
HOUSE BILL 1962

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Mielke, Hargrove, Tate, Riley, Appelwick, Winsley, McLean, Ludwig, Kremen, Vance, R. Meyers, Zellinsky, Hochstatter, Beck, Heavey, P. Johnson, Broback, Orr, Sheldon, Nelson, Dellwo, Brekke, Jacobsen, Locke, Anderson, Dorn, R. Johnson, Day, Peery, Scott, Brumsickle, Leonard, Forner, Casada, Edmondson, Silver, Padden, Paris, Lisk, Fuhrman, Morton, May, Mitchell, Chandler, Nealey, Betrozoff, Moyer, Ballard, Horn, D. Sommers, Neher, Wood, Holland, Van Luven, Bowman, Ferguson, Wynne, Miller and Inslee.

Read first time February 15, 1991. Referred to Committee on Human Services.

1 AN ACT Relating to earned early release time; and amending RCW
2 9.94A.150, 9.95.070, and 72.09.130.

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

4 **Sec. 1.** RCW 9.94A.150 and 1990 c 3 s 202 are each amended to read
5 as follows:

6 No person serving a sentence imposed pursuant to this chapter and
7 committed to the custody of the department shall leave the confines of
8 the correctional facility or be released prior to the expiration of the
9 sentence except as follows:

10 (1) Except as otherwise provided for in subsections (2) and (9) of
11 this section, the term of the sentence of an offender committed to a
12 correctional facility operated by the department, may be reduced by
13 earned early release time in accordance with procedures that shall be
14 developed and promulgated by the correctional agency having
15 jurisdiction in which the offender is confined. The earned early

1 release time shall be for good behavior and good performance, as
2 determined by the correctional agency having jurisdiction. The
3 correctional agency shall not credit the offender with earned early
4 release credits in advance of the offender actually earning the
5 credits. Any program established pursuant to this section shall allow
6 an offender to earn early release credits for presentence
7 incarceration. If an offender is transferred from a county jail to the
8 department of corrections, the county jail facility shall certify to
9 the department the amount of time spent in custody at the facility and
10 the amount of earned early release time. In the case of an offender
11 convicted of a serious violent offense or a sex offense that is a class
12 A felony committed on or after July 1, 1990, the aggregate earned early
13 release time may not exceed fifteen percent of the sentence. In no
14 other case shall the aggregate earned early release time exceed one-
15 third of the total sentence;

16 (2) A person convicted of a sex offense or an offense categorized
17 as a serious violent offense, assault in the second degree, any crime
18 against a person where it is determined in accordance with RCW
19 9.94A.125 that the defendant or an accomplice was armed with a deadly
20 weapon at the time of commission, or any felony offense under chapter
21 69.50 or 69.52 RCW may become eligible, in accordance with a program
22 developed by the department, for transfer to community custody status
23 in lieu of earned early release time pursuant to subsection (1) of this
24 section;

25 (3) An offender may leave a correctional facility pursuant to an
26 authorized furlough or leave of absence. In addition, offenders may
27 leave a correctional facility when in the custody of a corrections
28 officer or officers;

29 (4) The governor, upon recommendation from the clemency and pardons
30 board, may grant an extraordinary release for reasons of serious health

1 problems, senility, advanced age, extraordinary meritorious acts, or
2 other extraordinary circumstances;

3 (5) No more than the final six months of the sentence may be served
4 in partial confinement designed to aid the offender in finding work and
5 reestablishing him or herself in the community;

6 (6) The governor may pardon any offender;

7 (7) The department of corrections may release an offender from
8 confinement any time within ten days before a release date calculated
9 under this section; (~~and~~)

10 (8) An offender may leave a correctional facility prior to
11 completion of his or her sentence if the sentence has been reduced as
12 provided in RCW 9.94A.160; and

13 (9)(a) Every person sentenced to a total of more than thirty months
14 of total confinement in a correctional institution under the
15 jurisdiction of the department of corrections must satisfactorily
16 complete a high school education or achieve an equivalent score on the
17 general educational development test before any earned early release
18 time may be used to reduce the person's term of total confinement.

19 (b)(i) This subsection does not apply to any person determined by
20 the director of education programs within the department of corrections
21 to be incapable of completing the educational program. A person may be
22 determined to be incapable due to one of the following reasons only:

23 (A) The person has a chronic mental deficiency;

24 (B) The person is considered mentally retarded;

25 (C) A physical disability makes completion of the educational
26 program impossible;

27 (D) A serious physical or mental illness makes completion of the
28 educational program impossible.

