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HOUSE BILL 1011

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State of Washington

62nd Legislature

2011 Regular Session

By Representative Appleton

Prefiled 12/13/10. Read first time 01/10/11. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to earned release time for certain jail inmates;  
2 amending RCW 9.92.151 and 70.48.210; adding a new section to chapter  
3 9.92 RCW; adding a new section to chapter 70.48 RCW; providing an  
4 effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.92.151 and 2009 c 28 s 3 are each amended to read as  
7 follows:

8 (1) Except as provided in subsection (2) of this section(~~(7)~~):

9 (a) The sentence of a prisoner confined in a county jail facility  
10 for a felony, gross misdemeanor, or misdemeanor conviction may be  
11 reduced by earned release credits in accordance with procedures that  
12 shall be developed and promulgated by the correctional agency having  
13 jurisdiction. The earned (~~early~~) release time shall be for good  
14 behavior and good performance as determined by the correctional agency  
15 having jurisdiction. Any program established pursuant to this section  
16 shall allow an offender to earn (~~early~~) release credits for  
17 presentence incarceration. The correctional agency shall not credit  
18 the offender with earned (~~early~~) release credits in advance of the  
19 offender actually earning the credits.

1       **(b)** In the case of an offender convicted of a serious violent  
2 offense or a sex offense that is a class A felony committed on or after  
3 July 1, 1990, the aggregate earned (~~early~~) release time may not  
4 exceed fifteen percent of the sentence. In no other case may the  
5 aggregate earned (~~early~~) release time exceed one-third of the total  
6 sentence.

7       **(c)** A correctional agency may adopt an earned release program that  
8 exceeds one-third of the total sentence for those offenders who qualify  
9 under (i) and (ii) of this subsection (1). The aggregate earned  
10 release time may not exceed fifty percent of the sentence. If the  
11 correctional agency adopts an earned release program that exceeds one-  
12 third of the total sentence, an offender is qualified to earn up to  
13 fifty percent of aggregate earned release time under this subsection if  
14 he or she:

15       (i) Is not confined pursuant to a sentence for:

16       (A) A sex offense;

17       (B) A violent offense;

18       (C) A crime against persons as defined in RCW 9.94A.411;

19       (D) A felony that is domestic violence as defined in RCW 10.99.020;

20       (E) A violation of RCW 9A.52.025 (residential burglary);

21       (F) A violation of, or an attempt, solicitation, or conspiracy to  
22 violate, RCW 69.50.401 by manufacture or delivery or possession with  
23 intent to deliver methamphetamine; or

24       (G) A violation of, or an attempt, solicitation, or conspiracy to  
25 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);  
26 and

27       (ii) Has no prior conviction for the offenses listed in (c)(i) of  
28 this subsection.

29       (2) An offender serving a term of confinement imposed under RCW  
30 9.94A.670(5)(a) is not eligible for earned release credits under this  
31 section.

32       NEW SECTION. Sec. 2. A new section is added to chapter 9.92 RCW  
33 to read as follows:

34       The legislature declares that the changes to the maximum  
35 percentages of earned release time in RCW 9.92.151 do not create any  
36 expectation that the percentage of earned release time cannot be  
37 revised, and offenders have no reason to conclude that the maximum

1 percentage of earned release time is an entitlement or creates any  
2 liberty interest. The legislature retains full control over the right  
3 to revise the maximum percentages of earned release time available to  
4 offenders at any time. This section applies to persons convicted on or  
5 after the effective date of this section.

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

8 (1) All cities and counties are authorized to establish and  
9 maintain farms, camps, and work release programs and facilities, as  
10 well as special detention facilities. The facilities shall meet the  
11 requirements of this chapter ((70.48—RCW)) and any rules adopted  
12 thereunder.

13 (2) Farms and camps may be established either inside or outside the  
14 territorial limits of a city or county. A sentence of confinement in  
15 a city or county jail may include placement in a farm or camp. Unless  
16 directed otherwise by court order, the chief law enforcement officer or  
17 department of corrections, may transfer the prisoner to a farm or camp.  
18 The sentencing court, chief law enforcement officer, or department of  
19 corrections may not transfer to a farm or camp a greater number of  
20 prisoners than can be furnished with constructive employment and can be  
21 reasonably accommodated.

