

**ARIZONA DEPARTMENT OF CORRECTIONS
DIRECTOR'S OFFICE**

MEMORANDUM

TO: DISTRIBUTION
FROM: CHARLES L. RYAN
DATE: June 4, 2018
SUBJECT: Director's Instruction # 367, Drug Possession Transition Program Release

This Director's Instruction is effective **August 3, 2018** and will remain in effect until incorporated into Department Order #1001, Inmate Release System and Department Order #1002, Inmate Release Eligibility System.

PURPOSE:

This Director's Instruction provides criteria and procedures for the release of inmates eligible for the Drug Possession transition services, in accordance with Senate Bill 1496.

Drug Possession Program release - Up to a 180 day early release, 90 calendar days from the TR.

CRITERIA:

- 1.1 For consideration for the Drug Possession Transition Program Release, inmates shall:
 - 1.1.1 Have been convicted of the following and not concurrently serving another sentence for an offense that is not listed in this section:
 - 1.1.1.1 The possession or use of marijuana, as defined in A.R.S. §13-3405, subsection A, paragraph 1.
 - 1.1.1.2 The use of a dangerous drug, as defined in A.R.S. §13-3407, subsection A, paragraph 1.
 - 1.1.1.3 Possession or use of a narcotic drug as defined in A.R.S. §13-3408, subsection A, paragraph 1.
 - 1.1.1.4 Possession or use of drug paraphernalia, as defined in A.R.S. §13-3415, subsection A.
 - 1.1.2 Have no current or prior convictions for any of the following offenses, as outlined in Attachment A Section A:
 - 1.1.2.1 Sex Offense, per Title 13, Chapter 14 or equivalent offense if committed in another jurisdiction.
 - 1.1.2.2 Sexual Exploitation of Children, per Title 13, Chapter 35.1.
 - 1.1.2.3 Any offense involving death or physical injury or the use of a deadly weapon or dangerous instrument, as defined in A.R.S. § 13-901.03.

- 1.1.2.4 Arson offense, per Title 13, Chapter 17 or equivalent if committed in another jurisdiction.
- 1.1.2.5 Domestic Violence, per Title 13, Chapter 36 or equivalent offense if committed in another jurisdiction.
- 1.1.3 Have no felony holds or felony detainers, or a misdemeanor in which the placing agency has requested to pick-up the inmate upon release.
- 1.1.4 Not be sentenced pursuant to Dangerous Crimes Against Children.
- 1.1.5 Maintain civil behavior during the current incarceration, as evidenced by their disciplinary history.
 - 1.1.5.1 Inmates shall be deemed ineligible if found guilty of:
 - 1.1.5.1.1 Any Class A or B major violations as outlined in Attachment A, Section B during their current incarceration.
 - 1.1.5.1.2 Any major violation within **six** months of their TR.
 - 1.1.5.2 Participation in the Drug Possession Transition Program does not prohibit participation in Interstate Compact. However, the inmate must first release to and remain in Arizona in an approved placement for the first 90 days of their early release. Upon release, offender may apply for Interstate Compact.
- 1.1.6 Be current on restitution payments, pursuant to A.R.S. § 31-254.
- 1.1.7 Be a United States citizen or legal resident (citizenship status codes of 1 or 5).
- 1.1.8 Have a need and ability to benefit from the program.
- 1.2 Inmates receiving write-ups for disciplinary rule violations shall have their release postponed until final adjudication of the rule violations.
- 1.3 Inmates may not participate in the Drug Possession Program Release more than once. Inmates who participate in the Drug Possession Program Release are not excluded from participating in the Transition Program Release pursuant to Department Order 1002 on any future commitments that they may serve.
- 1.4 Inmates participating in other release-based programs may not be eligible for this program.
- 1.5 Victims' notification:
 - 1.5.1 Victims of current offenses providing current addresses or other contact information shall receive notices from the Department.
 - 1.5.1.1 Notices shall inform victims of the inmate's release date and of their opportunity to be heard on the early release.
 - 1.5.1.2 Objections to inmate's early release must be made within 20 calendar days of the Department's mailing Notices.

- 1.6 Inmates who are eligible for a direct release to probation as mandated by A.R.S. § 31-233; § 13-901; § 13-902 and § 13-603 subsection K, may be eligible to participate in the Drug Possession Transition Program as mandated by A.R.S. § 31-281.
 - 1.6.1 Inmates who are deemed eligible for the Drug Possession Transition Program must have no less than sixty (60) days of community supervision remaining until their TR/Absolute Discharge to participate in both programs.
 - 1.6.1.1 Inmates in custody with less than sixty (60) days remaining until their TR/Absolute Discharge, whose Community Supervision term has been waived, shall not be eligible for the Drug Possession Transition Program and will remain in custody until their direct release to probation.
 - 1.6.1.1.1 If Community Supervision is not waived, the inmate is eligible without a minimum amount of time to the TR.
 - 1.6.1.2 Upon release to community supervision, the supervising office shall maintain supervision of the offender in both programs and will transfer the supervision of the offender directly to probation upon the offender reaching their TR.
 - 1.6.1.3 Inmates shall earn release credits until they reach the TR.
 - 1.6.1.4 Offender's failure to attend required classes, assessments and/or treatment groups shall result in sanctions up to and including return to custody.
 - 1.6.1.5 Offenders not reaching their TR and return to custody for technical violations while participating in this program, shall forfeit their TR and remain in custody until their ERCD.
 - 1.6.1.5.1 If the offender does not meet mandatory literacy they shall be released on their ERCD and not held until the SED.
 - 1.6.1.5.2 When warrants are issued for offenders, specific notifications shall be made in the Release Violators comments sections of AIMS indicating their participation in the Drug Possession Transition Program without reaching their TR.
 - 1.6.1.6 Offenders who passed their TR and are returned to custody for a technical violation while participating in the program shall appear before the ABOEC to determine their release status.
 - 1.6.1.6.1 Inmates shall serve until their CSED unless reinstated by the ABOEC.
 - 1.6.1.6.2 When warrants are issued for offenders, specific notifications shall be made in the AIMS release Violators comments screen indicating their participation in the Drug Possession Transition Program and that they are past their TR.

