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SENATE BILL 5525

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State of Washington

61st Legislature

2009 Regular Session

By Senators Carrell, Hargrove, Stevens, Regala, Brandland, Kauffman, and McAuliffe

Read first time 01/26/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to rental vouchers to allow release from state  
2 institutions; amending RCW 9.94A.728 and 9.94A.728; adding a new  
3 section to chapter 9.94A RCW; providing an effective date; providing an  
4 expiration date; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.728 and 2007 c 483 s 304 are each amended to  
7 read as follows:

8 No person serving a sentence imposed pursuant to this chapter and  
9 committed to the custody of the department shall leave the confines of  
10 the correctional facility or be released prior to the expiration of the  
11 sentence except as follows:

12 ~~(1) ((Except as otherwise provided for in subsection (2) of this~~  
13 ~~section, the term of the sentence of an offender committed to a~~  
14 ~~correctional facility operated by the department may be reduced by~~  
15 ~~earned release time in accordance with procedures that shall be~~  
16 ~~developed and promulgated by the correctional agency having~~  
17 ~~jurisdiction in which the offender is confined. The earned release~~  
18 ~~time shall be for good behavior and good performance, as determined by~~  
19 ~~the correctional agency having jurisdiction. The correctional agency~~

1 shall not credit the offender with earned release credits in advance of  
2 the offender actually earning the credits. Any program established  
3 pursuant to this section shall allow an offender to earn early release  
4 credits for presentence incarceration. If an offender is transferred  
5 from a county jail to the department, the administrator of a county  
6 jail facility shall certify to the department the amount of time spent  
7 in custody at the facility and the amount of earned release time. An  
8 offender who has been convicted of a felony committed after July 23,  
9 1995, that involves any applicable deadly weapon enhancements under RCW  
10 9.94A.533 (3) or (4), or both, shall not receive any good time credits  
11 or earned release time for that portion of his or her sentence that  
12 results from any deadly weapon enhancements.

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. In the  
17 case of an offender convicted of a serious violent offense, or a sex  
18 offense that is a class A felony, committed on or after July 1, 2003,  
19 the aggregate earned release time may not exceed ten percent of the  
20 sentence.

21 (b)(i) In the case of an offender who qualifies under (b)(ii) of  
22 this subsection, the aggregate earned release time may not exceed fifty  
23 percent of the sentence.

24 (ii) An offender is qualified to earn up to fifty percent of  
25 aggregate earned release time under this subsection (1)(b) if he or  
26 she:

27 (A) Is classified in one of the two lowest risk categories under  
28 (b)(iii) of this subsection;

29 (B) Is not confined pursuant to a sentence for:

30 (I) A sex offense;

31 (II) A violent offense;

32 (III) A crime against persons as defined in RCW 9.94A.411;

33 (IV) A felony that is domestic violence as defined in RCW  
34 10.99.020;

35 (V) A violation of RCW 9A.52.025 (residential burglary);

36 (VI) A violation of, or an attempt, solicitation, or conspiracy to  
37 violate, RCW 69.50.401 by manufacture or delivery or possession with  
38 intent to deliver methamphetamine; or

