

Senate Engrossed House Bill

involuntary treatment; guardians; agents; rights

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

**CHAPTER 152**  
**HOUSE BILL 2744**

AN ACT

AMENDING TITLE 36, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 36-504.01; AMENDING SECTIONS 36-520, 36-523, 36-536 AND  
36-540, ARIZONA REVISED STATUTES; RELATING TO MENTAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 5, article 2, Arizona Revised  
3 Statutes, is amended by adding section 36-504.01, to read:

4 36-504.01. Guardians and agents; rights in proceedings

5 GUARDIANS AND AGENTS WHO HAVE DECISIONAL AUTHORITY TO MAKE PERSONAL,  
6 MEDICAL AND TREATMENT DECISIONS FOR A PATIENT PURSUANT TO AN ORDER OF THE  
7 COURT OR PURSUANT TO A VALIDLY EXECUTED MENTAL HEALTH POWER OF ATTORNEY IN  
8 WHICH THE PRINCIPAL HAS BEEN FOUND INCAPABLE OF GIVING INFORMED CONSENT  
9 HAVE THE FOLLOWING RIGHTS IN ANY PROCEEDINGS UNDER THIS ARTICLE REGARDING  
10 INVOLUNTARY TREATMENT OF THE PATIENT:

11 1. TO BE NOTIFIED OF ANY PETITION FOR TREATMENT, MOTION FOR AMENDED  
12 COURT ORDER, APPLICATION FOR CONTINUED COURT-ORDERED TREATMENT AND REQUEST  
13 FOR JUDICIAL REVIEW.

14 2. IF ALLOWED BY THE COURT, TO PROVIDE THE COURT WITH THE  
15 GUARDIAN'S OR AGENT'S POSITION REGARDING THE RELIEF BEING SOUGHT IN ANY OF  
16 THE PROCEEDINGS SET FORTH IN PARAGRAPH 1 OF THIS SECTION AND TO PROVIDE  
17 THE COURT WITH ANY RELEVANT INFORMATION TO HELP THE COURT MAKE A  
18 DETERMINATION.

19 3. TO PROVIDE RELEVANT INFORMATION TO ANY AGENCY PROVIDING  
20 INPATIENT OR OUTPATIENT SCREENING, EVALUATION OR TREATMENT TO THE PATIENT.

21 4. WHEN APPROPRIATE, TO PARTICIPATE IN TREATMENT AND DISCHARGE  
22 PLANNING WITH THE INPATIENT OR OUTPATIENT TREATMENT PROVIDERS.

23 Sec. 2. Section 36-520, Arizona Revised Statutes, is amended to  
24 read:

25 36-520. Application for evaluation; definition

26 A. Any responsible individual may apply for a court-ordered  
27 evaluation of a person who is alleged to be, as a result of a mental  
28 disorder, a danger to self or to others or a person with a persistent or  
29 acute disability or a grave disability and who is unwilling or unable to  
30 undergo a voluntary evaluation. The application shall be made in the  
31 prescribed form and manner as adopted by the director.

32 B. The application for evaluation shall include the following data:

33 1. The name, and address if known, of the proposed patient for whom  
34 evaluation is applied.

35 2. The age, date of birth, sex, race, marital status, occupation,  
36 social security number, present location, dates and places of previous  
37 hospitalizations, names and addresses of the guardian, spouse, next of kin  
38 and significant other persons and other data that the director may require  
39 on the form to whatever extent that this data is known and is applicable  
40 to the proposed patient.

41 3. The name, address and relationship of the person who is applying  
42 for the evaluation.

43 4. A statement that the proposed patient is believed to be, as a  
44 result of a mental disorder, a danger to self or to others or a patient

1 with a persistent or acute disability or a grave disability and the facts  
2 on which this statement is based.

3 5. A statement that the applicant believes the proposed patient is  
4 in need of supervision, care and treatment and the facts on which this  
5 statement is based.

6 C. The application shall be signed and notarized.

7 D. The screening agency shall offer assistance to the applicant in  
8 preparation of the application. On receipt of the application, the  
9 screening agency shall act as prescribed in section 36-521 within  
10 forty-eight hours ~~of~~ AFTER the filing of the application, excluding  
11 weekends and holidays. If the application is not acted ~~upon~~ ON within  
12 forty-eight hours, the reasons for not acting promptly shall be reviewed  
13 by the director of the screening agency or the director's designee.

