

CERTIFICATION OF ENROLLMENT

SENATE BILL 5525

61st Legislature
2009 Regular Session

Passed by the Senate April 24, 2009
YEAS 33 NAYS 10

President of the Senate

Passed by the House April 22, 2009
YEAS 54 NAYS 43

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5525** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5525

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senators Carrell, Hargrove, Stevens, Regala, Brandland, Kauffman,
and McAuliffe

Read first time 01/26/09. Referred to Committee on Human Services &
Corrections.

1 AN ACT Relating to rental vouchers to allow release from state
2 institutions; amending RCW 9.94A.728 and 9.94A.728; adding a new
3 section to chapter 9.94A RCW; creating a new section; providing an
4 effective date; providing an expiration date; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 9.94A.728 and 2007 c 483 s 304 are each amended to
8 read as follows:

9 No person serving a sentence imposed pursuant to this chapter and
10 committed to the custody of the department shall leave the confines of
11 the correctional facility or be released prior to the expiration of the
12 sentence except as follows:

13 ~~(1) ((Except as otherwise provided for in subsection (2) of this~~
14 ~~section, the term of the sentence of an offender committed to a~~
15 ~~correctional facility operated by the department may be reduced by~~
16 ~~earned release time in accordance with procedures that shall be~~
17 ~~developed and promulgated by the correctional agency having~~
18 ~~jurisdiction in which the offender is confined. The earned release~~
19 ~~time shall be for good behavior and good performance, as determined by~~

1 the correctional agency having jurisdiction. The correctional agency
2 shall not credit the offender with earned release credits in advance of
3 the offender actually earning the credits. Any program established
4 pursuant to this section shall allow an offender to earn early release
5 credits for presentence incarceration. If an offender is transferred
6 from a county jail to the department, the administrator of a county
7 jail facility shall certify to the department the amount of time spent
8 in custody at the facility and the amount of earned release time. An
9 offender who has been convicted of a felony committed after July 23,
10 1995, that involves any applicable deadly weapon enhancements under RCW
11 9.94A.533 (3) or (4), or both, shall not receive any good time credits
12 or earned release time for that portion of his or her sentence that
13 results from any deadly weapon enhancements.

14 (a) In the case of an offender convicted of a serious violent
15 offense, or a sex offense that is a class A felony, committed on or
16 after July 1, 1990, and before July 1, 2003, the aggregate earned
17 release time may not exceed fifteen percent of the sentence. In the
18 case of an offender convicted of a serious violent offense, or a sex
19 offense that is a class A felony, committed on or after July 1, 2003,
20 the aggregate earned release time may not exceed ten percent of the
21 sentence.

22 (b)(i) In the case of an offender who qualifies under (b)(ii) of
23 this subsection, the aggregate earned release time may not exceed fifty
24 percent of the sentence.

25 (ii) An offender is qualified to earn up to fifty percent of
26 aggregate earned release time under this subsection (1)(b) if he or
27 she:

28 (A) Is classified in one of the two lowest risk categories under
29 (b)(iii) of this subsection;

30 (B) Is not confined pursuant to a sentence for:

31 (I) A sex offense;

32 (II) A violent offense;

33 (III) A crime against persons as defined in RCW 9.94A.411;

34 (IV) A felony that is domestic violence as defined in RCW
35 10.99.020;

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

37 (VI) A violation of, or an attempt, solicitation, or conspiracy to

1 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
2 ~~intent to deliver methamphetamine; or~~
3 ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~
4 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~
5 ~~(C) Has no prior conviction for:~~
6 ~~(I) A sex offense;~~
7 ~~(II) A violent offense;~~
8 ~~(III) A crime against persons as defined in RCW 9.94A.411;~~
9 ~~(IV) A felony that is domestic violence as defined in RCW~~
10 ~~10.99.020;~~
11 ~~(V) A violation of RCW 9A.52.025 (residential burglary);~~
12 ~~(VI) A violation of, or an attempt, solicitation, or conspiracy to~~
13 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
14 ~~intent to deliver methamphetamine; or~~
15 ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~
16 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~
17 ~~(D) Participates in programming or activities as directed by the~~
18 ~~offender's individual reentry plan as provided under RCW 72.09.270 to~~
19 ~~the extent that such programming or activities are made available by~~
20 ~~the department; and~~
21 ~~(E) Has not committed a new felony after July 22, 2007, while under~~
22 ~~community supervision, community placement, or community custody.~~
23 ~~(iii) For purposes of determining an offender's eligibility under~~
24 ~~this subsection (1)(b), the department shall perform a risk assessment~~
25 ~~of every offender committed to a correctional facility operated by the~~
26 ~~department who has no current or prior conviction for a sex offense, a~~
27 ~~violent offense, a crime against persons as defined in RCW 9.94A.411,~~
28 ~~a felony that is domestic violence as defined in RCW 10.99.020, a~~
29 ~~violation of RCW 9A.52.025 (residential burglary), a violation of, or~~
30 ~~an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by~~
31 ~~manufacture or delivery or possession with intent to deliver~~
32 ~~methamphetamine, or a violation of, or an attempt, solicitation, or~~
33 ~~conspiracy to violate, RCW 69.50.406 (delivery of a controlled~~
34 ~~substance to a minor). The department must classify each assessed~~
35 ~~offender in one of four risk categories between highest and lowest~~
36 ~~risk.~~