1       ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~  
2 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~  
3       ~~(C) Has no prior conviction for:~~  
4       ~~(I) A sex offense;~~  
5       ~~(II) A violent offense;~~  
6       ~~(III) A crime against persons as defined in RCW 9.94A.411;~~  
7       ~~(IV) A felony that is domestic violence as defined in RCW~~  
8 ~~10.99.020;~~  
9       ~~(V) A violation of RCW 9A.52.025 (residential burglary);~~  
10       ~~(VI) A violation of, or an attempt, solicitation, or conspiracy to~~  
11 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~  
12 ~~intent to deliver methamphetamine; or~~  
13       ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~  
14 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~  
15       ~~(D) Participates in programming or activities as directed by the~~  
16 ~~offender's individual reentry plan as provided under RCW 72.09.270 to~~  
17 ~~the extent that such programming or activities are made available by~~  
18 ~~the department; and~~  
19       ~~(E) Has not committed a new felony after July 22, 2007, while under~~  
20 ~~community supervision, community placement, or community custody.~~  
21       ~~(iii) For purposes of determining an offender's eligibility under~~  
22 ~~this subsection (1)(b), the department shall perform a risk assessment~~  
23 ~~of every offender committed to a correctional facility operated by the~~  
24 ~~department who has no current or prior conviction for a sex offense, a~~  
25 ~~violent offense, a crime against persons as defined in RCW 9.94A.411,~~  
26 ~~a felony that is domestic violence as defined in RCW 10.99.020, a~~  
27 ~~violation of RCW 9A.52.025 (residential burglary), a violation of, or~~  
28 ~~an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by~~  
29 ~~manufacture or delivery or possession with intent to deliver~~  
30 ~~methamphetamine, or a violation of, or an attempt, solicitation, or~~  
31 ~~conspiracy to violate, RCW 69.50.406 (delivery of a controlled~~  
32 ~~substance to a minor). The department must classify each assessed~~  
33 ~~offender in one of four risk categories between highest and lowest~~  
34 ~~risk.~~  
35       ~~(iv) The department shall recalculate the earned release time and~~  
36 ~~reschedule the expected release dates for each qualified offender under~~  
37 ~~this subsection (1)(b).~~

1       ~~(v) This subsection (1)(b) applies retroactively to eligible~~  
2 ~~offenders serving terms of total confinement in a state correctional~~  
3 ~~facility as of July 1, 2003.~~

4       ~~(vi) This subsection (1)(b) does not apply to offenders convicted~~  
5 ~~after July 1, 2010.~~

6       ~~(c) In no other case shall the aggregate earned release time exceed~~  
7 ~~one-third of the total sentence;~~

8       ~~(2)(a) A person convicted of a sex offense or an offense~~  
9 ~~categorized as a serious violent offense, assault in the second degree,~~  
10 ~~vehicular homicide, vehicular assault, assault of a child in the second~~  
11 ~~degree, any crime against persons where it is determined in accordance~~  
12 ~~with RCW 9.94A.602 that the offender or an accomplice was armed with a~~  
13 ~~deadly weapon at the time of commission, or any felony offense under~~  
14 ~~chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become~~  
15 ~~eligible, in accordance with a program developed by the department, for~~  
16 ~~transfer to community custody status in lieu of earned release time~~  
17 ~~pursuant to subsection (1) of this section;~~

18       ~~(b) A person convicted of a sex offense, a violent offense, any~~  
19 ~~crime against persons under RCW 9.94A.411(2), or a felony offense under~~  
20 ~~chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may~~  
21 ~~become eligible, in accordance with a program developed by the~~  
22 ~~department, for transfer to community custody status in lieu of earned~~  
23 ~~release time pursuant to subsection (1) of this section;~~

24       ~~(c) The department shall, as a part of its program for release to~~  
25 ~~the community in lieu of earned release, require the offender to~~  
26 ~~propose a release plan that includes an approved residence and living~~  
27 ~~arrangement. All offenders with community placement or community~~  
28 ~~custody terms eligible for release to community custody status in lieu~~  
29 ~~of earned release shall provide an approved residence and living~~  
30 ~~arrangement prior to release to the community;~~

31       ~~(d) The department may deny transfer to community custody status in~~  
32 ~~lieu of earned release time pursuant to subsection (1) of this section~~  
33 ~~if the department determines an offender's release plan, including~~  
34 ~~proposed residence location and living arrangements, may violate the~~  
35 ~~conditions of the sentence or conditions of supervision, place the~~  
36 ~~offender at risk to violate the conditions of the sentence, place the~~  
37 ~~offender at risk to reoffend, or present a risk to victim safety or~~  
38 ~~community safety. The department's authority under this section is~~

