

Title 36 - Public Health and Safety  
Chapter 6 - PUBLIC HEALTH CONTROL  
Article 6 - Tuberculosis Control

**36-711. Definitions**

In this article, unless the context otherwise requires:

1. "Active tuberculosis" means a disease that is caused by mycobacterium tuberculosis or other members of the mycobacterium tuberculosis complex family in any part of the body and that is in an active state as determined by either:

(a) A smear or culture that is taken from any source in the afflicted person's body and that tests positive for tuberculosis and the afflicted person has not completed a medically successful complete course of antituberculosis treatment.

(b) Radiographic, current clinical or laboratory bacteriological evidence that is sufficient to support a medical diagnosis of tuberculosis for which medical treatment is indicated and the person has not completed a medically successful complete course of antituberculosis treatment.

2. "Afflicted person" means a person who has or who based upon reasonable grounds is suspected of having active tuberculosis.

3. "Appropriate prescribed course of medication" means a course of medication that is prescribed by a physician and that meets the recommendations of any of the following:

(a) The tuberculosis control officer.

(b) A local health officer.

(c) The most recent guidelines of the department.

(d) The most recent guidelines of the federal centers for disease control and prevention.

4. "Cure" means a medically successful complete course of antituberculosis treatment.

5. "Department" means the department of health services.

6. "Directly observed therapy" means an appropriate prescribed course of treatment for active tuberculosis in which the prescribed antituberculosis medications are administered to the afflicted person or taken by the afflicted person under the direct observation of a physician, a physician assistant, a registered nurse, a health care provider or another designated responsible person.

7. "Director" means the director of the department of health services.

8. "Examination" means conducting tests that include Mantoux tuberculin skin tests, laboratory examination and x-rays as recommended by any of the following:

(a) The tuberculosis control officer.

(b) A local health officer.

(c) The most recent department guidelines.

(d) The most recent guidelines of the centers for disease control and prevention.

9. "Health care institution" has the same meaning prescribed in section 36-401.

10. "Incapacitated person" has the same meaning as prescribed in section 14-5101.

11. "Institution" means any public or private hospital, rest home, sanatorium, health care institution or other facility approved by the department for the care and treatment of afflicted persons.

12. "Intervention" means treatment, monitoring, quarantine or isolation or any combination thereof.

13. "Isolation" means the physical separation of afflicted persons from others in order to limit the transmission of active tuberculosis.

14. "Local health officer" means the health officer and other persons who are designated by the local health officer.

15. "Medical director" means an individual at a receiving facility who is either a licensed physician or a hospital administrator acting upon the advice of a licensed physician who is authorized by the facility to make any decisions concerning afflicted persons as prescribed by this article.

16. "Medically successful complete course of antituberculosis treatment" means that an afflicted person has successfully completed a prescribed course of antituberculosis treatment and has been medically discharged from further medical treatment for tuberculosis by a licensed physician.

17. "Minor" means a child under the age of eighteen years of age, except as provided by the provisions of section 44-132.

18. "Monitoring" means a program of supervision designed to monitor the health and activities of an afflicted person. Monitoring includes ensuring compliance with an appropriate prescribed course of medication or medical therapy and with the recommendations and orders of the tuberculosis control officer or a local health officer.

19. "Quarantine" means the restriction of activities of persons who have been exposed to an afflicted person.

20. "Treatment" means medication or medical therapy prescribed by a licensed physician to cure a person of active tuberculosis.

21. "Tuberculosis control officer" means a person appointed by the director to be the chief tuberculosis control officer for tuberculosis control in this state and other persons who are designated by the control officer.

22. "Voluntary treatment plan" means a written plan that is developed by a medical authority, that has been approved by the tuberculosis control officer or the local health officer and that prescribes one or more of the following on a voluntary basis:

- (a) Examination.
- (b) Monitoring.
- (c) Treatment.
- (d) Isolation.
- (e) Quarantine.

### **36-712. Administration by the department**

The department shall:

1. Own and control all personal property or interest in that property that is devoted and used by the tuberculosis control officer for purposes of this article.

2. Be the official custodian of all files and records that belong to or were kept at the Arizona state sanatorium before the sanatorium was converted to a hospital for children with a physical disability.

3. Be the official state agency to receive for deposit in an appropriate account of the public health fund and administer and expend any funds granted, contributed or made available by the federal government, appropriated by the state or received from other sources for the treatment, prevention or control of tuberculosis. Such funds are subject to title 35, chapter 1, article 4 and periodic review by the joint legislative budget committee.

**36-714. Tuberculosis control officer**

A. The tuberculosis control officer shall be appointed by the director. The control officer shall be a licensed physician experienced in the field of tuberculosis and tuberculosis control and, subject to the supervision of the director, shall administer and direct the activities of tuberculosis control in this state. The control officer is responsible for the detection, supervision, isolation, quarantine, investigation of contacts and all other matters pertaining to the investigation, control and treatment of tuberculosis as provided by this article. With the cooperation of local medical societies and local health departments and boards, the officer may conduct or supervise clinics for the diagnosis, treatment and control of tuberculosis in convenient places throughout the state. The control officer shall maintain or cause to be maintained a register of the tuberculosis health status of known afflicted persons and of their contacts, based on current reports obtained from physicians, institutions, clinics, health departments and other authorized personnel.

