
SUBSTITUTE HOUSE BILL 2900

State of Washington **64th Legislature** **2016 Regular Session**

By House Public Safety (originally sponsored by Representatives Klippert and Haler)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to prohibiting marijuana, alcohol, or other
2 intoxicant, or a cell phone while confined or incarcerated in a state
3 correctional institution; amending RCW 9.94.041, 9.92.151, and
4 9.94A.729; and prescribing penalties.

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

6 **Sec. 1.** RCW 9.94.041 and 1995 c 314 s 5 are each amended to read
7 as follows:

8 (1) Every person serving a sentence in any state correctional
9 institution who, without legal authorization, while in the
10 institution or while being conveyed to or from the institution, or
11 while under the custody or supervision of institution officials,
12 officers, or employees, or while on any premises subject to the
13 control of the institution, knowingly possesses or carries upon his
14 or her person or has under his or her control any narcotic drug or
15 controlled substance, as defined in chapter 69.50 RCW, alcohol,
16 marijuana, or other intoxicant, or a cell phone or other form of an
17 electronic telecommunications device, is guilty of a class C felony.

18 (2) Every person confined in a county or local correctional
19 institution who, without legal authorization, while in the
20 institution or while being conveyed to or from the institution, or
21 while under the custody or supervision of institution officials,

1 officers, or employees, or while on any premises subject to the
2 control of the institution, knowingly possesses or has under his or
3 her control any narcotic drug or controlled substance, as defined in
4 chapter 69.50 RCW, alcohol, marijuana, or other intoxicant, or a cell
5 phone or other form of an electronic telecommunications device, is
6 guilty of a class C felony.

7 (3) The sentence imposed under this section shall be in addition
8 to any sentence being served.

9 **Sec. 2.** RCW 9.92.151 and 2013 2nd sp.s. c 14 s 3 are each
10 amended to read as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 sentence of a prisoner confined in a county jail facility for a
13 felony, gross misdemeanor, or misdemeanor conviction may be reduced
14 by earned release credits in accordance with procedures that shall be
15 developed and promulgated by the correctional agency having
16 jurisdiction. The earned early release time shall be for good
17 behavior and good performance as determined by the correctional
18 agency having jurisdiction. Any program established pursuant to this
19 section shall allow an offender to earn early release credits for
20 presentence incarceration. The correctional agency shall not credit
21 the offender with earned early release credits in advance of the
22 offender actually earning the credits. In the case of an offender
23 convicted of a serious violent offense or a sex offense that is a
24 class A felony committed on or after July 1, 1990, the aggregate
25 earned early release time may not exceed fifteen percent of the
26 sentence. In no other case may the aggregate earned early release
27 time exceed one-third of the total sentence.

28 (2) An offender serving a term of confinement imposed under RCW
29 9.94A.670(5)(a) or 9.94.041 is not eligible for earned early release
30 credits under this section.

31 (3) If an offender is transferred from a county jail to the
32 department, the administrator of a county jail facility shall certify
33 to the department the amount of time spent in custody at the facility
34 and the number of days of early release credits lost or not earned.

35 **Sec. 3.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
36 read as follows:

37 (1)(a) The term of the sentence of an offender committed to a
38 correctional facility operated by the department may be reduced by

1 earned release time in accordance with procedures that shall be
2 developed and adopted by the correctional agency having jurisdiction
3 in which the offender is confined. The earned release time shall be
4 for good behavior and good performance, as determined by the
5 correctional agency having jurisdiction. The correctional agency
6 shall not credit the offender with earned release credits in advance
7 of the offender actually earning the credits.

8 (b) Any program established pursuant to this section shall allow
9 an offender to earn early release credits for presentence
10 incarceration. If an offender is transferred from a county jail to
11 the department, the administrator of a county jail facility shall
12 certify to the department the amount of time spent in custody at the
13 facility and the number of days of early release credits lost or not
14 earned. The department may approve a jail certification from a
15 correctional agency that calculates early release time based on the
16 actual amount of confinement time served by the offender before
17 sentencing when an erroneous calculation of confinement time served
18 by the offender before sentencing appears on the judgment and
19 sentence. The department must adjust an offender's rate of early
20 release listed on the jail certification to be consistent with the
21 rate applicable to offenders in the department's facilities. However,
22 the department is not authorized to adjust the number of presentence
23 early release days that the jail has certified as lost or not earned.

24 (2) An offender who has been convicted of a felony committed
25 after July 23, 1995, that involves any applicable deadly weapon
26 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not
27 receive any good time credits or earned release time for that portion
28 of his or her sentence that results from any deadly weapon
29 enhancements.