1 independent of any court ordered condition of sentence or statutory  
2 provision regarding conditions for community custody or community  
3 placement;

4 ~~(e) If the department denies transfer to community custody status~~  
5 ~~in lieu of earned early release pursuant to (d) of this subsection, the~~  
6 ~~department may transfer an offender to partial confinement in lieu of~~  
7 ~~earned early release up to three months. The three months in partial~~  
8 ~~confinement is in addition to that portion of the offender's term of~~  
9 ~~confinement that may be served in partial confinement as provided in~~  
10 ~~this section;~~

11 ~~(f) An offender serving a term of confinement imposed under RCW~~  
12 ~~9.94A.670(4)(a) is not eligible for earned release credits under this~~  
13 ~~section;~~

14 ~~(3))~~ An offender may earn early release time as authorized by  
15 section 3 of this act.

16 (2) An offender may leave a correctional facility pursuant to an  
17 authorized furlough or leave of absence. In addition, offenders may  
18 leave a correctional facility when in the custody of a corrections  
19 officer or officers;

20 ~~((4))~~ (3)(a) The secretary may authorize an extraordinary medical  
21 placement for an offender when all of the following conditions exist:

22 (i) The offender has a medical condition that is serious enough to  
23 require costly care or treatment;

24 (ii) The offender poses a low risk to the community because he or  
25 she is physically incapacitated due to age or the medical condition;  
26 and

27 (iii) Granting the extraordinary medical placement will result in  
28 a cost savings to the state.

29 (b) An offender sentenced to death or to life imprisonment without  
30 the possibility of release or parole is not eligible for an  
31 extraordinary medical placement.

32 (c) The secretary shall require electronic monitoring for all  
33 offenders in extraordinary medical placement unless the electronic  
34 monitoring equipment interferes with the function of the offender's  
35 medical equipment or results in the loss of funding for the offender's  
36 medical care. The secretary shall specify who shall provide the  
37 monitoring services and the terms under which the monitoring shall be  
38 performed.

1 (d) The secretary may revoke an extraordinary medical placement  
2 under this subsection at any time.

3 (e) Persistent offenders are not eligible for extraordinary medical  
4 placement;

5 ~~((+5))~~ (4) The governor, upon recommendation from the clemency and  
6 pardons board, may grant an extraordinary release for reasons of  
7 serious health problems, senility, advanced age, extraordinary  
8 meritorious acts, or other extraordinary circumstances;

9 ~~((+6))~~ (5) No more than the final six months of the offender's  
10 term of confinement may be served in partial confinement designed to  
11 aid the offender in finding work and reestablishing himself or herself  
12 in the community. This is in addition to that period of earned early  
13 release time that may be exchanged for partial confinement pursuant to  
14 ~~((subsection (2)(e)))~~ section 3(5)(d) of this ~~((section))~~ act;

15 ~~((+7))~~ (6) The governor may pardon any offender;

16 ~~((+8))~~ (7) The department may release an offender from confinement  
17 any time within ten days before a release date calculated under this  
18 section; and

19 ~~((+9))~~ (8) An offender may leave a correctional facility prior to  
20 completion of his or her sentence if the sentence has been reduced as  
21 provided in RCW 9.94A.870.

22 Notwithstanding any other provisions of this section, an offender  
23 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a  
24 mandatory minimum sentence of total confinement shall not be released  
25 from total confinement before the completion of the listed mandatory  
26 minimum sentence for that felony crime of conviction unless allowed  
27 under RCW 9.94A.540(~~(, however persistent offenders are not eligible~~  
28 ~~for extraordinary medical placement))).~~

29 **Sec. 2.** RCW 9.94A.728 and 2008 c 231 s 34 are each amended to read  
30 as follows:

31 No person serving a sentence imposed pursuant to this chapter and  
32 committed to the custody of the department shall leave the confines of  
33 the correctional facility or be released prior to the expiration of the  
34 sentence except as follows:

