

SENATE BILL REPORT

SB 6575

As Reported by Senate Committee On:
Human Services & Corrections, February 2, 2012

Title: An act relating to the early release offenders.

Brief Description: Granting extraordinary medical placement to offenders under certain conditions.

Sponsors: Senators Kline, Hargrove and Keiser.

Brief History:

Committee Activity: Human Services & Corrections: 2/02/12 [DPS, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6575 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Harper and McAuliffe.

Minority Report: Do not pass.

Signed by Senators Carrell and Padden.

Staff: Shani Bauer (786-7468)

Background: Current law sets forth the conditions under which an offender may leave the confines of the Department of Corrections (DOC) before the expiration of the offender's sentence. An offender may leave before the expiration of his or her sentence as a result of earned early release, an authorized release or a leave of absence, or a transfer to community custody in lieu of earned early release.

In addition, an offender may leave if DOC authorizes an extraordinary medical placement. An offender must meet the following conditions to become eligible for such a release:

- the offender has a medical condition that is serious enough to require costly care treatment;
- the offender poses a low risk to the community because the offender is physically incapacitated due to age or the medical condition; and
- granting the extraordinary medical placement will result in a cost savings to the state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Offenders sentenced to death or to life imprisonment without the possibility of release or parole are not eligible for an extraordinary medical placement. Also, the Secretary of DOC must require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case an alternative type of monitoring must be used. Extraordinary medical placement may be revoked at any time.

Summary of Bill (Recommended Substitute): An offender is eligible for consideration for extraordinary medical placement upon written certification by a DOC-approved licensed treating physician that the offender:

- has a serious incapacitating medical need;
- is incapacitated by age to the extent that the offender's physical or mental health is substantially diminished;
- is permanently incapacitated; or
- suffers from a terminal illness that is predicted to result in death within twelve months.

DOC may transfer an offender to extraordinary medical placement if one of the above conditions exists, the offender is not sentenced to death or to life imprisonment without the possibility of release or parole, and the offender has a release plan with adequate living arrangements in the community.

All of the conditions regarding electronic home monitoring and revocation continue to apply.

DOC is not required to place the offender on electronic home monitoring if the offender is assessed at a low risk to reoffend. DOC may not be held criminally or civilly liable for a determination or placement under this section unless it acted with reckless disregard of a known risk.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): The medical criteria for consideration for extraordinary medical release is streamlined to simplify the clinical review process. The mandatory transfer to extraordinary medical placement is eliminated. Offenders sentenced to death or life without parole are not eligible for extraordinary medical placement. Low risk offenders are exempt from the requirement to be placed on electronic home monitoring. Language is added to clarify that this section does not create a liberty interest for the offender. DOC is not civilly or criminally liable for placing an offender on extraordinary medical placement unless DOC acted with reckless disregard of a known risk.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: DOC is in support of this bill. At first look, we think that approximately 40-50 additional offenders would be eligible for release under these provisions.

OTHER: The current statute is too narrow, but we believe this bill goes too far. Offenders who are sentenced to death and to life without the possibility of parole should be excluded. We also do not agree with the provision that requires offenders to be released if they are low or moderate risk. We support DOC keeping some discretion in order to ensure that a bad actor is not released.

Persons Testifying: PRO: Susan Lucas, DOC.

OTHER: Tom McBride, WA Assn. of Prosecuting Attorneys.