

**2ESSB 5892 - H AMD 544**

By Representative Alexander

WITHDRAWN 06/27/2013

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read  
4 as follows:

5 (1)

6 TABLE 3

7 DRUG OFFENSE SENTENCING GRID

8	Seriousness	Offender Score	Offender Score	Offender Score
9	Level	0 to 2	3 to 5	6 to 9 or more
10	III	51 to 68 months	68+ to 100 months	100+ to 120 months
11	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
12	I	0 to 6 months	6+ to ((+8)) <u>12</u>	12+ to 24 months
13			months	

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

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

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

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

25 (1)(a) The term of the sentence of an offender committed to a  
26 correctional facility operated by the department may be reduced by  
27 earned release time in accordance with procedures that shall be  
28 developed and adopted by the correctional agency having jurisdiction in

1 which the offender is confined. The earned release time shall be for  
2 good behavior and good performance, as determined by the correctional  
3 agency having jurisdiction. The correctional agency shall not credit  
4 the offender with earned release credits in advance of the offender  
5 actually earning the credits.

6 (b) Any program established pursuant to this section shall allow an  
7 offender to earn early release credits for presentence incarceration.  
8 If an offender is transferred from a county jail to the department, the  
9 administrator of a county jail facility shall certify to the department  
10 the amount of time spent in custody at the facility and the ~~((amount))~~  
11 number of days of ~~((earned))~~ early release ~~((time))~~ credits lost or not  
12 earned. The department may approve a jail certification from a  
13 correctional agency that calculates ~~((earned))~~ early release time based  
14 on the actual amount of confinement time served by the offender before  
15 sentencing when an erroneous calculation of confinement time served by  
16 the offender before sentencing appears on the judgment and sentence.  
17 The department must adjust an offender's rate of early release listed  
18 on the jail certification to be consistent with the rate applicable to  
19 offenders in the department's facilities. However, the department is  
20 not authorized to adjust the number of presentence early release days  
21 that the jail has certified as lost or not earned.

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 as follows:

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

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

36 (c) An offender is qualified to earn up to fifty percent of  
37 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) 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) The department shall perform a risk assessment of each offender  
25 who may qualify for earned early release under subsection (3)(c) of  
26 this section utilizing the risk assessment tool recommended by the  
27 Washington state institute for public policy. Subsection (3)(c) of  
28 this section does not apply to offenders convicted after July 1, 2010.

29 (5)(a) A person who is eligible for earned early release as  
30 provided in this section and who will be supervised by the department  
31 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
32 community custody in lieu of earned release time;

33 (b) The department shall, as a part of its program for release to  
34 the community in lieu of earned release, require the offender to  
35 propose a release plan that includes an approved residence and living  
36 arrangement. All offenders with community custody terms eligible for  
37 release to community custody in lieu of earned release shall provide an

1 approved residence and living arrangement prior to release to the  
2 community;

3 (c) The department may deny transfer to community custody in lieu  
4 of earned release time if the department determines an offender's  
5 release plan, including proposed residence location and living  
6 arrangements, may violate the conditions of the sentence or conditions  
7 of supervision, place the offender at risk to violate the conditions of  
8 the sentence, place the offender at risk to reoffend, or present a risk  
9 to victim safety or community safety. The department's authority under  
10 this section is independent of any court-ordered condition of sentence  
11 or statutory provision regarding conditions for community custody;

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

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

19 (ii) Provide rental vouchers to the offender for a period not to  
20 exceed three months if rental assistance will result in an approved  
21 release plan. The voucher must be provided in conjunction with  
22 additional transition support programming or services that enable an  
23 offender to participate in services including, but not limited to,  
24 substance abuse treatment, mental health treatment, sex offender  
25 treatment, educational programming, or employment programming;

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

30 (6) An offender serving a term of confinement imposed under RCW  
31 9.94A.670(5)(a) is not eligible for earned release credits under this  
32 section.