14 E. If the applicant for the court-ordered evaluation presents the  
15 person to be evaluated at the screening agency, the agency shall conduct a  
16 prepetition screening examination. Except in the case of an emergency  
17 evaluation, the person to be evaluated shall not be detained or forced to  
18 undergo prepetition screening against the person's will.

19 F. If the applicant for the court-ordered evaluation does not  
20 present the person to be evaluated at the screening agency, the agency  
21 shall conduct the prepetition screening at the home of the person to be  
22 evaluated or any other place the person to be evaluated is found. If  
23 prepetition screening is not possible, the screening agency shall proceed  
24 as PRESCRIBED in section 36-521, subsection B.

25 G. If a person is being treated by prayer or spiritual means alone  
26 in accordance with the tenets and practices of a recognized church or  
27 religious denomination by a duly accredited practitioner of that church or  
28 denomination, ~~such~~ THE person may not be ordered evaluated, detained or  
29 involuntarily treated unless the court has determined that the person is,  
30 as a result of mental disorder, a danger to others or to self.

31 H. Court-ordered evaluation or treatment pursuant to this chapter  
32 does not operate to change the legal residence of a patient.

33 I. If the application is not acted on because it has been  
34 determined that the proposed patient does not need an evaluation, the  
35 agency after a period of six months shall destroy the application and any  
36 other evidence of the application.

37 J. IF THE SCREENING AGENCY DETERMINES THAT THE APPLICATION SHOULD  
38 BE DENIED OR IF THE APPLICATION IS ACCEPTED BUT THE SCREENING AGENCY  
39 DECLINES TO FILE A PETITION FOR COURT-ORDERED EVALUATION, THE SCREENING  
40 AGENCY SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 36-521,  
41 SUBSECTION C. IF THE SCREENING OF THE PROPOSED PATIENT TOOK PLACE IN A  
42 FACILITY OPERATED BY THE SCREENING AGENCY, THE SCREENING AGENCY SHALL  
43 ATTEMPT TO NOTIFY THE APPLICANT THAT THE SCREENING AGENCY INTENDS TO  
44 RELEASE THE PROPOSED PATIENT. THE SCREENING AGENCY SHALL DOCUMENT THE  
45 TIME AND METHOD OF THE NOTIFICATION OR AN UNSUCCESSFUL ATTEMPT TO NOTIFY

1 THE APPLICANT. IF REQUESTED BY THE APPLICANT, THE MEDICAL DIRECTOR OF THE  
2 SCREENING AGENCY OR THE MEDICAL DIRECTOR'S DESIGNEE SHALL PROVIDE THE  
3 REASON FOR THE DENIAL OF THE APPLICATION OR THE DECISION NOT TO FILE A  
4 PETITION FOR COURT-ORDERED EVALUATION IF EITHER:

- 5 1. THE DISCLOSURE IS NOT OPPOSED BY THE PERSON WHO WAS SCREENED.
- 6 2. THE PERSON WHO WAS SCREENED IS DEEMED TO LACK CAPACITY TO MAKE  
7 THE DECISION TO ALLOW THE DISCLOSURE AND THE DISCLOSURE IS DEEMED TO BE IN  
8 THE PERSON'S BEST INTEREST.

9 ~~+~~ K. For the purposes of this section, "person" includes a person  
10 who:

- 11 1. Is under eighteen years of age.
- 12 2. Has been transferred to the criminal division of the superior  
13 court pursuant to section 8-327 or who has been charged with an offense  
14 pursuant to section 13-501.
- 15 3. Is under the supervision of an adult probation department.

