

ARIZONA REVISED STATUTES (A.R.S.)

TITLE 13 – CRIMINAL CODE CHAPTER 1. GENERAL PROVISIONS

§ 13-119. Assessments for offenses for which persons are required to register

On conviction of any offense for which a person is required to register pursuant to § 13-3821, 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 § 13-3828. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this section.

CHAPTER 38. MISCELLANEOUS ARTICLE 3. REGISTRATION OF SEX OFFENDERS

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

A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of 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 jurisdiction, within ten days after the conviction 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 § 13-1303 if the victim is under eighteen years of age and the lawful imprisonment was not committed by the child's parent.
2. Kidnaping pursuant to § 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 § 13-1404 if the victim is under eighteen years of age.
4. Sexual conduct with a minor pursuant to § 13-1405.
5. Sexual assault pursuant to § 13-1406.
6. Sexual assault of a spouse if the offense was committed before August 12, 2005.
7. Molestation of a child pursuant to § 13-1410.
8. Continuous sexual abuse of a child pursuant to § 13-1417.
9. Taking a child for the purpose of prostitution pursuant to § 13-3206.
10. Child prostitution pursuant to § 13-3212.
11. Commercial sexual exploitation of a minor pursuant to § 13-3552.
12. Sexual exploitation of a minor pursuant to § 13-3553.
13. Luring a minor for sexual exploitation pursuant to § 13-3554.

14. Sex trafficking of a minor pursuant to § 13-1307.
15. A second or subsequent violation of indecent exposure to a person under the age of fifteen years pursuant to § 13-1402, subsection B.
16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen pursuant to § 13-1403, subsection B.
17. A third or subsequent violation of indecent exposure pursuant to § 13-1402.
18. A third or subsequent violation of public sexual indecency pursuant to § 13-1403.
19. A violation of § 13-3822 or 13 3824.

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 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 title¹ or for an offense for which there was a finding of sexual motivation pursuant to § 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 or adjudicated delinquent and who is required to register in the convicting 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, 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 purposes of this paragraph, "school" means an educational institution of any description, public or private, where ever 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 was committed.

¹§ 13-1401 et seq. or § 13-3551.

H. 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. 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.

I. On the person's initial registration and every year after the person's initial registration, 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 §§ 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.

J. Except as provided in subsection E or K of this section, the clerk of the superior court in the county in which a person has been convicted of a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within ten days after entry of the judgment.

K. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of § 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by § 13-3825 to the department of public safety and shall make community notification as required by law.

L. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

M. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without

compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

N. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from a person who has been convicted of an offense committed in another jurisdiction that if committed in this state will be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in subsection A of this section or who is required to registered by the convicting jurisdiction. The sheriff shall transmit the sample to the department of public safety.

O. For the purposes of this section:

1. "Address" means the location at which the person receives mail.
2. "Residence" means the person's dwelling place, whether permanent or temporary.

§ 13-3822. Notice of moving from place of residence where living or change of name; forwarding of information; definitions

A. Within seventy-two hours, excluding weekends and legal holidays, after moving from the person's residence within a county or after changing the person's name, a person who is required to register under this article shall inform the sheriff in person and in writing of the person's new residence, address or new name. If the person moves to a location that is not a residence and the person receives mail anywhere, including a post office box, the person shall notify the sheriff of the person's address. If the person does not have an address or a permanent place of residence, the person shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present. Within three days after receipt of such information, the sheriff shall forward it to the department of public safety and the chief of police, if any, of the place from which the person moves, and shall forward a copy of the statement, fingerprints and photograph of the person to the chief of police, if any, of the place to which the person has moved.

B. Within seventy-two hours after a person moves from a county in which the person is registered, the person shall notify in writing the sheriff of the county from which the person moves. If the person is subject to community notification requirements, the sheriff of the county from which the person moves shall advise the local law enforcement agency of the county to which the person moves of the move. If the person moves out of this state, the sheriff of the county from which the person moves shall advise the local law enforcement agency in the jurisdiction to which the person moves. The local law enforcement agency shall contact the department of public safety following ten days after being notified to determine if the person has reregistered. If the person has not reregistered, the local law enforcement agency shall notify the local law enforcement agency in the county in which the person last resided. Any law enforcement agency in the county in which the person last resided shall conduct an investigation and shall submit a report to the appropriate county attorney.

C. For the purposes of this section:

1. “Address” means the location at which the person receives mail.
2. “Residence” means the person’s dwelling place, whether permanent or temporary.

§ 13-3824. Violation; classification; assessment

A. A person who is subject to registration under this article and who fails to comply with the requirements of this article is guilty of a class 4 felony.

B. Notwithstanding subsection A of this section, a person who fails to comply with § 13-3821, subsection I is guilty of a class 6 felony and, 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 subsection 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 § 13-3828. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this subsection.

§ 13-3825. Community notification

A. Within seventy-two hours after a person who was convicted 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 committing an offense for which the person was required or ordered by the court to register pursuant to § 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 cross-reference the information the department receives pursuant to subsection A of this section with the sex offender registry to determine if the person is registered as required or ordered by the court pursuant to § 13-3821. If the person is not registered, the department of public safety shall notify the county attorney in the county in which the person was convicted or the interstate compact administrator for this state. If the person is registered, the department of public safety shall forward the information the department received pursuant to subsection A of this section to the sheriff in the county where the person is registered.

