

# SENATE BILL REPORT

## SB 5291

---

---

As of February 4, 2009

**Title:** An act relating to the release and supervision of offenders based on risk assessments.

**Brief Description:** Extending authority to supervise offenders based on risk assessments.

**Sponsors:** Senator Hargrove.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/03/09.

---

### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Shani Bauer (786-7468)

**Background:** Earned Release Time. Felony offenders receive sentences in which the length of confinement is determined and not generally subject to alteration based on events occurring after that time. Earned early release programs, however, allow inmates to shorten their sentence if they display good behavior.

Generally, felony offenders may only receive up to a 33 percent reduction in their term of confinement for earned early release. The 1990 Legislature further restricted the availability of earned early release to no more than 15 percent of the term of confinement for offenders convicted of serious violent offenses or for class A sex offenses.

There are limitations on how much a sentence can be reduced through earned early release both within local jails and state prisons. The maximum amount that a felony sentence can be reduced varies depending on the inmate's offense:

- Up to 15 percent of the sentence may be reduced for serious violent offenses and for class A sex offenses committed before July 1, 2003; for offenses committed after July 1, 2003, up to 10 percent of the sentence may be reduced.
- Up to 50 percent of the sentence may be reduced if the offender:
  - is categorized in one of the two lowest risk categories;
  - is not confined pursuant to a sentence for:
    - a sex offense;
    - a violent offense;
    - a crime against persons;
    - a felony that is domestic violence;

---

*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.*

- residential burglary;
- manufacture or delivery of methamphetamine; or
- delivery of a controlled substance to a minor.
- does not have a prior conviction for one of the above offenses;
- participates in programming or activities directed by the offender's reentry plan; and
- has not committed a new felony while under community custody.
- Up to 33 percent of the sentence may be reduced for all other felonies.
- An offender who has been convicted of a felony that involved an applicable deadly weapon enhancement is not eligible for earned release time against that portion of that offender's sentence.

The Legislature allowed certain categories of offenders to get up to 50 percent earned release time in 2003 due to tough budget circumstances. The provision was intended as a temporary measure and will not apply to offenders convicted after July 1, 2010.

Community Custody. When the Sentencing Reform Act was passed by the Legislature in 1984, it contained very limited provisions for the supervision of offenders. Over time, the Legislature added back supervision in varying lengths of time and for varying offenses.

In 1999 the Legislature passed the Offender Accountability Act (OAA). The OAA extended community custody to all sex offenses, all violent offenses, all crimes against persons, and all felony drug offenses. It also required the Department of Corrections (DOC) to utilize a validated risk assessment and supervise offenders according to their risk level. In 2003 as part of the same cost cutting measures as described above, the Legislature restricted the types of offenders that DOC could supervise depending on the risk classification of the offender and the category of the offense. Those cost cutting measures have a sunset date and are set to expire July 1, 2010.

**Summary of Bill:** The provision limiting 50 percent good time only to offenders convicted on or before July 1, 2010, is removed. The sunset date on the restrictions for whom DOC may supervise is also removed.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** CON: Earned release time has a legitimate purpose in keeping the peace in the institutions by giving offenders an incentive not to commit infractions; 33 percent earned release time is an adequate time period to do this. The Legislature tipped the balance by giving offenders 50 percent earned release time in 2003. This is a matter of truth in sentencing. An offender who gets a two year sentence will barely spend any time in prison after crediting time served in jail, earned release time, and time spent in partial confinement such as work release. This is very hard to explain to the public.

The Washington State Institute for Public Policy recently concluded that this policy did not have an impact on recidivism and had a modest amount of savings. However, the study failed to account for two things. One, at the same time, supervision was also reduced so that the majority of these offenders are not supervised. There is, therefore, less opportunity to detect new crimes. Second, while a person is incarcerated, recidivism is zero. The institute has acknowledged that these two factors may reduce the projected savings by up to 75 percent.

Unfortunately, this session we are not here to talk about how to make the system better, but how to do the least amount of harm and save the most money. This is not one of those policies. It does not save a great deal of money. It would be better to make one-time across the board cuts than to continue to allow 50 percent earned release time.

**Persons Testifying:** CON: Tom McBride, Russ Hauge, Washington Association of Prosecuting Attorneys; Don Pierce, Washington Association of Sheriffs and Police Chiefs.