

REFERENCE TITLE: prisoners; conditional early release bond

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

H. B. _____

Introduced by _____

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 33; RELATING TO POSTCONVICTION CONDITIONAL EARLY RELEASE BONDS.

(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 38, Arizona Revised Statutes, is amended
3 by adding article 33, to read:

4 ARTICLE 33. POSTCONVICTION CONDITIONAL
5 EARLY RELEASE BOND FOR PRISONERS

6 13-5101. Postconviction conditional early release bond:
7 eligible inmates; notifications; definitions

8 A. NOTWITHSTANDING ANY OTHER LAW, A JUDGE OF THE SUPERIOR COURT IN THE
9 COUNTY IN WHICH THE INMATE WAS SENTENCED MAY AUTHORIZE AN ELIGIBLE INMATE'S
10 EARLY RELEASE FROM IMPRISONMENT ON A POSTCONVICTION CONDITIONAL EARLY RELEASE
11 BOND THAT IS POSTED BY AN AUTHORIZED BAIL BOND AGENT OR SURETY. THE SUPERIOR
12 COURT MAY REVOKE THE EARLY RELEASE OF AN INMATE ON A POSTCONVICTION
13 CONDITIONAL EARLY RELEASE BOND.

14 B. AN INMATE IS ELIGIBLE FOR RELEASE ON A POSTCONVICTION CONDITIONAL
15 EARLY RELEASE BOND IF ALL OF THE FOLLOWING APPLY:

16 1. THE INMATE:

17 (a) HAS SERVED NOT LESS THAN FIFTY PER CENT OF THE SENTENCE IMPOSED BY
18 THE COURT.

19 (b) IS WITHIN FIVE YEARS OR LESS OF THE INMATE'S RELEASE DATE.

20 (c) WAS CONVICTED OF COMMITTING A CLASS 4, 5 OR 6 FELONY NOT INVOLVING
21 A DANGEROUS OFFENSE.

22 (d) WAS NOT CONVICTED OF A ~~SERIOUS~~ OFFENSE.

23 (e) WAS NOT CONVICTED OF A SEXUAL OFFENSE ~~BY A JUDGE~~ *or consecutive probation*

24 (f) HAS NOT PREVIOUSLY BEEN CONVICTED OF ANY FELONY.

25 2. THERE IS A SUBSTANTIAL PROBABILITY THAT THE INMATE WILL REMAIN AT
26 LIBERTY WITHOUT VIOLATING THE LAW.

27 3. THE RELEASE IS IN THE BEST INTERESTS OF THE STATE AFTER CONSIDERING
28 THE OFFENSE FOR WHICH THE INMATE IS PRESENTLY INCARCERATED, THE PRIOR RECORD
29 OF THE INMATE, THE CONDUCT OF THE INMATE WHILE INCARCERATED AND ANY OTHER
30 INFORMATION CONCERNING THE INMATE THAT IS IN THE POSSESSION OF THE COURT,
31 INCLUDING ANY PRESENTENCE REPORT.

32 C. THE STATE DEPARTMENT OF CORRECTIONS SHALL FORWARD TO THE SUPERIOR
33 COURT IN THE COUNTY IN WHICH THE INMATE WAS SENTENCED AN INMATE'S APPLICATION
34 FOR A POSTCONVICTION CONDITIONAL EARLY RELEASE BOND. THE DEPARTMENT SHALL
35 NOTIFY THE VICTIM OF THE OFFENSE FOR WHICH THE INMATE IS INCARCERATED. THE
36 NOTICE SHALL STATE THE NAME OF THE INMATE REQUESTING THE POSTCONVICTION
37 CONDITIONAL EARLY RELEASE BOND, THE OFFENSE FOR WHICH THE INMATE WAS
38 SENTENCED, THE LENGTH OF THE SENTENCE AND THE DATE OF ADMISSION TO THE
39 CUSTODY OF THE DEPARTMENT. THE NOTICE SHALL ALSO INFORM THE VICTIM OF THE
40 VICTIM'S RIGHT TO BE PRESENT AND TO SUBMIT A WRITTEN REPORT TO THE COURT
41 EXPRESSING THE VICTIM'S OPINION CONCERNING THE INMATE'S RELEASE. ON MAILING
42 THE NOTICE, THE DEPARTMENT SHALL FILE A HARD COPY OF THE NOTICE AS EVIDENCE
43 THAT NOTIFICATION WAS SENT.

