

SUBSTITUTE SENATE BILL 5892

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hargrove and Kline)

READ FIRST TIME 04/15/13.

1 AN ACT Relating to reducing corrections costs; amending RCW
2 9.94A.517, 9.94A.190, 9.94A.729, and 70.48.130; adding a new section to
3 chapter 9.94A RCW; adding a new section to chapter 70.41 RCW; creating
4 new sections; providing effective dates; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read
7 as follows:

8 (1)

9 TABLE 3

10 DRUG OFFENSE SENTENCING GRID

11	Seriousness	Offender Score	Offender Score	Offender Score
12	Level	0 to 2	3 to 5	6 to 9 or more
13	III	51 to 68 months	68+ to 100 months	100+ to 120 months
14	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
15	I	0 to 6 months	6+ to ((18)) 12	12+ to 24 months
16			months	

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

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

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

10 **Sec. 2.** RCW 9.94A.190 and 2010 c 224 s 10 are each amended to read
11 as follows:

12 (1) A sentence that includes a term or terms of confinement
13 totaling more than one year shall be served in a facility or
14 institution operated, or utilized under contract, by the state, or in
15 home detention pursuant to RCW 9.94A.6551. Except as provided in
16 subsection (3) or (~~(+5+)~~) (6) of this section, a sentence of not more
17 than one year of confinement shall be served in a facility operated,
18 licensed, or utilized under contract, by the county, or if home
19 detention or work crew has been ordered by the court, in the residence
20 of either the offender or a member of the offender's immediate family.

21 (2) If a county uses a state partial confinement facility for the
22 partial confinement of a person sentenced to confinement for not more
23 than one year, the county shall reimburse the state for the use of the
24 facility as provided in this subsection. The office of financial
25 management shall set the rate of reimbursement based upon the average
26 per diem cost per offender in the facility. The office of financial
27 management shall determine to what extent, if any, reimbursement shall
28 be reduced or eliminated because of funds provided by the legislature
29 to the department for the purpose of covering the cost of county use of
30 state partial confinement facilities. The office of financial
31 management shall reestablish reimbursement rates each even-numbered
32 year.

33 (3) A person who is sentenced for a felony to a term of not more
34 than one year, and who is committed or returned to incarceration in a
35 state facility on another felony conviction, either under the
36 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter
37 shall serve all terms of confinement, including a sentence of not more

1 than one year, in a facility or institution operated, or utilized under
2 contract, by the state, consistent with the provisions of RCW
3 9.94A.589.

4 (4) Subject to the availability of funds appropriated for this
5 specific purpose, the department shall rent capacity from local and
6 tribal governments to house short-term offenders as determined in the
7 annual operating appropriations act. Rented capacity for short-term
8 offenders shall not exceed appropriations for the purpose specified in
9 the annual operating appropriations act. For offenders within the
10 department's jurisdiction that are housed in local correctional
11 facilities:

12 (a) The department shall rely on the original offender intake and
13 evaluations conducted at the local level for offenders. The department
14 may require local governments and tribes to transfer a single copy of
15 offender records to the department.

16 (b) For offenders who require supervision upon release by the
17 department pursuant to RCW 9.94A.501 or 9.94A.5011, the department
18 shall continue to review and approve the housing locations pursuant to
19 a modified offender release plan. The department shall develop and
20 agree to a memorandum of understanding with the local and tribal
21 governments that defines the minimum information needed from an
22 offender for the department to review and approve a housing location
23 for these offenders. When a release plan cannot be approved due to the
24 offender's proposed housing, the local and tribal government
25 correctional facility shall deny transfer to community custody in lieu
26 of the earned release time until a housing plan is approved by the
27 department or the offender has reached the maximum date of his or her
28 sentence.

29 (c) The department may establish by rule exceptions for certain
30 types of offenders or exceptional circumstances.

31 (5) Notwithstanding any other provision of this section, a sentence
32 imposed pursuant to RCW 9.94A.660 which has a standard sentence range
33 of over one year, regardless of length, shall be served in a facility
34 or institution operated, or utilized under contract, by the state.

