

REFERENCE TITLE: parole eligibility; applicability

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

## **HB 2883**

Introduced by  
Representatives Marshall: Carbone, Hendrix, Hernandez A, Hernandez M,  
Livingston, Ortiz

AN ACT

AMENDING SECTION 41-1604.09, ARIZONA REVISED STATUTES; RELATING TO PAROLE  
ELIGIBILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1604.09, Arizona Revised Statutes, is amended  
3 to read:

4 41-1604.09. Parole eligibility certification;  
5 classifications; appeal; recertification;  
6 applicability; definition

7 A. The director shall develop and maintain a parole eligibility  
8 classification system. Within the system, the director shall establish  
9 two classes of parole eligibility, class one and class two, to be given  
10 effect as provided for in this section, one class of parole noneligibility  
11 for dangerous psychiatric offenders and as many other classes of  
12 noneligibility as the director deems necessary or desirable. Each person  
13 committed to the state department of corrections shall be classified  
14 pursuant to the parole eligibility system established by the director.

15 B. The director shall establish rules pursuant to chapter 6 of this  
16 title for the classification and certification of prisoners for purposes  
17 of parole. Reclassification and certification shall be based on factors  
18 related to a prisoner's record while in the custody of the department,  
19 including work performance, compliance with all rules of the department,  
20 progress in any appropriate training or treatment programs and the  
21 performance of any assignments of confidence or trust. The director shall  
22 also establish rules governing the procedures and performance standards by  
23 which prisoners, reclassified to noneligibility classifications, may earn  
24 eligibility classification. Prisoners may be reclassified only pursuant  
25 to the rules of the department. The director shall distribute a copy of  
26 all the rules to each person committed to the department.

27 C. The director shall maintain two classes for parole eligibility,  
28 class one and class two. Inclusion of an inmate in class one shall be  
29 determined by adherence to the rules of the department and continual  
30 willingness to volunteer for or successful participation in a work,  
31 educational, treatment or training program established by the department,  
32 except that a person sentenced pursuant to a statute that requires that a  
33 person serve a mandatory minimum term shall not be placed in class one  
34 until one-quarter of the mandatory minimum portion of the term is served  
35 and shall not be released until the mandatory minimum portion of the term  
36 is served. Inclusion of an inmate in class two shall be determined by  
37 adherence to the rules of the department.

38 D. The director shall certify as eligible for parole any prisoner  
39 classified within an eligible classification five months immediately  
40 before the prisoner's earliest parole eligibility. The inmate shall be  
41 required to remain in a parole eligible classification from the date of  
42 certification until the date of release on parole. If the inmate does not  
43 remain in a parole eligible classification until the date of release on  
44 parole, the entire parole process shall be rescinded. For the purposes of  
45 this subsection, the prisoner's earliest parole eligibility occurs when

1 the prisoner has served one-half of the sentence imposed unless the  
2 prisoner is sentenced according to any provisions of law that prohibit the  
3 release on any basis until serving not less than two-thirds of the  
4 sentence imposed by the court, the sentence imposed by the court or any  
5 other mandatory minimum term, in which case the prisoner must have served  
6 the sentence required by law.

7 E. Every prisoner shall be entitled to a hearing before  
8 reclassification of the prisoner to a lower class. The hearing shall be  
9 before a person or persons designated by the director to hold the  
10 hearings. Reasonable notice and a written statement of the alleged  
11 violation of the rules shall be distributed to the prisoner at least five  
12 days before the hearing. A prisoner may request a review of a decision to  
13 reclassify the prisoner by delivering a written request to the director.

14 F. Notwithstanding subsection D of this section, placement of a  
15 prisoner in a noneligible parole class except placement in the noneligible  
16 parole class for dangerous psychiatric offenders shall result in an  
17 increase in the period of time the prisoner must serve before reaching the  
18 prisoner's earliest parole eligibility date. The increase shall equal the  
19 number of days occurring after placement in a noneligible parole class and  
20 before the prisoner is reclassified to a parole eligible class.

21 G. The classification of each prisoner shall be reviewed by the  
22 director not less than once every six months. Any prisoner who was  
23 certified as eligible for parole and denied parole and remains eligible  
24 for parole pursuant to subsection D of this section shall be recertified  
25 by the director not less than one ~~not~~ OR more than four months after the  
26 hearing at which the prisoner was denied parole, except that the board of  
27 executive clemency in denying parole may prescribe that the prisoner shall  
28 not be recertified for a period of up to one year after the hearing. The  
29 board of executive clemency may adopt rules for the recertification  
30 process and may apply specific rules for the recertification process that  
31 applies to a prisoner who is serving a sentence for any of the following:

- 32 1. Death in violation of section 13-1104 or 13-1105.
- 33 2. Serious physical injury if the person was sentenced pursuant to  
34 section 13-704.
- 35 3. A dangerous crime against children as defined in section 13-705.
- 36 4. A felony offense in violation of title 13, chapter 14 or 35.1.

37 H. Immediately after the adoption of the rules required pursuant to  
38 this section, the director shall forward a certified copy of the rules to  
39 the legislature. The legislature may review and, by concurrent  
40 resolution, approve, disapprove or modify the rules, except that ~~they~~ THE  
41 RULES shall be given full force and effect pending legislative review. If  
42 ~~no~~ A concurrent resolution is NOT passed by the legislature with respect  
43 to the rules within one year following receipt of a certified copy of the  
44 rules, ~~they~~ THE RULES shall be deemed to have been approved by the  
45 legislature. If the legislature disapproves the rules or a section of

1 ~~them~~ THE RULES, the director shall immediately discontinue the use of any  
2 procedure, action or proceeding authorized or required by the rules or  
3 section of the rules.

4 I. This section ~~applies to either of the following:~~

5 ~~1. A person who commits a felony offense before January 1, 1994.~~

6 ~~2. A person who is sentenced to life imprisonment and who is~~  
7 ~~eligible for parole pursuant to section 13-716 or 13-718~~ DOES NOT APPLY TO

8 A PERSON WHO RECEIVED A SENTENCE OF A DEFINITE TERM OF YEARS AND WHO IS  
9 SUBJECT TO COMMUNITY SUPERVISION PURSUANT TO SECTION 13-603, SUBSECTION I.

10 J. Pursuant to rules adopted by the director, on commitment to the  
11 department, each prisoner shall be placed in parole class one beginning on  
12 the prisoner's sentence begin date.

13 K. For the purposes of this section, "dangerous psychiatric  
14 offender" means an inmate who has been placed in a psychiatric unit for  
15 psychiatric evaluation and treatment and who has been determined to  
16 present a high risk of potential violence.