B. The tuberculosis control officer may:

1. Examine any or all records, reports and other data pertaining to the condition of afflicted persons. This information is confidential and privileged and shall not be divulged so as to disclose the identity of the person to whom it relates. The control officer or local health officer may disclose records, reports and other data the officer possesses to health care facilities, health care providers, county and state agencies and courts as necessary to enforce this article and related rules concerning the control, examination, treatment, monitoring, isolation, and quarantine of afflicted persons.

2. Inspect the facilities, equipment, operations and administration of institutions that provide care or treatment for afflicted persons.

3. With the approval of the director, contract with any federal agency, foreign government, Indian tribal government, any agency of this state or other state or of any political subdivision of this state or another state or any private entity to assist in the support of its tuberculosis control program with monies available to the department for that purpose. This program may include preventive, therapeutic and rehabilitative services and shall be used to encourage the fullest development and maintenance of an integrated statewide tuberculosis control program.

C. The tuberculosis control officer shall cooperate with any federal agency, foreign government, Indian tribal governments, or agency of this state or any political subdivisions of this state or other state or any private entity to qualify for and obtain their support in carrying out this article and to aid them in carrying out their respective responsibilities that relate to afflicted persons.

**36-715. Costs; removal; proceedings**

A. The director or the director's designee may enter into reciprocal agreements with federal agencies, foreign governments, state agencies, Indian tribal governments, political subdivisions and other jurisdictions to facilitate the return of any afflicted person. The expense of this transportation may be paid by the department of economic security out of funds appropriated to it for the purpose of carrying out this article.

B. The costs of any proceeding held pursuant to this article shall be charged to the county in which the proceeding is held.

**36-716. Payment of assistance**

A. An afflicted person who is under medical treatment for tuberculosis prior to release for employment and who needs or whose family needs financial assistance shall be referred to the department of economic security for determination of financial assistance eligibility.

B. The department of economic security shall determine and furnish assistance that is necessary to provide adequate support for those who have a legal claim for support or care from the afflicted person and for that person if the tuberculosis control officer or local health officer has approved that person or a member or members of that person's family for assistance.

**36-717. Responsibility for care or treatment by counties**

A. The local board of health, through the board of supervisors of the county, shall be responsible for providing or arranging for the provision of medical care and treatment of persons in the county infected with tuberculosis.

B. A county with a population of more than one million persons shall pay claims approved by the county from a facility or provider for medical care or treatment that are a county charge pursuant to subsection A of this section, unless otherwise provided by an intergovernmental agreement, as follows:

1. For inpatient and outpatient hospital services, the county shall reimburse at a level that does not exceed the reimbursement methodology established pursuant to section 36-2903.01, subsection G.

2. For health and medical services, the county shall reimburse at a level that does not exceed the capped fee-for-service schedule that is adopted by the Arizona health care cost containment system administration pursuant to chapter 29, article 1 of this title and that is in effect at the time the services are delivered.

**36-718. Contracting for care of afflicted persons**

The director may contract for the care of any afflicted person. These contracts shall provide that appropriated monies may be used only when monies from medical insurance, if any, of an individual are exhausted or insufficient to purchase the medical or institutional care the afflicted person requires.

**36-721. Rules**

The director shall adopt rules to:

1. Prescribe reasonable and necessary measures for the submission of tuberculosis reports and statistics from counties.
2. Prescribe reasonable and necessary measures regarding standards of medical care to be used by health care providers, agencies and institutions caring for afflicted persons.
3. Prescribe necessary and reasonable measures not in conflict with law for the enforcement of the provisions of this article.
4. To enforce this article as necessary.

**36-723. Investigation of tuberculosis cases**

A. When a local health officer is notified that an afflicted person is within the officer's jurisdiction, the local health officer shall immediately initiate an investigation. In performance of the duty to prevent or control tuberculosis, the tuberculosis control officer or local health officer at reasonable times and within reasonable limits may enter and inspect:

1. A public place in the performance of that person's duty to prevent or control tuberculosis. For the purposes of this paragraph, "public place" means all or any portion of an area, lands, building or other structure that is generally open to the public or to which the public has access and is not used primarily for private residential purposes.
2. Any public or commercial means of transportation or common carrier, including a vehicle, watercraft or aircraft in the performance of that person's duty to prevent or control tuberculosis.
3. Private property and premises to locate and inspect persons who may be afflicted persons. The tuberculosis control officer or the local health officer shall first identify the officer to an occupant of the building or premises and shall seek the consent of an adult occupant to enter the building or premises to enforce the provisions of this article. If consent is refused or if it is not possible to reasonably obtain consent, the tuberculosis control officer, the local health officer or a designated representative may obtain a search warrant to enter the building or premises to locate the afflicted person and to inspect the building or premises for other persons who may be at risk of exposure to active tuberculosis. The scope of the search shall be limited to those areas

in which the afflicted person or other persons who may be at risk of exposure to active tuberculosis may reasonably be found. any search warrant sought by the tuberculosis control officer or local health officer shall be obtained in compliance with section 13-3912.