C. After receiving the information pursuant to subsection B of this section, the sheriff shall forward the information to the chief law enforcement officer of the community in which the person resides. After reviewing the information received and any other information available to the local law enforcement agency, the local law enforcement agency shall categorize each offender and place each offender into a notification level. Within forty-five days, the local law enforcement agency shall notify the community of the offender’s presence in the community

pursuant to the guidelines established by the community notification guidelines committee. If the community does not have a chief law enforcement officer, the sheriff shall perform the duties of the local law enforcement agency.

D. If a person who has been convicted of an offense in another state registers pursuant to § 13-3821, subsection A, the sheriff in the county in which the person registers shall forward the information to the chief law enforcement officer of the community in which the person resides. The chief law enforcement officer shall contact the state in which the person was convicted and shall obtain information regarding the person. After reviewing the information received and any other information available, the local law enforcement agency shall complete the risk assessment, shall categorize the person, shall place the person into a notification level and shall enter the information into the computer system. If the law enforcement agency is unable to obtain sufficient information to complete the sex offender community notification risk assessment, the agency shall categorize the offender as a level two offender. Within forty-five days, the local law enforcement agency shall notify the community of the person's presence in the community pursuant to the guidelines established by the community notification guidelines committee. If the community does not have a chief law enforcement officer, the sheriff shall perform the duties of the local law enforcement agency.

E. On receiving notice pursuant to § 13-3822 that a person who is required to register has moved from the person's address, the chief law 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 § 13-3821 and 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 § 13-3826. The law enforcement agency shall notify the institution's administration and shall complete appropriate campus notification pursuant to guidelines adopted under § 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 § 13-3821 whether or not the person was convicted before or after June 1, 1996.

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

K. Notwithstanding § 13-3825, subsections B and C, the agency that had custody or responsibility for supervision of an offender or the court that sentenced the offender who was convicted of committing an offense that subjects the offender to the registration requirements of § 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 § 13-3826. Community notification pursuant to § 13-3825 and sex offender web site notification pursuant to § 13-3827 shall only be conducted after the risk assessment is complete.

§ 13-3826. Community notification guidelines committee; members; duties; definition

A. The community notification guidelines committee is established consisting of the following members:

1. A member of the senate who is appointed by the president of the senate to serve as co chairperson of the committee.
2. A member of the house of representatives who is appointed by the speaker of the house of representatives to serve as co chairperson of the committee.
3. The attorney general or the attorney general's designee.
4. The chairman of the senate judiciary committee or its successor committee, who serves as an advisory member.
5. A member of the minority party in the senate who is appointed by the president of the senate and who serves as an advisory member.
6. The chairman of the house of representatives judiciary committee or its successor committee, who serves as an advisory member.
7. A member of the minority party in the house of representatives who is appointed by the speaker of the house of representatives and who serves as an advisory member.
8. Two sheriffs or their designees who are appointed by the president of the Arizona county attorneys and sheriffs association, one of whom represents a county with a population of more than four hundred thousand persons according to the most recent United States decennial census and one of whom represents a county with a population of four hundred thousand persons or less according to the most recent United States decennial census.
9. Two chiefs of police or their designees who are appointed by the president of the Arizona association of chiefs of police, one of whom represents a city or town in a county with a population of more than four hundred thousand persons according to the most recent United States decennial census and one of whom represents a city or town in a county with a population of four hundred thousand persons or less according to the most recent United States decennial census.
10. Two county attorneys or their designees who are appointed by the Chairman of the Arizona prosecuting attorneys' advisory council, one of whom represents a county with a population of more than four hundred thousand persons according to the most recent United States decennial census and one of whom represents a county with a population of four hundred thousand persons or less according to the most recent United States decennial census.
11. Two county adult probation officers or their designees who are appointed by the chief justice of the supreme court, one of whom represents a county with a population of more than four hundred thousand persons according to the most recent United States decennial census and one of whom represents a county with a population of four hundred thousand persons or less according to the most recent United States decennial census.
12. One state adult parole administrator or the administrator's designee who is appointed by the governor.

13. The director of the department of public safety or the director's designee.
14. The director of the department of transportation or the director's designee.
15. One person who is licensed under title 32, chapter 19.1, and who is appointed by the state board of psychologist examiners.
16. One representative of a public defender's office recommended by an association of public defenders who is appointed by the speaker of the house of representatives.
17. One advocate or community service provider who is appointed by the president of the senate.
18. Two public members, one of whom is appointed by the president of the senate and one of whom is appointed by the speaker of the house of representatives.

B. Appointed members serve two year terms.

C. The members shall meet at a time and place set by the co chairpersons.

D. Members of the committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

E. The committee shall:

1. Adopt community notification guidelines. The committee shall monitor the implementation of the community notification guidelines that the committee adopts. The guidelines shall provide for levels of notification based on the risk that a particular sex offender poses to the community. The notification requirements are as follows:

(a) For level two and three offenders, the notification shall be made to the surrounding neighborhood, area schools, appropriate community groups and prospective employers. The notification shall include a flyer with a photograph and exact address of the offender as well as a summary of the offender's status and criminal background. A press release and a level two or level three flyer shall be given to the local electronic and print media to enable information to be placed in a local publication.

(b) For level one offenders, the local law enforcement agency that is responsible for notification shall maintain information about the offender. The local law enforcement agency may disseminate this information to other law enforcement agencies and may give notification to the people with whom the offender resides.