35 ~~((+5))~~ (6) Sentences imposed pursuant to RCW 9.94A.507 shall be
36 served in a facility or institution operated, or utilized under
37 contract, by the state.

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

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

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

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, excluding earned
28 release time under subsection (4) of this section, as follows:

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

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

37 (c) An offender is qualified to earn up to fifty percent of
38 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)~~) (5) 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)(a) An offender who is currently in the department's custody and
25 has at least twelve months remaining prior to the offender's earned
26 release date may receive a thirty-day additional earned release credit
27 during the remaining twelve months of confinement, but only if:

28 (i) The offender is assessed at low risk to commit another felony;

29 (ii) The offender does not commit a serious infraction, as defined
30 in rule, in the last twelve months prior to the offender's earned
31 release date;

32 (iii) The offender successfully completes a program or activity
33 that the department has previously approved at the offender's twelve-
34 month review. The program or activity must be completed at least six
35 months prior to the offender's earned release date. To be eligible for
36 the credit, the program or activity must be one not previously
37 attempted or completed; and

1 (iv) The offender continues to participate in all other programming
2 or activities as directed by the offender's individual reentry plan.
3 Failure to do so shall result in revocation of the thirty-day
4 additional earned release credit, in addition to any other sanctions
5 imposed under this policy.

6 (b) Noncompliance with the provisions in (a)(i), (ii), (iii), and
7 (iv) of this subsection shall result in the revocation of the thirty-
8 day additional earned release credit for the duration of the offender's
9 sentence. Revocation of the thirty days shall not supplant any other
10 changes in the offender's earned release date that are imposed through
11 sanctions for violations of requirements in the offender's individual
12 reentry plan.

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

18 ~~((+5))~~ (6)(a) A person who is eligible for earned early release as
19 provided in this section and who will be supervised by the department
20 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
21 community custody in lieu of earned release time;

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

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

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

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

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

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

19 ((+6+)) (7) An offender serving a term of confinement imposed under
20 RCW 9.94A.670(5)(a) is not eligible for earned release credits under
21 this section.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A RCW
23 to read as follows:

24 The department shall develop and maintain optional programs or
25 activities that may be utilized for the thirty-day earned release
26 credit pursuant to RCW 9.94A.729. The eligible programs or activities
27 may include a specific list of department-approved nonaccredited
28 independent studies, self-help courses, or other options that augment
29 the programming and activities provided in the individual reentry plan,
30 but do not require significant additional department resources.
31 Completion may be deemed successful by requiring the offender to
32 demonstrate consistent weekly progress through program materials and to
33 provide a cumulative project, report, or demonstration to his or her
34 peers or correctional staff.

35 NEW SECTION. **Sec. 5.** The department of corrections is authorized
36 to develop and implement rules and policies pursuant to RCW 9.94A.729.

1 **Sec. 6.** RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each
2 amended to read as follows:

3 (1) It is the intent of the legislature that all jail inmates
4 receive appropriate and cost-effective emergency and necessary medical
5 care. Governing units, the health care authority, and medical care
6 providers shall cooperate to achieve the best rates consistent with
7 adequate care.

8 (2) Payment for emergency or necessary health care shall be by the
9 governing unit, except that the health care authority shall directly
10 reimburse the provider pursuant to chapter 74.09 RCW, in accordance
11 with the rates and benefits established by the authority, if the
12 confined person is eligible under the authority's medical care programs
13 as authorized under chapter 74.09 RCW. After payment by the authority,
14 the financial responsibility for any remaining balance, including
15 unpaid client liabilities that are a condition of eligibility or
16 participation under chapter 74.09 RCW, shall be borne by the medical
17 care provider and the governing unit as may be mutually agreed upon
18 between the medical care provider and the governing unit. In the
19 absence of mutual agreement between the medical care provider and the
20 governing unit, the financial responsibility for any remaining balance
21 shall be borne equally between the medical care provider and the
22 governing unit. Total payments from all sources to providers for care
23 rendered to confined persons (~~eligible under chapter 74.09 RCW~~) shall
24 not exceed the amounts that would be paid by the authority for similar
25 services provided under Title XIX medicaid, unless additional resources
26 are obtained from the confined person.

