

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

DEPARTMENT OF CHILD SAFETY, *Petitioner,*

v.

THE HONORABLE Todd F. Lang, Judge of the SUPERIOR COURT OF
THE STATE OF ARIZONA, in and for the County of Maricopa,

Respondent Judge,

T.J., Margo J., and Sammy J.

Real Parties in Interest.

No. 1 CA-SA 22-0224
FILED 2-14-2023

Petition for Special Action from the Superior Court in Maricopa County
No. JD41238
The Honorable Todd F. Lang, Judge

REVIEW GRANTED; RELIEF GRANTED

COUNSEL

Arizona Attorney General's Office, Tucson
By Dawn Rachelle Williams
Counsel for Petitioner Department of Child Safety

Maricopa County Office of the Legal Advocate, Phoenix
By Kerri L. Chamberlin
Counsel for Real Party T.J.

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Maricopa County Public Advocate, Phoenix
By Jeffrey Kegler
Counsel for Real Party Margo J.

Maricopa County Legal Defender's Office, Phoenix
By Shana A. Fish
Counsel for Real Party Sammy J.

OPINION

Presiding Judge Brian Y. Furuya delivered the opinion of the Court, in which Judge Jennifer B. Campbell and Judge Paul J. McMurdie joined.

FURUYA, Judge:

¶1 The Department of Child Safety ("DCS") petitions for special action relief from a juvenile court order requiring the filing of a motion for an inpatient assessment for a minor ("Timothy")¹ who received crisis care at Mind 24-7, an outpatient facility, lasting more than 24 hours. We hold that Arizona Revised Statutes ("A.R.S.") § 8-272(D) does not require DCS to file a motion for an inpatient assessment when a child is treated at an outpatient facility and the child's stay at such a facility exceeds 24 hours. Accordingly, we accept special action jurisdiction and grant the relief requested.

FACTS AND PROCEDURAL HISTORY

¶2 Timothy currently is 17 years old. He has mental health issues that have, at times, caused him to be a danger to himself or others since at least October 2021, when DCS filed its first motion for an inpatient assessment. DCS filed subsequent motions for inpatient assessment in November 2021 and September 2022. Each of the three motions requested assessments at different inpatient assessment facilities. Meanwhile, in July 2022, the juvenile court placed Timothy in DCS' legal custody.

¹ A pseudonym is used here to protect the identity of the minor child.

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¶3 In September 2022, Timothy’s medication ran out and he was transported from his group home to Mind 24-7, a licensed outpatient facility, where he stayed for about three days because space could not be located for him at a qualified inpatient assessment facility. Timothy stabilized before a space could be found and Mind 24-7 discharged him back to his group home. Timothy soon thereafter left his group home alone and walked back to Mind 24-7. The following day, Mind 24-7 discharged him, but he again returned. Mind 24-7 agreed to keep him this time for at least 48 hours to try a new medication. DCS picked him up three days later after he had stabilized. Timothy’s attorney then moved for an emergency status hearing to address DCS’ failure to seek an order authorizing inpatient assessment during any of his stays at Mind 24-7.

¶4 The court held a status hearing a day later, at which DCS asserted it was not required to request an inpatient assessment when Timothy was treated for more than 24 hours at a facility not licensed by the Department of Health Services (“DHS”) as an inpatient assessment facility, such as Mind 24-7. Over objection, the court ordered DCS to move for an inpatient assessment for Timothy to continue staying at Mind 24-7. But by that time, Timothy had left Mind 24-7 and DCS did not file a motion.

¶5 In late November 2022, Timothy was again taken to Mind 24-7. He was assessed a day later and determined to need inpatient care, so he was kept at Mind 24-7 until he could be admitted to a suitable inpatient assessment facility. His attorney moved for another emergency status hearing because Timothy had again been at Mind 24-7 for more than 24 hours. At a status hearing the next day, the court found Mind 24-7 was an inpatient assessment facility and ordered DCS to move for an inpatient assessment. DCS filed this petition for special action relief.

¶6 We accept special action jurisdiction because DCS has no “equally plain, speedy, and adequate remedy by appeal,” Arizona Rules of Procedure for Special Actions 1(a), and the petition presents a purely legal question of statewide importance, which is likely to recur. *Jordan v. Rea*, 221 Ariz. 581, 586 ¶ 8 (App. 2009); *see also Dep’t of Child Safety v. Beene*, 235 Ariz. 300, 303 ¶ 6 (App. 2014) (holding that special actions are especially appropriate to resolve questions involving minors).

DISCUSSION

I. Standard of Review.

¶7 We review the interpretation of statutes de novo. *S. Ariz. Home Builders Ass'n v. Town of Marana*, 522 P.3d 671, 674 ¶ 16 (2023). “Statutory interpretation requires us to determine the meaning of the words the legislature chose to use. We do so neither narrowly nor liberally, but rather according to the plain meaning of the words in their broader statutory context, unless the legislature directs us to do otherwise.” *Id.* at 676 ¶ 31. And if the plain language of a statute is clear and unambiguous, it is given effect without resorting to other statutory construction principles. *See, e.g., State ex rel. Morrison v. Anway*, 87 Ariz. 206, 209 (1960) (stating that “courts will not enlarge, stretch, expand, or extend a statute” beyond “its express provisions”); *Johnson v. Jones*, 55 Ariz. 49, 55-56 (1940) (“When a statute is plain and unambiguous in its terms, we have no option but to enforce it as it reads. . .”).