2. Develop and recommend a process for a sex offender to request a notification level review and for the court to determine if a sex offender notification level may be reduced or the offender is no longer required to register. The committee shall submit a report of its recommendation to the governor, the president of the senate and the speaker of the house of representatives on or before December 15, 2004 and shall provide a copy of this report to the secretary of state and the director of the Arizona state library, archives and public records.

3. Study whether there is uniform and consistent application of the community notification guidelines on a statewide basis, including whether offenders who pose similar risks are assigned similar notification levels in different jurisdictions.

F. The committee shall adopt guidelines regarding how community notification pursuant to § 13-3825, subsection K should be conducted, including whether community notification should occur. The guidelines should provide for flexibility based on resources and

availability of records. The committee may adopt procedures that allow offenders required to register to not be classified if necessary records are not reasonably available.

G. For the purposes of this section, “advisory member” means a member who advises other committee members during the meetings but who is ineligible to vote and who is not a member for the purposes of determining if a quorum is present.

§ 13-3827. Internet sex offender web site; investigation of records; immunity

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

B. The internet sex offender web site shall include the following information for each convicted sex offender in this state who is required to register pursuant to § 13-3821:

1. The offender’s name, address and age.
2. A current photograph.
3. The offense committed and notification level pursuant to § 13-3826, subsection E, if a risk assessment has been completed pursuant to § 13-3825.

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

D. 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 web site.

E. 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 web site, 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.

F. The department of public safety may petition the superior court for enforcement of subsection E 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.

G. 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 willful.

§ 13-3828. Sex offender monitoring fund

The sex offender monitoring fund is established consisting of monies collected from assessments pursuant to §§ 13-119 and 13-3824. The department of public safety shall administer the fund. Monies in the fund are subject to legislative appropriation.

CHAPTER 9. PROBATION AND RESTORATION OF CIVIL RIGHTS

§ 13-902. Periods of probation

A. Unless terminated sooner, probation may continue for the following periods:

1. For a class 2 felony, seven years.
2. For a class 3 felony, five years.
3. For a class 4 felony, four years.
4. For a class 5 or 6 felony, three years.
5. For a class 1 misdemeanor, three years.
6. For a class 2 misdemeanor, two years.
7. For a class 3 misdemeanor, one year.

B. Notwithstanding subsection A of this section, unless terminated sooner, probation may continue for the following periods:

1. For a violation of § 28-1381 or 28-1382, five years.
2. For a violation of § 28-1383, ten years.

C. When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time before the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than three years.
2. For a misdemeanor, not more than one year.

D. Notwithstanding any other provision of law, justice courts and municipal courts may impose the probation periods specified in subsection A, paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

E. After conviction of a felony offense or an attempt to commit any offense that is included in chapter 14 or 35.1 of this title or § 13-2308.01, 13-2923 or 13-3623, if probation is available, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

F. After conviction of a violation of § 13-3824, subsection A, if a term of probation is imposed and the offense for which the person was required to register was a felony, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

G. Beginning November 1, 2006, after conviction of a dangerous crime against children as defined in section §13-604.01, if a term of probation is imposed, the court shall require global position system monitoring for the duration of the term of probation.

§ 13-922. Persons convicted of sexual offenses; residency restrictions; exceptions; definitions

A. An adult probation officer shall not approve the residence of a probationer who has been convicted of a felony offense that requires the probationer to register pursuant to § 13-3821 in any multifamily dwelling unless the number of probationers who are required to register and who reside in the multifamily dwelling is less than ten per cent of the number of dwelling units that are contained in the multifamily dwelling. Not more than one probationer who is classified as a level three offender pursuant to §§ 13-3825 and 13-3826 shall reside in a multifamily dwelling.

B. Subsection A of this section does not apply to any of the following:

1. A person who was convicted of a sexual offense and who was placed on probation before the effective date of this section until that person changes residence.
2. A person who resides in a residential treatment facility or a person who participates in a supervised program that provides transitional services, including diagnostic evaluation, behavioral, medical, psychiatric, psychological and social service care.
3. A juvenile who resides with a parent or guardian.
4. A multifamily dwelling in an industrial or commercial zone.

C. This section does not limit the court's discretion to prohibit or restrict, as a condition of probation, a person who is convicted of a sexual offense from residing in any multifamily dwelling.

D. A public entity or an employee of a public entity is not liable for any failure to prevent a violation of this section unless the public employee, acting within the scope of the public employee's employment, intended to disregard the provisions of this section or to cause injury or was grossly negligent.

E. This section applies only in counties with a population of more than two million five hundred thousand persons.

F. For the purposes of this section:

1. "Multifamily dwelling" means a building or buildings that are located in an area zoned residential, that are attached to each other, that contain two or more dwelling units, including triplexes, fourplexes and apartments, and that have as their primary access a common hallway or corridor.
2. "Multifamily dwelling unit" means one or more rooms within a building that are arranged, designed or used for residential purposes and that contain independent sanitary and cooking facilities.
3. "Residential treatment facility" means a residential facility that provides any service or care, including diagnostic evaluation, behavioral, medical, psychiatric, psychological and social service care, vocational rehabilitation or career counseling, to residents and that is licensed by this state or a political subdivision of this state.

ARIZONA REVISED STATUTES (A.R.S.)

**TITLE 36 – PUBLIC HEALTH AND SAFETY
CHAPTER 37. SEXUALLY VIOLENT PERSONS
ARTICLE 1. GENERAL PROVISIONS**

§ 36-3701. Definitions

In this article, unless the context otherwise requires:

1. “Agency” means any agency that is authorized to direct the release of a person who is serving a term of confinement or who is receiving treatment, including a state or federal prison, a county jail and the Arizona state hospital.

