

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 134

SENATE BILL 1130

AN ACT

AMENDING SECTIONS 8-291.06 AND 13-4508, ARIZONA REVISED STATUTES; RELATING TO
COMPETENCY REPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-291.06, Arizona Revised Statutes, is amended to
3 read:

4 8-291.06. Privilege against self-incrimination; sealed reports

5 A. The privilege against self-incrimination applies to any examination
6 or to any statement that is made to restoration personnel during the course
7 and scope of a court ordered restoration program.

8 B. Any evidence or ~~statements~~ STATEMENT that are IS obtained during an
9 examination or any evidence or ~~statements~~ STATEMENT that are IS made to
10 restoration personnel during the course and scope of a restoration program
11 are IS not admissible in any proceeding to determine the juvenile's guilt or
12 innocence unless the juvenile presents evidence that is intended to rebut the
13 presumption of sanity.

14 C. Any statement that a juvenile makes during any examination, any
15 statement that a juvenile makes to restoration personnel during the course
16 and scope of a restoration program or any evidence resulting from the
17 statement concerning any other event or transaction is not admissible in any
18 proceeding to determine the juvenile's guilt or innocence of any other
19 charges that are based on those events or transactions.

20 D. Any statement that the juvenile makes during an examination, any
21 part of the evaluations that is obtained during an examination or any
22 statements that the juvenile makes to restoration personnel during the course
23 and scope of a restoration program may not be used for any purpose without
24 either:

25 1. The written consent of the juvenile or the juvenile's guardian.

26 2. A court order that is entered by the court that ordered the
27 examination or that is conducting a dependency or severance proceeding.

28 E. After an admission or adjudication of delinquency or after the
29 juvenile is found to be unable to be restored to competence, the court shall
30 order all of the reports that are submitted pursuant to this article to be
31 sealed. The court may order that the reports be opened only as follows:

32 1. For use by the court or juvenile, or by the prosecutor if otherwise
33 permitted by law, for further competency or sanity evaluations.

34 2. For statistical analysis.

35 3. When the records are deemed to be necessary to assist in mental
36 health treatment pursuant to this article or section 13-502.

37 4. For use by the probation department, THE STATE DEPARTMENT OF
38 CORRECTIONS IF THE JUVENILE IS IN THE CUSTODY OF OR IS SCHEDULED TO BE
39 TRANSFERRED INTO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS or the
40 department of juvenile corrections for the purposes of assessment and
41 supervision or monitoring of the juvenile by that department.

42 5. For use by a mental health treatment provider that provides
43 treatment to the juvenile or that assesses the juvenile for treatment.

1 6. For data gathering.

2 7. For scientific study.

3 F. If the court orders reports to be open for the purposes of
4 statistical analysis, data gathering or scientific study pursuant to
5 subsection E of this section, the reports shall be anonymous.

6 G. Any statement that a juvenile makes during an examination, any
7 statement that a juvenile makes to restoration personnel during the course
8 and scope of a restoration program or any evidence resulting from that
9 statement is not subject to disclosure pursuant to section 36-509.

10 Sec. 2. Section 13-4508, Arizona Revised Statutes, is amended to read:
11 13-4508. Privilege against self-incrimination; sealed reports

12 A. The privilege against self-incrimination applies to any examination
13 that is ordered by the court pursuant to this chapter.

14 B. Any evidence or statement that is obtained during an examination is
15 not admissible at any proceeding to determine a defendant's guilt or
16 innocence unless the defendant presents evidence that is intended to rebut
17 the presumption of sanity.

18 C. Any statement made by the defendant during an examination or any
19 evidence resulting from that statement concerning any other event or
20 transaction is not admissible at any proceeding to determine the defendant's
21 guilt or innocence of any other criminal charges that are based on those
22 events or transactions.

23 D. Any statement made by the defendant or any part of the evaluations
24 that is obtained during an examination may not be used for any purpose
25 without the written consent of the defendant or the defendant's guardian or a
26 court order that is entered by the court that ordered the examination or that
27 is conducting a dependency or severance proceeding.

28 E. After a plea of guilty or guilty except insane or the trial or
29 after the defendant is found to be unable to be restored to competence, the
30 court shall order all the reports submitted pursuant to this section sealed.
31 The court may order that the reports be opened only as follows:

32 1. For use by the court or defendant, or by the prosecutor if
33 otherwise permitted by law, for further competency or sanity evaluations.

34 2. For statistical analysis.

35 3. When the records are deemed necessary to assist in mental health
36 treatment pursuant to section 13-502 or 13-4517.

37 4. For use by the probation department OR THE STATE DEPARTMENT OF
38 CORRECTIONS IF THE DEFENDANT IS IN THE CUSTODY OF OR IS SCHEDULED TO BE
39 TRANSFERRED INTO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS for the
40 purposes of assessment and supervision or monitoring of the defendant by that
41 department.

42 5. For use by a mental health treatment provider that provides
43 treatment to the defendant or that assesses the defendant for treatment.

1 6. For data gathering.

2 7. For scientific study.

3 F. Any statement made by the defendant during an examination that is
4 conducted pursuant to this chapter or any evidence resulting from that
5 statement is not subject to disclosure pursuant to section 36-509.

~~APPROVED BY THE GOVERNOR APRIL 24, 2007.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2007.~~

Passed the House April 17, 20 07,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 5, 20 07,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

18th day of April, 20 07,

at 12:24 o'clock P. M.

Secretary to the Governor

Approved this 24 day of

April, 20 07,

at 9:30 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of April, 20 07,

at 11:30 o'clock A. M.

Secretary of State

S.B. 1130