35 ~~(1) ((Except as otherwise provided for in subsection (2) of this~~  
36 ~~section, the term of the sentence of an offender committed to a~~  
37 ~~correctional facility operated by the department may be reduced by~~

1 earned release time in accordance with procedures that shall be  
2 developed and promulgated by the correctional agency having  
3 jurisdiction in which the offender is confined. The earned release  
4 time shall be for good behavior and good performance, as determined by  
5 the correctional agency having jurisdiction. The correctional agency  
6 shall not credit the offender with earned release credits in advance of  
7 the offender actually earning the credits. Any program established  
8 pursuant to this section shall allow an offender to earn early release  
9 credits for presentence incarceration. If an offender is transferred  
10 from a county jail to the department, the administrator of a county  
11 jail facility shall certify to the department the amount of time spent  
12 in custody at the facility and the amount of earned release time. An  
13 offender who has been convicted of a felony committed after July 23,  
14 1995, that involves any applicable deadly weapon enhancements under RCW  
15 9.94A.533 (3) or (4), or both, shall not receive any good time credits  
16 or earned release time for that portion of his or her sentence that  
17 results from any deadly weapon enhancements.

18 (a) In the case of an offender convicted of a serious violent  
19 offense, or a sex offense that is a class A felony, committed on or  
20 after July 1, 1990, and before July 1, 2003, the aggregate earned  
21 release time may not exceed fifteen percent of the sentence. In the  
22 case of an offender convicted of a serious violent offense, or a sex  
23 offense that is a class A felony, committed on or after July 1, 2003,  
24 the aggregate earned release time may not exceed ten percent of the  
25 sentence.

26 (b)(i) In the case of an offender who qualifies under (b)(ii) of  
27 this subsection, the aggregate earned release time may not exceed fifty  
28 percent of the sentence.

29 (ii) An offender is qualified to earn up to fifty percent of  
30 aggregate earned release time under this subsection (1)(b) if he or  
31 she:

32 (A) Is classified in one of the two lowest risk categories under  
33 (b)(iii) of this subsection;

34 (B) Is not confined pursuant to a sentence for:

35 (I) A sex offense;

36 (II) A violent offense;

37 (III) A crime against persons as defined in RCW 9.94A.411;

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

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

4       ~~(VI) 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       ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~  
8 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

9       ~~(C) Has no prior conviction for:~~

10       ~~(I) A sex offense;~~

11       ~~(II) A violent offense;~~

12       ~~(III) A crime against persons as defined in RCW 9.94A.411;~~

13       ~~(IV) A felony that is domestic violence as defined in RCW~~  
14 ~~10.99.020;~~

15       ~~(V) A violation of RCW 9A.52.025 (residential burglary);~~

16       ~~(VI) A violation of, or an attempt, solicitation, or conspiracy to~~  
17 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~  
18 ~~intent to deliver methamphetamine; or~~

19       ~~(VII) A violation of, or an attempt, solicitation, or conspiracy to~~  
20 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

21       ~~(D) Participates in programming or activities as directed by the~~  
22 ~~offender's individual reentry plan as provided under RCW 72.09.270 to~~  
23 ~~the extent that such programming or activities are made available by~~  
24 ~~the department; and~~

25       ~~(E) Has not committed a new felony after July 22, 2007, while under~~  
26 ~~community custody.~~

27       ~~(iii) For purposes of determining an offender's eligibility under~~  
28 ~~this subsection (1)(b), the department shall perform a risk assessment~~  
29 ~~of every offender committed to a correctional facility operated by the~~  
30 ~~department who has no current or prior conviction for a sex offense, a~~  
31 ~~violent offense, a crime against persons as defined in RCW 9.94A.411,~~  
32 ~~a felony that is domestic violence as defined in RCW 10.99.020, a~~  
33 ~~violation of RCW 9A.52.025 (residential burglary), a violation of, or~~  
34 ~~an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by~~  
35 ~~manufacture or delivery or possession with intent to deliver~~  
36 ~~methamphetamine, or a violation of, or an attempt, solicitation, or~~  
37 ~~conspiracy to violate, RCW 69.50.406 (delivery of a controlled~~