2. “Competent professional” means a person who is:

(a) Familiar with the state’s sexually violent persons statutes and sexual offender treatment programs available in this state.

(b) Approved by the superior court as meeting court approved guidelines.

3. “Conviction” includes a finding of guilt at any time for a sexually violent offense or an order of the juvenile court adjudicating the person delinquent for any sexually violent offense.

4. “Less restrictive alternative” means court ordered treatment in a setting that is less restrictive than total confinement and that is conducted in a setting approved by the superintendent of the state hospital.

5. “Mental disorder” means a paraphilia, personality disorder or conduct disorder or any combination of paraphilia, personality disorder and conduct disorder that predisposes a person to commit sexual acts to such a degree as to render the person a danger to the health and safety of others.

6. “Sexually violent offense” means any of the following:

(a) Sexual conduct with a minor pursuant to § 13-1405, sexual assault pursuant to § 13-1406, molestation of a child pursuant to § 13-1410, continuous sexual abuse of a child pursuant to § 13-1417 or sexual assault of a spouse if the offense was committed before the effective date of this amendment to this section.

(b) Second degree murder pursuant to § 13-1104, first degree murder pursuant to § 13-1105, assault pursuant to § 13-1203, aggravated assault pursuant to § 13-1204, unlawful imprisonment pursuant to § 13-1303, kidnapping pursuant to § 13-1304 or burglary in the first degree pursuant to § 13-1508 if the court at the time of sentencing or civil commitment proceedings determines beyond a reasonable doubt that the act was sexually motivated pursuant to § 13-118.

(c) An attempt, a solicitation, a facilitation or a conspiracy to commit an offense listed in subdivision (a) or (b) of this paragraph.

(d) An act committed in another jurisdiction that if committed in this state would be a sexually violent offense listed in subdivision (a) or (b) of this paragraph.

(e) A conviction for a felony offense that was in effect before September 1, 1978 and that if committed on or after September 1, 1978, would be comparable to a sexually violent offense listed in subdivision (a) or (b) of this paragraph.

7. “Sexually violent person” means a person to whom both of the following apply:

(a) Has ever been convicted of or found guilty but insane of a sexually violent offense or was charged with a sexually violent offense and was determined incompetent to stand trial.

(b) Has a mental disorder that makes the person likely to engage in acts of sexual violence.

§ 36-3702. Notice of release; referral; immunity

A. If an agency that has jurisdiction over a person, who is at least eighteen years of age, determines that the person may be a sexually violent person, the agency shall submit a written request that a petition be filed to the county attorney in the county in which the person was convicted, was found incompetent or will be released or to the attorney general not more than one hundred eighty days and not less than thirty days before the person’s anticipated release:

1. From confinement of a person who was convicted at any time of a sexually violent offense.

2. Of a person who was found guilty except insane at any time of committing a sexually violent offense.

3. Of a person who was charged at any time with a sexually violent offense and who was determined to be incompetent to stand trial.

B. If the state department of corrections or the Arizona state hospital has jurisdiction over a person who is at least eighteen years of age and who at any time was convicted of a sexually violent offense, was found guilty except insane of committing a sexually violent offense or was charged with a sexually violent offense and as determined to be incompetent to stand trial shall determine if the person may be a sexually violent person. If the agency determines that the person may be a sexually violent person, the agency shall submit a written request that a petition be filed to the county attorney in the county in which the person was convicted, was found incompetent or will be released or to the attorney general not more than one hundred eighty days and not less than thirty days before the person’s anticipated release.

C. The agency shall provide the county attorney or attorney general with the following to support the written request that a petition be filed:

1. Certified copies of the following court documents:

- (a) The complaint, information, judgment of conviction and commitment order for the sexually violent offense that forms the basis for the petition and detention orders.
 - (b) The complaint, information, judgment of conviction and commitment order for any other conviction that the submitting agency possesses.
2. All records of evaluation and treatment, including any of the following:
 - (a) All psychological and psychiatric tests and assessment reports and supporting information.
 - (b) Group notes, autobiographical notes, progress notes, psychosocial reports or other materials that were prepared by or that relate to the person while the person was in custody or receiving treatment from the submitting agency or any other agency.
 - (c) Presentence investigation reports, whether prepared by the state department of corrections, by a private agency or at the direction of the superior court for sentencing on the sexually violent offense.
 3. All records of the person's version of the offenses for which the person has been convicted, including the notes and records of all interviews and discussions with the person while the person was in the care of the submitting agency or any other agency.
 4. A record of all convictions and acquittals regardless of whether those convictions were for sexually violent offenses.
 5. Police reports that are in the possession of the referring agency and that relate to any sexually violent offense that was committed by the person.
 6. Institutional records that relate to the person's behavior and conduct while in custody and that are in the possession of the referring agency.
 7. Information indicating the dates of acceptance and rejection by the person of any recommended or court ordered psychotropic medication to control the person's mental disorder.
 8. Information indicating the dates of acceptance and rejection by the person of any recommended or court ordered psychological or psychiatric counseling for treatment of the person's mental disorder.
 9. A final release or discharge report, together with any information on which the report is based, that is prepared in anticipation of either the person's release from incarceration or commitment. The report shall include:
 - (a) A report of the person's condition that was completed within the preceding one hundred twenty days and that includes an opinion expressing to a reasonable degree of psychiatric, psychological or professional certainty that the person has a mental disorder and that, as a result of that mental disorder, the person is likely to engage in a sexually violent offense.