1 D. BEFORE HOLDING A HEARING ON THE POSTCONVICTION CONDITIONAL EARLY
2 RELEASE BOND, THE RELEASING AUTHORITY ON REQUEST SHALL NOTIFY AND AFFORD AN
3 OPPORTUNITY TO BE HEARD TO THE PROSECUTING ATTORNEY AND THE DIRECTOR OF THE
4 ARRESTING LAW ENFORCEMENT AGENCY. NO HEARING CONCERNING A POSTCONVICTION
5 CONDITIONAL RELEASE BOND MAY BE HELD UNTIL FOURTEEN DAYS AFTER THE
6 NOTIFICATION IS GIVEN PURSUANT TO THIS SUBSECTION AND SUBSECTION C OF THIS
7 SECTION. THE RELEASING AUTHORITY SHALL RULE ON THE APPLICATION WITHIN THIRTY
8 DAYS AFTER RECEIPT OF THE INMATE'S APPLICATION FOR RELEASE ON A POST
9 CONVICTION CONDITIONAL EARLY RELEASE BOND.

10 E. THE RELEASING AUTHORITY SHALL SET THE AMOUNT OF THE CASH OR SURETY
11 BOND AND ALL RELEASE CONDITIONS SHALL BE APPENDED TO AND MADE PART OF THE
12 BOND. A POSTCONVICTION CONDITIONAL EARLY RELEASE BOND SHALL BE CONDITIONED
13 ON THE FOLLOWING:

14 1. AN AUTHORIZED BAIL BOND AGENT OR SURETY SHALL POST THE REQUIRED
15 CASH OR SURETY BOND ON THE INMATE'S BEHALF WITH THE COURT.

16 2. THE INMATE SHALL PAY ANY FEES THAT MAY BE REQUIRED FOR DRUG TESTING
17 OR ELECTRONIC MONITORING AND ANY OTHER FEES REQUIRED BY THE BAIL BOND AGENT
18 OR SURETY.

19 3. THE INMATE SHALL REPORT IN PERSON TO THE BAIL BOND AGENT OR SURETY
20 AT THE TIME AND IN THE MANNER DIRECTED BY THE RELEASING AUTHORITY OR THE BAIL
21 BOND AGENT OR SURETY.

22 F. IF AN INMATE IS RELEASED ON A POSTCONVICTION CONDITIONAL EARLY
23 RELEASE BOND, THE RELEASING AUTHORITY MAY ORDER THE INMATE TO:

24 1. SUBMIT TO RANDOM DRUG OR ALCOHOL TESTING.

25 2. PARTICIPATE IN RECOVERY PROGRAMS.

26 3. NOT CONTACT, VISIT OR COMMUNICATE WITH A WITNESS OR A VICTIM WHO
27 WAS INVOLVED IN THE OFFENSE THAT GAVE RISE TO THE INMATE'S CONVICTION.

28 4. OBTAIN AND RETAIN EMPLOYMENT.

29 5. REMAIN ON HOME DETENTION AND BE MONITORED BY A GLOBAL POSITIONING
30 SYSTEM MONITORING DEVICE THAT IS APPROVED BY THE DEPARTMENT OF PUBLIC SAFETY.

31 6. ABIDE BY ANY SPECIFIED TRAVEL RESTRICTIONS.

32 7. MAKE ANY REQUIRED RESTITUTION PAYMENTS.

33 8. PAY ANY REQUIRED FINES AND COURT COSTS.

34 9. PERFORM ANY SPECIFIED COMMUNITY RESTITUTION.

35 10. ATTEND ANY REQUIRED EDUCATION CLASSES.

36 11. PARTICIPATE IN SPECIFIED FAMILY OR THIRD PARTY INVOLVEMENT.

