



Bill Number: S.B. 1029

Barto Floor Amendment

Reference to: JUDICIARY Committee amendment

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

1. Beginning July 1, 2023, sunsets the Psychiatric Security Review Board (PSRB) and transfers jurisdiction of persons who are under the PSRB to the Superior Court. Vests powers and duties of the PSRB with the Superior Court as they existed before July 1, 2023.
2. Changes the definition of *mental disorder* to *mental disease or defect*.
3. Modifies the definition of *mental health report* to state that it is a report requested by the PSRB.
4. Removes the provision that subjects the PSRB to the Administrative Procedures Act.
5. Changes references of *cochairperson* to *vice chairperson*.
6. Decreases, from three to two, the number of affirmative votes needed to deny, grant, modify, continue, suspend or terminate a person's conditional release.
7. Makes other changes to PSRB procedures.

Amendment explanation prepared by Jake Agron

2/22/21

BARTO FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1029
(Reference to JUDICIARY Committee amendment)

1 Page 1, before line 1, insert:

2 "Page 4, between lines 17 and 18, insert:

3 Sec. 3. Section 13-502, Arizona Revised Statutes, as
4 amended by section 2 of this act, is amended to read:

5 13-502. Insanity test: burden of proof: guilty
6 except insane verdict

7 A. A person may be found guilty except insane if at the
8 time of the commission of the criminal act the person was
9 afflicted with a mental disease or defect of such severity that
10 the person did not know the criminal act was wrong. A mental
11 disease or defect constituting legal insanity is an affirmative
12 defense. Mental disease or defect does not include disorders
13 that result from acute voluntary intoxication or withdrawal
14 from alcohol or drugs, character defects, psychosexual
15 disorders or impulse control disorders. Conditions that do not
16 constitute legal insanity include momentary, temporary
17 conditions arising from the pressure of the circumstances,
18 moral decadence, depravity or passion growing out of anger,
19 jealousy, revenge, hatred or other motives in a person who does
20 not suffer from a mental disease or defect or an abnormality
21 that is manifested only by criminal conduct.

22 B. In a case involving the death or serious physical
23 injury of or the threat of death or serious physical injury to
24 another person, if a plea of insanity is made and the court
25 determines that a reasonable basis exists to support the plea,
26 the court may commit the defendant to a secure state mental

1 health facility under the department of health services, a
2 secure county mental health evaluation and treatment facility
3 or another secure licensed mental health facility for up to
4 thirty days for mental health evaluation and treatment.
5 Experts at the mental health facility who are licensed pursuant
6 to title 32, who are familiar with this state's insanity
7 statutes, who are specialists in mental diseases and defects
8 and who are knowledgeable concerning insanity shall observe and
9 evaluate the defendant. The expert or experts who examine the
10 defendant shall submit a written report of the evaluation to
11 the court, the defendant's attorney and the prosecutor. The
12 court shall order the defendant to pay the costs of the mental
13 health facility to the clerk of the court. The clerk of the
14 court shall transmit the reimbursements to the mental health
15 facility for all of its costs. If the court finds the
16 defendant is indigent or otherwise is unable to pay all or any
17 of the costs, the court shall order the county to reimburse the
18 mental health facility for the remainder of the
19 costs. Notwithstanding section 36-545.02, the mental health
20 facility may maintain the reimbursements. If the court does
21 not commit the defendant to a secure state mental health
22 facility, a secure county mental health evaluation and
23 treatment facility or another secure licensed mental health
24 facility, the court shall appoint an independent expert who is
25 licensed pursuant to title 32, who is familiar with this
26 state's insanity statutes, who is a specialist in mental
27 diseases and defects and who is knowledgeable concerning
28 insanity to observe and evaluate the defendant. The expert who
29 examines the defendant shall submit a written report of the
30 evaluation to the court, the defendant's attorney and the
31 prosecutor. The court shall order the defendant to pay the

1 costs of the services of the independent expert to the clerk of
2 the court. The clerk of the court shall transmit the
3 reimbursements to the expert. If the court finds the defendant
4 is indigent or otherwise unable to pay all or any of the costs,
5 the court shall order the county to reimburse the expert for
6 the remainder of the costs. This subsection does not prohibit
7 the defendant or this state from obtaining additional
8 psychiatric examinations by other mental health experts who are
9 licensed pursuant to title 32, who are familiar with this
10 state's insanity statutes, who are specialists in mental
11 diseases and defects and who are knowledgeable concerning
12 insanity.

13 C. The defendant shall prove the defendant's legal
14 insanity by clear and convincing evidence.

15 D. If the finder of fact finds the defendant guilty
16 except insane, the court shall determine the sentence the
17 defendant could have received pursuant to section 13-707 or
18 section 13-751, subsection A or the presumptive sentence the
19 defendant could have received pursuant to section 13-702,
20 section 13-703, section 13-704, section 13-705, section 13-706,
21 subsection A, section 13-710 or section 13-1406 if the
22 defendant had not been found insane, and the judge shall
23 suspend the sentence and shall order the defendant to be placed
24 AND REMAIN under the jurisdiction of the ~~psychiatric security~~
25 ~~review board~~ SUPERIOR COURT and committed to a secure state
26 mental health facility under the department of health services
27 pursuant to section 13-3992 for that term. In making this
28 determination the court shall not consider the sentence
29 enhancements for prior convictions under section 13-703 or
30 13-704. The court shall expressly identify each act that the
31 defendant committed and separately find whether each act

1 involved the death or physical injury of or a substantial
2 threat of death or physical injury to another person.