16 Sec. 3. Section 36-523, Arizona Revised Statutes, is amended to  
17 read:

18 36-523. Petition for evaluation

19 A. The petition for evaluation shall contain the following:

- 20 1. The name, address and interest in the case of the individual who  
21 applied for the petition.
- 22 2. The name, and address if known, of the proposed patient for whom  
23 evaluation is petitioned.
- 24 3. The present whereabouts of the proposed patient, if known.
- 25 4. A statement alleging that there is reasonable cause to believe  
26 that the proposed patient has a mental disorder and is as a result a  
27 danger to self or others, has a persistent or acute disability or a grave  
28 disability and is unwilling or unable to undergo voluntary evaluation.
- 29 5. A summary of the facts that support the allegations that the  
30 proposed patient is dangerous, has a persistent or acute disability or a  
31 grave disability and is unwilling or unable to be voluntarily evaluated,  
32 including the facts that brought the proposed patient to the screening  
33 agency's attention.
- 34 6. If the petition is filed by a prosecutor pursuant to section  
35 13-4517, any known criminal history of the proposed patient, including  
36 whether the proposed patient has ever been found incompetent to stand  
37 trial pursuant to section 13-4510.
- 38 7. A statement of any facts and circumstances that lead the  
39 petitioner to believe that the proposed patient may be safely transported  
40 to the evaluation agency by an authorized transporter, if available in the  
41 jurisdiction, without the assistance of a peace officer.
- 42 8. Other information that the director by rule or the court by rule  
43 or order may require.

1 B. The petition shall request that the court issue an order  
2 requiring that the proposed patient be given an evaluation and shall  
3 advise the court of both of the following:

4 1. That the opinion of the petitioner is either that the proposed  
5 patient is or is not in such a condition that without immediate or  
6 continuing hospitalization the patient is likely to suffer serious  
7 physical harm or further deterioration or inflict serious physical harm on  
8 another person.

9 2. If the opinion of the petitioner is that the proposed patient is  
10 not in the condition described in paragraph 1 of this subsection, that the  
11 opinion of the petitioner is either that the evaluation should or should  
12 not take place on an outpatient basis.

13 C. **FOR A PETITION FILED PURSUANT TO SECTIONS 36-520 AND 36-521:**

14 1. The petition for evaluation shall be accompanied by the  
15 application for evaluation, by the recommendation of the county attorney  
16 pursuant to section 36-521 and by a prepetition screening report, unless  
17 the documents have not been prepared under a provision of law or in  
18 accordance with an order of the court. The petition for evaluation shall  
19 also be accompanied by a copy of the application for emergency admission  
20 if one exists.

21 ~~D.~~ 2. ~~A~~ THE petition and other forms required in a court may be  
22 filed only by the screening agency that has prepared the petition.

23 ~~E.~~ 3. If the petition is not filed because it has been determined  
24 that the person does not need an evaluation, the agency after a period of  
25 six months shall destroy the petition and the various reports annexed to  
26 the petition as required by this section.

27 ~~F.~~ 4. If the petition is not filed because it has been determined  
28 that the person does not need an evaluation and a prosecutor filed a  
29 petition pursuant to section 13-4517, the person shall be remanded for a  
30 disposition pursuant to section 13-4517. If the person is out of custody,  
31 the court may order that the person be taken into custody for a  
32 disposition pursuant to this section.

33 Sec. 4. Section 36-536, Arizona Revised Statutes, is amended to  
34 read:

35 36-536. Service of petition, affidavit and notice of hearing;  
36 counsel for proposed patient; notice; personal  
37 service; guardian

38 A. At least seventy-two hours before the court conducts the hearing  
39 on the petition for court-ordered treatment, a copy of the petition,  
40 affidavits in support of the petition and the notice of the hearing shall  
41 be served on the patient, who shall be informed of the purpose of the  
42 hearing and advised of the patient's right to consult counsel. If the  
43 patient has not employed counsel, counsel shall be appointed by the court  
44 at least three days before the hearing. If at the time of the petition  
45 for evaluation the patient had counsel, the same attorney should, if

1 possible, be appointed to represent the patient at the hearing for  
2 court-ordered treatment.

3 B. The notice provisions of this section cannot be waived.

4 C. The notice of the hearing shall fix the time and place for the  
5 hearing, which shall be held in the courtroom or other place within the  
6 county that the court designates to ensure humane treatment with due  
7 regard to the comfort and safety of the patient and others.

