

SENATE BILL REPORT

SB 5282

As Reported By Senate Committee On:
Human Services & Corrections, February 14, 2005

Title: An act relating to a clarification of the earned release time provisions for offenders held in city or county jails.

Brief Description: Clarifying earned release provisions that apply to city and county jails.

Sponsors: Senators Kline, Hargrove, Mulliken, Fairley and Thibaudeau.

Brief History:

Committee Activity: Human Services & Corrections: 1/25/05, 2/14/05 [DPS, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5282 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, McAuliffe and Thibaudeau.

Minority Report: Do not pass.
Signed by Senator Carrell.

Staff: Fara Daun (786-7459)

Background: "Earned release" means the amount of time by which an offender can reduce the amount of time he or she is confined. It is earned by successful participation in required work, education, treatment, and other programming and by appropriate behavior. It can be lost in a disciplinary hearing for infractions or by a refusal to participate in required programming. Earned release time is not discretionary for the authority that confines a person. Maximum amounts of earned release are set in statute.

In 2003, the state law determining the maximum amounts of earned release that offenders could accrue changed for offenders confined under the authority of the Department of Corrections (DOC) in state correctional facilities or other facilities providing beds under contract to DOC. The law did not change for offenders confined under local government authority in jails.

Under current law, offenders confined under local government authority who are convicted of a serious violent offense, or a sex offense that is a class A felony, are eligible for a maximum of 15 percent earned release time. All other offenders are eligible for a maximum of 33 percent earned release time.

Summary of Substitute Bill: Offenders convicted of serious violent offenses or sex offenses that are class A felonies committed on or after July 1, 2005 are able to earn a maximum of 10 percent earned release time if the correctional facility adopts this maximum.

Offenders convicted of offenses that are not subject to supervision in the community and offenders convicted of drug offenses may earn a maximum of 50 percent earned release time. This increase does not apply to any offender with any conviction for any of the following:

- sex offense;
- violent offense;
- crime against persons;
- residential burglary;
- felony domestic violence;
- methamphetamine manufacture, delivery or possession with intent to deliver; and
- delivering a controlled substance to a minor.

The increase to a maximum of 50 percent earned release applies retroactively, and prospectively, and expires July 1, 2010. Offenders do not have a liberty interest in the maximum earned release provision and the Legislature retains the authority to change the maximum amount of earned release an offender can earn at any time.

Substitute Bill Compared to Original Bill: Jails may, but are not required to, adopt the 50 percent earned release limits. Offenders do not have a liberty interest in the maximum earned release provision and the Legislature retains the authority to change the maximum amount of earned release an offender can earn at any time.

Appropriation: None.

Fiscal Note: Requested on January 25, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2005.

Testimony For: This applies the principles of the 2003 changes to earned release time in the prisons to the counties. It was intended to give the counties discretion to adopt or not adopt the changes and clarifying language would improve the bill. It helps prevent the problem that offenders who were eligible under the 2003 language would take a longer prison sentence in order to access the 50 percent earned release time rather than plea bargain into a jail sentence. This problem added to the burdens in courts and jails.

Testimony Against: None.

Who Testified: PRO: Senator Adam Kline, prime sponsor; Mike Whelan, Grays Harbor County Sheriff; Sophia Bird, Washington Association of Counties.