUSTODY UNDER SUBSECTION A SHALL DRESS IN PLAIN CLOTHES, TRAVEL
29 IN UNMARKED VEHICLES, CARRY IDENTIFICATION OF THEIR OFFICIAL STATUS AND
30 PERFORM THEIR DUTIES IN THE DAYLIGHT HOURS.

31 36-521. Service of petition; counsel for proposed patient;
32 duties of counsel; time for hearing

33 A. AT LEAST FOUR DAYS BEFORE THE COURT CONDUCTS THE HEARING ON

1 THE PETITION FOR JUDICIALLY ORDERED INVOLUNTARY TREATMENT, A COPY OF
2 THE PETITION AND AFFIDAVITS IN SUPPORT THEREOF AND THE NOTICE SHALL BE
3 SERVED UPON THE PROPOSED PATIENT, WHO SHALL BE INFORMED OF THE PURPOSE
4 OF THE HEARING AND SHALL BE REQUIRED TO CONSULT COUNSEL. IF THE PROPOSED
5 PATIENT CANNOT AFFORD HIS OWN COUNSEL, HE SHALL BE APPOINTED COUNSEL BY
6 THE COURT AT LEAST THREE DAYS BEFORE THE HEARING.

7 B. THE PROFESSIONAL PERSON IN CHARGE OF THE PETITIONING MENTAL
8 HEALTH EVALUATION FACILITY SHALL, AT LEAST FORTY-EIGHT HOURS PRIOR TO
9 THE HEARING, PROVIDE THE PROPOSED PATIENT'S ATTORNEY WITH COPIES OF
10 THE PETITION FOR EVALUATION, PREPETITION SCREENING REPORT, EVALUATION
11 REPORT AND THE PATIENT'S MEDICAL RECORDS.

12 C. THE PROPOSED PATIENT'S ATTORNEY SHALL FULFILL THE FOLLOWING
13 MINIMAL DUTIES:

14 1. WITHIN TWENTY-FOUR HOURS OF APPOINTMENT, CONDUCT AN INTER-
15 VIEW OF THE PROPOSED PATIENT.

16 2. AT LEAST TWENTY-FOUR HOURS PRIOR TO THE HEARING, REVIEW THE
17 PETITION FOR EVALUATION, PREPETITION SCREENING REPORT, EVALUATION REPORT,
18 PETITION FOR INVOLUNTARY TREATMENT AND PATIENT'S MEDICAL RECORDS.

19 3. AT LEAST TWENTY-FOUR HOURS PRIOR TO SUCH HEARING INTERVIEW
20 THE PETITIONER, IF AVAILABLE, AND HIS SUPPORTING WITNESSES, IF KNOWN
21 AND AVAILABLE.

22 4. AT LEAST TWENTY-FOUR HOURS PRIOR TO SUCH HEARING INTERVIEW
23 THE PETITIONER AND THE PHYSICIANS WHO WILL TESTIFY AT SUCH HEARING, IF
24 AVAILABLE.

25 5. AT THE TIME OF SUCH HEARING SUBMIT TO THE COURT A WRITTEN
26 REPORT ON ALL PLACEMENT ALTERNATIVES FOR THE CARE AND TREATMENT OF THE
27 PROPOSED PATIENT, STATING WHETHER THEY ARE FEASIBLE AND THE REASONS
28 WHY OR WHY NOT.

29 FAILURE OF SUCH ATTORNEY TO FULFILL AT LEAST THE DUTIES PRESCRIBED BY
30 PARAGRAPHS 1 THROUGH 5 OF THIS SUBSECTION IS CONTEMPT OF COURT.

31 D. THE NOTICE OF THE HEARING SHALL FIX THE TIME AND PLACE FOR
32 THE HEARING WHICH SHALL BE HELD IN THE COURTROOM OR OTHER PLACE WITHIN
33 THE COUNTY WHICH THE COURT MAY DESIGNATE TO INSURE HUMANE TREATMENT WITH

1 DUE REGARD TO THE COMFORT AND SAFETY OF THE PROPOSED PATIENT AND OTHERS.
2 THE COURT MAY EXCLUDE ALL PERSONS NOT NECESSARY OR APPROPRIATE FOR THE
3 CONDUCT OF THE HEARING, BUT THE HEARING SHALL BE HELD IN OPEN COURT UPON
4 REQUEST OF THE PROPOSED PATIENT, HIS ATTORNEY, GUARDIAN, SPOUSE OR ADULT
5 NEXT OF KIN.

6 E. THE HEARING SHALL BE CONDUCTED WITHIN SEVEN DAYS FROM THE
7 DATE OF FILING OF THE PETITION, UNLESS THE PROPOSED PATIENT'S ATTORNEY
8 REQUESTS A CONTINUANCE, WHICH MAY BE FOR NOT MORE THAN TEN DAYS.

9 36-522. Conduct of hearing

10 A. THE PROPOSED PATIENT AND HIS ATTORNEY SHALL BE PRESENT AT THE
11 HEARING AND THE PROPOSED PATIENT'S ATTORNEY MAY CROSS EXAMINE WITNESSES
12 AND PRESENT EVIDENCE. THE EVIDENCE PRESENTED BY THE PETITIONER OR THE
13 PROPOSED PATIENT SHALL INCLUDE THE CLINICAL RECORD OF THE PROPOSED
14 PATIENT, TESTIMONY OF TWO OR MORE WITNESSES ACQUAINTED WITH THE PROPOSED
15 PATIENT AT THE TIME OF THE ALLEGED MENTAL DISORDER AND TESTIMONY OF THE
16 TWO PHYSICIANS WHO PERFORMED PSYCHIATRIC EXAMINATIONS IN THE EVALUATION
17 OF THE PROPOSED PATIENT. THE PHYSICIANS SHALL TESTIFY AS TO THEIR
18 PERSONAL EXAMINATION OF THE PROPOSED PATIENT. THEY SHALL ALSO TESTIFY
19 AS TO THEIR OPINIONS CONCERNING WHETHER THE PROPOSED PATIENT IS, AS A
20 RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF, AND AS TO
21 WHETHER THE PROPOSED PATIENT REQUIRES INVOLUNTARY TREATMENT. SUCH
22 TESTIMONY SHALL STATE SPECIFICALLY THE NATURE AND EXTENT OF THE DANGER
23 TO OTHERS OR TO HIMSELF. A REPRESENTATIVE OF THE FACILITY REQUESTING
24 FURTHER TREATMENT SHALL TESTIFY AS TO TREATMENT ALTERNATIVES TO JUDI-
25 Cially ORDERED INVOLUNTARY TREATMENT, INCLUDING IN SUCH TESTIMONY THE
26 PROPOSED PATIENT'S SOCIAL RESOURCES AND THE REASONS, IF ANY, WHY THE
27 VARIOUS ALTERNATIVES TO JUDICIALLY ORDERED INVOLUNTARY TREATMENT ARE
28 NOT DESIRABLE OR ARE NOT AVAILABLE.

29 B. THE REQUIREMENTS OF SUBSECTION A ARE IN ADDITION TO ALL RULES
30 OF EVIDENCE AND PROCEDURE IMPOSED UPON CONDUCT OF SUCH A HEARING.

31 C. A COURT REPORTER SHALL ATTEND THE HEARING AND SHALL MAKE
32 STENOGRAPHIC NOTES OF ALL PROCEEDINGS. IF A PROPOSED PATIENT WHO HAS
33 BEEN ORDERED TO UNDERGO INVOLUNTARY TREATMENT REQUESTS A CERTIFIED COPY

1 OF THE REPORTER'S TRANSCRIPT AND FILES AN AFFIDAVIT THAT HE IS WITHOUT
2 MEANS TO PAY FOR SUCH COPY, AND IF SUCH AFFIDAVIT IS FOUND TRUE BY THE
3 COURT, THE EXPENSE OF THE REPORTER'S TRANSCRIPT IS TO BE A CHARGE UPON
4 THE COUNTY IN WHICH THE PROCEEDINGS WERE HELD.

5 36-523. Court options; release

6 A. IF THE COURT FINDS BEYOND A REASONABLE DOUBT THAT THE PROPOSED
7 PATIENT IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO HIMSELF AND IS
8 IN NEED OF INVOLUNTARY TREATMENT, THE COURT SHALL ORDER HIS CONFINEMENT
9 UP TO ONE HUNDRED EIGHTY DAYS OF TREATMENT IN A MENTAL HEALTH TREATMENT
10 FACILITY, TO THE VETERANS ADMINISTRATION PURSUANT TO SECTION 14-898 OR
11 TO THE STATE HOSPITAL, SUBJECT TO THE LIMITATIONS OF SECTION 36-524, IF
12 THE COURT FINDS THAT NO SUITABLE ALTERNATIVE TREATMENT TO SUCH CONFINEMENT
13 EXISTS. SUCH PATIENT SHALL BE RELEASED FROM TREATMENT AT THE
14 EXPIRATION OF SUCH PERIOD UNLESS ANY OF THE FOLLOWING OCCUR:

15 1. THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY IN WHICH
16 HE IS DETAINED RECOMMENDS GUARDIANSHIP PURSUANT TO TITLE 14, CHAPTER 6,
17 ARTICLE 6, AT LEAST TEN DAYS PRIOR TO SUCH RELEASE DATE, IN WHICH CASE
18 THE INDIVIDUAL MAY BE DETAINED FOR ADDITIONAL TIME AS PROVIDED IN
19 SECTION 14-915.

20 2. THE PERSON ACCEPTS VOLUNTARY TREATMENT AT THE FACILITY.

21 3. THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY IN WHICH HE
22 IS DETAINED AT LEAST TEN DAYS PRIOR TO HIS RELEASE DATE FILES A NEW
23 PETITION FOR JUDICIALLY ORDERED INVOLUNTARY TREATMENT ON THE GROUNDS THAT
24 THE PERSON IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR TO
25 HIMSELF. SUCH NEW PETITION SHALL BE FILED IN SUPERIOR COURT IN WHICH
26 THE ORIGINAL PETITION ORDERING INVOLUNTARY TREATMENT WAS FILED.

27 B. IF THE COURT FINDS BEYOND A REASONABLE DOUBT THAT THE PROPOSED
28 PATIENT IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS AND IS
29 IN NEED OF INVOLUNTARY TREATMENT, THE COURT SHALL ORDER HIS CONFINEMENT
30 FOR ONE HUNDRED EIGHTY DAYS OF TREATMENT IN A MENTAL HEALTH TREATMENT
31 FACILITY, TO THE VETERANS ADMINISTRATION PURSUANT TO SECTION 14-898
32 OR TO THE STATE HOSPITAL SUBJECT TO THE LIMITATIONS OF SECTION 36-524,
33 IF THE COURT FINDS THAT NO SUITABLE ALTERNATIVE TREATMENT FOR SUCH

1 CONFINEMENT EXISTS. SUCH PERSON SHALL BE RELEASED FROM TREATMENT AT THE
2 EXPIRATION OF SUCH PERIOD UNLESS ANY OF THE FOLLOWING OCCUR:

3 1. THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY IN WHICH HE
4 IS DETAINED RECOMMENDS GUARDIANSHIP PURSUANT TO TITLE 14, CHAPTER 6,
5 ARTICLE 6, AT LEAST TEN DAYS PRIOR TO SUCH RELEASE DATE, IN WHICH CASE
6 THE INDIVIDUAL MAY BE DETAINED FOR ADDITIONAL TIME AS PROVIDED IN SECTION
7 14-915.

