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SENATE BILL 5105

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Dammeier, Harper, Pearson, and Darneille

Read first time 01/18/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to conditions under which the department of  
2 corrections provides rental vouchers to a registered sex offender;  
3 amending RCW 9.94A.729; providing an effective date; and declaring an  
4 emergency.

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

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

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

17 (b) Any program established pursuant to this section shall allow an  
18 offender to earn early release credits for presentence incarceration.  
19 If an offender is transferred from a county jail to the department, the

1 administrator of a county jail facility shall certify to the department  
2 the amount of time spent in custody at the facility and the amount of  
3 earned release time. The department may approve a jail certification  
4 from a correctional agency that calculates earned release time based on  
5 the actual amount of confinement time served by the offender before  
6 sentencing when an erroneous calculation of confinement time served by  
7 the offender before sentencing appears on the judgment and sentence.

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

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

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.

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

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

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

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

27 (A) A sex offense;

28 (B) A violent offense;

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

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

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

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

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

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

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

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

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

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

14 (5)(a) A person who is eligible for earned early release as  
15 provided in this section and who will be supervised by the department  
16 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
17 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. The  
11 department may only provide rental vouchers to registered sex offenders  
12 where the following conditions have been satisfied:

13 (A) Notice to a local government of the location of the intended  
14 dwelling unit at least thirty days before issuance of the rental  
15 voucher is given by the department;

16 (B) A local government has issued a certificate of inspection for  
17 the dwelling unit for which the voucher is to be used establishing the  
18 unit's compliance with the state and local fire and building codes and  
19 applicable zoning and development regulations;

20 (C) No more than three registered sex offenders utilizing rental  
21 vouchers may reside in a dwelling unit at one time;

22 (D) Notice to a local government of the name of the offender and  
23 the offender's risk level at least ten days before issuance of the  
24 rental voucher is given by the department; and

25 (E) The offender is classified as risk level III, and the dwelling  
26 unit for which the rental voucher will be used is located at least four  
27 hundred forty feet from another dwelling unit housing offenders  
28 classified as risk level III and at least eight hundred eighty feet  
29 measured nearest property line to nearest property line from a public  
30 or private school or child care center.

31 Local governments shall have ten days from the later of the date of  
32 the request to issue a certificate of inspection or the date the local  
33 government is given access to the dwelling unit to conduct an  
34 inspection or reinspection, if corrections are required to render the  
35 unit code compliant. Subsection (5)(d)(ii)(B) of this section is  
36 deemed satisfied if a local government does not issue a timely  
37 certificate of inspection. A local government may charge inspection  
38 fees to the applicant to compensate for services. A local government

1 may waive (d)(ii)(C) of this subsection (5) and allow the department to  
2 issue more than three rental vouchers per dwelling unit if the dwelling  
3 unit is in a location where such increased rental occupancy is  
4 compatible with adjoining uses, the operator of the dwelling unit  
5 demonstrates to the reasonable satisfaction of a local government that  
6 adequate measures are in place for security of the dwelling unit, and  
7 the operator of the dwelling unit consents to a local government  
8 conducting fire and building code certifications as frequently as every  
9 thirty days. If the dwelling unit has a certificate of inspection less  
10 than thirty days old establishing the unit's compliance with the state  
11 and local fire and building codes and applicable zoning and development  
12 regulations, the department is not required to resatisfy (d)(ii)(A) of  
13 this subsection (5) and give duplicate or multiple notices to a local  
14 government;

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

22 NEW SECTION. Sec. 2. This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 July 1, 2013.

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