33 **Sec. 3.** RCW 9.92.151 and 2009 c 28 s 3 are each amended to read as  
34 follows:

35 (1) Except as provided in subsection (2) of this section, the  
36 sentence of a prisoner confined in a county jail facility for a felony,  
37 gross misdemeanor, or misdemeanor conviction may be reduced by earned

1 release credits in accordance with procedures that shall be developed  
2 and promulgated by the correctional agency having jurisdiction. The  
3 earned early release time shall be for good behavior and good  
4 performance as determined by the correctional agency having  
5 jurisdiction. Any program established pursuant to this section shall  
6 allow an offender to earn early release credits for presentence  
7 incarceration. The correctional agency shall not credit the offender  
8 with earned early release credits in advance of the offender actually  
9 earning the credits. In the case of an offender convicted of a serious  
10 violent offense or a sex offense that is a class A felony committed on  
11 or after July 1, 1990, the aggregate earned early release time may not  
12 exceed fifteen percent of the sentence. In no other case may the  
13 aggregate earned early release time exceed one-third of the total  
14 sentence.

15 (2) An offender serving a term of confinement imposed under RCW  
16 9.94A.670(5)(a) is not eligible for earned release credits under this  
17 section.

18 (3) If an offender is transferred from a county jail to the  
19 department, the administrator of a county jail facility shall certify  
20 to the department the amount of time spent in custody at the facility  
21 and the number of days of early release credits lost or not earned.

22 NEW SECTION. Sec. 4. Pursuant to RCW 9.94A.729, the department of  
23 corrections shall recalculate the earned release date for any offender  
24 currently serving a term in a facility or institution either operated  
25 by the state or utilized under contract. The earned release date shall  
26 be recalculated whether the offender is currently incarcerated or is  
27 sentenced after the effective date of this section, and regardless of  
28 the offender's date of offense. For offenders whose offense was  
29 committed prior to the effective date of this section, the  
30 recalculation shall not extend a term of incarceration beyond that to  
31 which an offender is currently subject.

32 NEW SECTION. Sec. 5. (1)(a) The department must, in consultation  
33 with the caseload forecast council, compile the following information  
34 in summary form for the two years prior to and after the effective date  
35 of this section: For offenders sentenced under RCW 9.94A.517 for a  
36 seriousness level I offense where the offender score is three to five:

1 (A) The total number of sentences and the average length of sentence  
2 imposed, sorted by sentences served in state versus local correctional  
3 facilities; (B) the number of current and prior felony convictions for  
4 each offender; (C) the estimated cost or cost savings, total and per  
5 offender, to the state and local governments from the change to the  
6 maximum sentence pursuant to RCW 9.94A.517(1); and (D) the number of  
7 offenders who were sentenced to community custody, the number of  
8 violations committed on community custody, and any sanctions imposed  
9 for such violations.

10 (b) The department must submit a report with its findings to the  
11 office of financial management and the appropriate fiscal and policy  
12 committees of the house of representatives and the senate by September  
13 1, 2014, and September 1, 2015.

14 (2) For purposes of this section, "department" means the department  
15 of corrections.

16 (3) This section expires December 31, 2015.

17 NEW SECTION. **Sec. 6.** The legislature declares that section 4 of  
18 this act does not create any liberty interest. The department of  
19 corrections is authorized to take the time reasonably necessary to  
20 complete the recalculations of section 4 of this act after the  
21 effective date of this section.

22 NEW SECTION. **Sec. 7.** Section 1 of this act applies to sentences  
23 imposed on or after July 1, 2013, regardless of the date of offense.

24 NEW SECTION. **Sec. 8.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act are  
29 necessary for the immediate preservation of the public peace, health,  
30 or safety, or support of the state government and its existing public  
31 institutions, and take effect July 1, 2013.

32 NEW SECTION. **Sec. 10.** Except for section 5 of this act, this act  
33 expires July 1, 2015."

1 Correct the title.

EFFECT: Removes provisions that (1) limit medical rates paid by jails for hospital services to the Medicaid reimbursement rate and (2) require the Department of Corrections (DOC) to pay the difference between the Medicaid reimbursement rate and the rate negotiated between hospitals and jails in certain counties.

Requires the DOC, in consultation with the Caseload Forecast Council, to compile information on the impacts of the changes to the Drug Sentencing Grid and to submit reports to the Legislature and the Office of Financial Management by September 1, 2014, and September 1, 2015.

Provides that the changes in the underlying bill to the Drug Sentencing Grid and to the calculation of jail presentence credits expire July 1, 2015.

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