8 2. THE PERSON ACCEPTS VOLUNTARY TREATMENT AT THE FACILITY.

9 3. THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY IN WHICH HE
10 IS DETAINED AT LEAST TEN DAYS PRIOR TO HIS RELEASE DATE FILES A NEW
11 PETITION FOR JUDICIALLY ORDERED INVOLUNTARY TREATMENT ON THE GROUNDS
12 THAT THE PERSON IS, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS
13 OR TO HIMSELF. SUCH NEW PETITION SHALL BE FILED IN SUPERIOR COURT IN
14 WHICH THE ORIGINAL PETITION ORDERING INVOLUNTARY TREATMENT WAS FILED.

15 C. THE COURT SHALL FILE A REPORT AS PART OF THE COURT RECORD ON
16 ITS FINDINGS OF ALTERNATIVE TREATMENT AND SUPPORTING REASONS FOR SUCH
17 FINDINGS.

18 36-524. Mandatory local treatment

19 A PATIENT WHO IS ORDERED CONFINED FOR INVOLUNTARY TREATMENT IN THE
20 STATE HOSPITAL PURSUANT TO THIS ARTICLE, IF NOT SO CONFINED AT THE TIME
21 OF SUCH ORDER, SHALL, PRIOR TO SUCH CONFINEMENT AND TREATMENT, UNDERGO
22 TREATMENT FOR AT LEAST TWENTY-FIVE INPATIENT DAYS IN THE MENTAL HEALTH
23 TREATMENT FACILITY PROVIDED FOR BY THE COUNTY IN WHICH THE HEARING, AS
24 PRESCRIBED BY THIS ARTICLE, WAS CONDUCTED. THIS SECTION SHALL NOT APPLY
25 IF THE SUPERINTENDENT IN CONSULTATION WITH THE PROFESSIONAL PERSON IN
26 CHARGE OF A LOCAL TREATMENT FACILITY DETERMINES THAT THE PATIENT'S
27 PRESENT CONDITION AND HISTORY DEMONSTRATES THAT THE PATIENT WILL REQUIRE
28 MORE THAN TWENTY-FIVE DAYS OF TREATMENT AS AN INPATIENT AND THAT HE WILL
29 NOT BENEFIT FROM THE REQUIRED PERIOD OF TREATMENT IN A FACILITY PROVIDED
30 FOR BY THE COUNTY, OR THAT THE STATE HOSPITAL PROVIDES A PROGRAM WHICH
31 IS SPECIFIC TO THE NEEDS OF SUCH PATIENT AND IS UNAVAILABLE IN THE
32 LOCAL COUNTY OR WHEN THERE IS NO MENTAL HEALTH TREATMENT FACILITY IN
33 THE COUNTY. SUCH PATIENT MAY BE IMMEDIATELY CONFINED AND TREATED AT
34 THE STATE HOSPITAL.

1 36-525. Change of status; approval, disapproval by
2 court; hearing
3 A. A PATIENT ORDERED CONFINED FOR TREATMENT PURSUANT TO SECTION
4 36-523, SUBSECTION B, SHALL NOT BE RELEASED OR PLACED ON VOLUNTARY
5 STATUS WITHIN THE ONE HUNDRED EIGHTY DAY PERIOD UNTIL THE COURT WHICH
6 ORDERED HIS CONFINEMENT HAS BEEN GIVEN AT LEAST TEN DAYS NOTICE OF HIS
7 IMPENDING DISCHARGE OR CHANGE OF STATUS AND HAS, WITHIN SEVEN DAYS OF
8 RECEIPT OF SUCH NOTICE, APPROVED OR DISAPPROVED THE DISCHARGE OR CHANGE
9 OF STATUS. IF THE COURT DISAPPROVES, THE PATIENT MAY REQUEST A HEARING
10 TO DETERMINE HIS SUITABILITY FOR DISCHARGE OR CHANGE OF STATUS. THE
11 HEARING SHALL BE CONDUCTED BY SUCH COURT WITHIN SEVEN DAYS OF THE
12 PATIENT'S REQUEST. THE PATIENT SHALL BE GIVEN NOTICE OF THE TIME AND
13 PLACE OF THE HEARING AT LEAST THREE DAYS PRIOR TO THE HOLDING OF SUCH
14 HEARING.
15 B. THE PATIENT AND HIS ATTORNEY SHALL BE PRESENT AT SUCH HEARING
16 AND MAY CROSS EXAMINE WITNESSES AND PRESENT EVIDENCE ON BEHALF OF SUCH
17 PATIENT.
18 C. AT THE HEARING THE COURT SHALL CONSIDER THE CLINICAL RECORD
19 OF THE PATIENT AND THE TESTIMONY AND REPORTS OF THE INDIVIDUALS WHO HAVE
20 BEEN TREATING THE PERSON AND ANY REPORTS AND TESTIMONY OF INDEPENDENT
21 EVALUATORS, IF ANY, AND SUCH OTHER EVIDENCE AS THE COURT DEEMS PROPER.
22 D. IF THE COURT FINDS THAT THE PATIENT NO LONGER IS, AS A RESULT
23 OF MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF, IT SHALL ORDER
24 HIS DISCHARGE OR PERMIT THE CHANGE OF STATUS.
25 36-526. Guardianship; leaves of absence; transportation
26 A. IN ADDITION TO OR IN LIEU OF MAKING SUCH ORDERS AS ARE PRO-
27 VIDED BY SECTIONS 36-523 AND 36-525, THE COURT MAY, PURSUANT TO TITLE
28 14, CHAPTER 6, ARTICLE 3, ESTABLISH GUARDIANSHIP FOR THE PERSON OR THE
29 ESTATE OF THE PERSON OR BOTH AND MAY MAKE SUCH ORDERS AS ARE NECESSARY
30 TO PROVIDE FOR THE PERSON'S WELFARE PRIOR TO THE CONCLUSION OF THE
31 GUARDIANSHIP HEARING.
32 B. IF GUARDIANSHIP IS ESTABLISHED, PROCEEDINGS RELATING TO SUCH
33 GUARDIANSHIP SHALL BE AS PROVIDED BY LAW FOR GUARDIANS, EXCEPT THAT IF

1 SUCH PATIENT IS IN A MENTAL HEALTH TREATMENT FACILITY THE PROFESSIONAL
2 PERSON IN CHARGE OF SUCH FACILITY MAY AT ANY TIME DURING THE PATIENT'S
3 TREATMENT ISSUE A CERTIFICATE TO THE PATIENT INDICATING THAT SUCH
4 PATIENT IS RESTORED TO COMPETENCY AND ABLE TO MANAGE HIS OWN AFFAIRS.
5 A CERTIFIED COPY OF SUCH CERTIFICATE SHALL BE SENT BY SUCH PROFESSIONAL
6 PERSON TO THE SUPERIOR COURT UNDER WHOSE ORDER THE PATIENT WAS CONFINED
7 FOR TREATMENT AND THE COURT SHALL ENTER AN ORDER RESTORING SUCH PATIENT
8 TO FULL COMPETENCY AND FULL CIVIL RIGHTS.

9 C. THIS SECTION DOES NOT PROHIBIT THE PROFESSIONAL PERSON IN
10 CHARGE OF A FACILITY FROM PERMITTING ANY PATIENT WHO IS UNDERGOING
11 INVOLUNTARY TREATMENT IN SUCH FACILITY TO LEAVE THE FACILITY FOR PERIODS
12 OF UP TO THIRTY DAYS DURING THE PATIENT'S TREATMENT PERIOD.

13 D. THE COUNTY FROM WHICH THE PERSON IS COMMITTED SHALL BEAR
14 ANY TRANSPORTATION COSTS INCURRED PURSUANT TO THIS SECTION AND SHALL
15 PROVIDE TRANSPORTATION AS NECESSARY.

16 36-527. Release prior to expiration of term; liability

17 A. A PATIENT ORDERED CONFINED FOR TREATMENT PURSUANT TO SECTION
18 36-523, SUBSECTION A, MAY BE RELEASED FROM TREATMENT PRIOR TO THE
19 EXPIRATION OF ONE HUNDRED EIGHTY DAYS, WHEN, IN THE OPINION OF THE
20 PROFESSIONAL PERSON IN CHARGE, THE PATIENT NO LONGER IS, AS A RESULT
21 OF MENTAL DISORDER, A DANGER TO HIMSELF. THE PATIENT MAY AGREE TO
22 CONTINUE TREATMENT.

23 B. IF SUCH PATIENT IS RELEASED, PURSUANT TO SUBSECTION A OF THIS
24 SECTION, THE PROFESSIONAL PERSON IN CHARGE SHALL NOTIFY THE COURT WHICH
25 REMANDED THE PERSON FOR TREATMENT.

26 C. THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY SHALL NOT
27 BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ANY ACTION BY A PERSON RELEASED
28 PURSUANT TO SECTION 36-526, SUBSECTION C, OR THIS SECTION.

29 36-528. Unauthorized absences

30 A. WHEN ANY PATIENT WHO IS BEING INVOLUNTARILY EVALUATED OR
31 TREATED IS ABSENT WITHOUT PROPER AUTHORIZATION FROM A FACILITY, ANY
32 PEACE OFFICER, UPON VERBAL OR WRITTEN REQUEST OF THE PROFESSIONAL PERSON
33 IN CHARGE OF THE FACILITY AND WITHOUT THE NECESSITY OF A WARRANT OR

1 COURT ORDER, SHALL, OR ANY OFFICER OR EMPLOYEE OF THE FACILITY WHO HAS
2 BEEN PREVIOUSLY DESIGNATED IN WRITING BY THE PROFESSIONAL PERSON IN
3 CHARGE TO PERFORM SUCH DUTIES MAY TAKE INTO CUSTODY AND DELIVER SUCH
4 PATIENT TO THE FACILITY. SUCH OFFICERS AND EMPLOYEES OF THE FACILITY
5 HAVE THE POWERS AND DUTIES OF PEACE OFFICERS SO FAR AS IS NECESSARY TO
6 CARRY OUT THE PROVISIONS OF THIS SECTION.

7 B. ANY PERSON WHO INTENTIONALLY ASSISTS ANY PATIENT BEING INVOL-
8 UNTARILY EVALUATED OR TREATED IN A FACILITY TO BE ABSENT OR TO ATTEMPT
9 TO BE ABSENT FROM SUCH FACILITY WITHOUT PROPER AUTHORIZATION OR TO
10 RESIST BEING RETURNED TO SUCH FACILITY AFTER SUCH APSENCE IS GUILTY OF
11 A MISDEMEANOR.

12 ARTICLE 5. JUDICIAL REVIEW

13 36-531. Habeas corpus; right to be informed; request

14 A. A PATIENT DETAINED FOR INVOLUNTARY TREATMENT PURSUANT TO
15 THIS CHAPTER HAS THE RIGHT, AND SHALL BE INFORMED OF SUCH RIGHT, OF
16 REVIEW OF HIS DETENTION BY WRIT OF HABEAS CORPUS. SUCH PATIENT SHALL
17 BE INFORMED OF SUCH RIGHT BY THE PROFESSIONAL PERSON IN CHARGE OF THE
18 TREATING FACILITY OR HIS DESIGNATE NOT LESS THAN ONCE EACH SIXTY DAYS
19 WHILE HE IS BEING INVOLUNTARILY TREATED. SUCH NOTIFICATION SHALL BE
20 RECORDED IN THE CLINICAL RECORD OF THE PATIENT BY THE INDIVIDUAL WHO
21 SO INFORMED HIM.

