
SENATE BILL 5835

State of Washington 64th Legislature 2015 Regular Session

By Senator Darneille; by request of Department of Corrections

Read first time 02/05/15. Referred to Committee on Law & Justice.

1 AN ACT Relating to earned release time for felony convictions
2 involving deadly weapon enhancements; amending RCW 9.94A.729;
3 creating new sections; providing an effective date; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 9.94A.729 and 2014 c 130 s 4 are each amended to
7 read as follows:

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

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

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

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

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

19 (a) In the case of an offender sentenced pursuant to RCW
20 10.95.030(3) or 10.95.035, the aggregate earned release time may not
21 exceed ten percent of the sentence.

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

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

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

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

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

35 (A) A sex offense;

36 (B) A violent offense;

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

38 (D) A felony that is domestic violence as defined in RCW
39 10.99.020;

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

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

4 (G) A violation of, or an attempt, solicitation, or conspiracy to
5 violate, RCW 69.50.406 (delivery of a controlled substance to a
6 minor);

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

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

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

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

17 (~~(4)~~) (3) The department shall perform a risk assessment of
18 each offender who may qualify for earned early release under
19 subsection (~~(3)~~) (2)(d) of this section utilizing the risk
20 assessment tool recommended by the Washington state institute for
21 public policy. Subsection (~~(3)~~) (2)(d) of this section does not
22 apply to offenders convicted after July 1, 2010.

23 (~~(5)~~) (4)(a) A person who is eligible for earned early release
24 as provided in this section and who will be supervised by the
25 department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be
26 transferred to community custody in lieu of earned release time;

27 (b) The department shall, as a part of its program for release to
28 the community in lieu of earned release, require the offender to
29 propose a release plan that includes an approved residence and living
30 arrangement. All offenders with community custody terms eligible for
31 release to community custody in lieu of earned release shall provide
32 an approved residence and living arrangement prior to release to the
33 community;

34 (c) The department may deny transfer to community custody in lieu
35 of earned release time if the department determines an offender's
36 release plan, including proposed residence location and living
37 arrangements, may violate the conditions of the sentence or
38 conditions of supervision, place the offender at risk to violate the
39 conditions of the sentence, place the offender at risk to reoffend,
40 or present a risk to victim safety or community safety. The

1 department's authority under this section is independent of any
2 court-ordered condition of sentence or statutory provision regarding
3 conditions for community custody;

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

6 (i) Transfer an offender to partial confinement in lieu of earned
7 early release for a period not to exceed three months. The three
8 months in partial confinement is in addition to that portion of the
9 offender's term of confinement that may be served in partial
10 confinement as provided in RCW 9.94A.728(5);

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

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

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

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

28 ~~((+6+))~~ (5) An offender serving a term of confinement imposed
29 under RCW 9.94A.670(5)(a) is not eligible for earned release credits
30 under this section.

31 NEW SECTION. **Sec. 2.** Pursuant to section 1, chapter . . . ,
32 Laws of 2015 (section 1 of this act), the department of corrections
33 shall recalculate the earned release date for any offender currently
34 serving a term in a facility or institution either operated by the
35 state or utilized under contract. The earned release date shall be
36 recalculated whether the offender is currently incarcerated or is
37 sentenced after the effective date of this section, and regardless of
38 the offender's date of offense. For offenders whose offense was
39 committed prior to the effective date of this section, the

1 recalculation shall not extend a term of incarceration beyond that to
2 which an offender is currently subject.

3 NEW SECTION. **Sec. 3.** The legislature declares that section 2 of
4 this act does not create any liberty interest. The department of
5 corrections is authorized to take the time reasonably necessary to
6 complete the recalculations of section 2 of this act after the
7 effective date of this section.

8 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect July 1, 2015.

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