

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 310**  
**SENATE BILL 1310**

AN ACT

AMENDING SECTIONS 31-229.02 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 31-229.02, Arizona Revised Statutes, is amended  
3 to read:

4 **31-229.02. Functionally literate inmates; release eligibility**

5 A. EXCEPT AS PROVIDED IN SECTION 41-1604.07, SUBSECTION F, if an  
6 inmate fails to achieve functional literacy at an eighth grade literacy  
7 level before the inmate becomes eligible for release pursuant to section  
8 41-1604.07, the inmate is not eligible to begin the inmate's term of  
9 community supervision until either the inmate achieves an eighth grade  
10 functional literacy level as measured by standardized assessment testing  
11 or the inmate serves the full term of imprisonment imposed by the court,  
12 whichever first occurs.

13 B. This section does not apply to inmates who are any of the  
14 following:

15 1. Unable to meet the functional literacy standard required by  
16 subsection A of this section, due to a medical, developmental or learning  
17 disability as described in section 31-229, subsection C.

18 2. Classified as level five offenders.

19 3. Foreign nationals.

20 4. Inmates who have less than six months incarceration to serve on  
21 commitment to the department.

22 ~~5. Scheduled for release from the inmate's current sentence within  
23 one year of the effective date of this section.~~

24 5. RELEASED PURSUANT TO SECTION 41-1604.07, SUBSECTION B,  
25 PARAGRAPH 1.

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

28 **41-1604.07. Earned release credits; forfeiture; restoration;  
29 released prisoner health care; annual report**

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

36 B. THE EARNED RELEASE CREDIT IS:

37 1. THREE DAYS FOR EVERY SEVEN DAYS SERVED IF THE PRISONER:

38 (a) WAS SENTENCED TO A TERM OF IMPRISONMENT FOR THE POSSESSION OR  
39 USE OF MARIJUANA PURSUANT TO SECTION 13-3405, SUBSECTION A, PARAGRAPH 1,  
40 THE POSSESSION OR USE OF A DANGEROUS DRUG PURSUANT TO SECTION 13-3407,  
41 SUBSECTION A, PARAGRAPH 1, THE POSSESSION OR USE OF A NARCOTIC DRUG  
42 PURSUANT TO SECTION 13-3408, SUBSECTION A, PARAGRAPH 1 OR THE POSSESSION  
43 OF DRUG PARAPHERNALIA PURSUANT TO SECTION 13-3415.

(b) HAS SUCCESSFULLY COMPLETED A DRUG TREATMENT PROGRAM OR OTHER MAJOR SELF-IMPROVEMENT PROGRAM PROVIDED BY THE DEPARTMENT DURING THE PRISONER'S TERM OF IMPRISONMENT.

(c) HAS NOT PREVIOUSLY BEEN CONVICTED OF A VIOLENT OR AGGRAVATED FELONY AS DEFINED IN SECTION 13-706.

2. ONE DAY FOR EVERY SIX DAYS SERVED IF THE PRISONER WAS SENTENCED TO A TERM OF IMPRISONMENT FOR AN OFFENSE NOT LISTED IN PARAGRAPH 1 OF THIS SUBSECTION.

**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 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 may declare all 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.

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

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

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

4       2. Are classified as level five offenders.

5       3. Are foreign nationals.

6       4. Have less than six months of incarceration to serve on  
7 commitment to the department.

8       5. ARE RELEASED PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS  
9 SECTION.

10      F. G. The department shall establish conditions of community  
11 supervision it deems appropriate in order to ensure that the best  
12 interests of the prisoner and the citizens of this state are served. As a  
13 condition of community supervision, the director:

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

21      2. May order additional conditions, including participation in a  
22 rehabilitation program or counseling and performance of community  
23 restitution work.

24      3. UNLESS THE PRISONER IS RELEASED PURSUANT TO SUBSECTION B,  
25 PARAGRAPH 1 OF THIS SECTION, may order a prisoner to apply for health care  
26 benefits through the Arizona health care cost containment system before  
27 being released. The state department of corrections shall enter into an  
28 enrollment suspense agreement with the Arizona health care cost  
29 containment system to reinstate benefits for prisoners who were sentenced  
30 to twelve months or less and who were previously enrolled in the Arizona  
31 health care cost containment system immediately before incarceration. For  
32 all other prisoners, the state department of corrections shall submit a  
33 prerelease application to the Arizona health care cost containment system  
34 at least thirty days before the prisoner's release date. The state  
35 department of corrections may coordinate with community-based  
36 organizations or the department of economic security to assist prisoners  
37 in applying for enrollment in the Arizona health care cost containment  
38 system.