1 ~~(iv) The department shall recalculate the earned release time and~~
2 ~~reschedule the expected release dates for each qualified offender under~~
3 ~~this subsection (1)(b).~~

4 ~~(v) This subsection (1)(b) applies retroactively to eligible~~
5 ~~offenders serving terms of total confinement in a state correctional~~
6 ~~facility as of July 1, 2003.~~

7 ~~(vi) This subsection (1)(b) does not apply to offenders convicted~~
8 ~~after July 1, 2010.~~

9 ~~(c) In no other case shall the aggregate earned release time exceed~~
10 ~~one-third of the total sentence;~~

11 ~~(2)(a) A person convicted of a sex offense or an offense~~
12 ~~categorized as a serious violent offense, assault in the second degree,~~
13 ~~vehicular homicide, vehicular assault, assault of a child in the second~~
14 ~~degree, any crime against persons where it is determined in accordance~~
15 ~~with RCW 9.94A.602 that the offender or an accomplice was armed with a~~
16 ~~deadly weapon at the time of commission, or any felony offense under~~
17 ~~chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become~~
18 ~~eligible, in accordance with a program developed by the department, for~~
19 ~~transfer to community custody status in lieu of earned release time~~
20 ~~pursuant to subsection (1) of this section;~~

21 ~~(b) A person convicted of a sex offense, a violent offense, any~~
22 ~~crime against persons under RCW 9.94A.411(2), or a felony offense under~~
23 ~~chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may~~
24 ~~become eligible, in accordance with a program developed by the~~
25 ~~department, for transfer to community custody status in lieu of earned~~
26 ~~release time pursuant to subsection (1) of this section;~~

27 ~~(c) The department shall, as a part of its program for release to~~
28 ~~the community in lieu of earned release, require the offender to~~
29 ~~propose a release plan that includes an approved residence and living~~
30 ~~arrangement. All offenders with community placement or community~~
31 ~~custody terms eligible for release to community custody status in lieu~~
32 ~~of earned release shall provide an approved residence and living~~
33 ~~arrangement prior to release to the community;~~

34 ~~(d) The department may deny transfer to community custody status in~~
35 ~~lieu of earned release time pursuant to subsection (1) of this section~~
36 ~~if the department determines an offender's release plan, including~~
37 ~~proposed residence location and living arrangements, may violate the~~
38 ~~conditions of the sentence or conditions of supervision, place the~~

1 ~~offender at risk to violate the conditions of the sentence, place the~~
2 ~~offender at risk to reoffend, or present a risk to victim safety or~~
3 ~~community safety. The department's authority under this section is~~
4 ~~independent of any court ordered condition of sentence or statutory~~
5 ~~provision regarding conditions for community custody or community~~
6 ~~placement;~~

7 ~~(e) If the department denies transfer to community custody status~~
8 ~~in lieu of earned early release pursuant to (d) of this subsection, the~~
9 ~~department may transfer an offender to partial confinement in lieu of~~
10 ~~earned early release up to three months. The three months in partial~~
11 ~~confinement is in addition to that portion of the offender's term of~~
12 ~~confinement that may be served in partial confinement as provided in~~
13 ~~this section;~~

14 ~~(f) An offender serving a term of confinement imposed under RCW~~
15 ~~9.94A.670(4)(a) is not eligible for earned release credits under this~~
16 ~~section;~~

17 ~~(3))~~ An offender may earn early release time as authorized by
18 section 3 of this act.