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

27 (a) A person convicted of a felony and placed in a city or county  
28 jail is eligible for the work release program. A person sentenced to  
29 a city or county jail is eligible for the work release program. The  
30 program may be used as a condition of probation for a criminal offense.  
31 Good conduct is a condition of participation in the program.

32 (b) The court may permit a person who is currently, regularly  
33 employed to continue his or her employment. The chief law enforcement  
34 officer or department of corrections shall make all necessary  
35 arrangements if possible. The court may authorize the person to seek  
36 suitable employment and may authorize the chief law enforcement officer  
37 or department of corrections to make reasonable efforts to find

1 suitable employment for the person. A person participating in the work  
2 release program may not work in an establishment where there is a labor  
3 dispute.

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

7 (d) Each work release prisoner's earnings may be collected by the  
8 chief law enforcement officer or a designee. The chief law enforcement  
9 officer or a designee may deduct from the earnings moneys for the  
10 payments for the prisoner's board, personal expenses inside and outside  
11 the jail, a share of the administrative expenses of this section,  
12 court-ordered victim compensation, and court-ordered restitution.  
13 Support payments for the prisoner's dependents, if any, shall be made  
14 as directed by the court. With the prisoner's consent, the remaining  
15 funds may be used to pay the prisoner's preexisting debts. Any  
16 remaining balance shall be returned to the prisoner.

17 (e) The prisoner's sentence may be reduced by earned (~~early~~)  
18 release time in accordance with procedures that shall be developed and  
19 promulgated by the work release facility. The earned (~~early~~) release  
20 time shall be for good behavior and good performance as determined by  
21 the facility. The facility shall not credit the offender with earned  
22 (~~early~~) release credits in advance of the offender actually earning  
23 the credits.

24 (i) In the case of an offender convicted of a serious violent  
25 offense or a sex offense that is a class A felony committed on or after  
26 July 1, 1990, the aggregate earned (~~early~~) release time may not  
27 exceed fifteen percent of the sentence. In no other case may the  
28 aggregate earned (~~early~~) release time exceed one-third of the total  
29 sentence.

30 (ii) A correctional agency may adopt an earned release program that  
31 exceeds one-third of the total sentence for those offenders who qualify  
32 under (ii)(A) and (B) of this subsection. The aggregate earned release  
33 time may not exceed fifty percent of the sentence. If the correctional  
34 agency adopts an earned release program that exceeds one-third of the  
35 total sentence, an offender is qualified to earn up to fifty percent of  
36 aggregate earned release time under this subsection (3)(e)(ii) if he or  
37 she:

38 (A) Is not confined pursuant to a sentence for:

1       (I) A sex offense;  
2       (II) A violent offense;  
3       (III) A crime against persons as defined in RCW 9.94A.411;  
4       (IV) A felony that is domestic violence as defined in RCW  
5 10.99.020;  
6       (V) A violation of RCW 9A.52.025 (residential burglary);  
7       (VI) A violation of, or an attempt, solicitation, or conspiracy to  
8 violate, RCW 69.50.401 by manufacture or delivery or possession with  
9 intent to deliver methamphetamine; or  
10       (VII) A violation of, or an attempt, solicitation, or conspiracy to  
11 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);  
12 and  
13       (B) Has no prior conviction for the offenses listed in (e)(ii)(A)  
14 of this subsection.  
15       (iii) The facility shall recalculate the earned release time and  
16 reschedule the expected release dates for each qualified offender under  
17 (e)(ii) of this subsection.  
18       (iv) (e)(ii) of this subsection applies retroactively to eligible  
19 offenders serving terms of total confinement in a city or county  
20 facility as of the effective date of this section.  
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.**    A new section is added to chapter 70.48 RCW  
2 to read as follows:

3        The legislature declares that the changes to the maximum  
4 percentages of earned release time in RCW 70.48.210 do not create any  
5 expectation that the percentage of earned release time cannot be  
6 revised, and offenders have no reason to conclude that the maximum  
7 percentage of earned release time is an entitlement or creates any  
8 liberty interest. The legislature retains full control over the right  
9 to revise the maximum percentages of earned release time available to  
10 offenders at any time. This section applies to persons convicted on or  
11 after the effective date of this section.

12        NEW SECTION.    **Sec. 5.**    This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 July 1, 2011.

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