
SECOND ENGROSSED SUBSTITUTE SENATE BILL 5892

State of Washington 63rd Legislature 2013 2nd Special Session

By Senate Ways & Means (originally sponsored by Senators Hargrove and Kline)

READ FIRST TIME 04/15/13.

1 AN ACT Relating to reducing corrections costs; amending RCW
2 9.94A.517, 9.94A.729, 70.48.130, and 9.92.151; adding a new section to
3 chapter 70.41 RCW; creating new sections; providing an effective date;
4 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

DRUG OFFENSE SENTENCING GRID

	Seriousness	Offender Score	Offender Score	Offender Score
	Level	0 to 2	3 to 5	6 to 9 or more
11	III	51 to 68 months	68+ to 100 months	100+ to 120 months
12	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
13	I	0 to 6 months	6+ to ((18)) 12 14 months	12+ to 24 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.729 and 2011 1st sp.s. c 40 s 4 are each amended
11 to read as follows:

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

21 (b) Any program established pursuant to this section shall allow an
22 offender to earn early release credits for presentence incarceration.
23 If an offender is transferred from a county jail to the department, the
24 administrator of a county jail facility shall certify to the department
25 the amount of time spent in custody at the facility and the ~~((amount))~~
26 number of days of ~~((earned))~~ early release ~~((time))~~ credits lost or not
27 earned. The department may approve a jail certification from a
28 correctional agency that calculates ~~((earned))~~ early release time based
29 on the actual amount of confinement time served by the offender before
30 sentencing when an erroneous calculation of confinement time served by
31 the offender before sentencing appears on the judgment and sentence.
32 The department must adjust an offender's rate of early release listed
33 on the jail certification to be consistent with the rate applicable to
34 offenders in the department's facilities. However, the department is
35 not authorized to adjust the number of presentence early release days
36 that the jail has certified as lost or not earned.

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

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

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

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

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

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

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

20 (A) A sex offense;

21 (B) A violent offense;

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

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

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

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

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

30 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
31 this subsection;

32 (iv) Participates in programming or activities as directed by the
33 offender's individual reentry plan as provided under RCW 72.09.270 to
34 the extent that such programming or activities are made available by
35 the department; and

36 (v) Has not committed a new felony after July 22, 2007, while under
37 community custody.

1 (d) In no other case shall the aggregate earned release time exceed
2 one-third of the total sentence.

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

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

12 (b) The department shall, as a part of its program for release to
13 the community in lieu of earned release, require the offender to
14 propose a release plan that includes an approved residence and living
15 arrangement. All offenders with community custody terms eligible for
16 release to community custody in lieu of earned release shall provide an
17 approved residence and living arrangement prior to release to the
18 community;

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

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

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

35 (ii) Provide rental vouchers to the offender for a period not to
36 exceed three months if rental assistance will result in an approved
37 release plan. The voucher must be provided in conjunction with
38 additional transition support programming or services that enable an

1 offender to participate in services including, but not limited to,
2 substance abuse treatment, mental health treatment, sex offender
3 treatment, educational programming, or employment programming;

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

8 (6) An offender serving a term of confinement imposed under RCW
9 9.94A.670(5)(a) is not eligible for earned release credits under this
10 section.

11 **Sec. 3.** RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each
12 amended to read as follows:

13 (1) It is the intent of the legislature that all jail inmates
14 receive appropriate and cost-effective emergency and necessary medical
15 care. Governing units, the health care authority, and medical care
16 providers shall cooperate to achieve the best rates consistent with
17 adequate care.

18 (2) Payment for emergency or necessary health care shall be by the
19 governing unit, except that the health care authority shall directly
20 reimburse the provider pursuant to chapter 74.09 RCW, in accordance
21 with the rates and benefits established by the authority, if the
22 confined person is eligible under the authority's medical care programs
23 as authorized under chapter 74.09 RCW. After payment by the authority,
24 the financial responsibility for any remaining balance, including
25 unpaid client liabilities that are a condition of eligibility or
26 participation under chapter 74.09 RCW, shall be borne by the medical
27 care provider and the governing unit as may be mutually agreed upon
28 between the medical care provider and the governing unit. In the
29 absence of mutual agreement between the medical care provider and the
30 governing unit, the financial responsibility for any remaining balance
31 shall be borne equally between the medical care provider and the
32 governing unit. Total payments from all sources to providers for care
33 rendered to confined persons (~~(eligible under chapter 74.09 RCW)~~) shall
34 not exceed the amounts that would be paid by the authority for similar
35 services provided under Title XIX medicaid, unless additional resources
36 are obtained from the confined person.

