



Bill Number: S.B. 1257

Leach Floor Amendment

Reference to: printed bill

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

- **Requires an impaired person who is involuntarily detained for stabilization to be informed by the appointed attorney of the right to a hearing to determine whether the person should be detained for stabilization and to be represented by an attorney at the hearing.**
- **Specifies that the requirement that an evaluation agency prepare an impaired person's release plan in conjunction with the community treatment agency is as applicable.**
- **Makes technical changes.**

LEACH FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1257
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 36-501, Arizona Revised Statutes, is amended to
3 read:

4 36-501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Administration" means the Arizona health care cost containment
7 system administration.

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

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

16 (a) An ambulance service that holds a valid certificate of
17 necessity.

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

21 4. "Chief medical officer" means the chief medical officer under
22 the supervision of the superintendent of the state hospital.

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

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

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

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

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

9 9. "Danger to self":

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

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

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

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

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

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

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

24 13. "Evaluation" means:

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

30 (i) Two licensed physicians who are qualified psychiatrists, if
31 possible, or at least experienced in psychiatric matters, who shall
32 examine and report their findings independently. The person against whom
33 a petition has been filed shall be notified that the person may select one
34 of the physicians. A psychiatric resident in a training program approved
35 by the American medical association or by the American osteopathic
36 association may examine the person in place of one of the psychiatrists if
37 the resident is supervised in the examination and preparation of the
38 affidavit and testimony in court by a qualified psychiatrist appointed to
39 assist in the resident's training, and if the supervising psychiatrist is
40 available for discussion with the attorneys for all parties and for court
41 appearance and testimony if requested by the court or any of the
42 attorneys.

43 (ii) Two other individuals, one of whom, if available, is a
44 psychologist and in any event a social worker familiar with mental health
45 and human services that may be available placement alternatives
46 appropriate for treatment. An evaluation may be conducted on an inpatient

1 basis, an outpatient basis or a combination of both, and every reasonable
2 attempt shall be made to conduct the evaluation in any language preferred
3 by the person.

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

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

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

14 (b) A facility that is exempt from licensure pursuant to section
15 36-402, that possesses an accreditation from either a national commission
16 on correctional health care or an American correctional association and
17 that has been approved pursuant to this title to provide the services
18 required of that facility by this chapter **OR CHAPTER 18, ARTICLE 5 OF THIS**
19 **TITLE.**

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

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

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

29 18. "Health care entity" means a health care provider, the
30 department, the administration or a regional behavioral health authority
31 that is under contract with the administration.

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

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

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

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

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

3 (a) Licensed in this state.

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

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

13 25. "Medical director of a mental health treatment agency" means a
14 psychiatrist, or other licensed physician experienced in psychiatric
15 matters, who is designated in writing by the governing body of the agency
16 as the person in charge of the medical services of the agency for the
17 purposes of this chapter and includes the chief medical officer of the
18 state hospital.

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

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

25 (b) The declining mental abilities that directly accompany
26 impending death.

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

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

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

35 (a) The state hospital.

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

39 (c) A facility that is exempt from licensure pursuant to section
40 36-402, that possesses an accreditation from either a national commission
41 on correctional health care or an American correctional association and
42 that provides the services that are required of the facility by this
43 chapter.

44 29. "Outpatient treatment" or "combined inpatient and outpatient
45 treatment" means any treatment program not requiring continuous inpatient
46 hospitalization.

1 30. "Outpatient treatment plan" means a treatment plan that does
2 not require continuous inpatient hospitalization.

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

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

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

9 (a) Significantly impairs judgment, reason, behavior or capacity to
10 recognize reality.

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

14 (c) Substantially impairs the person's capacity to make an informed
15 decision regarding treatment, and this impairment causes the person to be
16 incapable of understanding and expressing an understanding of the
17 advantages and disadvantages of accepting treatment and understanding and
18 expressing an understanding of the alternatives to the particular
19 treatment offered after the advantages, disadvantages and alternatives are
20 explained to that person.