1 ~~substance to a minor).~~ ~~The department must classify each assessed~~  
2 ~~offender in one of four risk categories between highest and lowest~~  
3 ~~risk.~~

4 ~~(iv) The department shall recalculate the earned release time and~~  
5 ~~reschedule the expected release dates for each qualified offender under~~  
6 ~~this subsection (1)(b).~~

7 ~~(v) This subsection (1)(b) applies retroactively to eligible~~  
8 ~~offenders serving terms of total confinement in a state correctional~~  
9 ~~facility as of July 1, 2003.~~

10 ~~(vi) This subsection (1)(b) does not apply to offenders convicted~~  
11 ~~after July 1, 2010.~~

12 ~~(c) In no other case shall the aggregate earned release time exceed~~  
13 ~~one-third of the total sentence;~~

14 ~~(2)(a) A person convicted of a sex offense, a violent offense, any~~  
15 ~~crime against persons under RCW 9.94A.411(2), or a felony offense under~~  
16 ~~chapter 69.50 or 69.52 RCW, may become eligible, in accordance with a~~  
17 ~~program developed by the department, for transfer to community custody~~  
18 ~~in lieu of earned release time pursuant to subsection (1) of this~~  
19 ~~section;~~

20 ~~(b) The department shall, as a part of its program for release to~~  
21 ~~the community in lieu of earned release, require the offender to~~  
22 ~~propose a release plan that includes an approved residence and living~~  
23 ~~arrangement. All offenders with community custody terms eligible for~~  
24 ~~release to community custody in lieu of earned release shall provide an~~  
25 ~~approved residence and living arrangement prior to release to the~~  
26 ~~community;~~

27 ~~(c) The department may deny transfer to community custody in lieu~~  
28 ~~of earned release time pursuant to subsection (1) of this section if~~  
29 ~~the department determines an offender's release plan, including~~  
30 ~~proposed residence location and living arrangements, may violate the~~  
31 ~~conditions of the sentence or conditions of supervision, place the~~  
32 ~~offender at risk to violate the conditions of the sentence, place the~~  
33 ~~offender at risk to reoffend, or present a risk to victim safety or~~  
34 ~~community safety. The department's authority under this section is~~  
35 ~~independent of any court ordered condition of sentence or statutory~~  
36 ~~provision regarding conditions for community custody;~~

37 ~~(d) If the department denies transfer to community custody in lieu~~  
38 ~~of earned early release pursuant to (c) of this subsection, the~~

1 ~~department may transfer an offender to partial confinement in lieu of~~  
2 ~~earned early release up to three months. The three months in partial~~  
3 ~~confinement is in addition to that portion of the offender's term of~~  
4 ~~confinement that may be served in partial confinement as provided in~~  
5 ~~this section;~~

6 ~~(e) An offender serving a term of confinement imposed under RCW~~  
7 ~~9.94A.670(5)(a) is not eligible for earned release credits under this~~  
8 ~~section;~~

9 ~~(3))~~ An offender may earn early release time as authorized by  
10 section 3 of this act.

11 (2) An offender may leave a correctional facility pursuant to an  
12 authorized furlough or leave of absence. In addition, offenders may  
13 leave a correctional facility when in the custody of a corrections  
14 officer or officers;

15 ~~((4))~~ (3)(a) The secretary may authorize an extraordinary medical  
16 placement for an offender when all of the following conditions exist:

17 (i) The offender has a medical condition that is serious enough to  
18 require costly care or treatment;

19 (ii) The offender poses a low risk to the community because he or  
20 she is physically incapacitated due to age or the medical condition;  
21 and

22 (iii) Granting the extraordinary medical placement will result in  
23 a cost savings to the state.

