

# HOUSE BILL REPORT

## 2ESSB 5892

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**As Passed House - Amended:**

June 27, 2013

**Title:** An act relating to reducing corrections costs.

**Brief Description:** Reducing corrections costs.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove and Kline).

**Brief History:**

**Committee Activity:**

None.

**Second Special Session**

**Floor Activity:**

Passed House - Amended: 6/27/13, 55-36.

**Brief Summary of Second Engrossed Substitute Bill  
(As Amended by House)**

- Modifies the Drug Sentencing Grid so that an offender with an offender score of three to five who commits a seriousness level I drug offense will serve his or her sentence in jail unless an exceptional sentence is imposed.
- Requires the Department of Corrections (DOC) to report on the impacts of the changes to the Drug Sentencing Grid and expires the changes on July 1, 2018.
- Requires the DOC to adjust an offender's rate of early release for presentence time served in jail to be consistent with the rate applicable to the DOC offenders.

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**Staff:** Alex MacBain (786-7288).

**Background:**

Drug Sentencing Grid.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Washington's sentencing system is based on a determinate sentencing model to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences and penalties. Generally, an offender who is convicted and receives a sentence of confinement greater than one year must serve that term of confinement in a state correctional facility (prison). An offender who receives a sentence of confinement of less than one year must serve that term of confinement in a local correctional facility (jail).

Drug offenses committed on or after July 1, 2003, are divided into three seriousness levels and are sentenced according to the Drug Sentencing Grid. Seriousness level I drug offenses include the following:

- Possession or Forged Prescription of a Controlled Substance, or Legend Drug;
- Manufacturing, Delivering, or Possession with Intent to Deliver Marijuana; or
- Using a Building for Drug Purposes.

For an offender who has a criminal history that includes three to five prior felony offenses, the court may impose a sentence of six to 18 months. Offenders sentenced up to 365 days would serve in a jail, while offenders sentenced to more than 365 days would serve in state prison.

#### Presentence Earned Release Time.

Earned release time, widely known as "good time," refers to an amount of time for which an offender receives credit based upon different factors, including the nature of the offense for which he or she is serving time and the offender's behavior. The Department of Corrections (DOC) may reduce an offender's term of confinement through earned release time for good behavior and good performance and may take it away for disciplinary reasons. The term of confinement for an offender incarcerated for a serious violent offense or a sex offense that is a class A felony, on or after July 1, 2003, may not be reduced by more than 10 percent via earned release time. For other DOC offenders the term of confinement may not be reduced by more than 33 percent via earned release time.

Earned early release time in county jail facilities is provided for good behavior and good performance as determined by the correctional agency having jurisdiction. A jail offender incarcerated for a serious violent offense or a class A sex offense may not have his or her term of confinement reduced by more than 15 percent via earned release time. Other jail offenders may not have their term of confinement reduced by more than 33 percent via earned release time. By practice, 22 jail facilities offer a maximum of 25 percent earned release time.

An offender serving time in a county jail facility pending sentencing may earn early release time for that time spent in custody prior to being transferred to the DOC. When the offender is transferred from the county jail to the DOC, the county jail facility certifies to the DOC the amount of time the offender spent in custody at the facility and the amount of early release time earned.

#### **Summary of Amended Bill:**

#### Drug Sentencing Grid.

The Drug Sentencing Grid is modified so that any offender who commits a seriousness level I drug offense and who has an offender score of three to five will serve his or her sentence in jail unless the court poses an exceptional sentence.

The DOC, in consultation with the Caseload Forecast Council, is required to compile information on the impacts of the changes to the Drug Sentencing Grid and to submit reports to the Legislature and the Office of Financial Management by January 1, 2015, and January 1, 2018.

The changes to the Drug Sentencing Grid expire July 1, 2018.

Presentence Earned Release Time.

For offenders transferred from a county jail to the DOC after sentencing, the county jail must certify to the DOC the amount of time the offender served in custody and the number of days of early release time lost or not earned, rather than the amount of early release time earned. The DOC must adjust the offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the DOC's facilities. The DOC is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

The DOC is required to recalculate the earned release date regardless of whether the offender's date of offense occurred prior to the effective date of the bill. For offenders whose offense was committed prior to the effective date of the bill, the DOC must take the time reasonably necessary to complete the recalculations but the recalculation may not extend the offender's term of incarceration.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2013.