1 (3) Providers of hospital services that are hospitals licensed
2 under chapter 70.41 RCW shall contract with a correctional facility for
3 inpatient, outpatient, and ancillary services if deemed appropriate by
4 the correctional facility. Except in a county in which there are (1)
5 a single hospital with which the local correctional facilities may
6 contract and with a state correctional facility housing more than one
7 thousand five hundred offenders; (2) two hospitals with which the local
8 correctional facilities may contract and with a state correctional
9 facility housing more than two thousand offenders, the correctional
10 facility may only reimburse a provider of hospital services at a rate
11 no more than the amount payable under the medicaid reimbursement
12 structure, plus any additional amount provided specifically for this
13 purpose in the state omnibus appropriations act, regardless of whether
14 the hospital is located within or outside of Washington. In a county
15 in which there is a single hospital with which the local correctional
16 facilities may contract and with a state correctional facility housing
17 more than one thousand five hundred offenders or in a county in which
18 there are two hospitals with the local correctional facilities may
19 contract and with a state correctional facility housing more than two
20 thousand offenders, the department of corrections shall pay the
21 difference between the medicaid reimbursement and the amount agreed to
22 by the correctional facility and the provider of hospital services. A
23 correctional facility may participate, at the correctional facility's
24 expense, in the provider one system operated by the Washington state
25 health care authority for payment of hospital services through a
26 process coordinated by the department of corrections pursuant to this
27 section.

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

34 (~~(4)~~) (5) The governing unit or provider may obtain reimbursement
35 from the confined person for the cost of health care services not
36 provided under chapter 74.09 RCW, including reimbursement from any
37 insurance program or from other medical benefit programs available to
38 the confined person. Nothing in this chapter precludes civil or

1 criminal remedies to recover the costs of medical care provided jail
2 inmates or paid for on behalf of inmates by the governing unit. As
3 part of a judgment and sentence, the courts are authorized to order
4 defendants to repay all or part of the medical costs incurred by the
5 governing unit or provider during confinement.

6 ~~((+5))~~ (6) To the extent that a confined person is unable to be
7 financially responsible for medical care and is ineligible for the
8 authority's medical care programs under chapter 74.09 RCW, or for
9 coverage from private sources, and in the absence of an interlocal
10 agreement or other contracts to the contrary, the governing unit may
11 obtain reimbursement for the cost of such medical services from the
12 unit of government whose law enforcement officers initiated the charges
13 on which the person is being held in the jail: PROVIDED, That
14 reimbursement for the cost of such services shall be by the state for
15 state prisoners being held in a jail who are accused of either escaping
16 from a state facility or of committing an offense in a state facility.

17 ~~((+6))~~ (7) There shall be no right of reimbursement to the
18 governing unit from units of government whose law enforcement officers
19 initiated the charges for which a person is being held in the jail for
20 care provided after the charges are disposed of by sentencing or
21 otherwise, unless by intergovernmental agreement pursuant to chapter
22 39.34 RCW.

23 ~~((+7))~~ (8) Under no circumstance shall necessary medical services
24 be denied or delayed because of disputes over the cost of medical care
25 or a determination of financial responsibility for payment of the costs
26 of medical care provided to confined persons.

27 ~~((+8))~~ (9) Nothing in this section shall limit any existing right
28 of any party, governing unit, or unit of government against the person
29 receiving the care for the cost of the care provided.

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

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

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

36 (1) Except as provided in subsection (2) of this section, the

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

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

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

24 NEW SECTION. Sec. 6. Pursuant to RCW 9.94A.729, the department
25 shall recalculate the earned release date for any offender currently
26 serving a term in a facility or institution either operated by the
27 state or utilized under contract. The earned release date shall be
28 recalculated whether the offender is currently incarcerated or is
29 sentenced after the effective date of this section, and regardless of
30 the offender's date of offense. For offenders whose offense was
31 committed prior to the effective date of this section, the
32 recalculation shall not extend a term of incarceration beyond that to
33 which an offender is currently subject.

34 NEW SECTION. Sec. 7. The legislature declares that section 6 of
35 this act does not create any liberty interest. The department is

1 authorized to take the time reasonably necessary to complete the
2 recalculations of section 6 of this act after the effective date of
3 this section.

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

6 NEW SECTION. **Sec. 9.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

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

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