

SENATE BILL 5892

State of Washington 63rd Legislature 2013 Regular Session

By Senators Hargrove and Kline

Read first time 04/03/13. Referred to Committee on Ways & Means.

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 offenders with an earned release date of  
7 less than one hundred twenty days remaining on his or her sentence at  
8 the time the offender would otherwise be transferred to a state  
9 correctional facility. For offenders within the department's  
10 jurisdiction that are housed in local correctional facilities:

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

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

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

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

34 ~~((+5))~~ (6) Sentences imposed pursuant to RCW 9.94A.507 shall be  
35 served in a facility or institution operated, or utilized under  
36 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 does not commit a serious infraction, as defined  
29 in rule, in the last twelve months prior to the offender's earned  
30 release date;

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

37 (iii) The offender continues to participate in all other  
38 programming or activities as directed by the offender's individual

1 reentry plan. Failure to do so shall result in revocation of the  
2 thirty-day additional earned release credit, in addition to any other  
3 sanctions imposed under this policy.

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

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

16 ~~((+5))~~ (6)(a) A person who is eligible for earned early release as  
17 provided in this section and who will be supervised by the department  
18 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
19 community custody in lieu of earned release time;

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

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

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

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

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

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

17 ~~((+6+))~~ (7) An offender serving a term of confinement imposed under  
18 RCW 9.94A.670(5)(a) is not eligible for earned release credits under  
19 this section.

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

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

33 NEW SECTION. **Sec. 5.** The department of corrections is authorized  
34 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 contract with the department of corrections, at the correctional  
37 facility's expense, to participate in the provider one system operated



1 by the Washington state health care authority for payment of hospital  
2 services 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.

--- END ---