



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON/WORK RELEASE/FIELD
OFFENDER/SPANISH MANUALS

REVISION DATE
9/21/15

PAGE NUMBER
1 of 12

NUMBER
DOC 350.100

POLICY

TITLE
EARNED RELEASE TIME

REVIEW/REVISION HISTORY:

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SUMMARY OF REVISION/REVIEW:

X.A.1.b. - Added language for clarification


APPROVED:

Signature on file

BERNARD WARNER, Secretary
Department of Corrections

9/8/15

Date Signed

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REFERENCES:


DOC 100.100 is hereby incorporated into this policy; [RCW 9.92.151](#); [RCW 9.94A](#); [RCW 9.95](#); [RCW 69.50](#); [RCW 69.52](#); [RCW 72.09.130](#); [WAC 137-25-030](#); [WAC 137-30](#); [DOC 320.150 Disciplinary Sanctions](#); [DOC 320.400 Risk and Needs Assessment Process](#); [DOC 460.135 Disciplinary Procedures for Work Release](#)

POLICY:


- I. The Department will award Earned Release Time (ERT), which includes good conduct time and earned time, to offenders committed to Department facilities within the guidelines established by law.

DIRECTIVE:

- I. Eligibility
 - A. Offenders convicted of a serious violent offense or a Class A felony sex offense may earn ERT as follows:
 1. Offense committed between July 1, 1990, and June 30, 2003 - not to exceed 15 percent of their sentence
 2. Offense committed on or after July 1, 2003 - not to exceed 10 percent of their sentence
 - B. Offenders convicted before July 2, 2010, who are classified as Moderate or Low Risk may earn ERT not to exceed 50 percent of their sentence regardless of the date of offense or sentencing, provided they are not convicted of or have a prior:
 1. Sex offense,
 2. Violent offense,
 3. Crime against a person, including Identity Theft 1 and 2 committed on or after June 7, 2006,
 4. Felony domestic violence,
 5. Residential burglary,
 6. Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacturing or delivering methamphetamine, or by possessing methamphetamine with intent to manufacture or deliver,

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7. Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (i.e., delivery of a controlled substance to a minor),
 8. Gross misdemeanor stalking,
 9. Domestic violence court order violation, including gross misdemeanors, or
 10. Any new felony committed under community supervision.
- C. Offenders may earn ERT not to exceed 33¹/₃ percent of their sentence in all other cases not identified in this section.
- D. As outlined in DOC 320.150 Disciplinary Sanctions and DOC 460.135 Disciplinary Procedures for Work Release:
1. Offenders found guilty of violation 557 or 810 will lose their 50 percent eligibility and all available ERT and privileges.
 - a. The Disciplinary Hearing Officer will notify the Correctional Records Supervisor (CRS) of all guilty findings for 557 and 810 violations.
 2. Offenders found guilty of an 813 violation related to employment or programming while in Work Release will lose all available ERT and privileges.
 - a. The Community Hearing Officer will notify the Records Office at the sending facility if the violation(s) is incurred in Work Release or a facility transfers the offender before the hearing is completed. The Records Office at the sending facility will revise DOC 02-329 50% Earned Release Time Eligibility Change Notice.
- II. Requirements
- A. ERT will be calculated at two-thirds good conduct time and one-third earned time.
 - B. An offender who has transferred from one sentence within a cause number to the next sentence, or from one cause number to the next cause number, can lose ERT associated with the previous sentence or cause. ERT can be taken on a consecutive sentence not yet being served.
- III. Good Conduct Time
- A. All offenders will be eligible for good conduct time, except:

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1. Offenders sentenced to death or Life Without Parole,
 2. Offenders serving the mandatory or flat time enhancement portion of their sentences,
 3. Community Custody Violators sanctioned by the Department on or after May 2, 2012,
 4. Offenders sanctioned to Community Custody Prison (CCP) Return or Community Custody Inmate (CCI) Termination, and
 5. Indeterminate offenders whose minimum term has expired and who have not been paroled or transferred to a consecutive sentence. Any good conduct time earned or denied will be addressed to the correct sentence after the parole/transfer date is determined.
- B. Offenders may lose good conduct time, as follows:
1. Offenders found guilty of a serious violation may be sanctioned to a loss of earned or future good conduct time per DOC 320.150 Disciplinary Sanctions and DOC 460.135 Disciplinary Procedures for Work Release.
 - a. The amount of time lost will be determined by the Disciplinary or Community Hearing Officer or Indeterminate Sentence Review Board (ISRB). The following offenders may lose good conduct time if found guilty of a serious violation:
 - 1) Indeterminate offenders whose time has not been adopted by the ISRB.
 - 2) Determinate offenders.
 2. Offenders serving the mandatory or flat time enhancement portion of their sentence are subject to a loss of future good conduct time available during the non-mandatory portion of their sentence. Lost good conduct time will be applied to the remainder of the sentence after the mandatory or flat time enhancement period is served.
 3. Offenders may lose good conduct time for committing a violation or being infractioned while out to court.
- C. When all of an indeterminate offender's available good conduct time has been denied due to violations, the Superintendent/Community Corrections Supervisor (CCS) may request, via the Headquarters Community Screening Committee, that the ISRB schedule a disciplinary hearing to address the offender's time structure.



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- D. When an offender paroled from an indeterminate sentence to a consecutive determinate sentence commits a violation, the Counselor/Community Corrections Officer (CCO) will notify the ISRB via email or hard copy, describing the behavior and recommended action. The report will note this behavior as a violation.


IV. Earned Time

- A. Offenders who participate in approved programs, including work and school, are eligible for earned time for each calendar month as follows:


- | | | |
|----|--|------------|
| 1. | Earned time eligible under 10 percent rule | 1.11 days |
| 2. | Earned time eligible under 15 percent rule | 1.76 days |
| 3. | Earned time eligible under 33 ¹ / ₃ percent rule | 5.00 days |
| 4. | Earned time eligible under 50 percent rule | 10.00 days |

- B. An offender will not be eligible for earned time if:

- 1. Serving an indeterminate sentence, and the ISRB has:
 - a. Extended the cause to the maximum term, or
 - b. Previously denied future earned time.
- 2. S/he is not involved in mandatory programming as determined through the classification process and consistent with his/her Custody Facility Plan. This includes refusing mandatory programming or being terminated from a program assignment for documented negative or substandard performance. An offender who is on a waiting list and refuses a program assignment will not earn earned time for the month in which s/he refused.
 - a. Offenders previously determined qualified to receive 50 percent earned time will participate in programming or activities targeted in the Custody Facility Plan. Offenders will not be penalized if programs and activities are not available.
- 3. S/he refuses any transfer, excluding Work Release. Earned time will not be earned for any calendar month the offender refuses transfer.
- 4. S/he serves 20 days or more in one calendar month in Administrative Segregation, disciplinary segregation, or Intensive Management Status (IMS) for negative behavior or unfounded/unsubstantiated protection concerns.
 - a. The offender is eligible to begin earning earned time when authorized to transfer or return to general population.

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- b. Offenders who are approved for transfer to general population and are scheduled for release to the community within 60 days will earn earned time unless found guilty of a(n):
 - 1) 557 or 810 violation, or
 - 2) 813 violation related to employment or programming while in Work Release.
 - c. An offender on IMS, or in Administrative Segregation or disciplinary segregation for negative behavior, will not earn earned time while on out to court status. Any earned time not earned will be addressed at a classification review upon return.
 - 5. S/he is serving the mandatory or flat time enhancement portion of his/her sentence, except for indeterminate offenders sentenced for crimes committed before July 1, 1984.
- C. The offender's electronic file is the official record for his/her earned time.
 - 1. The first entry on the Earned Time screen will be the time start date. Dates for all subsequent entries will reflect the first of the month following any month being updated.
 - 2. The Counselor/CCO will review and update earned time on the Earned Time screen in the offender's electronic file:
 - a. At annual review,
 - b. At transfer from Segregation to another facility, and
 - c. For any month earned time is not earned.
 - 3. The Counselor/CCO will have the offender sign a copy of the Earned Time Not Earned report listing all earned time denials. The offender will be provided a copy of the signed report, and a copy will be maintained in the offender's central file and electronic imaging file.
 - a. Offenders in Administrative Segregation/maximum custody will be provided the report every 30 days if earned time is denied during that time.
 - 4. The CRS will update the earned time on the Earned Time screen in the offender's electronic file at:
 - a. The request of the ISRB,
 - b. Transfer from general population to another facility, and
 - c. Release.