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

23 34. "Prepetition screening" means the review of each application
24 requesting court-ordered evaluation, including an investigation of facts
25 alleged in the application, an interview with each applicant and an
26 interview, if possible, with the proposed patient. The purpose of the
27 interview with the proposed patient is to assess the problem, explain the
28 application and, when indicated, attempt to persuade the proposed patient
29 to receive, on a voluntary basis, evaluation or other services.

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

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

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

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

42 39. "Psychiatric and mental health nurse practitioner" means a
43 registered nurse practitioner as defined in section 32-1601 who has
44 completed an adult or family psychiatric and mental health nurse
45 practitioner program and who is certified as an adult or family

1 psychiatric and mental health nurse practitioner by the state board of
2 nursing.

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

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

9 42. "Records" means all communications that are recorded in any
10 form or medium and that relate to patient examination, evaluation or
11 behavioral or mental health treatment. Records include medical records
12 that are prepared by a health care provider or other providers. Records
13 do not include:

14 (a) Materials that are prepared in connection with utilization
15 review, peer review or quality assurance activities, including records
16 that a health care provider prepares pursuant to section 36-441, 36-445,
17 36-2402 or 36-2917.

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

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

23 44. "Screening agency" means a health care agency that is licensed
24 by the department and that provides those services required of the agency
25 by this chapter.

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

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

30 47. "Superintendent" means the superintendent of the state
31 hospital.

32 48. "Voluntary evaluation" means the ongoing collection and
33 analysis of a person's medical, psychological, psychiatric and social
34 conditions in order to initially determine if a health disorder exists and
35 if there is a need for behavioral health services and, on an ongoing
36 basis, to ensure that the person's service plan is designed to meet the
37 person's and the person's family's current needs and long-term goals.

38 Sec. 2. Section 36-526, Arizona Revised Statutes, is amended to
39 read:

40 36-526. Emergency admission; examination; petition for
41 court-ordered evaluation

42 A. On presentation of the person for emergency admission, an
43 admitting officer of an evaluation agency shall perform an examination of
44 the person's psychiatric and physical condition and may admit the person
45 to the agency as an emergency patient if the admitting officer finds, as a
46 result of the examination and investigation of the application for

1 emergency admission, that there is reasonable cause to believe that the
2 person, as a result of a mental disorder, is a danger to self or others,
3 has a persistent or acute disability or a grave disability and is unable
4 or unwilling to undergo voluntary evaluation and that during the time
5 necessary to complete the prepetition screening procedures set forth in
6 sections 36-520 and 36-521 the person is likely without immediate
7 hospitalization to suffer serious physical harm or serious illness or to
8 inflict serious physical harm on another person. If a person is
9 hospitalized pursuant to this section, the admitting officer may notify a
10 screening agency and seek its assistance or guidance in developing
11 alternatives to involuntary confinement and in counseling the person and
12 the person's family.

13 B. On the same or a succeeding court day, the medical director in
14 charge of the agency shall file a petition for a court-ordered evaluation,
15 unless the person has been discharged or has become a voluntary patient.
16 The petition need not comply with the provisions of this chapter requiring
17 preparation and filing of a prepetition screening report but shall meet
18 all other requirements and shall seek an appropriate order pursuant to
19 section 36-529.

20 C. IF THE ADMITTING OFFICER, AFTER AN EXAMINATION OR EVALUATION,
21 DETERMINES THAT THE PROPOSED PATIENT IS AN IMPAIRED PERSON AS DEFINED IN
22 SECTION 36-2081, THE ADMITTING OFFICER MAY FILE A PETITION FOR
23 COURT-ORDERED STABILIZATION PURSUANT TO SECTION 36-2083.

24 Sec. 3. Title 36, chapter 18, Arizona Revised Statutes, is amended
25 by adding article 5, to read:

26 ARTICLE 5. INVOLUNTARY STABILIZATION

27 36-2081. Definitions

28 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

29 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
30 SYSTEM ADMINISTRATION.