B. A local health officer who conducts an investigation pursuant to this article shall immediately notify the tuberculosis control officer of the existence and nature of the disease and of the measures taken to control tuberculosis. The local health officer shall keep the tuberculosis control officer informed of the prevalence of the disease as prescribed by the department.

C. The tuberculosis control officer may take charge of the investigation and suppression of a suspected or actual case, outbreak or epidemic of tuberculosis if the officer reasonably believes that the public health and welfare require this action. In that event the control officer or the control officer's designee has exclusive authority over the case, outbreak or epidemic.

D. A treating, screening or attending health care provider as defined in section 36-661, a clinical laboratory as defined in section 36-451 or an operator of a homeless shelter who knows of an afflicted person shall notify the tuberculosis control officer or the local health officer and cooperate in any investigation conducted as a result of the notification. The notification shall include, if known, the name, address and physical location of an afflicted person. If the person reporting is a licensed physician, the physician shall report on the condition of the afflicted person and the status of the disease as often as required by the tuberculosis control officer or the local health officer.

E. An institution or health care provider shall promptly report to the tuberculosis control officer or the local health officer if an afflicted person ceases or refuses to accept treatment or fails or refuses to comply with medical recommendations for voluntary examination, isolation, monitoring, quarantine or treatment for active tuberculosis. The initial disease notification report and subsequent reports shall include if known the afflicted person's name, address and physical location, date of birth, tuberculin skin test results and pertinent radiologic, microbiologic and pathologic reports, whether final or pending, and any other information as required by the tuberculosis control officer or the local health officer.

#### **36-724. Voluntary control measures**

If, as a result of an investigation or as a result of any report required by this article, the tuberculosis control officer or local health officer believes someone is an afflicted person, the tuberculosis control officer, local health officer or designee shall encourage the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian to accept or consent to voluntary control measures and voluntary treatment to meet the minimum requirements prescribed by the department.

#### **36-725. Orders to cooperate; emergency custody**

A. If the tuberculosis control officer or the local health officer knows or has reasonable grounds to believe someone is an afflicted person who endangers another person or the

community and the afflicted person fails or refuses to comply with voluntary examination, monitoring, treatment, isolation or quarantine, the tuberculosis control officer or the local health officer shall issue a written order to cooperate to the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian that requires the afflicted person to cooperate with all intervention efforts to prevent and control the transmission of the disease. The order may require the afflicted person to participate in education, counseling, examination, medical treatment and supervision programs and to undergo medical tests for monitoring and to verify the afflicted person's status.

B. In urgent circumstances an order to cooperate may be an oral statement followed by the issuance of a written order by the end of the next business day. For the purposes of this subsection, "urgent circumstances" means those situations when the tuberculosis control officer or the local health officer determines the issuance of a written order to be reasonably impractical due to circumstances beyond the control of the officer, including inaccessibility, dangerous conditions or the threat of physical violence.

C. An order to cooperate shall be individual and specific and shall not be issued to a class of persons. The order shall be served on the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian by a person who is employed by or under contract to the department, the tuberculosis control officer or the local health officer or by any sheriff, peace officer or person authorized to serve process. If personal service cannot be performed despite the exercise of due diligence, the order may be served by certified mail, return receipt requested. An affidavit of service that details the procedures followed in serving the order shall be prepared and maintained in the case file of the tuberculosis control officer or the local health officer.

D. An order to cooperate issued pursuant to this section shall include a statement that, unless the afflicted person complies with the actions required in the order, the tuberculosis control officer or the local health officer may order the afflicted person to be taken into emergency custody and shall seek a court order for compulsory examination, monitoring, treatment, isolation or quarantine. The order to cooperate shall also state that if a court order is sought, the afflicted person to whom the order is issued has the right to notice and a hearing and other rights as provided by law.

E. If the afflicted person refuses to comply with an order issued pursuant to this section or if the tuberculosis control officer or local health officer knows that an afflicted person has previously failed or refused to comply with an appropriate prescribed course of medication, treatment or monitoring, and if the tuberculosis control officer or the local health officer has reasonable grounds to believe that the afflicted person poses a substantial danger to another person or the community and that emergency custody is necessary to prevent a substantial danger to another person or the community, the tuberculosis control officer or the local health officer may issue an emergency custody order directing a sheriff or law enforcement officer to take the afflicted person into custody, to take precautions reasonable and necessary under the

circumstances to protect the health of law enforcement officers and to oversee and ensure the transport of the afflicted person to an institution or facility specified in the order. If the afflicted person's condition or the institution's or facility's location or hours make transportation impracticable, the afflicted person shall be transported to an institution or facility designated by the department, the tuberculosis control officer or the local health officer. The order may be an oral order followed by the issuance of a written order by the end of the next business day. The receiving institution or facility shall provide suitable housing and care of the afflicted person. At the option of the tuberculosis control officer or the local health officer, an afflicted person may be transported by a health care provider, emergency medical services personnel, a physician, ambulance personnel, an ambulance service, guardian, conservator, parent, custodian, relative or friend to a designated institution or facility. A sheriff or law enforcement agency shall maintain custody of the afflicted person until the afflicted person is delivered to the institution or facility specified in the order or to an alternate institution or facility approved by the department, the tuberculosis control officer or the local health officer.