37 G. NOTWITHSTANDING SECTION 13-603, SUBSECTION I, IF THE COURT RELEASES
38 AN INMATE ON A POSTCONVICTION CONDITIONAL EARLY RELEASE BOND, THE COURT MAY
39 WAIVE THE TERM OF COMMUNITY SUPERVISION. IF THE INMATE IS ALSO SENTENCED TO
40 SERVE A CONSECUTIVE TERM OF PROBATION IMMEDIATELY AFTER THE INMATE SERVES A
41 TERM OF IMPRISONMENT, THE COURT MAY WAIVE COMMUNITY SUPERVISION AND ORDER
42 THAT THE INMATE BEGIN SERVING THE TERM OF PROBATION ON THE INMATE'S RELEASE
43 FROM CONFINEMENT OR ON EXPIRATION OF THE POSTCONVICTION CONDITIONAL EARLY
44 RELEASE BOND. THE COURT MAY RETROACTIVELY WAIVE THE TERM OF COMMUNITY
45 SUPERVISION OR THAT PART REMAINING TO BE SERVED IF THE COMMUNITY SUPERVISION

1 WAS IMPOSED BEFORE JULY 21, 1997. IF THE COURT WAIVES COMMUNITY SUPERVISION,
2 THE TERM OF RELEASE ON THE POSTCONVICTION CONDITIONAL EARLY RELEASE BOND AND
3 THE PROBATION IMPOSED SHALL BE EQUAL TO OR GREATER THAN THE TERM OF COMMUNITY
4 SUPERVISION THAT WOULD HAVE BEEN IMPOSED. IF THE COURT DOES NOT WAIVE
5 COMMUNITY SUPERVISION, THE INMATE SHALL BEGIN SERVING THE TERM OF PROBATION
6 AFTER THE INMATE SERVES THE TERM OF COMMUNITY SUPERVISION. THE STATE
7 DEPARTMENT OF CORRECTIONS SHALL PROVIDE REASONABLE NOTICE TO THE PROBATION
8 DEPARTMENT OF THE SCHEDULED RELEASE OF THE INMATE FROM CONFINEMENT BY THE
9 STATE DEPARTMENT OF CORRECTIONS.

10 H. THE BAIL BOND AGENT OR SURETY WHO POSTS THE INMATE'S BOND SHALL
11 SUBMIT A MONTHLY REPORT TO THE COURT ON THE INMATE'S COMPLIANCE WITH THE
12 CONDITIONS OF THE POSTCONVICTION CONDITIONAL EARLY RELEASE BOND.

13 I. IF AN INMATE VIOLATES A CONDITION OF A POSTCONVICTION CONDITIONAL
14 EARLY RELEASE BOND THAT POSES ANY THREAT OR DANGER TO THE COMMUNITY, OR
15 COMMITS AN ADDITIONAL FELONY OFFENSE, THE RELEASING AUTHORITY SHALL REVOKE
16 THE POSTCONVICTION CONDITIONAL EARLY RELEASE BOND AND RETURN THE INMATE TO
17 THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS TO COMPLETE THE TERM OF
18 IMPRISONMENT AUTHORIZED BY LAW. THE RELEASING AUTHORITY SHALL PROVIDE THE
19 BAIL BOND AGENT OR SURETY WITH WRITTEN NOTICE OF ANY VIOLATION OF A CONDITION
20 WITHIN FIVE DAYS AFTER THE RELEASING AUTHORITY LEARNS OF THE VIOLATION.

21 J. THE RELEASING AUTHORITY MAY REVOKE THE BOND IF AN INMATE VIOLATES A
22 CONDITION OF THE BOND OR MAY CONTINUE THE BOND BY NULLIFYING THE VIOLATION.
23 A BAIL BOND AGENT OR SURETY SHALL ARREST AN INMATE WHO VIOLATES A CONDITION
24 OF THE POSTCONVICTION CONDITIONAL EARLY RELEASE BOND AND TRANSFER THE INMATE
25 TO THE CUSTODY OF THE SHERIFF OF THE COUNTY IN WHICH THE ARREST OCCURS AND
26 SHALL NOTIFY THE RELEASING AUTHORITY OF THE ARREST.

27 K. IF THE INDEMNITOR WHO IS PLEDGING COLLATERAL FOR THE BOND REVOKES
28 THE COLLATERAL IN WRITING, THE BAIL BOND AGENT OR SURETY MAY ARREST THE
29 INMATE AND TRANSFER THE INMATE TO THE CUSTODY OF THE SHERIFF OF THE COUNTY
30 WHICH THE ARREST OCCURS AND SHALL NOTIFY THE RELEASING AUTHORITY OF THE
31 ARREST.

