
**Community Safety, Justice, & Reentry
Committee**

HB 1798

Brief Description: Concerning allowed earned release time for certain offenses and enhancements.

Sponsors: Representatives Doglio, Simmons, Reed, Ormsby and Gregerson; by request of Department of Corrections.

Brief Summary of Bill

- Modifies earned release time eligibility to allow earned release time of up to 33.33 percent of the total sentence for all categories that qualify for earned time.
- Removes the prohibition on earned release time for certain sentencing enhancements.
- Requires the Department of Corrections (DOC) to recalculate earned release dates for individuals currently incarcerated.
- Removes the requirement for the DOC to conduct a risk assessment for certain individuals eligible for earned release who were convicted before July 1, 2010 and requirements related to partial confinement and community custody in lieu of earned release.

Hearing Date: 1/9/24

Staff: Lena Langer (786-7192).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

An incarcerated individual's felony sentence may be reduced by "earned release time," which is earned through good behavior and good performance, as determined by the correctional agency that has jurisdiction over the individual. An individual can accumulate earned release time while serving a sentence and during pre-sentence incarceration.

The total percentage of the sentence that may be reduced by earned release time depends on various factors, including the underlying offense and when the offense was committed. In general, for sentences eligible for earned release time, the aggregate earned release time may not exceed one-third of the total sentence. However, there are several exceptions to this general rule. The earned release time eligibility rate is 50 percent for individuals meeting certain criteria who were convicted between July 1, 2003, and July 1, 2010. Earned release time for individuals convicted of a serious violent offense or a class A felony sex offense that was committed between July 1, 1990, and July 1, 2003, is limited to 15 percent; if the offense was committed on or after July 1, 2003, the earned release time rate is 10 percent.

Certain sentences, or portions of sentences, are not eligible for earned release time. There is no earned release time eligibility for individuals sentenced under the Special Sex Offender Sentencing Alternative. An individual may not receive any earned release time for the portion of the sentence that results from certain specified enhancements, including firearm and deadly weapons enhancements, and impaired driving enhancements. An individual also may not receive any earned release time on a mandatory minimum sentence. For an individual sentenced for the crime of Aggravated Murder in the first degree committed under the age of 18, which is an indeterminate sentence that includes a mandatory minimum term, the minimum term is not eligible for earned time, but for any extension of the sentence past the mandatory minimum term the individual may accrue earned time up to 10 percent of the remaining sentence.

The Department of Corrections (DOC) is required to perform a risk assessment of certain individuals convicted before July 1, 2010, who may qualify for earned early release, using a risk assessment tool recommended by the Washington State Institute for Public Policy (WSIPP).

Certain individuals who are eligible for earned release time must be transferred to community custody in lieu of earned release time. Before transferring an individual from confinement into supervised community custody, the DOC must approve the individual's release plan, including the proposed residence and living arrangements. The DOC may deny a release plan if the proposed plan, including residence and living arrangements, places the individual at risk to reoffend, violates the conditions of the sentence or supervision, or presents a risk to victim safety or community safety. If the DOC is unable to approve a release plan, the DOC may transfer the individual to partial confinement in lieu of earned early release for up to three months or provide rental vouchers for up to six months if it will help facilitate the approval of a person's release plan. The DOC must maintain a list of housing providers that meet certain requirements for accepting rental vouchers. The DOC is required to gather data, as recommended by the WSIPP, on each individual receiving a rental voucher to determine if the vouchers are effective in reducing recidivism.

Summary of Bill:

For all sentences and portions of sentences eligible for earned release time, the earned release time rate is 33.33 percent of the total sentence. For individuals serving consecutive sentences, the 33.33 percent rate applies to sentences they are serving currently or have yet to serve, but not for sentences already served. Limits on earned release time of 10 percent, or 15 percent for certain offenses, are removed and replaced with the 33.33 percent rate. Language allowing for 50 percent earned release time for certain individuals is removed, but an individual qualified to earn up to 50 percent earned release time will not lose earned release time accrued before July 1, 2023. Additionally, firearm and deadly weapon enhancements, and impaired driving enhancements are eligible for earned release time at the same rate as the underlying offense.

The following are ineligible for earned release time:

- a federal sentence served in the Department of Corrections (DOC)'s custody;
- an out-of-state sentence served at the DOC;
- a juvenile sentence;
- a less restrictive alternative;
- a civil commitment;
- a mandatory minimum sentence;
- a persistent offender sentence;
- a Special Sex Offender Sentencing Alternative; and
- an Aggravated Murder in the first degree sentence imposed on an adult.

For an individual sentenced for the crime of Aggravated Murder in the first degree committed under the age of 18, the minimum term is not eligible for earned time, but for any extension of the sentence past the mandatory minimum term, the individual may accrue earned time up to 33.33 percent of the remaining sentence.

The DOC is required to recalculate earned release dates for all individuals currently incarcerated by the state, regardless of the date of the offense. For individuals whose offense was committed prior to the effective date of the bill, the recalculation must not extend the term of incarceration beyond that to which the individual is currently subject. The DOC is authorized to take the time reasonably necessary to complete the recalculations of earned release time.

The prohibition on a correctional agency crediting an individual with earned release credits prior to the individual earning the credits is removed.

The requirement that the DOC perform a risk assessment of certain individuals convicted before July 1, 2010, who may qualify for earned early release, is removed.

The requirement that the DOC approve an individual's release plan before transferring the individual from confinement into supervised community custody is removed. The requirement that the DOC maintain a list of housing providers that meet certain requirements for accepting rental vouchers is removed. The requirement that the DOC gather data on each individual

receiving a rental voucher to determine if the vouchers are effective in reducing recidivism is removed.

Appropriation: None.

Fiscal Note: Requested on January 4, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.