
SENATE BILL 5080

State of Washington

66th Legislature

2019 Regular Session

By Senator McCoy

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1 AN ACT Relating to earned release time and graduated reentry for
2 educational participation and achievement for certain offenders; and
3 amending RCW 9.94A.733, 9.94A.728, and 9.94A.729.

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

5 **Sec. 1.** RCW 9.94A.733 and 2018 c 166 s 1 are each amended to
6 read as follows:

7 (1) No more than the final six months of the offender's term of
8 confinement may be served in partial confinement as home detention as
9 part of the graduated reentry program developed by the department.
10 However, an offender may not participate in the graduated reentry
11 program under this section unless he or she has served at least
12 twelve months in total confinement in a state correctional facility.

13 (2) The secretary of the department may transfer an offender from
14 a department correctional facility to home detention in the community
15 if it is determined that the graduated reentry program is an
16 appropriate placement and must assist the offender's transition from
17 confinement to the community.

18 (3) The department and its officers, agents, and employees are
19 not liable for the acts of offenders participating in the graduated
20 reentry program unless the department or its officers, agents, and
21 employees acted with willful and wanton disregard.

1 (4) All offenders placed on home detention as part of the
2 graduated reentry program must provide an approved residence and
3 living arrangement prior to transfer to home detention.

4 (5) While in the community on home detention as part of the
5 graduated reentry program, the department must:

6 (a) Require the offender to be placed on electronic home
7 monitoring;

8 (b) Require the offender to participate in education,
9 programming, and/or treatment that the department shall assign based
10 on an offender's assessed need, or plan for continued education; and

11 (c) Assign a community corrections officer who will monitor the
12 offender's compliance with conditions of partial confinement and
13 programming requirements or academic enrollment.

14 (6) The department retains the authority to return any offender
15 serving partial confinement in the graduated reentry program to total
16 confinement for any reason including, but not limited to, the
17 offender's noncompliance with any sentence requirement.

18 (7) The department may issue rental vouchers for a period not to
19 exceed six months for those transferring to partial confinement under
20 this section if an approved address cannot be obtained without the
21 assistance of a voucher.

22 (8) In the selection of offenders to participate in the graduated
23 reentry program, and in setting, modifying, and enforcing the
24 requirements of the graduated (~~release~~ ~~[reentry]~~) reentry program,
25 the department is deemed to be performing a quasi-judicial function.

26 **Sec. 2.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to
27 read as follows:

28 (1) No person serving a sentence imposed pursuant to this chapter
29 and committed to the custody of the department shall leave the
30 confines of the correctional facility or be released prior to the
31 expiration of the sentence except as follows:

32 (a) An offender may earn early release time as authorized by RCW
33 9.94A.729;

34 (b) An offender may leave a correctional facility pursuant to an
35 authorized furlough or leave of absence. In addition, offenders may
36 leave a correctional facility when in the custody of a corrections
37 officer or officers;

38 (c) (i) The secretary may authorize an extraordinary medical
39 placement for an offender when all of the following conditions exist:

1 (A) The offender has a medical condition that is serious and is
2 expected to require costly care or treatment;

3 (B) The offender poses a low risk to the community because he or
4 she is currently physically incapacitated due to age or the medical
5 condition or is expected to be so at the time of release; and

6 (C) It is expected that granting the extraordinary medical
7 placement will result in a cost savings to the state.

8 (ii) An offender sentenced to death or to life imprisonment
9 without the possibility of release or parole is not eligible for an
10 extraordinary medical placement.

11 (iii) The secretary shall require electronic monitoring for all
12 offenders in extraordinary medical placement unless the electronic
13 monitoring equipment interferes with the function of the offender's
14 medical equipment or results in the loss of funding for the
15 offender's medical care, in which case, an alternative type of
16 monitoring shall be utilized. The secretary shall specify who shall
17 provide the monitoring services and the terms under which the
18 monitoring shall be performed.

19 (iv) The secretary may revoke an extraordinary medical placement
20 under this subsection (1)(c) at any time.