(b) A list of the names of all treatment providers who have treated or worked with the person.

(c) The curriculum vitae of each of the treating individuals that details each individual's education, training and experience.

(d) The facility in which the person is located at the time of the referral and in which the person will be residing pending the filing of a petition.

D. The agency and the agency's officers and employees providing mental health evaluations and reports are immune from liability for any good faith acts under this article.

E. The department of health services and the department of health services' officers and employees providing mental health evaluations and reports are immune from liability for any good faith acts under this article.

F. An agency's inability to comply with the time requirements under subsection A does not preclude the county attorney or the attorney general from filing a petition alleging that a person is a sexually violent person.

§ 36-3703. Competent professionals

A. If a person is subject to an examination under this article, each party may select a competent professional to perform simultaneous evaluations of the person. The parties may stipulate to an evaluation by only one competent professional.

B. If the person is indigent, the court shall assist the person in retaining a competent professional to conduct the examination or to participate in the trial on the person's behalf.

C. Each competent professional shall be given reasonable access to the person in order to conduct the examination and shall share access to all relevant medical and psychological records, test data, test results and reports.

D. A competent professional who is retained by a party or who is appointed by the court is not permitted to give testimony unless the competent professional exchanges information as required by this section and, at least ten days before trial, submits to the court and all of the parties a written report of the competent professional's evaluation of the person.

E. At any proceeding under this chapter, a competent professional who is retained by a party or who is appointed by the court is not subject to a court order for the sequestration of witnesses.

F. The court shall approve a reasonable amount to be paid by the county for the services of a competent professional appointed by the court. In approving the amount to be paid the court shall consider the time expended, services rendered, expenses incurred and compensation received in the same case or for the same services from any other source.

§ 36-3704. Sexually violent person petition; filing; procedures

A. Before a sexually violent person is released from confinement, the following persons may file a petition in superior court alleging that the person is a sexually violent person and stating sufficient facts to support that allegation:

1. The county attorney in the county in which a person was found incompetent to stand trial of, found guilty except insane of or convicted of a sexually violent offense.

2. The county attorney in the county in which the person will be released or the attorney general if the person was found incompetent to stand trial of, found guilty except insane of or convicted of a sexually violent offense in another jurisdiction outside the state.

B. The Arizona rules of evidence and the Arizona rules of civil procedure apply to proceedings under this article. The court may admit evidence of past acts that would constitute a sexual offense pursuant to § 13-1420 and the Arizona rules of evidence.

C. The person who is named in the petition is entitled to assistance of counsel at any proceeding that is conducted pursuant to this article. If the person is indigent, the court shall appoint counsel to assist the person. The county board of supervisors may fix a reasonable amount to be paid to the county for the services of an appointed attorney.

D. The court's jurisdiction over a person who is civilly committed pursuant to this article continues until the person is discharged by the court.

E. At any hearing concerning conditions of detention, commitment or treatment at a licensed facility under the supervision of the superintendent of the Arizona state hospital, a person who is detained or committed pursuant to this article shall show that the procedures or actions of the licensed facility have no reasonable basis in fact or law.

§ 36-3705. Judicial determination of sexually violent persons; transfer for evaluation

A. On the filing of a petition pursuant to § 36-3704, the judge shall determine if probable cause exists to believe that the person named in the petition is a sexually violent person.

B. If the judge determines that probable cause exists to believe that the person named in the petition is a sexually violent person, the judge shall order that the person be detained in a licensed facility under the supervision of the superintendent of the Arizona state hospital.

C. On motion of the respondent filed within ten days after service of the petition, the court shall hold a probable cause hearing.

D. Within seventy-two hours after a person is detained pursuant to subsection B of this section, the court shall provide the person with notice of and an opportunity to appear at a probable cause hearing to contest the probable cause finding made by the court pursuant to subsection A of this section. At the hearing, the court shall verify the person's identity and shall determine if probable cause exists to believe that the person is a sexually violent person. At the hearing, the state may rely on the petition that alleges that the person is a sexually violent person and that is filed pursuant to § 36-3704. The state may supplement the information in the petition with additional documentary evidence or live testimony.

E. At the probable cause hearing, the person has the following rights:

1. To present evidence on the person's behalf.
2. To cross-examine witnesses who testify against the person.
3. To view and copy all documents and reports in the court file.

F. After the hearing, if the court determines probable cause does not exist to believe that the person is a sexually violent person, the court shall dismiss the petition.

G. If at the hearing the court reaffirms that probable cause exists to believe that the person is a sexually violent person, the judge shall order an evaluation as to whether the person is a sexually violent person. A person whom the court selects from a list of competent professionals shall conduct the evaluation. The county shall pay the costs of the evaluation.

H. The referring agency shall make available to the department of health services all records concerning the person detained pursuant to this section.

§ 36-3706. Trial

Within one hundred twenty days after a petition is filed pursuant to § 36-3704, the court shall conduct a trial to determine if the person named in the petition is a sexually violent person. The county attorney, attorney general or person named in the petition may request a jury trial. If no request is made, the trial shall be before the court. The judge may continue the trial at the request of either party on a showing of good cause or on its own motion if the person will not be substantially prejudiced.