31 2. "ADMITTING OFFICER" ~~[MEANS A PSYCHIATRIST OR OTHER PHYSICIAN WHO~~
32 ~~IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17, A PSYCHIATRIC AND~~
33 ~~MENTAL HEALTH NURSE PRACTITIONER WHO IS LICENSED PURSUANT TO TITLE 32,~~
34 ~~CHAPTER 15 OR A PHYSICIAN ASSISTANT WHO IS LICENSED PURSUANT TO TITLE 32,~~
35 ~~CHAPTER 25, WHO HAS EXPERIENCE IN PERFORMING PSYCHIATRIC EXAMINATIONS AND~~
36 ~~WHO HAS BEEN DESIGNATED AS AN ADMITTING OFFICER OF THE EVALUATION AGENCY~~
37 ~~BY THE PERSON IN CHARGE OF THE EVALUATION AGENCY]~~[HAS THE SAME MEANING
38 PRESCRIBED IN SECTION 36-501].

39 3. "CHIEF MEDICAL OFFICER" MEANS THE CHIEF MEDICAL OFFICER OF AN
40 EVALUATION AGENCY.

41 4. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

42 5. "DETAIN" MEANS TO INVOLUNTARY ADMIT A PATIENT, PROPOSED PATIENT
43 OR IMPAIRED PERSON TO AN EVALUATION AGENCY.

44 6. "EVALUATION AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION
45 36-501.

1 7. "IMPAIRED PERSON" MEANS AN INDIVIDUAL WHO, AS A RESULT OF
2 INTOXICATION, WITHDRAWAL OR SUBSTANCE-INDUCED SYMPTOMS, HAS IMPAIRED
3 JUDGMENT CAUSING THE INDIVIDUAL TO BE INCAPABLE OF MAKING OR COMMUNICATING
4 RATIONAL DECISIONS WITH REGARD TO THE INDIVIDUAL'S SAFETY, HEALTH OR BASIC
5 PERSONAL NEEDS, SUCH AS FOOD, CLOTHING, SHELTER OR MEDICAL CARE.

6 8. "PSYCHIATRIC AND MENTAL HEALTH NURSE PRACTITIONER" HAS THE SAME
7 MEANING PRESCRIBED IN SECTION 36-501.

8 9. "PSYCHIATRIST" HAS THE SAME MEANING AS PRESCRIBED IN SECTION
9 36-501.

10 10. "STABILIZATION PERIOD" MEANS THE TIME PERIOD FOR WHICH AN
11 IMPAIRED PERSON MAY BE ADMITTED INVOLUNTARILY TO AN EVALUATION AGENCY FOR
12 THE PURPOSES OF ALLOWING THE EFFECTS OF SUBSTANCES TO RESOLVE SUCH THAT
13 THE PERSON NO LONGER MEETS THE DEFINITION OF IMPAIRED PERSON.

14 36-2082. Impaired persons; civil and legal rights

15 AN IMPAIRED PERSON WHO IS INVOLUNTARILY ADMITTED FOR A STABILIZATION
16 PERIOD PURSUANT TO THIS ARTICLE HAS ALL OF THE CIVIL AND LEGAL RIGHTS
17 ENUMERATED IN CHAPTER 5, ARTICLE 2 OF THIS TITLE.

18 36-2083. Petition for court-ordered stabilization

19 A. A PETITION FOR COURT-ORDERED STABILIZATION MAY BE FILED BY AN
20 ADMITTING OFFICER BASED ON A PERSONAL ASSESSMENT AND REVIEW OF AN
21 INDIVIDUAL'S MEDICAL RECORD AND MUST BE ACCOMPANIED BY AN AFFIDAVIT FROM
22 THE ADMITTING OFFICER DETAILING ALL OF THE FOLLOWING:

23 1. THAT THE INDIVIDUAL IS AN IMPAIRED PERSON AND THE CLINICAL FACTS
24 THAT SUPPORT THAT CONCLUSION.

25 2. THAT THE INDIVIDUAL IS EITHER UNABLE OR UNWILLING TO CONSENT TO
26 VOLUNTARY ADMISSION.

27 3. THE REASONS WHY DISCHARGING THE INDIVIDUAL WOULD BE UNSAFE.

28 4. THE REASONS WHY PROCEEDINGS UNDER CHAPTER 5 OF THIS TITLE ARE
29 INAPPROPRIATE.

30 5. THE DATE THE INDIVIDUAL WAS INITIALLY INVOLUNTARILY ADMITTED TO
31 THE EVALUATION AGENCY PURSUANT TO CHAPTER 5 OF THIS TITLE.

