

Appendix A

Enforcement, Modification, and Transfer of a Treatment Order

- (a) **Application.** These provisions apply when a patient who is subject to an active treatment order entered in one Arizona county is subsequently residing, or is found, in another Arizona county. *See* A.R.S. § 36-540(R).
- (b) **Definitions.** The following definitions apply.
- (1) “*Active treatment order*” means a court order for mental health treatment entered under A.R.S. Title 36, Chapter 5, Article 5, that has not terminated by its terms or by subsequent order of the court.
 - (2) “*Notice by any reasonable means*” means transmitting a notice in a manner that it will be timely received by the recipient, considering the nature of the notice and the date of any pending event or court proceeding.
 - (3) “*Original court*” means the superior court in the county that entered the active treatment order for the patient.
 - (4) “*Patient*” is a person subject to an active treatment order.
 - (5) “*Residing court*” means the superior court, other than the original court, in the county where the patient resides or is found.
- (c) **Jurisdiction.** Pursuant to A.R.S. § 36-540(R), the original court and the residing court have concurrent jurisdiction to enforce the original court’s active treatment order, to order changes to the treatment plan, or to amend the order by requiring the patient to undergo further inpatient treatment.
- (d) **Consultation Between Courts.**
- (1) ***Necessity; Timing.*** If a proceeding under A.R.S. Title 36, Chapter 5, is commenced in the residing court and the residing court is aware of the existence of an active treatment order for the patient in another county, the residing court must consult with the original court. Unless prevented by an emergency, the consultation must occur not later than five court days after the residing court learns of the existence of the active treatment order issued by the original court. Neither court is required to keep a verbatim record of the consultation.
 - (2) ***Court Action.*** During the consultation, the original court must set a hearing date, and the two courts must do both of the following:
 - (A) Determine the issues to be decided at the hearing.

- (B) Determine whether to enter orders before the hearing, such as revoking outpatient status, transporting the patient, dismissing any petitions pending before the residing court, and vacating any orders entered by the residing court. Each of the two courts may enter orders in only their respective cases.

(e) **Evidentiary Hearing.**

- (1) **Notice.** The original court must give written notice of the hearing by any reasonable means to the parties in the original court, including the patient's attorney, the county attorney, the patient's outpatient provider, and the patient's guardian, if any. The residing court must give written notice of the hearing by any reasonable means to the county attorney in the residing court and the patient's attorney in the residing court if the patient has one. If the patient does not have an attorney in the residing court, the county attorney in the residing court must give the patient written notice of the hearing by any reasonable means.
- (2) **Record.** The original court must keep a verbatim record of the hearing.
- (3) **Determinations.** During the hearing, the original court must determine whether it will retain venue or transfer venue for further proceedings to the residing court. The original court also may determine whether other orders are necessary to facilitate enforcement or administration of the original court's treatment order.

(f) **Venue Transfer Factors.** When deciding whether to transfer venue, the original court must consider all relevant factors, including the following:

- (1) The likelihood that the patient will return to the county of the original court during the term of the active treatment order,
- (2) Whether the patient has adequate support available from persons, agencies, or organizations in the county of the residing court to allow the patient to be provided with appropriate living arrangements, treatment, and supervision under the treatment order,
- (3) Whether proceedings such as amendment or continuation should be held in the original court before transfer is considered,
- (4) The location of witnesses or other evidence necessary to make decisions to amend the active treatment order or treatment plan, or to enter an order for continued treatment under A.R.S. § 36-543,
- (5) Whether the active treatment order can be better administered by the residing court,

- (6) Whether a mental health treatment agency in the residing county has agreed in writing to supervise and administer the patient's treatment program pursuant to court order,
- (7) Whether more or better treatment services are available in the county of the residing court compared to the county of the original court; however, this factor by itself is not a sufficient basis to transfer venue, and
- (8) Whether transferring venue to the residing court is in the patient's best interests.

(g) Transfer of Venue by the Original Court.

- (1) ***Venue Transfer Order.*** If the original court determines that a transfer of venue is appropriate, the original court must promptly enter an order transferring venue to the residing county and transfer the case file. The transfer order must do the following:
 - (A) Include the expiration date of the active treatment order and the number of inpatient days used during the time of the active treatment order;
 - (B) Relieve the patient's attorney in the original court of any further duties to the patient; and
 - (C) Relieve the outpatient provider ordered to oversee treatment pursuant to the original court's order of any further duty to provide or oversee treatment for the patient.
- (2) ***Venue Transfer Fee.*** The change of venue is exempt from the transmittal fee under A.R.S. § 12-284.

(h) Action by the Residing Court Upon Transfer of Venue. Upon receipt of the transfer order and the original court's file, the following apply:

- (1) The clerk of the residing court must file the transfer order and the case file in its case management system.
- (2) The clerk of the residing court must notify the clerk of the original court and those entitled to notice under subpart (e)(1) of the residing court case number.
- (3) The residing court must enter an order affirming the expiration date of the active treatment order and setting forth the number of available inpatient treatment days remaining, after considering the total number of inpatient days used during the course of the active treatment order.
- (4) If appropriate, the residing court must appoint an attorney to represent the patient.

- (5) The residing court must enter its order appointing the appropriate outpatient provider to provide or oversee outpatient treatment to the patient as consistent with any other orders.