

Senate Engrossed House Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

**CHAPTER 314
HOUSE BILL 2133**

AN ACT

AMENDING SECTION 41-1604.12, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1604.19; AMENDING SECTIONS 41-1609.02 AND 41-1613, ARIZONA REVISED STATUTES; 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. Section 41-1604.12, Arizona Revised Statutes, is amended
3 to read:

4 41-1604.12. Community correctional centers; powers and
5 duties; allocation of compensation; absence
6 without leave; classification; notice;
7 applicability

8 A. The director may:

9 1. Establish and operate facilities to be known as community
10 correctional centers.

11 2. Transfer inmates whose terms of imprisonment have been fixed
12 from the state prisons and facilities of the department to community
13 correctional centers and place parolees in the centers.

14 B. The director shall make rules for the government of the
15 community correctional centers in the management of their affairs. ~~The~~
16 ~~provisions of~~ Sections 31-254 and 41-1624.01 do not apply to compensation
17 received by inmates or parolees assigned to community correctional
18 centers. The department is authorized to charge and collect one-third of
19 any compensation received by an inmate or parolee living at the center for
20 room and board. The department is further authorized to collect and
21 forward to the court or other person authorized to receive court-ordered
22 restitution an amount not to exceed one-third of the compensation received
23 by an inmate or parolee assigned to the center. Other than for room and
24 board or court-ordered restitution, compensation of the inmate or parolee
25 received by the department while the inmate or parolee is assigned to the
26 center shall be credited to the inmate's or parolee's account.

27 C. The purpose of community correctional centers is to provide
28 housing, supervision, counseling and other correctional programs for
29 persons committed to the department.

30 D. Absence without leave from a community correctional center or
31 intentional failure of an inmate to return from a furlough, work furlough
32 or temporary leave granted under the provision of this section is a class
33 5 felony.

34 E. ~~Prior to~~ BEFORE incurring any obligation for the establishment
35 OR ANY CHANGE OF USE of a community correctional center, the department
36 shall give ~~at least sixty days' written notice to the governing body of~~
37 ~~the county for an unincorporated area, city or town and school district~~
38 ~~affected.~~ NOTICE PURSUANT TO SECTION 41-1604.19. The county, city or town
39 and school district may contest establishment of a community correctional
40 center by written objection filed with the department within thirty days
41 after receiving notice, and may request a hearing to be conducted by the
42 department pursuant to chapter 6, article 6 of this title.

43 F. This section applies only to persons who commit felony offenses
44 before January 1, 1994.

1 Sec. 2. Title 41, chapter 11, article 1, Arizona Revised Statutes,
2 is amended by adding section 41-1604.19, to read:

3 41-1604.19. Correctional facilities; notice; exception;
4 definitions

5 A. BEFORE INCURRING ANY OBLIGATION FOR THE ESTABLISHMENT OF ANY
6 CORRECTIONAL FACILITY OR ANY CHANGE OF USE OF A CORRECTIONAL FACILITY, THE
7 DEPARTMENT SHALL GIVE AT LEAST FORTY-FIVE DAYS' WRITTEN NOTICE TO ALL OF
8 THE FOLLOWING:

9 1. EACH REAL PROPERTY OWNER, AS SHOWN ON THE LAST ASSESSMENT OF THE
10 PROPERTY, WITHIN A TWO-MILE RADIUS OF THE PROPOSED SITE OR OF THE SITE FOR
11 WHICH THE CHANGE OF USE IS PROPOSED. THE TWO-MILE RADIUS EXCLUDES ANY
12 NATURAL OR MAN-MADE FEATURE THAT PREVENTS PARCELS OF LAND FROM BEING
13 PRACTICALLY AND REASONABLY UNITED.

14 2. THE PRESIDENT OF THE SENATE.

15 3. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

16 4. THE SENATE MINORITY LEADER AND THE HOUSE OF REPRESENTATIVES
17 MINORITY LEADER.

18 5. THE STATE SENATOR AND THE STATE REPRESENTATIVES WHOSE
19 LEGISLATIVE DISTRICT INCLUDES THE PROPOSED SITE OR THE SITE FOR WHICH THE
20 CHANGE OF USE IS PROPOSED.

21 6. EACH STATE SENATOR AND STATE REPRESENTATIVE WHOSE LEGISLATIVE
22 DISTRICT IS LOCATED WITHIN FIVE MILES OF THE PROPOSED SITE OR OF THE SITE
23 FOR WHICH THE CHANGE OF USE IS PROPOSED.

24 7. EACH MEMBER OF THE COUNTY BOARD OF SUPERVISORS IF THE PROPOSED
25 SITE OR THE SITE FOR WHICH THE CHANGE OF USE IS PROPOSED IS IN AN
26 UNINCORPORATED AREA OR EACH MEMBER OF THE GOVERNING BODY OF THE CITY OR
27 TOWN IN WHICH THE PROPOSED SITE OR THE SITE FOR WHICH THE CHANGE OF USE IS
28 PROPOSED IS LOCATED.

