
SENATE BILL 6664

State of Washington 57th Legislature

2002 Regular Session

By Senators Costa and Hargrove

Read first time 01/24/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the department of corrections' authority to
2 require offenders eligible for release to community custody status in
3 lieu of earned release to propose a release plan that complies with the
4 department's program for placing offenders in the community in lieu of
5 early release; amending RCW 9.94A.728; creating new sections; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature has determined in RCW
9 9.94A.728(2) that the department of corrections may transfer offenders
10 to community custody status in lieu of earned release time in
11 accordance with a program developed by the department of corrections.
12 It is the legislature's intent, in response to: *In re: Capello 106*
13 *Wn.App. 576 (2001)*, to clarify the law to reflect that the secretary of
14 the department has, and has had since enactment of the community
15 placement act of 1988, the authority to require all offenders, eligible
16 for release to community custody status in lieu of earned release, to
17 provide a release plan that includes an approved residence and living
18 arrangement prior to any transfer to the community.

1 **Sec. 2.** RCW 9.94A.728 and 2000 c 28 s 28 are each amended to read
2 as follows:

3 No person serving a sentence imposed pursuant to this chapter and
4 committed to the custody of the department shall leave the confines of
5 the correctional facility or be released prior to the expiration of the
6 sentence except as follows:

7 (1) Except as otherwise provided for in subsection (2) of this
8 section, the term of the sentence of an offender committed to a
9 correctional facility operated by the department may be reduced by
10 earned release time in accordance with procedures that shall be
11 developed and promulgated by the correctional agency having
12 jurisdiction in which the offender is confined. The earned release
13 time shall be for good behavior and good performance, as determined by
14 the correctional agency having jurisdiction. The correctional agency
15 shall not credit the offender with earned release credits in advance of
16 the offender actually earning the credits. Any program established
17 pursuant to this section shall allow an offender to earn early release
18 credits for presentence incarceration. If an offender is transferred
19 from a county jail to the department, the administrator of a county
20 jail facility shall certify to the department the amount of time spent
21 in custody at the facility and the amount of earned release time. An
22 offender who has been convicted of a felony committed after July 23,
23 1995, that involves any applicable deadly weapon enhancements under RCW
24 9.94A.510 (3) or (4), or both, shall not receive any good time credits
25 or earned release time for that portion of his or her sentence that
26 results from any deadly weapon enhancements. In the case of an
27 offender convicted of a serious violent offense, or a sex offense that
28 is a class A felony, committed on or after July 1, 1990, the aggregate
29 earned release time may not exceed fifteen percent of the sentence. In
30 no other case shall the aggregate earned release time exceed one-third
31 of the total sentence;

32 (2)(a) A person convicted of a sex offense or an offense
33 categorized as a serious violent offense, assault in the second degree,
34 vehicular homicide, vehicular assault, assault of a child in the second
35 degree, any crime against persons where it is determined in accordance
36 with RCW 9.94A.602 that the offender or an accomplice was armed with a
37 deadly weapon at the time of commission, or any felony offense under
38 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
39 eligible, in accordance with a program developed by the department, for

1 transfer to community custody status in lieu of earned release time
2 pursuant to subsection (1) of this section;

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

9 (c) 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 placement or community
13 custody terms eligible for release to community custody status in lieu
14 of earned release shall provide an approved residence and living
15 arrangement prior to release to the community;

16 (d) The department may deny transfer to community custody status in
17 lieu of earned release time pursuant to subsection (1) of this section
18 if the department determines an offender's release plan, including
19 proposed residence location and living arrangements, may violate the
20 conditions of the sentence or conditions of supervision, place the
21 offender at risk to violate the conditions of the sentence, place the
22 offender at risk to reoffend, or present a risk to victim safety or
23 community safety. The department's authority under this section is
24 independent of any court-ordered condition of sentence or statutory
25 provision regarding conditions for community custody or community
26 placement;

27 (3) An offender may leave a correctional facility pursuant to an
28 authorized furlough or leave of absence. In addition, offenders may
29 leave a correctional facility when in the custody of a corrections
30 officer or officers;

31 (4)(a) The secretary may authorize an extraordinary medical
32 placement for an offender when all of the following conditions exist:

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

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

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

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

4 (c) The secretary shall require electronic monitoring for all
5 offenders in extraordinary medical placement unless the electronic
6 monitoring equipment interferes with the function of the offender's
7 medical equipment or results in the loss of funding for the offender's
8 medical care. The secretary shall specify who shall provide the
9 monitoring services and the terms under which the monitoring shall be
10 performed.

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

13 (5) The governor, upon recommendation from the clemency and pardons
14 board, may grant an extraordinary release for reasons of serious health
15 problems, senility, advanced age, extraordinary meritorious acts, or
16 other extraordinary circumstances;

17 (6) No more than the final six months of the sentence may be served
18 in partial confinement designed to aid the offender in finding work and
19 reestablishing himself or herself in the community;

20 (7) The governor may pardon any offender;

21 (8) The department may release an offender from confinement any
22 time within ten days before a release date calculated under this
23 section; and

24 (9) An offender may leave a correctional facility prior to
25 completion of his or her sentence if the sentence has been reduced as
26 provided in RCW 9.94A.870.

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

34 NEW SECTION. **Sec. 3.** This act applies to all offenders with
35 community placement or community custody terms currently incarcerated
36 either before, on, or after the effective date of this act.

1 NEW SECTION. **Sec. 4.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

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