

HOUSE BILL REPORT

HB 1789

As Passed Legislature

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 approve jail certifications from a correctional agency in the calculation of release dates for offenders.) (REVISED FOR PASSED LEGISLATURE: Allowing the department of corrections to approve jail certifications from correctional agencies 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.

Senate Amended.

Passed Senate: 4/7/09, 42-0.

House Concurred.

Passed House: 4/18/09, 97-0.

Passed Legislature.

Brief Summary of Bill

- Permits the Department of Corrections to rely solely on the jail certification to determine the amount of earned release time for an offender, based upon time served before sentencing when it has been determined that the time of confinement contained in the judgment and sentence is erroneous.

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.

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.

Staff: Linda Merelle (786-7092)

Background:

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 may approve the jail certification regarding the amount of earned release time that is due to an offender based upon time served before sentencing when it is determined that the time of confinement contained in the judgment and sentence is erroneous.

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.