

COMMITTEE ON TRANSPORTATION AND PUBLIC SAFETY

SENATE AMENDMENTS TO S.B. 1022

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-1604.09, Arizona Revised Statutes, is amended
3 to read:

4 41-1604.09. Parole eligibility certification; classifications;
5 appeal; recertification; applicability;
6 definition

7 A. The director shall develop and maintain a parole eligibility
8 classification system. Within the system, the director shall establish two
9 classes of parole eligibility, class one and class two, to be given effect
10 as provided for in this section, one class of parole noneligibility for
11 dangerous psychiatric offenders and as many other classes of noneligibility
12 as the director deems necessary or desirable. Each person committed to the
13 state department of corrections shall be classified pursuant to the parole
14 eligibility system established by the director.

15 B. The director shall establish rules pursuant to chapter 6 of this
16 title for the classification and certification of prisoners for purposes of
17 parole. Reclassification and certification shall be based on factors
18 related to a prisoner's record while in the custody of the department,
19 including work performance, compliance with all rules of the department,
20 progress in any appropriate training or treatment programs and the
21 performance of any assignments of confidence or trust. The director shall
22 also establish rules governing the procedures and performance standards by
23 which prisoners, reclassified to noneligibility classifications, may earn
24 eligibility classification. Prisoners may be reclassified only pursuant to

1 the rules of the department. The director shall distribute a copy of all
2 the rules to each person committed to the department.

3 C. The director shall maintain two classes for parole eligibility,
4 class one and class two. Inclusion of an inmate in class one shall be
5 determined by adherence to the rules of the department and continual
6 willingness to volunteer for or successful participation in a work,
7 educational, treatment or training program established by the department,
8 except that a person sentenced pursuant to a statute that requires that a
9 person serve a mandatory minimum term shall not be placed in class one
10 until one-quarter of the mandatory minimum portion of the term is served
11 and shall not be released until the mandatory minimum portion of the term
12 is served. Inclusion of an inmate in class two shall be determined by
13 adherence to the rules of the department.

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

28 E. Every prisoner shall be entitled to a hearing before
29 reclassification of the prisoner to a lower class. The hearing shall be
30 before a person or persons designated by the director to hold the
31 hearings. Reasonable notice and a written statement of the alleged
32 violation of the rules shall be distributed to the prisoner at least five

1 days before the hearing. A prisoner may request a review of a decision to
2 reclassify the prisoner by delivering a written request to the director.

3 F. Notwithstanding subsection D of this section, placement of a
4 prisoner in a noneligible parole class except placement in the noneligible
5 parole class for dangerous psychiatric offenders shall result in an
6 increase in the period of time the prisoner must serve before reaching the
7 prisoner's earliest parole eligibility date. The increase shall equal the
8 number of days occurring after placement in a noneligible parole class and
9 before the prisoner is reclassified to a parole eligible class.

10 G. The classification of each prisoner shall be reviewed by the
11 director not less than once every six months. Any prisoner who was
12 certified as eligible for parole and denied parole and remains eligible for
13 parole pursuant to subsection D of this section shall be recertified by the
14 director not less than one nor more than four months after the hearing at
15 which the prisoner was denied parole, except that the board of executive
16 clemency in denying parole may prescribe that the prisoner shall not be
17 recertified for a period of up to one year after the hearing. The board of
18 executive clemency ~~may~~ SHALL adopt rules for the recertification process
19 and ~~may~~ SHALL apply specific rules for the recertification process that
20 applies to a prisoner who is serving a sentence for any of the following:

21 1. Death in violation of section 13-1104 or 13-1105 OR A PREDECESSOR
22 STATUTE.

23 2. Serious physical injury if the person was sentenced pursuant to
24 section 13-704 OR A PREDECESSOR STATUTE.

25 3. A dangerous crime against children as defined in section 13-705
26 OR A PREDECESSOR STATUTE.

27 4. A felony offense in violation of title 13, chapter 14 or 35.1.

28 H. Immediately after the adoption of the rules required pursuant to
29 this section, the director shall forward a certified copy of the rules to
30 the legislature. The legislature may review and, by concurrent resolution,
31 approve, disapprove or modify the rules, except that they shall be given
32 full force and effect pending legislative review. If no concurrent

1 resolution is passed by the legislature with respect to the rules within
2 one year following receipt of a certified copy of the rules, they shall be
3 deemed to have been approved by the legislature. If the legislature
4 disapproves the rules or a section of them, the director shall immediately
5 discontinue the use of any procedure, action or proceeding authorized or
6 required by the rules or section of the rules.

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

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

9 2. A person who is sentenced to life imprisonment and who is
10 eligible for parole pursuant to section 13-716 or 13-718.

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

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

18 Amend title to conform

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02/11/2020
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C: SP