

COMMITTEE ON HEALTH & HUMAN SERVICES
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1604
(Reference to Senate engrossed 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 13-712, Arizona Revised Statutes, is amended
3 to read:

4 13-712. Calculation of terms of imprisonment

5 A. A sentence of imprisonment commences when sentence is imposed if
6 the defendant is in custody or surrenders into custody at that time.
7 Otherwise it commences when the defendant becomes actually in custody.

8 B. All time actually spent in custody pursuant to an offense until
9 the prisoner is sentenced to imprisonment for such offense shall be
10 credited against the term of imprisonment otherwise provided for by this
11 chapter. A person who is found competent to stand trial after an
12 involuntary commitment pursuant to section 13-4521 shall receive credit
13 for all time that the person spent under the jurisdiction of the secure
14 state mental health facility OR A LICENSED SECURE HEALTH FACILITY against
15 a term of imprisonment for any of the charges that were the basis for the
16 involuntary commitment.

17 C. If a sentence of imprisonment is vacated and a new sentence is
18 imposed on the defendant for the same offense, the new sentence is
19 calculated as if it had commenced at the time the vacated sentence was
20 imposed, and all time served under the vacated sentence shall be credited
21 against the new sentence.

22 D. If a person serving a sentence of imprisonment escapes from
23 custody, the escape interrupts the sentence. The interruption continues
24 until the person is apprehended and confined for the escape or is confined
25 and subject to a detainer for the escape. Time spent in actual custody
26 before return under this subsection shall be credited against the term
27 authorized by law if custody rested on an arrest or surrender for the

1 ~~escape itself, or if the custody arose from an arrest on another charge~~
2 ~~which culminated in a dismissal or an acquittal, and the person was denied~~
3 ~~admission to bail pending disposition of that charge because of a warrant~~
4 ~~lodged against such person arising from the escape.~~

5 ~~E. The sentencing court shall include the time of commencement of~~
6 ~~sentence under subsection A of this section and the computation of time~~
7 ~~credited against sentence under subsection B, C or D of this section in~~
8 ~~the original or an amended commitment order, under procedures established~~
9 ~~by rule of court.>>~~

10 ~~<<Sec. 2. Section 13-4521, Arizona Revised Statutes, is amended to~~
11 ~~read:~~

12 ~~13-4521. Dangerous and incompetent defendants; proof evident~~
13 ~~hearing; commitment trial; disposition; findings;~~
14 ~~annual report~~

15 ~~A. If a court enters an order pursuant to section 13-4517,~~
16 ~~subsection A, paragraph 4, the court shall hold a hearing within ten days~~
17 ~~after the order is issued to determine if the proof is evident or the~~
18 ~~presumption great that the defendant committed the act that constitutes a~~
19 ~~serious offense as defined in section 13-706. If the court does not find~~
20 ~~the proof is evident or the presumption great that the defendant committed~~
21 ~~the act, the court shall proceed pursuant to section 13-4517, subsection~~
22 ~~A, paragraph 1, 2 or 3.~~

23 ~~B. If the court does find the proof is evident or the presumption~~
24 ~~great pursuant to subsection A of this section, the court shall hold a~~
25 ~~trial within one hundred twenty days after the court issued the order~~
26 ~~pursuant to section 13-4517, subsection A, paragraph 4 to determine if the~~
27 ~~defendant is dangerous and should be involuntarily committed. Unless the~~
28 ~~state or defendant requests a jury trial, a trial held pursuant to this~~
29 ~~subsection shall be before the court.~~

30 ~~C. The Arizona rules of evidence and the Arizona rules of civil~~
31 ~~procedure apply to proceedings held pursuant to this section, except that~~
32 ~~the court may consider evidence that is not admissible under the Arizona~~
33 ~~rules of evidence when making a determination pursuant to subsection A of~~
34 ~~this section.~~

35 ~~D. If there has not been a previous evaluation to determine whether~~
36 ~~the defendant is dangerous, the defendant shall be examined by mental~~
37 ~~health experts in accordance with the requirements of section 13-4509,~~
38 ~~subsection D to determine if the defendant should be considered dangerous.~~
39 ~~The state and the defendant may each retain a mental health expert to~~
40 ~~examine the defendant and present the defendant's mental health evaluation~~
41 ~~at the trial.~~

42 ~~E. At a trial to determine if the defendant is dangerous, the state~~
43 ~~shall establish beyond a reasonable doubt that the defendant is dangerous~~
44 ~~and should be involuntarily committed. If the factfinder does not find~~
45 ~~that the defendant is dangerous or does not find that the defendant should~~

1 ~~be involuntarily committed, the court shall proceed pursuant to section~~
2 ~~13-4517, subsection A, paragraph 1, 2 or 3.~~

3 ~~F. If the factfinder finds that the defendant is dangerous and~~
4 ~~should be involuntarily committed, the court shall dismiss the charges~~
5 ~~against the defendant without prejudice and order the defendant to be~~
6 ~~committed to a secure state mental health facility OR, IF THE COURT~~
7 ~~DETERMINES THAT COMMITMENT TO A SECURE STATE MENTAL HEALTH FACILITY IS NOT~~
8 ~~FEASIBLE, TO THE CUSTODY OF THE DEPARTMENT OF HEALTH SERVICES FOR~~
9 ~~PLACEMENT IN A LICENSED SECURE HEALTH FACILITY. The defendant shall~~
10 ~~receive education, care, supervision and treatment to render the defendant~~
11 ~~either competent or nondangerous.~~

