

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 118

# HOUSE BILL 2070

AN ACT

AMENDING SECTION 36-3702; ARIZONA REVISED STATUTES; RELATING TO SEXUALLY VIOLENT PERSONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-3702, Arizona Revised Statutes, is amended to  
3 read:

4 36-3702. Notice of release; referral; immunity

5 A. ~~If an agency that~~ IF AN AGENCY THAT HAS JURISDICTION OVER A PERSON,  
6 WHO IS AT LEAST EIGHTEEN YEARS OF AGE, DETERMINES THAT THE PERSON MAY BE A  
7 SEXUALLY VIOLENT PERSON, THE AGENCY SHALL SUBMIT A WRITTEN REQUEST THAT A  
8 PETITION BE FILED TO THE COUNTY ATTORNEY IN THE COUNTY IN WHICH THE PERSON  
9 WAS CONVICTED, WAS FOUND INCOMPETENT OR WILL BE RELEASED OR TO THE ATTORNEY  
10 GENERAL NOT MORE THAN ONE HUNDRED EIGHTY DAYS AND NOT LESS THAN THIRTY DAYS  
11 BEFORE THE PERSON'S ANTICIPATED RELEASE:

12 1. FROM CONFINEMENT OF A PERSON WHO WAS CONVICTED AT ANY TIME OF A  
13 SEXUALLY VIOLENT OFFENSE.

14 2. OF A PERSON WHO WAS FOUND GUILTY EXCEPT INSANE AT ANY TIME OF  
15 COMMITTING A SEXUALLY VIOLENT OFFENSE.

16 3. OF A PERSON WHO WAS CHARGED AT ANY TIME WITH A SEXUALLY VIOLENT  
17 OFFENSE AND WHO WAS DETERMINED TO BE INCOMPETENT TO STAND TRIAL.

18 B. IF THE STATE DEPARTMENT OF CORRECTIONS OR THE ARIZONA STATE  
19 HOSPITAL has jurisdiction over a person, ~~who is at least eighteen years of~~  
20 ~~age, determines that~~ AND WHO AT ANY TIME WAS CONVICTED OF A SEXUALLY VIOLENT  
21 OFFENSE, WAS FOUND GUILTY EXCEPT INSANE OF COMMITTING A SEXUALLY VIOLENT  
22 OFFENSE OR WAS CHARGED WITH A SEXUALLY VIOLENT OFFENSE AND WAS DETERMINED TO  
23 BE INCOMPETENT TO STAND TRIAL SHALL DETERMINE IF the person may be a sexually  
24 violent person. ~~IF the agency DETERMINES THAT THE PERSON MAY BE A~~  
25 ~~SEXUALLY VIOLENT PERSON, THE AGENCY shall refer the person in writing~~ SUBMIT  
26 A WRITTEN REQUEST THAT A PETITION BE FILED to the county attorney in the  
27 county in which the person was convicted, was found incompetent or will be  
28 released or to the attorney general not more than one hundred ~~and~~ eighty days  
29 and not less than thirty days before the PERSON'S anticipated release. ~~IF~~

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

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

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

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

39 1. Certified copies of the following court documents:

40 (a) The complaint, information, judgment of conviction and commitment  
41 order for the sexually violent offense that forms the basis for the petition  
42 and detention orders.

43 (b) The complaint, information, judgment of conviction and commitment  
44 order for any other conviction that the submitting agency possesses.

1           2. All records of evaluation and treatment, including any of the  
2 following:

3           (a) All psychological and psychiatric tests and assessment reports and  
4 supporting information.

5           (b) Group notes, autobiographical notes, progress notes, psychosocial  
6 reports or other materials that ~~are~~ WERE prepared by or that relate to the  
7 person while the person was in custody or receiving treatment from the  
8 submitting agency or any other agency.

9           (c) Presentence investigation reports, whether prepared by the state  
10 department of corrections, by a private agency or at the direction of the  
11 superior court for sentencing on the sexually violent offense.

12           3. All records of the person's version of the offenses for which the  
13 person has been convicted, including the notes and records of all interviews  
14 and discussions with the person while the person was in the care of the  
15 submitting agency or any other agency.

16           4. A record of all convictions and acquittals regardless of whether  
17 those convictions were for sexually violent offenses.

18           5. Police reports that are in the possession of the referring agency  
19 and that relate to any sexually violent offense that was committed by the  
20 person.

21           6. Institutional records that relate to the person's behavior and  
22 conduct while in custody and that are in the possession of the referring  
23 agency.

24           7. Information indicating the dates of acceptance and rejection by the  
25 person of any recommended or court ordered psychotropic medication to control  
26 the person's mental disorder.

27           8. Information indicating the dates of acceptance and rejection by the  
28 person of any recommended or court ordered psychological or psychiatric  
29 counseling for treatment of the person's mental disorder.

30           9. A final release or discharge report, together with any information  
31 on which the report is based, that is prepared in anticipation of either the  
32 person's release from incarceration or commitment. The report shall include:

33           (a) A report of the person's condition that was completed within the  
34 preceding one hundred ~~and~~ twenty days and that includes an opinion expressing  
35 to a reasonable degree of psychiatric, psychological or professional  
36 certainty that the person has a mental disorder and that, as a result of that  
37 mental disorder, the person is likely to engage in a sexually violent  
38 offense.

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

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

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

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

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

7           ~~E.~~ F. An agency's inability to comply with the time requirements  
8 under subsection A ~~of this section~~ does not preclude the county attorney or  
9 the attorney general from filing a petition alleging that a person is a  
10 sexually violent person.

**APPROVED BY THE GOVERNOR APRIL 18, 2005.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.**



Passed the House March 7, 2005

Passed the Senate April 5, 2005

by the following vote: 54 Ayes,

by the following vote: 30 Ayes,

0 Nays, 6 Not Voting

0 Nays, 0 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 12, 2005,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

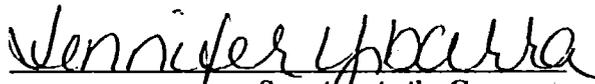
  
\_\_\_\_\_  
Norman L. Moore  
Speaker of the House  
Pro Tempore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13<sup>th</sup> day of April, 2005

at 12:00 o'clock P. M.

  
\_\_\_\_\_  
Jennifer Upchurch  
Secretary to the Governor

Approved this 18 day of

April, 2005,

at 1:45 o'clock P. M.

  
\_\_\_\_\_  
Jon Kyl  
Governor of Arizona

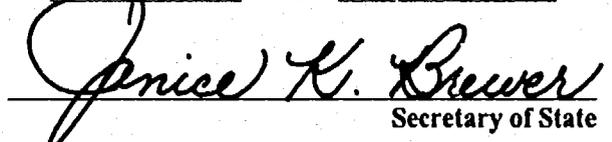
H.B. 2070

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2005,

at 4:42 o'clock P. M.

  
\_\_\_\_\_  
Janice K. Brewer  
Secretary of State