32 B. THE PETITION FOR COURT-ORDERED STABILIZATION SHALL REQUEST THAT
33 THE COURT ISSUE AN ORDER ADMITTING THE IMPAIRED PERSON TO THE EVALUATION
34 AGENCY FOR A STABILIZATION PERIOD OF NOT MORE THAN FIVE CALENDAR DAYS
35 AFTER THE DATE THE INDIVIDUAL WAS INVOLUNTARILY ADMITTED TO THE EVALUATION
36 AGENCY PURSUANT TO CHAPTER 5 OF THIS TITLE.

37 C. A PETITION FOR COURT-ORDERED STABILIZATION MAY NOT BE FILED
38 SOLELY TO DETAIN AN INDIVIDUAL WHO IS AT RISK OF USING SUBSTANCES BUT WHO
39 IS NOT CURRENTLY INTOXICATED, IN WITHDRAWAL OR HAVING SUBSTANCE-INDUCED
40 SYMPTOMS.

41 36-2084. Order for stabilization period; duty of counsel;
42 personal service

43 A. IF THE COURT, AFTER REVIEWING THE PETITION FOR COURT-ORDERED
44 STABILIZATION, DETERMINES THAT INSUFFICIENT EVIDENCE HAS BEEN PRESENTED TO
45 FIND THAT THE INDIVIDUAL IS AN IMPAIRED PERSON, THE COURT SHALL DENY THE

1 PETITION FOR COURT-ORDERED STABILIZATION AND THE EVALUATION AGENCY SHALL
2 IMMEDIATE RELEASE THE IMPAIRED PERSON.

3 B. IF THE COURT, AFTER REVIEWING THE PETITION FOR COURT-ORDERED
4 STABILIZATION, DETERMINES THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT
5 THE INDIVIDUAL IS AN IMPAIRED PERSON, THE COURT SHALL GRANT THE PETITION
6 FOR COURT-ORDERED STABILIZATION FOR A PERIOD OF NOT MORE THAN FIVE
7 CALENDAR DAYS AFTER THE DATE THE IMPAIRED PERSON WAS INVOLUNTARILY
8 ADMITTED TO THE EVALUATION AGENCY PURSUANT TO CHAPTER 5 OF THIS TITLE.

9 C. THE COURT SHALL APPOINT COUNSEL FOR THE IMPAIRED PERSON AT THE
10 TIME OF ISSUING THE ORDER FOR STABILIZATION. AN ATTORNEY WHO IS APPOINTED
11 TO REPRESENT THE IMPAIRED PERSON SHALL CONFER WITH THE IMPAIRED PERSON
12 WITHIN TWENTY-FOUR HOURS AFTER APPOINTMENT AND INFORM THE IMPAIRED PERSON
13 OF THE PERSON'S RIGHTS.

14 D. A COPY OF ANY ORDER ISSUED BY THE COURT PURSUANT TO THIS
15 SECTION, TOGETHER WITH A COPY OF THE PETITION FOR COURT-ORDERED
16 STABILIZATION, SHALL BE PERSONALLY SERVED ON THE IMPAIRED PERSON AS
17 PRESCRIBED BY LAW OR COURT RULE OR AS ORDERED BY THE COURT.

18 [E. IF AN IMPAIRED PERSON IS INVOLUNTARILY DETAINED FOR
19 STABILIZATION, THE IMPAIRED PERSON SHALL BE INFORMED BY THE IMPAIRED
20 PERSON'S APPOINTED ATTORNEY OF THE RIGHT TO A HEARING TO DETERMINE WHETHER
21 THE IMPAIRED PERSON SHOULD BE INVOLUNTARILY DETAINED FOR STABILIZATION AND
22 TO BE REPRESENTED AT THE HEARING BY AN ATTORNEY. IF THE IMPAIRED PERSON
23 REQUESTS A HEARING TO DETERMINE WHETHER THE IMPAIRED PERSON SHOULD BE
24 INVOLUNTARILY DETAINED FOR STABILIZATION, THE COURT SHALL SCHEDULE A
25 HEARING AT ITS EARLIEST OPPORTUNITY.]