F. The admitting officer of an institution or facility that receives an afflicted person pursuant to subsection E of this section shall admit the afflicted person as an emergency patient and shall perform an examination to determine if the afflicted person must be isolated.

G. An afflicted person admitted pursuant to an emergency custody order shall be released from custody if the medical director of the receiving institution or facility, with the advice and consent of the tuberculosis control officer or a local health officer, determines that the afflicted person is any of the following:

1. Not afflicted with active tuberculosis.
2. Not a danger to another person or to the community and release is appropriate.
3. Qualified for release as a voluntary patient.

H. If an afflicted person is admitted pursuant to an emergency custody order, the tuberculosis control officer, the local health officer or a designated legal representative shall file a petition for public health protection within three business days after the detention unless the afflicted person has been accepted as a voluntary patient. The petition shall conform to the requirements of section 36-726.

I. At the time an afflicted person is taken into emergency custody pursuant to this section, the tuberculosis control officer or local health officer, within the limits of due diligence, shall promptly notify the afflicted person's physician, parent or guardian or an adult member of the afflicted person's family of the detention. The notification shall include the location of the detention, the terms and conditions of custody and the authority that ordered the afflicted person's detention. An afflicted person detained under this section or, if a minor or incapacitated person, the afflicted person's parent or guardian shall be informed by the tuberculosis control officer or the local health officer of the afflicted person's rights under this article, including the right to consult with an attorney and the right to have an attorney appointed by the court if the afflicted person cannot afford to employ an attorney. The afflicted person or, if a minor or

incapacitated person, the afflicted person's parent or guardian shall also be advised that if a petition for public health protection is filed the court shall appoint an attorney to consult with and to represent the afflicted person if the afflicted person cannot afford to employ an attorney.

J. If the afflicted person is a minor or incapacitated person, the tuberculosis control officer or local health officer shall use reasonable efforts to locate, contact and confer with a parent or guardian prior to initiating an intervention pursuant to this article.

K. In the event a parent or guardian of an afflicted person who is a minor or an incapacitated person cannot be located or the parent or guardian is unwilling to consent to a recommended intervention pursuant to this article, the tuberculosis control officer or local health officer, for the purpose of protecting the public health, may initiate any intervention that does not prescribe medical treatment for the minor or the incapacitated person unless medical treatment is otherwise authorized by section 14-5209, 14-5312, 44-132 or 44-133.

L. A petition for public health protection shall be filed with the clerk of the superior court within three business days after the afflicted person's emergency detention authorized pursuant to an order of the tuberculosis control officer or the local health officer. A petition filed pursuant to this subsection shall conform to the requirements of section 36-726. If a petition for public health protection is not filed within three business days after the detention, the afflicted person shall be immediately released from custody. An afflicted person who is released for this reason shall not be returned to emergency custody by a subsequent order unless the tuberculosis control officer or the local health officer first obtains an order from the superior court that permits detention pursuant to this article.

M. This section does not allow a private or public facility or agency to forcibly or involuntarily administer medications to an afflicted person unless authorized by the written order of the superior court pursuant to this article or as otherwise permitted by law.

**36-726. Petition for court ordered examination, monitoring, treatment, isolation or quarantine**

A. The tuberculosis control officer, the local health officer or a designated legal representative may petition the superior court for court ordered examination, monitoring, treatment, isolation or quarantine of an afflicted person who presents a substantial danger to another person or to the community and who has failed to comply with a voluntary treatment plan or a written order to cooperate. The petition may be brought in the county where the afflicted person resides or is physically located. The petition shall be in the form and manner approved by the director.

B. The petition shall include:

1. The afflicted person's name, address, date of birth and physical location or last known address. The petitioner may refer to the afflicted person by a pseudonym if specifically requested by the afflicted person.

2. A statement containing the grounds and underlying facts demonstrating that the person is an afflicted person.

3. A statement that the afflicted person has failed to comply with a voluntary treatment plan or an order to cooperate or has a history of noncompliance with an appropriate prescribed course of medication or other interventions.

4. A statement containing the grounds and underlying facts demonstrating that the afflicted person presents a substantial danger to another person or to the community.

5. The least restrictive alternatives to court ordered examination, monitoring, treatment, isolation or quarantine that are appropriate or available.

6. A statement identifying the afflicted person as a minor or an incapacitated person, if applicable, and any facts that could assist the court to determine if the provisions of section 36-730 apply.

C. If the petitioner determines that the afflicted person's health is likely to deteriorate before a court hearing can begin, the petition shall include a statement containing the afflicted person's current clinical condition and a request for an immediate order from the court authorizing the administration of medically necessary treatment to preserve the afflicted person's medical condition before a hearing on the petition.

D. The petitioner shall inform the court when the afflicted person's medical condition may require the court to adjust the conditions and circumstances to accommodate the afflicted person's condition pursuant to section 36-725.

E. The petition shall be accompanied by the affidavit or affidavits of the person who conducted the investigation and by the affidavit or affidavits of the petitioner or intervenors. The affidavits shall detail the evidence that indicates that the person is an afflicted person and evidence that indicates that the afflicted person is a substantial danger to another person or to the community. The petition shall include a summary of the facts that support the allegations of the petition.

