

REFERENCE TITLE: executive clemency; medical confinement release

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# HB 2524

Introduced by  
Representative Hendrix

AN ACT

AMENDING TITLE 31, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 31-419; 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. Title 31, chapter 3, article 2, Arizona Revised  
3 Statutes, is amended by adding section 31-419, to read:

4 31-419. Medical confinement; applicability; monthly  
5 reporting; rules

6 A. EXCEPT FOR PRISONERS WHO ARE SENTENCED TO DEATH OR TO NATURAL  
7 LIFE, THE BOARD OF EXECUTIVE CLEMENCY MAY RELEASE A PRISONER ON MEDICAL  
8 CONFINEMENT IF THE PRISONER HAS BEEN EXAMINED BY A PHYSICIAN WHO IS  
9 LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 AND HAS RECEIVED A WRITTEN  
10 DIAGNOSIS THAT INCLUDES ANY OF THE FOLLOWING:

11 1. A DETERMINATION THAT THE PRISONER SUFFERS FROM AN INCAPACITATING  
12 OR DEBILITATING PHYSICAL, MENTAL OR COGNITIVE CONDITION, DISEASE OR  
13 SYNDROME. FOR THE PURPOSES OF THIS PARAGRAPH, AN INCAPACITATING OR  
14 DEBILITATING PHYSICAL, MENTAL OR COGNITIVE CONDITION, DISEASE OR SYNDROME  
15 SUBSTANTIALLY DIMINISHES THE ABILITY OF A PRISONER TO PROVIDE SELF-CARE  
16 WITHIN THE ENVIRONMENT OF A CORRECTIONAL FACILITY.

17 2. A DETERMINATION THAT THE PRISONER SUFFERS FROM AN EXTRAORDINARY  
18 MEDICAL CIRCUMSTANCE. FOR THE PURPOSES OF THIS PARAGRAPH, AN  
19 EXTRAORDINARY MEDICAL CIRCUMSTANCE OCCURS WHEN THE PRISONER NEEDS MEDICAL  
20 CARE OR TREATMENT THAT CANNOT BE ADEQUATELY ADDRESSED IN A CORRECTIONAL  
21 FACILITY.

22 3. A PROGNOSIS THAT THE PRISONER IS TERMINALLY ILL WITH A CONDITION  
23 OR DISEASE WITH AN END-OF-LIFE TRAJECTORY.

24 4. A DETERMINATION THAT THE PRISONER IS SIXTY-FIVE YEARS OF AGE OR  
25 OLDER AND IS IN DETERIORATING HEALTH DUE TO ADVANCING AGE.

26 B. THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL REVIEW  
27 THE WRITTEN DIAGNOSIS AND PROVIDE INPUT TO THE BOARD BEFORE THE BOARD  
28 GRANTS MEDICAL CONFINEMENT. THE BOARD MAY NOT GRANT MEDICAL CONFINEMENT  
29 UNLESS ALL OF THE FOLLOWING APPLY:

30 1. THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE PRISONER WILL  
31 VIOLATE THE LAW IF RELEASED.

32 2. THE RELEASE OF THE PRISONER IS MEDICALLY APPROPRIATE.

33 3. THE RELEASE OF THE PRISONER IS COST-EFFECTIVE FOR THIS STATE.

34 4. THE RELEASE OF THE PRISONER IS IN THE INTERESTS OF THE  
35 PRISONER'S WELL-BEING AND DIGNITY.

36 C. THE STATE DEPARTMENT OF CORRECTIONS SHALL PREPARE A MEDICAL  
37 CONFINEMENT PLAN THAT ENSURES APPROPRIATE SUPERVISION, ASSISTANCE AND  
38 PLACEMENT FOR A PRISONER WHO IS ON MEDICAL CONFINEMENT.

39 D. THE BOARD SHALL PROVIDE NOTICE OF ANY SANCTIONS THAT WILL ATTACH  
40 TO A VIOLATION OF A CONDITION THAT IS PLACED ON A PRISONER WHO IS RELEASED  
41 ON MEDICAL CONFINEMENT AND MAY PLACE ANY OF THE FOLLOWING CONDITIONS ON  
42 THE PRISONER:

43 1. DETERMINING THE PRISONER'S PLACEMENT, SUPERVISION AND CARE.

