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CHAPTER 234

SENATE BILL 1056

AN ACT

AMENDING SECTIONS 13-3821, 13-3825, 13-3827 AND 13-3994, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-3821, Arizona Revised Statutes, is amended to read:

13-3821. Persons required to register; procedure; identification card; assessment; definitions

A. A person who has been convicted of OR ADJUDICATED GUILTY EXCEPT INSANE FOR a violation or attempted violation of any of the following offenses or who has been convicted of OR ADJUDICATED GUILTY EXCEPT INSANE OR NOT GUILTY BY REASON OF INSANITY FOR an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting OR ADJUDICATING jurisdiction, within ten days after the conviction OR ADJUDICATION or within ten days after entering and remaining in any county of this state, shall register with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.

3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.

4. Sexual conduct with a minor pursuant to section 13-1405.

5. Sexual assault pursuant to section 13-1406.

6. Sexual assault of a spouse if the offense was committed before August 12, 2005.

7. Molestation of a child pursuant to section 13-1410.

8. Continuous sexual abuse of a child pursuant to section 13-1417.

9. Taking a child for the purpose of prostitution pursuant to section 13-3206.

10. Child prostitution pursuant to section 13-3212.

11. Commercial sexual exploitation of a minor pursuant to section 13-3552.

12. Sexual exploitation of a minor pursuant to section 13-3553.

13. Luring a minor for sexual exploitation pursuant to section 13-3554.

14. Sex trafficking of a minor pursuant to section 13-1307.

15. A second or subsequent violation of indecent exposure to a person under fifteen years of age pursuant to section 13-1402.

16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to section 13-1403, subsection B.

17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.

18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.

19. A violation of section 13-3822 or 13-3824.

20. Unlawful age misrepresentation.

21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of OR ADJUDICATED GUILTY EXCEPT INSANE FOR a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted ~~of~~, ADJUDICATED GUILTY EXCEPT INSANE or adjudicated delinquent and who is required to register in the convicting OR ADJUDICATING state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted OR ADJUDICATED GUILTY EXCEPT INSANE was committed.

H. The court may order the suspension or termination of any duty to register under this section after a hearing held pursuant to section 13-923.

I. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the director of the department of public safety, including all names by which the person is known, any required online identifier and the name of any website or internet communication service where the identifier is being used. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present.

J. On the person's initial registration and every year after the person's initial registration, the person shall confirm any required online identifier and the name of any website or internet communication service where the identifier is being used and the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding sections 28-3165 and 28-3171, the license is valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's address and photograph and shall make a copy of the photograph available to the department of public safety or to any law enforcement agency. The motor vehicle division shall provide to the department of public safety daily address updates for persons required to register pursuant to this section.

K. Except as provided in subsection E or L of this section, the clerk of the superior court in the county in which a person has been convicted of OR ADJUDICATED GUILTY EXCEPT INSANE FOR a violation of any offense listed under subsection A of this section or has been ordered to register pursuant

