

REFERENCE TITLE: earned release credits; prisoners; literacy

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

# HB 2270

Introduced by  
Representative Blackman

AN ACT

REPEALING SECTION 31-229.02, ARIZONA REVISED STATUTES; AMENDING SECTION 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. Repeal

3 Section 31-229.02, Arizona Revised Statutes, is repealed.

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

6 41-1604.07. Earned release credits; forfeiture; restoration;  
7 report; released prisoner health care

8 A. Pursuant to rules adopted by the director, each prisoner who is  
9 in the eligible earned release credit class shall be allowed an earned  
10 release credit ~~of one day for every six days served~~ AS SET FORTH IN  
11 SUBSECTION B OF THIS SECTION, including time served in county jails,  
12 except for those prisoners who are sentenced to serve the full term of  
13 imprisonment imposed by the court.

14 B. THE EARNED RELEASE CREDIT IS:

15 1. ONE DAY FOR EVERY SIX DAYS SERVED IF THE DEFENDANT IS SENTENCED  
16 TO A TERM OF IMPRISONMENT FOR A DANGEROUS CRIME AGAINST CHILDREN PURSUANT  
17 TO SECTION 13-705.

18 2. ONE DAY FOR EVERY THREE DAYS SERVED IF THE DEFENDANT IS  
19 SENTENCED TO A TERM OF IMPRISONMENT FOR A DANGEROUS OFFENSE PURSUANT TO  
20 SECTION 13-704.

21 3. ONE DAY FOR EVERY DAY SERVED IF THE DEFENDANT IS SENTENCED TO A  
22 TERM OF IMPRISONMENT FOR AN OFFENSE NOT LISTED IN PARAGRAPH 1 OR 2 OF THIS  
23 SUBSECTION OR ON REVOCATION OF PROBATION OR IS SERVING THE REMAINDER OF A  
24 TERM OF IMPRISONMENT IN CUSTODY ON REVOCATION OF THE DEFENDANT'S COMMUNITY  
25 SUPERVISION.

26 ~~B.~~ C. Release credits earned by a prisoner pursuant to ~~subsection~~  
27 SUBSECTIONS A AND B of this section shall not reduce the ~~term of~~  
28 ~~imprisonment~~ SENTENCE imposed by the court on the prisoner.

29 ~~C.~~ D. On reclassification of a prisoner resulting from the  
30 prisoner's failure to adhere to the rules of the department or failure to  
31 demonstrate a continual willingness to volunteer for or successfully  
32 participate in a work, educational, treatment or training program, the  
33 director, IN THE DIRECTOR'S DISCRETION, may declare all OR A PORTION OF  
34 release credits earned by the prisoner forfeited. In the discretion of  
35 the director, forfeited release credits may subsequently be restored. The  
36 director shall maintain an account of release credits earned by each  
37 prisoner. ON OR BEFORE JULY 31 OF EACH YEAR, THE DIRECTOR SHALL PREPARE  
38 AND SUBMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE  
39 SPEAKER OF THE HOUSE OF REPRESENTATIVES THAT INCLUDES THE NUMBER OF EARNED  
40 RELEASE CREDITS EARNED AND FORFEITED BY EACH PRISONER FOR THE PREVIOUS  
41 YEAR AND THE REASON WHY ANY EARNED RELEASE CREDITS WERE FORFEITED BY THE  
42 PRISONER. THE DIRECTOR SHALL PROVIDE A COPY OF THIS REPORT TO THE  
43 SECRETARY OF STATE.

44 ~~D.~~ E. A prisoner who has reached the prisoner's earned release  
45 date or sentence expiration date shall be released to begin the prisoner's

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

17 ~~E. Notwithstanding subsection D of this section, a prisoner who~~  
18 ~~fails to achieve functional literacy at an eighth grade literacy level~~  
19 ~~shall not be released to begin the prisoner's term of community~~  
20 ~~supervision until either the prisoner achieves an eighth grade functional~~  
21 ~~literacy level as measured by standardized assessment testing or the~~  
22 ~~prisoner serves the full term of imprisonment imposed by the court,~~  
23 ~~whichever first occurs. This subsection does not apply to inmates who~~  
24 ~~either:~~

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

28 ~~2. Are classified as level five offenders.~~

29 ~~3. Are foreign nationals.~~

30 ~~4. Have less than six months of incarceration to serve on~~  
31 ~~commitment to the department.~~

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

36 1. May order a released prisoner to participate in an appropriate  
37 drug treatment or education program that is administered by a qualified  
38 agency, organization or individual approved by the department of health  
39 services and that provides treatment or education to persons who abuse  
40 controlled substances. ~~Each person who is enrolled in a drug treatment or~~  
41 ~~education program shall pay for the cost of participation in the program~~  
42 ~~to the extent of the person's financial ability.~~

43 2. May order additional conditions, including participation in a  
44 rehabilitation program or counseling and performance of community  
45 restitution work.

