
SECOND SUBSTITUTE SENATE BILL 5105

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dammeier, Harper, and Pearson)

READ FIRST TIME 03/01/13.

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. A rental voucher may
14 only be paid to a housing provider on the department's list;

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

22 (6) An offender serving a term of confinement imposed under RCW
23 9.94A.670(5)(a) is not eligible for earned release credits under this
24 section.

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

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

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

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

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

12 (b) The notice shall include a community impact statement that has
13 been developed in collaboration with the county and city local
14 governments. The community impact statement shall include the number
15 and location of other special needs housing in the neighborhood and a
16 review of services and supports in the area to assist offenders in
17 their transition. When developing the community impact statement, the
18 department shall utilize information gathered and provided by the local
19 government to the extent that it is available.

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

29 (5)(a) If, within ten business days of receipt of a notice from the
30 department of a new location or new housing provider, the county or
31 city determines that the housing is in a neighborhood with an existing
32 concentration of special needs housing, including retirement homes,
33 assisted living, emergency or transitional housing, or adult family
34 homes, the county or city may request the new location or new housing
35 provider be removed from the list.

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

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

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

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

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

18 (8)(a) The provisions of chapter 59.18 RCW do not apply to the
19 removal of an offender from a dwelling unit under the provisions of
20 this section if the housing provider has a supportive living program
21 that includes a structured plan for monitoring tenants for compliance
22 with the program rules and at least one or more of the following
23 components:

24 (i) A clean and sober environment, covering all tenants, employees,
25 staff, and guests;

26 (ii) Referral services for counseling to meet the offender's needs,
27 such as chemical dependency or personal growth;

28 (iii) Referral for case management services; or

29 (iv) A group living environment where all tenants agree to support
30 each other and hold each other accountable.

31 (b) A housing provider who meets the provisions of (a) of this
32 subsection may terminate a tenancy and remove a tenant as follows:

33 (i) The housing provider shall give written notice to the assigned
34 community corrections officer no less than forty-eight hours before
35 terminating the tenancy. A housing provider may subsequently terminate
36 the tenancy and require the offender to vacate the premises within
37 forty-eight hours of receipt of written notice if the offender has:

1 (A) Misused a controlled substance or used or consumed any illegal
2 drug or alcoholic beverage either on or off of the premises;

3 (B) Engaged in harassment or verbal abuse of neighbors, staff, or
4 other tenants;

5 (C) Absconded;

6 (D) Returned to the physical custody of the department or other
7 agency for greater than thirty days; or

8 (E) Engaged in other behavior that is incompatible with the rules
9 of the house and has been given at least three written violation
10 notices.

11 (ii) If a tenant engages in conduct that presents a clear and
12 present danger to neighbors, staff, or other tenants, the housing
13 provider may immediately terminate the tenancy and require the offender
14 to vacate the premises. The housing provider shall notify the assigned
15 community corrections officer as soon as possible of the termination.
16 If the offender's behavior rises to the level of a violation, the
17 community corrections officer shall proceed as required in RCW
18 9.94A.716 and 9.94A.737.

19 (9) An offender's failure to vacate the premises after termination
20 of the tenancy, as set forth in this section, constitutes criminal
21 trespass under chapter 9A.52 RCW. A housing provider may enlist the
22 cooperation of law enforcement in removing the offender from the
23 premises without having to obtain a court order or writ of restitution.
24 The housing provider shall provide law enforcement with a signed
25 written statement attesting to the facts that substantiate the
26 termination of the tenancy and subsequent criminal trespass.

27 (10) An appointed or elected public official, public employee, or
28 public agency as defined in RCW 4.24.470, or units of local government
29 and its employees, as provided in RCW 36.28A.010, are immune from civil
30 liability for damages for assisting a housing provider in the removal
31 of an offender from the premises as provided in this section.

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

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