F. The petition shall request the court to issue an immediate order authorizing the compulsory detention and continued detention of the afflicted person in a designated facility for supervised monitoring, treatment, isolation or quarantine pending a detention hearing on the petition for public health protection. This detention hearing shall be conducted within fifteen days after a petition for public health protection is filed in the superior court.

G. Before the superior court has an opportunity to rule on the petition's merits, the court may order the immediate or continued detention of the afflicted person in an institution approved by the department, the tuberculosis control officer or the local health officer if the court determines that there is reasonable cause to believe that the afflicted person is likely to be a substantial danger to another person or to the community.

H. If the court orders that the afflicted person be immediately detained, the court shall issue orders necessary to provide for the apprehension, transportation and detention of the afflicted person pending the outcome of the detention hearing and shall provide notice of

detention to the afflicted person's physician, or, if the afflicted person is a minor or an incapacitated person, the afflicted person's parent or guardian, or if none, the next of kin. The court shall appoint an attorney for the afflicted person if one has not been appointed.

I. If after reviewing the petition and supporting documents and other evidence the court determines that the petition and supporting documentation and evidence submitted to the court do not support a finding that the person is an afflicted person or is a substantial danger to another person or the community, the court shall issue a written order to release the person as soon as reasonably possible.

J. If after a petition has been filed and before the hearing the petitioner or the medical director of the receiving institution, with the advice and consent of the tuberculosis control officer or local health officer, determines that the person is not an afflicted person, the petitioner shall withdraw the petition and the petitioner or the medical director of the receiving institution shall discharge the person as soon as reasonably possible.

K. If after a petition has been filed and before the hearing the petitioner or the medical director of the receiving facility, with the advice and consent of the tuberculosis control officer or the local health officer, determines that the afflicted person will voluntarily comply with the orders of the tuberculosis control officer or the local health officer, the petitioner may request the court to hold the petition in abeyance pending satisfactory compliance by the afflicted person with the terms of the voluntary treatment plan. The court shall not hold the petition in abeyance for longer than six months. Prior to the end of six months, the petitioner may request the court to continue holding the petition in abeyance for a period of time specified by the court.

L. A detention hearing shall be held within fifteen days after the petition is filed with the clerk of the superior court unless:

1. The court determines for good cause shown that a continuance of the detention hearing is necessary in the interests of public health. For the purposes of this paragraph, "good cause" includes the unavailability of necessary witnesses or that additional time is necessary to receive and interpret laboratory test results.

2. The afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian, on consultation with an attorney, determines that it would be in the afflicted person's best interest to request a continuance.

M. A continuance granted to any party by the court pursuant to subsection L of this section shall not exceed thirty days unless the parties agree to an additional continuance.

N. The purpose of a detention hearing is to determine if the afflicted person has tuberculosis. The burden of proof is on the petitioner to prove by clear and convincing evidence that detention is necessary because the person is an afflicted person and is a substantial danger to another person or to the community.

O. At any time before the hearing the department may intervene as a party to any proceedings pursuant to this section by filing a written notice of intervention with the clerk of the superior court in the county in which the petition is filed. The intervenor may cross-examine any

witnesses presented by the other parties, subpoena and present witnesses of its own, including physicians and infectious disease experts, and present evidence. On stipulation with all parties or on order of the court, the intervenor may have physicians conduct physical examinations of the afflicted person and offer testimony as to whether the person has active tuberculosis or is a substantial danger to another person or to the community and offer testimony as to the least restrictive examination, treatment, monitoring, isolation or quarantine alternatives available to the court.

P. Within five days after the filing of a petition for public health protection, the petitioner shall serve on the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian a copy of the petition and affidavits in support of it and the notice of the hearing. The notice shall inform the afflicted person of the purpose of the hearing and the right to an attorney. If the afflicted person has not employed an attorney, the court shall appoint an attorney at least seven days before the hearing. The notice shall fix the date, time and place for the hearing. The notice requirements of this section cannot be waived.

Q. At least five days before the court conducts the hearing on the petition or within a reasonable time after the appointment of a court appointed attorney, copies of the petition, affidavits in support of it, the notice of the hearing, the investigation reports, the afflicted person's medical records and copies of other exhibits shall be made available by the petitioner to the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian or that person's attorney for examination and reproduction.

R. A person has the right to have an evaluation performed by an independent physician. This evaluation shall include a physical examination and laboratory analysis. If the afflicted person is unable to afford an examination the court shall appoint an independent evaluator acceptable to the afflicted person from a list of licensed physicians who are willing to accept court appointed evaluations. The afflicted person may require the independent physician who performed the evaluation to appear as a witness at a hearing conducted pursuant to this section.

**36-727. Hearings; procedure; confidentiality**

A. The afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian and that person's attorney have the right to be present at all hearings, subject to any conditions or procedures that are deemed appropriate or necessary by order of the court to protect the health and safety of all participants. The afflicted person may waive any appearance before the court.

B. If the afflicted person is unable or unwilling to be present at the hearing or the hearing cannot be reasonably conducted where the afflicted person is being treated or confined or cannot be reasonably conducted in the afflicted person's presence, the court shall enter a finding and may proceed with the hearing on the merits of the petition.

