

Senate Engrossed

home arrest; electronic monitoring

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

SENATE BILL 1304

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; eligibility; victim notification;
5 conditions; fees

6 A. AN INMATE WHO HAS SERVED AT LEAST ONE YEAR OF THE SENTENCE
7 IMPOSED BY THE COURT IS ELIGIBLE FOR THE HOME ARREST PROGRAM IF THE INMATE
8 MEETS THE FOLLOWING CRITERIA:

9 1. WAS CONVICTED OF A VIOLATION OF SECTION 13-1503, 13-1504,
10 13-1505 OR 13-1506, ANY CLASS 4, 5 OR 6 FELONY OFFENSE IN TITLE 13,
11 CHAPTER 34 OR 34.1 OR ANY FELONY OFFENSE IN TITLE 13, CHAPTER 16, 18, 20,
12 21 OR 22.

13 2. IS WITHIN EIGHTEEN MONTHS OF BEGINNING ANY FORM OF RELEASE FROM
14 INCARCERATION.

15 3. HAS NOT PREVIOUSLY BEEN CONVICTED OF A DANGEROUS CRIME AGAINST
16 CHILDREN AS DEFINED IN SECTION 13-705 OR A SERIOUS OFFENSE OR A VIOLENT OR
17 AGGRAVATED FELONY AS DEFINED IN SECTION 13-706.

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

20 5. HAS NOT PREVIOUSLY PARTICIPATED IN THE HOME ARREST PROGRAM
21 PURSUANT TO THIS SECTION.

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

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

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

33 E. WITHIN TEN DAYS AFTER RECEIVING THE VERIFIED APPLICATION, THE
34 BOARD OF EXECUTIVE CLEMENCY SHALL NOTIFY THE VICTIM OF THE OFFENSE FOR
35 WHICH THE INMATE IS INCARCERATED. THE NOTICE SHALL STATE THE NAME OF THE
36 INMATE REQUESTING HOME ARREST, THE OFFENSE FOR WHICH THE INMATE WAS
37 SENTENCED, THE LENGTH OF THE SENTENCE AND THE DATE OF ADMISSION TO THE
38 CUSTODY OF THE DEPARTMENT. THE NOTICE TO THE VICTIM SHALL ALSO INFORM THE
39 VICTIM OF THE VICTIM'S RIGHT TO REQUEST A HEARING, TO BE PRESENT AT THE
40 HEARING AND TO SUBMIT A WRITTEN REPORT TO THE BOARD OF EXECUTIVE CLEMENCY
41 EXPRESSING THE VICTIM'S OPINION CONCERNING THE INMATE'S RELEASE ON HOME
42 ARREST. A HEARING CONCERNING HOME ARREST MAY NOT BE HELD UNTIL FIFTEEN
43 DAYS BUT NOT LATER THAN FORTY-FIVE DAYS AFTER THE DATE OF GIVING THE
44 NOTICE. ON MAILING THE NOTICE, THE BOARD OF EXECUTIVE CLEMENCY SHALL FILE
45 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 FORTY-FIVE DAYS AFTER THE DATE OF GIVING THE NOTICE,
4 THE BOARD OF EXECUTIVE CLEMENCY SHALL APPROVE THE RELEASE ON HOME
5 ARREST. IF THE BOARD OF EXECUTIVE CLEMENCY DOES RECEIVE A HEARING REQUEST
6 FROM THE VICTIM OF THE OFFENSE FOR WHICH THE INMATE IS INCARCERATED WITHIN
7 FORTY-FIVE DAYS AFTER THE DATE OF GIVING THE NOTICE, THE BOARD OF
8 EXECUTIVE CLEMENCY SHALL DETERMINE IF IT IS IN THE BEST INTEREST OF THE
9 STATE TO PLACE THE INMATE ON HOME ARREST AFTER CONSIDERING THE VICTIM'S
10 TESTIMONY, THE CONDUCT OF THE INMATE WHILE INCARCERATED AND THE LIKELIHOOD
11 THAT THERE IS A SUBSTANTIAL PROBABILITY THAT THE INMATE WILL REMAIN AT
12 LIBERTY WITHOUT VIOLATING THE LAW.

13 G. AN INMATE'S ELIGIBILITY FOR HOME ARREST IS CONDITIONED ON THE
14 INMATE ADHERING TO ALL OF THE FOLLOWING:

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

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

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

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

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

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

33 7. COMPLYING WITH ALL OTHER CONDITIONS OF SUPERVISION.

34 8. PAYING THE MONTHLY HOME ARREST SUPERVISION FEE IN AN AMOUNT THAT
35 IS DETERMINED BY THE BOARD OF EXECUTIVE CLEMENCY UNLESS, AFTER DETERMINING
36 THE INABILITY OF THE INMATE TO PAY THE FEE, THE DEPARTMENT REQUIRES
37 PAYMENT OF A LESSER AMOUNT. THE SUPERVISING CORRECTIONS OFFICER SHALL
38 MONITOR THE COLLECTION OF THE FEE. MONIES COLLECTED SHALL BE DEPOSITED,
39 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE COMMUNITY CORRECTIONS
40 ENHANCEMENT FUND ESTABLISHED BY SECTION 31-418.

41 9. PAYING A DRUG TESTING FEE IN AN AMOUNT THAT IS DETERMINED BY THE
42 BOARD OF EXECUTIVE CLEMENCY. THE FEES COLLECTED PURSUANT TO THIS
43 PARAGRAPH BY THE DEPARTMENT MAY ONLY BE USED TO OFFSET THE COSTS OF THE
44 DRUG TESTING 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, THE BOARD OF
5 EXECUTIVE CLEMENCY MAY REVOKE THE HOME ARREST AND RETURN THE INMATE TO THE
6 CUSTODY OF THE DEPARTMENT TO COMPLETE THE TERM OF IMPRISONMENT AS
7 AUTHORIZED BY LAW.

8 J. IF AN INMATE IS ARRESTED FOR A SUBSEQUENT FELONY OFFENSE THAT IS
9 COMMITTED WHILE ON HOME ARREST PURSUANT TO THIS SECTION, THE BOARD OF
10 EXECUTIVE CLEMENCY SHALL REVOKE THE HOME ARREST AND RETURN THE INMATE TO
11 THE CUSTODY OF THE DEPARTMENT TO COMPLETE THE TERM OF IMPRISONMENT AS
12 AUTHORIZED BY LAW.

13 K. THE RATIO OF SUPERVISING CORRECTIONS OFFICERS TO SUPERVISEES IN
14 THE HOME ARREST PROGRAM MAY NOT EXCEED ONE OFFICER FOR EVERY TWENTY-FIVE
15 SUPERVISEES.

16 Sec. 2. Applicability

17 This act applies to eligible inmates on the following dates:

18 1. Inmates who have six months remaining on their sentence, from
19 and after December 31, 2023.

20 2. Inmates who have twelve months remaining on their sentence, from
21 and after March 31, 2024.

22 3. Inmates who have eighteen months remaining on their sentence,
23 from and after June 30, 2024.

24 Sec. 3. Retroactivity

25 Section 41-1604.21, Arizona Revised Statutes, as added by this act,
26 applies retroactively to from and after December 31, 1993.