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**HOUSE BILL 1161**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representative Graham

Prefiled 01/06/23.

1 AN ACT Relating to prohibiting persons convicted of violent  
2 offenses with firearm enhancements from receiving earned early  
3 release credits; and amending RCW 9.94A.729.

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

5 **Sec. 1.** RCW 9.94A.729 and 2022 c 29 s 1 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  
11 in which the offender is confined. The earned release time shall be  
12 for good behavior and good performance, as determined by the  
13 correctional agency having jurisdiction. The correctional agency  
14 shall not credit the offender with earned release credits in advance  
15 of the offender actually earning the credits.

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

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

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

17 (b) An offender whose sentence includes any impaired driving  
18 enhancements under RCW 9.94A.533(7), minor child enhancements under  
19 RCW 9.94A.533(13), or both, shall not receive any good time credits  
20 or earned release time for any portion of his or her sentence that  
21 results from those enhancements.

22 (3) ~~((An))~~ Except as provided in subsections (2) and (6) of this  
23 section, an offender may earn early release time as follows:

24 (a) In the case of an offender sentenced pursuant to RCW  
25 10.95.030(3) or 10.95.035, the offender may not receive any earned  
26 early release time during the minimum term of confinement imposed by  
27 the court; for any remaining portion of the sentence served by the  
28 offender, the aggregate earned release time may not exceed 10 percent  
29 of the sentence.

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

34 (c) In the case of an offender convicted of a serious violent  
35 offense, or a sex offense that is a class A felony, committed on or  
36 after July 1, 2003, the aggregate earned release time may not exceed  
37 10 percent of the sentence.

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

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

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

4 (A) A sex offense;

5 (B) A violent offense;

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

7 (D) A felony that is domestic violence as defined in RCW  
8 10.99.020;

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

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

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

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

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

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

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

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

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

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

1 an approved residence and living arrangement prior to release to the  
2 community;

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

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

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

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

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

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

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

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

1       (b) An offender serving a term of confinement for a violent  
2 offense that includes a firearm enhancement under RCW 9.9A.533(3) is  
3 not eligible for earned release credits under this section.

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