8 D. A copy of the petition, affidavits in support of the petition  
9 and notice of hearing shall be personally served on the proposed patient  
10 as prescribed by law or court rule or as ordered by the court.

11 E. THE PETITIONER SHALL SERVE A COPY OF THE PETITION, AFFIDAVITS IN  
12 SUPPORT OF THE PETITION AND THE NOTICE OF THE HEARING ON ANY GUARDIAN  
13 IDENTIFIED IN THE PETITION. IN LIEU OF PERSONAL SERVICE, A GUARDIAN MAY  
14 PROVIDE A WRITTEN ACKNOWLEDGMENT THAT THE GUARDIAN HAS RECEIVED THE  
15 DOCUMENTS. THE PETITIONER SHALL COMPLETE SERVICE ON THE GUARDIAN AT LEAST  
16 TWO CALENDAR DAYS BEFORE THE HEARING ON THE PETITION, BUT FAILURE TO SERVE  
17 THE GUARDIAN IS NOT GROUNDS FOR DISMISSING THE PETITION.

18 Sec. 5. Section 36-540, Arizona Revised Statutes, is amended to  
19 read:

20 36-540. Court options; immunity; rules

21 A. If the court finds by clear and convincing evidence that the  
22 proposed patient, as a result of mental disorder, is a danger to self, is  
23 a danger to others or has a persistent or acute disability or a grave  
24 disability and is in need of treatment, and is either unwilling or unable  
25 to accept voluntary treatment, the court shall order the patient to  
26 undergo one of the following:

27 1. Treatment in a program of outpatient treatment.

28 2. Treatment in a program consisting of combined inpatient and  
29 outpatient treatment.

30 3. Inpatient treatment in a mental health treatment agency, in a  
31 hospital operated by or under contract with the United States department  
32 of veterans affairs to provide treatment to eligible veterans pursuant to  
33 article 9 of this chapter, in the state hospital or in a private hospital,  
34 if the private hospital agrees, subject to the limitations of section  
35 36-541.

36 B. The court shall consider all available and appropriate  
37 alternatives for the treatment and care of the patient. The court shall  
38 order the least restrictive treatment alternative available.

39 C. The court may order the proposed patient to undergo outpatient  
40 or combined inpatient and outpatient treatment pursuant to subsection A,  
41 paragraph 1 or 2 of this section if the court:

42 1. Determines that all of the following apply:

43 (a) The patient does not require continuous inpatient  
44 hospitalization.

1 (b) The patient will be more appropriately treated in an outpatient  
2 treatment program or in a combined inpatient and outpatient treatment  
3 program.

4 (c) The patient will follow a prescribed outpatient treatment plan.

5 (d) The patient will not likely become dangerous or suffer more  
6 serious physical harm or serious illness or further deterioration if the  
7 patient follows a prescribed outpatient treatment plan.

8 2. Is presented with and approves a written treatment plan that  
9 conforms with the requirements of section 36-540.01, subsection B. If the  
10 court determines that the patient meets the requirements of section  
11 36-550.09, the court may order the patient to be placed in a secure  
12 behavioral health residential facility that is licensed by the department  
13 pursuant to section 36-425.06. If the treatment plan presented to the  
14 court pursuant to this subsection provides for supervision of the patient  
15 under court order by a mental health agency that is other than the mental  
16 health agency that petitioned or requested the county attorney to petition  
17 the court for treatment pursuant to section 36-531, the treatment plan  
18 must be approved by the medical director of the mental health agency that  
19 will supervise the treatment pursuant to subsection E of this section.

20 D. An order to receive treatment pursuant to subsection A,  
21 paragraph 1 or 2 of this section shall not exceed three hundred sixty-five  
22 days. The period of inpatient treatment under a combined treatment order  
23 pursuant to subsection A, paragraph 2 of this section shall not exceed the  
24 maximum period allowed for an order for inpatient treatment pursuant to  
25 subsection F of this section.

26 E. If the court enters an order for treatment pursuant to  
27 subsection A, paragraph 1 or 2 of this section, all of the following  
28 apply:

29 1. The court shall designate the medical director of the mental  
30 health treatment agency that will supervise and administer the patient's  
31 treatment program.

