

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 228**  
**HOUSE BILL 2266**

AN ACT

AMENDING SECTIONS 31-281 AND 41-1604.07, ARIZONA REVISED STATUTES;  
RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 31-281, Arizona Revised Statutes, is amended to  
3 read:

4 31-281. Transition program; report; definition

5 A. The department shall establish a transition program that  
6 provides eligible inmates with transition services in the community for up  
7 to ninety days. The department shall administer the transition program  
8 and contract with private or nonprofit entities to provide eligible  
9 inmates with transition services and shall procure transition services  
10 pursuant to title 41, chapter 23.

11 B. The director shall adopt rules to implement this article. The  
12 rules shall include:

13 1. Eligibility criteria for receiving a contracted entity's  
14 transition services. To be eligible, at a minimum, an inmate shall:

15 (a) Not have been convicted of a sexual offense pursuant to title  
16 13, chapter 14 or a violation of title 13, chapter 17.

17 (b) Be classified by the state department of corrections as a low  
18 violence risk to the community.

19 (c) Not have been convicted of a violent crime as defined in  
20 section 13-901.03 or a domestic violence offense pursuant to section  
21 13-3601.

22 (d) Not have any felony detainers.

23 (e) Agree in writing to provide specific information after the  
24 inmate is released. The department shall use the information to prepare  
25 the report prescribed by subsection D, paragraph 3 of this section.

26 (f) Have made satisfactory progress by complying with all  
27 programming on the inmate's individualized corrections plan as determined  
28 by the department.

29 (g) Be classified by the department as minimum or medium custody as  
30 determined by an objective risk assessment.

31 (h) Not have been found in violation of any major violent rule  
32 during the inmate's current period of incarceration or in violation of any  
33 other major rule within the previous six months. For the purposes of this  
34 subdivision, an accumulation of minor rule violations does not equal a  
35 major rule violation.

36 2. A requirement that each contracted entity train mentors or  
37 certify that mentors are trained.

38 3. A requirement that the services offered to an inmate include  
39 psychoeducational counseling and case management services as determined by  
40 the department. The counseling and services may include substance abuse  
41 treatment, anger management, cognitive behavioral therapy, parenting  
42 skills and family reunification training, further education and job  
43 placement.

1           4. A requirement that an inmate may be released pursuant to this  
2 article only after the victim has been provided notice and an opportunity  
3 to be heard. The department shall provide notice to a victim who has  
4 provided a current address or other contact information. The notice shall  
5 inform the victim of the opportunity to be heard on the early  
6 release. Any objection to the inmate's early release must be made within  
7 twenty days after the department has mailed the notice to the victim.

8           C. In awarding contracts under this section the department shall  
9 comply with section 41-3751.

10           D. The department shall:

11           1. Conduct an annual study to determine the recidivism rate of  
12 inmates who receive a contracted entity's services pursuant to this  
13 article. The study shall include the recidivism rate of inmates who have  
14 been released from incarceration for a minimum of three years after  
15 release.

16           2. Evaluate the inmate and provide the information to the  
17 contracted entity.

18           3. Submit a written report to the governor, the president of the  
19 senate and the speaker of the house of representatives on or before July  
20 31 of each year and provide a copy of this report to the secretary of  
21 state. The report may be submitted electronically. The report shall  
22 contain the following information:

23           (a) The recidivism rate of inmates who receive services pursuant to  
24 this article, including the recidivism rate of inmates who have been  
25 released from incarceration for a minimum of three years after release.

26           (b) The number of inmates who received services pursuant to this  
27 article.

28           (c) The number of inmates who were not provided services pursuant  
29 to this article and who were on a list waiting to receive services.

30           (d) The types of services provided.

31           (e) The number of inmates who received each type of service  
32 provided.

33           4. Provide information about the transition program to all inmates  
34 who are not serving a life sentence on admission to prison and to any  
35 inmate who is potentially eligible for the transition program six months  
36 before the inmate's eligibility date. The information must include all of  
37 the admission requirements to the transition program, including the  
38 disqualifying factors under this section.

39           E. Notwithstanding subsection B, paragraph 1 of this section, if an  
40 inmate **AGREES TO COMPLY WITH ANY CONDITION THAT IS ESTABLISHED AND**  
41 **REQUIRED BY SECTION 41-1604.07, SUBSECTION F,** has been convicted of the  
42 possession or use of marijuana pursuant to section 13-3405, subsection A,  
43 paragraph 1, possession or use of a dangerous drug pursuant to section  
44 13-3407, subsection A, paragraph 1, possession or use of a narcotic drug  
45 pursuant to section 13-3408, subsection A, paragraph 1 or possession or

1 use of drug paraphernalia pursuant to section 13-3415, subsection A and  
2 ~~the inmate~~ is not concurrently serving another sentence for an offense  
3 that is not listed in this subsection, the inmate is eligible for and  
4 shall be released to enter the transition program. The director may not  
5 exclude an inmate who is eligible for the transition program pursuant to  
6 this subsection because the inmate does not have a place to reside before  
7 being released, except that the director shall exclude an inmate who has  
8 any of the following:

9 1. Previously been convicted of a violent crime as defined in  
10 section 13-901.03 or an offense listed in title 13, chapter 14 or 35.1.

