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**SUBSTITUTE SENATE BILL 5121**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Das, Dhingra, Hasegawa, Mullet, Nguyen, and Wilson, C.; by request of Department of Corrections)

READ FIRST TIME 01/25/21.

1 AN ACT Relating to expanding eligibility for the graduated  
2 reentry program; amending RCW 9.94A.733 and 9.94A.728; and creating a  
3 new section.

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

5 **Sec. 1.** RCW 9.94A.733 and 2018 c 166 s 1 are each amended to  
6 read as follows:

7 ~~(1) ((No more than the final six months of the offender's term of~~  
8 ~~confinement may be served in partial confinement as home detention as~~  
9 ~~part of the graduated reentry program developed by the department.~~  
10 ~~However, an offender may not participate in the graduated reentry~~  
11 ~~program under this section unless he or she has served at least~~  
12 ~~twelve months in total confinement in a state correctional~~  
13 ~~faecility.))~~ (a) Except as provided in (b) of this subsection, an  
14 offender may not participate in the graduated reentry program under  
15 this subsection unless he or she has served at least six months in  
16 total confinement in a state correctional facility.

17 (i) An offender subject to (a) of this subsection may serve no  
18 more than the final five months of the offender's term of confinement  
19 in partial confinement as home detention as part of the graduated  
20 reentry program developed by the department.

1 (ii) Home detention under (a) of this subsection may not be  
2 imposed for individuals subject to a deportation order, civil  
3 commitment, or the interstate compact for adult offender supervision  
4 under RCW 9.94A.745.

5 (b) For offenders who meet the requirements of (b)(iii) of this  
6 subsection, an offender may not participate in the graduated reentry  
7 program unless he or she has served at least four months in total  
8 confinement in a state correctional facility.

9 (i) An offender under this subsection (1)(b) may serve the  
10 remaining period of the offender's term of confinement in partial  
11 confinement as home detention as part of the graduated reentry  
12 program developed by the department.

13 (ii) Home detention under this subsection (1)(b) may not be  
14 imposed for individuals subject to a deportation order or subject to  
15 the jurisdiction of the indeterminate sentence review board.

16 (iii) Home detention under this subsection (1)(b) may not be  
17 imposed for offenders convicted of the following offenses:

18 (A) Any sex offense;

19 (B) Any violent offense; or

20 (C) Any crime against a person offense in accordance with the  
21 categorization of crimes against persons outlined in RCW  
22 9.94A.411(2).

23 (2) The secretary of the department may transfer an offender from  
24 a department correctional facility to home detention in the community  
25 if it is determined that the graduated reentry program is an  
26 appropriate placement and must assist the offender's transition from  
27 confinement to the community.

28 (3) The department and its officers, agents, and employees are  
29 not liable for the acts of offenders participating in the graduated  
30 reentry program unless the department or its officers, agents, and  
31 employees acted with willful and wanton disregard.

32 (4) All offenders placed on home detention as part of the  
33 graduated reentry program must provide an approved residence and  
34 living arrangement prior to transfer to home detention.

35 (5) While in the community on home detention as part of the  
36 graduated reentry program, the department must:

37 (a) Require the offender to be placed on electronic home  
38 monitoring;

1 (b) Require the offender to participate in programming and  
2 treatment that the department shall assign based on an offender's  
3 assessed need; and

4 (c) Assign a community corrections officer who will monitor the  
5 offender's compliance with conditions of partial confinement and  
6 programming requirements.

7 (6) The department retains the authority to return any offender  
8 serving partial confinement in the graduated reentry program to total  
9 confinement for any reason including, but not limited to, the  
10 offender's noncompliance with any sentence requirement.

11 (7) The department may issue rental vouchers for a period not to  
12 exceed six months for those transferring to partial confinement under  
13 this section if an approved address cannot be obtained without the  
14 assistance of a voucher.

15 (8) In the selection of offenders to participate in the graduated  
16 reentry program, and in setting, modifying, and enforcing the  
17 requirements of the graduated (~~(release-[reentry])~~) reentry program,  
18 the department is deemed to be performing a quasi-judicial function.

19 **Sec. 2.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to  
20 read as follows:

21 (1) No person serving a sentence imposed pursuant to this chapter  
22 and committed to the custody of the department shall leave the  
23 confines of the correctional facility or be released prior to the  
24 expiration of the sentence except as follows:

25 (a) An offender may earn early release time as authorized by RCW  
26 9.94A.729;

27 (b) 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 (c)(i) The secretary may authorize an extraordinary medical  
32 placement for an offender when all of the following conditions exist:

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

35 (B) The offender poses a low risk to the community because he or  
36 she is currently physically incapacitated due to age or the medical  
37 condition or is expected to be so at the time of release; and

38 (C) It is expected that granting the extraordinary medical  
39 placement will result in a cost savings to the state.

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

4 (iii) 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  
8 offender's medical care, in which case, an alternative type of  
9 monitoring shall be utilized. The secretary shall specify who shall  
10 provide the monitoring services and the terms under which the  
11 monitoring shall be performed.

12 (iv) The secretary may revoke an extraordinary medical placement  
13 under this subsection (1)(c) at any time.

14 (v) Persistent offenders are not eligible for extraordinary  
15 medical placement;

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

20 (e) No more than the final twelve months of the offender's term  
21 of confinement may be served in partial confinement for aiding the  
22 offender with: Finding work as part of the work release program under  
23 chapter 72.65 RCW; or reestablishing himself or herself in the  
24 community as part of the parenting program in RCW 9.94A.6551. This is  
25 in addition to that period of earned early release time that may be  
26 exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

27 (f) (~~No more than the final six months~~) (i) No more than the  
28 final five months of the offender's term of confinement may be served  
29 in partial confinement as home detention as part of the graduated  
30 reentry program developed by the department under RCW  
31 9.94A.733(1)(a);

32 (ii) For eligible offenders under RCW 9.94A.733(1)(b), after  
33 serving at least four months in total confinement in a state  
34 correctional facility, an offender may serve the remaining portion of  
35 the offender's term of confinement in partial confinement as home  
36 detention as part of the graduated reentry program developed by the  
37 department;

38 (g) The governor may pardon any offender;

1 (h) The department may release an offender from confinement any  
2 time within ten days before a release date calculated under this  
3 section;

4 (i) An offender may leave a correctional facility prior to  
5 completion of his or her sentence if the sentence has been reduced as  
6 provided in RCW 9.94A.870;

7 (j) Notwithstanding any other provisions of this section, an  
8 offender sentenced for a felony crime listed in RCW 9.94A.540 as  
9 subject to a mandatory minimum sentence of total confinement shall  
10 not be released from total confinement before the completion of the  
11 listed mandatory minimum sentence for that felony crime of conviction  
12 unless allowed under RCW 9.94A.540; and

13 (k) Any person convicted of one or more crimes committed prior to  
14 the person's eighteenth birthday may be released from confinement  
15 pursuant to RCW 9.94A.730.

16 (2) Offenders residing in a juvenile correctional facility  
17 placement pursuant to RCW 72.01.410(1)(a) are not subject to the  
18 limitations in this section.

19 NEW SECTION. **Sec. 3.** The changes to restrictions on partial  
20 confinement and the graduated reentry program under sections 1 and 2  
21 of this act apply prospectively and retroactively to persons  
22 currently serving a sentence in any facility or institution either  
23 operated by the state or utilized under contract.

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