
SUBSTITUTE SENATE BILL 6407

State of Washington 62nd Legislature 2012 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Carrell, Regala, and Kline)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to transitional reentry housing through the
2 department of corrections; amending RCW 9.94A.729 and 59.18.040; and
3 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~~) housing assistance to the offender
5 for a period not to exceed three months if (~~rental~~) housing
6 assistance will result in an approved release plan. (~~The voucher~~)
7 Housing assistance must be provided in the form of rental vouchers or
8 transitional reentry housing, in accordance with section 2 of this act.
9 Housing assistance must be provided in conjunction with additional
10 transition support programming or services that enable an offender to
11 participate in services including, but not limited to, substance abuse
12 treatment, mental health treatment, sex offender treatment, educational
13 programming, or employment programming;

14 (e) For each offender who is the recipient of (~~a rental voucher~~)
15 housing assistance, the department shall include, concurrent with the
16 data that the department otherwise obtains and records, the housing
17 status of the offender for the duration of the offender's supervision.

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

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

23 (1) Within amounts appropriated for this purpose, the department
24 must contract with housing providers to continuously make available no
25 fewer than fifty beds in transitional reentry housing to meet the needs
26 of offenders transitioning to the community on earned early release and
27 who are in need of housing pursuant to RCW 9.94A.729(5)(d).

28 (2) The department must give preference to housing providers that
29 provide a small, family oriented, living environment with between three
30 and ten beds and provide transition support that enables an offender to
31 participate in programming or services including, but not limited to,
32 substance abuse treatment, mental health treatment, sex offender
33 treatment, educational programming, or employment programming.

34 (3) To the extent feasible, the department must consolidate housing
35 beds so that any one housing provider is contracted to provide at least
36 three beds.

1 (4) The department will assign one community corrections officer as
2 the primary contact for a housing provider and will provide local law
3 enforcement with a list of transitional reentry housing providers in
4 the jurisdiction of the law enforcement agency and the provider's
5 assigned community corrections officer.

6 (5) If a housing provider has cause to terminate a tenancy as
7 provided in this subsection, the housing provider must give written
8 notice to the assigned community corrections officer no less than
9 forty-eight hours prior to terminating the tenancy. A housing provider
10 may subsequently terminate the tenancy and require the offender to
11 vacate the premises within forty-eight hours of receipt of written
12 notice if the offender has:

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

15 (b) Engaged in harassment or verbal abuse of neighbors, staff, or
16 other tenants;

17 (c) Absconded;

18 (d) Returned to the physical custody of the department or other
19 agency for greater than thirty days; or

20 (e) Engaged in other behavior that is incompatible with the rules
21 of the house and has been given at least three written violation
22 notices.

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

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

36 (8) A housing provider who provides transitional reentry housing is
37 not liable for civil damages arising from the criminal conduct of an

1 offender to any greater extent than a regular tenant, and no special
2 duties are created under this section.

3 (9) The department shall track the housing and recidivism status of
4 offenders who participate in transitional reentry housing and report to
5 the governor and appropriate committees of the legislature by December
6 1, 2015.

7 **Sec. 3.** RCW 59.18.040 and 1989 c 342 s 3 are each amended to read
8 as follows:

9 The following living arrangements are not intended to be governed
10 by the provisions of this chapter, unless established primarily to
11 avoid its application, in which event the provisions of this chapter
12 shall control:

13 (1) Residence at an institution, whether public or private, where
14 residence is merely incidental to detention or the provision of
15 medical, religious, educational, recreational, or similar services,
16 including but not limited to correctional facilities, licensed nursing
17 homes, monasteries and convents, and hospitals;

18 (2) Occupancy under a bona fide earnest money agreement to purchase
19 or contract of sale of the dwelling unit or the property of which it is
20 a part, where the tenant is, or stands in the place of, the purchaser;

21 (3) Residence in a hotel, motel, or other transient lodging whose
22 operation is defined in RCW 19.48.010;

23 (4) Rental agreements entered into pursuant to the provisions of
24 chapter 47.12 RCW where occupancy is by an owner-condemnee and where
25 such agreement does not violate the public policy of this state of
26 ensuring decent, safe, and sanitary housing and is so certified by the
27 consumer protection division of the attorney general's office;

28 (5) Rental agreements for the use of any single-family residence
29 which are incidental to leases or rentals entered into in connection
30 with a lease of land to be used primarily for agricultural purposes;

31 (6) Rental agreements providing housing for seasonal agricultural
32 employees while provided in conjunction with such employment;

33 (7) Rental agreements with the state of Washington, department of
34 natural resources, on public lands governed by Title 79 RCW;

35 (8) Occupancy by an employee of a landlord whose right to occupy is
36 conditioned upon employment in or about the premises;

1 (9) Transitional reentry housing provided under contract with the
2 department of corrections under section 2 of this act.

--- END ---