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D. Denials of earned time are final and cannot be appealed.

V. County Jail Earned Release Time

A. For offenders transferred to the Department from a county jail, the jail administrator will certify to the Department the amount of jail time spent in custody and any earned time not earned. The Department will calculate ERT for time spent in the jail at the rate earned in the Department.

1. If no certification is provided, the CRS/designee will forward a request to the jail administrator using DOC 02-387 Jail Time Certification.
2. If the Department becomes aware that the time certified by the jail is incorrect, the CRS will contact the jail to verify, but does not need to wait for verification to apply the proper credits.


B. Jail time ordered by the court for the same period on consecutive sentences will be applied as follows:

1. If the sentences have the same Prison intake date, jail time credits will be applied per the Judgment and Sentence, but no jail good conduct time will be applied for the overlapping time period. The Department may contest the court's calculations through the post-sentence petition process.
2. If the Prison intake dates are different, the CRS will apply the time from the Judgment and Sentence or jail certification, including jail good conduct time, and then apply Wickert time (i.e., out time applied to a period of confinement when the offender is required to serve a consecutive period of confinement starting before the current confinement is complete) for that same time period.

C. Offenders serving presentence time in another jurisdiction (e.g., juvenile detention center, another state/jurisdiction even if fighting extradition, etc.) will receive jail credit if serving solely on the Washington State charge. The Department will request documentation from the other jurisdiction of dates of incarceration and any early release time lost. The Department will calculate ERT for the presentence time spent in the facility at the rate earned in the Department.

VI. Re-sentenced on Previous Conviction - Credit Time Served

A. Offenders who are re-sentenced on a previous conviction are entitled to receive credit for the original jail time, original jail ERT, Department time served, and ERT on the Department time served. All time the offender served for the conviction offense, as well as Department ERT, will be applied. Any good

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conduct time lost due to violations or earned time not earned during the time served on the original sentence will be deducted from the Department ERT.

VII. Persistent Prison Misbehavior


- A. An offender serving a sentence for an offense committed on or after August 1, 1995:
 - 1. May have earned time credits taken away as part of a disciplinary sanction if s/he has lost all good conduct time credits for the current commitment.
 - 2. May have earned or future ERT credits reduced.

VIII. Release Date


- A. Jail time and jail ERT will be deducted from the total sentence to calculate an offender's release date on a determinate sentence.
 - 1. ERT applicable per statute is applied to the adjusted sentence.
- B. A determinate offender held beyond his/her Earned Release Date (ERD) may have available good conduct time taken if found guilty of a serious violation.
- C. An offender with an established release date who receives a Category A violation after an Offender Release Plan has been approved will have the release date suspended until the violation is adjudicated and all time loss and sanctions are completed.
- D. If the offender is denied earned time, loses good conduct time, or has time restored and is within 120 days to ERD, employees/contract staff responsible for entering the sanction information will notify the Counselor/CCO/CRS immediately by telephone and/or email.

IX. Superintendent/CCS Review


- A. ERT will be reviewed by the Superintendent/CCS at intervals not to exceed one year.
 - 1. At the time of his/her annual review, each offender will receive a written record of the ERT s/he is eligible to earn.
 - 2. For indeterminate pre-1984 offenders, review is final when adopted by the ISRB, at:

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- a. The .100 hearing, based on the Parole Eligibility Release Date and the current ERT recorded in the offender's electronic file.
 - b. The time of parole or transfer to a consecutive determinate sentence.
- B. Before adoption by the ISRB for indeterminate sentences or review by the Superintendent/CCS for determinate sentences, the projected ERD should be used for classification purposes when considering minimum facility placement, Work Release, and pre-parole/community release planning.
- X. Restoration
- A. Good conduct time, and earned time lost in lieu of good conduct time due to Persistent Prison Misbehavior, is the only ERT that can be restored.
 1. Time will not be restored:
 - a. For offenders within 6 months of their ERD.
 - b. For offenders who have received any serious infraction within the last year.
 - c. When lost as a result of a 557, 810, or 857 infraction.
 - d. When lost as a result of an 813 infraction related to employment or programming while in Work Release.
 - e. Once addressed/adopted by the ISRB for indeterminate sentences, unless approved in advance by the ISRB.
 2. Offenders serving consecutive determinate sentences are eligible to have the time restored on any of the sentences.
 - B. At the offender's classification review, the Counselor will meet with the offender and establish a plan for restoring applicable lost time. The restoration plan will be documented in the Custody Facility Plan. If a restoration plan has not been previously approved, a Plan Change Review will be used to create the plan.
 1. The restoration plan cannot put the offender less than 120 days to release, or restore time lost for the following infractions committed during the current incarceration:
 - a. 501, 502, 511, 521, 550, 604, 611, 612, 613, 635, 636, 637, 882, or new Category A infraction within the last 10 years.

