



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
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House: JUD DPA 9-0-0-1

HB 2808: prisoners; release credits

Sponsor: Representative Blackman, LD 6
Caucus & COW

Overview

Establishes earned release credits for certain prisoners are worth one day or one and a half days for every six days served and requires the Director of the Department of Corrections to submit an annual report on release credit and prisoner information to the Governor, President of the Senate and Speaker of the House of Representatives.

History

A prisoner who does not achieve an eighth-grade functioning literacy level is not allowed to start the term of community supervision until the following occurs: 1) an eighth-grade functioning literacy level is achieved; 2) the prisoner is released into and enrolls in the transition program established by the Department of Corrections (Department) that helps the prisoner achieve functional literacy; or 3) the prisoner serves the full term of imprisonment imposed by the court; whichever occurs first. ([A.R.S. § 41.1604.07](#))

The Department is required to establish a transition program that provides eligible inmates with transition services in the community for up to ninety days. ([A.R.S. § 31-281](#))

Every prisoner who is in an earned release credit class is allowed an earned release credit. The earned release credit is three days for every seven days if the following occur: 1) the prisoner has been sentenced for possession or use of marijuana, a dangerous drug or a narcotic drug; 2) the prisoner has completed a drug treatment or self-improvement program during their imprisonment; and 3) the prisoner has not been previously convicted of a violent or aggravated felony. ([A.R.S. § 41.1604.07](#))

The Director of the Department (Director) can forfeit all of a prisoner's earned release credits if the prisoner fails to adhere to the rules of the Department or fails to demonstrate a continual willingness to volunteer for or successfully participate in a work, educational, treatment or training program. ([A.R.S. § 41.1604.07](#))

The Director is prohibited from ordering a prisoner to apply for health care benefits as a condition of community supervision if the prisoner is earning release credit of three days for every seven days. ([A.R.S. § 41.1604.07](#))

If a court or a disciplinary hearing held after a review from the Attorney General's office determines that a prisoner has brought a claim without substantial justification, the prisoner will forfeit five days of their earned release credit. ([A.R.S. § 41.1604.07](#))

The Department is required to annually report the recidivism rate of prisoners released and report information relating to prisoners at the end of each fiscal quarter. ([A.R.S. § 41.1604.07](#))

Provisions

1. States the Director must determine if an inmate who does not have functioning eighth-grade level literacy is eligible for an inmate's term of community supervision. (Sec. 1)
2. States the Director must provide the standardized assessment testing for every inmate before the earliest date the inmate becomes eligible for release. (Sec. 1)
3. Clarifies that inmates released on an earned release credit of one day for every six days served are eligible to begin their term of community supervision once the requirements for functional literacy at an eighth-grade literacy level are achieved. (Sec. 1)
4. Establishes that an earned release credit is for one day for every six days served. (Sec. 3)
5. Applies an earned release credit of one and one-half days for every six days served if the following applies:
 - a) the prisoner is not serving a sentence for a violent or aggravated felony;
 - b) the prisoner has successfully completed a drug treatment or other major self-improvement program provided by the Department during the prisoner's term of imprisonment; or
 - c) the prisoner has actively participated in an intergovernmental agreement or an Arizona Correctional industries work program approved by the Department for at least six months during the prisoner's term of imprisonment. (Sec. 3)
6. States that a previous conviction for a violent or aggravated felony only applies to a prisoner who committed the offense when the prisoner was at least 18 years old, or a prisoner who was under 18 years old who committed two or more violent or aggravated felonies on separate occasions and the current felony offense was committed within ten years after the prisoner completed the previous sentence as a juvenile. (Sec. 3)
7. Allows the Director to forfeit a portion of a prisoner's release credits if a prisoner fails to adhere to the rules of the Department or fails to demonstrate a continual willingness to volunteer for or successfully participate in a work, educational, treatment or training program. (Sec. 3)
8. States that a prisoner who has not demonstrated a functioning eighth-grade literacy level by failing the standardized assessment test is prohibited from beginning the prisoner's term of community supervision until the requirements for functional literacy at an eighth-grade literacy level are achieved. (Sec. 3)
9. States that the Director may order each person who is enrolled in a drug treatment or education program to pay for the cost of participation in the program to the extent of the person's financial ability. (Sec. 3)
10. Allows the Director to order a prisoner to apply for health care benefits as a condition of community supervision. (Sec. 3)
11. Specifies that a prisoner will forfeit five days of earned release credits if the prisoner brings a claim knowing that it is without substantial justification. (Sec. 3)
12. Requires the Director to adhere to rules adopted by the Director and posted on the Department's website when authorizing temporary release on inmate status of eligible inmates. (Sec. 3)
13. Requires the Director to prepare and submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives and provide a copy of the report to the Secretary of State on or before December 31st of each year. (Sec. 3)

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

14. Requires the Director to report annually on the following by institution:
 - a) The number of prisoners who receive one day for every six days or one and one-half day days for every six days served earned release credits;
 - b) The number of prisoners who participate in programming;
 - c) The number of prisoners who are eligible for release into the transition program;
 - d) The number of prisoners who are released into the transition program; and
 - e) The number of prisoners who received treatment for substance abuse. (Sec. 3)
15. Requires the Director to report on the number of earned release credits forfeited by prisoners by institution in each month of the reporting period and the reason why the earned release credit was forfeited. (Sec. 3)
16. Contains an effective date of January 1st, 2021. (Sec. 4)
17. Makes technical and conforming changes. (Sec. 1, 2, 3)

Amendments

Committee on Judiciary

1. Stipulates that a program that only teaches literacy or provides a general equivalency diploma or similar document or certificate is not a major self-improvement program.