
HOUSE BILL 1161

State of Washington

68th Legislature

2023 Regular Session

By Representatives Graham, Sandlin, Christian, Jacobsen, Walsh, and Schmidt

Prefiled 01/06/23. Read first time 01/09/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to prohibiting persons convicted of violent
2 offenses with firearm enhancements from receiving earned early
3 release credits; and amending RCW 9.94A.729.

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

5 **Sec. 1.** RCW 9.94A.729 and 2022 c 29 s 1 are each amended to read
6 as follows:

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

16 (b) Any program established pursuant to this section shall allow
17 an offender to earn early release credits for presentence
18 incarceration. If an offender is transferred from a county jail to
19 the department, the administrator of a county jail facility shall
20 certify to the department the amount of time spent in custody at the
21 facility and the number of days of early release credits lost or not

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

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

17 (b) An offender whose sentence includes any impaired driving
18 enhancements under RCW 9.94A.533(7), minor child enhancements under
19 RCW 9.94A.533(13), or both, shall not receive any good time credits
20 or earned release time for any portion of his or her sentence that
21 results from those enhancements.

22 (3) ~~((An))~~ Except as provided in subsections (2) and (6) of this
23 section, an offender may earn early release time as follows:

24 (a) In the case of an offender sentenced pursuant to RCW
25 10.95.030(3) or 10.95.035, the offender may not receive any earned
26 early release time during the minimum term of confinement imposed by
27 the court; for any remaining portion of the sentence served by the
28 offender, the aggregate earned release time may not exceed 10 percent
29 of the sentence.

30 (b) In the case of an offender convicted of a serious violent
31 offense, or a sex offense that is a class A felony, committed on or
32 after July 1, 1990, and before July 1, 2003, the aggregate earned
33 release time may not exceed 15 percent of the sentence.

34 (c) In the case of an offender convicted of a serious violent
35 offense, or a sex offense that is a class A felony, committed on or
36 after July 1, 2003, the aggregate earned release time may not exceed
37 10 percent of the sentence.

38 (d) An offender is qualified to earn up to 50 percent of
39 aggregate earned release time if he or she:

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

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

4 (A) A sex offense;

5 (B) A violent offense;

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

7 (D) A felony that is domestic violence as defined in RCW
8 10.99.020;

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

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

13 (G) A violation of, or an attempt, solicitation, or conspiracy to
14 violate, RCW 69.50.406 (delivery of a controlled substance to a
15 minor);

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

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

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

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

26 (4) The department shall perform a risk assessment of each
27 offender who may qualify for earned early release under subsection
28 (3)(d) of this section utilizing the risk assessment tool recommended
29 by the Washington state institute for public policy. Subsection
30 (3)(d) of this section does not apply to offenders convicted after
31 July 1, 2010.

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

36 (b) The department shall, as a part of its program for release to
37 the community in lieu of earned release, require the offender to
38 propose a release plan that includes an approved residence and living
39 arrangement. All offenders with community custody terms eligible for
40 release to community custody in lieu of earned release shall provide

1 an approved residence and living arrangement prior to release to the
2 community;

3 (c) The department may deny transfer to community custody in lieu
4 of earned release time if the department determines an offender's
5 release plan, including proposed residence location and living
6 arrangements, may violate the conditions of the sentence or
7 conditions of supervision, place the offender at risk to violate the
8 conditions of the sentence, place the offender at risk to reoffend,
9 or present a risk to victim safety or community safety. The
10 department's authority under this section is independent of any
11 court-ordered condition of sentence or statutory provision regarding
12 conditions for community custody;

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

15 (i) Transfer an offender to partial confinement in lieu of earned
16 early release for a period not to exceed three months. The three
17 months in partial confinement is in addition to that portion of the
18 offender's term of confinement that may be served in partial
19 confinement as provided in RCW 9.94A.728(1)(e);

20 (ii) Provide rental vouchers to the offender for a period not to
21 exceed six months if rental assistance will result in an approved
22 release plan.

23 A voucher must be provided in conjunction with additional
24 transition support programming or services that enable an offender to
25 participate in services including, but not limited to, substance
26 abuse treatment, mental health treatment, sex offender treatment,
27 educational programming, or employment programming;

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

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

37 (6) (a) An offender serving a term of confinement imposed under
38 RCW 9.94A.670(5)(a) is not eligible for earned release credits under
39 this section.

1 (b) An offender serving a term of confinement for a violent
2 offense that includes a firearm enhancement under RCW 9.9A.533(3) is
3 not eligible for earned release credits under this section.

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