44 2. REQUIRING PERIODIC MEDICAL EVALUATIONS OF THE PRISONER.

45 3. REQUIRING THE PRISONER TO REPORT INFORMATION TO THE BOARD.

1 E. THE STATE DEPARTMENT OF CORRECTIONS SHALL IDENTIFY AND NOTIFY A  
2 PRISONER WHO IS ELIGIBLE FOR MEDICAL CONFINEMENT. A PRISONER OR AN  
3 INTERESTED PARTY ON A PRISONER'S BEHALF MAY APPLY FOR MEDICAL CONFINEMENT  
4 BY SUBMITTING AN APPLICATION TO THE STATE DEPARTMENT OF CORRECTIONS. THE  
5 APPLICATION MUST DISCLOSE TO THE PRISONER AND THE PRISONER MUST  
6 ACKNOWLEDGE ON THE APPLICATION THAT THE PRISONER'S MEDICAL RECORDS MAY  
7 BECOME A PUBLIC RECORD AND BE DISCUSSED IN A PUBLIC FORUM DURING A MEDICAL  
8 CONFINEMENT BOARD HEARING.

9 F. WITHIN TWO DAYS AFTER RECEIVING AN APPLICATION FOR MEDICAL  
10 CONFINEMENT, THE STATE DEPARTMENT OF CORRECTIONS SHALL PROVIDE THE  
11 APPLICATION TO THE DEPARTMENT'S MEDICAL SERVICES AND NOTIFY THE BOARD THAT  
12 AN APPLICATION HAS BEEN SUBMITTED. WITHIN TWO DAYS AFTER RECEIVING AN  
13 APPLICATION, THE DEPARTMENT'S MEDICAL SERVICES SHALL REQUEST THAT A  
14 PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 EVALUATE  
15 THE PRISONER. WITHIN SEVEN DAYS AFTER EVALUATING A PRISONER, THE  
16 PHYSICIAN SHALL SUBMIT A REPORT ON WHETHER THE PRISONER IS ELIGIBLE FOR  
17 MEDICAL CONFINEMENT PURSUANT TO SUBSECTION A OF THIS SECTION. IF THE  
18 PRISONER IS ELIGIBLE, THE PHYSICIAN SHALL PREPARE A CLINICAL SUMMARY OF  
19 THE PRISONER'S HEALTH STATUS AND PROGNOSIS. THE PHYSICIAN SHALL SUBMIT  
20 THE CLINICAL SUMMARY AND PROGNOSIS AND ANY PERTINENT DOCUMENTATION TO THE  
21 DEPARTMENT'S MEDICAL SERVICES. ON RECEIVING THE PHYSICIAN'S REPORT ON THE  
22 PRISONER, THE DEPARTMENT'S MEDICAL SERVICES SHALL NOTIFY THE BOARD AND  
23 APPEND THE CLINICAL SUMMARY, PROGNOSIS AND DOCUMENTATION.

24 G. THE BOARD SHALL HOLD A HEARING ON THE PRISONER'S MEDICAL  
25 CONFINEMENT WITHIN TWENTY-EIGHT DAYS AFTER THE BOARD RECEIVES NOTIFICATION  
26 FROM THE STATE DEPARTMENT OF CORRECTIONS MEDICAL SERVICES OR SEVEN DAYS IF  
27 THE PRISONER IS TERMINALLY ILL. THE BOARD SHALL ENSURE THAT THE PHYSICIAN  
28 WHO EVALUATED THE PRISONER IS AVAILABLE TO PROVIDE TESTIMONY AT THE  
29 MEDICAL CONFINEMENT BOARD HEARING. THE BOARD SHALL SEAL A PRISONER'S  
30 MEDICAL RECORDS.

31 H. THE BOARD MAY GRANT MEDICAL CONFINEMENT BY EITHER OF THE  
32 FOLLOWING VOTES:

33 1. A MAJORITY AFFIRMATIVE VOTE IF THREE OR MORE MEMBERS CONSIDER  
34 THE ACTION.