22 B. IN ADDITION TO THE PROCEDURE FOR APPLYING FOR A WRIT OF
23 HABEAS CORPUS, AS PROVIDED IN TITLE 13, CHAPTER 8, A PATIENT RECEIVING
24 INVOLUNTARY TREATMENT PURSUANT TO ARTICLE 4, OR ANY PERSON ACTING ON HIS
25 BEHALF, MAY REQUEST SUCH PATIENT'S RELEASE PURSUANT TO THE FOLLOWING:

26 1. A REQUEST IN WRITING MAY BE PRESENTED TO ANY MEMBER OF THE
27 TREATMENT STAFF OF THE FACILITY PROVIDING THE PATIENT'S TREATMENT. SUCH
28 REQUEST MAY BE MADE ON A PRESCRIBED FORM WHICH SHALL BE PREPARED BY THE
29 FACILITY AND MADE AVAILABLE FOR USE BY ANY PERSON. SUCH COMPLETED FORM
30 SHALL IDENTIFY:

31 (a) THE PATIENT BEING INVOLUNTARILY TREATED AND THE FACILITY
32 AT WHICH HE IS BEING TREATED.

33 (b) THE PERSON TO WHOM THE REQUEST FOR RELEASE WAS MADE.

1 (c) THE PERSON MAKING THE REQUEST FOR RELEASE, INDICATING
2 WHETHER SUCH PERSON IS THE PATIENT BEING INVOLUNTARILY TREATED OR
3 SOMEONE ACTING ON HIS BEHALF.

4 2. THE REQUEST, WHEN SIGNED AND DATED BY THE PERSON MAKING THE
5 REQUEST FOR RELEASE, SHALL BE DELIVERED TO THE PROFESSIONAL PERSON IN
6 CHARGE OF THE TREATMENT FACILITY AND HE SHALL IMMEDIATELY DELIVER THE
7 FORM TO THE COURT. IF THE PERSON PRESENTING THE REQUEST REFUSES TO
8 SIGN THE FORM, THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY SHALL
9 PROCEED AS IF THE FORM HAD BEEN SIGNED AND SHALL NOTE ON THE FORM THE
10 CIRCUMSTANCES AS TO WHY THE FORM WAS NOT SIGNED.

11 C. THE REQUEST PROVIDED FOR IN SUBSECTION B MAY NOT BE MADE SOONER
12 THAN NINETY DAYS AFTER THE ISSUANCE OF THE ORDER FOR INVOLUNTARY TREAT-
13 MENT OR A HEARING ON A PREVIOUS PETITION FOR HABEAS CORPUS.

14 36-532. Jurisdiction; appointment of attorney;
15 duties; findings

16 A. JUDICIAL REVIEW BY HABEAS CORPUS PROCEEDING PURSUANT TO THIS
17 ARTICLE SHALL BE IN A SUPERIOR COURT IN THE COUNTY IN WHICH THE PATIENT
18 IS BEING INVOLUNTARILY TREATED. THE PATIENT SHALL BE INFORMED OF HIS
19 RIGHT TO CONSULT AN ATTORNEY BY THE PERSON OR COURT TO WHOM HE MAKES
20 HIS REQUEST FOR RELEASE AT THE TIME HE MAKES SUCH REQUEST AND, IN THE
21 CASE OF CONFINEMENT IN A FACILITY, BY THE COURT WITHIN ONE DAY OF
22 ITS RECEIPT OF NOTICE FROM THE PROFESSIONAL PERSON IN CHARGE OF THE
23 FACILITY WHEREIN THE PATIENT IS BEING TREATED. THE PATIENT SHALL BE
24 PERMITTED TO CONSULT AN ATTORNEY TO ASSIST HIM IN PREPARATION OF A
25 PETITION FOR THE WRIT OF HABEAS CORPUS AND TO REPRESENT HIM IN THE
26 HEARING. IF HE IS NOT REPRESENTED BY AN ATTORNEY, THE COURT SHALL,
27 WITHIN TWO DAYS OF ITS NOTICE TO THE PATIENT OF HIS RIGHT TO COUNSEL,
28 APPOINT AN ATTORNEY TO ASSIST HIM IN THE PREPARATION OF A PETITION AND
29 TO REPRESENT HIM IN THE HEARING.

30 B. THE PROFESSIONAL PERSON IN CHARGE OF THE MENTAL HEALTH TREAT-
31 MENT FACILITY, AT LEAST TWENTY-FOUR HOURS PRIOR TO THE HEARING, SHALL
32 PROVIDE THE PATIENT'S ATTORNEY WITH A COPY OF THE PATIENT'S MEDICAL
33 RECORDS.

1 C. THE PATIENT'S ATTORNEY SHALL FULFILL ALL OF THE FOLLOWING
2 MINIMAL DUTIES:

3 1. WITHIN TWENTY-FOUR HOURS OF APPOINTMENT CONDUCT AN INTERVIEW
4 WITH THE PATIENT.

5 2. AT LEAST TWENTY-FOUR HOURS PRIOR TO SUCH HEARING INTERVIEW
6 THE PATIENT'S TREATMENT PHYSICIAN IF AVAILABLE.

7 3. PRIOR TO THE HEARING EXAMINE THE CLINICAL RECORD OF THE
8 PATIENT.

9 4. PRIOR TO THE HEARING EXAMINE THE PATIENT'S COURT RECORDS
10 AS TO HIS INVOLUNTARY TREATMENT.

11 D. THE COURT SHALL EITHER RELEASE THE PATIENT OR ORDER AN
12 EVIDENTIARY HEARING TO BE HELD WITHIN FIVE DAYS AFTER THE PETITION IS
13 FILED, UNLESS THE PATIENT'S ATTORNEY REQUESTS A CONTINUANCE, WHICH MAY
14 BE FOR A MAXIMUM OF TEN DAYS. THE HEARING SHALL BE HELD IN THE COURT-
15 ROOM OR OTHER PLACE WITHIN THE COUNTY WHICH THE COURT MAY DESIGNATE TO
16 INSURE HUMANE TREATMENT WITH DUE REGARD TO THE COMFORT AND SAFETY OF
17 THE PATIENT AND OTHERS. THE COURT MAY EXCLUDE ALL PERSONS NOT NECESSARY
18 OR APPROPRIATE FOR THE CONDUCT OF THE HEARING, BUT THE HEARING SHALL BE
19 HELD IN OPEN COURT UPON DEMAND OF THE PATIENT, HIS ATTORNEY, GUARDIAN,
20 SPOUSE OR ADULT NEXT OF KIN. THE COURT MAY EXAMINE THE FACTS CONCERNING
21 THE PATIENT'S ALLEGED MENTAL DISORDER AND THE FACTS CONCERNING THE
22 SUFFICIENCY OR LEGALITY OF THE PROCEDURES LEADING TO THE PATIENT BEING
23 ORDERED TO UNDERGO INVOLUNTARY TREATMENT. THE EVIDENCE SHALL INCLUDE
24 THE CLINICAL RECORD OF THE PATIENT AND MEDICAL OR OTHER TESTIMONY AS
25 REQUIRED BY THE COURT. THE COURT MAY, IN ITS DISCRETION, APPOINT ONE
26 OR MORE PHYSICIANS TO EXAMINE THE PATIENT AND REPORT TO THE COURT AS
27 IT DEEMS NECESSARY. THE COURT SHALL HAVE ENTERED INTO EVIDENCE THE
28 TESTIMONY OR WRITTEN STATEMENT, OR BOTH, OF AN INDEPENDENT EVALUATOR.

29 E. IF THE COURT FINDS THAT THE PATIENT IS NOT, AS A RESULT OF
30 MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF, OR THAT HE HAD NOT
31 BEEN ADVISED OF OR HAD ACCEPTED VOLUNTARY TREATMENT, OR, WHERE APPLI-
32 CABLE, THAT A FACILITY PROVIDING TREATMENT IS NOT EQUIPPED AND STAFFED
33 TO PROVIDE TREATMENT, HE SHALL BE RELEASED.

ARTICLE 6. CIVIL, LEGAL RIGHTS

36-535. Rights not impaired; psychological analysis;
cause of action; discrimination

A. EACH PERSON UNDERGOING INVOLUNTARY TREATMENT OR EVALUATION PURSUANT TO THIS CHAPTER SHALL BE ENTITLED TO ALL THE APPLICABLE RIGHTS SET FORTH IN THIS CHAPTER AND TO SUCH RIGHTS AS THE BOARD SHALL SPECIFY BY RULE FOR THE PERIOD HE IS UNDERGOING INVOLUNTARY TREATMENT OR EVALUATION. A LIST OF ALL RIGHTS SHALL BE PROMINENTLY POSTED IN ENGLISH AND SPANISH IN ALL FACILITIES PROVIDING SUCH EVALUATION OR TREATMENT SERVICES AND SHALL OTHERWISE BE BROUGHT TO THE ATTENTION OF A DETAINED PERSON AS THIS CHAPTER OR THE BOARD MAY DIRECT BY RULE.

B. THIS CHAPTER DOES NOT PROHIBIT ANY FACILITY WHICH IS DETAINING A PERSON PURSUANT TO THIS CHAPTER FROM RELEASING TO A MEMBER OF THE FAMILY OF THE PERSON THE INFORMATION THAT THE PERSON IS DETAINED IN THE FACILITY OR THAT THE PERSON IS SERIOUSLY PHYSICALLY ILL OR DEAD IF THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY DETERMINES THAT THE RELEASE OF SUCH INFORMATION IS IN THE BEST INTERESTS OF THE PERSON.

C. WHENEVER A HEARING IS TO BE CONDUCTED IN A SUPERIOR COURT PURSUANT TO ARTICLE 3, 4 OR 5 OR PURSUANT TO THE ESTABLISHMENT OF GUARDIANSHIP UNDER TITLE 14, CHAPTER 6, THE PERSON ALLEGED TO BE, AS A RESULT OF MENTAL DISORDER, A DANGER TO OTHERS OR TO HIMSELF OR GRAVELY DISABLED SHALL HAVE ANALYSIS OF HIS PSYCHOLOGICAL CONDITION BY AN INDEPENDENT EVALUATOR, EITHER A PHYSICIAN OR PSYCHOLOGIST CERTIFIED PURSUANT TO TITLE 32, CHAPTER 19.1, WHO IS SELECTED BY THE PROPOSED PATIENT, PROPOSED WARD OR HIS ATTORNEY. IF THE PERSON FILES AN AFFIDAVIT, UNDER OATH, THAT HE HAS NO MEANS TO PAY FOR SUCH AN ANALYSIS AND IF SUCH AFFIDAVIT IS FOUND TRUE BY THE COURT, THE EXPENSE OF SUCH ANALYSIS SHALL BE A CHARGE UPON THE COUNTY IN WHICH THE HEARING IS HELD, EXCEPT THAT IN THE CASE OF A HABEAS CORPUS HEARING THE CHARGE SHALL BE UPON THE COUNTY IN WHICH THE COURT IS FOUND WHICH ORDERED THE INVOLUNTARY TREATMENT.

