
SUBSTITUTE SENATE BILL 5117

State of Washington

67th Legislature

2021 Regular Session

By Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Nguyen, Saldaña, Billig, Darneille, Das, Dhingra, Hasegawa, Kuderer, Lovelett, Muzzall, Robinson, and Wilson, C.)

READ FIRST TIME 01/25/21.

1 AN ACT Relating to rental vouchers to eligible incarcerated
2 individuals; amending RCW 9.94A.729 and 9.94A.729; providing an
3 effective date; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
6 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
11 in which the offender is confined. The earned release time shall be
12 for good behavior and good performance, as determined by the
13 correctional agency having jurisdiction. The correctional agency
14 shall not credit the offender with earned release credits in advance
15 of the offender actually earning the credits.

16 (b) Any program established pursuant to this section shall allow
17 an offender to earn early release credits for presentence
18 incarceration. If an offender is transferred from a county jail to
19 the department, the administrator of a county jail facility shall
20 certify to the department the amount of time spent in custody at the
21 facility and the number of days of early release credits lost or not

1 earned. The department may approve a jail certification from a
2 correctional agency that calculates early release time based on the
3 actual amount of confinement time served by the offender before
4 sentencing when an erroneous calculation of confinement time served
5 by the offender before sentencing appears on the judgment and
6 sentence. The department must adjust an offender's rate of early
7 release listed on the jail certification to be consistent with the
8 rate applicable to offenders in the department's facilities. However,
9 the department is not authorized to adjust the number of presentence
10 early release days that the jail has certified as lost or not earned.

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

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

18 (a) In the case of an offender sentenced pursuant to RCW
19 10.95.030(3) or 10.95.035, the offender may not receive any earned
20 early release time during the minimum term of confinement imposed by
21 the court; for any remaining portion of the sentence served by the
22 offender, the aggregate earned release time may not exceed (~~ten~~) 10
23 percent of the sentence.

24 (b) In the case of an offender convicted of a serious violent
25 offense, or a sex offense that is a class A felony, committed on or
26 after July 1, 1990, and before July 1, 2003, the aggregate earned
27 release time may not exceed (~~fifteen~~) 15 percent of the sentence.

28 (c) 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, 2003, the aggregate earned release time may not exceed
31 (~~ten~~) 10 percent of the sentence.

32 (d) An offender is qualified to earn up to (~~fifty~~) 50 percent
33 of aggregate earned release time if he or she:

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

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

37 (A) A sex offense;

38 (B) A violent offense;

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

1 (D) A felony that is domestic violence as defined in RCW
2 10.99.020;

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

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

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

10 (iii) Has no prior conviction for the offenses listed in (d)(ii)
11 of this subsection;

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

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

18 (e) In no other case shall the aggregate earned release time
19 exceed one-third of the total sentence.

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

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

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

37 (c) The department may deny transfer to community custody in lieu
38 of earned release time if the department determines an offender's
39 release plan, including proposed residence location and living
40 arrangements, may violate the conditions of the sentence or

1 conditions of supervision, place the offender at risk to violate the
2 conditions of the sentence, place the offender at risk to reoffend,
3 or present a risk to victim safety or community safety. The
4 department's authority under this section is independent of any
5 court-ordered condition of sentence or statutory provision regarding
6 conditions for community custody;

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

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

14 (ii) Provide rental vouchers to the offender for a period not to
15 exceed three months if rental assistance will result in an approved
16 release plan;

17 (iii) Subject to the availability of amounts appropriated for
18 this specific purpose, and if rental assistance will result in an
19 approved release plan for the offender, extend the rental voucher
20 period to a length not to exceed six months in total.