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

1        ~~G.~~ **H.** The director may exchange a prisoner's health care  
2 information with the regional behavioral health authority or Arizona  
3 health care cost containment system justice system contact to facilitate  
4 the transition to care for released prisoners to access the full array of  
5 behavioral and physical health care services, including medication,  
6 counseling, case management, substance abuse treatment, and parenting  
7 skills and family reunification training. The director shall adopt  
8 policies and procedures that establish a care team to convene and discuss  
9 the services and resources, including housing and employment supports,  
10 that may be needed for the released prisoner to safely transition into the  
11 community. The care team shall be managed by the regional behavioral  
12 health authority or Arizona health care cost containment system contractor  
13 and may include the health care provider that is identified by and has a  
14 contract with the regional behavioral health authority or Arizona health  
15 care cost containment system contractor. The care team may also include  
16 representatives of nonprofit organizations that specialize in assisting  
17 prisoners who are transitioning back into the community and other  
18 organizations that link prisoners to additional services, including  
19 housing and employment.

20        ~~H.~~ **I.** If a prisoner who reaches the prisoner's earned release  
21 credit date refuses to sign and agree to abide by the conditions of  
22 supervision before release on community supervision, the prisoner shall  
23 not be released. When the prisoner reaches the sentence expiration date,  
24 the prisoner shall be released to begin the term of community  
25 supervision. If the prisoner refuses to sign and agree to abide by the  
26 conditions of release, the prisoner shall not be released on the sentence  
27 expiration date and shall serve the term of community supervision in  
28 prison. The department is required to supervise any prisoner on community  
29 supervision until the period of community supervision expires. The  
30 department may bring a prisoner who is in violation of the prisoner's  
31 terms and conditions before the board of executive clemency.

32        ~~I.~~ **J.** The director, pursuant to rules adopted by the department,  
33 shall authorize the release of any prisoner on the prisoner's earned  
34 release credit date to serve any consecutive term imposed on the  
35 prisoner. The release shall be for the sentence completed only. The  
36 prisoner shall remain under the custody and control of the department.  
37 The director may authorize the rescission of the release to any  
38 consecutive term if the prisoner fails to adhere to the rules of the  
39 department.

40        ~~J.~~ **K.** If a prisoner absconds from community supervision, any time  
41 spent before the prisoner is returned to custody is excluded in  
42 calculating the remaining period of community supervision.

1           **L.** A prisoner shall forfeit five days of the prisoner's earned  
2 release credits:

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

6           (a) Brings a claim without substantial justification.  
7           (b) Unreasonably expands or delays a proceeding.  
8           (c) Testifies falsely or otherwise presents false information or  
9 material to the court.

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

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

14           **M.** If the prisoner does not have five days of earned release  
15 credits, the prisoner shall forfeit the prisoner's existing earned release  
16 credits and shall be ineligible from accruing earned release credits until  
17 the number of earned release credits the prisoner would have otherwise  
18 accrued equals the difference between five days and the number of existing  
19 earned release credit days the prisoner forfeits pursuant to this section.

20           **N.** The director may authorize temporary release on inmate  
21 status of eligible inmates pursuant to rules adopted by the director  
22 within ninety days of any other authorized release date. The release  
23 authorization applies to any inmate who has been convicted of a drug  
24 offense, who has been determined to be eligible for participation in the  
25 transition program pursuant to section 31-281 and who has agreed to  
26 participate in the transition program.

27           O. ON ADMISSION, THE DEPARTMENT SHALL PROVIDE NOTICE TO ANY  
28 PRISONER WHO IS POTENTIALLY ELIGIBLE FOR EARNED RELEASE CREDIT PURSUANT TO  
29 SUBSECTION B, PARAGRAPH 1 OF THIS SECTION. THE NOTICE MUST INCLUDE ALL OF  
30 THE ELIGIBILITY REQUIREMENTS UNDER THIS SECTION.

31           P. THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

32           1. ANNUALLY REPORT THE RECIDIVISM RATE OF PRISONERS RELEASED  
33 PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION FOR A MINIMUM OF  
34 THREE YEARS AFTER RELEASE.

