

**WAC 137-30-030 Eligibility. (1) ERT.**

(a) Offenders convicted of a serious violent offense or a class A felony sex offense may earn ERT as follows:

(i) Offense committed after June 30, 1990, and before July 1, 2003 - May not exceed fifteen percent of their sentence; and

(ii) Offense committed after June 30, 2003 - May not exceed ten percent of their sentence.

(b) Offenders convicted before July 2, 2010, who are classified as moderate or low risk may earn ERT not to exceed fifty percent of their sentence regardless of the date of offense or sentencing, provided they have not been convicted of or have a prior:

(i) Sex offense;

(ii) Violent offense;

(iii) Crime against a person, including identity theft in the first or second degree committed on or after June 7, 2006;

(iv) Felony domestic violence;

(v) Residential burglary;

(vi) Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture of, delivery of, or possession with intent to manufacture or deliver, methamphetamine;

(vii) Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(viii) Gross misdemeanor stalking;

(ix) Violation of a domestic violence court order, including gross misdemeanors; or

(x) Any new felony committed while under community supervision.

(c) Offenders may earn ERT not to exceed thirty-three and one-third percent of the sentence in all other cases not identified in this section.

(d) An offender who has transferred from one sentence within a cause number to the next sentence, or from one cause number to the next cause number, may lose ERT associated with the previous sentence or cause. ERT may be taken on a consecutive sentence that is not yet being served.

(e) Offenders found guilty of infraction 557 or 810 (WAC 137-25-030) will lose fifty percent eligibility and all available ERT and privileges as outlined by department policy. Offenders found guilty of infraction 813 related to employment or programming while in work release will also lose all available ERT and privileges.

**(2) Good conduct time.**

(a) All offenders will be eligible for good conduct time, except:

(i) Offenders sentenced to death or life without parole;

(ii) Offenders serving the mandatory or flat time enhancement portion of their sentences;

(iii) Community custody violators sanctioned by the department on or after May 2, 2012;

(iv) Offenders sanctioned to community custody prison return or community custody inmate termination; and

(v) Indeterminate offenders whose minimum term has expired and who have not been paroled or transferred to a consecutive sentence. Any good conduct time earned or denied will be addressed to the correct sentence after the parole/transfer date is determined.

(b) Offenders may lose earned and future good conduct time if found guilty of certain serious infractions listed in WAC 137-25-030 and sanctioned per department policy.

(c) The following offenders may lose their good conduct time if found guilty of a serious infraction:

(i) Indeterminate offenders whose time has not been adopted by the indeterminate sentence review board (ISRB); and

(ii) Determinate offenders.

(d) The amount of time lost will be determined by the disciplinary hearing officer/community hearing officer/ISRB.

(e) Good conduct time lost as a result of infraction 557 or 810, or of an infraction 813 related to employment or programming while in work release, cannot be restored.

(3) **Earned time.**

(a) Offenders who participate in approved programs, including work and school, are eligible for earned time for each calendar month as follows:

(i) Earned time eligible under ten percent rule - One and eleven one-hundredths days;

(ii) Earned time eligible under fifteen percent rule - One and seventy-six one-hundredths days;

(iii) Earned time eligible under thirty-three and one-third percent rule - Five days;

(iv) Earned time eligible under fifty percent rule - Ten days.

(b) Offenders are not eligible for earned time if:

(i) They are serving an indeterminate sentence, and the ISRB has:

(A) Extended the cause to the maximum term; or

(B) Previously denied future earned time.

(ii) They are not involved in mandatory programming as determined through the classification process and consistent with their custody facility plan. This includes refusing mandatory programming or being terminated from a mandatory program assignment for documented negative or substandard performance. An offender who is on a waiting list and then refuses a program assignment will not earn earned time for the month in which she or he refused.

• Offenders previously determined qualified to receive fifty percent earned time will participate in programming or activities targeted in the custody facility plan. The offender will not be penalized if programs and activities are not available.

(iii) They refuse any transfer, excluding work release. Earned time will not be earned for any calendar month the offender refuses assignment.

(iv) They serve twenty days or more in one calendar month in administrative segregation or disciplinary segregation for negative behavior or unfounded/unsubstantiated protection concerns. The offender is eligible to begin earning earned time when the superintendent approves transfer or return to general population. Offenders who are approved for transfer to general population and are scheduled for release to the community within sixty days will earn earned time unless found guilty of infraction 557 or 810, or of an infraction 813 related to employment or programming while in work release.

(v) They are serving the mandatory or flat time enhancement portion of their sentence, except for indeterminate offenders sentenced for crimes committed before July 1, 1984.

(vi) Offenders will receive a written record of all earned time denials.

(4) Offenders are not eligible for fifty percent earned time if the offender's risk management level is changed to high risk violent or high risk nonviolent; high risk violent or high risk nonviolent offenders may earn up to one-third of the sentence.

[Statutory Authority: RCW 72.01.090 and 72.09.130. WSR 15-08-066, § 137-30-030, filed 3/30/15, effective 4/30/15; WSR 14-04-121, § 137-30-030, filed 2/5/14, effective 3/8/14. Statutory Authority: RCW 72.09.130, 72.01.090, and 9.95.070. WSR 11-11-018, § 137-30-030, filed 5/9/11, effective 6/9/11.]