

REFERENCE TITLE: home arrest; electronic monitoring

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SB 1304**

Introduced by  
Senator Kaiser

AN ACT

AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 41-1604.21; 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. Title 41, chapter 11, article 1, Arizona Revised  
3 Statutes, is amended by adding section 41-1604.21, to read:

4 41-1604.21. Home arrest for persons convicted after the  
5 effective date of this section; eligibility;  
6 victim notification; conditions; fees;  
7 definition

8 A. AN INMATE WHO IS SENTENCED TO AT LEAST TWO YEARS OF IMPRISONMENT  
9 AND WHO HAS SERVED AT LEAST ONE YEAR OF THE SENTENCE IMPOSED BY THE COURT  
10 IS ELIGIBLE FOR THE HOME ARREST PROGRAM IF THE INMATE MEETS THE FOLLOWING  
11 CRITERIA:

12 1. WAS CONVICTED OF COMMITTING A FELONY THAT WAS NOT A SERIOUS  
13 OFFENSE.

14 2. IS WITHIN FOUR YEARS OF BEGINNING ANY FORM OF RELEASE FROM  
15 INCARCERATION.

16 3. HAS NOT PREVIOUSLY BEEN CONVICTED OF A DANGEROUS CRIME AGAINST  
17 CHILDREN AS DEFINED IN SECTION 13-705 OR A SEXUAL OFFENSE.

18 4. DOES NOT HAVE ANY VIOLENT DISCIPLINARY INFRACTIONS DURING THE  
19 CURRENT TERM OF IMPRISONMENT.

20 B. THE DIRECTOR SHALL REPORT MONTHLY ALL THE INMATES WHO MEET THE  
21 CRITERIA PRESCRIBED IN SUBSECTION A OF THIS SECTION. THE REPORT SHALL BE  
22 READILY AVAILABLE TO THE GOVERNOR, THE LEGISLATURE AND THE PUBLIC.

23 C. AN INMATE WHO MEETS THE CRITERIA PRESCRIBED IN SUBSECTION A OF  
24 THIS SECTION MAY APPLY TO PARTICIPATE IN THE HOME ARREST PROGRAM NOT LATER  
25 THAN THIRTY DAYS BEFORE BECOMING ELIGIBLE FOR RELEASE ON HOME ARREST.

26 D. WITHIN TWENTY DAYS AFTER RECEIVING AN APPLICATION FOR HOME  
27 ARREST, THE DIRECTOR SHALL EVALUATE THE APPLICATION AND SHALL ENSURE THAT  
28 ALL ELIGIBILITY REQUIREMENTS ARE MET, VERIFY THAT THE RESIDENCE SUBMITTED  
29 BY THE INMATE IS SUITABLE FOR THE INMATE TO RESIDE IN AND FORWARD THE  
30 VERIFIED APPLICATION TO THE BOARD OF EXECUTIVE CLEMENCY.

31 E. WITHIN TEN DAYS AFTER RECEIVING THE VERIFIED APPLICATION, THE  
32 BOARD OF EXECUTIVE CLEMENCY SHALL NOTIFY THE VICTIM OF THE OFFENSE FOR  
33 WHICH THE INMATE IS INCARCERATED. THE NOTICE SHALL STATE THE NAME OF THE  
34 INMATE REQUESTING HOME ARREST, THE OFFENSE FOR WHICH THE INMATE WAS  
35 SENTENCED, THE LENGTH OF THE SENTENCE AND THE DATE OF ADMISSION TO THE  
36 CUSTODY OF THE DEPARTMENT. THE NOTICE TO THE VICTIM SHALL ALSO INFORM THE  
37 VICTIM OF THE VICTIM'S RIGHT TO REQUEST A HEARING, TO BE PRESENT AT THE  
38 HEARING AND TO SUBMIT A WRITTEN REPORT TO THE BOARD OF EXECUTIVE CLEMENCY  
39 EXPRESSING THE VICTIM'S OPINION CONCERNING THE INMATE'S RELEASE ON HOME  
40 ARREST. A HEARING CONCERNING HOME ARREST MAY NOT BE HELD UNTIL FIFTEEN  
41 DAYS BUT NOT LATER THAN THIRTY DAYS AFTER THE DATE OF GIVING THE  
42 NOTICE. ON MAILING THE NOTICE, THE BOARD OF EXECUTIVE CLEMENCY SHALL FILE  
43 A HARD COPY OF THE NOTICE AS EVIDENCE THAT NOTIFICATION WAS SENT.

