
SUBSTITUTE HOUSE BILL 1476

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Kagi, O'Brien and Simpson)

READ FIRST TIME 02/17/05.

1 AN ACT Relating to altering the amount of earned release time
2 available for certain jail inmates; amending RCW 9.92.151 and
3 70.48.210; adding a new section to chapter 9.92 RCW; adding a new
4 section to chapter 70.48 RCW; providing an effective date; providing an
5 expiration date; and declaring an emergency.

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

7 **Sec. 1.** RCW 9.92.151 and 2004 c 176 s 5 are each amended to read
8 as follows:

9 (1) Except as provided in subsection (2) of this section(~~(7)~~):

10 (a) The sentence of a prisoner confined in a county jail facility
11 for a felony, gross misdemeanor, or misdemeanor conviction may be
12 reduced by earned release credits in accordance with procedures that
13 shall be developed and promulgated by the correctional agency having
14 jurisdiction. The earned (~~early~~) release time shall be for good
15 behavior and good performance as determined by the correctional agency
16 having jurisdiction. Any program established pursuant to this section
17 shall allow an offender to earn (~~early~~) release credits for
18 presentence incarceration. The correctional agency shall not credit

1 the offender with earned ((early)) release credits in advance of the
2 offender actually earning the credits.

3 (b) In the case of an offender convicted of a serious violent
4 offense or a sex offense that is a class A felony committed on or after
5 July 1, 1990, and before July 1, 2005, the aggregate earned early
6 release time may not exceed fifteen percent of the sentence. In the
7 case of an offender convicted of a serious violent offense, or a sex
8 offense that is a class A felony, committed on or after July 1, 2005,
9 the aggregate earned release time may not exceed ten percent of the
10 sentence.

11 (c) A correctional agency may adopt an earned release program that
12 exceeds one-third of the total sentence for those offenders who qualify
13 under (c)(i) and (ii) of this subsection. The aggregate earned release
14 time may not exceed fifty percent of the sentence. If the correctional
15 agency adopts an earned release program that exceeds one-third of the
16 total sentence, an offender is qualified to earn up to fifty percent of
17 aggregate earned release time under this subsection if he or she:

18 (i) Is not confined pursuant to a sentence for:

19 (A) A sex offense;

20 (B) A violent offense;

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

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

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

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

27 (G) A violation of, or an attempt, solicitation, or conspiracy to
28 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
29 and

30 (ii) Has no prior conviction for:

31 (A) A sex offense;

32 (B) A violent offense;

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

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

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

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

1 (G) A violation of, or an attempt, solicitation, or conspiracy to
2 violate, RCW 69.50.406 (delivery of a controlled substance to a minor).

3 (d) The facility shall recalculate the earned release time and
4 reschedule the expected release dates for each qualified offender under
5 (c) of this subsection.

6 (e) (c) of this subsection applies retroactively to eligible
7 offenders serving terms of total confinement in a city or county
8 facility as of the effective date of this section.

9 (f) In no other case may the aggregate earned ((early)) release
10 time exceed one-third of the total sentence.

11 (2) An offender serving a term of confinement imposed under RCW
12 9.94A.670(4)(a) is not eligible for earned release credits under this
13 section.

14 NEW SECTION. Sec. 2. A new section is added to chapter 9.92 RCW
15 to read as follows:

16 The legislature declares that the changes to the maximum
17 percentages of earned release time in RCW 9.92.151 do not create any
18 expectation that the percentage of earned release time cannot be
19 revised and offenders have no reason to conclude that the maximum
20 percentage of earned release time is an entitlement or creates any
21 liberty interest. The legislature retains full control over the right
22 to revise the maximum percentages of earned release time available to
23 offenders at any time. This section applies to persons convicted on or
24 after the effective date of this section.

25 **Sec. 3.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read
26 as follows:

27 (1) All cities and counties are authorized to establish and
28 maintain farms, camps, and work release programs and facilities, as
29 well as special detention facilities. The facilities shall meet the
30 requirements of this chapter ((70.48—RCW)) and any rules adopted
31 thereunder.

32 (2) Farms and camps may be established either inside or outside the
33 territorial limits of a city or county. A sentence of confinement in
34 a city or county jail may include placement in a farm or camp. Unless
35 directed otherwise by court order, the chief law enforcement officer or
36 department of corrections, may transfer the prisoner to a farm or camp.

1 The sentencing court, chief law enforcement officer, or department of
2 corrections may not transfer to a farm or camp a greater number of
3 prisoners than can be furnished with constructive employment and can be
4 reasonably accommodated.

5 (3) The city or county may establish a city or county work release
6 program and housing facilities for the prisoners in the program. In
7 such regard, factors such as employment conditions and the condition of
8 jail facilities should be considered. When a work release program is
9 established the following provisions apply:

10 (a) A person convicted of a felony and placed in a city or county
11 jail is eligible for the work release program. A person sentenced to
12 a city or county jail is eligible for the work release program. The
13 program may be used as a condition of probation for a criminal offense.
14 Good conduct is a condition of participation in the program.

15 (b) The court may permit a person who is currently, regularly
16 employed to continue his or her employment. The chief law enforcement
17 officer or department of corrections shall make all necessary
18 arrangements if possible. The court may authorize the person to seek
19 suitable employment and may authorize the chief law enforcement officer
20 or department of corrections to make reasonable efforts to find
21 suitable employment for the person. A person participating in the work
22 release program may not work in an establishment where there is a labor
23 dispute.