32 L. IF AN INMATE UNDER THE AGENT OR SURETY'S SUPERVISION VIOLATES A
33 CONDITION OF THE INMATE'S BOND, THE BAIL BOND AGENT OR SURETY SHALL PAY A
34 PENALTY IN ONE OF THE FOLLOWING AMOUNTS:

35 1. TEN PER CENT OF THE FACE VALUE OF THE BOND IF AN INMATE VIOLATES
36 ONE OR MORE RELEASE CONDITIONS.

37 2. NINETY PER CENT OF THE FACE VALUE OF THE BOND IF THE INMATE IS NOT
38 RETURNED TO CUSTODY WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE BAIL BOND AGENT
39 OR SURETY RECEIVES WRITTEN NOTICE FROM THE COURT THAT THE INMATE'S RELEASE IS
40 REVOKED.

41 M. THE COURT SHALL EXONERATE A POSTCONVICTION CONDITIONAL EARLY
42 RELEASE BOND IF THE INMATE IS SURRENDERED TO THE SHERIFF IN THE COUNTY IN
43 WHICH THE INMATE WAS SENTENCED ANY TIME BEFORE THE INMATE'S POSTCONVICTION
44 CONDITIONAL EARLY RELEASE BOND IS TERMINATED OR IF THE INMATE IS SURRENDERED
45 NOT MORE THAN ONE HUNDRED EIGHTY DAYS AFTER A BAIL BOND AGENT OR SURETY

1 RECEIVES WRITTEN NOTICE FROM THE COURT THAT THE INMATE HAS FAILED TO MEET ONE
2 OR MORE OF THE BOND CONDITIONS AND THE INMATE'S RELEASE IS REVOKED.
3 N. A BAIL BOND AGENT OR SURETY IS AUTHORIZED TO POST A CONDITIONAL
4 EARLY RELEASE BOND WITH THE COURT IF THE AGENT OR SURETY:
5 1. FOR THE THREE YEARS PRECEDING THE POSTING, IS A LICENSED BAIL BOND
6 AGENT OR SURETY AS PRESCRIBED BY SECTION 20-340.01.
7 2. PAYS TO THE CLERK OF THE SUPERIOR COURT AN ANNUAL FEE OF FIVE
8 HUNDRED DOLLARS. THIS FEE SHALL BE USED BY THE COUNTY TO OFFSET ANY COSTS
9 ASSOCIATED WITH AUTHORIZING A POSTCONVICTION CONDITIONAL EARLY RELEASE BOND.
10 0. FOR THE PURPOSES OF THIS SECTION:
11 1. "COLLATERAL" MEANS PROPERTY OR CASH PLEDGED TO THE SURETY FOR THE
12 ENTIRE AMOUNT OF THE BOND.
13 2. "RELEASING AUTHORITY" MEANS A JUDICIAL OFFICER WHO IS AUTHORIZED TO
14 SIGN A RELEASE ORDER.
15 3. "SERIOUS OFFENSE" INCLUDES ANY OF THE FOLLOWING:
16 (a) A SERIOUS OFFENSE AS DEFINED IN SECTION 13-706, SUBSECTION F,
17 PARAGRAPH 1, SUBDIVISION (a), (b), (c), (d), (e), (g), (h), (i), (j) OR (k).
18 (b) A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN SECTION 13-705.
19 THE CITATION OF SECTION 13-705 IS NOT A NECESSARY ELEMENT FOR A SERIOUS
20 OFFENSE DESIGNATION.
21 (c) A CONVICTION UNDER A PRIOR CRIMINAL CODE FOR ANY OFFENSE THAT
22 POSSESSES REASONABLY EQUIVALENT OFFENSE ELEMENTS AS THE OFFENSE ELEMENTS THAT
23 ARE LISTED UNDER SECTION 13-705, SUBSECTION P, PARAGRAPH 1 OR SECTION 13-706,
24 SUBSECTION F, PARAGRAPH 1.
25 4. "SURETY" MEANS AN INSURANCE COMPANY THAT IS LICENSED UNDER THE LAWS
26 OF THIS STATE TO EXECUTE BONDS FILED IN CRIMINAL CASES.