

HOUSE BILL REPORT

HB 1789

As Passed House:

March 3, 2009

Title: An act relating to allowing the department of corrections to rely upon jail certification in the calculation of release dates for offenders.

Brief Description: Allowing the department of corrections to rely upon jail certification in the calculation of release dates for offenders.

Sponsors: Representatives Dammeier, O'Brien, Dickerson, Hurst, Klippert, Morrell, Orwall, Green, Walsh and Darneille; by request of Department of Corrections.

Brief History:

Committee Activity:

Human Services: 2/9/09, 2/12/09 [DP].

Floor Activity

Passed House: 3/3/09, 94-0.

Brief Summary of Bill

- Permits the Department of Corrections (DOC) to rely solely on the jail certification to determine the amount of earned release time for an offender who was sentenced and transferred from a local jail facility to the DOC.
- Creates a legal standard for an apparent or manifest error of law by providing that a discrepancy between credit for presentence time served as certified by a jail and the amount contained in a judgment and sentence does not constitute an apparent or manifest error of law.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green, Klippert, Morrell, O'Brien and Walsh.

Staff: Linda Merelle (786-7092)

Background:

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

For defendants who have entered a plea of guilty to or been found guilty of an offense, the trial court must enter an order on judgment and sentence. A judgment and sentence issued from superior court identifies the offenses for which the defendant is being sentenced, states the length of the sentence, identifies conditions of community custody or supervision, and contains the defendant's fingerprints, as well as other information. The trial court must give the defendant credit for all presentence time served in confinement if that confinement was solely in regard to the offense for which the defendant is being sentenced.

Earned Release Time.

Earned release time, also widely known as "good time," refers to an amount of time for which an offender receives credit based upon different factors, including the nature of the offense for which he or she is serving time and the offender's behavior. The amount of earned release time allowed varies from facility to facility, but it may range from 10 to 50 percent. While an offender is serving time in a county jail facility pending sentencing, he or she may earn early release time for that time spent in custody prior to being transferred to the Department of Corrections (DOC). Although some sentencing courts include earned release time in the judgment and sentence, the court does not have the statutory authority to grant earned release time to an offender. Only a facility in which a defendant is held has the authority to certify earned early release time.

Upon receipt of a certification of earned release time from a jail facility, the DOC is not obligated to review the accuracy of the certification. If a certification does not contain apparent or manifest errors of law, the DOC is entitled to give that certification legal effect. A manifest error, according to Black's Law Dictionary (7th edition) is an error that is plain and indisputable, and that amounts to a complete disregard of the controlling law or the credible evidence in the record.

Summary of Bill:

The DOC is allowed to rely solely on the jail certification to determine the amount of earned release time that is due to an offender. The DOC may give legal effect to a certification of earned early release time even if there is a disparity between the amount of presentence time served as certified by the jail and the amount of presentence time served as ordered by the court in the judgment and sentence. Under this bill, such discrepancy would not constitute an apparent or manifest error of law.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2009.

Staff Summary of Public Testimony:

(In support) This bill provides clarification where there can be miscommunication between the jail, the DOC, and the court. Repeated litigation regarding earned release time gave rise to this bill. It lends clarity. If offenders know that this is the law, they will not try to litigate

when the judgment and sentence differs from the jail's certification. This bill would save litigation costs.

(Opposed) None.

Persons Testifying: Representative Dammeier, prime sponsor; and Dick Morgan, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.