**C. The court may impose conditions or procedures that it deems necessary to protect the health and safety of all participants in the hearing and to ensure humane treatment with due regard to the comfort and safety of the afflicted person and others. These measures may include video or telephonic conference appearances. If necessary the court shall provide language interpreters and persons skilled in communicating with vision impaired and hearing impaired persons pursuant to applicable law.**

**D. Parties to the proceedings may present evidence and subpoena and cross-examine witnesses. The evidence presented may include the testimony of experts on infectious diseases or public health matters or a physician who performed an examination or evaluation of the afflicted person. The petitioner may prove its case on the affidavit or affidavits filed in support of the initial petition. The clinical record of the afflicted person for the current admission shall be available and may be presented in full or in part as evidence at the request of the court, the afflicted person or the afflicted person's attorney or any party in interest.**

**E. At the hearing the court shall be advised of any drugs known to have been administered to the afflicted person before the hearing that would affect the afflicted person's judgment or behavior.**

**F. Persons appointed to conduct an examination and evaluation of the afflicted person shall make their reports in writing to the court. The reports shall include a recommendation as to the least restrictive alternative measures available to the court.**

**G. A verbatim record of all proceedings under this section shall be made by stenographic or electronic means. The stenographic notes or electronic tape shall be retained as provided by statute.**

**H. The court hearing shall not be open to the public and all records, notices, exhibits and other evidence are confidential and shall not be released to the public. The court may order any portion released or a public hearing to be held on a request from the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian or the afflicted person's attorney. The court's records and exhibits are available to the petitioner, the afflicted person, the department, the tuberculosis control officer, the local health officer or a legal representative of any of these persons or agencies.**

**I. An afflicted person who is ordered by the court to undergo examination, monitoring, treatment, isolation or quarantine or, if a minor or incapacitated person, the afflicted person's parent or guardian may request a certified transcript of the hearing. To obtain a copy the person shall pay for the transcript or shall file an affidavit that the afflicted person cannot afford to pay for a transcript. If the affidavit is found true by the court, the court shall charge the expense of the transcript to the county in which the proceedings were held. If an intergovernmental agreement by the counties has required an evaluation in a county other than that of the afflicted person's residence, this expense may be charged to the county of the afflicted person's residence or in which the afflicted person was found before the evaluation.**

**36-728. Judicial action**

**A. If the court finds by clear and convincing evidence that a person is an afflicted person and presents a substantial danger to another person or to the community, the court shall order the afflicted person to do any one or more of the following pursuant to a written treatment plan developed or submitted by the tuberculosis control officer or the local health officer and approved by the court:**

- 1. Participate in a designated education program.**
- 2. Participate in a designated counseling program.**
- 3. Participate in a designated treatment program.**
- 4. Undergo medically accepted tests to verify the status of the afflicted person.**
- 5. Undergo a program of directly observed therapy.**
- 6. Participate in a program to notify or appear before designated health officials for verification of status, testing or other purposes consistent with monitoring.**
- 7. Comply with an order that the afflicted person refrain from conduct that is a health threat to others or to the community.**
- 8. Comply with an order that the afflicted person undergo isolation or quarantine at an approved facility, location or setting for the period and under the conditions set by the court and as approved by the department, the tuberculosis control officer or the local health officer.**
- 9. Comply with an order that the afflicted person be committed to an appropriate facility for the period and under the conditions set by the court and as approved by the department, the tuberculosis control officer or the local health officer.**
- 10. Comply with any other order the court determines is necessary and appropriate.**

**B. The court may approve the afflicted person's participation in a voluntary treatment program and may approve and order participation in a voluntary program under the terms prescribed by the court pursuant to this section. A person who accepts a voluntary treatment plan remains under the jurisdiction of the court for the purposes of court ordered examination, treatment, monitoring, isolation or quarantine. The terms prescribed by the court may incorporate the terms of a voluntary treatment plan that shall include provisions for the medically successful complete course of antituberculosis treatment.**

**C. The court shall order the least restrictive measures that are necessary for the examination, treatment, monitoring, isolation or quarantine of the afflicted person and that will effectively protect the public health and provide appropriate care for the afflicted person. In ordering the least restrictive measures necessary, the court shall also consider input from an afflicted person's parent or guardian, if the afflicted person is a minor or incapacitated person.**

**D. If the court enters an order pursuant to this section it shall designate a facility or program to supervise the afflicted person and administer the court's order.**

**E. The director of a facility or program assigned by the court shall only use the services of any person, institution or program that has agreed to provide these services in the afflicted person's case and only if the local health agency or department determines that the person, institution or program is competent to do so.**

**F. The person, facility or program assigned to supervise the afflicted person pursuant to the court's order issued pursuant to this section shall be notified at least three days before a referral. The petitioner, the tuberculosis control officer or the local health officer recommending the referral and the person, institution or program shall share relevant information about the afflicted person to promote the health and safety of the public and to provide effective intervention and continuity of treatment.**

**G. On a motion by the director of the afflicted person's assigned institution or program or on a motion by the petitioner, the tuberculosis control officer or the local health officer, the court after a hearing may amend or alter its original order if it determines that any of the following is true:**

- 1. The afflicted person is not complying with the terms of its original order.**
- 2. The designated treatment plan is no longer appropriate.**
- 3. Further observation, examination, treatment, isolation or quarantine is required.**