D. AT THE TIME OF ANY HEARING PURSUANT TO ANY PROVISION OF THIS CHAPTER, THE PERSON ALLEGED TO BE, AS A RESULT OF MENTAL DISORDER, A

1 DANGER TO OTHERS OR TO HIMSELF, OR GRAVELY DISABLED SHALL NOT BE SO
2 UNDER THE INFLUENCE OR SO SUFFER THE EFFECTS OF DRUGS, MEDICATION OR
3 OTHER TREATMENT AS TO BE HAMPERED IN PREPARING FOR OR PARTICIPATING
4 IN THE HEARING. THE COURT AT THE TIME OF THE HEARING SHALL BE PRESENTED
5 A RECORD OF ALL DRUGS, MEDICATION OR OTHER TREATMENT WHICH THE PERSON
6 HAS RECEIVED DURING THE FORTY-EIGHT HOURS IMMEDIATELY PRIOR TO THE
7 HEARING.

8 E. A PERSON'S RIGHTS UNDER SECTION 36-536, SUBSECTION A,
9 PARAGRAPHS 3 AND 5, OF THIS ARTICLE, AND SECTION 36-538, PARAGRAPHS 2,
10 3 AND 4 OF THIS ARTICLE, MAY BE DENIED FOR GOOD CAUSE BY THE PROFES-
11 SIONAL PERSON IN CHARGE OF THE FACILITY. ALL OTHER RIGHTS IN THIS
12 ARTICLE MAY BE DENIED ONLY AS PROVIDED OR BY COURT ORDER. DENIAL OF
13 A RIGHT AND AN EXPLANATION THEREOF SHALL IN ALL CASES BE ENTERED INTO
14 THE PERSON'S CLINICAL RECORD AND INFORMATION PERTAINING TO A DENIAL OF
15 RIGHTS CONTAINED IN THE PERSON'S CLINICAL RECORD SHALL BE MADE AVAILABLE
16 ON REQUEST TO THE PERSON, HIS ATTORNEY, HIS GUARDIAN, TO THE MEMBERS OF
17 THE STATE LEGISLATURE OR TO MEMBERS OF THE BOARD OF SUPERVISORS OF THE
18 COUNTY FROM WHICH SUCH PERSON WAS COMMITTED.

19 F. IN ADDITION TO THE PENALTY PROVIDED FOR IN SECTION 36-506,
20 ANY VIOLATION OF A PERSON'S RIGHTS UNDER THIS ARTICLE SHALL GIVE HIM
21 A CAUSE OF ACTION FOR THE GREATER OF EITHER ONE THOUSAND DOLLARS OR
22 THREE TIMES THE ACTUAL AMOUNT OF DAMAGES. IT IS NOT A PREREQUISITE
23 TO SUCH AN ACTION THAT THE PLAINTIFF SUFFER OR BE THREATENED WITH
24 ACTUAL DAMAGES.

25 G. A PERSON, SOLELY BECAUSE OF UNDERGOING INVOLUNTARY EVALUATION
26 OR TREATMENT PURSUANT TO THIS CHAPTER, SHALL NOT BE DEPRIVED OF ANY
27 CIVIL RIGHT, INCLUDING BUT NOT LIMITED TO THE RIGHT TO DISPOSE OF
28 PROPERTY, SUE AND BE SUED, ENTER INTO CONTRACTUAL RELATIONSHIPS AND
29 VOTE. INVOLUNTARY TREATMENT OR EVALUATION PURSUANT TO THIS CHAPTER
30 IS NOT OF ITSELF A DETERMINATION OF LEGAL INCOMPETENCY, EXCEPT TO THE
31 EXTENT PROVIDED IN SECTION 36-537, SUBSECTION D.

32 H. A PERSON WHO IS OR HAS BEEN INVOLUNTARILY DETAINED IN A
33 FACILITY OR HAS RECEIVED SERVICES FOR A MENTAL DISORDER SHALL NOT BE

1 DISCRIMINATED AGAINST IN ANY MANNER, INCLUDING BUT NOT LIMITED TO,
2 DISCRIMINATION IN ANY OF THE FOLLOWING SITUATIONS:

- 3 1. SEEKING EMPLOYMENT.
- 4 2. RESUMING OR CONTINUING PROFESSIONAL PRACTICE OR PREVIOUS
5 OCCUPATION, INCLUDING CIVIL SERVICE EMPLOYMENT AND OCCUPATIONS LICENSED
6 BY THE STATE.
- 7 3. OBTAINING OR RETAINING HOUSING.
- 8 4. OBTAINING OR RETAINING LICENSES OR PERMITS, INCLUDING BUT
9 NOT LIMITED TO, MOTOR VEHICLE LICENSES AND PROFESSIONAL OR OCCUPATIONAL
10 LICENSES.

11 I. DISCRIMINATION IN THE AREAS DESCRIBED IN SUBSECTION H OF
12 THIS SECTION MEANS ANY DENIAL ON THE GROUNDS OF HOSPITALIZATION OR
13 OUTPATIENT CARE AND TREATMENT UNRELATED TO A PERSON'S PRESENT CAPACITY
14 TO MEET THE STANDARDS APPLICABLE TO ALL PERSONS. APPLICATIONS FOR
15 POSITIONS, LICENSES AND HOUSING SHALL CONTAIN NO REQUESTS FOR INFORMA-
16 TION WHICH ENCOURAGE SUCH DISCRIMINATION.

17 36-536. Fingerprinting; photographing; storage space;
18 information and records; clothing; personal
19 possessions; money; work

20 A. EVERY PATIENT UNDERGOING INVOLUNTARY EVALUATION OR TREATMENT
21 PURSUANT TO ANY PROVISION OF THIS CHAPTER SHALL:

- 22 1. NOT BE FINGERPRINTED EXCEPT AS REGULATIONS OF THE BOARD MAY
23 PERMIT FOR EXCEPTIONAL CIRCUMSTANCES.
- 24 2. NOT BE PHOTOGRAPHED WITHOUT CONSENT OF THE PATIENT AND HIS
25 ATTORNEY OR GUARDIAN, EXCEPT THAT HE MAY BE PHOTOGRAPHED UPON ADMISSION
26 TO A FACILITY FOR IDENTIFICATION AND ADMINISTRATIVE PURPOSES OF THE
27 FACILITY. SUCH PHOTOGRAPH SHALL BE CONFIDENTIAL AND SHALL NOT BE
28 RELEASED BY THE FACILITY EXCEPT PURSUANT TO COURT ORDER.
- 29 3. HAVE ACCESS TO INDIVIDUAL STORAGE SPACE FOR HIS PRIVATE USE
30 WHEN INVOLUNTARILY DETAINED.
- 31 4. HAVE ALL INFORMATION AND RECORDS OBTAINED IN THE COURSE OF
32 EVALUATION, EXAMINATION OR TREATMENT KEPT CONFIDENTIAL AND NOT AS
33 PUBLIC RECORDS, EXCEPT AS THE REQUIREMENTS OF A HEARING PURSUANT TO

1 THIS CHAPTER MAY NECESSITATE A DIFFERENT PROCEDURE. SUCH INFORMATION
2 AND RECORDS MAY ONLY BE DISCLOSED, PURSUANT TO RULES ESTABLISHED BY
3 THE BOARD TO:

4 (a) PHYSICIANS AND PROVIDERS OF HEALTH, MENTAL HEALTH OR SOCIAL
5 AND WELFARE SERVICES INVOLVED IN CARING, TREATING OR REHABILITATING
6 THE PATIENT.

7 (b) INDIVIDUALS TO WHOM THE PATIENT HAS GIVEN CONSENT TO HAVE
8 INFORMATION DISCLOSED.

9 (c) PERSONS LEGALLY REPRESENTING THE PATIENT, AND IN SUCH CASE,
10 THE BOARD'S RULES SHALL NOT DELAY COMPLETE DISCLOSURE.

11 (d) PERSONS AUTHORIZED BY A COURT ORDER.

12 (e) PERSONS DOING RESEARCH, PROVIDED THAT THE BOARD ESTABLISHES
13 RULES FOR THE CONDUCT OF SUCH RESEARCH, AS WILL INSURE THE ANONYMITY
14 OF THE PATIENT.

15 (f) AS NEEDED TO AID IN THE INVESTIGATION OF A CRIME WHICH
16 THE PATIENT EITHER COMMITTED OR WAS THE VICTIM OF WHILE UNDERGOING
17 INVOLUNTARY TREATMENT OR EVALUATION PURSUANT TO THIS CHAPTER. ONLY
18 INFORMATION RELATING DIRECTLY TO THE FACTUAL CIRCUMSTANCES OF THE
19 COMMISSION OF THE CRIME SHALL BE RELEASED IN SUCH INVESTIGATION.
20 INFORMATION MAY BE RELEASED TO GOVERNMENTAL LAW ENFORCEMENT AGENCIES
21 WHEN NECESSARY TO SECURE THE RETURN OF A PATIENT WHO IS ON UNAUTHORIZED
22 ABSENCE FROM ANY FACILITY WHERE SUCH PATIENT WAS INVOLUNTARILY DETAINED.

23 5. BE PERMITTED TO WEAR HIS OWN CLOTHING, TO KEEP AND USE HIS
24 OWN PERSONAL POSSESSIONS INCLUDING HIS TOILET ARTICLES AND TO KEEP AND
25 BE ALLOWED TO SPEND A REASONABLE SUM OF HIS OWN MONEY FOR CANTEEN
26 EXPENSES AND SMALL PURCHASES.

27 B. IF A PATIENT OF THE STATE HOSPITAL WORKS, SUCH WORK SHALL
28 BE IN THE PATIENT'S INTEREST. IF THE PRIMARY PURPOSE OF SUCH WORK
29 IS TO BENEFIT THE STATE HOSPITAL OR ANY AGENCY OF THE STATE, THE
30 PATIENT MUST BE EMPLOYED AND PAID IN ACCORDANCE WITH LAW. IF THE
31 PURPOSE OF THE WORK IS THERAPEUTIC, THE PATIENT MAY OR MAY NOT BE
32 PAID AS CIRCUMSTANCES INDICATE. SUCH THERAPEUTIC WORK MUST BE PART
33 OF A PLANNED PROGRAM OF TREATMENT DESCRIBED IN THE PATIENT'S RECORD

1 WITH THE RATIONALE FOR THE WORK-TREATMENT INCLUDED. IT MUST BE
2 PERIODICALLY SUBJECT TO REVIEW BY THE APPROPRIATE HOSPITAL REVIEW
3 PROCEDURES. THE TERM "WORK" DOES NOT MEAN MATTERS OF PERSONAL
4 HOUSEKEEPING OR PERSONAL MAINTENANCE.

5 36-537. Quality of treatment; emergency medical care;
6 seclusion or restraint

7 A. EVERY PERSON DETAINED INVOLUNTARILY FOR TREATMENT OR EVALUA-
8 TION PURSUANT TO THIS CHAPTER IS ENTITLED TO RECEIVE PHYSICAL AND
9 PSYCHIATRIC CARE AND TREATMENT FOR THE FULL PERIOD HE IS DETAINED.
10 SUCH TREATMENT SHALL BE SUITED TO THE NEEDS OF THE INDIVIDUAL AND
11 SHALL BE HUMANELY, SKILLFULLY AND SAFELY ADMINISTERED, AND THE FACILITY
12 PROVIDING CARE AND TREATMENT SHALL KEEP A CLINICAL RECORD FOR EACH
13 PERSON WHICH DETAILS ALL MEDICAL AND PSYCHIATRIC EVALUATIONS AND ALL
14 CARE AND TREATMENT RECEIVED BY THE PERSON.