24 (b) An offender sentenced to death or to life imprisonment without  
25 the possibility of release or parole is not eligible for an  
26 extraordinary medical placement.

27 (c) The secretary shall require electronic monitoring for all  
28 offenders in extraordinary medical placement unless the electronic  
29 monitoring equipment interferes with the function of the offender's  
30 medical equipment or results in the loss of funding for the offender's  
31 medical care. The secretary shall specify who shall provide the  
32 monitoring services and the terms under which the monitoring shall be  
33 performed.

34 (d) The secretary may revoke an extraordinary medical placement  
35 under this subsection at any time.

36 (e) Persistent offenders are not eligible for extraordinary medical  
37 placement;

1 ((+5)) (4) The governor, upon recommendation from the clemency and  
2 pardons board, may grant an extraordinary release for reasons of  
3 serious health problems, senility, advanced age, extraordinary  
4 meritorious acts, or other extraordinary circumstances;

5 ((+6)) (5) No more than the final six months of the offender's  
6 term of confinement may be served in partial confinement designed to  
7 aid the offender in finding work and reestablishing himself or herself  
8 in the community. This is in addition to that period of earned early  
9 release time that may be exchanged for partial confinement pursuant to  
10 (~~subsection (2)~~) section 3(5)(d) of this (~~section~~) act;

11 ((+7)) (6) The governor may pardon any offender;

12 ((+8)) (7) The department may release an offender from confinement  
13 any time within ten days before a release date calculated under this  
14 section;

15 ((+9)) (8) An offender may leave a correctional facility prior to  
16 completion of his or her sentence if the sentence has been reduced as  
17 provided in RCW 9.94A.870; and

18 ((+10)) (9) Notwithstanding any other provisions of this section,  
19 an offender sentenced for a felony crime listed in RCW 9.94A.540 as  
20 subject to a mandatory minimum sentence of total confinement shall not  
21 be released from total confinement before the completion of the listed  
22 mandatory minimum sentence for that felony crime of conviction unless  
23 allowed under RCW 9.94A.540(~~, however persistent offenders are not~~  
24 ~~eligible for extraordinary medical placement)~~).

25 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW  
26 to read as follows:

27 (1) The term of the sentence of an offender committed to a  
28 correctional facility operated by the department may be reduced by  
29 earned release time in accordance with procedures that shall be  
30 developed and adopted by the correctional agency having jurisdiction in  
31 which the offender is confined. The earned release time shall be for  
32 good behavior and good performance, as determined by the correctional  
33 agency having jurisdiction. The correctional agency shall not credit  
34 the offender with earned release credits in advance of the offender  
35 actually earning the credits. Any program established pursuant to this  
36 section shall allow an offender to earn early release credits for  
37 presentence incarceration. If an offender is transferred from a county

1 jail to the department, the administrator of a county jail facility  
2 shall certify to the department the amount of time spent in custody at  
3 the facility and the amount of earned release time.

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

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

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

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

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

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

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

23 (A) A sex offense;

24 (B) A violent offense;

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

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

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

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

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

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

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

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

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

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

10 (5)(a) A person who is eligible for earned early release as  
11 provided in this section and who is convicted of a sex offense, a  
12 violent offense, any crime against persons under RCW 9.94A.411(2), or  
13 a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred  
14 to community custody in lieu of earned release time;

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

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

31 (d) If the department is unable to approve the offender's release  
32 plan, the department may:

33 (i) Transfer an offender to partial confinement in lieu of earned  
34 early release for a period not to exceed three months. The three  
35 months in partial confinement is in addition to that portion of the  
36 offender's term of confinement that may be served in partial  
37 confinement as provided in this section;

1 (ii) Provide rental vouchers to the offender for a period not to  
2 exceed three months if rental assistance will result in an approved  
3 release plan.

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

7 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect August 1,  
8 2009.

9 NEW SECTION. **Sec. 5.** Section 1 of this act expires August 1,  
10 2009.

11 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 immediately.

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