
SECOND SUBSTITUTE HOUSE BILL 1798

State of Washington

68th Legislature

2024 Regular Session

By House Appropriations (originally sponsored by Representatives Doglio, Simmons, Reed, Ormsby, and Gregerson; by request of Department of Corrections)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to allowed earned release time for certain
2 offenses and enhancements; amending RCW 9.94A.729, 72.09.710, and
3 72.09.712; and creating a new section.

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

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

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

16 (b) Any program established pursuant to this section shall allow
17 an offender to earn ((early)) earned release time credits for
18 presentence incarceration. If an offender is transferred from a
19 county jail to the department, the administrator of a county jail
20 facility shall certify to the department the amount of time spent in
21 custody at the facility and the number of days of ((early)) earned

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

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

19 (b) An offender whose sentence includes any impaired driving
20 enhancements under RCW 9.94A.533(7), minor child enhancements under
21 RCW 9.94A.533(13), or both, for offenses committed before July 1,
22 2024, shall not receive any good time credits or earned release time
23 for any portion of his or her sentence that results from those
24 enhancements.

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

27 (a) In the case of an offender sentenced pursuant to RCW
28 10.95.030((+3)) (2) or 10.95.035, the offender may not receive any
29 earned early release time during the minimum term of confinement
30 imposed by the court; for any remaining portion of the sentence
31 served by the offender, the aggregate earned release time may not
32 exceed 10 percent of the sentence.

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

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

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

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

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

6 (A) A sex offense;

7 (B) A violent offense;

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

9 (D) A felony that is domestic violence as defined in RCW
10 10.99.020;

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

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

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

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

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

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

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

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

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

38 (b) The department shall, as a part of its program for release to
39 the community in lieu of earned release, require the offender to
40 propose a release plan that includes an approved residence and living

1 arrangement. All offenders with community custody terms eligible for
2 release to community custody in lieu of earned release shall provide
3 an approved residence and living arrangement prior to release to the
4 community;

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

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

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

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

25 A voucher must be provided in conjunction with additional
26 transition support programming or services that enable an offender to
27 participate in services including, but not limited to, substance
28 abuse treatment, mental health treatment, sex offender treatment,
29 educational programming, or employment programming;

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

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

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

4 (7)(a) An offender may accrue earned release time up to 33.33
5 percent of the total sentence for offenses committed on or after July
6 1, 2024, including sentence enhancements under RCW 9.94A.533, except
7 that the following are ineligible for earned release time under this
8 subsection:

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

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

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

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

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

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

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

16 (viii) A special sex offender sentencing alternative under RCW
17 9.94A.670; and

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

20 (b) A sentence imposed on a juvenile under RCW 10.95.030 or
21 10.95.035 is ineligible for earned release time during the minimum
22 term of confinement imposed by the court; for any remaining portion
23 of the sentence, the aggregate earned release time may not exceed
24 33.33 percent.

25 **Sec. 2.** RCW 72.09.710 and 2023 c 391 s 3 are each amended to
26 read as follows:

27 (1) At the earliest possible date, and in no event later than ten
28 days before release except in the event of escape or emergency
29 furloughs as defined in RCW 72.66.010, the department of corrections
30 shall send written notice of parole, community custody, work release
31 placement, furlough, or escape about a specific inmate convicted of a
32 serious drug offense to the following if such notice has been
33 requested in writing about a specific inmate convicted of a serious
34 drug offense:

35 (a) Any witnesses who testified against the inmate in any court
36 proceedings involving the serious drug offense; and

37 (b) Any person specified in writing by the prosecuting attorney.
38 Information regarding witnesses requesting the notice, information
39 regarding any other person specified in writing by the prosecuting

1 attorney to receive the notice, and the notice are confidential and
2 shall not be available to the inmate.

3 (2) If an inmate convicted of a serious drug offense escapes from
4 a correctional facility, the department of corrections shall
5 immediately notify, by the most reasonable and expedient means
6 available, the chief of police of the city and the sheriff of the
7 county in which the inmate resided immediately before the inmate's
8 arrest and conviction. If previously requested, the department shall
9 also notify the witnesses who are entitled to notice under this
10 section. If the inmate is recaptured, the department shall send
11 notice to the persons designated in this subsection as soon as
12 possible but in no event later than two working days after the
13 department learns of such recapture.