15 B. IN ORDER TO INSURE ADEQUATE PSYCHIATRIC CARE AND TREATMENT
16 AS REQUIRED BY SUBSECTION A, A FACILITY PROVIDING THE CARE AND TREAT-
17 MENT SHALL PROVIDE, IN ACCORDANCE WITH RULES ESTABLISHED BY THE BOARD:

18 1. A TREATMENT PROGRAM BASED ON THE INDIVIDUAL NEEDS OF THE
19 PERSON, AS ASCERTAINED THROUGH EVALUATION, AND UTILIZING ADEQUATE
20 MODALITIES.

21 2. CAREFUL AND PERIODIC REEXAMINATIONS AND EVALUATIONS OF EACH
22 PERSON BEING TREATED BY APPROPRIATE PROFESSIONAL PERSONS, INCLUDING A
23 PHYSICIAN. SUCH REEXAMINATIONS AND EVALUATIONS SHALL BE MADE AT LEAST
24 ONCE EACH NINETY DAYS TO INSURE PROPER CARE AND TREATMENT AND TO
25 INSURE THAT THE INDIVIDUAL IS DETAINED NO LONGER THAN NECESSARY.

26 C. IN ORDER TO INSURE ADEQUATE PHYSICAL HEALTH CARE AND TREATMENT
27 AS REQUIRED BY SUBSECTION A, THE FACILITY PROVIDING THE CARE AND TREAT-
28 MENT SHALL PROVIDE, IN ACCORDANCE WITH RULES ESTABLISHED BY THE BOARD:

29 1. A FULL PHYSICAL EXAMINATION ONCE A YEAR.

30 2. ADEQUATE MEDICAL TREATMENT IN THE LIGHT OF PRESENT MEDICAL
31 KNOWLEDGE IN ACCORDANCE WITH THE RESULTS OF SUCH EXAMINATIONS.

32 D. THE PROFESSIONAL PERSON IN CHARGE OF ANY FACILITY DETAINING
33 A PATIENT PURSUANT TO THIS CHAPTER SHALL OBTAIN CONSENT FOR A SURGICAL

1 OPERATION NECESSARY TO SAVE THE LIFE, HEALTH, EYESIGHT, HEARING OR
2 A LIMB OF SUCH PATIENT FROM THE PATIENT WHEN, IN THE OPINION OF THE
3 PROFESSIONAL PERSON IN CHARGE OF THE FACILITY, THE PATIENT HAS SUFFI-
4 CIENT CAPACITY TO MAKE A REASONABLE DECISION, THE PATIENT HAS NOT BEEN
5 ADJUDGED LEGALLY INCOMPETENT AND IS NOT A MINOR. NO OTHER CONSENT IS
6 NECESSARY. IF THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY
7 BELIEVES THE PATIENT DOES NOT HAVE SUFFICIENT CAPACITY TO MAKE A
8 REASONABLE DECISION OR IF THE PATIENT HAS BEEN ADJUDGED LEGALLY
9 INCOMPETENT OR IS A MINOR CONSENT SHALL BE OBTAINED FROM THE PROPER
10 RELATIVES OR GUARDIAN. IF SUCH INDIVIDUALS CANNOT BE FOUND AFTER
11 DILIGENT SEARCH, IN AN EMERGENCY THE PROFESSIONAL PERSON IN CHARGE OF
12 THE FACILITY, BEING NOTIFIED OF THE PERTINENT MEDICAL FACTS, MAY GIVE
13 SUCH CONSENT IF TIME WILL NOT PERMIT OBTAINING APPROPRIATE JUDICIAL
14 AUTHORITY.

15 E. MECHANICAL RESTRAINTS SHALL NOT BE APPLIED TO A PATIENT NOR
16 SHALL SUCH PATIENT BE SECLUDED UNLESS, IN THE CASE OF CONFINEMENT IN
17 A FACILITY, THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY OR A
18 MEMBER OF THE MEDICAL STAFF OF THE FACILITY DETERMINES THAT SECLUSION
19 OR RESTRAINT IS NECESSARY FOR THE SAFETY OF THE PATIENT OR OTHERS.
20 EACH USE OF A RESTRAINT OR SECLUSION AND THE REASONS THEREFOR SHALL
21 BE MADE PART OF THE CLINICAL RECORD OF THE PATIENT UNDER THE SIGNATURE
22 OF THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY OR A MEMBER OF
23 THE MEDICAL STAFF.

24 36-538. Visitation; telephone; correspondence;
25 religious freedom

26 EVERY PATIENT INVOLUNTARILY DETAINED FOR EVALUATION OR TREATMENT
27 PURSUANT TO THIS CHAPTER HAS THE FOLLOWING ADDITIONAL RIGHTS:

28 1. TO BE VISITED IN PRIVATE AT ALL REASONABLE TIMES BY HIS
29 PERSONAL PHYSICIAN, ATTORNEY AND HIS CLERGYMAN, AND TO BE VISITED AT ALL
30 REASONABLE TIMES BY ANY OTHER PERSON SUBJECT TO LIMITATIONS FOR GOOD
31 CAUSE AS THE PROFESSIONAL PERSON IN CHARGE OF THE FACILITY MAY DIRECT.

32 2. TO HAVE REASONABLE ACCESS TO TELEPHONES BETWEEN THE HOURS
33 OF NINE A.M. AND NINE P.M. TO MAKE AND RECEIVE BOTH CONFIDENTIAL AND

1 NON-CONFIDENTIAL CALLS. LOCAL CALLS SHALL BE ALLOWED WITHOUT CHARGE
2 AND LONG DISTANCE CALLS SHALL BE ALLOWED IF THE PATIENT CAN PAY THE
3 FACILITY FOR THEM OR CAN PROPERLY CHARGE THEM TO ANOTHER NUMBER.
4 THE FACILITY MAY RESTRICT SUCH PHONE PRIVILEGES OF A PATIENT WHEN
5 NOTIFIED BY THE PERSON RECEIVING THE CALLS THAT HE IS BEING HARRASSED
6 BY SUCH CALLS AND WISHES THEM CURTAILED OR HALTED.

7 3. TO BE FURNISHED WITH REASONABLE AMOUNTS OF STATIONERY AND
8 POSTAGE AND TO BE PERMITTED TO CORRESPOND BY SEALED MAIL WITHOUT
9 CENSORSHIP WITH ANY PERSON, UNLESS THE PERSON RECEIVING SUCH CORRES-
10 PONDENCE STATES THAT HE IS BEING HARRASSED BY SUCH CORRESPONDENCE AND
11 WISHES IT CURTAILED OR HALTED, IN WHICH CASE THE FACILITY MAY RESTRICT
12 OR HALT SUCH CORRESPONDENCE.

13 4. TO ENJOY RELIGIOUS FREEDOM AND THE RIGHT TO CONTINUE THE
14 PRACTICE OF HIS RELIGION IN ACCORDANCE WITH ITS TENENTS DURING THE
15 DETAINMENT, EXCEPT THAT SUCH RIGHT MAY NOT INTERFERE WITH THE ESTAB-
16 LISHED ORDER OR RELIGIOUS SERVICES AVAILABLE AT THE FACILITY AND ANY
17 RELIGIOUS MINISTRATION RENDERED BY A CLERGYMAN SHALL BE PERSONAL TO
18 THE PATIENT DESIRING THE SAME.

19 Sec. 4. Section 11-584, Arizona Revised Statutes, is amended
20 to read:

21 11-584. Duties

22 The public defender shall perform the following duties:

23 1. Upon order of the court, he shall defend, advise and counsel
24 without expense to the defendant any person who is not financially able
25 to employ counsel and who is charged with the commission of a felony.
26 The public defender shall also defend, advise and counsel such defendants
27 at the preliminary hearing and prosecute all appeals to a higher court
28 which arise from those cases which he is defending.

29 2. He shall serve as attorney for the patients in all sanity
30 hearings where IF appointed by the court. ~~under the provisions of~~
31 ~~section-26-514.~~

32 3. The public defender shall keep a record of all services
33 rendered by him in that capacity and shall file with the board of
34 supervisors an annual report of those services.

1 Sec. 5. Section 14-863, Arizona Revised Statutes, is amended
2 to read:

3 14-863. Guardian of incompetent; powers and duties; bond

4 A. If after hearing upon the petition, it appears to the court
5 that the person is incapable of taking care of himself or managing his
6 property, the court shall appoint a guardian of his person or estate,
7 or both.

8 B. THE COURT MAY SPECIFY PARTICULAR AREAS IN WHICH THE PARTY
9 REMAINS COMPETENT INCLUDING, BUT NOT LIMITED TO, HOLDING A LICENSE TO
10 OPERATE A MOTOR VEHICLE AND THE POWER TO EXECUTE A CONTRACT.

11 B. C. The guardian so appointed shall have the care and custody
12 of the person of his ward, or the care and management of his estate,
13 or both, until legally discharged. He shall give bond to the ward,
14 in like manner and with like conditions, and shall have the powers
15 and duties prescribed for the guardian of a minor.

16 Sec. 6. Title 14, chapter 6, Arizona Revised Statutes, is
17 amended by adding articles 6 and 7, to read:

18 ARTICLE 6. GUARDIANSHIP OF GRAVELY
19 DISABLED PERSON

20 14-911. Definitions

21 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

22 1. "BOARD" MEANS THE STATE HOSPITAL BOARD.

23 2. "DANGER TO OTHERS" MEANS A PERSON WHO HAS ATTEMPTED TO
24 INFLECT, OR HAS INFLECTED, SUBSTANTIAL BODILY HARM UPON A PERSON WITHIN
25 TWELVE MONTHS PRECEDING THE HEARING ON INVOLUNTARY TREATMENT AND WHO
26 AT THE TIME OF THE HEARING PRESENTS A THREAT OF COMMITTING SUBSTANTIAL
27 BODILY HARM TO OTHERS.

28 3. "DANGER TO SELF" MEANS BEHAVIOR WHICH CAUSES SEVERE OR
29 IRREPARABLE INJURY TO REPUTATION OR ESTATE OR BODILY HARM TO SELF,
30 INCLUDING ATTEMPTED SUICIDE DANGER TO SELF IS NOT PRESENT IF THE
31 HAZARDS TO SELF ARE RESTRICTED TO THOSE WHICH MAY ARISE FROM CONDITIONS
32 DEFINED UNDER GRAVE DISABILITY.

33 4. "EVALUATION" MEANS A MULTIDISCIPLINARY PROFESSIONAL ANALYSIS

1 OF A PERSON'S MEDICAL, PSYCHOLOGICAL, SOCIAL, FINANCIAL AND LEGAL
2 CONDITIONS AS MAY APPEAR TO CONSTITUTE A PROBLEM. PERSONS PROVIDING
3 EVALUATION SERVICES SHALL BE PROPERLY QUALIFIED. THE PSYCHIATRIC
4 EXAMINATION SHALL BE PERFORMED BY A QUALIFIED PSYCHIATRIST IF POSSIBLE
5 AND SHALL BE PERFORMED IN ALL CASES BY A LICENSED PHYSICIAN.