29 8. EACH MEMBER OF THE GOVERNING BOARD OF THE LOCAL SCHOOL DISTRICT
30 IN WHICH THE PROPOSED SITE OR THE SITE FOR WHICH THE CHANGE OF USE IS
31 PROPOSED IS LOCATED.

32 9. THE SUPERINTENDENT OF THE LOCAL SCHOOL DISTRICT IN WHICH THE
33 PROPOSED SITE OR THE SITE FOR WHICH THE CHANGE OF USE IS PROPOSED IS
34 LOCATED.

35 10. EACH MEMBER OF THE GOVERNING BOARD OF ANY CHARTER SCHOOL THAT
36 IS LOCATED WITHIN A FIVE-MILE RADIUS OF THE PROPOSED SITE OR THE SITE FOR
37 WHICH THE CHANGE OF USE IS PROPOSED.

38 11. THE OPERATOR OF ANY CHILD CARE FACILITY THAT IS LOCATED WITHIN
39 A FIVE-MILE RADIUS OF THE PROPOSED SITE OR THE SITE FOR WHICH THE CHANGE
40 OF USE IS PROPOSED.

41 B. ON REQUEST OF THE STATE DEPARTMENT OF CORRECTIONS, THE
42 DEPARTMENT OF EDUCATION SHALL PROVIDE AN ACCURATE LIST OF DISTRICT SCHOOLS
43 AND CHARTER SCHOOLS WITHIN THE BOUNDARIES PRESCRIBED IN SUBSECTION A,
44 PARAGRAPHS 9 AND 10 OF THIS SECTION.

1 C. ON REQUEST OF THE STATE DEPARTMENT OF CORRECTIONS, THE
2 DEPARTMENT OF HEALTH SERVICES SHALL PROVIDE AN ACCURATE LIST OF CHILD CARE
3 FACILITIES WITHIN THE BOUNDARIES PRESCRIBED IN SUBSECTION A, PARAGRAPH 11
4 OF THIS SECTION.

5 D. THE NOTICE REQUIRED PURSUANT TO SUBSECTION A OF THIS SECTION
6 MUST INCLUDE ALL OF THE FOLLOWING:

7 1. THE NUMBER OF PRISONERS OR PAROLEES TO BE HOUSED AT THE
8 CORRECTIONAL FACILITY.

9 2. THE SECURITY LEVEL OF THE PRISONERS TO BE HOUSED AT THE
10 CORRECTIONAL FACILITY.

11 3. THE DATE, TIME AND LOCATION OF THE PUBLIC HEARING THAT IS
12 REQUIRED BY SUBSECTION F OF THIS SECTION.

13 4. THE OVERALL TIME FRAME DURING WHICH THE DEPARTMENT WILL EITHER
14 APPROVE OR REJECT THE ESTABLISHMENT OF ANY CORRECTIONAL FACILITY OR CHANGE
15 OF USE OF A CORRECTIONAL FACILITY.

16 5. A STATEMENT THAT A REPORT OF THE ORAL COMMENTS RECEIVED AT THE
17 HEARING AND THE WRITTEN COMMENTS RECEIVED BY THE DEPARTMENT WILL BE
18 AVAILABLE ON THE DEPARTMENT'S WEBSITE.

19 E. THE DEPARTMENT SHALL POST A SIGN THAT IS AT LEAST FOUR FEET BY
20 EIGHT FEET IN A CONSPICUOUS LOCATION ON THE PROPOSED SITE OR ON THE SITE
21 FOR WHICH THE CHANGE OF USE IS PROPOSED FOR FIFTEEN CALENDAR DAYS BEFORE
22 THE HEARING THAT IS REQUIRED PURSUANT TO SUBSECTION F OF THIS SECTION.
23 THE SIGN SHALL GIVE NOTICE OF THE DATE, TIME AND LOCATION OF THE HEARING.