1 to subsection C or D of this section shall notify the sheriff in that county
2 of the conviction OR ADJUDICATION within ten days after entry of the
3 judgment.
4 L. Within ten days after entry of judgment, a court not of record
5 shall notify the arresting law enforcement agency of an offender's conviction
6 of OR ADJUDICATION OF GUILTY EXCEPT INSANE FOR a violation of section
7 13-1402. Within ten days after receiving this information, the law
8 enforcement agency shall determine if the offender is required to register
9 pursuant to this section. If the law enforcement agency determines that the
10 offender is required to register, the law enforcement agency shall provide
11 the information required by section 13-3825 to the department of public
12 safety and shall make community notification as required by law.
13 M. A person who is required to register pursuant to this section
14 because of a conviction OR ADJUDICATION OF GUILTY EXCEPT INSANE for the
15 unlawful imprisonment of a minor or the kidnapping of a minor is required to
16 register, absent additional or subsequent convictions OR ADJUDICATIONS, for a
17 period of ten years from the date that the person is released from prison,
18 jail, probation, community supervision or parole and the person has fulfilled
19 all restitution obligations. Notwithstanding this subsection, a person who
20 has a prior conviction OR ADJUDICATION OF GUILTY EXCEPT INSANE for an offense
21 for which registration is required pursuant to this section is required to
22 register for life.
23 N. A person who is required to register pursuant to this section and
24 who is a student at a public or private institution of postsecondary
25 education or who is employed, with or without compensation, at a public or
26 private institution of postsecondary education or who carries on a vocation
27 at a public or private institution of postsecondary education shall notify
28 the county sheriff having jurisdiction of the institution of postsecondary
29 education. The person who is required to register pursuant to this section
30 shall also notify the sheriff of each change in enrollment or employment
31 status at the institution.
32 O. At the time of registering, the sheriff shall secure a sufficient
33 sample of blood or other bodily substances for deoxyribonucleic acid testing
34 and extraction from a person who has been convicted of OR ADJUDICATED GUILTY
35 EXCEPT INSANE FOR an offense committed in another jurisdiction that if
36 committed in this state would be a violation or attempted violation of any of
37 the offenses listed in subsection A of this section or an offense that was in
38 effect before September 1, 1978 and that, if committed on or after September
39 1, 1978, has the same elements of an offense listed in subsection A of this
40 section or who is required to register by the convicting OR ADJUDICATING
41 jurisdiction. The sheriff shall transmit the sample to the department of
42 public safety.
43 P. Any person who is required to register under subsection A of this
44 section shall register the person's required online identifier and the name
45 of any website or internet communication service where the identifier is

being used or is intended to be used with the sheriff from and after December 31, 2007, regardless of whether the person was required to register an identifier at the time of the person's initial registration under this section.

Q. On conviction of OR ADJUDICATION OF GUILTY EXCEPT INSANE FOR any offense for which a person is required to register pursuant to this section, in addition to any other penalty prescribed by law, the court shall order the person to pay an additional assessment of two hundred fifty dollars. This assessment is not subject to any surcharge. The court shall transmit the monies received pursuant to this section to the county treasurer. The county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the sex offender monitoring fund established by section 13-3828. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this section.

R. For the purposes of this section:

1. "Address" means the location at which the person receives mail.

2. "Required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include a social security number, date of birth or pin number.

3. "Residence" means the person's dwelling place, whether permanent or temporary.

Sec. 2. Section 13-3825, Arizona Revised Statutes, is amended to read:

13-3825. Community notification

A. Within seventy-two hours after a person who was convicted OR ADJUDICATED GUILTY EXCEPT INSANE is released from confinement or who was accepted under the interstate compact for the supervision of parolees and probationers and has arrived in this state, the agency that had custody or responsibility for supervision of the person who was convicted of OR ADJUDICATED GUILTY EXCEPT INSANE FOR committing an offense for which the person was required or ordered by the court to register pursuant to section 13-3821 or that has accepted supervision under the interstate compact for the supervision of parolees and probationers shall provide all of the following information to the department of public safety by entering all of the following information into the sex offender profile and notification database:

1. The offender's identifying information.

2. A risk assessment of the offender.

3. The offender's date of release from confinement or, if the offender is sentenced to probation without jail time, the date the sentence is imposed.

B. Following the tenth day after the person is released from confinement or, if the offender is sentenced to probation without jail time, the date the sentence is imposed, the department of public safety shall

