

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 156

HOUSE BILL 2593

AN ACT

AMENDING TITLE 13, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-106; AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-716; AMENDING SECTION 41-1604.09, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 1, Arizona Revised Statutes, is amended
3 by adding section 13-106, to read:

4 13-106. Death of convicted defendant; dismissal of appellate
5 and postconviction proceedings

6 A. ON A CONVICTED DEFENDANT'S DEATH, THE COURT SHALL DISMISS ANY
7 PENDING APPEAL OR POSTCONVICTION PROCEEDING.

8 B. A CONVICTED DEFENDANT'S DEATH DOES NOT ABATE THE DEFENDANT'S
9 CRIMINAL CONVICTION OR SENTENCE OF IMPRISONMENT OR ANY RESTITUTION, FINE OR
10 ASSESSMENT IMPOSED BY THE SENTENCING COURT.

11 Sec. 2. Title 13, chapter 7, Arizona Revised Statutes, is amended by
12 adding section 13-716, to read:

13 13-716. Juvenile offenders sentenced to life imprisonment;
14 parole eligibility

15 NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO IS SENTENCED TO LIFE
16 IMPRISONMENT WITH THE POSSIBILITY OF RELEASE AFTER SERVING A MINIMUM NUMBER
17 OF CALENDAR YEARS FOR AN OFFENSE THAT WAS COMMITTED BEFORE THE PERSON
18 ATTAINED EIGHTEEN YEARS OF AGE IS ELIGIBLE FOR PAROLE ON COMPLETION OF
19 SERVICE OF THE MINIMUM SENTENCE, REGARDLESS OF WHETHER THE OFFENSE WAS
20 COMMITTED ON OR AFTER JANUARY 1, 1994. IF GRANTED PAROLE, THE PERSON SHALL
21 REMAIN ON PAROLE FOR THE REMAINDER OF THE PERSON'S LIFE EXCEPT THAT THE
22 PERSON'S PAROLE MAY BE REVOKED PURSUANT TO SECTION 31-415.

23 Sec. 3. Section 41-1604.09, Arizona Revised Statutes, is amended to
24 read:

25 41-1604.09. Parole eligibility certification; classifications;
26 appeal; recertification; applicability;
27 definition

28 A. The director shall develop and maintain a parole eligibility
29 classification system. Within the system, the director shall establish two
30 classes of parole eligibility, class one and class two, to be given effect as
31 provided for in this section, one class of parole noneligibility for
32 dangerous psychiatric offenders and as many other classes of noneligibility
33 as he deems necessary or desirable. Each person committed to the state
34 department of corrections shall be classified pursuant to the parole
35 eligibility system established by the director.

36 B. The director shall establish rules pursuant to chapter 6 of this
37 title for the classification and certification of prisoners for purposes of
38 parole. Reclassification and certification shall be based on factors related
39 to a prisoner's record while in the custody of the department, including work
40 performance, compliance with all rules of the department, progress in any
41 appropriate training or treatment programs and the performance of any
42 assignments of confidence or trust. The director shall also establish rules
43 governing the procedures and performance standards by which prisoners,
44 reclassified to noneligibility classifications, may earn eligibility
45 classification. Prisoners may be reclassified only pursuant to the rules of

1 the department. The director shall distribute a copy of all the rules to
2 each person committed to the department.

3 C. The director shall maintain two classes for parole eligibility,
4 class one and class two. Inclusion of an inmate in class one shall be
5 determined by adherence to the rules of the department and continual
6 willingness to volunteer for or successful participation in a work,
7 educational, treatment or training program established by the department,
8 except that a person sentenced pursuant to a statute which requires that a
9 person serve a mandatory minimum term shall not be placed in class one until
10 one-quarter of the mandatory minimum portion of the term is served and shall
11 not be released until the mandatory minimum portion of the term is
12 served. Inclusion of an inmate in class two shall be determined by adherence
13 to the rules of the department.

14 D. The director shall certify as eligible for parole any prisoner
15 classified within an eligible classification five months immediately prior to
16 the prisoner's earliest parole eligibility. The inmate shall be required to
17 remain in a parole eligible classification from the date of certification
18 until the date of release on parole. If the inmate does not remain in a
19 parole eligible classification until the date of release on parole, the
20 entire parole process shall be rescinded. For the purposes of this
21 subsection, the prisoner's earliest parole eligibility occurs when the
22 prisoner has served one-half of his sentence unless the prisoner is sentenced
23 according to any provisions of law which prohibit the release on any basis
24 until serving not less than two-thirds of the sentence imposed by the court,
25 the sentence imposed by the court or any other mandatory minimum term, in
26 which case the prisoner must have served the sentence required by law.

27 E. Every prisoner shall be entitled to a hearing prior to
28 reclassification of the prisoner to a lower class. The hearing shall be
29 before a person or persons designated by the director to hold the
30 hearings. Reasonable notice and a written statement of the alleged violation
31 of the rules shall be distributed to the prisoner at least five days prior to
32 the hearing. A prisoner may request a review of a decision to reclassify the
33 prisoner by delivering a written request to the director.

34 F. Notwithstanding subsection D, placement of a prisoner in a
35 noneligible parole class except placement in the noneligible parole class for
36 dangerous psychiatric offenders shall result in an increase in the period of
37 time the prisoner must serve before reaching his earliest parole eligibility
38 date. The increase shall equal the number of days occurring after placement
39 in a noneligible parole class and before the prisoner is reclassified to a
40 parole eligible class.

41 G. The classification of each prisoner shall be reviewed by the
42 director not less than once every six months. Any prisoner who was certified
43 as eligible for parole and denied parole and remains eligible for parole
44 pursuant to subsection D shall be recertified by the director not less than
45 one nor more than four months after the hearing at which the prisoner was

1 denied parole, except that the board of executive clemency in denying parole
2 may prescribe that the prisoner shall not be recertified for a period of up
3 to one year after the hearing.

4 H. Immediately after the adoption of the rules required pursuant to
5 this section, the director shall forward a certified copy of the rules to the
6 legislature. The legislature may review and, by concurrent resolution,
7 approve, disapprove or modify the rules, except that they shall be given full
8 force and effect pending legislative review. If no concurrent resolution is
9 passed by the legislature with respect to the rules within one year following
10 receipt of a certified copy of the rules, they shall be deemed to have been
11 approved by the legislature. If the legislature disapproves the rules or a
12 section of them, the director shall immediately discontinue the use of any
13 procedure, action or proceeding authorized or required by the rules or
14 section of the rules.

15 I. This section applies ~~only~~ to EITHER OF THE FOLLOWING:

16 1. A ~~persons~~ PERSON who ~~commit~~ COMMITS A felony ~~offenses~~ OFFENSE
17 before January 1, 1994.

18 2. A PERSON WHO IS SENTENCED TO LIFE IMPRISONMENT AND WHO IS ELIGIBLE
19 FOR PAROLE PURSUANT TO SECTION 13-716.

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

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

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House March 5, 20 14

Passed the Senate April 16, 20 14

by the following vote: 55 Ayes,

by the following vote: 29 Ayes,

3 Nays, 2 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2593

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 16, 2014,

by the following vote: 53 Ayes,

4 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17th day of April, 2014,

at 10:45 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 22nd day of

April, 2014,

at 2:44 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2593

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23rd day of April, 2014,

at 9:40 o'clock A M.

[Signature]
Secretary of State