1 F. IF THE BOARD OF EXECUTIVE CLEMENCY DOES NOT RECEIVE A HEARING  
2 REQUEST FROM THE VICTIM OF THE OFFENSE FOR WHICH THE INMATE IS  
3 INCARCERATED WITHIN THIRTY DAYS AFTER THE DATE OF GIVING THE NOTICE, THE  
4 BOARD OF EXECUTIVE CLEMENCY SHALL APPROVE THE RELEASE ON HOME ARREST. IF  
5 THE BOARD OF EXECUTIVE CLEMENCY DOES RECEIVE A HEARING REQUEST FROM THE  
6 VICTIM OF THE OFFENSE FOR WHICH THE INMATE IS INCARCERATED WITHIN THIRTY  
7 DAYS AFTER THE DATE OF GIVING THE NOTICE, THE BOARD OF EXECUTIVE CLEMENCY  
8 SHALL DETERMINE IF IT IS IN THE BEST INTEREST OF THE STATE TO PLACE THE  
9 INMATE ON HOME ARREST AFTER CONSIDERING THE VICTIM'S TESTIMONY, THE  
10 CONDUCT OF THE INMATE WHILE INCARCERATED AND THE LIKELIHOOD THAT THERE IS  
11 A SUBSTANTIAL PROBABILITY THAT THE INMATE WILL REMAIN AT LIBERTY WITHOUT  
12 VIOLATING THE LAW.

13 G. HOME ARREST IS CONDITIONED ON THE FOLLOWING:

14 1. ACTIVE ELECTRONIC MONITORING SURVEILLANCE FOR A MINIMUM TERM OF  
15 ONE YEAR OR UNTIL ELIGIBLE FOR PROBATION OR COMMUNITY SUPERVISION.

16 2. PARTICIPATING IN GAINFUL EMPLOYMENT OR ACTIVELY SEEKING GAINFUL  
17 EMPLOYMENT.

18 3. SUBMITTING TO ALCOHOL AND DRUG TESTS AS MANDATED.

19 4. PAYING THE ELECTRONIC MONITORING FEE IN AN AMOUNT DETERMINED BY  
20 THE BOARD OF EXECUTIVE CLEMENCY OF NOT LESS THAN ONE DOLLAR PER DAY AND  
21 NOT MORE THAN THE TOTAL COST OF THE ELECTRONIC MONITORING UNLESS, AFTER  
22 DETERMINING THE INABILITY OF THE INMATE TO PAY THE FEE, THE BOARD OF  
23 EXECUTIVE CLEMENCY REQUIRES PAYMENT OF A LESSER AMOUNT. THE FEES  
24 COLLECTED SHALL BE RETURNED TO THE DEPARTMENT'S HOME ARREST PROGRAM TO  
25 OFFSET OPERATIONAL COSTS OF THE PROGRAM.

26 5. REMAINING AT THE INMATE'S PLACE OF RESIDENCE AT ALL TIMES EXCEPT  
27 FOR MOVEMENT OUT OF THE RESIDENCE ACCORDING TO MANDATED CONDITIONS. THE  
28 BOARD OF EXECUTIVE CLEMENCY AND SUPERVISING CORRECTIONS OFFICER SHALL  
29 DETERMINE THE INMATE'S MONITORING CUSTODY LEVEL.

