



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED

FACT SHEET FOR S.B. 1030

guilty except insane; court jurisdiction

Purpose

Beginning July 1, 2023, places the powers and duties of the Psychiatric Security Review Board (PSRB) under the jurisdiction of the superior court (court).

Background

The PSRB was established in 1994 to maintain jurisdiction over persons the court of Arizona has found guilty except insane (GEI) who have caused or threatened to cause death or serious physical injury to another individual. Current law requires GEI individuals to be placed under the PSRB's jurisdiction for the length of their presumptive sentence and to be committed to the Arizona State Hospital (ASH), which is operated by the Arizona Department of Health Services (DHS). Statute authorizes the PSRB to release any GEI person under its jurisdiction from ASH to the community if the person meets statutory release criteria ([A.R.S. § 13-502](#)).

The fiscal impact to the state General Fund associated with this legislation is unknown.

Provisions

Transferring PSRB Authority to the Court

1. Repeals the PSRB, and beginning July 1, 2023, grants the court the exclusive supervisory jurisdiction over all persons who are currently under the supervision of the PSRB.
2. Vests the court with the powers and duties of the PSRB as they existed before July 1, 2023, to carry out the repeal of the PSRB.

Court Procedures to Set Hearing

3. Allows the State Mental Health Facility (SMHF), outpatient treatment supervisor and person under the jurisdiction of the Court to request a hearing.
4. Stipulates that a person who is placed under jurisdiction of the court is not eligible for discharge from jurisdiction until the date set by the court.
5. Allows the person to attend any hearing by video teleconference from the SMHF.
6. Requires, if the court finds that the person no longer needs ongoing treatment for a mental disorder, is not dangerous and does not have a propensity to reoffend, the court to order the person's transfer to the court for either a judicial review or placement on supervised probation for the remainder of the commitment term.

7. Requires all time spent under the court's jurisdiction and any time spent committed to be credited against any sentence imposed.
8. Requires the court to notify the person in writing of the person's appeal rights under Rule 31 of the Arizona Rules of Criminal Procedure at the time of sentencing or placement on probation.
9. Subjects a person who is conditionally released by the court to the following:
 - a) requires the court, in conjunction with the secure mental health facility and supervisors from behavioral health community providers to agree on and specify the conditions of the person's release and requires the SMHF to monitor the person on conditional release;
 - b) requires a supervised treatment plan to be in place before the person's conditional release;
 - c) allows the court to implement the person's conditional release in incremental steps beginning with supervised passes into the community for increasing lengths of time, continuing through independent passes and ending with release to live in the community;
 - d) requires the court, before implementing each stage of conditional release, to find by clear and convincing evidence that the community will be protected and the person will be safe under the proposed supervised treatment plan;
 - e) allows pass supervisors, if approved by the court, to include members of the inpatient or outpatient treatment team, other mental health treatment provider or other responsible persons who are willing to ensure that the person abides by the conditional release terms; and
 - f) requires the secure mental health facility to implement the court's conditional release order or provide the court and the parties with the reasons why the secure mental health facility did not implement the order.
10. States that at any hearing release or conditional release the party or treatment supervisor who is seeking a change in privileges or a change in hospitalization has the burden of proof by clear and convincing evidence.
11. Requires a party, unless otherwise required or on a showing of sufficient cause, to submit a request for a hearing and include the reasons for the request.
12. Requires, when a hearing is set, the court to order the treatment provider to submit a mental health report (MHR).
13. Provides that the court's decision is effective on oral pronouncement.
14. Requires any portion of the order that contains personal identifying information about the patient, treatment supervisor or pass supervisor to be sealed by the court and not disclosed to the public or to a victim.
15. Defines *personal identifying information*.

Hearing on Motion of the SMHF

16. Allows the court to grant a hearing to monitor a person's progress on conditional release on request of the SMHF.

17. Requires the SMHF to include in the request the specific reasons for requesting a hearing, as well as any records, under seal, of communications and reports that support the need for the hearing.
18. Requires the court, on request of the person or the SMHF to order the outpatient treatment supervisor to submit an MHR to the Court and the parties not later than 14 days before the hearing.
19. Allows the SMHF to request an expedited hearing if sufficient cause exists for the request and requires the SMHF to include in the request for the hearing the specific reasons for the expedited hearing and include records under seal of all communications and reports that support the need for the expedited hearing.
20. Requires the Court to set an expedited hearing to monitor a person's progress or mental health, if requested, and allows the Court to order an expedited MHR from the person's outpatient treatment supervisor.
21. Allows the chief medical officer (CMO) or their designee to order the person's return to hospitalization, if a person is conditionally released to the community and the SMHF has reason to believe that the person has violated the conditional release order or that the person's mental health has deteriorated.
22. Requires the CMO or their designee, before ordering a person's return to hospitalization, to consult with the outpatient treatment supervisor or the outpatient treatment supervisor's designee to determine if rehospitalization is necessary to protect the safety of the public or the person.
23. Allows, with sufficient cause, the CMO or their designee to waive the requirement to consult with the treatment supervisor or their designee and to issue the return order immediately.
24. Requires the CMO or their designee, if a return order is issued before a consultation occurs, to consult with the outpatient treatment supervisor or the outpatient treatment supervisor's designee as soon as possible after the order is issued.
25. Requires the court to be notified immediately after a return order is issued and to set a hearing for the return of the person under jurisdiction of the SMHF.
26. Requires all monthly monitoring reports regarding a person who is on conditional release to be submitted to the SMHF and allows the SMHF to take any appropriate action authorized by statute.