32 2. The medical director shall not use the services of any person,  
33 agency or organization to supervise a patient's outpatient treatment  
34 program unless the person, agency or organization has agreed to provide  
35 these services in the individual patient's case and unless the department  
36 has determined that the person, agency or organization is capable and  
37 competent to do so.

38 3. The person, agency or organization assigned to supervise an  
39 outpatient treatment program or the outpatient portion of a combined  
40 treatment program shall be notified at least three days before a referral.  
41 The medical director making the referral and the person, agency or  
42 organization assigned to supervise the treatment program shall share  
43 relevant information about the patient to provide continuity of treatment.

44 4. The court may order the medical director to provide notice to  
45 the court of any noncompliance with the terms of a treatment order.

1           5. During any period of outpatient treatment under subsection A,  
2 paragraph 2 of this section, if the court, on its own motion, **ON REQUEST**  
3 **OF A GUARDIAN PURSUANT TO PARAGRAPH 7 OF THIS SUBSECTION** or on motion by  
4 the medical director of the patient's outpatient mental health treatment  
5 facility, determines that the patient is not complying with the terms of  
6 the order or that the outpatient treatment plan is no longer appropriate  
7 and the patient needs inpatient treatment, the court, without a hearing  
8 and based on the court record, the patient's medical record, the  
9 affidavits and recommendations of the medical director, and the advice of  
10 staff and physicians or the psychiatric and mental health nurse  
11 practitioner familiar with the treatment of the patient, may enter an  
12 order amending its original order. The amended order may alter the  
13 outpatient treatment plan or order the patient to inpatient treatment  
14 pursuant to subsection A, paragraph 3 of this section. The amended order  
15 shall not increase the total period of commitment originally ordered by  
16 the court or, when added to the period of inpatient treatment provided by  
17 the original order and any other amended orders, exceed the maximum period  
18 allowed for an order for inpatient treatment pursuant to subsection F of  
19 this section. If the patient refuses to comply with an amended order for  
20 inpatient treatment, the court, on its own motion or on the request of the  
21 medical director, may authorize and direct a peace officer to take the  
22 patient into protective custody and transport the patient to the agency  
23 for inpatient treatment. Any authorization, directive or order issued to  
24 a peace officer to take the patient into protective custody shall include  
25 the patient's criminal history and the name and telephone numbers of the  
26 patient's case manager, guardian, spouse, next of kin or significant  
27 other, as applicable. When reporting to or being returned to a treatment  
28 agency for inpatient treatment pursuant to an amended order, the patient  
29 shall be informed of the patient's right to judicial review and the  
30 patient's right to consult with counsel pursuant to section 36-546.

31           6. During any period of outpatient treatment under subsection A,  
32 paragraph 2 of this section, if the medical director of the outpatient  
33 treatment facility in charge of the patient's care determines, in concert  
34 with the medical director of an inpatient mental health treatment facility  
35 who has agreed to accept the patient, that the patient is in need of  
36 immediate acute inpatient psychiatric care because of behavior that is  
37 dangerous to self or to others, the medical director of the outpatient  
38 treatment facility may order a peace officer to apprehend and transport  
39 the patient to the inpatient treatment facility pending a court  
40 determination on an amended order under paragraph 5 of this subsection.  
41 The patient may be detained and treated at the inpatient treatment  
42 facility for a period of not more than forty-eight hours, exclusive of  
43 weekends and holidays, from the time that the patient is taken to the  
44 inpatient treatment facility. The medical director of the outpatient  
45 treatment facility shall file the motion for an amended court order



1 requesting inpatient treatment not later than the next working day  
2 following the patient being taken to the inpatient treatment facility.  
3 Any period of detention within the inpatient treatment facility pending  
4 issuance of an amended order shall not increase the total period of  
5 commitment originally ordered by the court or, when added to the period of  
6 inpatient treatment provided by the original order and any other amended  
7 orders, exceed the maximum period allowed for an order for inpatient  
8 treatment pursuant to subsection F of this section. If a patient is  
9 ordered to undergo inpatient treatment pursuant to an amended order, the  
10 medical director of the outpatient treatment facility shall inform the  
11 patient of the patient's right to judicial review and to consult with an  
12 attorney pursuant to section 36-546.