35 2. A UNANIMOUS AFFIRMATIVE VOTE IF TWO MEMBERS CONSIDER THE ACTION  
36 PURSUANT TO SECTION 31-401, SUBSECTION I AND THE CHAIRMAN CONCURS AFTER  
37 REVIEWING THE INFORMATION CONSIDERED BY THE TWO MEMBERS.

38 I. THE BOARD SHALL NOTIFY THE PRISONER OR THE PARTY WHO APPLIED ON  
39 BEHALF OF THE PRISONER AS SOON AS POSSIBLE IF THE BOARD:

40 1. GRANTS MEDICAL CONFINEMENT.

41 2. DENIES MEDICAL CONFINEMENT. IF DENIED, THE BOARD SHALL FORWARD  
42 THE DENIED MEDICAL CONFINEMENT DOCUMENTATION, INCLUDING THE REASONS FOR  
43 THE DENIAL, TO THE STATE DEPARTMENT OF CORRECTIONS AND THE PRISONER OR THE  
44 PARTY WHO APPLIED ON THE PRISONER'S BEHALF AS SOON AS POSSIBLE.

1 J. IF THE BOARD DENIES MEDICAL CONFINEMENT, THE PRISONER OR THE  
2 PARTY WHO APPLIED ON THE PRISONER'S BEHALF MAY SUBMIT A REQUEST FOR  
3 RECONSIDERATION TO THE BOARD ON THE FOLLOWING GROUNDS:  
4 1. NEW INFORMATION IS AVAILABLE THAT CONCERNS THE PRISONER'S  
5 ELIGIBILITY FOR MEDICAL CONFINEMENT.  
6 2. THERE WAS AN ERROR OR INEQUITY IN THE PRISONER'S MEDICAL  
7 CONFINEMENT PROCEEDING.  
8 K. THE STATE DEPARTMENT OF CORRECTIONS SHALL PUBLISH A MONTHLY  
9 PUBLIC REPORT THAT INCLUDES ALL OF THE FOLLOWING INFORMATION:  
10 1. THE NUMBER AND NATURE OF:  
11 (a) MEDICAL CONFINEMENT APPLICATIONS RECEIVED BY THE DEPARTMENT.  
12 (b) APPLICATIONS FORWARDED TO THE DEPARTMENT'S MEDICAL SERVICES.  
13 (c) APPLICATIONS SUBMITTED TO THE BOARD.  
14 2. THE CLASSIFICATION OF APPLICANTS.  
15 3. THE RELEASE REPORTING PROVISION FOR PRISONERS.  
16 4. THE RECIDIVISM RATE OF PRISONERS WHO ARE RELEASED ON MEDICAL  
17 CONFINEMENT.  
18 5. THE ADHERENCE WITH THE TIME LIMITS REQUIRED BY THIS SECTION.  
19 L. THE BOARD AND THE STATE DEPARTMENT OF CORRECTIONS SHALL PUBLISH  
20 A MONTHLY PUBLIC REPORT THAT INCLUDES ALL OF THE FOLLOWING INFORMATION ON  
21 MEDICAL CONFINEMENT:  
22 1. THE NUMBER OF MEDICAL CONFINEMENT HEARINGS AND THE OUTCOMES.  
23 2. THE NUMBER OF RECONSIDERATION REQUESTS AND HEARING OUTCOMES.  
24 3. THE ADHERENCE WITH THE TIME LIMITS REQUIRED BY THIS SECTION.  
25 M. ALL PRISONERS NAMES AND IDENTIFYING INFORMATION SHALL BE  
26 REDACTED IN THE REPORTS PRESCRIBED BY SUBSECTIONS K AND L OF THIS SECTION.  
27 N. THE BOARD AND THE DIRECTOR OF THE STATE DEPARTMENT OF  
28 CORRECTIONS SHALL ADOPT RULES TO IMPLEMENT THE REQUIREMENTS OF THIS  
29 SECTION.