

# FINAL BILL REPORT

## 2ESSB 5892

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Synopsis as Enacted

**Brief Description:** Reducing corrections costs.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove and Kline).

**Senate Committee on Ways & Means**  
**House Committee on Public Safety**

**Background:** Drug Sentencing Grid. Washington's sentencing system is based on a determinate sentencing model to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences and penalties. Generally, an offender who is convicted and receives a sentence of confinement greater than one year must serve that term of confinement in a state correctional facility (prison). An offender who is convicted and receives a sentence of confinement of less than one year must serve that term of confinement in a county correctional facility (jail). An offender's sentence may be reduced by earned release time earned through "good time," defined as good behavior and good performance. An offender can accumulate earned release time while serving a sentence and during pre-sentence incarceration.

Drug offenses committed on or after July 1, 2003, are divided into three seriousness levels and sentenced according to the drug grid. Offenders sentenced for Seriousness Level 1 Drug Offenses have a current offense of one of the following:

- possession or forged prescription of a controlled substance, legend drug, or marijuana;
- manufacturing, delivering, or possession with intent to deliver marijuana; or
- using a building for drug purposes.

For an offender who has a criminal history that includes three to five prior felony offenses, the court has the discretion to impose a sentence of between 6-18 months. The result is that the court may sentence the offender to either jail or prison for the same offense. This discretionary placement does not occur at any other seriousness level and for no other completed criminal offense.

Presentence Earned Release Time. Earned release time, widely known as "good time," refers to an amount of time for which an offender receives credit based upon different factors, including the nature of the offense for which he or she is serving time and the offender's

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behavior. The Department of Corrections (DOC) may reduce an offender's term of confinement through earned release time for good behavior and good performance and may take it away for disciplinary reasons. The term of confinement for an offender incarcerated for a serious violent offense or a sex offense that is a class A felony, on or after July 1, 2003, may not be reduced by more than 10 percent via earned release time. For other DOC offenders the term of confinement may not be reduced by more than 33 percent via earned release time.

Earned early release time in county jail facilities is provided for good behavior and good performance as determined by the correctional agency having jurisdiction. A jail offender incarcerated for a serious violent offense or a class A sex offense may not have his or her term of confinement reduced by more than 15 percent via earned release time. Other jail offenders may not have their term of confinement reduced by more than 33 percent via earned release time. By practice, 22 jail facilities offer a maximum of 25 percent earned release time.

An offender serving time in a county jail facility pending sentencing may earn early release time for that time spent in custody prior to being transferred to the DOC. When the offender is transferred from the county jail to the DOC, the county jail facility certifies to the DOC the amount of time the offender spent in custody at the facility and the amount of early release time earned.

**Summary:** The Drug Sentencing Grid is modified so that any offender who commits a Seriousness Level 1 Drug offense and has a criminal history score within the range of three to five, will serve their sentence in jail unless an exceptional sentence is imposed. The DOC must report impacts of changes to the drug sentencing grid to the Legislature. The drug sentencing grid modifications sunset July 1, 2018.

For offenders transferred from a county jail to the DOC after sentencing, the county jail must certify to the DOC the amount of time the offender served in custody and the number of days of early release time lost or not earned, rather than the amount of early release time earned. The DOC must adjust the offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the DOC's facilities. The DOC is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

The DOC is required to recalculate the earned release date regardless of whether the offender's date of offense occurred prior to the effective date of the act. For offenders whose offense was committed prior to the effective date of the act, the DOC must take the time reasonably necessary to complete the recalculations but the recalculation may not extend the offender's term of incarceration.

**Votes on Final Passage:**

Senate 42 4

Second Special Session

Senate 38 10

House 55 36 (House amended)

Senate 39 9 (Senate concurred)

**Effective:** July 1, 2013.