

January 31, 2026

Via Electronic Delivery

The Honorable L. Scott Bennett
Graham County Attorney and Chairman of the
Arizona Prosecuting Attorneys Advisory Council
800 Main Street
Safford, AZ 85546

Re: Legislation Authorizing Limited Home Confinement

Dear Chairman Bennett:

Last session, Sen. Kevin Payne (R-27th) and Rep. Khyl Powell (R-14th) introduced legislation that would permit certain low-risk, nonviolent individuals to serve the end of their prison terms on home confinement. Similar legislation has been introduced in this session by Sen. Payne (SB 1110) and Rep. Powell (HB 2770). Because their proposals would protect taxpayers and communities, we write to encourage the *Arizona Prosecuting Attorneys Advisory Council* to support the *Payne-Powell* approach.

Taking a Page from the Trump Criminal Justice Playbook – The First Step Act

Each of our organizations (listed above) engages in matters of public policy in Washington, DC and in state capitals across the country. We were fortunate to work with President Trump during his first term on criminal justice issues with our efforts culminating in the *First Step Act* (hereinafter “*First Step*” or “FSA”). Enacted in 2018, the President’s signature criminal justice bill offered inmates the prospect of finishing their sentences in home confinement as an incentive for completing anti-recidivism programming.

FSA increased opportunities for home confinement for a subset of prisoners who were carefully screened and considered low-risk. At the same time, the legislation reduced overcrowding, thereby making prisons safer for inmates, corrections officers, and staff.

Implementation of the *First Step Act* made good on President Trump’s commitment to public safety. An analysis by the non-partisan *Council on Criminal Justice* found that recidivism rate for those who benefitted under FSA was 55% lower compared to those who did not.¹ Because every case of recidivism equates to another crime, another victim, and another costly prison cell, it is clear FSA has helped to make America safe again.

¹ *Avinash Bhati, The First Step Act: An Early Analysis of Recidivism*, COUNCIL ON CRIMINAL JUSTICE, December 2024, found at: <https://counciloncj.foleon.com/first-step-act/fsa/>. Other reviews have noted reductions in recidivism for FSA beneficiaries. See, *Jack Brewer, Putting Public Safety First: The First Step Act of 2018*, AMERICA FIRST POLICY INSTITUTE, March 10, 2025, found at: <https://www.americafirstpolicy.com/issues/putting-public-safety-first-the-first-step-act-of-2018>; see also, *Jason Pye, New Report on First Step Act Shows Continued Success: Five Years Later, Low Recidivism Rates Continue*, DUE PROCESS INSTITUTE, August 6, 2024, found at: <https://idueprocess.org/blog/f/new-report-on-first-step-act-shows-continued-success>; FAMM, *First Step at Five: The Success and Safety After Five Years in Effect*, July 2023, found at: <https://famm.org/wp-content/uploads/2023/07/First-Step-at-5-successes.pdf>.

A Second Trump Measure – The CARES Act – Moved Prisoners to Home Confinement

First Step was not the only criminal justice reform implemented during the President’s first term. In 2020, the Trump Administration used authorities contained in the *CARES Act*² to move 13,000 federal inmates to home confinement to better contain COVID-19.

Then-Attorney-General William Barr set strict eligibility standards for *CARES Act* implementation, which are very similar those of the *Payne-Powell* bills (intentionally so). Only those who were found to be low-risk using the federal government’s risk-assessment tool, had a history of compliance with prison rules, and had no violence in their record were eligible. The results were eye-opening. Of the 13,000 moved to home confinement, just 0.17 percent were returned to prison for a new crime.³ That’s less than two tenths of a percent.

The Federal Bureau of Prisons (“BOP”) also found dramatically reduced recidivism for *CARES Act* beneficiaries a year after release: 3.6% versus 13.0% for non-*CARES Act* prisoners.⁴ As the BOP explained in a press release accompanying the report:

These findings suggest that the *CARES Act*’s provision for early and extended home confinement did not negatively impact recidivism rates. In fact, it may have contributed to a reduction in post-release recidivism, *offering a promising direction for justice-involved stakeholders seeking effective strategies to reduce incarceration and its associated costs, while also promoting public safety and successful reintegration into society.*⁵

Using the *CARES Act* authorities, public safety was protected, families were united, and taxpayers saved millions in direct costs. The *Payne-Powell* bills are designed to produce similar results for taxpayers, families, and communities in Arizona.

