

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

(a) Incarcerated individuals 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 15 percent of their sentence; and

(ii) Offense committed after June 30, 2003 - May not exceed 10 percent of their sentence.

(b) Incarcerated individuals convicted before July 2, 2010, who are classified as moderate or low risk may earn ERT not to exceed 50 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) Incarcerated individuals may earn ERT not to exceed 33 and one-third percent of the sentence in all other cases not identified in this section.

(d) An incarcerated individual 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) Incarcerated individuals found guilty of infraction 557 or 810 (WAC 137-25-030) will lose 50 percent eligibility and all available ERT and privileges as outlined by department policy. Incarcerated individuals found guilty of infraction 813 related to employment or programming while in work release will also lose all available ERT and privileges.

**(2) (a) Earned release time - Eligibility.**

(b) All incarcerated individuals will be eligible for earned release time, except:

(i) Incarcerated individuals sentenced to life without parole.

(ii) Community supervision violators sanctioned by the department on or after May 2, 2012.

(iii) Incarcerated individuals who are a community custody prison (CCP) return or community custody inmate (CCI) termination.

(iv) Incarcerated individuals under board jurisdiction whose minimum term has expired and who have not been paroled or transferred to a consecutive sentence. The ERT will be addressed to the correct sentence after the parole/transfer date is determined.

(v) Juvenile board incarcerated individuals who have not completed the minimum term of confinement.

(vi) Incarcerated individuals found guilty of 557 or 810, or 813 violation related to employment or programming while in work/training release.

(vii) Incarcerated individuals found guilty of a 762 violation will lose all available earned time and programming points for the month the violation occurred.

(3) **Good conduct time.**

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

(i) Incarcerated individuals sentenced to death or life without parole;

(ii) Incarcerated individuals 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) Incarcerated individuals sanctioned to community custody prison return or community custody inmate termination; and

(v) Indeterminate incarcerated individuals 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) Incarcerated individuals 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 incarcerated individuals may lose their good conduct time if found guilty of a serious infraction:

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

(ii) Determinate incarcerated individuals.

(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.

(4) **Earned time.**

(a) Incarcerated individuals 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 10 percent rule - One and eleven one-hundredths days;

(ii) Earned time eligible under 15 percent rule - One and seventy-six one-hundredths days;

(iii) Earned time eligible under 33 and one-third percent rule - Five days.

(b) Incarcerated individuals are not eligible for earned time if:

(i) Were sentenced under the presentencing Reform Act and the board has extended the cause to the maximum term or previously denied future earned time.

(ii) Refuse any transfer, excluding work/training release.

(iii) Serve 20 consecutive days or more in restrictive housing as defined in DOC 320.255 Restrictive housing for negative behavior or unfounded/unsubstantiated protection concerns. The incarcerated individual who transfer to court from restrictive housing will not be eligible for earned time. The incarcerated individual will be eligible for earned time when authorized to transfer/return to general population. Incarcerated individuals housed in maximum custody will be eligible for earned time, including time out to court, but will not be

eligible for programming points. Incarcerated individuals must be in compliance with their current custody facility/case plan and behavior and programming plan.

(iv) Incarcerated individuals will be eligible for earned time if they are pending investigation for negative behavior in administrative segregation and the investigation does not result in serious violation(s) and/or custody demotion.

(v) They are not involved in programming as determined through the classification process and consistent with their case/custody facility plan. This includes refusing programming or being terminated from a program assignment for documented negative or substandard performance. An incarcerated individual 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.

(c) The incarcerated individual will not be penalized if programs and activities are not available.

(d) Denials of earned time may be appealed per DOC 300.380 Classification and custody facility plan review.

[Statutory Authority: RCW 72.01.090. WSR 22-08-014, § 137-30-030, filed 3/24/22, effective 4/24/22. 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.]