19 (2) An offender may leave a correctional facility pursuant to an
20 authorized furlough or leave of absence. In addition, offenders may
21 leave a correctional facility when in the custody of a corrections
22 officer or officers;

23 ~~((4))~~ (3)(a) The secretary may authorize an extraordinary medical
24 placement for an offender when all of the following conditions exist:

25 (i) The offender has a medical condition that is serious enough to
26 require costly care or treatment;

27 (ii) The offender poses a low risk to the community because he or
28 she is physically incapacitated due to age or the medical condition;
29 and

30 (iii) Granting the extraordinary medical placement will result in
31 a cost savings to the state.

32 (b) An offender sentenced to death or to life imprisonment without
33 the possibility of release or parole is not eligible for an
34 extraordinary medical placement.

35 (c) The secretary shall require electronic monitoring for all
36 offenders in extraordinary medical placement unless the electronic
37 monitoring equipment interferes with the function of the offender's
38 medical equipment or results in the loss of funding for the offender's

1 medical care. The secretary shall specify who shall provide the
2 monitoring services and the terms under which the monitoring shall be
3 performed.

4 (d) The secretary may revoke an extraordinary medical placement
5 under this subsection at any time.

6 (e) Persistent offenders are not eligible for extraordinary medical
7 placement;

8 ((+5)) (4) The governor, upon recommendation from the clemency and
9 pardons board, may grant an extraordinary release for reasons of
10 serious health problems, senility, advanced age, extraordinary
11 meritorious acts, or other extraordinary circumstances;

12 ((+6)) (5) No more than the final six months of the offender's
13 term of confinement may be served in partial confinement designed to
14 aid the offender in finding work and reestablishing himself or herself
15 in the community. This is in addition to that period of earned early
16 release time that may be exchanged for partial confinement pursuant to
17 ((~~subsection (2)(e)~~) section 3(5)(d) of this ((~~section~~) act;

18 ((+7)) (6) The governor may pardon any offender;

19 ((+8)) (7) The department may release an offender from confinement
20 any time within ten days before a release date calculated under this
21 section; and

22 ((+9)) (8) An offender may leave a correctional facility prior to
23 completion of his or her sentence if the sentence has been reduced as
24 provided in RCW 9.94A.870.

25 Notwithstanding any other provisions of this section, an offender
26 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
27 mandatory minimum sentence of total confinement shall not be released
28 from total confinement before the completion of the listed mandatory
29 minimum sentence for that felony crime of conviction unless allowed
30 under RCW 9.94A.540(~~(, however persistent offenders are not eligible~~
31 ~~for extraordinary medical placement)~~).

32 **Sec. 2.** RCW 9.94A.728 and 2008 c 231 s 34 are each amended to read
33 as follows:

34 No person serving a sentence imposed pursuant to this chapter and
35 committed to the custody of the department shall leave the confines of
36 the correctional facility or be released prior to the expiration of the
37 sentence except as follows:

1 ~~(1) ((Except as otherwise provided for in subsection (2) of this~~
2 ~~section, the term of the sentence of an offender committed to a~~
3 ~~correctional facility operated by the department may be reduced by~~
4 ~~earned release time in accordance with procedures that shall be~~
5 ~~developed and promulgated by the correctional agency having~~
6 ~~jurisdiction in which the offender is confined. The earned release~~
7 ~~time shall be for good behavior and good performance, as determined by~~
8 ~~the correctional agency having jurisdiction. The correctional agency~~
9 ~~shall not credit the offender with earned release credits in advance of~~
10 ~~the offender actually earning the credits. Any program established~~
11 ~~pursuant to this section shall allow an offender to earn early release~~
12 ~~credits for presentence incarceration. If an offender is transferred~~
13 ~~from a county jail to the department, the administrator of a county~~
14 ~~jail facility shall certify to the department the amount of time spent~~
15 ~~in custody at the facility and the amount of earned release time. An~~
16 ~~offender who has been convicted of a felony committed after July 23,~~
17 ~~1995, that involves any applicable deadly weapon enhancements under RCW~~
18 ~~9.94A.533 (3) or (4), or both, shall not receive any good time credits~~
19 ~~or earned release time for that portion of his or her sentence that~~
20 ~~results from any deadly weapon enhancements.~~