3 E. A guilty except insane verdict is not a criminal
4 conviction for sentencing enhancement purposes under section
5 13-703 or 13-704."

6 Page 5, line 24, after "MENTAL" strike remainder of line

7 Strike lines 25 through 27, insert "DISEASE OR DEFECT" MEANS A
8 CONDITION THAT WAS THE BASIS FOR A PERSON BEING FOUND GUILTY
9 EXCEPT INSANE PURSUANT TO SECTION 13-502 OR THAT WAS
10 SUBSEQUENTLY DIAGNOSED WHILE THE PERSON WAS UNDER THE
11 JURISDICTION OF THE PSYCHIATRIC SECURITY REVIEW BOARD AND FOR
12 WHICH THE PERSON NEEDS ONGOING MENTAL HEALTH TREATMENT."

13 Line 28, after "IS" insert "REQUESTED BY THE PSYCHIATRIC SECURITY
14 REVIEW BOARD AND THAT IS"

15 Line 40, strike "DISORDER" insert "DISEASE OR DEFECT""

16 Page 1, strike lines 3 and 4, insert:

17 "Page 6, line 43, after "VIOLENCE" insert ", INCLUDING THE PROPENSITY
18 TO REOFFEND"

19 Page 7, lines 33, 34 and 37, strike "DISORDER" insert "DISEASE OR
20 DEFECT""

21 Between lines 6 and 7, insert:

22 "Page 9, lines 11 and 12, strike "DISORDER" insert "DISEASE OR
23 DEFECT""

24 Between lines 7 and 8, insert:

25 "Page 11, line 41, strike "~~disease or defect~~ DISORDER" insert
26 "disease or defect""

27 Strike line 8, insert:

28 "Page 12, strike line 1, insert "mental disease or defect and is not
29 dangerous""

1 Page 1, between lines 14 and 15, insert:

2 "Lines 14 and 15, strike "~~disease or defect~~ DISORDER" insert
3 "disease or defect""

4 Between lines 16 and 17, insert:

5 "Line 27, strike "~~disease~~ DISORDER" insert "disease OR DEFECT""

6 Between lines 20 and 21, insert:

7 "Page 15, strike lines 32 and 33

8 Reletter to conform

9 Line 41, after the first "THE" insert "CHAIRPERSON OR VICE
10 CHAIRPERSON OF THE"

11 Line 43, strike "SEVEN" insert "THREE"

12 Page 16, line 7, strike "FOURTEEN" insert "FORTY-FIVE"

13 Line 11, strike "ORAL PRONOUNCEMENT" insert "ISSUANCE OF THE
14 BOARD'S WRITTEN DECISION""

15 Page 2, between lines 2 and 3, insert:

16 "Page 17, lines 30 and 31, strike "COCHAIRPERSON" insert "VICE
17 CHAIRPERSON"

18 Page 19, strike lines 8 through 23

19 Renumber to conform

20 Line 24, strike "THREE" insert "TWO"

21 Line 33, after the period insert "IN ADDITION TO ANY OTHER
22 INFORMATION THAT THE BOARD DETERMINES TO INCLUDE IN THE
23 REPORT,"

24 Page 20, lines 21 and 22, strike "PURSUANT TO TITLE 41, CHAPTER 6,
25 ARTICLE 10"

26 Line 34, after "MET" insert ", THE PATIENT REQUESTS A CONTINUANCE
27 AND THE OPPORTUNITY TO SUPPLEMENT THE INFORMATION THAT IS
28 AVAILABLE FOR THE BOARD'S CONSIDERATION AND THE BOARD FINDS
29 THERE IS SUFFICIENT CAUSE TO GRANT THE REQUEST FOR THE
30 CONTINUANCE"

31 Line 35, strike "AND DELIBERATE"

1 Page 21, strike lines 35 through 37

2 Reletter to conform

3 Page 25, line 5, strike "**DISORDER**" insert "**DISEASE OR DEFECT**"

4 Page 2, between lines 4 and 5, insert:

5 "Page 30, strike lines 13 through 20, insert:

6 "Sec. 19. Section 41-3028.11, Arizona Revised Statutes,
7 is renumbered as section 41-3023.17 and, as so renumbered, is
8 amended to read:

9 41-3023.17. Psychiatric security review board;
10 termination July 1, 2023

11 A. The psychiatric security review board terminates on
12 July 1, ~~2028~~ 2023.

13 B. Title ~~31~~ 13, chapter ~~4~~ 38, ARTICLE 14 and this
14 section are repealed on January 1, ~~2029~~ 2024."

15 Page 31, line 45, strike "fifty-fifth" insert "fifty-sixth"; strike
16 "second" insert "first"

17 After line 45, insert:

18 "Sec. 22. Transfer of jurisdiction of psychiatric
19 security review board powers and duties

20 A. Beginning from and after June 30, 2023, the superior
21 court shall have exclusive supervisory jurisdiction over all
22 persons who are under the supervision of the psychiatric
23 security review board on July 1, 2023.

24 B. The superior court is vested with the powers and
25 duties of the psychiatric security review board as they
26 existed before July 1, 2023 to carry out the provisions of
27 title 13, chapter 38, article 4."

28 Renumber to conform

Senate Amendments to S.B. 1029

1 Page 32, after line 5, insert:

2 "Sec. 24. Effective date

3 Section 13-502, Arizona Revised Statutes, as amended by
4 section 3 of this act, is effective from and after June 30,
5 2023.***

6 Amend title to conform

NANCY BARTO

1029FloorBARTO
02/19/2021
04:48 PM
C:SP

1029FloorBARTO
02/22/2021
12:54 PM
S: JA/gs