14 (3) Any time earned time credits are recalculated pursuant to RCW
15 9.94A.729 for an inmate convicted of a serious drug offense who is
16 incarcerated in a correctional facility, the department of
17 corrections shall notify the chief of police of the city and the
18 sheriff of the county in which the inmate resided immediately before
19 the inmate's arrest and conviction. If previously requested, the
20 department shall also notify the witnesses who are entitled to notice
21 under this section.

22 (4) If any witness is under the age of sixteen, the notice
23 required by this section shall be sent to the parents or legal
24 guardian of the child.

25 ~~((4))~~ (5) The department of corrections shall send the notices
26 required by this section to the last address provided to the
27 department by the requesting party. The requesting party shall
28 furnish the department with a current address.

29 ~~((5))~~ (6) For purposes of this section, "serious drug offense"
30 means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2)
31 (a) or (b).

32 ~~((6))~~ (7) Information and records prepared, owned, used, or
33 retained by the department of corrections that reveal any
34 notification or request for notification regarding any specific
35 individual, or that reveal the identity, location of, or any
36 information submitted by a person who requests or is invited to
37 enroll for notification under subsection (1) of this section, are
38 exempt from public inspection and copying under chapter 42.56 RCW.

1 **Sec. 3.** RCW 72.09.712 and 2023 c 391 s 1 are each amended to
2 read as follows:

3 (1) At the earliest possible date, and in no event later than
4 thirty days before release except in the event of escape or emergency
5 furloughs as defined in RCW 72.66.010, the department of corrections
6 shall send written notice of parole, release, community custody, work
7 release placement, furlough, or escape about a specific inmate
8 convicted of a violent offense, a sex offense as defined by RCW
9 9.94A.030, a domestic violence court order violation pursuant to RCW
10 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070,
11 or any of the former RCW 26.50.110 and 74.34.145, a felony harassment
12 offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence
13 offense as defined by RCW 10.99.020, an assault in the third degree
14 offense as defined by RCW 9A.36.031, an unlawful imprisonment offense
15 as defined by RCW 9A.40.040, a custodial interference in the first
16 degree offense as defined by RCW 9A.40.060, a luring offense as
17 defined by RCW 9A.40.090, a coercion into involuntary servitude
18 offense as defined by RCW 9A.40.110, a criminal gang intimidation
19 offense as defined by RCW 9A.46.120, an intimidating a public servant
20 offense as defined by RCW 9A.76.180, an intimidation or harassment
21 with an explosive offense as defined by RCW 70.74.275, a vehicular
22 homicide by disregard for the safety of others offense as defined by
23 RCW 46.61.520, or a controlled substances homicide offense as defined
24 by RCW 69.50.415, to the following:

25 (a) The chief of police of the city, if any, in which the inmate
26 will reside or in which placement will be made in a work release
27 program; and

28 (b) The sheriff of the county in which the inmate will reside or
29 in which placement will be made in a work release program.

30 The sheriff of the county where the offender was convicted shall
31 be notified if the department does not know where the offender will
32 reside. The department shall notify the state patrol of the release
33 of all sex offenders, and that information shall be placed in the
34 Washington crime information center for dissemination to all law
35 enforcement.

36 (2) The same notice as required by subsection (1) of this section
37 shall be sent to the following if such notice has been requested in
38 writing about a specific inmate convicted of a violent offense, a sex
39 offense as defined by RCW 9.94A.030, a domestic violence court order
40 violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300,

1 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and
2 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or
3 9A.46.110, a domestic violence offense as defined by RCW 10.99.020,
4 an assault in the third degree offense as defined by RCW 9A.36.031,
5 an unlawful imprisonment offense as defined by RCW 9A.40.040, a
6 custodial interference in the first degree offense as defined by RCW
7 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion
8 into involuntary servitude offense as defined by RCW 9A.40.110, a
9 criminal gang intimidation offense as defined by RCW 9A.46.120, an
10 intimidating a public servant offense as defined by RCW 9A.76.180, an
11 intimidation or harassment with an explosive offense as defined by
12 RCW 70.74.275, a vehicular homicide by disregard for the safety of
13 others offense as defined by RCW 46.61.520, or a controlled
14 substances homicide offense as defined by RCW 69.50.415:

15 (a) The victim of the crime for which the inmate was convicted or
16 the victim's next of kin if the crime was a homicide;

17 (b) Any witnesses who testified against the inmate in any court
18 proceedings involving the violent offense;

19 (c) Any person specified in writing by the prosecuting attorney;
20 and

21 (d) Any person who requests such notice about a specific inmate
22 convicted of a sex offense as defined by RCW 9.94A.030 from the
23 department of corrections at least sixty days prior to the expected
24 release date of the offender.