II. DCS Need Not Move for an Inpatient Assessment When a Child is at Mind 24-7 for More Than 24 Hours.

¶8 “If a child exhibits behavior that indicates the child may suffer from a mental disorder or is a danger to self or others, an entity may request that the child receive an outpatient assessment or inpatient assessment.” A.R.S. § 8-272(A). The real parties in interest argue Mind 24-7 functions as an inpatient assessment facility, and therefore DCS must move for an inpatient assessment whenever Timothy is treated or otherwise held at Mind 24-7 for more than 24 hours. DCS contends A.R.S. § 8-272(D) only requires such a motion when a minor is admitted for an inpatient assessment for more than 24 hours at an “inpatient assessment facility,” which according to A.R.S. § 8-271(7) means one specifically licensed by DHS as a level one behavioral health facility that provides psychiatric acute care services. The parties agree Mind 24-7 is not licensed as an inpatient assessment facility.

¶9 The Legislature created certain protections for minors with mental health issues that guard their due process rights, notify appropriate parties of the minors’ location, and ensure that the court retains proper control over the proceedings. *See* A.R.S. § 8-272. As relevant here, “[w]ithin twenty-four hours after a child is admitted for an inpatient assessment, excluding weekends and holidays, the entity shall file a motion for approval of admission for inpatient assessment.” A.R.S. § 8-272(D). The motion must include, among other things, “[t]he name and address of the inpatient

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assessment facility,” A.R.S. § 8-272(D)(1), and “[t]he date and time the child was admitted to the inpatient assessment facility,” A.R.S. § 8-272(D)(3).

¶10 The applicable statutes, A.R.S. §§ 8-271(7) and -272(D), are unambiguous. They require a motion for an inpatient assessment within 24 hours after a minor is admitted to an “inpatient assessment facility,” that is, a facility licensed by DHS as a level one behavioral health facility. A.R.S. §§ 8-271(7), -272(D). The Legislature did not impose any requirement for such a motion when a minor is treated at an outpatient facility. We must therefore apply the statutes’ ordinary meanings and may not resort to any other methods of interpretation. *Home Builders Ass’n*, 522 P.3d at 676 ¶ 31. And we must eschew constructions that would render any word, phrase, clause, or sentence of a statute void, inert, redundant, or trivial. *Di Giacinto v. Ariz. State Ret. Sys.*, 242 Ariz. 283, 286 ¶ 8 (App. 2017).

¶11 While the real parties in interest have valid concerns about knowing where Timothy is when he is assessed for treatment at outpatient facilities like Mind 24-7, we lack the authority to add statutory requirements not included by the Legislature. *Morrison*, 87 Ariz. at 209. We may only construe and enforce existing provisions as adopted. *Id.* Therefore, we hold the court erred by requiring DCS to move for an inpatient assessment pursuant to A.R.S. § 8-272(D) whenever a minor is treated, assessed, or remains at an outpatient facility, such as Mind 24-7, for over 24 hours.

¶12 Our limited holding adopting a plain-meaning interpretation of A.R.S. § 8-272(D) does not give DCS unchecked authority to utilize outpatient facilities to encroach on the statutory and constitutional rights of minors with mental health issues—or those of their parents. As may be appropriate under the facts and circumstances of each case, courts retain various means to ensure those rights remain protected. These include, among others, limiting the amount of time minors may be involuntarily held without notice, *see generally* A.R.S. § 8-272, ordering minors released when circumstances require, *see* A.R.S. §§ 8-202, -272, -273, and addressing well-taken complaints regarding unlawful deprivations of constitutional protections, *see* U.S. Const. amend. IV, U.S. Const. amend. XIV, Ariz. Const. art. 2, § 4, Ariz. Const. art. 2, § 8.

¶13 Because we hold as a matter of law that Mind 24-7 is not an “inpatient assessment facility,” we need not resolve whether assessments performed by Mind 24-7 constitute inpatient assessments pursuant to A.R.S. § 8-271(3). DCS need not file for inpatient assessment when a minor stays at Mind 24-7 for more than 24 hours, regardless of whether Mind 24-7 also conducts inpatient assessments. *See Pima Cnty. Hum. Rts. Comm. v.*

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Ariz. Dep't of Health Servs., 232 Ariz. 177, 182 ¶ 17 n.5 (App. 2013) (explaining we do not “decide issues not required to dispose of appeal”).

CONCLUSION

¶14 Accepting special action jurisdiction, we grant relief by vacating the order requiring DCS to file a motion for an inpatient assessment when Timothy is assessed at Mind 24-7 for more than 24 hours, and remand for further proceedings consistent with this opinion.



AMY M. WOOD • Clerk of the Court
FILED: AA