24 F. THE DEPARTMENT SHALL HOLD A HEARING IN THE COUNTY FOR AN
25 UNINCORPORATED AREA OR IN THE CITY OR TOWN IN WHICH THE POTENTIAL SITE OR
26 THE SITE FOR WHICH THE CHANGE OF USE FOR A CORRECTIONAL FACILITY IS
27 PROPOSED IS LOCATED. THE DEPARTMENT SHALL PUBLISH A NOTICE OF THE PUBLIC
28 HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA AT LEAST TEN
29 DAYS BEFORE THE HEARING. THE DEPARTMENT SHALL RECEIVE ORAL COMMENTS AT
30 THE HEARING AND WRITTEN COMMENTS BEFORE THE HEARING. THE DEPARTMENT SHALL
31 COMPILE ALL OF THE WRITTEN COMMENTS INTO A REPORT AND SHALL POST THE
32 REPORT WITH THE MINUTES OF THE HEARING ON THE DEPARTMENT'S WEBSITE WITHIN
33 FIVE CALENDAR DAYS AFTER THE HEARING. THE DEPARTMENT SHALL SUBMIT THE
34 REPORT ELECTRONICALLY TO ALL OF THE ENTITIES LISTED IN SUBSECTION A,
35 PARAGRAPHS 2, 3, 4 AND 5 OF THIS SECTION. AT LEAST FIFTEEN DAYS AFTER THE
36 HEARING AND AFTER THE DEPARTMENT HAS CONSIDERED THE PUBLIC COMMENTS, THE
37 DEPARTMENT SHALL MAKE A FINAL SITE DETERMINATION FOR THE CORRECTIONAL
38 FACILITY OR A FINAL DETERMINATION ON THE CHANGE OF USE FOR THE
39 CORRECTIONAL FACILITY.

40 G. THIS SECTION DOES NOT APPLY TO THE RECLASSIFICATION OF CUSTODY
41 LEVELS OR DESIGNATED USE OF AN EXISTING CORRECTIONAL FACILITY OR THE
42 HOUSING ASSIGNMENTS OF INMATES OR OFFENDERS WITHIN A CORRECTIONAL
43 FACILITY.

1 H. FOR THE PURPOSES OF THIS SECTION:

2 1. "CHANGE OF USE" MEANS THE INTRODUCTION OF ANY OF THE FOLLOWING:

3 (a) ADULT OFFENDERS OR INMATES INTO A DEPARTMENT OF JUVENILE
4 CORRECTIONS FACILITY.

5 (b) A NEW CLASSIFICATION OF OFFENDERS INTO A COMMUNITY CORRECTIONAL
6 FACILITY THAT HAD NOT PREVIOUSLY PROVIDED SERVICES TO THAT CLASSIFICATION
7 OF OFFENDERS.

8 (c) ADULT INMATES INTO ANY CORRECTIONAL FACILITY THAT HAD
9 PREVIOUSLY BEEN DESIGNATED AS A COMMUNITY CORRECTIONAL CENTER.

10 2. "CORRECTIONAL FACILITY" MEANS:

11 (a) AN ADULT CORRECTIONAL FACILITY.

12 (b) A JUVENILE CORRECTIONAL FACILITY.

13 (c) A COMMUNITY CORRECTIONAL CENTER.

14 (d) A PRIVATE PRISON.

15 (e) ANY FACILITY DEDICATED TO THE CONFINEMENT OF PERSONS COMMITTED
16 TO THE DEPARTMENT OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

17 (f) A JUVENILE SECURE CARE FACILITY AS DESCRIBED IN SECTION
18 41-2816.

19 3. "ESTABLISHMENT" MEANS THE CONSTRUCTION OF A CORRECTIONAL
20 FACILITY OR THE INTRODUCTION OF INMATES OR OFFENDERS FROM ANOTHER LOCATION
21 INTO A NEWLY ESTABLISHED CORRECTIONAL FACILITY WHERE INMATES OR OFFENDERS
22 WERE NOT PREVIOUSLY LOCATED OR HOUSED.

23 Sec. 3. Section 41-1609.02, Arizona Revised Statutes, is amended to
24 read:

25 41-1609.02. Establishment of private prison facilities;
26 notice

27 A. Before expanding an existing minimum or medium security level
28 prison or before establishing a new minimum or medium security level
29 prison, the director shall give consideration to contracting for private
30 prisons for the incarceration of:

31 1. Prisoners convicted of offenses pursuant to title 28, chapter 4,
32 article 3.

33 2. Prisoners convicted of offenses pursuant to title 13,
34 chapter 14.

35 3. Female prisoners.

36 4. Prisoners over the age of fifty-five years.

37 5. Other inmate populations identified by the director.