1 cross-reference the information the department receives pursuant to
2 subsection A of this section with the sex offender registry to determine if
3 the person is registered as required or ordered by the court pursuant to
4 section 13-3821. If the person is not registered, the local law enforcement
5 agency or the department of public safety shall request that the county
6 attorney in the county in which the person was convicted OR ADJUDICATED
7 GUILTY EXCEPT INSANE petition the court for an arrest warrant to be issued
8 and, if appropriate, notify the interstate compact administrator for this
9 state. If the person is registered, the department of public safety shall
10 forward the information the department received pursuant to subsection A of
11 this section to the sheriff in the county where the person is registered.
12 C. After receiving the information pursuant to subsection B of this
13 section, the sheriff shall forward the information to the chief law
14 enforcement officer of the community in which the person resides. After
15 reviewing the information received and any other information available to the
16 local law enforcement agency, the local law enforcement agency shall
17 categorize each offender and place each offender into a notification level.
18 Within forty-five days, the local law enforcement agency shall notify the
19 community of the offender's presence in the community pursuant to the
20 guidelines established by the community notification guidelines committee.
21 If the community does not have a chief law enforcement officer, the sheriff
22 shall perform the duties of the local law enforcement agency.
23 D. If a person who has been convicted of OR ADJUDICATED GUILTY EXCEPT
24 INSANE OR NOT GUILTY BY REASON OF INSANITY FOR an offense in another state
25 registers pursuant to section 13-3821, subsection A, the sheriff in the
26 county in which the person registers shall forward the information to the
27 chief law enforcement officer of the community in which the person resides.
28 The chief law enforcement officer shall contact the state in which the person
29 was convicted OR ADJUDICATED GUILTY EXCEPT INSANE OR NOT GUILTY BY REASON OF
30 INSANITY and shall obtain information regarding the person. After reviewing
31 the information received and any other information available, the local law
32 enforcement agency shall complete the risk assessment, shall categorize the
33 person, shall place the person into a notification level and shall enter the
34 information into the computer system. If the law enforcement agency is
35 unable to obtain sufficient information to complete the sex offender
36 community notification risk assessment, the agency shall categorize the
37 offender as a level two offender. Within forty-five days, the local law
38 enforcement agency shall notify the community of the person's presence in the
39 community pursuant to the guidelines established by the community
40 notification guidelines committee. If the community does not have a chief
41 law enforcement officer, the sheriff shall perform the duties of the local
42 law enforcement agency.
43 E. On receiving notice pursuant to section 13-3822 that a person who
44 is required to register has moved from the person's address, the chief law
45 enforcement officer of the community to which the person has relocated may

notify that community of the person's relocation to the community, pursuant to subsection C of this section. If the community does not have a local law enforcement agency, the sheriff of the county to which the person has relocated shall notify the community of the person's relocation.

F. In cooperation with the county probation department or the state department of corrections, a law enforcement agency may delegate all or part of the notification process for offenders on community supervision to the county probation department or to the state department of corrections, as appropriate.

G. Information concerning a person who is required to register pursuant to section 13-3821, who is subject to the provisions of community notification and who is a student at a public or private institution of postsecondary education or who is employed or carries on a vocation, with or without compensation, at a public or private institution of postsecondary education shall be promptly made available by the county sheriff to the law enforcement agency having jurisdiction for performing community notification pursuant to guidelines adopted under section 13-3826. The law enforcement agency shall notify the institution's administration and shall complete appropriate campus notification pursuant to guidelines adopted under section 13-3826.

H. This section does not prohibit law enforcement officers from giving a community notice of any circumstances or persons that pose a danger to the community under circumstances that are not provided for under this section.

I. Except as provided in subsection J of this section, this section applies to all persons who are subject to the registration requirements in section 13-3821 whether or not the person was convicted OR ADJUDICATED GUILTY EXCEPT INSANE before or after June 1, 1996.

J. This section does not apply to persons who are subject to the registration requirements in section 13-3821 as a result of offenses adjudicated by a juvenile court unless ordered by the court.

K. Notwithstanding subsections B and C of this section, the agency that had custody or responsibility for supervision of an offender or the court that sentenced the offender who was convicted of OR ADJUDICATED GUILTY EXCEPT INSANE FOR committing an offense that subjects the offender to the registration requirements of section 13-3821 and who committed the offense before June 1, 1996 may conduct a risk assessment for the offender as existing resources are available pursuant to guidelines adopted by the community notification guidelines committee pursuant to section 13-3826. Community notification pursuant to this section and sex offender web site notification pursuant to section 13-3827 shall only be conducted after the risk assessment is complete.

L. The court may continue, defer or terminate community notification after a hearing held pursuant to section 13-923.

Sec. 3. Section 13-3827, Arizona Revised Statutes, is amended to read:

13-3827. Internet sex offender website; investigation of records; immunity; definition

A. The department of public safety shall establish and maintain an internet sex offender website for offenders whose risk assessment has been determined to be a level two or level three. The purpose of the internet sex offender website is to provide sex offender information to the public.

