

HOUSE BILL REPORT

HB 2359

As Reported by House Committee On:

Criminal Justice & Corrections

Title: An act relating to altering the amount of earned release time available for certain jail inmates.

Brief Description: Altering the amount of earned release time available for certain jail inmates.

Sponsors: Representatives Kagi, O'Brien, Dickerson, Nixon, Sommers and Darneille.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/20/04, 2/3/04 [DPS].

Brief Summary of Substitute Bill

- Changes the amount of earned release time a county jail may grant to certain offenders confined in a county jail.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Veloria.

Minority Report: Do not pass. Signed by 3 members: Representatives Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Pearson.

Staff: Jim Morishima (786-7191).

Background:

Earned Release Time in County Jails

A county jail facility may grant earned release credits to offenders confined in the jail. The offender may earn the credits for good behavior and good performance as determined by the agency having jurisdiction over the jail. For an offender convicted of a serious

violent or class A felony sex offense, the aggregate earned release time may not exceed 15 percent of the sentence. For all other offenders, the aggregate earned release time may not exceed 33 percent of the sentence.

Earned Release Time in State Prisons

Prior to July 1, 2003, the maximum amount of earned release time an offender could earn in state prison was the same as the amount an offender could earn in the county jail. However, the maximums for state prison were changed by Engrossed Substitute Senate Bill 5990, which increased the amount for certain offenders and decreased the amount for others. These changes went into effect on July 1, 2003.

Engrossed Substitute Senate Bill 5990 decreased the maximum amount of earned release time from 15 percent to 10 percent for prison offenders convicted of serious violent or class A felony sex offenses. Also, the act increased the maximum amount of earned release time available from 33 percent to 50 percent for prison offenders:

- Classified in the two lowest risk categories; and
- Who have no current or prior conviction for a sex offense, a violent offense, a crime against persons, felony domestic violence, residential burglary, delivery or possession with intent to deliver methamphetamine (or an attempt, solicitation, or conspiracy to do so), or delivery of a controlled substance to a minor (or an attempt, solicitation, or conspiracy to do so).

Summary of Substitute Bill:

The maximum amount of earned release time is decreased from 15 percent to 10 percent for offenders in county jails who were convicted of a serious violent or a class A felony sex offense. The amount of earned release time is increased from 33 percent to 50 percent for offenders who have no current or prior conviction for a sex offense, a crime against persons, felony domestic violence, residential burglary, delivery or possession with intent to deliver methamphetamine (or an attempt, solicitation, or conspiracy to do so), or delivery of a controlled substance to a minor (or an attempt, solicitation, or conspiracy to do so). The correctional agency having jurisdiction over the jail may recalculate the earned release time and reschedule the expected release date for each qualified offender.

The Legislature declares that the new percentages of earned release time do not create an expectation that the percentages of earned release time cannot be revised and offenders have no reason to conclude that the maximum percentages of earned release time is an entitlement or creates any liberty interest. The Legislature retains full control over the right to revise the percentages of earned release time at any time.

Substitute Bill Compared to Original Bill:

The substitute makes a grammatical change to clarify that an offender does not have an absolute right to earned release time up to 50 percent. The substitute inserts language stating that the changes to the maximum earned release time percentages do not create any expectation that the percentages cannot be revised and offenders have no reason to conclude that the maximum percentages are an entitlement or create any liberty interest. The substitute also inserts language stating that the Legislature retains full control over the right to revise the percentages of earned release time available to offenders at any time.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill makes the same changes to earned release time for offenders sentenced to a year or less that were made for offenders sentenced to more than a year last session. This bill is intended to fix some of the unintended consequences of the changes to earned release time that were made last year in conjunction with the drug sentencing reform legislation from two years ago. Currently, admissions to prison for simple drug possession have increased dramatically. This is partly because a prison sentence is more desirable for judges, prosecutors, and defendants given the fact that 50 percent earned release time is available in prison, but not in jails. Also, the current system creates inequity by granting more earned release time to people who commit more serious offenses and are sentenced to prison than is granted to people who commit less serious offenses and are sentenced to jail. The current system creates further inequity between people who are able to post bail and those who cannot post bail. The increase in earned release time for jails in this bill is not a requirement, but an authorization“it is up to each county to decide whether to grant it.

Testimony Against: None.

Persons Testifying: Representative Kagi, prime sponsor; and Bill Jaquette, Washington Defenders Association.

Persons Signed In To Testify But Not Testifying: None.