Hearing on Request of the Treatment Supervisor

27. Requires the court, on request of a treatment supervisor, to grant a hearing to review the status of the person under supervision.
28. Requires the treatment supervisor to include in the request the specific reasons for requesting the hearing and include any records, under seal, of communications and reports that support the need for the hearing.

29. Requires the treatment supervisor to submit the request to the court and the parties simultaneously and include an MHR under seal.
30. Requires a proposed form of order to accompany the request for a hearing if the treatment supervisor's recommendation includes a request for the addition of or changes to conditional release status.
31. Allows, if the treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated and the person is residing in a secure mental health facility, the treatment supervisor to suspend the person's conditional release pending the hearing and a determination by the court, and directs the supervisor to file a written MHR under seal, including the circumstances and the reasons for any proposed change, to the court and the parties within seven days after the request for a hearing.
32. Allows, if the treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated and if the person is conditionally released to the community, the court to order the person's return to hospitalization and set a hearing, and directs the outpatient treatment supervisor to, within three days after a request is made, submit a MHR to the court and the parties providing all of the information that was considered before granting the return order.
33. Allows, if the treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated and if the safety of the community or the person is not at risk, the court to allow the person to remain in the community subject to the person's conditional release terms, and requires the outpatient treatment supervisor to submit a MHR to the court and the parties within seven days after the request is made.
34. Allows the treatment supervisor, if the person is conditionally released to the community and the treatment supervisor has sufficient cause to believe that the person's mental health has deteriorated such that immediate rehospitalization is necessary to protect the safety of the public or the person, to sign an order directing the person's return, authorizes members of the treatment team to transport the person to the secure mental health facility and requires the person to be immediately readmitted.
35. Requires, when a person who was conditionally released to the community has been readmitted, the treatment supervisor to inform the court and the parties within one court day after the person's return and requires the court to set a hearing.
36. Requires the outpatient treatment supervisor to submit a written MHR to the court and the parties within three days after the person's return and to include all of the information that was considered before ordering the person's return.

Hearing on Motion of a Person Under the Jurisdiction of the Court

37. Allows a person under the court's jurisdiction to request and the court to grant a hearing at least 120 days after the person is committed and placed under the court's jurisdiction.
38. Allows a person, after the initial hearing or any subsequent hearing, to request and directs the court to grant a hearing at least 20 months after the previous hearing.

39. Allows the court, with sufficient cause, to grant a motion for a hearing by the person who is under jurisdiction of the court at any time.
40. Requires, if the person is requesting a change in conditional release status, to include a proposed form of order and allows the person to accompany the form with an MHR.
41. Allows a person to present himself to the outpatient treatment supervisor and request that the outpatient treatment supervisor sign an order for immediate readmission to the secure mental health facility if the person under the court's jurisdiction is conditionally released to the community and believes that rehospitalization is necessary to protect the person's safety or the safety of the public.
42. Requires the court to set a hearing to return the person to the secure mental health facility following a person's self-presentation and request for immediate readmission to the secure mental health facility.
43. Requires the inpatient and outpatient treatment supervisor to submit an MHR to the court within seven days after the person is readmitted.

Return of Person Under Jurisdiction to SMHF

44. Deems a written order of the court, the CMO, the CMO's designee or the outpatient treatment supervisor as sufficient for a law enforcement officer to take a person into custody and to transport the person to a SMHF.
45. Requires a copy of the return order to be immediately provided to the parties and the court.
46. Requires the sheriff or other peace officer to execute the order and immediately notify the court of the person's return to the SMHF.
47. Requires the entity that ordered the return to, within 24 hours after the return order is issued, provide all information and evidence that was considered when ordering the person's return to the parties.
48. Requires the court to, within seven days of the person's return to the SMHF, hold a hearing to determine if the return was supported by sufficient cause.
49. Requires the court, if the person's return was not supported by sufficient cause, to order the person's immediate release under the previously imposed conditional release terms and allows the court, with sufficient cause, to amend the person's conditional release terms.
50. Allows the court, if the person's return was supported by sufficient cause, to amend the conditional release terms and release the person if the court finds by clear and convincing evidence that the safety of the community and the person is protected by the original or the amended conditional release terms.
51. Allows the court, if the person's return was supported by sufficient cause and the court determines that the person is in need of further evaluation or treatment, to suspend the terms of conditional release and set another hearing within 90 days and directs the inpatient treatment supervisor to consult with the outpatient treatment supervisor and, by a date certain, submit a MHR to the court and parties containing a recommendation to either terminate, amend or reinstate the person's conditional release including a proposed form of order.

