

ESSB 5892 - S AMD 366

By Senators Hargrove, Hill

ADOPTED AS AMENDED 06/23/2013

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 70.48.130 and 2011 1st sp.s. c 15 s 85 are each
34 amended to read as follows:

35 (1) It is the intent of the legislature that all jail inmates
36 receive appropriate and cost-effective emergency and necessary medical

1 care. Governing units, the health care authority, and medical care
2 providers shall cooperate to achieve the best rates consistent with
3 adequate care.

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

23 (3) Providers of hospital services that are hospitals licensed
24 under chapter 70.41 RCW shall contract with a correctional facility for
25 inpatient, outpatient, and ancillary services if deemed appropriate by
26 the correctional facility. Except in a county in which there is a
27 single hospital with which the local correctional facilities may
28 contract and with a state correctional facility housing more than one
29 thousand five hundred offenders, the correctional facility may only
30 reimburse a provider of hospital services at a rate no more than the
31 amount payable under the medicaid reimbursement structure, plus any
32 additional amount provided specifically for this purpose in the state
33 omnibus appropriations act, regardless of whether the hospital is
34 located within or outside of Washington. In a county in which there is
35 a single hospital with which the local correctional facilities may
36 contract and with a state correctional facility housing more than one
37 thousand five hundred offenders, the department of corrections shall
38 pay the difference between the medicaid reimbursement and the amount

1 agreed to by the correctional facility and the provider of hospital
2 services. A correctional facility may participate, at the correctional
3 facility's expense, in the provider one system operated by the
4 Washington state health care authority for payment of hospital services
5 through a process coordinated by the department of corrections pursuant
6 to this section.

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

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

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

34 ((+6)) (7) There shall be no right of reimbursement to the
35 governing unit from units of government whose law enforcement officers
36 initiated the charges for which a person is being held in the jail for
37 care provided after the charges are disposed of by sentencing or

1 otherwise, unless by intergovernmental agreement pursuant to chapter
2 39.34 RCW.

3 ~~((7))~~ (8) Under no circumstance shall necessary medical services
4 be denied or delayed because of disputes over the cost of medical care
5 or a determination of financial responsibility for payment of the costs
6 of medical care provided to confined persons.

7 ~~((8))~~ (9) Nothing in this section shall limit any existing right
8 of any party, governing unit, or unit of government against the person
9 receiving the care for the cost of the care provided.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.41 RCW
11 to read as follows:

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

14 **Sec. 5.** RCW 9.92.151 and 2009 c 28 s 3 are each amended to read as
15 follows:

16 (1) Except as provided in subsection (2) of this section, the
17 sentence of a prisoner confined in a county jail facility for a felony,
18 gross misdemeanor, or misdemeanor conviction may be reduced by earned
19 release credits in accordance with procedures that shall be developed
20 and promulgated by the correctional agency having jurisdiction. The
21 earned early release time shall be for good behavior and good
22 performance as determined by the correctional agency having
23 jurisdiction. Any program established pursuant to this section shall
24 allow an offender to earn early release credits for presentence
25 incarceration. The correctional agency shall not credit the offender
26 with earned early release credits in advance of the offender actually
27 earning the credits. In the case of an offender convicted of a serious
28 violent offense or a sex offense that is a class A felony committed on
29 or after July 1, 1990, the aggregate earned early release time may not
30 exceed fifteen percent of the sentence. In no other case may the
31 aggregate earned early release time exceed one-third of the total
32 sentence.

33 (2) An offender serving a term of confinement imposed under RCW
34 9.94A.670(5)(a) is not eligible for earned release credits under this
35 section.

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

5 NEW SECTION. Sec. 6. Pursuant to RCW 9.94A.729, the department
6 shall recalculate the earned release date for any offender currently
7 serving a term in a facility or institution either operated by the
8 state or utilized under contract. The earned release date shall be
9 recalculated whether the offender is currently incarcerated or is
10 sentenced after the effective date of this section, and regardless of
11 the offender's date of offense. For offenders whose offense was
12 committed prior to the effective date of this section, the
13 recalculation shall not extend a term of incarceration beyond that to
14 which an offender is currently subject.

15 NEW SECTION. Sec. 7. The legislature declares that section 6 of
16 this act does not create any liberty interest. The department is
17 authorized to take the time reasonably necessary to complete the
18 recalculations of section 6 of this act after the effective date of
19 this section.

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

22 NEW SECTION. Sec. 9. If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. Sec. 10. Sections 1 and 2 and 5 through 7 of this
27 act are necessary for the immediate preservation of the public peace,
28 health, or safety, or support of the state government and its existing
29 public institutions, and take effect July 1, 2013."

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1 On page 1, line 1 of the title, after "costs;" strike the remainder
2 of the title and insert "amending RCW 9.94A.517, 9.94A.729, 70.48.130,
3 and 9.92.151; adding a new section to chapter 70.41 RCW; creating new
4 sections; providing an effective date; and declaring an emergency."

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