21 ~~(a) In the case of an offender convicted of a serious violent~~
22 ~~offense, or a sex offense that is a class A felony, committed on or~~
23 ~~after July 1, 1990, and before July 1, 2003, the aggregate earned~~
24 ~~release time may not exceed fifteen percent of the sentence. In the~~
25 ~~case of an offender convicted of a serious violent offense, or a sex~~
26 ~~offense that is a class A felony, committed on or after July 1, 2003,~~
27 ~~the aggregate earned release time may not exceed ten percent of the~~
28 ~~sentence.~~

29 ~~(b)(i) In the case of an offender who qualifies under (b)(ii) of~~
30 ~~this subsection, the aggregate earned release time may not exceed fifty~~
31 ~~percent of the sentence.~~

32 ~~(ii) An offender is qualified to earn up to fifty percent of~~
33 ~~aggregate earned release time under this subsection (1)(b) if he or~~
34 ~~she:~~

35 ~~(A) Is classified in one of the two lowest risk categories under~~
36 ~~(b)(iii) of this subsection;~~

37 ~~(B) Is not confined pursuant to a sentence for:~~

38 ~~(I) A sex offense;~~

1 ~~(II) A violent offense;~~
2 ~~(III) A crime against persons as defined in RCW 9.94A.411;~~
3 ~~(IV) A felony that is domestic violence as defined in RCW~~
4 ~~10.99.020;~~
5 ~~(V) A violation of RCW 9A.52.025 (residential burglary);~~
6 ~~(VI) A violation of, or an attempt, solicitation, or conspiracy to~~
7 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
8 ~~intent to deliver methamphetamine; or~~
9 ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~
10 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~
11 ~~(C) Has no prior conviction for:~~
12 ~~(I) A sex offense;~~
13 ~~(II) A violent offense;~~
14 ~~(III) A crime against persons as defined in RCW 9.94A.411;~~
15 ~~(IV) A felony that is domestic violence as defined in RCW~~
16 ~~10.99.020;~~
17 ~~(V) A violation of RCW 9A.52.025 (residential burglary);~~
18 ~~(VI) A violation of, or an attempt, solicitation, or conspiracy to~~
19 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
20 ~~intent to deliver methamphetamine; or~~
21 ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~
22 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~
23 ~~(D) Participates in programming or activities as directed by the~~
24 ~~offender's individual reentry plan as provided under RCW 72.09.270 to~~
25 ~~the extent that such programming or activities are made available by~~
26 ~~the department; and~~
27 ~~(E) Has not committed a new felony after July 22, 2007, while under~~
28 ~~community custody.~~
29 ~~(iii) For purposes of determining an offender's eligibility under~~
30 ~~this subsection (1)(b), the department shall perform a risk assessment~~
31 ~~of every offender committed to a correctional facility operated by the~~
32 ~~department who has no current or prior conviction for a sex offense, a~~
33 ~~violent offense, a crime against persons as defined in RCW 9.94A.411,~~
34 ~~a felony that is domestic violence as defined in RCW 10.99.020, a~~
35 ~~violation of RCW 9A.52.025 (residential burglary), a violation of, or~~
36 ~~an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by~~
37 ~~manufacture or delivery or possession with intent to deliver~~
38 ~~methamphetamine, or a violation of, or an attempt, solicitation, or~~

1 ~~conspiracy to violate, RCW 69.50.406 (delivery of a controlled~~
2 ~~substance to a minor). The department must classify each assessed~~
3 ~~offender in one of four risk categories between highest and lowest~~
4 ~~risk.~~

5 ~~(iv) The department shall recalculate the earned release time and~~
6 ~~reschedule the expected release dates for each qualified offender under~~
7 ~~this subsection (1)(b).~~

8 ~~(v) This subsection (1)(b) applies retroactively to eligible~~
9 ~~offenders serving terms of total confinement in a state correctional~~
10 ~~facility as of July 1, 2003.~~

11 ~~(vi) This subsection (1)(b) does not apply to offenders convicted~~
12 ~~after July 1, 2010.~~

13 ~~(c) In no other case shall the aggregate earned release time exceed~~
14 ~~one-third of the total sentence;~~

15 ~~(2)(a) A person convicted of a sex offense, a violent offense, any~~
16 ~~crime against persons under RCW 9.94A.411(2), or a felony offense under~~
17 ~~chapter 69.50 or 69.52 RCW, may become eligible, in accordance with a~~
18 ~~program developed by the department, for transfer to community custody~~
19 ~~in lieu of earned release time pursuant to subsection (1) of this~~
20 ~~section;~~

