

RCW 9.94A.729 Earned release time—Risk assessments. (1) (a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

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

(b) An offender whose sentence includes any impaired driving enhancements under RCW 9.94A.533(7), minor child enhancements under RCW 9.94A.533(13), or both, shall not receive any good time credits or earned release time for any portion of his or her sentence that results from those enhancements.

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

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

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

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed 10 percent of the sentence.

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

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

- (ii) Is not confined pursuant to a sentence for:
 - (A) A sex offense;
 - (B) A violent offense;
 - (C) A crime against persons as defined in RCW 9.94A.411;
 - (D) A felony that is domestic violence as defined in RCW 10.99.020;
 - (E) A violation of RCW 9A.52.025 (residential burglary);
 - (F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or
 - (G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
 - (iii) Has no prior conviction for the offenses listed in (d)(ii) of this subsection;
 - (iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and
 - (v) Has not committed a new felony after July 22, 2007, while under community custody.
- (e) In no other case shall the aggregate earned release time exceed one-third of the total sentence.
- (4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.
- (5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or **9.94A.5011, shall be transferred to community custody in lieu of earned release time;
- (b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;
- (c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;
- (d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:
- (i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(1)(e);

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

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

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

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

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section. [2022 c 29 s 1; 2020 c 330 s 2; 2015 c 134 s 4; 2014 c 130 s 4. Prior: 2013 2nd sp.s. c 14 s 2; 2013 c 266 s 1; 2011 1st sp.s. c 40 s 4; 2010 c 224 s 7; 2009 c 455 s 3.]

Reviser's note: *(1) RCW 10.95.030 was amended by 2023 c 102 s 20, changing subsection (3) to subsection (2).

** (2) RCW 9.94A.5011 expired August 1, 2014.

Housing voucher program outcome evaluation and benefit-cost analysis—2022 c 29: "Subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall conduct an outcome evaluation and benefit-cost analysis of Washington's housing voucher program to account for the expansion of the program under RCW 9.94A.729 and 72.02.100. The analysis should take into account impacts on homelessness, recidivism, criminal justice costs, use of public services, and other factors determined to be appropriate by the institute. The department of corrections shall cooperate with the institute to facilitate access to data or other resources necessary to complete the analysis required under this section. The institute shall submit a final report to the governor and appropriate committees of the legislature by November 1, 2025." [2022 c 29 s 6.]

Transfer of residual funds to the general fund—2022 c 29: "The state treasurer shall transfer all residual funds in the cost of supervision fund to the general fund on June 30, 2022." [2022 c 29 s 15.]

Effective date—2020 c 330: "Sections 2, 3, 5 through 12, and 14 through 18 of this act take effect January 1, 2022." [2020 c 330 s 20.]

Effective date—2015 c 134: See note following RCW 9.94A.501.

Application—Effective date—2014 c 130: See notes following RCW 9.94A.510.

Application—Recalculation of earned release date—Compilation of sentencing information—Report—Effective date—2013 2nd sp.s. c 14: See notes following RCW 9.94A.517.

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Effective date—2011 1st sp.s. c 40 ss 1-9, 42: See note following RCW 9.94A.501.

Effective date—2009 c 455 s 3: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2009]." [2009 c 455 s 7.]