§ 36-3707. Determining sexually violent person status; commitment procedures

A. The court or jury shall determine beyond a reasonable doubt if the person named in the petition is a sexually violent person. If the state alleges that the sexually violent offense on which the petition for commitment is based was sexually motivated, the state shall prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated.

B. If the court or jury determines that the person is a sexually violent person, the court shall either:

1. Commit the person to the custody of the department of health services for placement in a licensed facility under the supervision of the superintendent of the Arizona state hospital and shall receive care, supervision or treatment until the person's mental disorder has so changed that the person would not be a threat to public safety if the person was conditionally released to a less restrictive alternative or was unconditionally discharged.

2. Order that the person be released to a less restrictive alternative if the conditions under §§ 36-3710 and 36-3711 are met.

C. If the court or jury does not determine beyond a reasonable doubt that the person is a sexually violent person, the court shall order the person's release.

D. If the person named in the petition was found incompetent to stand trial, the court first shall hear evidence and determine if the person committed the act or acts charged if the court did not enter a finding before the charges were dismissed. The court shall enter specific

findings on whether the person committed the act or acts charged, the extent to which the person's incompetence to stand trial affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person and the strength of the prosecution's case. If the court finds beyond a reasonable doubt that the person committed the act or acts charged, the court shall enter a final order to that effect and may then consider whether the person should be committed pursuant to this section.

§ 36-3708. Annual examination of committed persons; report

A. The psychiatrist, psychologist or other competent professional of the state hospital or a licensed facility under the supervision of the superintendent of the Arizona state hospital shall annually examine each person who is committed pursuant to this article. The person who conducts the annual examination shall submit the examination report to the court. The annual report shall state if conditional release to a less restrictive alternative is in the best interest of the person and will adequately protect the community.

B. The person may retain, or on the request of an indigent person the court may appoint, a competent professional to conduct the examination. A retained or appointed competent professional shall have access to all records concerning the person. If the person retains or is appointed a competent professional, the state has the right to have the committed person evaluated by a competent professional of the state's own choice. All competent professionals shall have equal access to the person as well as all records concerning the person.

C. The court shall hold a hearing pursuant to § 36-3709 if any change of release conditions is recommended.

§ 36-3709. Petition for change of status; procedures

A. If the superintendent of the state hospital or the director of the department of health services determines that the person's mental disorder has so changed that the person is not likely to engage in acts of sexual violence if conditionally released to a less restrictive alternative, the superintendent or director shall allow the person to petition the court for conditional release to a less restrictive alternative. The person shall serve the petition on the court and the attorney for the state. The court shall hold a hearing on the petition for the conditional release to a less restrictive alternative within forty-five days after receiving the petition. The court may continue the hearing on the request of either party and a showing of good cause or on its own motion if the respondent will not be substantially prejudiced. The county attorney or the attorney general shall represent the state at the hearing and may request that the petitioner be examined by a competent professional selected by the county attorney or the attorney general. The attorney for the state has the burden of proving beyond a reasonable doubt that the petitioner's mental disorder has not changed and that the petitioner remains a danger to others and is likely to engage in acts of sexual violence if conditionally released to a less restrictive alternative or unconditionally discharged.

B. This section does not prohibit the committed person from annually petitioning the court for conditional release to a less restrictive alternative without the approval of the superintendent of the state hospital or the director of the department of health services. The director of the department of health services shall give annual written notice to the committed person of the person's right to petition the court for conditional release to a less restrictive alternative without the approval of the superintendent or director. The notice shall contain a

waiver of rights. The director shall submit the notice and waiver to the court with the annual examination report.

C. The committed person may be present at the hearing. The county attorney or the attorney general may request that the person be examined by a competent professional selected by the attorney for the state. The committed person may retain and the court on request of an indigent person may appoint a competent professional. The attorney for the state has the burden of proving beyond a reasonable doubt that the person's mental disorder has not changed and that the person remains a danger to others and is likely to engage in acts of sexual violence if conditionally released to a less restrictive alternative. If the state does not meet its burden of proof, the person shall be discharged from treatment.

D. If at the conclusion of a hearing the court finds that there is no legally sufficient evidentiary basis to conclude that the conditions prescribed in § 36-3711 have been met, the court shall grant the state's motion for a judgment on the issue of conditional release to a less restrictive alternative.

§ 36-3710. Conditional release to a less restrictive alternative; conditions; reports; review

A. If the court determines that conditional release to a less restrictive alternative is in the best interest of the person and will adequately protect the community and the court determines that the minimum conditions under § 36-3711 are met, the court shall enter judgment and order the person's conditional release to a less restrictive alternative.

B. The court may impose any additional conditions on the person that the court determines are necessary to ensure the person's compliance with treatment and to protect the community. If the court finds that conditions do not exist that will both ensure the person's compliance with treatment and protect the community, the court shall remand the person to the custody of the superintendent of the state hospital for care, supervision or treatment in a licensed facility that is under the supervision of the superintendent.

C. If the provider that is designated to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a person's placement in a less restrictive alternative is not the state hospital, the provider shall agree in writing to provide the treatment.