30 6. ADHERING TO ANY OTHER CONDITIONS IMPOSED BY THE COURT, THE BOARD  
31 OF EXECUTIVE CLEMENCY OR ANY SUPERVISING CORRECTIONS OFFICERS.

32 7. COMPLYING WITH ALL OTHER CONDITIONS OF SUPERVISION.

33 8. PAYING MONTHLY HOME ARREST SUPERVISION FEE OF AT LEAST \$65  
34 UNLESS, AFTER DETERMINING THE INABILITY OF THE INMATE TO PAY THE FEE, THE  
35 DEPARTMENT REQUIRES PAYMENT OF A LESSER AMOUNT. THE SUPERVISING  
36 CORRECTIONS OFFICER SHALL MONITOR THE COLLECTION OF THE FEE. MONIES  
37 COLLECTED SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN  
38 THE COMMUNITY CORRECTIONS ENHANCEMENT FUND ESTABLISHED BY SECTION 31-418.

39 9. PAYING A DRUG TESTING FEE IN AN AMOUNT TO BE DETERMINED BY THE  
40 BOARD OF EXECUTIVE CLEMENCY AND NOT TO EXCEED THE COSTS OF THE DRUG  
41 TESTING PROGRAM. THE FEES COLLECTED PURSUANT TO THIS PARAGRAPH BY THE  
42 DEPARTMENT MAY ONLY BE USED TO OFFSET THE COSTS OF THE DRUG TESTING  
43 PROGRAM.

1 H. AN INMATE WHO IS PLACED ON HOME ARREST IS ON INMATE STATUS, IS  
2 SUBJECT TO ALL THE LIMITATIONS OF RIGHTS AND MOVEMENT AND IS ENTITLED ONLY  
3 TO DUE PROCESS RIGHTS OF RETURN.

4 I. IF AN INMATE VIOLATES A CONDITION OF HOME ARREST OR COMMITS AN  
5 ADDITIONAL FELONY OFFENSE, THE BOARD OF EXECUTIVE CLEMENCY SHALL REVOKE  
6 THE HOME ARREST AND RETURN THE INMATE TO THE CUSTODY OF THE DEPARTMENT TO  
7 COMPLETE THE TERM OF IMPRISONMENT AS AUTHORIZED BY LAW.

8 J. THE RATIO OF SUPERVISING CORRECTIONS OFFICERS TO SUPERVISEES IN  
9 THE HOME ARREST PROGRAM MAY NOT EXCEED ONE OFFICER FOR EVERY TWENTY-FIVE  
10 SUPERVISEES.

11 K. FOR THE PURPOSES OF THIS SECTION, "SERIOUS OFFENSE" INCLUDES ANY  
12 OF THE FOLLOWING:

13 1. A SERIOUS OFFENSE AS DEFINED IN SECTION 13-706, SUBSECTION F,  
14 PARAGRAPH 1, SUBDIVISION (a), (b), (c), (d), (e), (g), (h), (i), (j)  
15 OR (k).

16 2. A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN SECTION 13-705.  
17 THE CITATION OF SECTION 13-705 IS NOT A NECESSARY ELEMENT FOR A SERIOUS  
18 OFFENSE DESIGNATION.

19 3. A CONVICTION UNDER A PRIOR CRIMINAL CODE FOR ANY OFFENSE THAT  
20 POSSESSES REASONABLY EQUIVALENT OFFENSE ELEMENTS AS THE OFFENSE ELEMENTS  
21 THAT ARE LISTED UNDER SECTION 13-705, SUBSECTION T, PARAGRAPH 1 OR SECTION  
22 13-706, SUBSECTION F, PARAGRAPH 1.

23 Sec. 2. Requirements for enactment; two-thirds vote

24 Pursuant to article IX, section 22, Constitution of Arizona, this  
25 act is effective only on the affirmative vote of at least two-thirds of  
26 the members of each house of the legislature and is effective immediately  
27 on the signature of the governor or, if the governor vetoes this act, on  
28 the subsequent affirmative vote of at least three-fourths of the members  
29 of each house of the legislature.