**H. If an afflicted person refuses to comply with any order or amended order issued pursuant to this section, the court may issue additional orders necessary to address and correct the afflicted person's noncompliance and may direct a sheriff or law enforcement officer, on the request of the tuberculosis control officer or local health officer, to take the afflicted person into custody and to oversee and ensure the transport of the person to a designated institution or program. At the option of the tuberculosis control officer or the local health officer, an afflicted person may be transported by a health care provider, emergency medical services personnel, a physician, ambulance personnel, an ambulance service, guardian, conservator, parent, custodian, relative or friend to a designated institution or facility. A sheriff or law enforcement agency shall maintain custody of the afflicted person until the afflicted person is delivered to the institution or facility specified in the order or to an alternate institution or facility approved by the department, the tuberculosis control officer or the local health officer.**

**I. On issuance of an order or an amended order issued pursuant to this section, the afflicted person shall be informed of the right to appeal and the right to consult with an attorney.**

**J. If any afflicted person who is under court ordered examination, monitoring, treatment, isolation or quarantine issued pursuant to this article is absent without proper authorization from a designated facility or program or if a court order is amended, rescinded or modified, a sheriff or law enforcement officer may be directed by the tuberculosis control officer or the local health officer to take the afflicted person into custody and to oversee and ensure the transport of the afflicted person to a designated and approved institution or program.**

**K. The period of court ordered examination, monitoring, treatment, isolation or quarantine does not run during any unauthorized absence from the jurisdiction or from any**

required monitoring or supervision. The period resumes only on the afflicted person's voluntary or involuntary return to the designated facility or program.

L. Except as provided in this section, court ordered examination, treatment, monitoring, isolation or quarantine shall not exceed three hundred sixty-five days.

**36-729. Amended orders for intervention and transport of afflicted persons**

A. If the tuberculosis control officer or the local health officer determines that an afflicted person who is not currently detained is in need of immediate and acute intervention or care because the afflicted person's behavior is dangerous to another person or to the community, the tuberculosis control officer or the local health officer may issue a written or oral order to a sheriff or law enforcement officer that requires a health care provider, emergency medical services personnel, a physician, ambulance personnel, an ambulance service, guardian, conservator, parent, custodian, relative or friend to take the afflicted person to a location designated by the tuberculosis control officer or the local health officer. A sheriff or law enforcement agency shall maintain custody of the afflicted person until the afflicted person is delivered to the institution or facility specified in the order or to an alternate institution or facility approved by the department, the tuberculosis control officer or the local health officer.

B. The afflicted person may be confined for not more than three business days after the afflicted person is taken to the institution, pending consideration by the court of an amended order sought under section 36-728, subsection G.

C. The tuberculosis control officer, local health officer or designated legal representative shall file a motion for an amended court order not later than three business days after confinement.

**36-730. Appointment of guardian or conservator**

A. If the court determines that the afflicted person is or may be in need of a guardian or conservator, or both, it shall order an investigation concerning the need for a guardian or conservator and shall appoint a suitable person or agency to conduct the investigation.

B. If the court finds that the afflicted person needs an immediate guardian or conservator to protect the afflicted person or to carry out alternatives to court ordered examination, treatment, monitoring, isolation or quarantine and there is no person qualified and willing to act in that capacity, the court may appoint a person or the public fiduciary to serve as a temporary guardian or conservator.

**36-731. Confinement; selection; jails; prohibition**

A. After an afflicted person has been taken into custody pursuant to this article, the tuberculosis control officer or local health officer is responsible for selecting a facility or quarters suitable for the comfortable, safe and humane confinement of the afflicted person, if the person is not otherwise admitted or confined in a health care institution. The tuberculosis control officer

or local health officer may authorize a physician, health care provider, emergency medical services personnel, ambulance or ambulance service, guardian, conservator, parent, custodian, relative or friend to transport an afflicted person to a designated institution or facility if the tuberculosis control officer or local health officer determines that the means of transportation are reliable and would not be detrimental to any person's health, safety or welfare. A sheriff or law enforcement agency shall maintain custody of the afflicted person until the afflicted person is delivered to the institution or facility specified in the order or to an alternate institution or facility approved by the department, the tuberculosis control officer or the local health officer.

B. An afflicted person who is not incarcerated on a criminal charge and who is the subject of an order or petition under this article shall not be confined in any prison or jail where those charged with crimes are incarcerated unless the afflicted person represents an immediate and serious danger to the staff or physical facilities of a hospital or any institution to which committed, or unless the afflicted person has failed to obey a court order or has failed to obey a lawful order of the tuberculosis control officer or local health officer issued pursuant to this article and the medical director of the receiving facility or designee has determined that no less restrictive confinement measures are appropriate. The court shall subsequently determine the appropriate level of confinement necessary during this initial consideration of the petition and the request for compulsory detention pursuant to section 36-726, subsection F.

#### **36-732. Early release from court ordered treatment**

A. An afflicted person under court ordered examination, treatment, monitoring, isolation or quarantine pursuant to this article may be released before the expiration of the period ordered by the court if the petitioner or the medical director of the designated institution or program upon advice and consent from the tuberculosis control officer or the officer's designee determines through an examination and evaluation of the afflicted person that the afflicted person no longer has active tuberculosis or no longer poses a substantial danger to another person or to the community and that release is deemed appropriate.