21 A voucher must be provided in conjunction with additional
22 transition support programming or services that enable an offender to
23 participate in services including, but not limited to, substance
24 abuse treatment, mental health treatment, sex offender treatment,
25 educational programming, or employment programming;

26 (e) The department shall maintain a list of housing providers
27 that meets the requirements of RCW 72.09.285. If more than two
28 voucher recipients will be residing per dwelling unit, as defined in
29 RCW 59.18.030, rental vouchers for those recipients may only be paid
30 to a housing provider on the department's list;

31 (f) For each offender who is the recipient of a rental voucher,
32 the department shall gather data as recommended by the Washington
33 state institute for public policy in order to best demonstrate
34 whether rental vouchers are effective in reducing recidivism.

35 (6) An offender serving a term of confinement imposed under RCW
36 9.94A.670(5)(a) is not eligible for earned release credits under this
37 section.

38 **Sec. 2.** RCW 9.94A.729 and 2020 c 330 s 2 are each amended to
39 read as follows:

1 (1) (a) The term of the sentence of an offender committed to a
2 correctional facility operated by the department may be reduced by
3 earned release time in accordance with procedures that shall be
4 developed and adopted by the correctional agency having jurisdiction
5 in which the offender is confined. The earned release time shall be
6 for good behavior and good performance, as determined by the
7 correctional agency having jurisdiction. The correctional agency
8 shall not credit the offender with earned release credits in advance
9 of the offender actually earning the credits.

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

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

32 (b) An offender whose sentence includes any impaired driving
33 enhancements under RCW 9.94A.533(7), minor child enhancements under
34 RCW 9.94A.533(13), or both, shall not receive any good time credits
35 or earned release time for any portion of his or her sentence that
36 results from those enhancements.

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

38 (a) In the case of an offender sentenced pursuant to RCW
39 10.95.030(3) or 10.95.035, the offender may not receive any earned
40 early release time during the minimum term of confinement imposed by

1 the court; for any remaining portion of the sentence served by the
2 offender, the aggregate earned release time may not exceed (~~ten~~) 10
3 percent of the sentence.

4 (b) In the case of an offender convicted of a serious violent
5 offense, or a sex offense that is a class A felony, committed on or
6 after July 1, 1990, and before July 1, 2003, the aggregate earned
7 release time may not exceed (~~fifteen~~) 15 percent of the sentence.

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

12 (d) An offender is qualified to earn up to (~~fifty~~) 50 percent
13 of aggregate earned release time if he or she:

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

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

17 (A) A sex offense;

18 (B) A violent offense;

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

20 (D) A felony that is domestic violence as defined in RCW
21 10.99.020;

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

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

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

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

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

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

37 (e) In no other case shall the aggregate earned release time
38 exceed one-third of the total sentence.

39 (4) The department shall perform a risk assessment of each
40 offender who may qualify for earned early release under subsection

1 (3)(d) of this section utilizing the risk assessment tool recommended
2 by the Washington state institute for public policy. Subsection
3 (3)(d) of this section does not apply to offenders convicted after
4 July 1, 2010.

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

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

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

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

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

33 (ii) Provide rental vouchers to the offender for a period not to
34 exceed three months if rental assistance will result in an approved
35 release plan;

36 (iii) Subject to the availability of amounts appropriated for
37 this specific purpose, and if rental assistance will result in an
38 approved release plan for the offender, extend the rental voucher
39 period to a length not to exceed six months in total.

1 A voucher must be provided in conjunction with additional
2 transition support programming or services that enable an offender to
3 participate in services including, but not limited to, substance
4 abuse treatment, mental health treatment, sex offender treatment,
5 educational programming, or employment programming;

6 (e) The department shall maintain a list of housing providers
7 that meets the requirements of RCW 72.09.285. If more than two
8 voucher recipients will be residing per dwelling unit, as defined in
9 RCW 59.18.030, rental vouchers for those recipients may only be paid
10 to a housing provider on the department's list;

11 (f) For each offender who is the recipient of a rental voucher,
12 the department shall gather data as recommended by the Washington
13 state institute for public policy in order to best demonstrate
14 whether rental vouchers are effective in reducing recidivism.

15 (6) 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 NEW SECTION. **Sec. 3.** Section 1 of this act expires January 1,
19 2022.

20 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect January
21 1, 2022.

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