

HB 2659 -- EARNED COMPLIANCE CREDITS

SPONSOR: Cornejo

This bill specifies that the Division of Probation and Parole must award earned compliance credits to any misdemeanor offender who is supervised by the board or a private probation company and in compliance with the conditions of supervision imposed by the sentencing court or board.

The sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that the offender is ineligible to earn compliance credits because the nature and circumstances of the offense or the history and character of the offender indicate that a longer term of probation or conditional release is necessary for the protection of the public or the guidance of the offender. The motion may be made any time prior to the first month in which the person may earn compliance credits. The offender's ability to earn credits must be suspended until the court or board makes its finding. If the court or board finds that the offender is eligible for earned compliance credits, the credits must begin to accrue on the first day of the next calendar month following the issuance of the decision.

Earned compliance credits must reduce the term of probation or conditional release by 30 days for each full calendar month of compliance with the terms of supervision. Credits will begin to accrue for eligible offenders after the first full calendar month of supervision or on October 1, 2016, if the offender began a term of probation or conditional release before September 1, 2016.

Credits will not accrue during any calendar month in which a violation report has been submitted or a motion to revoke or motion to suspend has been filed, and must be suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held or the court or board finds that the violation did not occur, then the offender must be deemed to be in compliance and begin earning credits on the first day of the next calendar month following the month in which the report was submitted or the motion was filed.

All earned credits will be rescinded if the court or board revokes the probation or the court places the offender in a specified department program. Earned credits will continue to be suspended for a period of time during which the court or board has suspended the term of probation or release, and must begin to accrue on the first day of the next calendar month following the lifting of the suspension.

Offenders who are deemed by the division to be absconders are not

eligible to earn credits.

Once the combination of time served in custody, time served on probation or conditional release, and earned compliance credits satisfy the total term of probation or conditional release, the board or sentencing court must order final discharge of the offender, so long as the offender has completed at least the minimum amount specified.

The award or rescission of any credits earned under these provisions are not subject to appeal or any motion for post-conviction relief.

At least biannually, the division must calculate the number of months the offender has remaining on his or her term of probation or conditional release, taking into consideration any earned compliance credits, and notify the offender of the length of the remaining term.

No less than 60 days before the date of final discharge, the division must notify the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of the impending discharge. If the sentencing court, the board, or the circuit or prosecuting attorney upon receiving such notice does not take any action, the offender must be discharged under specified provisions.

Any offender who was sentenced prior to January 1, 2017, to an offense that was eligible for earned compliance credits under these provisions at the time of sentencing must continue to remain eligible for earned compliance credits so long as the offender meets all the other requirements specified.