

SB 5105 - S AMD 99

By Senators Carrell, Dammeier, Darneille

ADOPTED 03/07/2013

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. A rental voucher may
38 only be paid to a housing provider on the department's list;

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

8 (6) 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 NEW SECTION. Sec. 2. A new section is added to chapter 72.09 RCW
12 to read as follows:

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

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

30 (3)(a) The department shall provide the local law and justice
31 council or other designated county authority, and a city's chief law
32 enforcement officer if such housing is located within a city, with
33 notice any time a housing provider or new housing location is added to
34 the list within that county.

35 (b) The notice shall include a community impact statement that has
36 been developed in collaboration with the county and city local
37 governments. The community impact statement shall include the number

1 and 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. When developing the community impact statement, the
4 department shall utilize information gathered and provided by the local
5 government to the extent that it is available.

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

15 (5)(a) If, within ten business days of receipt of a notice from the
16 department of a new location or new housing provider, the county or
17 city determines that the housing is in a neighborhood with an existing
18 concentration of special needs housing, including retirement homes,
19 assisted living, emergency or transitional housing, or adult family
20 homes, the county or city may request the new location or new housing
21 provider be removed from the list.

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

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

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

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

34 (7) After receiving a request to remove a housing provider from the
35 county or city, the department shall immediately notify the provider of
36 the concerns and request that the provider demonstrate that it is in
37 compliance with the provisions of this section. If, after ten days'
38 written notice, the housing provider cannot demonstrate to the

1 department that it is in compliance with the reasons for the county's
2 or city's request for removal, the department shall remove the housing
3 provider from the list.

4 (8) An appointed or elected public official, public employee, or
5 public agency as defined in RCW 4.24.470, or units of local government
6 and its employees, as provided in RCW 36.28A.010, are immune from civil
7 liability for damages for assisting a housing provider in the removal
8 of an offender from the premises as provided in this section.

9 (9) 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."

SB 5105 - S AMD

By Senators Carrell, Dammeier, Darneille

ADOPTED 03/07/2013

13 On page 1, line 1 of the title, after "Relating to" strike the
14 remainder of the title and insert "conditions under which the
15 department of corrections provides rental vouchers to an offender;
16 amending RCW 9.94A.729; and adding a new section to chapter 72.09 RCW."

--- END ---