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**SUBSTITUTE SENATE BILL 5441**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Nguyen, Wilson, C., Darneille, Cleveland, Salomon, Randall, Hasegawa, and Kuderer)

1 AN ACT Relating to rental vouchers to eligible offenders; and  
2 amending RCW 9.94A.729.

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

4 **Sec. 1.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to  
5 read as follows:

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

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

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

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

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

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

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

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

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

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

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

36 (A) A sex offense;

37 (B) A violent offense;

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

39 (D) A felony that is domestic violence as defined in RCW  
40 10.99.020;

1 (E) A violation of RCW 9A.52.025 (residential burglary);  
2 (F) A violation of, or an attempt, solicitation, or conspiracy to  
3 violate, RCW 69.50.401 by manufacture or delivery or possession with  
4 intent to deliver methamphetamine; or  
5 (G) A violation of, or an attempt, solicitation, or conspiracy to  
6 violate, RCW 69.50.406 (delivery of a controlled substance to a  
7 minor);  
8 (iii) Has no prior conviction for the offenses listed in (d)(ii)  
9 of this subsection;  
10 (iv) Participates in programming or activities as directed by the  
11 offender's individual reentry plan as provided under RCW 72.09.270 to  
12 the extent that such programming or activities are made available by  
13 the department; and  
14 (v) Has not committed a new felony after July 22, 2007, while  
15 under community custody.  
16 (e) In no other case shall the aggregate earned release time  
17 exceed one-third of the total sentence.  
18 (4) The department shall perform a risk assessment of each  
19 offender who may qualify for earned early release under subsection  
20 (3)(d) of this section utilizing the risk assessment tool recommended  
21 by the Washington state institute for public policy. Subsection  
22 (3)(d) of this section does not apply to offenders convicted after  
23 July 1, 2010.  
24 (5)(a) A person who is eligible for earned early release as  
25 provided in this section and who will be supervised by the department  
26 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
27 community custody in lieu of earned release time;  
28 (b) The department shall, as a part of its program for release to  
29 the community in lieu of earned release, require the offender to  
30 propose a release plan that includes an approved residence and living  
31 arrangement. All offenders with community custody terms eligible for  
32 release to community custody in lieu of earned release shall provide  
33 an approved residence and living arrangement prior to release to the  
34 community;  
35 (c) The department may deny transfer to community custody in lieu  
36 of earned release time if the department determines an offender's  
37 release plan, including proposed residence location and living  
38 arrangements, may violate the conditions of the sentence or  
39 conditions of supervision, place the offender at risk to violate the  
40 conditions of the sentence, place the offender at risk to reoffend,

1 or present a risk to victim safety or community safety. The  
2 department's authority under this section is independent of any  
3 court-ordered condition of sentence or statutory provision regarding  
4 conditions for community custody;

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

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

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

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

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

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

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

33 (6) An offender serving a term of confinement imposed under RCW  
34 9.94A.670(5)(a) is not eligible for earned release credits under this  
35 section.

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