Hearing on Expiration of Jurisdiction

52. Requires the court, at least 30 days before the expiration of jurisdiction over a person, to set an expiration hearing and order the treatment supervisor to provide a MHR to the court and the parties including an evaluation of whether the person may be a danger to self or others or has a persistent, acute or grave disability and whether the person meets the statutory criteria for involuntary hospitalization.
53. Authorizes the court, after an expiration hearing, to allow jurisdiction to expire without further action or to order the county attorney of the committing county to begin proceedings for court-ordered evaluation.
54. Requires the court order, if the court orders an evaluation for a person who resides in the community, to require the person's appearance at a specified time and location and participation in the evaluation before the expiration of the court's jurisdiction.
55. Directs the treatment supervisor to assist the person with securing transportation to the location of the evaluation.
56. Requires the court, if it orders an evaluation for a person who resided in an SMHF, to order the sheriff of the committing county to transport the person at a specified time and location so that the person may participate in the evaluation before the expiration of the court's supervisory jurisdiction over the person.

Independent Expert Witnesses

57. Allows either party, before any hearing, to retain an independent qualified expert to evaluate the person and make recommendations to the court.
58. Requires the county of the committing court to pay all costs associated with the evaluation if the person is indigent.
59. Requires, if the person retains a qualified expert, for the qualified expert to provide the state's expert, on request, all records considered or generated.
60. Requires, if the person retains a qualified expert, the person submit to the state's evaluation, if requested, or be precluded from presenting the person's own qualified expert opinion.
61. Requires, if an independent qualified expert is providing testimony, a written report to be provided to the opposing party, the court and the treatment supervisor, at least 14 days before a hearing.
62. Requires the qualified expert to be available for an interview or deposition by the opposing party upon request.
63. Allows either party to request and the court, with sufficient cause, to grant a continuance for a hearing to accommodate a reasonable request to obtain a qualified expert evaluation.
64. Prohibits a return hearing that is requested in specified circumstances to be continued at the state's request.

65. Prohibits a hearing that is held at the expiration of the court's jurisdiction from being continued.
66. Allows the PSRB, with sufficient cause, to order a mental health evaluation by an independent qualified expert and specifies that the evaluation is conducted at the PSRB's expense.
67. Requires a qualified expert appointed by the court to provide a written report to the parties and the treatment supervisor at least 14 days before a hearing.
68. Requires the qualified expert to be available to testify and, if requested, be interviewed or deposed by either party.

GEI Court Procedures

69. Requires, if a person is found GEI the state and the defendant to provide the secure mental health facility with a copy of the court's commitment order and all documents considered by the court or admitted into evidence, including all medical and MHRs.
70. Requires the court, on request of the court or a party, with the consent of the defendant and after a determination that a reasonable basis exists to support the GEI defense, to appoint a qualified expert to evaluate the defendant and provide a written report.
71. Requires the report to include:
 - a) the mental status of the defendant at the time of the alleged offense; and
 - b) the relationship of the mental disorder to the alleged offense if the qualified expert determines that the defendant suffered from a mental disorder at the time of the alleged offense.
72. Requires a defense attorney, if the defendant provides a notice of a GEI defense, to nominate its own qualified expert to examine the defendant to determine the defendant's mental status at the time of the alleged offense.
73. Allows the state to call the same number of medical doctors and licensed psychologists who will testify on behalf of the defense.
74. Requires the court to order all of the reports submitted for the examination of the defendant by a qualified expert after a plea of guilt or after disposition of a matter where the defendant has pled GEI.
75. Allows the court to order the reports be opened only:
 - a) for use by the court or defendant, or by the prosecutor if otherwise allowed by law, for further competency or sanity evaluations or in a hearing to determine whether the defendant is eligible for court-ordered treatment or is a sexually violent person;
 - b) for statistical analyses;
 - c) when the records are deemed necessary to assist in mental health treatment;
 - d) for use by the probation department or the Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) if the defendant is in the custody of or is scheduled to be transferred into the custody of ADCRR to assess and supervise or monitor the defendant by that department;
 - e) for use by a mental health treatment provider that provides treatment to the defendant or that assesses the defendant for treatment;
 - f) for data gathering; or
 - g) for scientific study.

76. Precludes a statement that is made by the defendant during an examination to determine GEI or any evidence resulting from the statement is not subject to disclosure in a mental health evaluation.

Miscellaneous

77. Defines key terms.

78. Becomes effective on July 1, 2023.

Amendments Adopted by Committee of the Whole

- Changes the effective date from July 1, 2022, to July 1, 2023.

Senate Action

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Prepared by Senate Research

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