11 2. A felony detainer.

12 3. Been found to be in violation of a major violent rule during the  
13 inmate's current period of incarceration or to be in violation of any  
14 other major rule within the previous six months. For the purposes of this  
15 paragraph, an accumulation of minor rule violations does not equal a major  
16 rule violation.

17 4. Previously been released pursuant to this section and violated a  
18 term of the inmate's release.

19 5. FAILED TO ACHIEVE FUNCTIONAL LITERACY AS REQUIRED BY SECTION  
20 41-1604.07, SUBSECTION E, UNLESS THE INMATE IS ENROLLED IN A PROGRAM THAT  
21 PREPARES THE INMATE TO ACHIEVE FUNCTIONAL LITERACY.

22 6. BEEN CLASSIFIED BY THE DEPARTMENT AS CLOSE OR MAXIMUM CUSTODY AS  
23 DETERMINED BY A CURRENT AND OBJECTIVE RISK ASSESSMENT.

24 7. REFUSED ENROLLMENT IN OR BEEN REMOVED FOR POOR BEHAVIOR FROM A  
25 MAJOR SELF-IMPROVEMENT PROGRAM WITHIN THE PREVIOUS EIGHTEEN MONTHS UNLESS  
26 THE INMATE HAS SUBSEQUENTLY ENROLLED IN AND COMPLETED THE MAJOR  
27 SELF-IMPROVEMENT PROGRAM.

28 F. For the purposes of this section, "recidivism" means  
29 reincarceration in the department for any reason.

30 Sec. 2. Section 41-1604.07, Arizona Revised Statutes, is amended to  
31 read:

32 41-1604.07. Earned release credits; forfeiture; restoration;  
33 released prisoner health care

34 A. Pursuant to rules adopted by the director, each prisoner who is  
35 in the eligible earned release credit class shall be allowed an earned  
36 release credit of one day for every six days served, including time served  
37 in county jails, except for those prisoners who are sentenced to serve the  
38 full term of imprisonment imposed by the court.

39 B. Release credits earned by a prisoner pursuant to subsection A of  
40 this section shall not reduce the term of imprisonment imposed by the  
41 court on the prisoner.

42 C. On reclassification of a prisoner resulting from the prisoner's  
43 failure to adhere to the rules of the department or failure to demonstrate  
44 a continual willingness to volunteer for or successfully participate in a  
45 work, educational, treatment or training program, the director may declare

1 all release credits earned by the prisoner forfeited. In the discretion  
2 of the director, forfeited release credits may subsequently be restored.  
3 The director shall maintain an account of release credits earned by each  
4 prisoner.

5 D. A prisoner who has reached the prisoner's earned release date or  
6 sentence expiration date shall be released to begin the prisoner's term of  
7 community supervision imposed by the court or term of probation if the  
8 court waived community supervision pursuant to section 13-603, except that  
9 the director may deny or delay the prisoner's release to community  
10 supervision or probation if the director believes the prisoner may be a  
11 sexually violent person as defined in section 36-3701 until the screening  
12 process is complete and the director determines that the prisoner will not  
13 be referred to the county attorney pursuant to section 36-3702. If the  
14 term of community supervision is waived, the state department of  
15 corrections shall provide reasonable notice to the probation department of  
16 the scheduled release of the prisoner from confinement by the department.  
17 If the court waives community supervision, the director shall issue the  
18 prisoner an absolute discharge on the prisoner's earned release credit  
19 date. A prisoner who is released on the earned release credit date to  
20 serve a term of probation is not under the control of the state department  
21 of corrections when community supervision has been waived and the state  
22 department of corrections is not required to provide parole services.

23 E. Notwithstanding subsection D of this section, a prisoner who  
24 fails to achieve functional literacy at an eighth grade literacy level  
25 shall not be released to begin the prisoner's term of community  
26 supervision until either the prisoner achieves an eighth grade functional  
27 literacy level as measured by standardized assessment testing, **THE**  
28 **PRISONER IS RELEASED TO ENTER THE TRANSITION PROGRAM ESTABLISHED BY**  
29 **SECTION 31-281 AND IS ENROLLED IN A PROGRAM THAT PREPARES THE PRISONER TO**  
30 **ACHIEVE FUNCTIONAL LITERACY** or the prisoner serves the full term of  
31 imprisonment imposed by the court, whichever first occurs. This  
32 subsection does not apply to inmates who either:

33 1. Are unable to meet the functional literacy standard required by  
34 section 31-229.02, subsection A due to a medical, developmental or  
35 learning disability as described in section 31-229, subsection C.

36 2. Are classified as level five offenders.

37 3. Are foreign nationals.

38 4. Have less than six months of incarceration to serve on  
39 commitment to the department.

40 F. The department shall establish conditions of community  
41 supervision it deems appropriate in order to ensure that the best  
42 interests of the prisoner and the citizens of this state are served. As a  
43 condition of community supervision, the director:

1           1. May order a released prisoner to participate in an appropriate  
2 drug treatment or education program that is administered by a qualified  
3 agency, organization or individual approved by the department of health  
4 services and that provides treatment or education to persons who abuse  
5 controlled substances. Each person who is enrolled in a drug treatment or  
6 education program shall pay for the cost of participation in the program  
7 to the extent of the person's financial ability.