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- b. 601, 602, or 704 infraction within the last 5 years.
 - c. 507, 603, 650, or 651 infraction within the last 3 years.
 - d. Any other serious infraction within the last year.
- 2. The restoration plan must be supported by a Facility Risk Management Team (FRMT)/multidisciplinary FRMT and approved by the Superintendent/designee.
 - a. Plans including restoration of time lost for any Category A infraction(s) also require approval from the Assistant Secretary for Prisons or the appropriate Deputy Director.
- 3. When deciding whether to approve the restoration plan, the FRMT/multidisciplinary FRMT or Superintendent/Deputy Director/Assistant Secretary will consider:
 - a. If the amount of time being restored correlates with the plan length and amount/type of required programming,
 - b. Whether the offender can reasonably be expected to fulfill the plan requirements,
 - c. Length and type of prior and proposed program participation,
 - d. Period of infraction free behavior,
 - e. Nature of infractions and current Prison Sanctioning Guidelines in DOC 320.150 Disciplinary Sanctions,
 - f. Overall behavior during the commitment period,
 - g. FRMT/multidisciplinary FRMT recommendation, and
 - h. Compliance with the Custody Facility Plan.
- C. At each subsequent classification review, the Counselor and offender will review the restoration plan and the offender's progress, and make any necessary adjustments for FRMT/multidisciplinary FRMT review and Superintendent/designee approval.
- D. If the offender adheres to his/her Custody Facility Plan and remains serious infraction free for the duration of the restoration plan, the lost time will be restored as outlined in the plan. The Counselor will forward a copy of the Custody Facility Plan and any associated documents (e.g., infraction reports, and the offender's Criminal Conviction Record) to the Superintendent.

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1. To restore the lost time, the Superintendent will complete DOC 21-730 Restoration of Good Conduct Time/Earned Time Lost in Lieu of Good Conduct Time and forward it to the Deputy Director/Assistant Secretary for Prisons, if necessary.
 2. Any denial of restoration requires Superintendent/Deputy Director/Assistant Secretary approval, as applicable, and will only be considered when a significant, compelling reason(s) exists. The decision and reason(s) will be documented in the Custody Facility Plan.
- E. Designated employees will document restoration in the Decision, Sanction, or Appeal Result narrative on the Infraction Summary screen in the offender's electronic file.
- F. The restoration decision is final and cannot be appealed.

XI. Community Custody

- A. Community Custody Violators sanctioned by the Department before May 2, 2012, are eligible for good conduct time at a rate of 33¹/₃ percent. Offenders sanctioned on or after May 2, 2012, will not be eligible for good conduct time. Hearing Officers may adjust to avoid release on a weekend or holiday.
- B. If an offender has not completed his/her maximum term of total confinement and is found to have committed the violation, the Department may return the offender to Prison to serve the remainder of the Prison term.
 1. All jail ERT and Department ERT applied to the sentence before early release becomes return time.
 2. When determining the length of return time, the Department must credit the offender for all community custody time successfully served and with all periods of pre-hearing time spent in confinement pending all prior and current community custody violation hearings for that cause.
 3. The offender is not entitled to any good conduct time during the return time.
 4. Upon release from Prison after serving the remainder of the Prison term, the offender will resume serving the community custody portion of the sentence for any time remaining to serve on community custody.

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DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

[DOC 02-329 50% Earned Release Time Eligibility Change Notice](#)

[DOC 02-387 Jail Time Certification](#)

[DOC 09-261 Court of Appeals Decision - Jail Time Credits](#)

[DOC 21-730 Restoration of Good Conduct Time/Earned Time Lost in Lieu of Good Conduct Time](#)