13 7. IF THERE IS A COURT ORDER FOR TREATMENT AND A GUARDIANSHIP WITH  
14 ADDITIONAL MENTAL HEALTH AUTHORITY PURSUANT TO SECTION 14-5312.01 EXISTING  
15 AT THE SAME TIME, THE TREATMENT AND PLACEMENT DECISIONS MADE BY THE  
16 TREATMENT AGENCY ASSIGNED BY THE COURT TO SUPERVISE AND ADMINISTER THE  
17 PATIENT'S TREATMENT PROGRAM PURSUANT TO THE COURT ORDER FOR TREATMENT ARE  
18 CONTROLLING UNLESS THE COURT ORDERS OTHERWISE. DURING ANY PERIOD OF  
19 OUTPATIENT TREATMENT, THE GUARDIAN OF A PATIENT MAY FILE A REPORT WITH THE  
20 COURT THAT ADDRESSES WHETHER THE PATIENT IS COMPLYING WITH THE TERMS OF  
21 THE ORDER, WHETHER THE OUTPATIENT TREATMENT PLAN IS STILL APPROPRIATE AND  
22 WHETHER THE PATIENT NEEDS INPATIENT TREATMENT. THE REPORT SHALL STATE IN  
23 DETAIL THE FACTS ON WHICH THE GUARDIAN RELIES AND MAY INCLUDE OTHER  
24 SUPPORTING DOCUMENTS. A COPY OF THE REPORT AND OTHER SUPPORTING DOCUMENTS  
25 SHALL BE GIVEN TO THE PATIENT'S ATTORNEY AND THE OUTPATIENT TREATMENT  
26 AGENCY. AFTER REVIEWING THE REPORT AND ANY SUPPORTING DOCUMENTS FILED  
27 WITH THE REPORT, IF THE COURT DETERMINES THAT THERE IS REASONABLE CAUSE TO  
28 BELIEVE THAT THE PATIENT IS NOT COMPLYING WITH THE TERMS OF THE ORDER,  
29 THAT THE OUTPATIENT TREATMENT PLAN IS NO LONGER APPROPRIATE OR THAT THE  
30 PATIENT NEEDS INPATIENT TREATMENT, THE COURT MUST SET A CONFERENCE OR A  
31 HEARING OR TAKE OTHER ACTION DESCRIBED IN PARAGRAPH 5 OF THIS SUBSECTION.

32 F. The maximum periods of inpatient treatment that the court may  
33 order, subject to the limitations of section 36-541, are as follows:

- 34 1. Ninety days for a person found to be a danger to self.
- 35 2. One hundred eighty days for a person found to be a danger to  
36 others.
- 37 3. One hundred eighty days for a person found to have a persistent  
38 or acute disability.
- 39 4. Three hundred sixty-five days for a person found to have a grave  
40 disability.

41 G. If, on finding that the patient meets the criteria for  
42 court-ordered treatment pursuant to subsection A of this section, the  
43 court also finds that there is reasonable cause to believe that the  
44 patient is an incapacitated person as defined in section 14-5101 or is a  
45 person in need of protection pursuant to section 14-5401 and that the

1 patient is or may be in need of guardianship or conservatorship, or both,  
2 the court may order an investigation concerning the need for a guardian or  
3 conservator, or both, and may appoint a suitable person or agency to  
4 conduct the investigation. The appointee may include a court-appointed  
5 guardian ad litem, an investigator appointed pursuant to section 14-5308  
6 or the public fiduciary if there is no person willing and qualified to act  
7 in that capacity. The court shall give notice of the appointment to the  
8 appointee within three days after the appointment. The appointee shall  
9 submit the report of the investigation to the court within twenty-one  
10 days. The report shall include recommendations as to who should be  
11 guardian or who should be conservator, or both, and a report of the  
12 findings and reasons for the recommendation. If the investigation and  
13 report so indicate, the court shall order the appropriate person to submit  
14 a petition to become the guardian or conservator, or both, of the patient.

