

REFERENCE TITLE: competency reports; disclosure

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

## **SB 1130**

Introduced by  
Senators Gray C, Aguirre, Huppenthal: Harper

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 or the department of juvenile corrections for the purposes of  
39 assessment and supervision or monitoring of the juvenile by that department.
- 40 5. For use by a mental health treatment provider that provides  
41 treatment to the juvenile or that assesses the juvenile for treatment.
- 42 6. For data gathering.
- 43 7. For scientific study.

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

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

8 Sec. 2. Section 13-4508, Arizona Revised Statutes, is amended to read:  
9 13-4508. Privilege against self-incrimination; sealed reports

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

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

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

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

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

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

32 2. For statistical analysis.

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

35 4. For use by the probation department OR THE STATE DEPARTMENT OF  
36 CORRECTIONS for the purposes of assessment and supervision or monitoring of  
37 the defendant by that department.

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

40 6. For data gathering.

41 7. For scientific study.

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