38 B. Before entering into a contract with a private prison facility
39 contractor for the incarceration of prisoners listed in subsection A of
40 this section, the director shall determine that the contractor will
41 provide at least the same quality of services as this state at a lower
42 cost or that the contractor will provide services superior in quality to
43 those provided by this state at essentially the same cost. In making this
44 determination, the director shall consider the following:

- 1 1. Security.
- 2 2. Inmate management and control.
- 3 3. Inmate programs and services.
- 4 4. Facility safety and sanitation.
- 5 5. Administration.
- 6 6. Food service.
- 7 7. Personnel practices and training.
- 8 8. Inmate health services.
- 9 9. Inmate discipline.
- 10 C. The director shall identify from subsection A of this section,
11 the appropriate inmate population for placement in privatized beds and the
12 corresponding number of inmates. The director shall report the
13 information to the governor, the legislature and the joint select
14 committee on corrections by October 15 of every year for consideration in
15 determining expansion of prison capacity.
- 16 D. The director may establish other private incarceration
17 facilities that are dedicated to the confinement of persons who are
18 sentenced to the department.
- 19 E. Before incurring any obligation for the establishment OR ANY
20 CHANGE OF USE of any private incarceration facility, the department shall
21 give ~~at least sixty days' written notice to all of the following:~~
 - 22 1. ~~The president of the senate.~~
 - 23 2. ~~The speaker of the house of representatives.~~
 - 24 3. ~~The senate minority leader and the house of representatives~~
25 ~~minority leader.~~
 - 26 4. ~~The state senator and the state representatives whose~~
27 ~~legislative district includes the proposed site.~~
 - 28 5. ~~Any state senator and state representatives whose legislative~~
29 ~~district is located within two miles of the proposed site.~~
 - 30 6. ~~Each member of the county board of supervisors if the proposed~~
31 ~~site is in an unincorporated area or each member of the governing body of~~
32 ~~the city or town in which the proposed site is located.~~
 - 33 7. ~~Each member of the governing board of the local school district~~
34 ~~in which the proposed site is located.~~
- 35 F. ~~The department shall hold a hearing in the county for an~~
36 ~~unincorporated area or in the city or town in which the potential site is~~
37 ~~located. The department shall publish a notice of the public hearing in a~~
38 ~~newspaper of general circulation in the area at least ten days before the~~
39 ~~hearing. After the public hearing, the department shall make a final site~~
40 ~~determination for the private incarceration facility.~~
- 41 G. ~~The final site determination of a private incarceration facility~~
42 ~~is subject to review by the joint select committee on corrections pursuant~~
43 ~~to section 41-1610.04 NOTICE PURSUANT TO SECTION 41-1604.19.~~

1 Sec. 4. Section 41-1613, Arizona Revised Statutes, is amended to
2 read:

3 41-1613. Community correctional centers; powers and duties;
4 allocation of compensation; absence without leave;
5 classification; notice

6 A. The director may:

7 1. Establish and operate facilities to be known as community
8 correctional centers.

9 2. Transfer inmates whose terms of imprisonment have been fixed
10 from the state prisons and facilities of the department to community
11 correctional centers and place inmates placed on community supervision in
12 such centers.

13 B. The director shall make rules for the government of the
14 community correctional centers in the management of their affairs. ~~The~~
15 ~~provisions of~~ Sections 31-254 and 41-1624.01 do not apply to compensation
16 received by inmates or inmates placed on community supervision assigned to
17 community correctional centers. The department is authorized to charge
18 and collect one-third of any compensation received by an inmate or an
19 inmate placed on community supervision living at the center for room and
20 board. The department is further authorized to collect and forward to the
21 court or other person authorized to receive court ordered restitution an
22 amount not to exceed one-third of the compensation received by an inmate
23 or an inmate placed on community supervision assigned to the center.
24 Other than for room and board or court ordered restitution, compensation
25 of the inmate or an inmate placed on community supervision received by the
26 department while the inmate or an inmate placed on community supervision
27 is assigned to the center shall be credited to the inmate's or an inmate
28 placed on community supervision's account.

29 C. The purpose of community correctional centers is to provide
30 housing, supervision, counseling and other correctional programs for
31 persons committed to the department.

32 D. Absence without leave from a community correctional center or
33 intentional failure of an inmate to return from a temporary leave granted
34 under the provisions of this section is a class 5 felony.

35 E. ~~Prior to~~ BEFORE incurring any obligation for the establishment
36 OR ANY CHANGE OF USE of a community correctional center, the department
37 shall give ~~at least sixty days' written notice to the governing body of~~
38 ~~the county for an unincorporated area, city, town and school district~~
39 ~~affected.~~ NOTICE PURSUANT TO SECTION 41-1604.19. The county, city, town
40 and school district may contest establishment of a community correctional
41 center by written objection filed with the department within thirty days
42 after receiving notice and may request a hearing pursuant to chapter 6,
43 article 6 of this title.

APPROVED BY THE GOVERNOR MAY 19, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2017.

Passed the House February 21, 20 17

Passed the Senate May 9, 20 17

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. 2133

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 10, 2017,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

U. R. Ashby
Speaker of the House

Pro Tempore

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10th day of May, 2017,

at 1:33 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 19th day of

May, 2017,

at 10:31 o'clock A. M.

Joseph R. Duval
Governor of Arizona

H.B. 2133

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19 day of May, 2017,

at 11:32 o'clock A M.

Michelle Reagan
Secretary of State