15 H. In any proceeding for court-ordered treatment in which the  
16 petition alleges that the patient is in need of a guardian or conservator  
17 and states the grounds for that allegation, the court may appoint an  
18 emergency temporary guardian or conservator, or both, for a specific  
19 purpose or purposes identified in its order and for a specific period of  
20 time not to exceed thirty days if the court finds that all of the  
21 following are true:

22 1. The patient meets the criteria for court-ordered treatment  
23 pursuant to subsection A of this section.

24 2. There is reasonable cause to believe that the patient is an  
25 incapacitated person as defined in section 14-5101 or is in need of  
26 protection pursuant to section 14-5401, paragraph 2.

27 3. The patient does not have a guardian or conservator and the  
28 welfare of the patient requires immediate action to protect the patient or  
29 the ward's property.

30 4. The conditions prescribed pursuant to section 14-5310,  
31 subsection B or section 14-5401.01, subsection B have been met.

32 I. The court may appoint as a temporary guardian or conservator  
33 pursuant to subsection H of this section a suitable person or the public  
34 fiduciary if there is no person qualified and willing to act in that  
35 capacity. The court shall issue an order for an investigation as  
36 prescribed pursuant to subsection G of this section and, unless the  
37 patient is represented by independent counsel, the court shall appoint an  
38 attorney to represent the patient in further proceedings regarding the  
39 appointment of a guardian or conservator. The court shall schedule a  
40 further hearing within fourteen days on the appropriate court calendar of  
41 a court that has authority over guardianship or conservatorship matters  
42 pursuant to this title to consider the continued need for an emergency  
43 temporary guardian or conservator and the appropriateness of the temporary  
44 guardian or conservator appointed, and shall order the appointed guardian  
45 or conservator to give notice to persons entitled to notice pursuant to

1 section 14-5309, subsection A or section 14-5405, subsection A. The court  
2 shall authorize certified letters of temporary emergency guardianship or  
3 conservatorship to be issued on presentation of a copy of the court's  
4 order. If a temporary emergency conservator other than the public  
5 fiduciary is appointed pursuant to this subsection, the court shall order  
6 that the use of the monies and property of the patient by the conservator  
7 be restricted and not be sold, used, transferred or encumbered, except  
8 that the court may authorize the conservator to use monies or property of  
9 the patient specifically identified as needed to pay an expense to provide  
10 for the care, treatment or welfare of the patient pending further hearing.  
11 This subsection and subsection H of this section do not:

12 1. Prevent the evaluation or treatment agency from seeking  
13 guardianship and conservatorship in any other manner allowed by law at any  
14 time during the period of court-ordered evaluation and treatment.

15 2. Relieve the evaluation or treatment agency from its obligations  
16 concerning the suspected abuse of a vulnerable adult pursuant to title 46,  
17 chapter 4.

18 J. If, on finding that a patient meets the criteria for  
19 court-ordered treatment pursuant to subsection A of this section, the  
20 court also learns that the patient has a guardian appointed under title  
21 14, the court with notice may impose on the existing guardian additional  
22 duties pursuant to section 14-5312.01. If the court imposes additional  
23 duties on an existing guardian as prescribed in this subsection, the court  
24 may determine that the patient needs to continue treatment under a court  
25 order for treatment and may issue the order or determine that the  
26 patient's needs can be adequately met by the guardian with the additional  
27 duties pursuant to section 14-5312.01 and decline to issue the court order  
28 for treatment. If at any time after the issuance of a court order for  
29 treatment the court finds that the patient's needs can be adequately met  
30 by the guardian with the additional duties pursuant to section 14-5312.01  
31 and that a court order for treatment is no longer necessary to ensure  
32 compliance with necessary treatment, the court may terminate the court  
33 order for treatment. ~~If there is a court order for treatment and a  
34 guardianship with additional mental health authority pursuant to section  
35 14-5312.01 existing at the same time, the treatment and placement  
36 decisions made by the treatment agency assigned by the court to supervise  
37 and administer the patient's treatment program pursuant to the court order  
38 for treatment are controlling unless the court orders otherwise.~~

39 K. The court shall file a report as part of the court record on its  
40 findings of alternatives for treatment.

41 L. Treatment shall not include psychosurgery, lobotomy or any other  
42 brain surgery without specific informed consent of the patient or the  
43 patient's legal guardian and an order of the superior court in the county  
44 in which the treatment is proposed, approving with specificity the use of  
45 the treatment.

