

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2900

Chapter 199, Laws of 2016

(partial veto)

64th Legislature
2016 Regular Session

PRISONERS--PROHIBITED ITEMS--INTOXICANTS AND CELL PHONES

EFFECTIVE DATE: 6/9/2016

Passed by the House February 16, 2016
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 1, 2016
Yeas 45 Nays 1

BRAD OWEN

President of the Senate

Approved April 1, 2016 3:58 PM with the
exception of Sections 2 and 3, which
are vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE HOUSE BILL 2900 as
passed by House of Representatives
and the Senate on the dates hereon
set forth.

BARBARA BAKER

Chief Clerk

FILED

April 4, 2016

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2900

Passed Legislature - 2016 Regular Session

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.**

***Sec. 2 was vetoed. See message at end of chapter.**

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

1 (1)(a) The term of the sentence of an offender committed to a
2 correctional facility operated by the department may be reduced by
3 earned release time in accordance with procedures that shall be
4 developed and adopted by the correctional agency having jurisdiction
5 in which the offender is confined. The earned release time shall be
6 for good behavior and good performance, as determined by the
7 correctional agency having jurisdiction. The correctional agency
8 shall not credit the offender with earned release credits in advance
9 of the offender actually earning the credits.

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

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

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

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

39 (b) In the case of an offender convicted of a serious violent
40 offense, or a sex offense that is a class A felony, committed on or

1 after July 1, 1990, and before July 1, 2003, the aggregate earned
2 release time may not exceed fifteen percent of the sentence.

3 (c) 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
5 after July 1, 2003, the aggregate earned release time may not exceed
6 ten percent of the sentence.

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

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

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

12 (A) A sex offense;

13 (B) A violent offense;

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

15 (D) A felony that is domestic violence as defined in RCW
16 10.99.020;

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

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

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

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

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

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

32 (e) An offender serving a term of confinement imposed under RCW
33 9.94.041 is not eligible for earned early release credits under this
34 section.

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

37 (4) The department shall perform a risk assessment of each
38 offender who may qualify for earned early release under subsection
39 (3)(d) of this section utilizing the risk assessment tool recommended
40 by the Washington state institute for public policy. Subsection

1 (3)(d) of this section does not apply to offenders convicted after
2 July 1, 2010.

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

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

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

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

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

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

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

39 (e) The department shall maintain a list of housing providers
40 that meets the requirements of RCW 72.09.285. If more than two

1 voucher recipients will be residing per dwelling unit, as defined in
2 RCW 59.18.030, rental vouchers for those recipients may only be paid
3 to a housing provider on the department's list;

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

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

*Sec. 3 was vetoed. See message at end of chapter.

Passed by the House February 16, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor April 1, 2016, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2016.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 2
and 3, Substitute House Bill No. 2900 entitled:

"AN ACT Relating to prohibiting marijuana, alcohol, or other
intoxicant, or a cell phone while confined or incarcerated in a state
correctional institution."

Sections 2 and 3 of this bill disallow earned time on the sentences
imposed under this statute, something currently only done on special
sex offender sentencing alternatives. It is highly unlikely that
disallowing earned time would add to the deterrent effect of this
bill, but it will certainly drive additional complications in
sentencing calculation. If there is a desire to change the statutes
regarding earned time, we should look at this holistically rather
than in piecemeal.

For these reasons I have vetoed Sections 2 and 3 of Substitute House
Bill No. 2900.

With the exception of Sections 2 and 3, Substitute House Bill No.
2900 is approved."

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