D. Before the court authorizes a person's conditional release to a less restrictive alternative, the court shall impose any conditions on the person that the court determines are necessary to ensure the safety of the community. The conditions shall include that prior to release to a less restrictive alternative, a person shall be required to submit to ninety days of inpatient evaluation at the Arizona state hospital. At the discretion of the superintendent of the state hospital, the duration of the evaluation period may be less than ninety days. The court shall order the superintendent of the state hospital to investigate the less restrictive alternative and to submit additional conditions to the court. The court shall give a copy of the conditions of release to the person and to any designated service provider. Other conditions may include any of the following:

1. Specification of a residence.
2. Prohibition on any contact with potential or past victims.

3. Prohibition on the use of alcohol and other drugs.
4. Supervision by the department of health services or the county probation department if the person is serving a term of probation.
5. A requirement that the person remain in this state unless the person receives prior authorization from the court.
6. Other conditions that the court or the superintendent of the state hospital determines are in the best interest of the person or others.

E. Following a determination that a person's release to a less restrictive alternative is warranted and after considering the recommendation regarding the duration and amount of treatment by the superintendent of the state hospital, the court shall require as a condition of release to a less restrictive alternative, that the person participate in outpatient treatment. The outpatient supervision and treatment may include monitoring a person by use of a polygraph or plethysmograph or both. The treatment shall continue until the court orders a change in the person's treatment requirements or the person is discharged pursuant to § 36-3714.

F. Each month or as otherwise directed by the court, each designated service provider shall submit a report that states if the person is complying with the terms and conditions of the conditional release to a less restrictive alternative to:

1. The court.
2. The facility from which the person was released.
3. The court attorney in the county where the person was found to be a sexually violent person or to the attorney general.

G. The court shall review the case of each person who is conditionally released to a less restrictive alternative within one year after the person's release and thereafter on motion of either party or the superintendent of the state hospital or on the court's own motion until the person is discharged. At a case review, the court shall determine only if the person shall continue to be conditionally released to a less restrictive alternative. In making its determination, the court shall consider the periodic reports that are submitted to the court pursuant to subsection F of this section and the opinions of the superintendent of the state hospital and any other competent professional.

H. If a person is conditionally released to a less restrictive alternative, the department of health services shall notify the department of public safety of the person's release so that the department of public safety can commence any notification process as provided in § 13-3825.

§ 36-3711. Conditional release to less restrictive alternative; findings

Before the court orders that a person be conditionally released to a less restrictive alternative, the court shall find that all of the following apply:

1. The person will be treated by a provider who is qualified to provide the necessary treatment in this state.

2. The provider presents a specific course of treatment for the person, agrees to assume responsibility for the person's treatment, will report on the person's progress to the court on a regular basis and will report any violations as prescribed in paragraphs 4 and 5 of this section immediately to the court, the attorney for the state and the superintendent of the state hospital.

3. The person who is conditionally released to a less restrictive alternative has housing arrangements that are sufficiently secure to protect the community and the person or agency that is providing the housing to the conditionally released person agrees in writing to the following conditions:

(a) To accept the conditionally released person.

(b) To provide the level of security that the court requires.

(c) To immediately report the unauthorized absence of the conditionally released person from the housing arrangement to which the person has been assigned.

4. The person will comply with the provider and all of the requirements that are imposed by the provider and the court.

5. The person will comply with the supervision requirements that are imposed by the department of health services or the county probation department if the person is serving a term of probation.

§ 36-3712. Detention and commitment requirements; definition

A. A person who is committed or conditionally released to a less restrictive alternative pursuant to this article does not forfeit any legal right and shall not suffer any legal disability as a consequence of any actions taken or orders made except as specifically provided in this article.

B. A person who is committed or conditionally released to a less restrictive alternative pursuant to this article shall receive care, supervision or treatment. The superintendent of the state hospital shall keep records detailing all medical, expert and professional care and treatment that a committed person receives and shall keep copies of all reports of periodic examinations that are made pursuant to this article. These records and reports shall be made available on request only to any of the following:

1. The committed person.

2. The committed person's attorney.

3. The county attorney or the attorney general.

4. The court.

5. On proper showing, an expert or professional person who demonstrates a need for access to the records or reports.

6. Any mental health professional directly responsible or associated with the mental health professional who is directly responsible for the care, control, assessment or treatment of the committed person.

C. At the time a person is detained or transferred into a licensed facility pursuant to this article, the person in charge of the facility or the person's designee shall take reasonable precautions to inventory and safeguard the personal property of the detained or transferred person. The staff member who makes an inventory of the person's personal property shall give a signed copy of that inventory to the person. The facility shall allow a responsible relative to inspect the property, subject to any limitations that the person specifically imposes. The facility shall not disclose the contents of the inventory to any other person without the consent of the person or a court order.

D. This article does not prohibit a person who is committed or conditionally released to a less restrictive alternative from exercising any right that is available for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus. The committed person must exhaust all direct appeal and postcommitment procedures before exercising the committed person's right to petition for a writ of habeas corpus.

E. A person who is indigent may not be conditionally released to a less restrictive alternative or discharged without suitable clothing. When a person is conditionally released to a less restrictive alternative or discharged, the superintendent of the state hospital shall furnish the person with an amount of money pursuant to § 31-228.

F. For the purposes of this section, "responsible relative" means the spouse, parent, adult child or adult sibling of the person and includes the guardian, conservator or attorney of the person.

§ 36-3713. Revocation of conditional release to a less restrictive alternative; hearing

A. If the petitioner or the court believes that the person who is conditionally released to a less restrictive alternative is not complying with the terms and conditions of release or is in need of additional care and treatment, the designated service provider or the attorney for the state may petition the court for, or the court on its own motion may schedule, a hearing for the purpose of revoking or modifying the terms and conditions of the person's conditional release. The hearing shall be held within ten days after the petition is filed.

