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**SENATE BILL 5117**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Nguyen and Saldaña

Prefiled 01/08/21.

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