21 ~~(b) The department shall, as a part of its program for release to~~
22 ~~the community in lieu of earned release, require the offender to~~
23 ~~propose a release plan that includes an approved residence and living~~
24 ~~arrangement. All offenders with community custody terms eligible for~~
25 ~~release to community custody in lieu of earned release shall provide an~~
26 ~~approved residence and living arrangement prior to release to the~~
27 ~~community;~~

28 ~~(c) The department may deny transfer to community custody in lieu~~
29 ~~of earned release time pursuant to subsection (1) of this section if~~
30 ~~the department determines an offender's release plan, including~~
31 ~~proposed residence location and living arrangements, may violate the~~
32 ~~conditions of the sentence or conditions of supervision, place the~~
33 ~~offender at risk to violate the conditions of the sentence, place the~~
34 ~~offender at risk to reoffend, or present a risk to victim safety or~~
35 ~~community safety. The department's authority under this section is~~
36 ~~independent of any court ordered condition of sentence or statutory~~
37 ~~provision regarding conditions for community custody;~~

1 ~~(d) If the department denies transfer to community custody in lieu~~
2 ~~of earned early release pursuant to (c) of this subsection, the~~
3 ~~department may transfer an offender to partial confinement in lieu of~~
4 ~~earned early release up to three months. The three months in partial~~
5 ~~confinement is in addition to that portion of the offender's term of~~
6 ~~confinement that may be served in partial confinement as provided in~~
7 ~~this section;~~

8 ~~(e) An offender serving a term of confinement imposed under RCW~~
9 ~~9.94A.670(5)(a) is not eligible for earned release credits under this~~
10 ~~section;~~

11 ~~(3))~~ An offender may earn early release time as authorized by
12 section 3 of this act.

13 (2) An offender may leave a correctional facility pursuant to an
14 authorized furlough or leave of absence. In addition, offenders may
15 leave a correctional facility when in the custody of a corrections
16 officer or officers;

17 ~~((4))~~ (3)(a) The secretary may authorize an extraordinary medical
18 placement for an offender when all of the following conditions exist:

19 (i) The offender has a medical condition that is serious enough to
20 require costly care or treatment;

21 (ii) The offender poses a low risk to the community because he or
22 she is physically incapacitated due to age or the medical condition;
23 and

24 (iii) Granting the extraordinary medical placement will result in
25 a cost savings to the state.

26 (b) An offender sentenced to death or to life imprisonment without
27 the possibility of release or parole is not eligible for an
28 extraordinary medical placement.

29 (c) The secretary shall require electronic monitoring for all
30 offenders in extraordinary medical placement unless the electronic
31 monitoring equipment interferes with the function of the offender's
32 medical equipment or results in the loss of funding for the offender's
33 medical care. The secretary shall specify who shall provide the
34 monitoring services and the terms under which the monitoring shall be
35 performed.

36 (d) The secretary may revoke an extraordinary medical placement
37 under this subsection at any time.

1 (e) Persistent offenders are not eligible for extraordinary medical
2 placement;

3 ((+5)) (4) The governor, upon recommendation from the clemency and
4 pardons board, may grant an extraordinary release for reasons of
5 serious health problems, senility, advanced age, extraordinary
6 meritorious acts, or other extraordinary circumstances;

7 ((+6)) (5) No more than the final six months of the offender's
8 term of confinement may be served in partial confinement designed to
9 aid the offender in finding work and reestablishing himself or herself
10 in the community. This is in addition to that period of earned early
11 release time that may be exchanged for partial confinement pursuant to
12 (~~subsection (2)~~) section 3(5)(d) of this (~~section~~) act;

13 ((+7)) (6) The governor may pardon any offender;

14 ((+8)) (7) The department may release an offender from confinement
15 any time within ten days before a release date calculated under this
16 section;

17 ((+9)) (8) An offender may leave a correctional facility prior to
18 completion of his or her sentence if the sentence has been reduced as
19 provided in RCW 9.94A.870; and

20 ((+10)) (9) Notwithstanding any other provisions of this section,
21 an offender sentenced for a felony crime listed in RCW 9.94A.540 as
22 subject to a mandatory minimum sentence of total confinement shall not
23 be released from total confinement before the completion of the listed
24 mandatory minimum sentence for that felony crime of conviction unless
25 allowed under RCW 9.94A.540(~~(, however persistent offenders are not~~
26 ~~eligible for extraordinary medical placement)~~).

