

ESB 5105 - H COMM AMD
By Committee on Public Safety

ADOPTED 04/16/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.94A.729 and 2011 1st sp.s. c 40 s 4 are each
4 amended to read as follows:

5 (1)(a) The term of the sentence of an offender committed to a
6 correctional facility operated by the department may be reduced by
7 earned release time in accordance with procedures that shall be
8 developed and adopted by the correctional agency having jurisdiction in
9 which the offender is confined. The earned release time shall be for
10 good behavior and good performance, as determined by the correctional
11 agency having jurisdiction. The correctional agency shall not credit
12 the offender with earned release credits in advance of the offender
13 actually earning the credits.

14 (b) Any program established pursuant to this section shall allow an
15 offender to earn early release credits for presentence incarceration.
16 If an offender is transferred from a county jail to the department, the
17 administrator of a county jail facility shall certify to the department
18 the amount of time spent in custody at the facility and the amount of
19 earned release time. The department may approve a jail certification
20 from a correctional agency that calculates earned release time based on
21 the actual amount of confinement time served by the offender before
22 sentencing when an erroneous calculation of confinement time served by
23 the offender before sentencing appears on the judgment and sentence.

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

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

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

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

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

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

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

14 (A) A sex offense;

15 (B) A violent offense;

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

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

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

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

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

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

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

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

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

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

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

5 (b) The department shall, as a part of its program for release to
6 the community in lieu of earned release, require the offender to
7 propose a release plan that includes an approved residence and living
8 arrangement. All offenders with community custody terms eligible for
9 release to community custody in lieu of earned release shall provide an
10 approved residence and living arrangement prior to release to the
11 community;

12 (c) The department may deny transfer to community custody in lieu
13 of earned release time if the department determines an offender's
14 release plan, including proposed residence location and living
15 arrangements, may violate the conditions of the sentence or conditions
16 of supervision, place the offender at risk to violate the conditions of
17 the sentence, place the offender at risk to reoffend, or present a risk
18 to victim safety or community safety. The department's authority under
19 this section is independent of any court-ordered condition of sentence
20 or statutory provision regarding conditions for community custody;

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

23 (i) Transfer an offender to partial confinement in lieu of earned
24 early release for a period not to exceed three months. The three
25 months in partial confinement is in addition to that portion of the
26 offender's term of confinement that may be served in partial
27 confinement as provided in RCW 9.94A.728(5);

28 (ii) Provide rental vouchers to the offender for a period not to
29 exceed three months if rental assistance will result in an approved
30 release plan. ((The))

31 A voucher must be provided in conjunction with additional
32 transition support programming or services that enable an offender to
33 participate in services including, but not limited to, substance abuse
34 treatment, mental health treatment, sex offender treatment, educational
35 programming, or employment programming;

36 The department shall maintain a list of housing providers that
37 meets the requirements of section 2 of this act. If more than two

1 voucher recipients will be residing per dwelling unit, as defined in
2 RCW 59.18.030, rental vouchers for those recipients may only be paid to
3 a housing provider on the department's list;

4 (f) For each offender who is the recipient of a rental voucher, the
5 department shall ~~((include, concurrent with the data that the~~
6 ~~department otherwise obtains and records, the housing status of the~~
7 ~~offender for the duration of the offender's supervision))~~ gather data
8 as recommended by the Washington state institute for public policy in
9 order to best demonstrate whether rental vouchers are effective in
10 reducing recidivism.

11 (6) An offender serving a term of confinement imposed under RCW
12 9.94A.670(5)(a) is not eligible for earned release credits under this
13 section.

14 NEW SECTION. Sec. 2. A new section is added to chapter 72.09 RCW
15 to read as follows:

16 (1) A housing provider may be placed on a list with the department
17 to receive rental vouchers under RCW 9.94A.729 in accordance with the
18 provisions of this section.

19 (2) For living environments with between four and eight beds, or a
20 greater number of individuals if permitted by local code, the
21 department shall provide transition support that verifies an offender
22 is participating in programming or services including, but not limited
23 to, substance abuse treatment, mental health treatment, sex offender
24 treatment, educational programming, development of positive living
25 skills, or employment programming. In addition, when selecting housing
26 providers, the department shall consider the compatibility of the
27 proposed offender housing with the surrounding neighborhood and
28 underlying zoning. The department shall adopt procedures to limit the
29 concentration of housing providers who provide housing to sex offenders
30 in a single neighborhood or area.

31 (3)(a) The department shall provide the local law and justice
32 council, county sheriff, or, if such housing is located within a city,
33 a city's chief law enforcement officer with notice anytime a housing
34 provider or new housing location requests to be or is added to the list
35 within that county.

36 (b) The county or city local government may provide the department
37 with a community impact statement which includes the number and

1 location of other special needs housing in the neighborhood and a
2 review of services and supports in the area to assist offenders in
3 their transition. If a community impact statement is provided to the
4 department within ten business days of the notice of a new housing
5 provider or housing location request, the department shall consider the
6 community impact statement in determining whether to add the provider
7 to the list and, if the provider is added, shall include the community
8 impact statement in the notice that a provider is added to the list
9 within that county.

10 (4) If a certificate of inspection, as provided in RCW 59.18.125,
11 is required by local regulation and the local government does not have
12 a current certificate of inspection on file, the local government shall
13 have ten business days from the later of (a) receipt of notice from the
14 department as provided in subsection (3) of this section; or (b) from
15 the date the local government is given access to the dwelling unit to
16 conduct an inspection or reinspection to issue a certificate. This
17 section is deemed satisfied if a local government does not issue a
18 timely certificate of inspection.

19 (5)(a) If, within ten business days of receipt of a notice from the
20 department of a new location or new housing provider, the county or
21 city determines that the housing is in a neighborhood with an existing
22 concentration of special needs housing, including but not limited to
23 offender reentry housing, retirement homes, assisted living, emergency
24 or transitional housing, or adult family homes, the county or city may
25 request that the department program administrator remove the new
26 location or new housing provider from the list.

27 (b) This subsection does not apply to housing providers approved by
28 the department to receive rental vouchers on the effective date of this
29 section.

30 (6) The county or city may at any time request a housing provider
31 be removed from the list if it provides information to the department
32 that:

33 (a) It has determined that the housing does not comply with state
34 and local fire and building codes or applicable zoning and development
35 regulations in effect at the time the housing provider first began
36 receiving housing vouchers; or

37 (b) The housing provider is not complying with the provisions of
38 this section.

1 (7) After receiving a request to remove a housing provider from the
2 county or city, the department shall immediately notify the provider of
3 the concerns and request that the provider demonstrate that it is in
4 compliance with the provisions of this section. If, after ten days'
5 written notice, the housing provider cannot demonstrate to the
6 department that it is in compliance with the reasons for the county's
7 or city's request for removal, the department shall remove the housing
8 provider from the list.

9 (8) A housing provider who provides housing pursuant to this
10 section is not liable for civil damages arising from the criminal
11 conduct of an offender to any greater extent than a regular tenant, and
12 no special duties are created under this section."

13 Correct the title.

EFFECT: (1) Limits the bill's provisions to those housing
situations in which more than two voucher recipients reside within a
dwelling unit.

(2) Moves the responsibility of creating a community impact
statement from the Department of Corrections to the county or city
local government and makes the statement discretionary, rather than
mandatory.

(3) Removes an obsolete liability waiver section.

(4) Removes language requiring DOC to give preference to housing
providers that provide a small, family oriented living environment.

(5) Inserts clarifying language.

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