

2ESSB 5892 - H AMD
By Representative

ADOPTED AND ENGROSSED 06/27/2013

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

3 "Sec. 1. RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read
4 as follows:

5 (1)

6 TABLE 3

7 DRUG OFFENSE SENTENCING GRID

8	Seriousness	Offender Score	Offender Score	Offender Score
9	Level	0 to 2	3 to 5	6 to 9 or more
10	III	51 to 68 months	68+ to 100 months	100+ to 120 months
11	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
12	I	0 to 6 months	6+ to ((+8)) <u>12</u>	12+ to 24 months
13			months	

14 References to months represent the standard sentence ranges. 12+
15 equals one year and one day.

16 (2) The court may utilize any other sanctions or alternatives as
17 authorized by law, including but not limited to the special drug
18 offender sentencing alternative under RCW 9.94A.660 or drug court under
19 RCW 2.28.170.

20 (3) Nothing in this section creates an entitlement for a criminal
21 defendant to any specific sanction, alternative, sentence option, or
22 substance abuse treatment.

23 **Sec. 2.** RCW 9.94A.729 and 2011 1st sp.s. c 40 s 4 are each amended
24 to read as follows:

25 (1)(a) The term of the sentence of an offender committed to a
26 correctional facility operated by the department may be reduced by
27 earned release time in accordance with procedures that shall be
28 developed and adopted by the correctional agency having jurisdiction in

1 which the offender is confined. The earned release time shall be for
2 good behavior and good performance, as determined by the correctional
3 agency having jurisdiction. The correctional agency shall not credit
4 the offender with earned release credits in advance of the offender
5 actually earning the credits.

6 (b) Any program established pursuant to this section shall allow an
7 offender to earn early release credits for presentence incarceration.
8 If an offender is transferred from a county jail to the department, the
9 administrator of a county jail facility shall certify to the department
10 the amount of time spent in custody at the facility and the ~~((amount))~~
11 number of days of ~~((earned))~~ early release ~~((time))~~ credits lost or not
12 earned. The department may approve a jail certification from a
13 correctional agency that calculates ~~((earned))~~ early release time based
14 on the actual amount of confinement time served by the offender before
15 sentencing when an erroneous calculation of confinement time served by
16 the offender before sentencing appears on the judgment and sentence.
17 The department must adjust an offender's rate of early release listed
18 on the jail certification to be consistent with the rate applicable to
19 offenders in the department's facilities. However, the department is
20 not authorized to adjust the number of presentence early release days
21 that the jail has certified as lost or not earned.

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

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

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

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

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

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

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

4 (A) A sex offense;

5 (B) A violent offense;

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

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

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

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

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

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

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

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

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

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

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

33 (b) The department shall, as a part of its program for release to
34 the community in lieu of earned release, require the offender to
35 propose a release plan that includes an approved residence and living
36 arrangement. All offenders with community custody terms eligible for
37 release to community custody in lieu of earned release shall provide an

1 approved residence and living arrangement prior to release to the
2 community;

3 (c) The department may deny transfer to community custody in lieu
4 of earned release time if the department determines an offender's
5 release plan, including proposed residence location and living
6 arrangements, may violate the conditions of the sentence or conditions
7 of supervision, place the offender at risk to violate the conditions of
8 the sentence, place the offender at risk to reoffend, or present a risk
9 to victim safety or community safety. The department's authority under
10 this section is independent of any court-ordered condition of sentence
11 or statutory provision regarding conditions for community custody;

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

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

19 (ii) Provide rental vouchers to the offender for a period not to
20 exceed three months if rental assistance will result in an approved
21 release plan. The voucher must be provided in conjunction with
22 additional transition support programming or services that enable an
23 offender to participate in services including, but not limited to,
24 substance abuse treatment, mental health treatment, sex offender
25 treatment, educational programming, or employment programming;

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

30 (6) An offender serving a term of confinement imposed under RCW
31 9.94A.670(5)(a) is not eligible for earned release credits under this
32 section.

33 **Sec. 3.** RCW 9.92.151 and 2009 c 28 s 3 are each amended to read as
34 follows:

35 (1) Except as provided in subsection (2) of this section, the
36 sentence of a prisoner confined in a county jail facility for a felony,
37 gross misdemeanor, or misdemeanor conviction may be reduced by earned

1 release credits in accordance with procedures that shall be developed
2 and promulgated by the correctional agency having jurisdiction. The
3 earned early release time shall be for good behavior and good
4 performance as determined by the correctional agency having
5 jurisdiction. Any program established pursuant to this section shall
6 allow an offender to earn early release credits for presentence
7 incarceration. The correctional agency shall not credit the offender
8 with earned early release credits in advance of the offender actually
9 earning the credits. In the case of an offender convicted of a serious
10 violent offense or a sex offense that is a class A felony committed on
11 or after July 1, 1990, the aggregate earned early release time may not
12 exceed fifteen percent of the sentence. In no other case may the
13 aggregate earned early release time exceed one-third of the total
14 sentence.

15 (2) 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 (3) If an offender is transferred from a county jail to the
19 department, the administrator of a county jail facility shall certify
20 to the department the amount of time spent in custody at the facility
21 and the number of days of early release credits lost or not earned.

22 NEW SECTION. Sec. 4. Pursuant to RCW 9.94A.729, the department
23 shall recalculate the earned release date for any offender currently
24 serving a term in a facility or institution either operated by the
25 state or utilized under contract. The earned release date shall be
26 recalculated whether the offender is currently incarcerated or is
27 sentenced after the effective date of this section, and regardless of
28 the offender's date of offense. For offenders whose offense was
29 committed prior to the effective date of this section, the
30 recalculation shall not extend a term of incarceration beyond that to
31 which an offender is currently subject.

32 NEW SECTION. Sec. 5. (1)(a) The department must, in consultation
33 with the caseload forecast council, compile the following information
34 in summary form for the two years prior to and after the effective date
35 of this section: For offenders sentenced under RCW 9.94A.517 for a
36 seriousness level I offense where the offender score is three to five:

1 (A) The total number of sentences and the average length of sentence
2 imposed, sorted by sentences served in state versus local correctional
3 facilities; (B) the number of current and prior felony convictions for
4 each offender; (C) the estimated cost or cost savings, total and per
5 offender, to the state and local governments from the change to the
6 maximum sentence pursuant to RCW 9.94A.517(1); and (D) the number of
7 offenders who were sentenced to community custody, the number of
8 violations committed on community custody, and any sanctions imposed
9 for such violations.

10 (b) The department must submit a report with its findings to the
11 office of financial management and the appropriate fiscal and policy
12 committees of the house of representatives and the senate by January 1,
13 2015, and January 1, 2018.

14 (2) For purposes of this section, "department" means the department
15 of corrections.

16 NEW SECTION. **Sec. 6.** The legislature declares that section 4 of
17 this act does not create any liberty interest. The department is
18 authorized to take the time reasonably necessary to complete the
19 recalculations of section 4 of this act after the effective date of
20 this section.

21 NEW SECTION. **Sec. 7.** Section 1 of this act applies to sentences
22 imposed on or after July 1, 2013, regardless of the date of offense.

23 NEW SECTION. **Sec. 8.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 July 1, 2013.

31 NEW SECTION. **Sec. 10.** Sections 1 and 5 of this act expire July 1,
32 2018."

1 Correct the title.

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