HOUSE BILL ANALYSIS
HB 1297

Title: An act relating to earned early release time.

Brief Description: Clarifying the application of limitations on earned early release time to serious violent offenders.

Sponsors: Representatives O'Brien, Ballasiotes, Lovick, Cairnes, Kagi, Campbell and Benson.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Staff: Yvonne Walker (786-7841).

Background:

Under the Sentencing Reform Act, felony offenders receive determinate sentences. A determinate sentence is one where the length of confinement is determined at the time of sentencing; the sentence length generally is not subject to alteration based on events occurring after the sentence is imposed.

The primary exception to this system of determinate sentencing involves the operation of earned early release programs. These programs allow inmates to shorten their sentence length if they display good behavior by participating in work, education, or treatment programs and by not violating prison or jail rules during confinement.

There are limitations on how much a sentence can be reduced through earned early release both within local jails and state prisons. The maximum amount that a felony sentence can be reduced varies depending on the inmate's offense:

- No more than 15 percent of the sentence may be reduced for serious violent offenses and for class A sex offenses.
- No more than 33 percent of the sentence may be reduced for all other felonies.

Language clarification. The current statutory language at issue is the unpunctuated sentence that places a 15 percent cap on good time for certain criminal convictions:

In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence.– All other criminal convictions are subject to the 33 percent earned early release rule.

In the 1997 court case of *Mahrle v. the Department of Corrections*, Craig Edward Mahrle claimed the Department of Corrections incorrectly applied the 15 percent earned early release time cap on his case. Mahrle had been convicted for *solicitation to commit second degree murder* which is both a *serious violent offense* and a *class B felony*. He feels the statute, as written, is interpreted to mean the 15 percent cap applies to serious violent offenses that are class A felonies– or sex offenses that are class A felonies.– Since his conviction was for a class B felony then his sentence should have been subject to the 33 percent earned early release rule.

The Court of Appeals of Washington, Division 3, decided that the current statute was ambiguous even after examination of legislative history. As a result, the court ruled that where an ambiguous statute has two possible interpretations in criminal cases, the rule of lenity provides that statute is to be strictly construed in favor of the defendant (Mahrle). Mr. Mahrle's personal restraint petition was granted and the DOC was directed to calculate his good time using the 33 percent earned early release cap.

Summary:

Language clarification. The statutory language relating to the 15 percent cap on good time for certain criminal convictions is clarified by adding commas to the sentence. The 15 percent cap applies to persons

> *convicted of a serious violent offense, or a sexual offense that is a class A felony, committed on or after July 1, 1990 . . . .–*

This language is intended to clarify the Legislature's intention of the earned early release time statute by stating:

- No more than 15 percent of the sentence may be reduced for any serious violent offenses;
- No more than 15 percent of the sentence may be reduced for class A sex offenses; and
- No more than 33 percent of the sentence may be reduced for all other felonies.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.