

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 269**

**SENATE BILL 1211**

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-717; AMENDING SECTION 41-1604.09, ARIZONA REVISED STATUTES; RELATING TO PAROLE ELIGIBILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is  
3 amended by adding section 13-717, to read:

4 13-717. Sentence of life imprisonment: parole eligibility:  
5 applicability

6 A. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO WAS CONVICTED OF  
7 FIRST DEGREE MURDER AND WHO WAS SENTENCED TO LIFE WITH THE POSSIBILITY OF  
8 PAROLE AFTER SERVING A MINIMUM NUMBER OF CALENDAR YEARS PURSUANT TO A PLEA  
9 AGREEMENT THAT CONTAINED A STIPULATION TO PAROLE ELIGIBILITY IS ELIGIBLE  
10 FOR PAROLE AFTER SERVING THE MINIMUM NUMBER OF CALENDAR YEARS THAT IS  
11 SPECIFIED IN THE SENTENCE. IF GRANTED PAROLE, THE PERSON SHALL REMAIN ON  
12 PAROLE FOR THE REMAINDER OF THE PERSON'S LIFE EXCEPT THAT THE PERSON'S  
13 PAROLE MAY BE REVOKED PURSUANT TO SECTION 31-415.

14 B. THIS SECTION APPLIES TO A DEFENDANT WHO ENTERED INTO A PLEA  
15 AGREEMENT THAT STIPULATED TO PAROLE ELIGIBILITY AND WHO WAS SENTENCED AT  
16 ANY TIME FROM AND AFTER JANUARY 1, 1994 AND ON OR BEFORE THE EFFECTIVE  
17 DATE OF THIS SECTION.

18 Sec. 2. Section 41-1604.09, Arizona Revised Statutes, is amended to  
19 read:

20 41-1604.09. Parole eligibility certification:  
21 classifications; appeal; recertification:  
22 applicability; definition

23 A. The director shall develop and maintain a parole eligibility  
24 classification system. Within the system, the director shall establish  
25 two classes of parole eligibility, class one and class two, to be given  
26 effect as provided for in this section, one class of parole noneligibility  
27 for dangerous psychiatric offenders and as many other classes of  
28 noneligibility as he deems necessary or desirable. Each person committed  
29 to the state department of corrections shall be classified pursuant to the  
30 parole eligibility system established by the director.

31 B. The director shall establish rules pursuant to chapter 6 of this  
32 title for the classification and certification of prisoners for purposes  
33 of parole. Reclassification and certification shall be based on factors  
34 related to a prisoner's record while in the custody of the department,  
35 including work performance, compliance with all rules of the department,  
36 progress in any appropriate training or treatment programs and the  
37 performance of any assignments of confidence or trust. The director shall  
38 also establish rules governing the procedures and performance standards by  
39 which prisoners, reclassified to noneligibility classifications, may earn  
40 eligibility classification. Prisoners may be reclassified only pursuant  
41 to the rules of the department. The director shall distribute a copy of  
42 all the rules to each person committed to the department.

43 C. The director shall maintain two classes for parole eligibility,  
44 class one and class two. Inclusion of an inmate in class one shall be  
45 determined by adherence to the rules of the department and continual

1 willingness to volunteer for or successful participation in a work,  
2 educational, treatment or training program established by the department,  
3 except that a person sentenced pursuant to a statute ~~which~~ THAT requires  
4 that a person serve a mandatory minimum term shall not be placed in class  
5 one until one-quarter of the mandatory minimum portion of the term is  
6 served and shall not be released until the mandatory minimum portion of  
7 the term is served. Inclusion of an inmate in class two shall be  
8 determined by adherence to the rules of the department.

9 D. The director shall certify as eligible for parole any prisoner  
10 classified within an eligible classification five months immediately ~~prior~~  
11 ~~to~~ BEFORE the prisoner's earliest parole eligibility. The inmate shall be  
12 required to remain in a parole eligible classification from the date of  
13 certification until the date of release on parole. If the inmate does not  
14 remain in a parole eligible classification until the date of release on  
15 parole, the entire parole process shall be rescinded. For the purposes of  
16 this subsection, the prisoner's earliest parole eligibility occurs when  
17 the prisoner has served one-half of ~~his~~ THE sentence IMPOSED unless the  
18 prisoner is sentenced according to any provisions of law ~~which~~ THAT  
19 prohibit the release on any basis until serving not less than two-thirds  
20 of the sentence imposed by the court, the sentence imposed by the court or  
21 any other mandatory minimum term, in which case the prisoner must have  
22 served the sentence required by law.

23 E. Every prisoner shall be entitled to a hearing ~~prior to~~ BEFORE  
24 reclassification of the prisoner to a lower class. The hearing shall be  
25 before a person or persons designated by the director to hold the  
26 hearings. Reasonable notice and a written statement of the alleged  
27 violation of the rules shall be distributed to the prisoner at least five  
28 days ~~prior to~~ BEFORE the hearing. A prisoner may request a review of a  
29 decision to reclassify the prisoner by delivering a written request to the  
30 director.

31 F. Notwithstanding subsection D, placement of a prisoner in a  
32 noneligible parole class except placement in the noneligible parole class  
33 for dangerous psychiatric offenders shall result in an increase in the  
34 period of time the prisoner must serve before reaching ~~his~~ THE PRISONER'S  
35 earliest parole eligibility date. The increase shall equal the number of  
36 days occurring after placement in a noneligible parole class and before  
37 the prisoner is reclassified to a parole eligible class.

38 G. The classification of each prisoner shall be reviewed by the  
39 director not less than once every six months. Any prisoner who was  
40 certified as eligible for parole and denied parole and remains eligible  
41 for parole pursuant to subsection D shall be recertified by the director  
42 not less than one nor more than four months after the hearing at which the  
43 prisoner was denied parole, except that the board of executive clemency in  
44 denying parole may prescribe that the prisoner shall not be recertified  
45 for a period of up to one year after the hearing.

1           H. Immediately after the adoption of the rules required pursuant to  
2 this section, the director shall forward a certified copy of the rules to  
3 the legislature. The legislature may review and, by concurrent  
4 resolution, approve, disapprove or modify the rules, except that they  
5 shall be given full force and effect pending legislative review. If no  
6 concurrent resolution is passed by the legislature with respect to the  
7 rules within one year following receipt of a certified copy of the rules,  
8 they shall be deemed to have been approved by the legislature. If the  
9 legislature disapproves the rules or a section of them, the director shall  
10 immediately discontinue the use of any procedure, action or proceeding  
11 authorized or required by the rules or section of the rules.

12           I. This section applies to either of the following:

13           1. A person who commits a felony offense before January 1, 1994.

14           2. A person who is sentenced to life imprisonment and who is  
15 eligible for parole pursuant to section 13-716 OR 13-717.

16           J. Pursuant to rules adopted by the director, on commitment to the  
17 department, each prisoner shall be placed in parole class one beginning on  
18 the prisoner's sentence begin date.

19           K. For the purposes of this section, "dangerous psychiatric  
20 offender" means an inmate who has been placed in a psychiatric unit for  
21 psychiatric evaluation and treatment and who has been determined to  
22 present a high risk of potential violence.

APPROVED BY THE GOVERNOR APRIL 30, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2018.