B. If the attorney for the state or the court reasonably believes that a person who is conditionally released to a less restrictive alternative is not complying with the terms and conditions of the person's conditional release, is in need of additional care or treatment or if the circumstances of the release have changed so that the community is no longer safe, the court, the department of health services or the probation officer may order that the conditionally released person be detained and taken into custody until a hearing can be scheduled to determine if the person's conditional release should be revoked or modified. The court shall be notified before close of the next judicial day of the person's detention. The attorney for the state and the conditionally released person may request an immediate mental examination of the person. If the conditionally released person is indigent, the court, on request, shall assist the person in obtaining a competent professional to conduct the examination.

C. Within five days after receiving notice of the person's detention, the court shall schedule a hearing. At the hearing, the court shall determine if the state has proved by a

preponderance of the evidence that the person who is conditionally released to a less restrictive alternative did not comply with the terms and conditions of release, is in need of additional care or treatment or if the circumstances of the release have changed so that the community is no longer safe and if the person should continue on conditional release under the same or modified conditions or if the conditional release should be revoked and the person should be committed to total confinement, subject to release only under the provisions of this chapter. The court may admit hearsay evidence if the court finds that the hearsay evidence is otherwise reliable.

§ 36-3714. Petition for discharge; procedures

A. If the superintendent of the state hospital or the director of the department of health services determines that the person's mental disorder has so changed that the person is not likely to engage in acts of sexual violence if discharged, the superintendent or director shall allow the person to petition the court for discharge. The person shall serve the petition on the court and the attorney for the state. The court shall hold a hearing on the petition for discharge within forty-five days after receiving the petition. The court may continue the hearing on the request of either party and a showing of good cause or on its own motion if the respondent will not be substantially prejudiced. The county attorney or the attorney general shall represent the state at the hearing and may request that the petitioner be examined by a competent professional who is selected by the county attorney or the attorney general. The attorney for the state has the burden of proving beyond a reasonable doubt that the petitioner's mental disorder has not changed and that the petitioner remains a danger to others and is likely to engage in acts of sexual violence if discharged.

B. This section does not prohibit the committed person from annually petitioning the court for discharge without the approval of the superintendent of the state hospital or the director of the department of health services. The director of the department of health services shall give annual written notice to the committed person of the person's right to petition the court for discharge without the approval of the superintendent or director. The notice shall contain a waiver of rights. The director shall submit the notice and waiver to the court with the annual examination report.

C. The committed person may be present at the discharge hearing. The county attorney or the attorney general may request that the person be examined by a competent professional who is selected by the attorney for the state. The committed person may retain and the court on the request of an indigent person may appoint a competent professional. The attorney for the state has the burden of proving beyond a reasonable doubt that the person's mental disorder has not changed and that the person remains a danger to others and is likely to engage in acts of sexual violence if discharged. If the state does not meet its burden of proof, the person shall be discharged from treatment.

D. If a person is discharged the department of health services shall notify the department of public safety of the person's discharge so that the department of public safety can commence any notification process as provided in § 13-3825.

§ 36-3715. Expenditure limitation

The total amount of state monies that may be spent in any fiscal year by the department of health services for all aspects of the sexually violent persons program shall not exceed the amount appropriated, or authorized by § 35-173 for that purpose. This section shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a

responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

§ 36-3716. Expenditure limitation; political subdivision

A. The total amount of monies that may be spent in any fiscal year by a political subdivision pursuant to this article for all aspects of the sexually violent persons program shall not exceed the amount authorized by the budget established pursuant to § 11-201 or § 11-251, paragraph 30, for that purpose.

B. This section shall not be construed to impose a duty of a political subdivision or an officer, agent or employee of a political subdivision to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of the monies of the political subdivision in excess of the expenditure authorized by the political subdivision for that specific purpose.

§ 36-3717. Place of proceedings; transportation; immunity

A. Except as provided in subsection B of this section, a person who is detained or civilly committed pursuant to this article shall not be transported from a licensed facility under the supervision of the superintendent of the Arizona state hospital, except that a person may be transported to court for any of the following reasons:

1. A probable cause hearing pursuant to § 36-3705.
2. A trial pursuant to § 36-3706.
3. A hearing on a petition for conditional release to a less restrictive alternative pursuant to § 36-3709.
4. A hearing on a petition for discharge pursuant to § 36-3714.
5. Any evidentiary hearing in which the presence of a person who is detained or civilly committed pursuant to this article is necessary.
6. Any court proceeding not otherwise specified in this article where the presence of the detainee or committed person is required.

B. Subsection A of this section does not apply to any person whom the court has determined is subject to conditional release pursuant to § 36-3710 or to any necessary medical transports.

C. Subsection A of this section does not preclude any proceeding from being held on the grounds of the Arizona state hospital or from using a telephonic conference or an interactive audiovisual device. The court shall adopt rules concerning the conduct of proceedings pursuant to this article. The rules shall ensure the safety of all persons. The rules may include provisions that allow for proceedings to be held on the grounds of the Arizona state hospital or for the use of a telephonic conference or an interactive audiovisual device.

D. The department of health services is responsible for the transportation to and from a medical facility of a person who is detained or committed pursuant to this article. The department of health services shall determine the appropriate mode of transportation and level of security and restraint for the transportation needs of the person. In determining the appropriate mode of transportation and level of security and restraint, the department shall consider the safety of the public, the transporting personnel and the detained or committed person.

E. The department of health services and any county sheriff are immune from liability for any good faith acts under this section.