

SB 1604 -- Redline

Engrossed to Chaptered -- licensed secure facility; incompetent defendants

Deletions ~~struck~~ · Insertions underlined

~~Senate~~House Engrossed Senate Bill licensed secure facility;
defendants) State of Arizona Senate Fifty-seventh Legislature First Regular Session CHAPTER 113 SENATE
BILL 1604 AN ACT AMENDING ~~SECTIONS~~SECTION ~~13-712, 13-4521 AND~~ 36-425.06, ARIZONA REVISED STATUTES;

~~Section 13-712, Arizona Revised Statutes, is amended to read:~~
~~13-712-~~

~~Calculation of terms of imprisonment A-~~

~~A sentence of imprisonment commences when sentence is imposed if the defendant is in custody or
surrenders into custody at that time-~~

~~Otherwise it commences when the defendant becomes actually in custody-~~

~~B-~~

~~All time actually spent in custody pursuant to an offense until the prisoner is sentenced to
imprisonment for such offense shall be credited against the term of imprisonment otherwise provided for
by this chapter-~~

~~A person who is found competent to stand trial after an involuntary commitment pursuant to section 13-
4521 shall receive credit for all time that the person spent under the jurisdiction of the secure state
mental health facility OR A LICENSED SECURE HEALTH FACILITY against a term of imprisonment for any of
the charges that were the basis for the involuntary commitment-~~

~~C-~~

~~If a sentence of imprisonment is vacated and a new sentence is imposed on the defendant for the same
offense, the new sentence is calculated as if it had commenced at the time the vacated sentence was
imposed, and all time served under the vacated sentence shall be credited against the new sentence-~~

~~D-~~

~~If a person serving a sentence of imprisonment escapes from custody, the escape interrupts the sentence.
The interruption continues until the person is apprehended and confined for the escape or is confined
and subject to a detainer for the escape-~~

~~Time spent in actual custody before return under this subsection shall be credited against the term
authorized by law if custody rested on an arrest or surrender for the escape itself, or if the custody
arose from an arrest on another charge which culminated in a dismissal or an acquittal, and the person
was denied admission to bail pending disposition of that charge because of a warrant lodged against such
person arising from the escape-~~

~~E-~~

~~The sentencing court shall include the time of commencement of sentence under subsection A of this
section and the computation of time credited against sentence under subsection B, C or D of this section
in the original or an amended commitment order, under procedures established by rule of court-~~

~~Sec-~~

~~2-~~

~~Section 13-4521, Arizona Revised Statutes, is amended to read:~~
~~13-4521-~~

~~Dangerous and incompetent defendants;
proof evident hearing;
commitment trial;
disposition;
findings;
annual report A-~~

~~If a court enters an order pursuant to section 13-4517, subsection A, paragraph 4, the court shall hold
a hearing within ten days after the order is issued to determine if the proof is evident or the
presumption great that the defendant committed the act that constitutes a serious offense as defined in
section 13-706-~~

~~If the court does not find ~~1~~ S.B.~~

~~1604 the proof is evident or the presumption great that the defendant committed the act, the court shall
proceed pursuant to section 13-4517, subsection A, paragraph 1, 2 or 3-~~

~~B-~~

~~If the court does find the proof is evident or the presumption great pursuant to subsection A of this
section, the court shall hold a trial within one hundred twenty days after the court issued the order~~

~~pursuant to section 13-4517, subsection A, paragraph 4 to determine if the defendant is dangerous and should be involuntarily committed.~~

~~Unless the state or defendant requests a jury trial, a trial held pursuant to this subsection shall be before the court.~~

~~C.~~

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

~~D.~~

~~If there has not been a previous evaluation to determine whether the defendant is dangerous, the defendant shall be examined by mental health experts in accordance with the requirements of section 13-4509, subsection D to determine if the defendant should be considered dangerous.~~

~~The state and the defendant may each retain a mental health expert to examine the defendant and present the defendant's mental health evaluation at the trial.~~

~~E.~~

~~At a trial to determine if the defendant is dangerous, the state shall establish beyond a reasonable doubt that the defendant is dangerous and should be involuntarily committed.~~

~~If the factfinder does not find that the defendant is dangerous or does not find that the defendant should be involuntarily committed, the court shall proceed pursuant to section 13-4517, subsection A, paragraph 1, 2 or 3.~~

~~F.~~

~~If the factfinder finds that the defendant is dangerous and should be involuntarily committed, the court shall dismiss the charges against the defendant without prejudice and order the defendant to be committed to a secure state mental health facility OR, IF THE COURT DETERMINES THAT COMMITMENT TO A SECURE STATE MENTAL HEALTH FACILITY IS NOT FEASIBLE, TO THE CUSTODY OF THE DEPARTMENT OF HEALTH SERVICES FOR PLACEMENT IN A LICENSED SECURE HEALTH FACILITY.~~

~~The defendant shall receive education, care, supervision and treatment to render the defendant either competent or nondangerous.~~

~~G.~~

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

~~1.~~

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

~~2.~~

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

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

~~— 2 — S.B.~~

~~1604 (b) The court finds that the defendant is no longer dangerous.~~

~~H.~~

~~A commitment order issued pursuant to this section may not be in effect for more than the presumptive sentence the defendant could have received for the highest charged offense pursuant to section 13-702 or 13-703, section 13-704, subsection A, B, C, D or E, section 13-705, section 13-706, subsection A, section 13-708, subsection D or section 13-751 or any section for which a specific sentence is authorized.~~

~~In making this determination, the court may not consider the sentence enhancements under section 13-703 or 13-704 for prior convictions.~~

~~The court shall consider all time a defendant has been in custody, including pretrial detention and custody under title 36.~~

~~I.~~

~~The court shall retain jurisdiction over a defendant who is committed pursuant to this section until the court discharges the defendant from treatment.~~

~~If a defendant is discharged or released on the expiration of a commitment order issued pursuant to this section, the medical director of the secure state mental health facility OR THE LICENSED SECURE HEALTH FACILITY from which the defendant is discharged or released or the state may file a petition stating that the defendant requires further treatment pursuant to title 36, chapter 5 or the appointment of a guardian pursuant to title 14.~~

~~J.~~

~~Findings by the court made pursuant to this section and, except as provided in section 13-4508, any~~

~~statements made by the defendant during an examination by a mental health expert pursuant to section 13-4509 are inadmissible in any proceeding other than a proceeding under title 36, chapters 5 and 40.~~

~~K.~~

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

~~L.~~

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

~~1.~~

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

~~2.~~

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

~~3.~~

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

~~4.~~

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

~~- 3 - S.B.~~

~~1604 Sec.~~

~~3.~~

~~-APPROVED 4BY -THE GOVERNOR MAY 2, 2025.~~

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2025.

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