30 (3) An offender may earn early release time as follows:

31 (a) In the case of an offender sentenced pursuant to RCW
32 10.95.030(3) or 10.95.035, the offender may not receive any earned
33 early release time during the minimum term of confinement imposed by
34 the court; for any remaining portion of the sentence served by the
35 offender, the aggregate earned release time may not exceed ten
36 percent of the sentence.

37 (b) In the case of an offender convicted of a serious violent
38 offense, or a sex offense that is a class A felony, committed on or
39 after July 1, 1990, and before July 1, 2003, the aggregate earned
40 release time may not exceed fifteen percent of the sentence.

1 (c) In the case of an offender convicted of a serious violent
2 offense, or a sex offense that is a class A felony, committed on or
3 after July 1, 2003, the aggregate earned release time may not exceed
4 ten percent of the sentence.

5 (d) An offender is qualified to earn up to fifty percent of
6 aggregate earned release time if he or she:

7 (i) Is not classified as an offender who is at a high risk to
8 reoffend as provided in subsection (4) of this section;

9 (ii) Is not confined pursuant to a sentence for:

10 (A) A sex offense;

11 (B) A violent offense;

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

13 (D) A felony that is domestic violence as defined in RCW
14 10.99.020;

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

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

19 (G) A violation of, or an attempt, solicitation, or conspiracy to
20 violate, RCW 69.50.406 (delivery of a controlled substance to a
21 minor);

22 (iii) Has no prior conviction for the offenses listed in (d)(ii)
23 of this subsection;

24 (iv) Participates in programming or activities as directed by the
25 offender's individual reentry plan as provided under RCW 72.09.270 to
26 the extent that such programming or activities are made available by
27 the department; and

28 (v) Has not committed a new felony after July 22, 2007, while
29 under community custody.

30 (e) An offender serving a term of confinement imposed under RCW
31 9.94.041 is not eligible for earned early release credits under this
32 section.

33 (f) In no other case shall the aggregate earned release time
34 exceed one-third of the total sentence.

35 (4) The department shall perform a risk assessment of each
36 offender who may qualify for earned early release under subsection
37 (3)(d) of this section utilizing the risk assessment tool recommended
38 by the Washington state institute for public policy. Subsection
39 (3)(d) of this section does not apply to offenders convicted after
40 July 1, 2010.

1 (5)(a) A person who is eligible for earned early release as
2 provided in this section and who will be supervised by the department
3 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
4 community custody in lieu of earned release time;

5 (b) The department shall, as a part of its program for release to
6 the community in lieu of earned release, require the offender to
7 propose a release plan that includes an approved residence and living
8 arrangement. All offenders with community custody terms eligible for
9 release to community custody in lieu of earned release shall provide
10 an approved residence and living arrangement prior to release to the
11 community;

12 (c) The department may deny transfer to community custody in lieu
13 of earned release time if the department determines an offender's
14 release plan, including proposed residence location and living
15 arrangements, may violate the conditions of the sentence or
16 conditions of supervision, place the offender at risk to violate the
17 conditions of the sentence, place the offender at risk to reoffend,
18 or present a risk to victim safety or community safety. The
19 department's authority under this section is independent of any
20 court-ordered condition of sentence or statutory provision regarding
21 conditions for community custody;

22 (d) If the department is unable to approve the offender's release
23 plan, the department may do one or more of the following:

24 (i) Transfer an offender to partial confinement in lieu of earned
25 early release for a period not to exceed three months. The three
26 months in partial confinement is in addition to that portion of the
27 offender's term of confinement that may be served in partial
28 confinement as provided in RCW 9.94A.728(~~(+5)~~) (1)(e);

29 (ii) Provide rental vouchers to the offender for a period not to
30 exceed three months if rental assistance will result in an approved
31 release plan.

32 A voucher must be provided in conjunction with additional
33 transition support programming or services that enable an offender to
34 participate in services including, but not limited to, substance
35 abuse treatment, mental health treatment, sex offender treatment,
36 educational programming, or employment programming;

37 (e) The department shall maintain a list of housing providers
38 that meets the requirements of RCW 72.09.285. If more than two
39 voucher recipients will be residing per dwelling unit, as defined in

1 RCW 59.18.030, rental vouchers for those recipients may only be paid
2 to a housing provider on the department's list;

3 (f) For each offender who is the recipient of a rental voucher,
4 the department shall gather data as recommended by the Washington
5 state institute for public policy in order to best demonstrate
6 whether rental vouchers are effective in reducing recidivism.

7 (6) An offender serving a term of confinement imposed under RCW
8 9.94A.670(5)(a) is not eligible for earned release credits under this
9 section.

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