
SUBSTITUTE HOUSE BILL 1798

State of Washington

68th Legislature

2024 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representatives Doglio, Simmons, Reed, Ormsby, and Gregerson; by request of Department of Corrections)

READ FIRST TIME 01/22/24.

1 AN ACT Relating to allowed earned release time for certain
2 offenses and enhancements; and amending RCW 9.94A.729.

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

4 **Sec. 1.** RCW 9.94A.729 and 2022 c 29 s 1 are each amended to read
5 as follows:

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

15 (b) Any program established pursuant to this section shall allow
16 an offender to earn ((early)) earned release time credits for
17 presentence incarceration. If an offender is transferred from a
18 county jail to the department, the administrator of a county jail
19 facility shall certify to the department the amount of time spent in
20 custody at the facility and the number of days of ((early)) earned
21 release time credits lost or not earned. The department may approve a

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

12 (c) Upon an offender's transfer to the department, and at any
13 time an offender's earned release time credits are recalculated, the
14 department must notify the victims and survivors of victims of any
15 crimes for which the offender has been convicted of the offender's
16 earned release date.

17 (2) (a) An offender who has been convicted of a felony committed
18 after July 23, 1995, and before July 1, 2024, that involves any
19 applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4),
20 or both, shall not receive any good time credits or earned release
21 time for that portion of his or her sentence that results from any
22 deadly weapon enhancements.

23 (b) An offender whose sentence includes any impaired driving
24 enhancements under RCW 9.94A.533(7), minor child enhancements under
25 RCW 9.94A.533(13), or both, for offenses committed before July 1,
26 2024, shall not receive any good time credits or earned release time
27 for any portion of his or her sentence that results from those
28 enhancements.

29 (3) An offender who is sentenced for offenses committed before
30 July 1, 2024, may earn early release time as follows:

31 (a) In the case of an offender sentenced pursuant to RCW
32 10.95.030((+3)) (2) or 10.95.035, the offender may not receive any
33 earned early release time during the minimum term of confinement
34 imposed by the court; for any remaining portion of the sentence
35 served by the offender, the aggregate earned release time may not
36 exceed 10 percent of the sentence.

37 (b) In the case of an offender convicted of a serious violent
38 offense, or a sex offense that is a class A felony, committed on or
39 after July 1, 1990, and before July 1, 2003, the aggregate earned
40 release time may not exceed 15 percent of the sentence.

1 (c) 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
3 after July 1, 2003, and before July 1, 2024, the aggregate earned
4 release time may not exceed 10 percent of the sentence.

5 (d) An offender is qualified to earn up to 50 percent of
6 aggregate earned release time if he or she:

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

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

10 (A) A sex offense;

11 (B) A violent offense;

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

13 (D) A felony that is domestic violence as defined in RCW
14 10.99.020;

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

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

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

22 (iii) Has no prior conviction for the offenses listed in (d)(ii)
23 of this subsection;

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

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

30 (e) In no other case shall the aggregate earned release time
31 exceed one-third of the total sentence.

32 (4) The department shall perform a risk assessment of each
33 offender who may qualify for earned early release under subsection
34 (3)(d) of this section utilizing the risk assessment tool recommended
35 by the Washington state institute for public policy. Subsection
36 (3)(d) of this section does not apply to offenders convicted after
37 July 1, 2010.

38 (5)(a) A person who is eligible for earned early release as
39 provided in this section and who will be supervised by the department

1 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
2 community custody in lieu of earned release time;

3 (b) The department shall, as a part of its program for release to
4 the community in lieu of earned release, require the offender to
5 propose a release plan that includes an approved residence and living
6 arrangement. All offenders with community custody terms eligible for
7 release to community custody in lieu of earned release shall provide
8 an approved residence and living arrangement prior to release to the
9 community;

10 (c) The department may deny transfer to community custody in lieu
11 of earned release time if the department determines an offender's
12 release plan, including proposed residence location and living
13 arrangements, may violate the conditions of the sentence or
14 conditions of supervision, place the offender at risk to violate the
15 conditions of the sentence, place the offender at risk to reoffend,
16 or present a risk to victim safety or community safety. The
17 department's authority under this section is independent of any
18 court-ordered condition of sentence or statutory provision regarding
19 conditions for community custody;

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

22 (i) Transfer an offender to partial confinement in lieu of earned
23 early release for a period not to exceed three months. The three
24 months in partial confinement is in addition to that portion of the
25 offender's term of confinement that may be served in partial
26 confinement as provided in RCW 9.94A.728(1)(e);

27 (ii) Provide rental vouchers to the offender for a period not to
28 exceed six months if rental assistance will result in an approved
29 release plan.

30 A voucher must be provided in conjunction with additional
31 transition support programming or services that enable an offender to
32 participate in services including, but not limited to, substance
33 abuse treatment, mental health treatment, sex offender treatment,
34 educational programming, or employment programming;

35 (e) The department shall maintain a list of housing providers
36 that meets the requirements of RCW 72.09.285. If more than two
37 voucher recipients will be residing per dwelling unit, as defined in
38 RCW 59.18.030, rental vouchers for those recipients may only be paid
39 to a housing provider on the department's list((

1 ~~(f) For each offender who is the recipient of a rental voucher,~~
2 ~~the department shall gather data as recommended by the Washington~~
3 ~~state institute for public policy in order to best demonstrate~~
4 ~~whether rental vouchers are effective in reducing recidivism)).~~

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

8 (7)(a) An offender may accrue earned release time up to 33.33
9 percent of the total sentence for offenses committed on or after July
10 1, 2024, including sentence enhancements under RCW 9.94A.533, except
11 that the following are ineligible for earned release time under this
12 subsection:

13 (i) A federal sentence served in the department's custody;

14 (ii) An out-of-state sentence served at the department;

15 (iii) A juvenile sentence under Title 13 RCW;

16 (iv) A less restrictive alternative under chapter 71.05 RCW;

17 (v) A civil commitment under chapter 10.77 RCW;

18 (vi) A mandatory minimum sentence under RCW 9.94A.540;

19 (vii) A persistent offender sentence under RCW 9.94A.570;

20 (viii) A special sex offender sentencing alternative under RCW
21 9.94A.670; and

22 (ix) An aggravated first degree murder sentence imposed on an
23 adult under RCW 10.95.030.

24 (b) A sentence imposed on a juvenile under RCW 10.95.030 or
25 10.95.035 is ineligible for earned release time during the minimum
26 term of confinement imposed by the court; for any remaining portion
27 of the sentence, the aggregate earned release time may not exceed
28 33.33 percent.

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