29 (ii) This subsection (9)(b) may not be used to control inmate
30 population levels.

1 (c) Failure to complete the requirements of this subsection (9) may
2 not be used as the basis for extending a person's original term of
3 confinement.

4 **Sec. 2.** RCW 9.95.070 and 1955 c 133 s 8 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, every
7 prisoner who has a favorable record of conduct at the penitentiary or
8 the reformatory, and who performs in a faithful, diligent, industrious,
9 orderly and peaceable manner the work, duties, and tasks assigned to
10 him or her to the satisfaction of the superintendent of the
11 penitentiary or reformatory, and in whose behalf the superintendent of
12 the penitentiary or reformatory files a report certifying that his or
13 her conduct and work have been meritorious and recommending allowance
14 of time credits to him or her, shall upon, but not until, the adoption
15 of such recommendation by the indeterminate sentence review board ((of
16 prison terms and paroles)), be allowed time credit reductions from the
17 term of imprisonment fixed by the indeterminate sentence review board
18 ((of prison terms and paroles)).

19 (2)(a) Every person sentenced to a total of more than thirty
20 months of total confinement in a correctional institution under the
21 jurisdiction of the department of corrections must satisfactorily
22 complete a high school education or achieve an equivalent score on the
23 general educational development test before any earned time credits may
24 be used to reduce the person's term of total confinement.

25 (b)(i) This subsection does not apply to any person determined by
26 the director of education programs within the department of corrections
27 to be incapable of completing the educational program. A person may be
28 determined to be incapable due to one of the following reasons only:

29 (A) The person has a chronic mental deficiency;

1 (B) The person is considered mentally retarded;

2 (C) A physical disability makes completion of the educational
3 program impossible;

4 (D) A serious physical or mental illness makes completion of the
5 educational program impossible.

6 (ii) This subsection (2)(b) may not be used to control inmate
7 population levels.

8 (c) Failure to complete the requirements of this subsection (2) may
9 not be used as the basis for extending a person's original term of
10 confinement.

11 **Sec. 3.** RCW 72.09.130 and 1981 c 136 s 17 are each amended to read
12 as follows:

13 (1) The department shall adopt a system providing incentives for
14 good conduct and disincentives for poor conduct. The system may
15 include increases or decreases in the degree of liberty granted the
16 inmate within the programs operated by the department and recommended
17 increases or decreases in the number of earned early release days that
18 an inmate can earn for good conduct and good performance. Earned early
19 release days shall be recommended by the department as a form of
20 tangible reward for accomplishment. The system shall be fair,
21 measurable, and understandable to offenders, staff, and the public. At
22 least once in each twelve-month period, the department shall inform the
23 offender in writing as to his or her conduct and performance. This
24 written evaluation shall include reasons for awarding or not awarding
25 recommended earned early release days for good conduct and good
26 performance. The term "good performance" as used in this section means
27 successfully performing a work, work training, or educational task to
28 levels of expectation as specified in writing by the department. The

1 term "good conduct" as used in this section refers to compliance with
2 department rules.

3 Within one year after July 1, 1981, the department shall adopt, and
4 provide a written description of, the system. The department shall
5 provide a copy of this description to each offender in its custody.

6 (2)(a) The system adopted pursuant to this section shall provide
7 that every person sentenced to a total of more than thirty months of
8 total confinement in a correctional institution under the jurisdiction
9 of the department of corrections must satisfactorily complete a high
10 school education or achieve an equivalent score on the general
11 educational development test before any earned early release time may
12 be used to reduce the person's term of total confinement.

13 (b)(i) This subsection does not apply to any person determined by
14 the director of education programs within the department of corrections
15 to be incapable of completing the educational program. A person may be
16 determined to be incapable due to one of the following reasons only:

17 (A) The person has a chronic mental deficiency;

18 (B) The person is considered mentally retarded;

19 (C) A physical disability makes completion of the educational
20 program impossible;

21 (D) A serious physical or mental illness makes completion of the
22 educational program impossible.

23 (ii) This subsection (2)(b) may not be used to control inmate
24 population levels.

25 (c) Failure to complete the requirements of this subsection (2)
26 may not be used as the basis for extending a person's original term of
27 confinement.