

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5105

63rd Legislature
2013 Regular Session

Passed by the Senate April 23, 2013
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 16, 2013
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5105** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5105

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

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 an offender; amending RCW
3 9.94A.729; and adding a new section to chapter 72.09 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

26 (A) A sex offense;

27 (B) A violent offense;

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

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

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

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

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

36 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
37 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))

7 A voucher must be provided in conjunction with additional
8 transition support programming or services that enable an offender to
9 participate in services including, but not limited to, substance abuse
10 treatment, mental health treatment, sex offender treatment, educational
11 programming, or employment programming;

12 (e) The department shall maintain a list of housing providers that
13 meets the requirements of section 2 of this act. If more than two
14 voucher recipients will be residing per dwelling unit, as defined in
15 RCW 59.18.030, rental vouchers for those recipients may only be paid to
16 a housing provider on the department's list;

17 (f) For each offender who is the recipient of a rental voucher, the
18 department shall ~~((include, concurrent with the data that the~~
19 ~~department otherwise obtains and records, the housing status of the~~
20 ~~offender for the duration of the offender's supervision))~~ gather data
21 as recommended by the Washington state institute for public policy in
22 order to best demonstrate whether rental vouchers are effective in
23 reducing recidivism.

24 (6) An offender serving a term of confinement imposed under RCW
25 9.94A.670(5)(a) is not eligible for earned release credits under this
26 section.

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

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

32 (2) For living environments with between four and eight beds, or a
33 greater number of individuals if permitted by local code, the
34 department shall provide transition support that verifies an offender
35 is participating in programming or services including, but not limited
36 to, substance abuse treatment, mental health treatment, sex offender
37 treatment, educational programming, development of positive living

1 skills, or employment programming. In addition, when selecting housing
2 providers, the department shall consider the compatibility of the
3 proposed offender housing with the surrounding neighborhood and
4 underlying zoning. The department shall adopt procedures to limit the
5 concentration of housing providers who provide housing to sex offenders
6 in a single neighborhood or area.

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

12 (b) The county or city local government may provide the department
13 with a community impact statement which includes the number and
14 location of other special needs housing in the neighborhood and a
15 review of services and supports in the area to assist offenders in
16 their transition. If a community impact statement is provided to the
17 department within ten business days of the notice of a new housing
18 provider or housing location request, the department shall consider the
19 community impact statement in determining whether to add the provider
20 to the list and, if the provider is added, shall include the community
21 impact statement in the notice that a provider is added to the list
22 within that county.

23 (4) If a certificate of inspection, as provided in RCW 59.18.125,
24 is required by local regulation and the local government does not have
25 a current certificate of inspection on file, the local government shall
26 have ten business days from the later of (a) receipt of notice from the
27 department as provided in subsection (3) of this section; or (b) from
28 the date the local government is given access to the dwelling unit to
29 conduct an inspection or reinspection to issue a certificate. This
30 section is deemed satisfied if a local government does not issue a
31 timely certificate of inspection.

32 (5)(a) If, within ten business days of receipt of a notice from the
33 department of a new location or new housing provider, the county or
34 city determines that the housing is in a neighborhood with an existing
35 concentration of special needs housing, including but not limited to
36 offender reentry housing, retirement homes, assisted living, emergency
37 or transitional housing, or adult family homes, the county or city may

1 request that the department program administrator remove the new
2 location or new housing provider from the list.

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

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

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

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

15 (7) After receiving a request to remove a housing provider from the
16 county or city, the department shall immediately notify the provider of
17 the concerns and request that the provider demonstrate that it is in
18 compliance with the provisions of this section. If, after ten days'
19 written notice, the housing provider cannot demonstrate to the
20 department that it is in compliance with the reasons for the county's
21 or city's request for removal, the department shall remove the housing
22 provider from the list.

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

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