
HOUSE BILL 1351

State of Washington

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By Representatives Carrell, Sheahan, Sullivan, Campbell, Esser, Sump, Dunn and Bush

Read first time 01/22/1999. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to earned early release; amending RCW 9.92.151,
2 9.94A.150, and 70.48.210; creating a new section; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9.92.151 and 1990 c 3 s 201 are each amended to read
6 as follows:

7 The sentence of a prisoner confined in a county jail facility for
8 a felony, gross misdemeanor, or misdemeanor conviction may be reduced
9 by earned release credits in accordance with procedures that shall be
10 developed and promulgated by the correctional agency having
11 jurisdiction. The earned early release time shall be for good behavior
12 and good performance as determined by the correctional agency having
13 jurisdiction. Any program established pursuant to this section shall
14 allow an offender to earn early release credits for presentence
15 incarceration. The correctional agency shall not credit the offender
16 with earned early release credits in advance of the offender actually
17 earning the credits. In the case of an offender convicted of a serious
18 violent offense or a sex offense that is a class A felony committed on
19 or after July 1, 1990, robbery in the first or second degree,

1 manslaughter in the first or second degree, assault in the second
2 degree, or any attempt, conspiracy, or solicitation to commit these
3 crimes, the aggregate earned early release time may not exceed fifteen
4 percent of the sentence. In no other case may the aggregate earned
5 early release time exceed one-third of the total sentence.

6 **Sec. 2.** RCW 9.94A.150 and 1996 c 199 s 2 are each amended to read
7 as follows:

8 No person serving a sentence imposed pursuant to this chapter and
9 committed to the custody of the department shall leave the confines of
10 the correctional facility or be released prior to the expiration of the
11 sentence except as follows:

12 (1) Except as otherwise provided for in subsection (2) of this
13 section, the term of the sentence of an offender committed to a
14 correctional facility operated by the department, may be reduced by
15 earned early release time in accordance with procedures that shall be
16 developed and promulgated by the correctional agency having
17 jurisdiction in which the offender is confined. The earned early
18 release time shall be for good behavior and good performance, as
19 determined by the correctional agency having jurisdiction. The
20 correctional agency shall not credit the offender with earned early
21 release credits in advance of the offender actually earning the
22 credits. Any program established pursuant to this section shall allow
23 an offender to earn early release credits for presentence
24 incarceration. If an offender is transferred from a county jail to the
25 department of corrections, the county jail facility shall certify to
26 the department the amount of time spent in custody at the facility and
27 the amount of earned early release time. In the case of an offender
28 who has been convicted of a felony committed after July 23, 1995, that
29 involves any applicable deadly weapon enhancements under RCW 9.94A.310
30 (3) or (4), or both, shall not receive any good time credits or earned
31 early release time for that portion of his or her sentence that results
32 from any deadly weapon enhancements. In the case of an offender
33 convicted of a serious violent offense or a sex offense that is a class
34 A felony committed on or after July 1, 1990, robbery in the first or
35 second degree, manslaughter in the first or second degree, assault in
36 the second degree, or any attempt, conspiracy, or solicitation to
37 commit these crimes, the aggregate earned early release time may not
38 exceed fifteen percent of the sentence. In no other case shall the

1 aggregate earned early release time exceed one-third of the total
2 sentence;

3 (2) A person convicted of a sex offense or an offense categorized
4 as a serious violent offense, assault in the second degree, vehicular
5 homicide, vehicular assault, assault of a child in the second degree,
6 any crime against a person where it is determined in accordance with
7 RCW 9.94A.125 that the defendant or an accomplice was armed with a
8 deadly weapon at the time of commission, or any felony offense under
9 chapter 69.50 or 69.52 RCW may become eligible, in accordance with a
10 program developed by the department, for transfer to community custody
11 status in lieu of earned early release time pursuant to subsection (1)
12 of this section;

13 (3) An offender may leave a correctional facility pursuant to an
14 authorized furlough or leave of absence. In addition, offenders may
15 leave a correctional facility when in the custody of a corrections
16 officer or officers;

17 (4) The governor, upon recommendation from the clemency and pardons
18 board, may grant an extraordinary release for reasons of serious health
19 problems, senility, advanced age, extraordinary meritorious acts, or
20 other extraordinary circumstances;

21 (5) No more than the final six months of the sentence may be served
22 in partial confinement designed to aid the offender in finding work and
23 reestablishing himself or herself in the community;

24 (6) The governor may pardon any offender;

25 (7) The department of corrections may release an offender from
26 confinement any time within ten days before a release date calculated
27 under this section; and

28 (8) An offender may leave a correctional facility prior to
29 completion of his sentence if the sentence has been reduced as provided
30 in RCW 9.94A.160.

