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**SUBSTITUTE SENATE BILL 5282**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kline, Hargrove, Mulliken, Fairley and Thibaudeau)

READ FIRST TIME 02/15/05.

1 AN ACT Relating to a clarification of the earned release time  
2 provisions for offenders held in city or county jails; amending RCW  
3 9.92.151 and 70.48.210; adding a new section to chapter 9.92 RCW;  
4 adding a new section to chapter 70.48 RCW; providing an effective date;  
5 providing an 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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