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**SECOND SUBSTITUTE HOUSE BILL 1798**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Doglio, Simmons, Reed, Ormsby, and Gregerson; by request of Department of Corrections)

AN ACT Relating to allowed earned release time for certain offenses and enhancements; amending RCW 9.94A.729, 72.09.710, and 72.09.712; and creating a new section.

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

**Sec.**  RCW 9.94A.729 and 2022 c 29 s 1 are each amended to read as follows:

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

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

(2)(a) An offender who has been convicted of a felony committed after July 23, 1995, and before July 1, 2024, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(b) An offender whose sentence includes any impaired driving enhancements under RCW 9.94A.533(7), minor child enhancements under RCW 9.94A.533(13), or both, for offenses committed before July 1, 2024, shall not receive any good time credits or earned release time for any portion of his or her sentence that results from those enhancements.

(3) An offender who is sentenced for offenses committed before July 1, 2024, may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030((~~(3)~~)) (2) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed 10 percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed 15 percent of the sentence.

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, and before July 1, 2024, the aggregate earned release time may not exceed 10 percent of the sentence.

(d) An offender is qualified to earn up to 50 percent of aggregate earned release time if he or she:

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

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

(A) A sex offense;

(B) A violent offense;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list((~~;~~

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

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

(7)(a) An offender may accrue earned release time up to 33.33 percent of the total sentence for offenses committed on or after July 1, 2024, including sentence enhancements under RCW 9.94A.533, except that the following are ineligible for earned release time under this subsection:

(i) A federal sentence served in the department's custody;

(ii) An out-of-state sentence served at the department;

(iii) A juvenile sentence under Title 13 RCW;

(iv) A less restrictive alternative under chapter 71.05 RCW;

(v) A civil commitment under chapter 10.77 RCW;

(vi) A mandatory minimum sentence under RCW 9.94A.540;

(vii) A persistent offender sentence under RCW 9.94A.570;

(viii) A special sex offender sentencing alternative under RCW 9.94A.670; and

(ix) An aggravated first degree murder sentence imposed on an adult under RCW 10.95.030.

(b) A sentence imposed on a juvenile under RCW 10.95.030 or 10.95.035 is ineligible for earned release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence, the aggregate earned release time may not exceed 33.33 percent.

**Sec.**  RCW 72.09.710 and 2023 c 391 s 3 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community custody, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

(b) Any person specified in writing by the prosecuting attorney.

Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) Any time earned time credits are recalculated pursuant to RCW 9.94A.729 for an inmate convicted of a serious drug offense who is incarcerated in a correctional facility, the department of corrections shall notify the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section.

(4) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

((~~(4)~~)) (5) The department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

((~~(5)~~)) (6) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2) (a) or (b).

((~~(6)~~)) (7) Information and records prepared, owned, used, or retained by the department of corrections that reveal any notification or request for notification regarding any specific individual, or that reveal the identity, location of, or any information submitted by a person who requests or is invited to enroll for notification under subsection (1) of this section, are exempt from public inspection and copying under chapter 42.56 RCW.

**Sec.**  RCW 72.09.712 and 2023 c 391 s 1 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) Any time earned time credits are recalculated pursuant to RCW 9.94A.729 for an inmate convicted of any offense listed in subsection (1) of this section who is incarcerated in a correctional facility, the department of corrections shall notify the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the victims, next of kin, or witnesses who are entitled to notice under this section.

(6) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

((~~(6)~~)) (7) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

((~~(7)~~)) (8) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

((~~(8)~~)) (9) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings and children.

((~~(9)~~)) (10) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

((~~(10)~~)) (11) Information and records prepared, owned, used, or retained by the department of corrections that reveal any notification or request for notification regarding any specific individual, or that reveal the identity, location of, or any information submitted by a person who requests or is invited to enroll for notification under subsection (2) of this section, are exempt from public inspection and copying under chapter 42.56 RCW.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void.

**--- END ---**