

REFERENCE TITLE: prisoners; earned release credits

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

HB 2302

Introduced by
Representative Stringer

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)

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

Section 1. Repeal

Section ~~31-229.02~~, Arizona Revised Statutes, is repealed.

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

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

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

B. THE EARNED RELEASE CREDIT IS:

1. ONE DAY FOR EVERY THREE DAYS SERVED IF THE DEFENDANT IS SENTENCED TO A TERM OF IMPRISONMENT FOR A DANGEROUS OFFENSE PURSUANT TO SECTION 13-704 OR A DANGEROUS CRIME AGAINST CHILDREN PURSUANT TO SECTION 13-705.

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

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

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

~~D.~~ E. A prisoner who has reached the prisoner's earned release date or sentence expiration date shall be released to begin the prisoner's term of community supervision imposed by the court or term of probation if the court waived community supervision pursuant to section 13-603, except

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

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

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

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

27 ~~3. Are foreign nationals.~~

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

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

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

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

44 3. May order a prisoner to apply for health care benefits through
45 the Arizona health care cost containment system before being released.

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

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

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

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

1 until the period of community supervision expires. The department may
2 bring a prisoner who is in violation of the prisoner's terms and
3 conditions before the board of executive clemency.

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

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

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

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

19 (a) Brings a claim without substantial justification.

20 (b) Unreasonably expands or delays a proceeding.

21 (c) Testifies falsely or otherwise presents false information or
22 material to the court.

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

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

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

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