31 Notwithstanding any other provisions of this section, an offender
32 sentenced for a felony crime listed in RCW 9.94A.120(4) as subject to
33 a mandatory minimum sentence of total confinement shall not be released
34 from total confinement before the completion of the listed mandatory
35 minimum sentence for that felony crime of conviction unless allowed
36 under RCW 9.94A.120(4).

37 **Sec. 3.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read
38 as follows:

1 (1) All cities and counties are authorized to establish and
2 maintain farms, camps, and work release programs and facilities, as
3 well as special detention facilities. The facilities shall meet the
4 requirements of chapter 70.48 RCW and any rules adopted thereunder.

5 (2) Farms and camps may be established either inside or outside the
6 territorial limits of a city or county. A sentence of confinement in
7 a city or county jail may include placement in a farm or camp. Unless
8 directed otherwise by court order, the chief law enforcement officer or
9 department of corrections, may transfer the prisoner to a farm or camp.
10 The sentencing court, chief law enforcement officer, or department of
11 corrections may not transfer to a farm or camp a greater number of
12 prisoners than can be furnished with constructive employment and can be
13 reasonably accommodated.

14 (3) The city or county may establish a city or county work release
15 program and housing facilities for the prisoners in the program. In
16 such regard, factors such as employment conditions and the condition of
17 jail facilities should be considered. When a work release program is
18 established the following provisions apply:

19 (a) A person convicted of a felony and placed in a city or county
20 jail is eligible for the work release program. A person sentenced to
21 a city or county jail is eligible for the work release program. The
22 program may be used as a condition of probation for a criminal offense.
23 Good conduct is a condition of participation in the program.

24 (b) The court may permit a person who is currently, regularly
25 employed to continue his or her employment. The chief law enforcement
26 officer or department of corrections shall make all necessary
27 arrangements if possible. The court may authorize the person to seek
28 suitable employment and may authorize the chief law enforcement officer
29 or department of corrections to make reasonable efforts to find
30 suitable employment for the person. A person participating in the work
31 release program may not work in an establishment where there is a labor
32 dispute.

33 (c) The work release prisoner shall be confined in a work release
34 facility or jail unless authorized to be absent from the facility for
35 program-related purposes, unless the court directs otherwise.

36 (d) Each work release prisoner's earnings may be collected by the
37 chief law enforcement officer or a designee. The chief law enforcement
38 officer or a designee may deduct from the earnings moneys for the
39 payments for the prisoner's board, personal expenses inside and outside

1 the jail, a share of the administrative expenses of this section,
2 court-ordered victim compensation, and court-ordered restitution.
3 Support payments for the prisoner's dependents, if any, shall be made
4 as directed by the court. With the prisoner's consent, the remaining
5 funds may be used to pay the prisoner's preexisting debts. Any
6 remaining balance shall be returned to the prisoner.

7 (e) The prisoner's sentence may be reduced by earned early release
8 time in accordance with procedures that shall be developed and
9 promulgated by the work release facility. The earned early release
10 time shall be for good behavior and good performance as determined by
11 the facility. The facility shall not credit the offender with earned
12 early release credits in advance of the offender actually earning the
13 credits. In the case of an offender convicted of a serious violent
14 offense or a sex offense that is a class A felony committed on or after
15 July 1, 1990, robbery in the first or second degree, manslaughter in
16 the first or second degree, assault in the second degree, or any
17 attempt, conspiracy, or solicitation to commit these crimes, the
18 aggregate earned early release time may not exceed fifteen percent of
19 the sentence. In no other case may the aggregate earned early release
20 time exceed one-third of the total sentence.

21 (f) If the work release prisoner violates the conditions of custody
22 or employment, the prisoner shall be returned to the sentencing court.
23 The sentencing court may require the prisoner to spend the remainder of
24 the sentence in actual confinement and may cancel any earned reduction
25 of the sentence.

26 (4) A special detention facility may be operated by a
27 noncorrectional agency or by noncorrectional personnel by contract with
28 the governing unit. The employees shall meet the standards of training
29 and education established by the criminal justice training commission
30 as authorized by RCW 43.101.080. The special detention facility may
31 use combinations of features including, but not limited to, low-
32 security or honor prisoner status, work farm, work release, community
33 review, prisoner facility maintenance and food preparation, training
34 programs, or alcohol or drug rehabilitation programs. Special
35 detention facilities may establish a reasonable fee schedule to cover
36 the cost of facility housing and programs. The schedule shall be on a
37 sliding basis that reflects the person's ability to pay.

1 NEW SECTION. **Sec. 4.** This act applies to crimes committed on or
2 after the effective date of this act.

3 NEW SECTION. **Sec. 5.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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