1 M. The medical director or any person, agency or organization used  
2 by the medical director to supervise the terms of an outpatient treatment  
3 plan is not civilly liable for any acts committed by a patient while on  
4 outpatient treatment if the medical director, person, agency or  
5 organization has in good faith followed the requirements of this section.

6 N. A peace officer who in good faith apprehends and transports a  
7 patient to an inpatient treatment facility on the order of the medical  
8 director of the outpatient treatment facility pursuant to subsection E,  
9 paragraph 6 of this section is not subject to civil liability.

10 O. If a person has been found, as a result of a mental disorder, to  
11 constitute a danger to self or others or to have a persistent or acute  
12 disability or a grave disability and the court enters an order for  
13 treatment pursuant to subsection A of this section, the court shall  
14 transmit the person's name, sex, date of birth, social security number, if  
15 available, and date of the order for treatment to the supreme court. The  
16 supreme court shall transmit the information to the department of public  
17 safety to comply with the requirements of title 13, chapter 31 and title  
18 32, chapter 26. The department of public safety shall transmit the  
19 information to the national instant criminal background check system. The  
20 superior court may access the information of a person who is ordered into  
21 treatment to enforce or facilitate a treatment order.

22 P. On request, the clerk of the court shall provide certified  
23 copies of the commitment order to a law enforcement or prosecuting agency  
24 that is investigating or prosecuting a prohibited possessor as defined in  
25 section 13-3101.

26 Q. If the court does not find a person to be in need of treatment  
27 and a prosecutor filed a petition pursuant to section 13-4517, the  
28 evaluation agency, within twenty-four hours, shall notify the prosecuting  
29 agency of its finding. The court shall order the medical director to  
30 detain the person for an additional twenty-four hours to allow the  
31 prosecuting agency to be notified. If the court has retained jurisdiction  
32 pursuant to section 13-4517, subsection C, the court may remand the person  
33 to the custody of the sheriff for further disposition pursuant to section  
34 13-4517, subsection A, paragraph 2 or 3.

35 R. After an order for treatment has been issued pursuant to this  
36 section, the superior court in a county where a patient under a court  
37 order for treatment is found or resides has concurrent jurisdiction with  
38 the court in the county that issued the court order for treatment for the  
39 purposes of enforcing the court order for treatment, ordering changes to  
40 the treatment plan or amending the order to require the patient to undergo  
41 further inpatient treatment. If the court in which proceedings are  
42 commenced to enforce or administer the order for treatment is not the  
43 court that originally entered the order for treatment, unless prevented by  
44 an emergency, the court in which the proceedings are pending shall consult  
45 with the court of original entry and determine whether to hold hearings

1 and enter orders to facilitate enforcement or administration of the court  
2 order, whether to refer the case back to the court of original entry for  
3 further proceedings or whether to transfer the entire case to the court of  
4 original entry in that county for all further proceedings. The supreme  
5 court may adopt rules to govern the procedures to be used in enforcing and  
6 administering court orders for treatment in the various counties of this  
7 state and the transfer of cases between counties involving court orders  
8 for treatment.

9 S. Pursuant to the authority granted in subsection R of this  
10 section, for the purpose of enforcing or facilitating treatment of a  
11 patient under an active order for treatment, the supreme court shall adopt  
12 a rule to establish a program to enable the judges of the superior court,  
13 county attorneys, patients' attorneys, health care institutions as defined  
14 in section 36-401 that provide services subject to the ~~federal~~ emergency  
15 medical treatment and ~~active~~ labor act (42 UNITED STATES CODE SECTION  
16 1395dd), the regional behavioral health authority and behavioral health  
17 service providers in any county to determine the existence of an active  
18 court order for treatment and the history of court orders for treatment  
19 entered for a patient by a superior court in any county in this state.  
20 The program shall ensure that the information shared with other persons or  
21 entities is necessary only for the purposes stated in this subsection and  
22 shall require that the information shared be maintained as confidential by  
23 the receiving person or entity.

APPROVED BY THE GOVERNOR APRIL 10, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2024.