6 5. "EXAMINATION" MEANS AN EXPLORATION OF THE PERSON'S PAST
7 PSYCHIATRIC HISTORY, OF THE CIRCUMSTANCES LEADING UP TO THE PERSON'S
8 PRESENTATION AND A PSYCHIATRIC EXPLORATION OF THE PERSON'S PRESENT
9 MENTAL CONDITION.

10 6. "GRAVELY DISABLED" MEANS A CONDITION IN WHICH A PERSON IS
11 UNABLE TO PROVIDE FOR HIS BASIC PERSONAL NEEDS FOR FOOD, CLOTHING AND
12 SHELTER AS A RESULT OF A MENTAL DISORDER OF A TYPE WHICH HAS:

13 (a) DEVELOPED OVER A LONG PERIOD OF TIME AND HAS BEEN OF LONG
14 DURATION; OR

15 (b) DEVELOPED AS A MANIFESTATION OF DEGENERATIVE BRAIN DISEASE
16 DURING OLD AGE; OR

17 (c) DEVELOPED AS A MANIFESTATION OF SOME OTHER DEGENERATIVE
18 PHYSICAL ILLNESS OF LONG DURATION.

19 7. "INDEPENDENT EVALUATOR" MEANS A LICENSED PHYSICIAN OR
20 CERTIFIED PSYCHOLOGIST SELECTED BY A PROPOSED PATIENT, PROPOSED WARD,
21 BY A PERSON SEEKING REVIEW OF AN ORDER FOR HIS INVOLUNTARY TREATMENT
22 OR OF HIS STATUS AS A WARD OR BY THE ATTORNEY OF ONE OF SUCH PERSONS.

23 8. "LICENSED PHYSICIAN" MEANS ANY PHYSICIAN OR SURGEON LICENSED
24 BY THIS STATE TO PRACTICE MEDICINE PURSUANT TO TITLE 32, CHAPTER
25 13 OR 17.

26 9. "MENTAL DISORDER" MEANS, FOR PURPOSES OF INVOLUNTARY EVALUA-
27 TION OR TREATMENT OF MENTALLY DISORDERED PERSONS, A SUBSTANTIAL DISORDER
28 OF THOUGHT, AFFECT, COGNITION OR MEMORY, BUT WHICH IS DISTINGUISHED FROM
29 CONDITIONS WHICH ARE PRIMARILY THOSE OF DRUG ABUSE, ALCOHOLISM OR
30 MENTAL RETARDATION. "MENTAL DISORDER" IS FURTHER DISTINGUISHED FROM
31 THE DECLINING MENTAL ABILITIES THAT DIRECTLY ACCOMPANY IMPENDING DEATH
32 AND FROM THE MENTAL MANIFESTATIONS ASSOCIATED WITH TRANSITORY PHYSICAL
33 ILLNESS.

1 10. "MENTAL HEALTH EVALUATION AGENCY" MEANS A HEALTH CARE
2 INSTITUTION LICENSED BY THE STATE DEPARTMENT OF PUBLIC HEALTH AND
3 WHICH HAS BEEN APPROVED, PURSUANT TO SECTION 36-421, FOR A MODIFICA-
4 TION OF SERVICE TO INCLUDE THOSE SERVICES REQUIRED OF SUCH AGENCY BY
5 THIS ARTICLE AND TITLE 36, CHAPTER 5.

6 11. "MENTAL HEALTH SCREENING AGENCY" MEANS A HEALTH CARE INSTI-
7 TUTION LICENSED BY THE STATE DEPARTMENT OF PUBLIC HEALTH AND WHICH
8 HAS BEEN APPROVED PURSUANT TO SECTION 36-421 FOR A MODIFICATION OF
9 SERVICE TO INCLUDE THOSE SERVICES REQUIRED OF SUCH AGENCY BY THIS
10 ARTICLE AND TITLE 36, CHAPTER 5.

11 12. "MENTAL HEALTH TREATMENT FACILITY" MEANS A HEALTH CARE
12 INSTITUTION LICENSED BY THE STATE DEPARTMENT OF PUBLIC HEALTH AND
13 WHICH HAS BEEN APPROVED PURSUANT TO SECTION 36-421 FOR A MODIFICATION
14 OF SERVICE TO INCLUDE THOSE SERVICES WHICH ARE REQUIRED OF SUCH
15 FACILITY BY THIS ARTICLE AND TITLE 36, CHAPTER 5.

16 13. "PRESCRIBED FORM" MEANS A FORM ESTABLISHED BY THE RULES OF
17 THE BOARD.

18 14. "PROFESSIONAL PERSON IN CHARGE OF A FACILITY" MEANS A
19 PSYCHIATRIST WHO IS DESIGNATED IN WRITING BY THE GOVERNING BOARD,
20 AGENCY OR PERSON HAVING CONTROL OF THE FACILITY AS THE PROFESSIONAL
21 PERSON IN CHARGE OF THE FACILITY FOR THE PURPOSES OF THIS ARTICLE AND
22 TITLE 36, CHAPTER 5, AND INCLUDES THE SUPERINTENDENT OF THE STATE
23 HOSPITAL. IF A LICENSED PHYSICIAN WHO IS A PSYCHIATRIST IS NOT
24 AVAILABLE TO THE FACILITY FOR THE PURPOSE OF BEING DESIGNATED, A
25 LICENSED PHYSICIAN MAY BE DESIGNATED.

26 15. "PROPOSED WARD" MEANS A PERSON FOR WHOM A REQUEST FOR
27 EVALUATION HAS BEEN MADE PURSUANT TO TITLE 36, CHAPTER 5, ARTICLE 2,
28 OR FOR WHOM A PETITION HAS BEEN FILED PURSUANT TO THIS ARTICLE.

29 16. "PSYCHIATRIST" MEANS A LICENSED PHYSICIAN WHO HAS COMPLETED
30 THREE YEARS GRADUATE TRAINING IN PSYCHIATRY IN A PROGRAM APPROVED BY
31 THE AMERICAN MEDICAL ASSOCIATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION.

32 17. "STATE HOSPITAL" MEANS THE ARIZONA STATE HOSPITAL.

33 18. "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF THE STATE
34 HOSPITAL.

1 14-912. Appointment of guardian
2 A GUARDIAN OF THE PERSON OR ESTATE, OR OF BOTH, MAY BE APPOINTED
3 PURSUANT TO THIS ARTICLE FOR ANY PERSON WHO IS GRAVELY DISABLED AS A
4 RESULT OF MENTAL DISORDER.

5 14-913. Petition
6 A. WHEN THE PROFESSIONAL PERSON IN CHARGE OF A FACILITY PROVIDING
7 EVALUATION OR TREATMENT DETERMINES THAT A PERSON IN HIS CARE IS GRAVELY
8 DISABLED AS A RESULT OF MENTAL DISORDER, HE MAY FILE A PETITION TO
9 ESTABLISH GUARDIANSHIP IN A SUPERIOR COURT IN THE COUNTY IN WHICH THE
10 FACILITY IS LOCATED.

11 B. THE PETITION FOR GUARDIANSHIP SHALL BE VERIFIED AND SHALL
12 INCLUDE THE OPINION OF TWO PHYSICIANS THAT THE PERSON FOR WHOM
13 GUARDIANSHIP IS SOUGHT IS GRAVELY DISABLED AS A RESULT OF MENTAL
14 DISORDER.

15 14-914. Temporary guardianship
16 AFTER FILING OF A PETITION, AS PROVIDED FOR IN SECTION 14-913,
17 THE COURT SHALL CONDUCT A HEARING ON THE APPOINTMENT OF A TEMPORARY
18 GUARDIAN. PRIOR TO SUCH HEARING THE COURT MAY APPOINT A GUARDIAN FOR
19 A PERIOD NOT TO EXCEED THIRTY DAYS AND ON THE BASIS OF THE PETITION
20 IF THE COURT IS SATISFIED THAT SUCH PETITION SHOWS A NECESSITY FOR A
21 TEMPORARY GUARDIAN. SUCH GUARDIANSHIP EXPIRES AFTER THIRTY DAYS UNLESS
22 PRIOR TO THAT DATE THE COURT CONDUCTS A HEARING ON THE ISSUE OF WHETHER
23 THE PROPOSED WARD IS GRAVELY DISABLED.

24 14-915. Temporary guardian; arrangements; duration
25 A TEMPORARY GUARDIAN UNDER THIS ARTICLE SHALL MAKE ARRANGEMENTS
26 NECESSARY TO PROVIDE THE PROPOSED WARD WITH FOOD, SHELTER AND CARE
27 PENDING THE DETERMINATION OF GUARDIANSHIP. HE SHALL GIVE PREFERENCE
28 TO ARRANGEMENTS WHICH ALLOW THE PROPOSED WARD TO RETURN TO HIS HOME,
29 FAMILY OR FRIENDS. IF NECESSARY, THE TEMPORARY GUARDIAN MAY REQUIRE
30 THE PROPOSED WARD TO BE DETAINED IN A MENTAL HEALTH TREATMENT OR
31 EVALUATION FACILITY.

32 14-916. Hearing
33 A. THE COURT SHALL CONDUCT A HEARING ON THE PETITION FOR GUARDIAN-
34 SHIP WITHIN THIRTY DAYS OF THE FILING OF THE PETITION, AND SHALL CAUSE

1 NOTICE TO BE GIVEN TO THE PROPOSED WARD OF THE TIME AND PLACE OF HEARING
2 NOT LESS THAN SEVEN DAYS BEFORE THE HEARING. NOT LESS THAN FOUR DAYS
3 BEFORE THE HEARING THE COURT SHALL APPOINT AN ATTORNEY FOR THE PROPOSED
4 WARD IF THE PROPOSED WARD IS NOT REPRESENTED BY AN ATTORNEY.

5 B. THE PROFESSIONAL PERSON IN CHARGE OF THE MENTAL HEALTH
6 EVALUATION OR TREATMENT FACILITY, AT LEAST TWENTY-FOUR HOURS PRIOR
7 TO THE HEARING, SHALL PROVIDE THE PROPOSED WARD'S ATTORNEY WITH
8 COPIES OF THE PETITION FOR EVALUATION, PREPETITION SCREENING REPORT,
9 EVALUATION REPORT AND THE MEDICAL RECORDS OF THE PROPOSED WARD.

10 C. THE PROPOSED WARD'S ATTORNEY SHALL FULFILL THE FOLLOWING
11 MINIMAL DUTIES:

12 1. WITHIN TWENTY-FOUR HOURS OF APPOINTMENT CONDUCT AN INTERVIEW
13 WITH THE PROPOSED WARD.

14 2. AT LEAST TWENTY-FOUR HOURS PRIOR TO THE HEARING, REVIEW THE
15 PETITION FOR EVALUATION, PREPETITION SCREENING REPORT, EVALUATION
16 REPORT AND THE PROPOSED WARD'S MEDICAL RECORDS.

17 3. AT LEAST TWENTY-FOUR HOURS PRIOR TO SUCH HEARING INTERVIEW
18 THE PHYSICIANS WHOSE OPINIONS WERE INCLUDED IN THE PETITION FOR
19 GUARDIANSHIP.

