

REFERENCE TITLE: earned release credits

State of Arizona
House of Representatives
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2001

HB 2210

Introduced by
Representatives Huffman, Carruthers, Senator Guenther: Representatives
Allen, Miranda

AN ACT

AMENDING SECTION 41-1604.07, ARIZONA REVISED STATUTES; RELATING TO THE STATE
DEPARTMENT OF CORRECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1604.07, Arizona Revised Statutes, is amended to
3 read:

4 41-1604.07. Earned release credits; forfeiture; restoration

5 A. Pursuant to rules adopted by the director, each prisoner in the
6 eligible earned release credit class shall be allowed an earned release
7 credit of one day for every six days served except for those prisoners who
8 are sentenced to serve the full term of imprisonment imposed by the court.

9 B. Release credits earned by a prisoner pursuant to subsection A of
10 this section shall not reduce the term of imprisonment imposed by the court
11 on the prisoner.

12 C. On reclassification of a prisoner resulting from the prisoner's
13 failure to adhere to the rules of the department or failure to demonstrate a
14 continual willingness to volunteer for or successfully participate in a work,
15 educational, treatment or training program, the director may declare all
16 release credits earned by the prisoner forfeited. In the discretion of the
17 director forfeited release credits may subsequently be restored. The
18 director shall maintain an account of release credits earned by each
19 prisoner.

20 D. A prisoner who has reached the prisoner's earned release date or
21 sentence expiration date shall be released to begin the prisoner's term of
22 community supervision imposed by the court or term of probation if the court
23 waived community supervision pursuant to section 13-603, except that the
24 director may deny or delay the prisoner's release to community supervision or
25 probation if the director believes the prisoner may be a sexually violent
26 person as defined in section 36-3701 until the screening process is complete
27 and the director determines that the prisoner will not be referred to the
28 county attorney pursuant to section 36-3702. If the term of community
29 supervision is waived, the state department of corrections shall provide
30 reasonable notice to the probation department of the scheduled release of the
31 prisoner from confinement by the department. If the court waives community
32 supervision, the director shall issue the prisoner an absolute discharge on
33 the prisoner's earned release credit date. A prisoner who is released on the
34 earned release credit date to serve a term of probation is not under the
35 control of the state department of corrections when community supervision has
36 been waived and the state department of corrections is not required to
37 provide parole services.

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

- 1 1. Unable to meet the functional literacy standard required by section
2 31-229.02, subsection A, due to a medical, developmental or learning
3 disability as described in section 31-229, subsection C.
- 4 2. Classified as level five offenders.
- 5 3. Foreign nationals.
- 6 4. Inmates who have less than six months incarceration to serve on
7 commitment to the department.
- 8 5. Scheduled for release from the inmate's current sentence within one
9 year of the effective date of this section.
- 10 F. The department shall establish conditions of community supervision
11 it deems appropriate in order to ensure that the best interests of the
12 prisoner and the citizens of this state are served. These conditions may
13 include participation in a rehabilitation program or counseling and
14 performance of community service work. If a prisoner who reaches the
15 prisoner's earned release credit date refuses to sign and agree to abide by
16 the conditions of supervision before release on community supervision, the
17 prisoner shall not be released. When the prisoner reaches the sentence
18 expiration date, the prisoner shall be released to begin the term of
19 community supervision. If the prisoner refuses to sign and agree to abide by
20 the conditions of release, the prisoner shall not be released on the sentence
21 expiration date and shall serve the term of community supervision in
22 prison. The department is required to supervise any offender on community
23 supervision until the period of community supervision expires. The
24 department may bring an offender in violation of the offender's terms and
25 conditions before the board of executive clemency.
- 26 G. The director pursuant to rules adopted by the department shall
27 authorize the release of any prisoner on the prisoner's earned release credit
28 date to serve any consecutive term imposed on the prisoner. The release
29 shall be for the sentence completed only. The prisoner shall remain under
30 the custody and control of the department. The director may authorize the
31 rescission of the release to any consecutive term if the prisoner fails to
32 adhere to the rules of the department.
- 33 H. If a prisoner absconds from community supervision, any time spent
34 before the prisoner is returned to custody is excluded in calculating the
35 remaining period of community supervision.
- 36 I. A prisoner shall forfeit five days of the prisoner's earned release
37 credits **PURSUANT TO DEPARTMENT POLICY:**
- 38 1. If the court finds or a disciplinary hearing held after a review by
39 and recommendations from the attorney general's office determines that the
40 prisoner does any of the following:
- 41 (a) Brings a claim without substantial justification.
- 42 (b) Unreasonably expands or delays a proceeding.
- 43 (c) Testifies falsely or otherwise presents false information or
44 material to the court.

1 (d) Submits a claim that is intended solely to harass the party it is
2 filed against.
3 2. For each time the prisoner tests positive for any prohibited drugs
4 during the period of time the prisoner is incarcerated.
5 J. If the prisoner does not have five days of earned release credits
6 PURSUANT TO DEPARTMENT POLICY, the prisoner shall forfeit the prisoner's
7 existing earned release credits and shall be ineligible from accruing earned
8 release credits until the number of earned release credits the prisoner would
9 have otherwise accrued equals ~~the difference between five days and~~ the number
10 of ~~existing~~ earned release credit days the prisoner forfeits pursuant to ~~this~~
11 ~~section~~ DEPARTMENT POLICY.