B. The internet sex offender website shall include the following information for each convicted OR ADJUDICATED GUILTY EXCEPT INSANE sex offender in this state who is required to register pursuant to section 13-3821:

1. The offender's name, address and age.

2. A current photograph.

3. The offense committed and notification level pursuant to section 13-3826, subsection E, if a risk assessment has been completed pursuant to section 13-3825.

C. The department of public safety shall annually update on the website the name, address and photograph of each sex offender.

D. The department of public safety shall maintain a separate database and search function on the website that contains any required online identifier of sex offenders whose risk assessments have been determined to be a level two or level three and the name of any website or internet communication service where the required online identifier is being used. This information shall not be publicly connected to the name, address and photograph of a registered sex offender on the website.

E. The department of public safety may disseminate a registered sex offender's required online identifier and the name of any corresponding website or internet communication service to a business or organization that offers electronic communication services for comparison with information that is held by the requesting business or organization. The requesting business or organization shall notify the department of public safety when a comparison of the information indicates that a registered sex offender's required online identifier is being used on the business's or organization's system. The requesting business or organization shall not further disseminate that the person is a registered sex offender.

F. The motor vehicle division of the department of transportation shall send copies of each sex offender's nonoperating identification license or driver license photograph to the department of public safety for inclusion on the sex offender website.

G. The department of public safety shall annually verify the addresses of all sex offender registration records contained within the Arizona criminal justice information system. Before including the address of a sex offender on the website, the department of public safety shall confirm that the address is correct. To confirm a sex offender's address, the department shall conduct a search of the Arizona criminal justice information system.

If this search does not provide the necessary confirmation, the department shall use alternative public and private sector resources that are currently used for criminal investigation purposes to confirm the address. The department of public safety is prohibited from using or releasing the information from the alternative public and private sector resources except pursuant to this section. A custodian or public or private sector resource that releases information pursuant to this subsection is not civilly or criminally liable in any action alleging a violation of confidentiality.

H. The department of public safety may petition the superior court for enforcement of subsection G of this section if a public or private sector resource refuses to comply. The court shall grant enforcement if the department has reasonable grounds to believe the records sought to be inspected are relevant to confirming the identity and address of a sex offender.

I. A person who provides or fails to provide information required by this section is not civilly or criminally liable unless the act or omission is wanton or wilful.

J. For the purpose of this section, "required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include A social security number, date of birth or pin number.

Sec. 4. Section 13-3994, Arizona Revised Statutes, is amended to read:

13-3994. <u>Commitment; hearing; jurisdiction; definition</u>

A. A person who is found guilty except insane pursuant to section 13-502 shall be committed to a secure state mental health facility under the department of health services for a period of treatment.

B. If the criminal act of the person committed pursuant to subsection A of this section did not cause the death or serious physical injury of or the threat of death or serious physical injury to another person, the court shall set a hearing date within seventy-five days after the person's commitment to determine if the person is entitled to release from confinement or if the person meets the standards for civil commitment pursuant to title 36, chapter 5. The court shall notify the medical director of the mental health facility, the attorney general, the county attorney, the victim and the attorney representing the person, if any, of the date of the hearing. Fourteen days before the hearing the director of the mental health facility shall submit to the court a report addressing the person's mental health and dangerousness.

C. At a hearing held pursuant to subsection B of this section:

1. If the person proves by clear and convincing evidence that the person no longer suffers from a mental disease or defect and is not dangerous, the court shall order the person's release and the person's commitment ordered pursuant to section 13-502, subsection D shall terminate. Before determining to release a person pursuant to this paragraph, the court shall consider the entire criminal history of the person and shall not order