24 (c) The work release prisoner shall be confined in a work release
25 facility or jail unless authorized to be absent from the facility for
26 program-related purposes, unless the court directs otherwise.

27 (d) Each work release prisoner's earnings may be collected by the
28 chief law enforcement officer or a designee. The chief law enforcement
29 officer or a designee may deduct from the earnings moneys for the
30 payments for the prisoner's board, personal expenses inside and outside
31 the jail, a share of the administrative expenses of this section,
32 court-ordered victim compensation, and court-ordered restitution.
33 Support payments for the prisoner's dependents, if any, shall be made
34 as directed by the court. With the prisoner's consent, the remaining
35 funds may be used to pay the prisoner's preexisting debts. Any
36 remaining balance shall be returned to the prisoner.

37 (e) The prisoner's sentence may be reduced by earned (~~early~~)
38 release time in accordance with procedures that shall be developed and

1 promulgated by the work release facility. The earned ((early)) release
2 time shall be for good behavior and good performance as determined by
3 the facility. The facility shall not credit the offender with earned
4 ((early)) release credits in advance of the offender actually earning
5 the credits.

6 (i) In the case of an offender convicted of a serious violent
7 offense or a sex offense that is a class A felony committed on or after
8 July 1, 1990, and before July 1, 2005, the aggregate earned ((early))
9 release time may not exceed fifteen percent of the sentence. In the
10 case of an offender convicted of a serious violent offense, or a sex
11 offense that is a class A felony, committed on or after July 1, 2005,
12 the aggregate earned release time may not exceed ten percent of the
13 sentence.

14 (ii) A correctional agency may adopt an earned release program that
15 exceeds one-third of the total sentence for those offenders who qualify
16 under (e)(ii)(A) and (B) of this subsection. The aggregate earned
17 release time may not exceed fifty percent of the sentence. If the
18 correctional agency adopts an earned release program that exceeds one-
19 third of the total sentence, an offender is qualified to earn up to
20 fifty percent of aggregate earned release time under this subsection
21 (3)(e)(ii) if he or she:

22 (A) Is not confined pursuant to a sentence for:

23 (I) A sex offense;

24 (II) A violent offense;

25 (III) A crime against persons as defined in RCW 9.94A.411;

26 (IV) A felony that is domestic violence as defined in RCW
27 10.99.020;

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

29 (VI) A violation of, or an attempt, solicitation, or conspiracy to
30 violate, RCW 69.50.401 by manufacture or delivery or possession with
31 intent to deliver methamphetamine; or

32 (VII) A violation of, or an attempt, solicitation, or conspiracy to
33 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

34 and

35 (B) Has no prior conviction for:

36 (I) A sex offense;

37 (II) A violent offense;

38 (III) A crime against persons as defined in RCW 9.94A.411;

1 (IV) A felony that is domestic violence as defined in RCW
2 10.99.020;

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

4 (VI) A violation of, or an attempt, solicitation, or conspiracy to
5 violate, RCW 69.50.401 by manufacture or delivery or possession with
6 intent to deliver methamphetamine; or

7 (VII) A violation of, or an attempt, solicitation, or conspiracy to
8 violate, RCW 69.50.406 (delivery of a controlled substance to a minor).

9 (iii) The facility shall recalculate the earned release time and
10 reschedule the expected release dates for each qualified offender under
11 (e)(ii) of this subsection.

12 (iv) (e)(ii) of this subsection applies retroactively to eligible
13 offenders serving terms of total confinement in a city or county
14 facility as of the effective date of this section.

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

17 (f) If the work release prisoner violates the conditions of custody
18 or employment, the prisoner shall be returned to the sentencing court.
19 The sentencing court may require the prisoner to spend the remainder of
20 the sentence in actual confinement and may cancel any earned reduction
21 of the sentence.

22 (4) A special detention facility may be operated by a
23 noncorrectional agency or by noncorrectional personnel by contract with
24 the governing unit. The employees shall meet the standards of training
25 and education established by the criminal justice training commission
26 as authorized by RCW 43.101.080. The special detention facility may
27 use combinations of features including, but not limited to, low-
28 security or honor prisoner status, work farm, work release, community
29 review, prisoner facility maintenance and food preparation, training
30 programs, or alcohol or drug rehabilitation programs. Special
31 detention facilities may establish a reasonable fee schedule to cover
32 the cost of facility housing and programs. The schedule shall be on a
33 sliding basis that reflects the person's ability to pay.

34 NEW SECTION. Sec. 4. A new section is added to chapter 70.48 RCW
35 to read as follows:

36 The legislature declares that the changes to the maximum
37 percentages of earned release time in RCW 70.48.210 do not create any

1 expectation that the percentage of earned release time cannot be
2 revised and offenders have no reason to conclude that the maximum
3 percentage of earned release time is an entitlement or creates any
4 liberty interest. The legislature retains full control over the right
5 to revise the maximum percentages of earned release time available to
6 offenders at any time. This section applies to person convicted on or
7 after the effective date of this section.

8 NEW SECTION. **Sec. 5.** Sections 1 and 3 of this act expire July 1,
9 2010.

10 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 July 1, 2005.

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