20 FAILURE OF SUCH ATTORNEY TO FULFILL AT LEAST THE DUTIES PRESCRIBED BY
21 PARAGRAPHS 1 THROUGH 3 OF THIS SUBSECTION IS CONTEMPT OF COURT.

22 D. AT THE TIME OF THE FILING OF THE PETITION, THE COURT SHALL
23 NOTIFY THE AGENCY OR OFFICER PROVIDING GUARDIANSHIP INVESTIGATION FOR
24 THE COUNTY IN WHICH THE PERSON RESIDED OR WAS FOUND PRIOR TO HIS
25 TREATMENT OR EVALUATION THAT SUCH PETITION HAS BEEN FILED, AND THE
26 COURT SHALL REQUIRE THAT A REPORT AND RECOMMENDATION FROM SUCH OFFICER
27 OR AGENCY BE PRESENTED AT THE HEARING.

28 14-917. Appointment of guardian; powers; petition for
29 placement; hearing

30 A. THE PROPOSED WARD AND HIS ATTORNEY SHALL BE PRESENT AT THE
31 HEARING ON GUARDIANSHIP AND SUCH ATTORNEY HAS THE RIGHT TO CROSS
32 EXAMINE WITNESSES AND PRESENT EVIDENCE. THE EVIDENCE PRESENTED BY THE
33 PETITIONER OR PROPOSED WARD SHALL INCLUDE THE CLINICAL RECORD OF THE

1 PROPOSED WARD. THE JUDGE SHALL REQUIRE TWO PHYSICIANS TO BE PRESENT
2 AT THE HEARING WHO SHALL BE PSYCHIATRISTS, IF POSSIBLE. THE PHYSICIANS
3 SHALL TESTIFY ON THE BASIS OF THEIR PERSONAL EXAMINATION OF THE PRO-
4 POSED PATIENT WHICH SHALL HAVE BEEN PERFORMED AT LEAST FORTY-EIGHT
5 HOURS PRIOR TO THE HEARING. THEY SHALL EXECUTE WRITTEN STATEMENTS ON
6 OATH OF THEIR OPINION AS TO WHETHER THE PROPOSED PATIENT IS, AS A
7 RESULT OF MENTAL DISORDER, GRAVELY DISABLED. THIS TESTIMONY AND THE
8 WRITTEN STATEMENTS SHALL PRESENT THE FACTS AND OBSERVATIONS UPON WHICH
9 THE PHYSICIANS BASE THEIR OPINIONS AND SHALL STATE SPECIFICALLY THE
10 NATURE AND EXTENT OF THE GRAVE DISABILITY. THE JUDGE SHALL REQUIRE
11 THE TESTIMONY OR WRITTEN STATEMENT, OR BOTH, OF AN INDEPENDENT
12 EVALUATOR TO BE ENTERED INTO EVIDENCE.

13 B. IF THE COURT FINDS THAT THE PROPOSED WARD IS GRAVELY DISABLED
14 AS A RESULT OF MENTAL DISORDER AND IN NEED OF GUARDIANSHIP, IT SHALL
15 APPOINT A GUARDIAN OF THE PERSON OR ESTATE, OR BOTH. SUCH APPOINTMENT
16 SHALL BE FOR A PERIOD NOT TO EXCEED ONE YEAR. THE GUARDIAN SHALL GIVE
17 BOND TO THE WARD IN LIKE MANNER AND WITH LIKE CONDITIONS AS THOSE PRE-
18 SCRIBED FOR THE GUARDIAN OF A MINOR. THE GUARDIAN SHALL HAVE THE POWERS
19 AND DUTIES PRESCRIBED FOR THE GUARDIAN OF A MINOR. THE PROVISION OF
20 ARTICLE 1 OF THIS CHAPTER SHALL APPLY TO GUARDIANS APPOINTED PURSUANT
21 TO THIS ARTICLE EXCEPT AS MODIFIED BY THIS ARTICLE.

22 C. THE GUARDIAN SHALL MAKE ARRANGEMENTS FOR THE SHELTER, FOOD
23 AND CLOTHING OF SUCH WARD. FIRST PREFERENCE SHALL BE GIVEN TO ALLOWING
24 THE PERSON TO RETURN TO HIS HOME, FAMILY OR FRIENDS. SECOND PREFERENCE
25 SHALL BE GIVEN TO PLACEMENT IN A FACILITY AS CLOSE TO HIS HOME OR HOME
26 OF A RELATIVE AS POSSIBLE, WHICH FACILITY IS NOT DESIGNATED AS A TREAT-
27 MENT FACILITY. FINAL PREFERENCE SHALL BE GIVEN PLACEMENT IN A MENTAL
28 HEALTH TREATMENT FACILITY. PLACEMENT AT A MENTAL HEALTH TREATMENT
29 FACILITY SHALL ONLY BE AFTER THE COURT DETERMINES AT A HEARING THAT
30 ALTERNATIVE PLACEMENT IS NOT POSSIBLE. SUCH HEARING SHALL BE CONDUCTED
31 ON PETITION OF THE GUARDIAN. THE PETITION SHALL STATE SPECIFICALLY WHY
32 ALTERNATIVE PLACEMENT IS NOT POSSIBLE. THE HEARING SHALL BE CONDUCTED
33 PURSUANT TO THE REQUIREMENTS OF SECTION 14-916, EXCEPT THAT IT SHALL BE

1 HELD WITHIN SEVEN DAYS OF THE FILING OF THE PETITION AND EXCEPT THAT
2 THE DUTIES OF THE WARD'S ATTORNEY INCLUDE:

3 1. CONDUCTING AN INTERVIEW OF THE WARD WITHIN TWENTY-FOUR HOURS
4 OF APPOINTMENT.

5 2. INTERVIEWING THE GUARDIAN WITHIN TWENTY-FOUR HOURS PRIOR TO
6 THE HEARING.

7 3. SUBMITTING TO THE COURT A WRITTEN REPORT ON ALL PLACEMENT
8 ALTERNATIVES FOR THE CARE AND TREATMENT OF THE PROPOSED WARD, STATING
9 WHETHER THEY ARE FEASIBLE AND THE REASONS WHY OR WHY NOT.

10 D. IF ALTERNATIVE PLACEMENT CANNOT BE FOUND AT THE END OF THE
11 THIRTY-DAY PERIOD THE GUARDIAN SHALL CONFER WITH THE PERSON IN CHARGE
12 OF THE FACILITY AND THEY SHALL THEN DETERMINE THE EARLIEST PRACTICABLE
13 DATE WHEN SUCH ALTERNATIVE PLACEMENT MAY BE OBTAINED.

14 E. THE COURT SHALL FILE A REPORT AS PART OF THE COURT RECORDS
15 ON ITS FINDINGS OF ALTERNATIVE TREATMENT AND THE SUPPORTING REASONS
16 FOR SUCH FINDINGS.

17 F. ANY FACILITY IN WHICH A WARD IS PLACED SHALL RELEASE THE
18 WARD WHEN THE GUARDIANSHIP TERMINATES UNLESS THE WARD AGREES TO
19 VOLUNTARY TREATMENT AT THE FACILITY. IF THE GUARDIAN HAS FILED A
20 PETITION FOR REAPPOINTMENT, THE FACILITY MAY DETAIN THE WARD AFTER
21 THE END OF THE TERMINATION DATE ONLY IF THE PROCEEDINGS FOR RENEWAL
22 OF GUARDIANSHIP HAVE NOT BEEN COMPLETED AND THE COURT ORDERS THE
23 WARD TO BE HELD UNTIL THE PROCEEDINGS HAVE BEEN COMPLETED.

24 14-918. Alternative placement

25 A GUARDIAN APPOINTED UNDER THIS ARTICLE SHALL FIND ALTERNATIVE
26 PLACEMENT FOR HIS WARD WITHIN SEVEN DAYS AFTER HE IS NOTIFIED BY THE
27 PERSON IN CHARGE OF A FACILITY SERVING THE WARD THAT THE WARD NO LONGER
28 NEEDS THE CARE OR TREATMENT OFFERED BY THAT FACILITY. SUCH PERIOD MAY
29 BE EXTENDED BY THE GUARDIAN AND THE PERSON IN CHARGE OF THE FACILITY
30 BECAUSE OF UNUSUAL CONDITIONS OR CIRCUMSTANCES.

31 14-919. Renewal of guardianship; release of ward

32 A. IF UPON THE TERMINATION OF AN INITIAL OR A SUCCEEDING PERIOD
33 OF GUARDIANSHIP THE GUARDIAN DETERMINES THAT GUARDIANSHIP IS STILL

1 REQUIRED, HE MAY PETITION THE COURT FOR HIS REAPPOINTMENT AS GUARDIAN
2 FOR A SUCCEEDING ONE-YEAR PERIOD. THE PETITION SHALL INCLUDE THE
3 OPINION OF TWO PHYSICIANS THAT THE WARD IS STILL GRAVELY DISABLED AS
4 A RESULT OF MENTAL DISORDER. IF THE GUARDIAN IS UNABLE TO OBTAIN THE
5 SERVICES OF TWO PHYSICIANS, HE SHALL REQUEST THAT THE COURT APPOINT
6 THEM.

7 B. ANY FACILITY IN WHICH A WARD IS PLACED SHALL RELEASE THE WARD
8 WHEN THE GUARDIANSHIP TERMINATES UNLESS THE WARD AGREES TO VOLUNTARY
9 TREATMENT AT THE FACILITY. IF THE GUARDIAN HAS FILED A PETITION FOR
10 REAPPOINTMENT, THE FACILITY MAY DETAIN THE WARD AFTER THE END OF THE
11 TERMINATION DATE ONLY IF THE PROCEEDINGS FOR RENEWAL OF GUARDIANSHIP
12 HAVE NOT BEEN COMPLETED AND THE COURT ORDERS THE WARD TO BE HELD UNTIL
13 THE PROCEEDINGS HAVE BEEN COMPLETED.

14 14-920. Guardianship investigation

15 A. EACH COUNTY SHALL DESIGNATE THE AGENCY OR OFFICER TO PROVIDE
16 GUARDIANSHIP INVESTIGATION AS REQUIRED IN THIS SECTION AND TO REPORT
17 TO THE COURT AT THE HEARING PROVIDED FOR BY SECTION 14-916, SUBSECTION A.

18 B. THE AGENCY OR OFFICER PROVIDING GUARDIANSHIP INVESTIGATION
19 SHALL INVESTIGATE ALL AVAILABLE ALTERNATIVES TO GUARDIANSHIP AND SHALL
20 RECOMMEND GUARDIANSHIP TO THE COURT ONLY IF NO SUITABLE ALTERNATIVES
21 ARE AVAILABLE. THE REPORT TO THE COURT SHALL BE COMPREHENSIVE AND SHALL
22 CONTAIN ALL RELEVANT ASPECTS OF THE PERSON'S MEDICAL, PSYCHOLOGICAL,
23 FINANCIAL, FAMILY, VOCATIONAL AND SOCIAL CONDITION, AND SHALL CONTAIN
24 ALL AVAILABLE INFORMATION CONCERNING THE PERSON'S REAL AND PERSONAL
25 PROPERTY. ALL FACILITIES PROVIDING TREATMENT OR EVALUATION PURSUANT TO
26 THE PROVISIONS OF THIS ARTICLE AND TITLE 36, CHAPTER 5, SHALL DISCLOSE
27 ANY RECORDS OR INFORMATION WHICH MAY FACILITATE THE INVESTIGATION.