12 ~~G. If the court issues a commitment order pursuant to this section:~~

13 ~~1. All further proceedings for the defendant's continued treatment~~
14 ~~and the circumstances under which the defendant may be released shall be~~
15 ~~conducted pursuant to title 36, chapter 40.~~

16 ~~2. The order shall require that the defendant remain committed to a~~
17 ~~secure state mental health facility OR, IF ORDERED BY THE COURT PURSUANT~~
18 ~~TO SUBSECTION F OF THIS SECTION, TO A LICENSED SECURE HEALTH FACILITY~~
19 ~~until any of the following occurs:~~

20 ~~(a) The court finds that the defendant is competent to stand trial.~~

21 ~~(b) The court finds that the defendant is no longer dangerous.~~

22 ~~H. A commitment order issued pursuant to this section may not be in~~
23 ~~effect for more than the presumptive sentence the defendant could have~~
24 ~~received for the highest charged offense pursuant to section 13-702 or~~
25 ~~13-703, section 13-704, subsection A, B, C, D or E, section 13-705,~~
26 ~~section 13-706, subsection A, section 13-708, subsection D or section~~
27 ~~13-751 or any section for which a specific sentence is authorized. In~~
28 ~~making this determination, the court may not consider the sentence~~
29 ~~enhancements under section 13-703 or 13-704 for prior convictions. The~~
30 ~~court shall consider all time a defendant has been in custody, including~~
31 ~~pretrial detention and custody under title 36.~~

32 ~~I. The court shall retain jurisdiction over a defendant who is~~
33 ~~committed pursuant to this section until the court discharges the~~
34 ~~defendant from treatment. If a defendant is discharged or released on the~~
35 ~~expiration of a commitment order issued pursuant to this section, the~~
36 ~~medical director of the secure state mental health facility OR THE~~
37 ~~LICENSED SECURE HEALTH FACILITY from which the defendant is discharged or~~
38 ~~released or the state may file a petition stating that the defendant~~
39 ~~requires further treatment pursuant to title 36, chapter 5 or the~~
40 ~~appointment of a guardian pursuant to title 14.~~

41 ~~J. Findings by the court made pursuant to this section and, except~~
42 ~~as provided in section 13-4508, any statements made by the defendant~~
43 ~~during an examination by a mental health expert pursuant to section~~
44 ~~13-4509 are inadmissible in any proceeding other than a proceeding under~~
45 ~~title 36, chapters 5 and 40.~~

1 ~~K. A person who is involuntarily committed to a secure state mental~~
2 ~~health facility OR A LICENSED SECURE HEALTH FACILITY pursuant to this~~
3 ~~section shall receive credit for all time spent under the jurisdiction of~~
4 ~~the secure state mental health facility OR THE LICENSED SECURE HEALTH~~
5 ~~FACILITY if the person is found competent to stand trial and is~~
6 ~~subsequently sentenced to the state department of corrections for any of~~
7 ~~the charges that were the basis for the involuntary commitment.~~

8 ~~L. The court shall annually report the following information for~~
9 ~~the previous year to the Arizona criminal justice commission:~~

10 ~~1. The number of court orders for a trial pursuant to section~~
11 ~~13-4517, subsection A, paragraph 4, including the number of jury trials~~
12 ~~that were held.~~

13 ~~2. The number of defendants who are committed after a trial~~
14 ~~pursuant to this section.~~

15 ~~3. The number of committed defendants who are conditionally~~
16 ~~released to a less restrictive alternative.~~

17 ~~4. The number of committed defendants who are restored to~~
18 ~~competency or determined to not be dangerous and who are discharged.>>~~

19 Section 1. Section 36-425.06, Arizona Revised Statutes, is amended
20 to read:

21 36-425.06. Secure behavioral health residential facilities;
22 license; annual report; definition

23 A. The department shall license secure behavioral health
24 residential facilities to provide secure twenty-four-hour on-site
25 supportive treatment and supervision by staff with behavioral health
26 training for persons who have been determined to be seriously mentally
27 ill, who are chronically resistant to treatment for a mental disorder and
28 who are placed in the facility pursuant to a court order issued pursuant
29 to section 36-550.09 or who have been committed pursuant to a court order
30 issued pursuant to section 13-4521. A secure behavioral health
31 residential facility may provide services only to persons placed in or
32 committed to the facility pursuant to a court order issued pursuant to
33 section 36-550.09 or 13-4521 and may not provide services to any other
34 persons on that facility's premises. PATIENTS WHO ARE COMMITTED PURSUANT
35 TO SECTION 36-550.09 MAY NOT BE TREATED IN A SECURE BEHAVIORAL HEALTH
36 RESIDENTIAL FACILITY THAT TREATS PATIENTS WHO ARE COMMITTED PURSUANT TO
37 SECTION 13-4521. A secure behavioral health residential facility may not
38 have more than sixteen beds.

39 B. On or before September 1 of each year, the director of the
40 Arizona health care cost containment system administration shall submit a
41 report to the governor, the legislature and the supreme court that
42 includes all of the following information:

43 1. An accounting of where the monies appropriated to the Arizona
44 health care cost containment system administration for secure behavioral
45 health residential facilities were used during the previous year.

1 2. The number of available beds in each secure behavioral health
2 residential facility.

3 C. For the purposes of this section, "secure" means premises that
4 limit a patient's egress in the least restrictive manner consistent with
5 the patient's court-ordered treatment plan.

6 Enroll and engross to conform

7 Amend title to conform

And, as so amended, it do pass

SELINA BLISS
CHAIRMAN

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