
HOUSE BILL 1020

State of Washington

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By Representatives Dickerson, Darneille, Takko, Roberts, Kagi, Finn, Appleton, and Moeller

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1 AN ACT Relating to continuing availability of fifty percent earned
2 release for certain nonviolent offenders; amending RCW 9.94A.729; and
3 creating new sections.

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

5 **Sec. 1.** RCW 9.94A.729 and 2010 c 224 s 7 are each amended to read
6 as follows:

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

16 (b) Any program established pursuant to this section shall allow an
17 offender to earn early release credits for presentence incarceration.
18 If an offender is transferred from a county jail to the department, the
19 administrator of a county jail facility shall certify to the department

1 the amount of time spent in custody at the facility and the amount of
2 earned release time. The department may approve a jail certification
3 from a correctional agency that calculates earned release time based on
4 the actual amount of confinement time served by the offender before
5 sentencing when an erroneous calculation of confinement time served by
6 the offender before sentencing appears on the judgment and sentence.

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

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

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

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

21 (c) An offender is qualified to earn up to fifty percent of
22 aggregate earned release time if he or she:

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

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

26 (A) A sex offense;

27 (B) A violent offense;

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

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

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

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

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

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

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

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

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

9 (4) The department shall perform a risk assessment of each offender
10 who may qualify for earned early release under subsection (3)(c) of
11 this section utilizing the risk assessment tool recommended by the
12 Washington state institute for public policy. (~~Subsection (3)(c) of~~
13 ~~this section does not apply to offenders convicted after July 1,~~
14 ~~2010.~~)

15 (5)(a) A person who is eligible for earned early release as
16 provided in this section and who is convicted of a sex offense, a
17 violent offense, any crime against persons under RCW 9.94A.411(2), or
18 a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred
19 to community custody in lieu of earned release time;

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

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

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

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

6 (ii) Provide rental vouchers to the offender for a period not to
7 exceed three months if rental assistance will result in an approved
8 release plan. The voucher must be provided in conjunction with
9 additional transition support programming or services that enable an
10 offender to participate in services including, but not limited to,
11 substance abuse treatment, mental health treatment, sex offender
12 treatment, educational programming, or employment programming;

13 (e) For each offender who is the recipient of a rental voucher, the
14 department shall include, concurrent with the data that the department
15 otherwise obtains and records, the housing status of the offender for
16 the duration of the offender's supervision.

17 (6) An offender serving a term of confinement imposed under RCW
18 9.94A.670(5)(a) is not eligible for earned release credits under this
19 section.

20 NEW SECTION. **Sec. 2.** This act applies to persons convicted
21 before, on, or after the effective date of this act.

22 NEW SECTION. **Sec. 3.** On or before October 1, 2011, the department
23 of corrections shall recalculate the earned release date of offenders
24 convicted after July 1, 2010, and before the effective date of this
25 act.

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