
SUBSTITUTE HOUSE BILL 2050

State of Washington **63rd Legislature** **2013 Regular Session**

By House Appropriations (originally sponsored by Representatives Hunter, Ormsby, and Roberts)

READ FIRST TIME 04/24/13.

1 AN ACT Relating to achieving correctional savings related to
2 certification of jail time served; amending RCW 9.94A.729 and 9.92.151;
3 creating new sections; providing an effective date; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 9.94A.729 and 2011 1st sp.s. c 40 s 4 are each amended
7 to read as follows:

8 (1)(a) The term of the sentence of an offender committed to a
9 correctional facility operated by the department may be reduced by
10 earned release time in accordance with procedures that shall be
11 developed and adopted by the correctional agency having jurisdiction in
12 which the offender is confined. The earned release time shall be for
13 good behavior and good performance, as determined by the correctional
14 agency having jurisdiction. The correctional agency shall not credit
15 the offender with earned release credits in advance of the offender
16 actually earning the credits.

17 (b) Any program established pursuant to this section shall allow an
18 offender to earn early release credits for presentence incarceration.
19 If an offender is transferred from a county jail to the department, the

1 administrator of a county jail facility shall certify to the department
2 the amount of time spent in custody at the facility and the ~~((amount))~~
3 number of days of ~~((earned))~~ early release ~~((time))~~ credits lost or not
4 earned. The department may approve a jail certification from a
5 correctional agency that calculates ~~((earned))~~ early release time based
6 on the actual amount of confinement time served by the offender before
7 sentencing when an erroneous calculation of confinement time served by
8 the offender before sentencing appears on the judgment and sentence.
9 The department must adjust an offender's rate of early release listed
10 on the jail certification to be consistent with the rate applicable to
11 offenders in the department's facilities. However, the department is
12 not authorized to adjust the number of presentence early release days
13 that the jail has certified as lost or not earned.

14 (2) An offender who has been convicted of a felony committed after
15 July 23, 1995, that involves any applicable deadly weapon enhancements
16 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good
17 time credits or earned release time for that portion of his or her
18 sentence that results from any deadly weapon enhancements.

19 (3) An offender may earn early release time as follows:

20 (a) In the case of an offender convicted of a serious violent
21 offense, or a sex offense that is a class A felony, committed on or
22 after July 1, 1990, and before July 1, 2003, the aggregate earned
23 release time may not exceed fifteen percent of the sentence.

24 (b) 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
26 after July 1, 2003, the aggregate earned release time may not exceed
27 ten percent of the sentence.

28 (c) An offender is qualified to earn up to fifty percent of
29 aggregate earned release time if he or she:

30 (i) Is not classified as an offender who is at a high risk to
31 reoffend as provided in subsection (4) of this section;

32 (ii) Is not confined pursuant to a sentence for:

33 (A) A sex offense;

34 (B) A violent offense;

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

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

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

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

4 (G) A violation of, or an attempt, solicitation, or conspiracy to
5 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

6 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
7 this subsection;

8 (iv) Participates in programming or activities as directed by the
9 offender's individual reentry plan as provided under RCW 72.09.270 to
10 the extent that such programming or activities are made available by
11 the department; and

12 (v) Has not committed a new felony after July 22, 2007, while under
13 community custody.

14 (d) In no other case shall the aggregate earned release time exceed
15 one-third of the total sentence.

16 (4) The department shall perform a risk assessment of each offender
17 who may qualify for earned early release under subsection (3)(c) of
18 this section utilizing the risk assessment tool recommended by the
19 Washington state institute for public policy. Subsection (3)(c) of
20 this section does not apply to offenders convicted after July 1, 2010.

21 (5)(a) A person who is eligible for earned early release as
22 provided in this section and who will be supervised by the department
23 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
24 community custody in lieu of earned release time;

25 (b) The department shall, as a part of its program for release to
26 the community in lieu of earned release, require the offender to
27 propose a release plan that includes an approved residence and living
28 arrangement. All offenders with community custody terms eligible for
29 release to community custody in lieu of earned release shall provide an
30 approved residence and living arrangement prior to release to the
31 community;

32 (c) The department may deny transfer to community custody in lieu
33 of earned release time if the department determines an offender's
34 release plan, including proposed residence location and living
35 arrangements, may violate the conditions of the sentence or conditions
36 of supervision, place the offender at risk to violate the conditions of
37 the sentence, place the offender at risk to reoffend, or present a risk

1 to victim safety or community safety. The department's authority under
2 this section is independent of any court-ordered condition of sentence
3 or statutory provision regarding conditions for community custody;

4 (d) If the department is unable to approve the offender's release
5 plan, the department may do one or more of the following:

6 (i) Transfer an offender to partial confinement in lieu of earned
7 early release for a period not to exceed three months. The three
8 months in partial confinement is in addition to that portion of the
9 offender's term of confinement that may be served in partial
10 confinement as provided in RCW 9.94A.728(5);

11 (ii) Provide rental vouchers to the offender for a period not to
12 exceed three months if rental assistance will result in an approved
13 release plan. The voucher must be provided in conjunction with
14 additional transition support programming or services that enable an
15 offender to participate in services including, but not limited to,
16 substance abuse treatment, mental health treatment, sex offender
17 treatment, educational programming, or employment programming;

18 (e) For each offender who is the recipient of a rental voucher, the
19 department shall include, concurrent with the data that the department
20 otherwise obtains and records, the housing status of the offender for
21 the duration of the offender's supervision.

22 (6) An offender serving a term of confinement imposed under RCW
23 9.94A.670(5)(a) is not eligible for earned release credits under this
24 section.

25 **Sec. 2.** RCW 9.92.151 and 2009 c 28 s 3 are each amended to read as
26 follows:

27 (1) Except as provided in subsection (2) of this section, the
28 sentence of a prisoner confined in a county jail facility for a felony,
29 gross misdemeanor, or misdemeanor conviction may be reduced by earned
30 release credits in accordance with procedures that shall be developed
31 and promulgated by the correctional agency having jurisdiction. The
32 earned early release time shall be for good behavior and good
33 performance as determined by the correctional agency having
34 jurisdiction. Any program established pursuant to this section shall
35 allow an offender to earn early release credits for presentence
36 incarceration. The correctional agency shall not credit the offender
37 with earned early release credits in advance of the offender actually

1 earning the credits. In the case of an offender convicted of a serious
2 violent offense or a sex offense that is a class A felony committed on
3 or after 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 (2) An offender serving a term of confinement imposed under RCW
8 9.94A.670(5)(a) is not eligible for earned release credits under this
9 section.

10 (3) If an offender is transferred from a county jail to the
11 department, the administrator of a county jail facility shall certify
12 to the department the amount of time spent in custody at the facility
13 and the number of days of early release credits lost or not earned.

14 NEW SECTION. Sec. 3. Pursuant to section 1 of this act, the
15 department shall recalculate the earned release date for any offender
16 currently serving a term in a facility or institution either operated
17 by the state or utilized under contract. The earned release date shall
18 be recalculated whether the offender is currently incarcerated or is
19 sentenced after the effective date of this section, and regardless of
20 the offender's date of offense. For offenders whose offense was
21 committed prior to the effective date of this section, the
22 recalculation shall not extend a term of incarceration beyond that to
23 which an offender is currently subject.

24 NEW SECTION. Sec. 4. The legislature declares that section 3 of
25 this act does not create any liberty interest. The department is
26 authorized to take the time reasonably necessary to complete the
27 recalculations of section 3 of this act after the effective date of
28 this act.

29 NEW SECTION. Sec. 5. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 2013.

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