

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
TRANSFER OF JURISDICTION OVER) Administrative Order
PERSONS FOUND GUILTY EXCEPT) No. 2022 - 125
INSANE FROM PSYCHIATRIC)
SECURITY REVIEW BOARD)
TO SUPERIOR COURT)

On January 1, 2023, the superior court will be vested with the powers and duties of the Psychiatric Security Review Board (Board) and will have jurisdiction over persons previously supervised by the Board. *See* H.B. 2863, Fifty-fifth Legislature, 2nd Regular Session, amending Sec. 11, Laws 2021, chapter 390, section 42, and repealing A.R.S. § 41-3028.11 December 31, 2022. This administrative order facilitates the transfer of jurisdiction of these persons from the Board to the superior court.

Under current law, judges suspend sentencing and place persons charged with criminal offenses and found guilty except insane under the jurisdiction of the Board. A.R.S. § 13-502(D). The Board’s powers and duties include holding hearings and issuing decisions based on its findings. *See* A.R.S. § 13-3994(B). Depending upon the finding reached, the Board either retains jurisdiction of the person (*Id.* at (1) and (3)) or transfers jurisdiction back to the committing court that heard the criminal matter for sentencing (*Id.* at (2) and (4)). While related, the proceedings before the Board are distinct from the underlying criminal matters and even involve additional parties, such as the Arizona State Hospital as the secure mental health facility and the outpatient treatment supervisor, if any. A.R.S. § 13-3991(6). Rather than incorporating these distinct proceedings with the underlying criminal matters, this administrative order provides for the hearings to continue to be conducted separately after the superior court is vested with the powers and duties of the Board.

With the concurrence of the presiding judges of the superior court, the superior court sitting in Maricopa County agrees to accept the transfer of jurisdiction of a significant number of persons, given the location of Arizona State Hospital and related witnesses. The superior court sitting in Pima County also agrees to accept the transfer of jurisdiction of a significant number of persons, in recognition that these proceedings stem from acts committed throughout the state.

After this year ends, the Board will no longer exist. A.R.S. § 13-502(D) (effective January 1, 2023). A judge presiding over criminal matters in which a person is found guilty except insane thereafter is to suspend sentencing and place the person under the jurisdiction of the superior court. This administrative order facilitates the transfer of jurisdiction of these persons in a similar manner to best maintain the distinction between the criminal proceedings from those formerly addressed by the Board.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that, as of January 1, 2023, jurisdiction over persons found guilty except insane in criminal matters before the superior court sitting in the county of Apache, Coconino, La Paz, Maricopa, Mohave, Navajo, Yavapai, or Yuma are transferred from the Board to the superior court sitting in Maricopa County.

IT IS FURTHER ORDERED that, as of January 1, 2023, jurisdiction over persons found guilty except insane in criminal matters before the superior court sitting in the county of Cochise, Graham, Greenlee, Gila, Pima, Pinal, or Santa Cruz are transferred from the Board to the superior court sitting in Pima County.

IT IS FURTHER ORDERED that in matters in which a court retains jurisdiction over a person on or after January 1, 2023, in accordance with A.R.S. § 13-3992(D) because they have been found guilty except insane and the person's act caused the death of or serious physical injury to or the threat of death or serious physical injury to another person, the court shall transfer jurisdiction of the person for the limited purposes of conducting hearings under A.R.S. § 13-3994(B) and related proceedings as follows:

- A. To the superior court sitting in Maricopa County for cases in which the underlying criminal matter was heard by the superior court sitting in the county of Apache, Coconino, La Paz, Maricopa, Mohave, Navajo, Yavapai, or Yuma.
- B. To the superior court sitting in Pima County for cases in which the underlying criminal matter was heard by the superior court sitting in the county of Cochise, Graham, Greenlee, Gila, Pima, Pinal, or Santa Cruz.

IT IS FURTHER ORDERED that jurisdiction over a person shall be transferred back to the court that suspended sentencing if placement on probation or imposition of sentence becomes appropriate in accordance with A.R.S. § 13-3994(B)(2) or (4).

IT IS FURTHER ORDERED that proceedings concerning a person found guilty except insane presumptively are to be held remotely using video and electronic appearances. A judge assigned to a case may make a hearing-specific deviation from the presumptive manner if holding the hearing remotely is not practical or otherwise not in the interest of justice.

IT IS FURTHER ORDERED that the presiding judge in Maricopa County and Pima County may establish protocols by local administrative orders or local rules governing the exercise of jurisdiction over persons found guilty except insane, including case initiation and judicial assignment.

Dated this 12th day of October, 2022.

ROBERT BRUTINEL
Chief Justice