1           3. May order a prisoner to apply for health care benefits through  
 2 the Arizona health care cost containment system before being released.  
 3 The state department of corrections shall enter into an enrollment  
 4 suspense agreement with the Arizona health care cost containment system to  
 5 reinstate benefits for prisoners who were sentenced to twelve months or  
 6 less and who were previously enrolled in the Arizona health care cost  
 7 containment system immediately before incarceration. For all other  
 8 prisoners, the state department of corrections shall submit a prerelease  
 9 application to the Arizona health care cost containment system at least  
 10 thirty days before the prisoner's release date. The state department of  
 11 corrections may coordinate with community-based organizations or the  
 12 department of economic security to assist prisoners in applying for  
 13 enrollment in the Arizona health care cost containment system.

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

20           G. The director may exchange a prisoner's health care information  
 21 with the regional behavioral health authority or Arizona health care cost  
 22 containment system justice system contact to facilitate the transition to  
 23 care for released prisoners to access the full array of behavioral and  
 24 physical health care services, including medication, counseling, case  
 25 management, substance abuse treatment, and parenting skills and family  
 26 reunification training. The director shall adopt policies and procedures  
 27 that establish a care team to convene and discuss the services and  
 28 resources, including housing and employment supports, that may be needed  
 29 for the released prisoner to safely transition into the community. The  
 30 care team shall be managed by the regional behavioral health authority or  
 31 Arizona health care cost containment system contractor and may include the  
 32 health care provider that is identified by and has a contract with the  
 33 regional behavioral health authority or Arizona health care cost  
 34 containment system contractor. The care team may also include  
 35 representatives of nonprofit organizations that specialize in assisting  
 36 prisoners who are transitioning back into the community and other  
 37 organizations that link prisoners to additional services, including  
 38 housing and employment.

39           H. If a prisoner who reaches the prisoner's earned release credit  
 40 date refuses to sign and agree to abide by the conditions of supervision  
 41 before release on community supervision, the prisoner shall not be  
 42 released. When the prisoner reaches the sentence expiration date, the  
 43 prisoner shall be released to begin the term of community supervision. If  
 44 the prisoner refuses to sign and agree to abide by the conditions of  
 45 release, the prisoner shall not be released on the sentence expiration

1 date and shall serve the term of community supervision in prison. The  
2 department is required to supervise any prisoner on community supervision  
3 until the period of community supervision expires. The department may  
4 bring a prisoner who is in violation of the prisoner's terms and  
5 conditions before the board of executive clemency.

6 I. The director, pursuant to rules adopted by the department, shall  
7 authorize the release of any prisoner on the prisoner's earned release  
8 credit date to serve any consecutive term imposed on the prisoner. The  
9 release shall be for the sentence completed only. The prisoner shall  
10 remain under the custody and control of the department. The director may  
11 authorize the rescission of the release to any consecutive term if the  
12 prisoner fails to adhere to the rules of the department.

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

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

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

21 (a) Brings a claim without substantial justification.

22 (b) Unreasonably expands or delays a proceeding.

23 (c) Testifies falsely or otherwise presents false information or  
24 material to the court.

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

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

29 L. If the prisoner does not have five days of earned release  
30 credits, the prisoner shall forfeit the prisoner's existing earned release  
31 credits and shall be ineligible from accruing earned release credits until  
32 the number of earned release credits the prisoner would have otherwise  
33 accrued equals the difference between five days and the number of existing  
34 earned release credit days the prisoner forfeits pursuant to this section.

35 M. The director may authorize temporary release on inmate status of  
36 eligible inmates pursuant to rules adopted by the director within ninety  
37 days of any other authorized release date. The release authorization  
38 applies to any inmate who has been convicted of a drug offense, who has  
39 been determined to be eligible for participation in the transition program  
40 pursuant to section 31-281 and who has agreed to participate in the  
41 transition program. **THE DIRECTOR SHALL POST THE RULES ON THE DEPARTMENT'S**  
42 **WEBSITE.**