PROCEDURES:

- 1.1 Release procedures for the Drug Possession Transition Program shall be same as the procedures for the Transition program in accordance with Department Order 1001, Inmate Release System, Section 1001.05 1.3 through 1.3.6.

GENERAL INFORMATION:

- 1.1 All inmates, with the exception of those convicted of a violation of Title 28, Chapter 4, shall have their accounts deducted by 5 percent.
- 1.2 Transition services may include, but are not limited to:
 - 1.2.1 In-prison pre-release case management.
 - 1.2.2 Community-based transition classes.
 - 1.2.3 Community-based case management.
 - 1.2.4 Community-based substance abuse treatment.
 - 1.2.5 Mentoring, if available, in prison and/or in the community.
 - 1.2.6 Community-based psycho-educational classes.
- 1.3 For the purpose of earned release credit accrual, released inmates are on inmate status until their TR.
- 1.4 Released inmates shall be supervised by a Community Corrections Officer (CCO).
 - 1.4.1 During the first meeting with the released offenders, CCOs shall schedule them for transition class attendance and treatment/ psycho-educational need assessment.
 - 1.4.1.1 Offenders must attend and complete initial transition class within two weeks of release.
 - 1.4.1.2 The contracted provider shall schedule released offenders for their first treatment group, after their assessment is complete.
 - 1.4.2 CCOs shall have access to web-based tracking system allowing real time tracking of offenders' treatment progress.
- 1.5 Offenders' failure to attend required classes, assessments and/or treatment groups shall result in sanctions up to and including return to custody.
- 1.6 Offenders, not reaching their TR and returned to custody for technical violations while participating in this program, shall forfeit their TR and remain in custody until their Earned Release Credit Date (ERCD).
 - 1.6.1 When warrants are issued for offenders, specific notations shall be made in the Release Violators Comments Section of AIMS indicating their participation in the Drug Possession Transition Program without reaching their TR.
- 1.7 Offenders who have passed their TR returned custody for technical violations while participating in this program shall appear before the Board of Executive Clemency to determine their release status.
 - 1.7.1 Inmates shall serve until their CSED unless reinstated by the Board.
 - 1.7.2 When warrants are issued for offenders, specific notations shall be made in the Release Violators Comments Section of AIMS indicating their participation in the Drug Possession Transition Program and they are past their TR.

{Original Signature on File}

**Attachment A – Ineligible Offenses and Major Disciplinary Rule Violations
Drug Possession Transition Program Release**

SECTION A

Ineligible Offenses (include but are not limited to)	
<ul style="list-style-type: none"> • Indecent exposure • Public sexual indecency; public sexual indecency to a minor • Sexual abuse • Sexual conduct with a minor • Sexual assault • Sexual assault of a spouse • Adultery • Molestation of a child • Continuous sexual abuse of a child • Sexual misconduct; behavioral health professionals • Unlawful sexual conduct; correctional employees; persons in custody • Sexual offense; evidence of similar crimes • Sexually oriented businesses; hours of operation • Violent sexual assault; natural life sentence 	<p>Offense involving death or physical injury or the use of a deadly weapon or dangerous instruments:</p> <ul style="list-style-type: none"> • Negligent homicide • Manslaughter • Second degree murder • First degree murder • Dangerous crimes against children • Assault • Aggravated assault • Dangerous or deadly assault by prisoner or juvenile • Drive by shooting • Discharging a firearm at a structure • Misconduct involving weapons or dangerous instrument • Kidnapping • Armed robbery • Unlawful discharge of firearms • Child or vulnerable adult abuse; emotional abuse • Accidents involving death or personal injuries; failure to stop • Burglary in the First Degree • Arson of a structure or property • Arson of an occupied structure • Arson of an occupied jail or prison facility • Burning wild lands • Reckless burning • Domestic Violence

SECTION B

Ineligible Major Disciplinary Rule Violations	
<ul style="list-style-type: none"> • Taking a Hostage • Intentionally Causing the Death or Great Bodily Injury of Another; Person • Sexual Assault • Assault or Battery with a Deadly Weapon or any Assault on Staff • Arson • Escape, Aiding Escape or Preventing the Discovery of an Escape • Negligence or Carelessness Causing Death or Great Bodily Injury • Assault, Battery or Striking any Person with any Weapon or Object, etc. • Possession or Manufacture of Dangerous Contraband 	<ul style="list-style-type: none"> • Threatening any Person with Bodily Harm • Tampering with any Security or Safety Equipment • Violating or Attempting to Violate any of the Laws of Arizona or the U.S.A. • Throwing or Projecting an Item at Another Person • Inciting or Participating in a Riot, Disturbance, Demonstration or Work Stoppage • Extortion or Intimidation • Engaging in any Sexual Act, Including Indecent Exposure, etc. • Giving or Offering a Bribe or Anything of Value to any Staff Member, etc.