
HOUSE BILL 2811

State of Washington

65th Legislature

2018 Regular Session

By Representative Appleton

1 AN ACT Relating to modifying earned early release provisions; and
2 amending RCW 9.94A.729 and 9.92.151.

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

4 **Sec. 1.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
5 read as follows:

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

15 (b) Any program established pursuant to this section shall allow
16 an offender to earn early release credits for presentence
17 incarceration. If an offender is transferred from a county jail to
18 the department, the administrator of a county jail facility shall
19 certify to the department the amount of time spent in custody at the
20 facility and the number of days of early release credits lost or not
21 earned. The department may approve a jail certification from a

1 correctional agency that calculates early release time based on the
2 actual amount of confinement time served by the offender before
3 sentencing when an erroneous calculation of confinement time served
4 by the offender before sentencing appears on the judgment and
5 sentence. The department must adjust an offender's rate of early
6 release listed on the jail certification to be consistent with the
7 rate applicable to offenders in the department's facilities. However,
8 the department is not authorized to adjust the number of presentence
9 early release days that the jail has certified as lost or not earned.

10 (2) An offender who has been convicted of a felony committed
11 after July 23, 1995, and before the effective date of this section,
12 that involves any applicable deadly weapon enhancements under RCW
13 9.94A.533 (3) or (4), or both, shall not receive any good time
14 credits or earned release time for that portion of his or her
15 sentence that results from any deadly weapon enhancements.

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

17 (a) In the case of an offender sentenced pursuant to RCW
18 10.95.030(3) or 10.95.035, the offender may not receive any earned
19 early release time during the minimum term of confinement imposed by
20 the court; for any remaining portion of the sentence served by the
21 offender, the aggregate earned release time may not exceed ten
22 percent of the sentence.

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

27 (c) In the case of an offender convicted of a serious violent
28 offense, or a sex offense that is a class A felony, committed on or
29 after July 1, 2003, and before the effective date of this section,
30 the aggregate earned release time may not exceed ten percent of the
31 sentence.

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

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

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

37 (A) A sex offense;

38 (B) A violent offense;

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

1 (D) A felony that is domestic violence as defined in RCW
2 10.99.020;

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

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

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

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

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

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

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

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

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

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

37 (c) The department may deny transfer to community custody in lieu
38 of earned release time if the department determines an offender's
39 release plan, including proposed residence location and living
40 arrangements, may violate the conditions of the sentence or

1 conditions of supervision, place the offender at risk to violate the
2 conditions of the sentence, place the offender at risk to reoffend,
3 or present a risk to victim safety or community safety. The
4 department's authority under this section is independent of any
5 court-ordered condition of sentence or statutory provision regarding
6 conditions for community custody;

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

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

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

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

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

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

31 (6) An offender serving a term of confinement imposed under RCW
32 9.94A.670(5)(a) is not eligible for earned release credits under this
33 section.

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

36 (1) Except as provided in subsection (2) of this section, the
37 sentence of a prisoner confined in a county jail facility for a
38 felony, gross misdemeanor, or misdemeanor conviction may be reduced
39 by earned release credits in accordance with procedures that shall be

1 developed and promulgated by the correctional agency having
2 jurisdiction. The earned early release time shall be for good
3 behavior and good performance as determined by the correctional
4 agency having jurisdiction. Any program established pursuant to this
5 section shall allow an offender to earn early release credits for
6 presentence incarceration. The correctional agency shall not credit
7 the offender with earned early release credits in advance of the
8 offender actually earning the credits. In the case of an offender
9 convicted of a serious violent offense or a sex offense that is a
10 class A felony committed on or after July 1, 1990, and before the
11 effective date of this section, the aggregate earned early release
12 time may not exceed fifteen percent of the sentence. In no other case
13 may the aggregate earned early release time exceed one-third of the
14 total sentence.

15 (2) An offender serving a term of confinement imposed under RCW
16 9.94A.670(5)(a) is not eligible for earned release credits under this
17 section.

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

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