8           2. May order additional conditions, including participation in a  
9 rehabilitation program or counseling and performance of community  
10 restitution work.

11           3. May order a prisoner to apply for health care benefits through  
12 the Arizona health care cost containment system before being  
13 released. The state department of corrections shall enter into an  
14 enrollment suspense agreement with the Arizona health care cost  
15 containment system to reinstate benefits for prisoners who were sentenced  
16 to twelve months or less and who were previously enrolled in the Arizona  
17 health care cost containment system immediately before incarceration. For  
18 all other prisoners, the state department of corrections shall submit a  
19 prerelease application to the Arizona health care cost containment system  
20 at least thirty days before the prisoner's release date. The state  
21 department of corrections may coordinate with community-based  
22 organizations or the department of economic security to assist prisoners  
23 in applying for enrollment in the Arizona health care cost containment  
24 system.

25           4. Shall impose, if the prisoner was convicted of a violation of  
26 sexual conduct with a minor under fifteen years of age or molestation of a  
27 child under fifteen years of age, a prohibition on residing within four  
28 hundred forty feet of a school or its accompanying grounds. For the  
29 purposes of this paragraph, "school" means any public, charter or private  
30 school where children attend classes.

31           G. The director may exchange a prisoner's health care information  
32 with the regional behavioral health authority or Arizona health care cost  
33 containment system justice system contact to facilitate the transition to  
34 care for released prisoners to access the full array of behavioral and  
35 physical health care services, including medication, counseling, case  
36 management, substance abuse treatment, and parenting skills and family  
37 reunification training. The director shall adopt policies and procedures  
38 that establish a care team to convene and discuss the services and  
39 resources, including housing and employment supports, that may be needed  
40 for the released prisoner to safely transition into the community. The  
41 care team shall be managed by the regional behavioral health authority or  
42 Arizona health care cost containment system contractor and may include the  
43 health care provider that is identified by and has a contract with the  
44 regional behavioral health authority or Arizona health care cost  
45 containment system contractor. The care team may also include

1 representatives of nonprofit organizations that specialize in assisting  
2 prisoners who are transitioning back into the community and other  
3 organizations that link prisoners to additional services, including  
4 housing and employment.

5 H. If a prisoner who reaches the prisoner's earned release credit  
6 date refuses to sign and agree to abide by the conditions of supervision  
7 before release on community supervision, the prisoner shall not be  
8 released. When the prisoner reaches the sentence expiration date, the  
9 prisoner shall be released to begin the term of community supervision. If  
10 the prisoner refuses to sign and agree to abide by the conditions of  
11 release, the prisoner shall not be released on the sentence expiration  
12 date and shall serve the term of community supervision in prison. The  
13 department is required to supervise any prisoner on community supervision  
14 until the period of community supervision expires. The department may  
15 bring a prisoner who is in violation of the prisoner's terms and  
16 conditions before the board of executive clemency.

17 I. The director, pursuant to rules adopted by the department, shall  
18 authorize the release of any prisoner on the prisoner's earned release  
19 credit date to serve any consecutive term imposed on the prisoner. The  
20 release shall be for the sentence completed only. The prisoner shall  
21 remain under the custody and control of the department. The director may  
22 authorize the rescission of the release to any consecutive term if the  
23 prisoner fails to adhere to the rules of the department.

24 J. If a prisoner absconds from community supervision, any time  
25 spent before the prisoner is returned to custody is excluded in  
26 calculating the remaining period of community supervision.

27 K. A prisoner shall forfeit five days of the prisoner's earned  
28 release credits:

29 1. If the court finds or a disciplinary hearing held after a review  
30 by and recommendations from the attorney general's office determines that  
31 the prisoner does any of the following:

32 (a) Brings a claim without substantial justification.

33 (b) Unreasonably expands or delays a proceeding.

34 (c) Testifies falsely or otherwise presents false information or  
35 material to the court.

36 (d) Submits a claim that is intended solely to harass the party it  
37 is filed against.

38 2. For each time the prisoner tests positive for any prohibited  
39 drugs during the period of time the prisoner is incarcerated.

40 L. If the prisoner does not have five days of earned release  
41 credits, the prisoner shall forfeit the prisoner's existing earned release  
42 credits and shall be ineligible from accruing earned release credits until  
43 the number of earned release credits the prisoner would have otherwise  
44 accrued equals the difference between five days and the number of existing  
45 earned release credit days the prisoner forfeits pursuant to this section.

1           M. The director may authorize temporary release on inmate status of  
2 eligible inmates pursuant to rules adopted by the director within ninety  
3 days of any other authorized release date. The release authorization  
4 applies to any inmate who has been convicted of a drug offense, who has  
5 been determined to be eligible for participation in the transition program  
6 pursuant to section 31-281 and who has agreed to participate in the  
7 transition program.

APPROVED BY THE GOVERNOR MAY 14, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2019.