B. Notice of the discharge from the institution, facility or program shall be promptly given to the judge of the court that entered the court order. Without further court order the afflicted person may be released or discharged in accordance with the terms set forth in the treatment plan or court order.

C. On a finding of good cause the court may order a further hearing on a motion for early discharge or to amend or modify an existing court order pursuant to an affidavit of the petitioner or intervenor or the afflicted person or the afflicted person's attorney that states the need for further evidentiary hearing and the reasons the hearing is necessary before the time set for the release of the afflicted person.

#### **36-733. Choice of physician and mode of treatment**

This article does not allow a private or public facility or agency to restrict an afflicted person's right to choose a physician or to select the mode of treatment within the terms determined by the tuberculosis control officer or the local health officer as available and necessary to protect the health and safety of another person or the community.

**36-734. Treatment; exemption**

A. An afflicted person is not required to undergo treatment under this article if that person depends exclusively on prayer or spiritual means for healing in accordance with the tenets and practices of a recognized church or religious denomination and claims an exemption on that ground. The requirements of this article regarding compulsory reporting of tuberculosis disease, exclusion from employment or school, monitoring, examination, isolation and quarantine apply if there is clear and convincing evidence that the person is an afflicted person and is a substantial danger to another person or the community.

B. An afflicted person is not required to submit to any medical treatment or to go to or be confined in any hospital or other medical institution, if the afflicted person can be safely examined, monitored, isolated or quarantined in the afflicted person's home or another place that is suitable to the health of the afflicted person, provides appropriate protection to other persons and the community and is approved by either the department, the tuberculosis control officer or a local health officer.

C. This section does not exempt a person from complying with applicable laws regarding sanitation.

**36-735. Notification of rights**

A. An afflicted person who is ordered to receive court ordered examination, treatment, monitoring, isolation or quarantine pursuant to this article or, if a minor or incapacitated person, the afflicted person's parent or guardian shall be informed in writing of the following rights:

1. The right to appropriate care and treatment in accordance with accepted standards of medical practice and in an appropriate setting consistent with the protection of the afflicted person, the community and the public health.
2. The right not to receive unnecessary or excessive medication.
3. The right to refuse to participate in a research program.
4. A humane treatment environment that provides reasonable protection from harm and appropriate privacy for personal needs.

B. The statement of rights shall be in the afflicted person's primary language, if reasonably possible and, if applicable, shall be provided through means reasonably calculated to communicate with a hearing impaired or visually impaired person.

C. The director of an institution or program that provides care pursuant to this article is responsible for the following:

1. To make reasonable efforts to provide for the care, safety and detention of the afflicted person and adequate security to prevent the afflicted person from leaving the institution or program without its permission or from transmitting the communicable disease to others in the community.

2. The examination and evaluation by a licensed physician at least once every thirty days and as medically necessary.

3. Reports advising the tuberculosis control officer or the local health officer of the status of the afflicted person's disease and the person's compliance with any orders or treatment plan.

4. Adequate prior notification under the circumstances to the tuberculosis control officer or the local health officer of the pending discharge of the afflicted person.

**36-736. Administrative procedures act; judicial review of administrative procedures; exemption; appeals**

A. Orders of the tuberculosis control officer or local health officer issued pursuant to this article and procedures prescribed by this article are exempt from title 41, chapter 6 and title 12, chapter 7, article 6.

B. An order of the superior court that imposes, denies, modifies, amends or rescinds court ordered examination, treatment, monitoring, isolation or quarantine pursuant to this article may be reviewed at the request of any party in interest by appeal to the court of appeals as prescribed in the Arizona rules of civil procedure or by special action. The court may give scheduling preference to this appeal or special action.

**36-737. Violation; classification**

A. A treating, screening or attending health care provider as defined in section 36-661, a clinical laboratory as defined in section 36-451 or an operator of a homeless shelter who knowingly fails or refuses to perform a duty or legal responsibility imposed pursuant to this article is guilty of a class 3 misdemeanor.

B. An afflicted person who knowingly or intentionally exposes others to infection is guilty of a class 2 misdemeanor.

C. An afflicted person who leaves or attempts to leave the custody, isolation, quarantine or detention imposed by the superior court or the order of the tuberculosis control officer or local health officer pursuant to this article is guilty of a class 2 misdemeanor.

D. Any person who knowingly obstructs, impairs or hinders an investigation conducted pursuant to this article is guilty of a class 3 misdemeanor.

E. Any person who knowingly makes a false report of tuberculosis to the tuberculosis control officer or the local health officer is guilty of a class 3 misdemeanor.

f. Any person who, without proper authorization, knowingly assists another to be noncompliant with an order issued pursuant to this article is guilty of a class 3 misdemeanor.

**36-738. Qualified immunity**

**Any person or entity that acts pursuant to this article is not subject to civil liability for good faith conduct in following or attempting to follow the requirements of this article. An act is done in good faith under this article if it is reasonable under the circumstances. This section does not apply if the person or entity acting pursuant to this article is guilty of gross negligence or intentional misconduct.**