26 36-2085. Duty of evaluation agency

27 A. EACH DAY THAT AN IMPAIRED PERSON IS DETAINED UNDER AN ORDER FOR
28 STABILIZATION THE IMPAIRED PERSON MUST BE OFFERED TREATMENT FOR THE
29 IMPAIRED PERSON'S IMPAIRMENT TO WHICH THEY MAY CONSENT. THE IMPAIRED
30 PERSON MAY NOT BE TREATED FOR IMPAIRMENT WITHOUT THE IMPAIRED PERSON'S
31 EXPRESS CONSENT, EXCEPT THAT SECLUSION AND MECHANICAL OR PHARMACOLOGICAL
32 RESTRAINTS MAY BE EMPLOYED AS EMERGENCY MEASURES FOR THE SAFETY OF THE
33 IMPAIRED PERSON OR OTHERS PURSUANT TO SECTION 36-2087.

34 B. THE EVALUATION AGENCY SHALL ASSESS THE IMPAIRED PERSON EACH DAY
35 TO DETERMINE WHETHER THE PERSON REMAINS IMPAIRED. IF THE PERSON NO LONGER
36 MEETS THE DEFINITION OF AN IMPAIRED PERSON, THE EVALUATION AGENCY SHALL
37 EITHER RELEASE THE PERSON FROM THE COURT-ORDERED STABILIZATION PERIOD AND
38 DISCHARGE THE PERSON FROM THE FACILITY OR ADMIT THE PERSON TO THE
39 EVALUATION AGENCY ON A VOLUNTARY BASIS.

40 C. THE EVALUATION AGENCY SHALL COMPLY WITH THE QUALITY OF TREATMENT
41 PROVISIONS PRESCRIBED IN SECTION 36-2086, AS APPLICABLE.

42 36-2086. Quality of treatment; clinical records; postrelease
43 plan of care

44 A. SUBJECT TO THE RIGHT TO REFUSE PSYCHIATRIC AND MEDICAL TREATMENT
45 PURSUANT TO SECTIONS 36-512 AND 36-513 AND PURSUANT TO RULES OF THE
46 ADMINISTRATION, EACH IMPAIRED PERSON UNDERGOING STABILIZATION CARE

1 PURSUANT TO THIS ARTICLE SHALL RECEIVE PHYSICAL CARE AND TREATMENT THAT IS
2 DELIVERED IN A MANNER THAT ALLOWS THE IMPAIRED PERSON'S FAMILY MEMBERS OR
3 GUARDIAN, IF APPLICABLE, TO PARTICIPATE IN THE CARE AND TREATMENT, WHEN
4 APPROPRIATE, FOR THE FULL PERIOD THE IMPAIRED PERSON IS DETAINED. THE
5 EVALUATION AGENCY PROVIDING CARE AND TREATMENT SHALL KEEP A CLINICAL
6 RECORD FOR EACH IMPAIRED PERSON THAT DETAILS ALL MEDICAL EVALUATIONS AND
7 ALL CARE AND TREATMENT RECEIVED BY THE IMPAIRED PERSON.

8 B. AN EVALUATION AGENCY ADMINISTERING OBSERVATION OR INPATIENT
9 STABILIZATION CARE AND TREATMENT, IN CONJUNCTION WITH THE COMMUNITY
10 TREATMENT AGENCY[. IF APPLICABLE.] AND BEFORE THE RELEASE OF AN IMPAIRED
11 PERSON, SHALL PREPARE A PLAN FOR THE IMPAIRED PERSON'S CARE AFTER RELEASE
12 AND SHALL PROVIDE THE PLAN TO THE IMPAIRED PERSON'S GUARDIAN, IF
13 APPLICABLE.