21 (v) Persistent offenders are not eligible for extraordinary
22 medical placement;

23 (d) The governor, upon recommendation from the clemency and
24 pardons board, may grant an extraordinary release for reasons of
25 serious health problems, senility, advanced age, extraordinary
26 meritorious acts, or other extraordinary circumstances;

27 (e) No more than the final twelve months of the offender's term
28 of confinement may be served in partial confinement for aiding the
29 offender with: Finding work as part of the work release program under
30 chapter 72.65 RCW; finding and furthering educational opportunities
31 in the community; or reestablishing himself or herself in the
32 community as part of the parenting program in RCW 9.94A.6551. This is
33 in addition to that period of earned early release time that may be
34 exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

35 (f) No more than the final six months of the offender's term of
36 confinement may be served in partial confinement as home detention as
37 part of the graduated reentry program developed by the department
38 under RCW 9.94A.733;

39 (g) The governor may pardon any offender;

1 (h) The department may release an offender from confinement any
2 time within ten days before a release date calculated under this
3 section;

4 (i) An offender may leave a correctional facility prior to
5 completion of his or her sentence if the sentence has been reduced as
6 provided in RCW 9.94A.870;

7 (j) Notwithstanding any other provisions of this section, an
8 offender sentenced for a felony crime listed in RCW 9.94A.540 as
9 subject to a mandatory minimum sentence of total confinement shall
10 not be released from total confinement before the completion of the
11 listed mandatory minimum sentence for that felony crime of conviction
12 unless allowed under RCW 9.94A.540; and

13 (k) Any person convicted of one or more crimes committed prior to
14 the person's eighteenth birthday may be released from confinement
15 pursuant to RCW 9.94A.730.

16 (2) Offenders residing in a juvenile correctional facility
17 placement pursuant to RCW 72.01.410(1)(a) are not subject to the
18 limitations in this section.

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

21 (1)(a) The term of the sentence of an offender committed to a
22 correctional facility operated by the department may be reduced by
23 earned release time in accordance with procedures that shall be
24 developed and adopted by the correctional agency having jurisdiction
25 in which the offender is confined. The earned release time shall be
26 for good behavior and good performance, as determined by the
27 correctional agency having jurisdiction. Earned release time shall be
28 granted for regular attendance, good performance, and attainment or
29 completion of certificates and degrees specifically in required adult
30 basic education programs. The correctional agency shall not credit
31 the offender with earned release credits in advance of the offender
32 actually earning the credits.

33 (b) Any program established pursuant to this section shall allow
34 an offender to earn early release credits for presentence
35 incarceration. If an offender is transferred from a county jail to
36 the department, the administrator of a county jail facility shall
37 certify to the department the amount of time spent in custody at the
38 facility and the number of days of early release credits lost or not
39 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, that involves any applicable deadly weapon
12 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not
13 receive any good time credits or earned release time for that portion
14 of his or her sentence that results from any deadly weapon
15 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, the aggregate earned release time may not exceed
30 ten percent of the sentence.

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

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

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

36 (A) A sex offense;

37 (B) A violent offense;

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

39 (D) A felony that is domestic violence as defined in RCW
40 10.99.020;

1 (E) A violation of RCW 9A.52.025 (residential burglary);
2 (F) A violation of, or an attempt, solicitation, or conspiracy to
3 violate, RCW 69.50.401 by manufacture or delivery or possession with
4 intent to deliver methamphetamine; or
5 (G) A violation of, or an attempt, solicitation, or conspiracy to
6 violate, RCW 69.50.406 (delivery of a controlled substance to a
7 minor);
8 (iii) Has no prior conviction for the offenses listed in (d)(ii)
9 of this subsection;
10 (iv) Participates in programming or activities as directed by the
11 offender's individual reentry plan as provided under RCW 72.09.270 to
12 the extent that such programming or activities are made available by
13 the department; and
14 (v) Has not committed a new felony after July 22, 2007, while
15 under community custody.
16 (e) In no other case shall the aggregate earned release time
17 exceed one-third of the total sentence.
18 (4) The department shall perform a risk assessment of each
19 offender who may qualify for earned early release under subsection
20 (3)(d) of this section utilizing the risk assessment tool recommended
21 by the Washington state institute for public policy. Subsection
22 (3)(d) of this section does not apply to offenders convicted after
23 July 1, 2010.
24 (5)(a) A person who is eligible for earned early release as
25 provided in this section and who will be supervised by the department
26 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
27 community custody in lieu of earned release time;
28 (b) The department shall, as a part of its program for release to
29 the community in lieu of earned release, require the offender to
30 propose a release plan that includes an approved residence and living
31 arrangement. All offenders with community custody terms eligible for
32 release to community custody in lieu of earned release shall provide
33 an approved residence and living arrangement prior to release to the
34 community;
35 (c) The department may deny transfer to community custody in lieu
36 of earned release time if the department determines an offender's
37 release plan, including proposed residence location and living
38 arrangements, may violate the conditions of the sentence or
39 conditions of supervision, place the offender at risk to violate the
40 conditions of the sentence, place the offender at risk to reoffend,

1 or present a risk to victim safety or community safety. The
2 department's authority under this section is independent of any
3 court-ordered condition of sentence or statutory provision regarding
4 conditions for community custody;

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

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

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

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

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

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

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

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