1 the person's release if the court determines that the person has a propensity
2 to reoffend.
3 2. If the court finds that the person still suffers from a mental
4 disease or defect, may present a threat of danger to self or others, is
5 gravely disabled, is persistently or acutely disabled or has a propensity to
6 reoffend, it shall order the county attorney to institute civil commitment
7 proceedings pursuant to title 36 and the person's commitment ordered pursuant
8 to section 13-502, subsection D shall terminate.
9 D. If the court finds that the criminal act of the person committed
10 pursuant to subsection A of this section caused the death or serious physical
11 injury of or the threat of death or serious physical injury to another
12 person, the court shall place the person under the jurisdiction of the
13 psychiatric security review board. The court shall state the beginning date,
14 length and ending date of the board's jurisdiction over the person. The
15 length of the board's jurisdiction over the person is equal to the sentence
16 the person could have received pursuant to section 13-707 or section 13-751,
17 subsection A or the presumptive sentence the defendant could have received
18 pursuant to section 13-702, subsection D, section 13-703, section 13-704,
19 section 13-705, section 13-706, subsection A, section 13-710 or section
20 13-1406. In making this determination the court shall not consider the
21 sentence enhancements for prior convictions under section 13-703 or 13-704.
22 The court shall retain jurisdiction of all matters that are not specifically
23 delegated to the psychiatric security review board for the duration of the
24 presumptive sentence.
25 E. A person who is placed under the jurisdiction of the psychiatric
26 security review board pursuant to subsection D of this section is not
27 eligible for discharge from the board's jurisdiction until the board's
28 jurisdiction over the person expires.
29 F. A person who is placed under the jurisdiction of the psychiatric
30 security review board pursuant to subsection D of this section is not
31 entitled to a hearing before the board earlier than one hundred twenty days
32 after the person's initial commitment. A request for a subsequent release
33 hearing may be made pursuant to subsection H of this section. After the
34 hearing, the board may take one of the following actions:
35 1. If the psychiatric security review board finds that the person
36 still suffers from a mental disease or defect and is dangerous, the board
37 shall order that the person remain committed at the secure state mental
38 health facility.
39 2. If the person proves by clear and convincing evidence that the
40 person no longer suffers from a mental disease or defect and is not
41 dangerous, the psychiatric security review board shall order the person's
42 release. The person shall remain under the jurisdiction of the board.
43 Before determining to release a person pursuant to this paragraph, the board
44 shall consider the entire criminal history of the person and shall not order

the person's release if the board determines that the person has a propensity to reoffend.

3. If the psychiatric security review board finds that the person still suffers from a mental disease or defect or that the mental disease or defect is in stable remission but the person is no longer dangerous, the board shall order the person's conditional release. The person shall remain under the board's jurisdiction. The board in conjunction with the state mental health facility and behavioral health community providers shall specify the conditions of the person's release. The board shall continue to monitor and supervise a person who is released conditionally. Before the conditional release of a person, a supervised treatment plan shall be in place, including the necessary funding to implement the plan.

4. If the person is sentenced pursuant to section 13-704, ~~subsection A, B, C, D or E~~ SECTION 13-710 OR SECTION 13-751, SUBSECTION A and the psychiatric security review board finds that the person no longer needs ongoing treatment for a mental disease and the person is dangerous or has a propensity to reoffend, the board shall order the person to be transferred to the state department of corrections for the remainder of the sentence imposed pursuant to section 13-502, subsection D. The board shall consider the safety and protection of the public.

G. Within twenty days after the psychiatric security review board orders a person to be transferred to the state department of corrections, the person may file a petition for a judicial determination. The person shall serve a copy of the request on the attorney general. If the person files a petition for a judicial determination, the person shall remain in a state mental health facility pending the result of the judicial determination. The person requesting the judicial determination has the burden of proving the issues by clear and convincing evidence. The judicial determination is limited to the following issues:

1. Whether the person no longer needs ongoing treatment for a mental disease.

2. Whether the person is dangerous or has a propensity to reoffend.

H. A person who is placed under the jurisdiction of the psychiatric security review board pursuant to subsection D of this section may not seek a new release hearing earlier than twenty months after a prior release hearing, except that the medical director of the state mental health facility may request a new release hearing for a person under the jurisdiction of the psychiatric security review board at any time. The person shall not be held in confinement for more than two years without a hearing before the board to determine if the person should be released or conditionally released.