14 36-2087. Seclusion; restraint; treatment

15 AN IMPAIRED PERSON UNDERGOING STABILIZATION PURSUANT TO THIS ARTICLE
16 SHALL NOT BE SUBJECTED TO SECLUSION OR MECHANICAL OR PHARMACOLOGICAL
17 RESTRAINTS EXCEPT IN THE CASE OF AN EMERGENCY FOR THE SAFETY OF THE
18 IMPAIRED PERSON OR OTHERS OR AS A PART OF A WRITTEN PLAN FOR THE
19 STABILIZATION OF THE IMPAIRED PERSON THAT IS PREPARED BY STAFF MEMBERS
20 RESPONSIBLE FOR THE IMPAIRED PERSON'S CARE AND PURSUANT TO RULES ADOPTED
21 BY THE DEPARTMENT. ANY INSTANCE OF SECLUSION OR RESTRAINT MUST BE
22 PROPERLY RECORDED IN THE IMPAIRED PERSON'S MEDICAL RECORD. THE USE OF ANY
23 RESTRAINT OR SECLUSION MEASURE SHALL BE GOVERNED BY WRITTEN PROCEDURES OF
24 THE EVALUATION AGENCY CARING FOR THE IMPAIRED PERSON AND IS SUBJECT TO THE
25 RULES OF THE DEPARTMENT.

26 36-2088. Maximum time of stabilization period; chief medical
27 officer; discharge; release; immunity

28 A. AN IMPAIRED PERSON WHO IS UNDERGOING A COURT-ORDERED
29 STABILIZATION PERIOD MAY NOT BE DETAINED FOR MORE THAN FIVE CALENDAR DAYS
30 AFTER THE DATE THE IMPAIRED PERSON WAS INVOLUNTARILY ADMITTED TO THE
31 EVALUATION AGENCY.

32 B. AN IMPAIRED PERSON WHO IS ADMITTED FOR A STABILIZATION PERIOD
33 MAY BE RELEASED AT ANY TIME IF IN THE OPINION OF THE CHIEF MEDICAL OFFICER
34 RELEASE IS APPROPRIATE. THE CHIEF MEDICAL OFFICER IS NOT CIVILLY LIABLE
35 FOR ANY ACT COMMITTED BY A RELEASED PERSON IF THE CHIEF MEDICAL OFFICER
36 HAS IN GOOD FAITH FOLLOWED THE REQUIREMENTS OF THIS ARTICLE. THE PERSON
37 MAY CONTINUE CARE AND TREATMENT ON A VOLUNTARY BASIS AT ANY TIME AND MUST
38 BE PROVIDED THE OPPORTUNITY FOR VOLUNTARY ADMISSION EACH DAY.

39 C. IF AN IMPAIRED PERSON WHO IS ADMITTED FOR A STABILIZATION PERIOD
40 IS RELEASED, THE PETITION FOR COURT-ORDERED STABILIZATION MUST BE RETAINED
41 TOGETHER WITH A WRITTEN STATEMENT BY THE CHIEF MEDICAL OFFICER STATING THE
42 REASON THE RELEASE WAS APPROPRIATE.

43 36-2089. County attorney; duties

44 WHEN A PHYSICIAN OR OTHER PERSON FILES A PETITION FOR COURT-ORDERED
45 STABILIZATION ON BEHALF OF AN EVALUATION AGENCY, THE COUNTY ATTORNEY FOR
46 THE COUNTY IN WHICH THE PROCEEDING IS INITIATED SHALL REPRESENT THE PERSON

1 WHO FILED THE PETITION OR THE EVALUATION AGENCY IN ANY JUDICIAL PROCEEDING
2 FOR COURT-ORDERED STABILIZATION AND SHALL DEFEND ALL CHALLENGES TO THE
3 DETENTION.

4 36-2090. Costs; financial responsibility

5 A. THE COSTS OF THE COURT PROCEEDINGS AND SERVICES PROVIDED UNDER
6 THIS ARTICLE SHALL BE CHARGED TO THE ADMINISTRATION OR, IF AVAILABLE, TO
7 ANOTHER THIRD-PARTY PAYOR. THE IMPAIRED PERSON MAY NOT BE CHARGED FOR
8 SERVICES PROVIDED UNDER THIS ARTICLE.

9 B. AN EVALUATION AGENCY IS NOT FINANCIALLY RESPONSIBLE FOR SERVING
10 THE DOCUMENTS REQUIRED BY SECTION 36-2084, SUBSECTION D.

11 Enroll and engross to conform

12 Amend title to conform

VENDEN "VINCE" LEACH

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02/28/2025

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C: MH