28 14-921. Rehearing on temporary guardianship

29 A. A WARD, HIS GUARDIAN OR A RELATIVE OR FRIEND OF THE WARD MAY
30 AT ANY TIME PETITION A SUPERIOR COURT IN THE COUNTY IN WHICH TEMPORARY
31 GUARDIANSHIP WAS ESTABLISHED PURSUANT TO THIS ARTICLE FOR A REHEARING
32 AS TO HIS STATUS AS A WARD. THE PETITION SHALL BE VERIFIED AND ALLEGE
33 THAT THE WARD IS NO LONGER GRAVELY DISABLED AS A RESULT OF MENTAL
34 DISORDER.

1 B. THE COURT SHALL CONDUCT A HEARING ON THE PETITION FOR REHEARING
2 WITHIN SEVEN DAYS OF THE FILING OF THE PETITION AND SHALL CAUSE NOTICE
3 TO BE GIVEN TO THE WARD AND THE PERSON REQUESTING A REHEARING OF THE
4 TIME AND PLACE OF THE HEARING ON THE PETITION NOT LESS THAN THREE DAYS
5 BEFORE THE HEARING.

6 C. THE WARD AND HIS ATTORNEY SHALL BE PRESENT AT THE HEARING AND
7 THE WARD'S ATTORNEY HAS THE RIGHT TO CROSS EXAMINE WITNESSES AND PRESENT
8 EVIDENCE IN BEHALF OF THE WARD.

9 D. IF THE COURT FINDS THAT THE WARD IS NO LONGER GRAVELY DISABLED
10 AS A RESULT OF MENTAL DISORDER, THE COURT SHALL TERMINATE HIS STATUS
11 AS WARD AND THE FACILITY SHALL RELEASE THE WARD UNLESS HE AGREES TO
12 VOLUNTARY TREATMENT.

13 14-922. Rehearing on guardianship

14 A. A WARD, HIS GUARDIAN, A RELATIVE OR FRIEND OF THE WARD MAY
15 ONCE EACH SIX MONTHS PETITION A SUPERIOR COURT IN THE COUNTY IN WHICH
16 GUARDIANSHIP WAS ESTABLISHED FOR A REHEARING AS TO HIS STATUS AS A
17 WARD. THE PETITION SHALL BE VERIFIED AND ALLEGE THAT THE WARD IS NO
18 LONGER GRAVELY DISABLED AS A RESULT OF MENTAL DISORDER.

19 B. THE COURT SHALL CONDUCT A HEARING ON THE PETITION FOR REHEAR-
20 ING WITHIN FOURTEEN DAYS OF THE FILING OF THE PETITION, AND SHALL CAUSE
21 NOTICE TO BE GIVEN TO THE WARD AND PERSON REQUESTING A REHEARING OF THE
22 TIME AND PLACE OF THE HEARING NOT LESS THAN SEVEN DAYS BEFORE THE HEAR-
23 ING AND NOT LESS THAN FOUR DAYS PRIOR TO THE HEARING SHALL APPOINT
24 AN ATTORNEY FOR THE WARD IF HE IS NOT REPRESENTED BY AN ATTORNEY.

25 C. THE APPOINTED ATTORNEY SHALL FULFILL THE FOLLOWING MINIMAL
26 DUTIES:

27 1. WITHIN TWENTY-FOUR HOURS OF APPOINTMENT CONDUCT AN INTERVIEW
28 WITH THE WARD.

29 2. AT LEAST TWENTY-FOUR HOURS PRIOR TO THE HEARING, REVIEW THE
30 COURT RECORDS PERTAINING TO THE ESTABLISHMENT OF SUCH GUARDIANSHIP AND
31 THE MEDICAL RECORDS OF THE WARD, IF ANY.

32 3. PRIOR TO THE HEARING SUBMIT A WRITTEN REPORT TO THE COURT AS
33 TO THE FEASIBILITY OF ALTERNATIVES TO GUARDIANSHIP AND THE SUPPORTING

1 REASONS THERETO.

2 D. THE WARD AND HIS ATTORNEY SHALL BE PRESENT AT THE HEARING AND
3 THE WARD'S ATTORNEY HAS THE RIGHT TO CROSS EXAMINE WITNESSES AND PRESENT
4 EVIDENCE IN THE WARD'S BEHALF.

5 E. IF THE COURT FINDS THAT THE WARD IS NO LONGER GRAVELY DISABLED
6 AS A RESULT OF MENTAL DISORDER, HIS STATUS AS WARD UNDER THE PROVISIONS
7 OF THIS ARTICLE SHALL BE TERMINATED AND THE FACILITY IN WHICH THE WARD IS
8 DETAINED SHALL RELEASE HIM UNLESS THE WARD AGREES TO VOLUNTARY TREATMENT.

9 14-923. No presumption of incompetency

10 A PERSON WHO IS NO LONGER A WARD IS NOT PRESUMED TO BE INCOMPETENT
11 BECAUSE OF HAVING BEEN A WARD.

12 14-924. Guardianship supersedes previous orders

13 A GUARDIANSHIP ESTABLISHED PURSUANT TO THIS ARTICLE SUPERSEDES
14 AND TERMINATES ANY ORDER FOR INVOLUNTARY TREATMENT OR EVALUATION
15 PURSUANT TO TITLE 36, CHAPTER 5. UPON THE APPOINTMENT OF A GUARDIAN,
16 THE WARD SHALL CONTINUE TO BE DETAINED IN THE FACILITY IN WHICH HE WAS
17 DETAINED AT THE TIME GUARDIANSHIP WAS ESTABLISHED UNTIL THE GUARDIAN
18 HAS REASONABLE TIME TO ACT TO SECURE ANY NEEDED EVALUATION, CARE OR
19 TREATMENT, BUT IN NO EVENT MAY HE BE DETAINED IN THE FACILITY MORE
20 THAN TEN DAYS AFTER APPOINTMENT OF THE GUARDIAN, UNLESS THE GUARDIAN
21 HAS ACTED TO PLACE HIS WARD IN SUCH FACILITY.

22 ARTICLE 7. PUBLIC GUARDIAN

23 14-931. Establishment of public guardian

24 A. EACH COUNTY BOARD OF SUPERVISORS SHALL, BY RESOLUTION OR
25 ORDINANCE, CREATE THE OFFICE OF PUBLIC GUARDIAN, FIX THE COMPENSATION
26 THEREOF AND APPOINT A PUBLIC GUARDIAN THEREFOR. SUCH GUARDIAN SHALL,
27 WITH THE APPROVAL OF THE BOARD OF SUPERVISORS, ESTABLISH SUBORDINATE
28 POSITIONS AND FILL SUCH SUBORDINATE POSITIONS AS IS NECESSARY TO
29 EXECUTE THE PROVISIONS OF THIS ARTICLE.

30 B. COSTS INCURRED IN CONDUCTING THE OFFICE OF PUBLIC GUARDIAN
31 SHALL BE A CHARGE AGAINST THE COUNTY.

32 14-932. Duties of public guardian; appointment

33 THE COURT SHALL APPOINT A PUBLIC GUARDIAN FOR THOSE PERSONS IN

1 NEED OF GUARDIANSHIP AND FOR WHOM THERE IS NO PERSON OR CORPORATION
2 QUALIFIED AND WILLING TO ACT IN SUCH CAPACITY.

3 Sec. 7. Section 31-224, Arizona Revised Statutes, is amended
4 to read:

5 31-224. Mentally disordered prisoner; procedure for
6 involuntary hospitalization; costs; transfer;
7 reports; computation of time; discharge;
8 voluntary admission

9 A. When a prisoner confined in the state prison discloses symptoms
10 of mental illness DISORDER, the prison physician shall examine him, and
11 if he is determined to be so afflicted, the physician shall report the
12 fact in writing to the superintendent of the prison, describing the
13 condition found, together with any recommendations he has. Upon
14 receipt of the report, the superintendent shall ~~file a petition as~~
15 ~~provided in section 26-509 and thereafter the proceeding shall conform~~
16 ~~to article 1 of chapter 5, title 26~~ PROCEED AS PROVIDED IN TITLE 36,
17 CHAPTER 5, ARTICLE 2.

18 B. The county in which the court is located shall be reimbursed
19 for costs of the proceedings incurred by the county from funds appro-
20 priated to the state prison, upon certification by the clerk and judge
21 of the court of the costs and approval of the claim by the superin-
22 tendent of the prison.

23 C. If the prisoner is determined to be mentally ill, AS A RESULT
24 OF MENTAL DISORDER, A DANGER TO OTHERS OR HIMSELF, the court shall
25 order and direct that he be confined in the Arizona state hospital
26 in the legal custody of the superintendent of the prison. The
27 transfer of the prisoner to the state hospital shall be made by the
28 superintendent of the prison.

29 D. The superintendent of the state hospital shall render to
30 the superintendent of the prison, a quarterly report of the condition
31 of the prisoner, and when it appears that the prisoner has sufficiently
32 recovered that he may be returned to the prison without further risk,
33 he shall be returned to serve the unexpired term, and the period he was

1 confined in the state hospital shall be counted as though served in
2 prison. If the term of imprisonment expires during the time the
3 mentally ill DISORDERED prisoner is confined in the state hospital,
4 the superintendent of the prison shall forward to the prisoner his
5 legal discharge from prison.

6 E. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION A OF THIS SECTION,
7 A PRISONER WHO IS MENTALLY DISORDERED MAY, UPON THE SUPERINTENDENT'S
8 RECEIPT OF THE PRISON PHYSICIAN'S REPORT THAT THE PRISONER IS MENTALLY
9 DISORDERED, APPLY FOR VOLUNTARY ADMISSION UNDER THE PROVISIONS OF
10 SECTION 36-502. THE PRISONER SHALL BE IN THE LEGAL CUSTODY OF THE
11 SUPERINTENDENT OF THE PRISON.

12 F. PRISONERS TRANSFERRED TO THE ARIZONA STATE HOSPITAL PURSUANT
13 TO THIS SECTION SHALL REMAIN ELIGIBLE TO ACCRUE GOOD-TIME CREDITS
14 PURSUANT TO SECTION 31-251. DOUBLE-TIME DEDUCTIONS PURSUANT TO
15 SECTION 31-252 SHALL BE ALLOWED ANY PRISONER WHO WAS EARNING THE
16 DEDUCTIONS IMMEDIATELY PRIOR TO TRANSFER TO THE STATE HOSPITAL, AND
17 TO ANY PRISONER PERFORMING ANY ASSIGNMENT OF CONFIDENCE OR TRUST AT
18 THE STATE HOSPITAL.

19 G. NO PRISONER OTHERWISE ELIGIBLE SHALL BE DENIED PAROLE SOLELY
20 BECAUSE HE IS CONFINED AT THE STATE HOSPITAL PURSUANT TO THIS SECTION.

21 Sec. 8. Effect of provisions upon pre-existing
22 commitments; provisions governing new or
23 pending proceedings

24 The provisions of this chapter do not apply retroactively to
25 terminate court commitments of the mentally ill under pre-existing
26 law or to otherwise affect persons committed under pre-existing law,
27 except that:

28 1. A person who is on conditional discharge from the state
29 hospital shall continue on such status no longer than one hundred
30 eighty days after the effective date of this chapter and shall be
31 released from conditional discharge at or before the end of such
32 period.