

REFERENCE TITLE: **executive clemency; medical confinement release**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2082

Introduced by
Representatives Hendrix: Cook

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 release; eligibility; plan;
5 application; hearing

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

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

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

24 4. A DETERMINATION THAT THE PRISONER IS SEVENTY-FIVE YEARS OF AGE
25 OR OLDER AND IS IN IRREVERSIBLE 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.

29 C. THE BOARD MAY NOT GRANT MEDICAL CONFINEMENT UNLESS ALL OF THE
30 FOLLOWING APPLY:

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

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

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

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

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

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

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

45 2. REQUIRING PERIODIC MEDICAL EVALUATIONS OF THE PRISONER.

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

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

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

22 H. THE BOARD SHALL HOLD A HEARING ON THE PRISONER'S MEDICAL
23 CONFINEMENT WITHIN TWENTY-EIGHT DAYS AFTER THE BOARD RECEIVES NOTIFICATION
24 FROM THE STATE DEPARTMENT OF CORRECTIONS MEDICAL SERVICES. THE BOARD
25 SHALL ENSURE THAT THE PHYSICIAN WHO EVALUATED THE PRISONER IS AVAILABLE TO
26 PROVIDE TESTIMONY AT THE MEDICAL CONFINEMENT BOARD HEARING. THE BOARD
27 SHALL SEAL A PRISONER'S MEDICAL RECORDS.

28 I. THE BOARD MAY GRANT MEDICAL CONFINEMENT BY EITHER OF THE
29 FOLLOWING VOTES:

30 1. A MAJORITY AFFIRMATIVE VOTE IF THREE OR MORE MEMBERS CONSIDER
31 THE ACTION.

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

35 J. THE BOARD SHALL NOTIFY THE PRISONER OR THE PARTY WHO APPLIED ON
36 BEHALF OF THE PRISONER AS SOON AS POSSIBLE IF THE BOARD:

37 1. GRANTS MEDICAL CONFINEMENT.

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

42 K. IF THE BOARD DENIES MEDICAL CONFINEMENT, THE PRISONER OR THE
43 PARTY WHO APPLIED ON THE PRISONER'S BEHALF MAY SUBMIT A REQUEST FOR
44 RECONSIDERATION TO THE BOARD WITHIN TWENTY-FOUR MONTHS AFTER THE DENIAL,
45 IF NEW INFORMATION BECOMES AVAILABLE THAT CONCERNS THE PRISONER'S
46 ELIGIBILITY FOR MEDICAL CONFINEMENT.