The Payne-Powell Proposals for Home Confinement In Arizona

The *Payne-Powell* proposals would create a home confinement program in Arizona like that which was implemented under the *CARES Act*. The strict eligibility criteria⁶ in the bill were crafted in early collaboration with County Attorney Mitchell and are similar to those required by President Trump and Attorney General Barr: 24/7 GPS monitoring, strict compliance requirements, immediate consequences for violations, regular check-ins, and swift return to

² See, *Coronavirus Aid, Relief, and Economic Security Act*, P.L. 116-136, 134 Stat. 281 (2020), found at: <https://www.govinfo.gov/content/pkg/PLAW-116publ136/html/PLAW-116publ136.htm>.

³ See, *Report of Senator Cory Booker, CARES Act Home Confinement: Three Years Later*, June 2023, found at: https://www.booker.senate.gov/imo/media/doc/cares_act_home_confinement_policy_brief1.pdf.

⁴ Jason Gwinn, *CARES Act: Analysis of Recidivism*, Federal Bureau of Prisons Report, March 2024, found at: https://www.bop.gov/resources/research_projects/published_reports/recidivism/202403-cares-act-white-paper.pdf (emphasis added).

⁵ Walter Pavlo, *Bureau Of Prisons Releases Encouraging Study On CARES Act*, Forbes.com, March 30, 2024, found at: <https://www.forbes.com/sites/walterpavlo/2024/03/30/bureau-of-prisons-releases-encouraging-study-on-cares-act/>.

⁶ See, *Fact Sheet on S.B. 1366*, the Arizona State Senate, accessed on December 15, 2025, found at: <https://www.azleg.gov/legtext/57leg/1R/summary/S.1366JUDE.DOCX.htm>.

custody for any breach.⁷ The bills would also mandate data collection, so policymakers (and voters) can see the results and make changes, if warranted.

Conclusion

Data show that sending people to home confinement costs less, preserves public safety, keeps families intact, and reduces recidivism.⁸ It also frees expensive prison beds for offenders who remain dangerous and need to be locked up.

It is no secret that Arizona's prison system has faced serious challenges over the past several years, with a shortage of corrections officers⁹ compounding the dangers of prison overcrowding.¹⁰ While those challenges do not justify releasing dangerous people, they do lend support for trying a new approach that has proven successful in other jurisdictions for inmates who are not public safety threats.

We know the voices of prosecuting attorneys carry weight in legislative deliberations about public safety. We hope you will support the *Payne-Powell*¹¹ home confinement bills when they are considered in the Arizona Legislature.

Sincerely,

David Safavian, Esq.
UNIFY.US

Kurt Altman, Esq.
RIGHT ON CRIME

Jason Pye
DUE PROCESS INSTITUTE

Patrick Plein
CPAC – NOLAN INSTITUTE
FOR JUSTICE

Cc: Elizabeth Ortiz, Executive Director, APAAC

⁷ *Attorney-General of the United States William Barr*, Memorandum to the Director of the Bureau of Prisons: Increasing Use of Home Confinement at Institutions Most Affected by COVID-19, April 3, 2020, found at: <https://www.justice.gov/opa/media/1061851/dl?inline>.

⁸ *G. Newburn, R. Hahn, M. Bulger*, Safer, Smarter, and Cheaper: The Promise of Targeted Home Confinement with Electronic Monitoring, THE NISKANEN CENTER, June 19, 2023, found at: <https://www.niskanencenter.org/wp-content/uploads/2023/06/Safer-smarter-and-cheaper.pdf>.

⁹ KOLD, Sources Say Staffing at State Prison in Tucson is Consistently Low, April 10, 2025, found at: <https://www.kold.com/2025/04/10/sources-say-staffing-state-prison-tucson-is-consistently-low/>.

¹⁰ OFFICE OF THE AUDITOR GENERAL, Arizona Department of Corrections: Significant Growth in Prison Population and Spending, November 2023, found at: <https://www.azauditor.gov/sites/default/files/2023-11/10-08Highlight.pdf>; see also, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND RE-ENTRY, The ADCRR Announces Operational Responses to Prison Violence, April 18, 2025, found at: <https://corrections.az.gov/news/adccr-announces-operational-responses-prison-violence-041825>.

¹¹ Both Senator Payne and Representative Powell have conservative voting records. Indeed, Senator Payne has a 91% lifetime rating from CPAC. See, <http://ratings.conservative.org/people/4b336587-cb71-4a49-9cf8-514cdd2771ff>. (Representative Powell is in his first term and has not yet been rated by CPAC.)