25 Information regarding victims, next of kin, or witnesses
26 requesting the notice, information regarding any other person
27 specified in writing by the prosecuting attorney to receive the
28 notice, and the notice are confidential and shall not be available to
29 the inmate. Whenever the department of corrections mails notice
30 pursuant to this subsection and the notice is returned as
31 undeliverable, the department shall attempt alternative methods of
32 notification, including a telephone call to the person's last known
33 telephone number.

34 (3) The existence of the notice requirements contained in
35 subsections (1) and (2) of this section shall not require an
36 extension of the release date in the event that the release plan
37 changes after notification.

38 (4) If an inmate convicted of a violent offense, a sex offense as
39 defined by RCW 9.94A.030, a domestic violence court order violation
40 pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300,

1 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and
2 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or
3 9A.46.110, a domestic violence offense as defined by RCW 10.99.020,
4 an assault in the third degree offense as defined by RCW 9A.36.031,
5 an unlawful imprisonment offense as defined by RCW 9A.40.040, a
6 custodial interference in the first degree offense as defined by RCW
7 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion
8 into involuntary servitude offense as defined by RCW 9A.40.110, a
9 criminal gang intimidation offense as defined by RCW 9A.46.120, an
10 intimidating a public servant offense as defined by RCW 9A.76.180, an
11 intimidation or harassment with an explosive offense as defined by
12 RCW 70.74.275, a vehicular homicide by disregard for the safety of
13 others offense as defined by RCW 46.61.520, or a controlled
14 substances homicide offense as defined by RCW 69.50.415, escapes from
15 a correctional facility, the department of corrections shall
16 immediately notify, by the most reasonable and expedient means
17 available, the chief of police of the city and the sheriff of the
18 county in which the inmate resided immediately before the inmate's
19 arrest and conviction. If previously requested, the department shall
20 also notify the witnesses and the victim of the crime for which the
21 inmate was convicted or the victim's next of kin if the crime was a
22 homicide. If the inmate is recaptured, the department shall send
23 notice to the persons designated in this subsection as soon as
24 possible but in no event later than two working days after the
25 department learns of such recapture.

26 (5) Any time earned time credits are recalculated pursuant to RCW
27 9.94A.729 for an inmate convicted of any offense listed in subsection
28 (1) of this section who is incarcerated in a correctional facility,
29 the department of corrections shall notify the chief of police of the
30 city and the sheriff of the county in which the inmate resided
31 immediately before the inmate's arrest and conviction. If previously
32 requested, the department shall also notify the victims, next of kin,
33 or witnesses who are entitled to notice under this section.

34 (6) If the victim, the victim's next of kin, or any witness is
35 under the age of sixteen, the notice required by this section shall
36 be sent to the parents or legal guardian of the child.

37 ~~((6))~~ (7) The department of corrections shall send the notices
38 required by this chapter to the last address provided to the
39 department by the requesting party. The requesting party shall
40 furnish the department with a current address.

1 (~~(7)~~) (8) The department of corrections shall keep, for a
2 minimum of two years following the release of an inmate, the
3 following:

4 (a) A document signed by an individual as proof that that person
5 is registered in the victim or witness notification program; and

6 (b) A receipt showing that an individual registered in the victim
7 or witness notification program was mailed a notice, at the
8 individual's last known address, upon the release or movement of an
9 inmate.

10 (~~(8)~~) (9) For purposes of this section the following terms have
11 the following meanings:

12 (a) "Violent offense" means a violent offense under RCW
13 9.94A.030;

14 (b) "Next of kin" means a person's spouse, state registered
15 domestic partner, parents, siblings and children.

16 (~~(9)~~) (10) Nothing in this section shall impose any liability
17 upon a chief of police of a city or sheriff of a county for failing
18 to request in writing a notice as provided in subsection (1) of this
19 section.

20 (~~(10)~~) (11) Information and records prepared, owned, used, or
21 retained by the department of corrections that reveal any
22 notification or request for notification regarding any specific
23 individual, or that reveal the identity, location of, or any
24 information submitted by a person who requests or is invited to
25 enroll for notification under subsection (2) of this section, are
26 exempt from public inspection and copying under chapter 42.56 RCW.

27 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2024, in the omnibus appropriations act, this
30 act is null and void.

--- END ---