I. At any hearing for release or conditional release pursuant to this section:

1. Public safety and protection are primary.

2. The applicant has the burden of proof by clear and convincing evidence.

J. At least fifteen days before a hearing is scheduled to consider a person's release, or before the expiration of the board's jurisdiction over the person, the state mental health facility or supervising agency shall submit to the psychiatric security review board a report on the person's mental health. The psychiatric security review board shall determine whether to release the person or to order the county attorney to institute civil commitment proceedings pursuant to title 36.

K. The procedures for civil commitment govern the continued commitment of the person after the expiration of the jurisdiction of the psychiatric security review board.

L. Before a person is released or conditionally released, at least three of the five psychiatric security review board members shall vote for the release or conditional release.

M. If at any time while the person remains under the jurisdiction of the psychiatric security review board it appears to the board, the chairman or vice-chairman of the board or the medical director of the state mental health facility that the person has failed to comply with the terms of the person's conditional release or that the mental health of the person has deteriorated, the board or the chairman or vice-chairman of the board for good cause or the medical director of the state mental health facility may order that the person be returned to a secure state mental health facility for evaluation or treatment. A written order of the board, the chairman or vice-chairman of the board or the medical director is sufficient warrant for any law enforcement officer to take the person into custody and to transport the person accordingly. Any sheriff or other peace officer shall execute the order and shall immediately notify the board of the person's return to the facility. Within twenty days after the person's return to a secure state mental health facility the board shall conduct a hearing and shall give notice within five days before the hearing of the time and place of the hearing to the person, the victim, the attorney representing the person, the county attorney and the attorney general.

N. The director of a facility that is providing treatment to a person on conditional release or any other person who is responsible for the supervision of the person may take the person or request that the person be taken into custody if there is reasonable cause to believe that the person's mental health has deteriorated to the point that the person's conditional release should be revoked and that the person is in need of immediate care, custody or treatment or that deterioration is likely because of noncompliance with a treatment program. A person who is taken into custody pursuant to this subsection shall be transported immediately to a secure state mental health facility and shall have the same rights as any person appearing before the psychiatric security review board.

O. Before the initial hearing or any other hearing before the psychiatric security review board on the release or conditional release of the person, the person, the attorney who is representing the person and the

1 attorney general or county attorney who is representing the state may choose
2 a psychiatrist licensed pursuant to title 32, chapter 13 or 17 or a
3 psychologist licensed pursuant to title 32, chapter 19.1 to examine the
4 person. All costs in connection with the examination shall be approved and
5 paid by the county of the sentencing court. The written examination results
6 shall be filed with the board and shall include an opinion as to:
7 1. The mental condition of the person.
8 2. Whether the person is dangerous.
9 P. Notwithstanding subsection O of this section, the board or the
10 chairman of the board for good cause may order an independent mental health
11 evaluation by a psychiatrist licensed pursuant to title 32, chapter 13 or 17
12 or a psychologist licensed pursuant to title 32, chapter 19.1. The written
13 examination results shall be filed with the board pursuant to subsection O of
14 this section.
15 Q. If a person is found guilty except insane pursuant to section
16 13-502, the department of health services shall assume custody of the person
17 within ten days after receiving the order committing the person pursuant to
18 subsection A of this section. The Arizona state hospital shall collect
19 census data for guilty except insane treatment programs to establish maximum
20 capacity and the allocation formula required pursuant to section 36-206,
21 subsection D. If the Arizona state hospital reaches its funded capacity for
22 forensic programs, the department of health services may defer the admission
23 of the person found guilty except insane for up to an additional twenty days.
24 The department of health services shall reimburse the county for the actual
25 costs of each day the admission is deferred. If the department of health
26 services is not able to admit the person found guilty except insane at the
27 conclusion of the twenty day deferral period, the department of health
28 services shall notify the sentencing court, the prosecutor and the defense
29 counsel of this fact. On receipt of this notification, the prosecutor or the
30 person's defense counsel may request a hearing to determine the likely length
31 of time admission will continue to be deferred and whether any other action
32 should be taken. On receipt of the request for hearing, the court shall set
33 a hearing within ten days.
34 R. For the purposes of this section, "state mental health facility"
35 means a secure state mental health facility under the department of health
36 services.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.