35           2. REPORT THE FOLLOWING INFORMATION AT THE END OF EACH FISCAL  
36 QUARTER:

37           (a) THE NUMBER OF PRISONERS WHO RECEIVED EARNED RELEASE CREDITS FOR  
38 EACH MONTH OF THE REPORTING PERIOD AND THE PERCENTAGE OF THE TOTAL PRISON  
39 POPULATION THAT RECEIVED EARNED RELEASE CREDITS.

40           (b) THE NUMBER OF PRISONERS WHO WERE ELIGIBLE FOR EARNED RELEASE  
41 CREDIT PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION AND FOR EACH  
42 OF THESE PRISONERS, THE FOLLOWING INFORMATION:

43           (i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS RECEIVING  
44 EARNED RELEASE CREDIT.

45           (ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) WHETHER THE PRISONER RECEIVED EARNED RELEASE CREDITS EACH MONTH OF THE REPORTING PERIOD.

(c) THE NUMBER OF PRISONERS WHO PARTICIPATED IN A PROGRAM THAT IS DESCRIBED IN SUBSECTION B, PARAGRAPH 1, SUBDIVISION (b) OF THIS SECTION IN EACH MONTH OF THE REPORTING PERIOD, INCLUDING THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT HAS PARTICIPATED IN THOSE PROGRAMS.

(d) THE NUMBER OF PRISONERS WHO ARE ELIGIBLE FOR RELEASE INTO THE TRANSITION PROGRAM ESTABLISHED PURSUANT TO SECTION 31-281 IN EACH MONTH OF THE REPORTING PERIOD AND THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT IS ELIGIBLE FOR RELEASE INTO THE TRANSITION PROGRAM. FOR ELIGIBLE PRISONERS, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS SERVING A SENTENCE.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) THE MEAN AND MEDIAN LENGTH OF TIME SERVED BY THE PRISONERS.

(e) THE NUMBER OF PRISONERS WHO ARE ENROLLED IN THE TRANSITION PROGRAM IN EACH MONTH OF THE REPORTING PERIOD, INCLUDING THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT IS ENROLLED IN THE TRANSITION PROGRAM. FOR ENROLLED PRISONERS, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS SERVING A SENTENCE.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) THE MEAN AND MEDIAN LENGTH OF TIME SERVED BY THE PRISONERS.

(f) THE NUMBER OF PRISONERS WHO ARE RELEASED INTO THE TRANSITION PROGRAM IN EACH MONTH OF THE REPORTING PERIOD, INCLUDING THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT IS RELEASED INTO THE TRANSITION PROGRAM. FOR RELEASED PRISONERS, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS SERVING A SENTENCE.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) THE MEAN AND MEDIAN LENGTH OF TIME THAT THE PRISONERS SERVED.

(g) THE SIX-MONTH SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(h) THE ONE-YEAR SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(i) THE TWO-YEAR SUCCESS, RETURN TO CUSTODY AND NE

RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.  
(j) THE THREE-YEAR SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION  
RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(k) THE NUMBER OF PRISONERS WHO RECEIVED TREATMENT

(k) THE NUMBER OF PRISONERS WHO RECEIVED TREATMENT FOR SUBSTANCE ABUSE DURING THE FIRST HALF OF THE PRISONER'S TOTAL SENTENCE AND THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT RECEIVED TREATMENT FOR SUBSTANCE ABUSE DURING THE FIRST HALF OF THE PRISONERS' TOTAL SENTENCE.

1 FOR PRISONERS WHO RECEIVED TREATMENT FOR SUBSTANCE ABUSE ACCORDING TO THIS  
2 SUBDIVISION, REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

3 (i) THE MOST SERIOUS CRIME COMMITTED BY EACH PRISONER.  
4 (ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.  
5 (iii) WHETHER THE PRISONERS RECEIVED TREATMENT FOR SUBSTANCE ABUSE  
6 EACH MONTH OF THE REPORTING PERIOD.

7 Sec. 3. Applicability

8 This act applies to prisoners who are serving a term of imprisonment  
9 in the state department of corrections on and after the effective date of  
10 this act.

11 Sec. 4. Emergency

12 This act is an emergency measure that is necessary to preserve the  
13 public peace, health or safety and is operative immediately as provided by  
14 law.

APPROVED BY THE GOVERNOR JUNE 7, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 7, 2019.