



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

April 30, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on April 30, 2018:

SB 1211 sentence; life imprisonment; parole eligibility (Burgess)

SB 1263 reviser's technical corrections; 2018 (Yarbrough)

HB 2575 license; nonoperating identification; homeless veterans (Bolding)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service



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The Honorable Michele Reagan
Secretary of State
1700 W Washington, 7th Floor
Phoenix, Arizona 85007

Re: S.B. 1211 sentence; life imprisonment; parole eligibility

Dear Secretary Reagan,

Today I signed, SB1211. In 1993, the Arizona Legislature, in order to provide greater accountability for those convicted of dangerous crimes, enacted several laws that were collectively termed "Truth-in-Sentencing" legislation. One of those laws, removed the option of parole for those sentenced to life after its enactment. However, for reasons unknown, prosecutors continued to offer parole in plea agreements and judges continued to accept such plea offers as well as impose sentences of life with the chance of parole.

Almost 25 years later, those sentenced incorrectly are now coming up on the time that they would be entitled to parole hearings. However, no parole board exists to plead their case to. Without further legislative action, these cases could be overturned.

However, this bill is not signed lightly. I am concerned about the discretion of the Board of Executive Clemency in these cases and their ability to allow for someone to be released from a sentence that both victims and society as a whole have determined should result in a life sentence. Furthermore, the bill does not provide for any oversight of the Board in these cases.

Therefore, in signing this bill, I implore both the Board of Executive Clemency and the prosecutors of this state to be vigilant as these cases move through parole proceedings and ensure that criminals who should remain behind bars, do not get released unless there is a clear demonstration that they have reformed themselves and will contribute to society.

I am an advocate for second chances, but I am first and foremost an advocate for public safety. Every single case reviewed by the Board of Executive Clemency should be subjected to strict scrutiny prior to any determination that the person will not violate the law and that the release is in the best interests of the state.

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable JD Mesnard
The Honorable Judy Burgess
The Honorable Steve Yarbrough

Senate Engrossed
FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 269

SENATE BILL 1211

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-717; 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. Title 13, chapter 7, Arizona Revised Statutes, is
3 amended by adding section 13-717, to read:

4 13-717. Sentence of life imprisonment; parole eligibility;
5 applicability

6 A. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO WAS CONVICTED OF
7 FIRST DEGREE MURDER AND WHO WAS SENTENCED TO LIFE WITH THE POSSIBILITY OF
8 PAROLE AFTER SERVING A MINIMUM NUMBER OF CALENDAR YEARS PURSUANT TO A PLEA
9 AGREEMENT THAT CONTAINED A STIPULATION TO PAROLE ELIGIBILITY IS ELIGIBLE
10 FOR PAROLE AFTER SERVING THE MINIMUM NUMBER OF CALENDAR YEARS THAT IS
11 SPECIFIED IN THE SENTENCE. IF GRANTED PAROLE, THE PERSON SHALL REMAIN ON
12 PAROLE FOR THE REMAINDER OF THE PERSON'S LIFE EXCEPT THAT THE PERSON'S
13 PAROLE MAY BE REVOKED PURSUANT TO SECTION 31-415.

14 B. THIS SECTION APPLIES TO A DEFENDANT WHO ENTERED INTO A PLEA
15 AGREEMENT THAT STIPULATED TO PAROLE ELIGIBILITY AND WHO WAS SENTENCED AT
16 ANY TIME FROM AND AFTER JANUARY 1, 1994 AND ON OR BEFORE THE EFFECTIVE
17 DATE OF THIS SECTION.

18 Sec. 2. Section 41-1604.09, Arizona Revised Statutes, is amended to
19 read:

20 41-1604.09. Parole eligibility certification;
21 classifications; appeal; recertification;
22 applicability; definition

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

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

43 C. The director shall maintain two classes for parole eligibility,
44 class one and class two. Inclusion of an inmate in class one shall be
45 determined by adherence to the rules of the department and continual

1 willingness to volunteer for or successful participation in a work,
2 educational, treatment or training program established by the department,
3 except that a person sentenced pursuant to a statute ~~which~~ THAT requires
4 that a person serve a mandatory minimum term shall not be placed in class
5 one until one-quarter of the mandatory minimum portion of the term is
6 served and shall not be released until the mandatory minimum portion of
7 the term is served. Inclusion of an inmate in class two shall be
8 determined by adherence to the rules of the department.

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

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

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

38 G. The classification of each prisoner shall be reviewed by the
39 director not less than once every six months. Any prisoner who was
40 certified as eligible for parole and denied parole and remains eligible
41 for parole pursuant to subsection D shall be recertified by the director
42 not less than one nor more than four months after the hearing at which the
43 prisoner was denied parole, except that the board of executive clemency in
44 denying parole may prescribe that the prisoner shall not be recertified
45 for a period of up to one year after the hearing.

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

12 I. This section applies to either of the following:

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

14 2. A person who is sentenced to life imprisonment and who is
15 eligible for parole pursuant to section 13-716 OR 13-717.

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

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

APPROVED BY THE GOVERNOR APRIL 30, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2018

Passed the House April 18, 20 18,

Passed the Senate February 8, 20 18,

by the following vote: 59 Ayes,

by the following vote: 30 Ayes,

0 Nays, 1 Not Voting

0 Nays, 0 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 was received by the Governor this

24th day of April, 20 18,

at 10:49 o'clock A. M.

[Signature]

Secretary to the Governor

Approved this 30th day of

April, 20 18,

at 3:40 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of April, 20 18,

at 6:04 o'clock P. M.

[Signature]
Secretary of State

S.B. 1211