27 (3) Providers of hospital services that are hospitals licensed
28 under chapter 70.41 RCW shall contract with a correctional facility for
29 inpatient, outpatient, and ancillary services if deemed appropriate by
30 the correctional facility. The correctional facility may only
31 reimburse a provider of hospital services at a rate no more than the
32 amount payable under the medicaid reimbursement structure, plus any
33 additional amount provided specifically for this purpose in the state
34 omnibus appropriations act, regardless of whether the hospital is
35 located within or outside of Washington. A correctional facility may
36 participate, at the correctional facility's expense, in the provider
37 one system operated by the Washington state health care authority for

1 payment of hospital services through a process coordinated by the
2 department of corrections pursuant to this section.

3 (4) As part of the screening process upon booking or preparation of
4 an inmate into jail, general information concerning the inmate's
5 ability to pay for medical care shall be identified, including
6 insurance or other medical benefits or resources to which an inmate is
7 entitled. This information shall be made available to the authority,
8 the governing unit, and any provider of health care services.

9 ~~((+4))~~ (5) The governing unit or provider may obtain reimbursement
10 from the confined person for the cost of health care services not
11 provided under chapter 74.09 RCW, including reimbursement from any
12 insurance program or from other medical benefit programs available to
13 the confined person. Nothing in this chapter precludes civil or
14 criminal remedies to recover the costs of medical care provided jail
15 inmates or paid for on behalf of inmates by the governing unit. As
16 part of a judgment and sentence, the courts are authorized to order
17 defendants to repay all or part of the medical costs incurred by the
18 governing unit or provider during confinement.

19 ~~((+5))~~ (6) To the extent that a confined person is unable to be
20 financially responsible for medical care and is ineligible for the
21 authority's medical care programs under chapter 74.09 RCW, or for
22 coverage from private sources, and in the absence of an interlocal
23 agreement or other contracts to the contrary, the governing unit may
24 obtain reimbursement for the cost of such medical services from the
25 unit of government whose law enforcement officers initiated the charges
26 on which the person is being held in the jail: PROVIDED, That
27 reimbursement for the cost of such services shall be by the state for
28 state prisoners being held in a jail who are accused of either escaping
29 from a state facility or of committing an offense in a state facility.

30 ~~((+6))~~ (7) There shall be no right of reimbursement to the
31 governing unit from units of government whose law enforcement officers
32 initiated the charges for which a person is being held in the jail for
33 care provided after the charges are disposed of by sentencing or
34 otherwise, unless by intergovernmental agreement pursuant to chapter
35 39.34 RCW.

36 ~~((+7))~~ (8) Under no circumstance shall necessary medical services
37 be denied or delayed because of disputes over the cost of medical care

1 or a determination of financial responsibility for payment of the costs
2 of medical care provided to confined persons.

3 ~~((+8))~~ (9) Nothing in this section shall limit any existing right
4 of any party, governing unit, or unit of government against the person
5 receiving the care for the cost of the care provided.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.41 RCW
7 to read as follows:

8 As a condition of licensure, a hospital must contract with a
9 correctional facility as defined in RCW 70.48.020.

10 NEW SECTION. **Sec. 8.** Section 1 of this act applies to sentences
11 imposed on or after July 1, 2013, regardless of the date of offense.

12 NEW SECTION. **Sec. 9.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 10.** Sections 1, 2, 4, and 5 of this act are
17 necessary for the immediate preservation of the public peace, health,
18 or safety, or support of the state government and its existing public
19 institutions, and take effect July 1, 2013.

20 NEW SECTION. **Sec. 11.** Section 3 of this act takes effect
21 September 1, 2013.

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