27 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW
28 to read as follows:

29 (1) The term of the sentence of an offender committed to a
30 correctional facility operated by the department may be reduced by
31 earned release time in accordance with procedures that shall be
32 developed and adopted by the correctional agency having jurisdiction in
33 which the offender is confined. The earned release time shall be for
34 good behavior and good performance, as determined by the correctional
35 agency having jurisdiction. The correctional agency shall not credit
36 the offender with earned release credits in advance of the offender
37 actually earning the credits. Any program established pursuant to this

1 section shall allow an offender to earn early release credits for
2 presentence incarceration. If an offender is transferred from a county
3 jail to the department, the administrator of a county jail facility
4 shall certify to the department the amount of time spent in custody at
5 the facility and the amount of earned release time.

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

11 (3) An offender may earn early release time as follows:

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

16 (b) In the case of an offender convicted of a serious violent
17 offense, or a sex offense that is a class A felony, committed on or
18 after July 1, 2003, the aggregate earned release time may not exceed
19 ten percent of the sentence.

20 (c) An offender is qualified to earn up to fifty percent of
21 aggregate earned release time if he or she:

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

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

25 (A) A sex offense;

26 (B) A violent offense;

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

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

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

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

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

35 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
36 this subsection;

37 (iv) Participates in programming or activities as directed by the

1 offender's individual reentry plan as provided under RCW 72.09.270 to
2 the extent that such programming or activities are made available by
3 the department; and

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

6 (d) In no other case shall the aggregate earned release time exceed
7 one-third of the total sentence.

8 (4) The department shall perform a risk assessment of each offender
9 who may qualify for earned early release under subsection (3)(c) of
10 this section utilizing the risk assessment tool recommended by the
11 Washington state institute for public policy. Subsection (3)(c) of
12 this section does not apply to offenders convicted after July 1, 2010.

13 (5)(a) A person who is eligible for earned early release as
14 provided in this section and who is convicted of a sex offense, a
15 violent offense, any crime against persons under RCW 9.94A.411(2), or
16 a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred
17 to community custody in lieu of earned release time;

18 (b) The department shall, as a part of its program for release to
19 the community in lieu of earned release, require the offender to
20 propose a release plan that includes an approved residence and living
21 arrangement. All offenders with community custody terms eligible for
22 release to community custody in lieu of earned release shall provide an
23 approved residence and living arrangement prior to release to the
24 community;

25 (c) The department may deny transfer to community custody in lieu
26 of earned release time if the department determines an offender's
27 release plan, including proposed residence location and living
28 arrangements, may violate the conditions of the sentence or conditions
29 of supervision, place the offender at risk to violate the conditions of
30 the sentence, place the offender at risk to reoffend, or present a risk
31 to victim safety or community safety. The department's authority under
32 this section is independent of any court-ordered condition of sentence
33 or statutory provision regarding conditions for community custody;

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

36 (i) Transfer an offender to partial confinement in lieu of earned
37 early release for a period not to exceed three months. The three

1 months in partial confinement is in addition to that portion of the
2 offender's term of confinement that may be served in partial
3 confinement as provided in RCW 9.94A.728(5);

4 (ii) Provide rental vouchers to the offender for a period not to
5 exceed three months if rental assistance will result in an approved
6 release plan. The voucher must be provided in conjunction with
7 additional transition support programming or services that enable an
8 offender to participate in services including, but not limited to,
9 substance abuse treatment, mental health treatment, sex offender
10 treatment, educational programming, or employment programming;

11 (e) For each offender who is the recipient of a rental voucher, the
12 department shall include, concurrent with the data that the department
13 otherwise obtains and records, the housing status of the offender for
14 the duration of the offender's supervision.

15 (6) An offender serving a term of confinement imposed under RCW
16 9.94A.670(5)(a) is not eligible for earned release credits under this
17 section.

18 NEW SECTION. **Sec. 4.** The department shall report to the
19 legislature and the appropriate committees by December 1, 2009, the
20 number of rental vouchers issued to offenders pursuant to this act, any
21 sanction history for offenders after they received the vouchers, and
22 additional information tracked by the department that may assist the
23 legislature in evaluating the rental voucher program.

24 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect August 1,
25 2009.

26 NEW SECTION. **Sec. 6.** Section 1 of this act expires August 1,
27 2009.

28 NEW SECTION. **Sec. 7.** Section 3 of this act is necessary for the
29 immediate preservation of the public peace, health, or safety, or
30 support of the state government and its existing public institutions,
31 and takes effect immediately.

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