

**SSB 5101** - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

**ADOPTED 04/05/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 9.94A.728 and 2021 c 311 s 19 and 2021 c 266 s 2  
4 are each reenacted and amended to read as follows:

5 (1) No ~~((person))~~ incarcerated individual serving a sentence  
6 imposed pursuant to this chapter and committed to the custody of the  
7 department shall leave the confines of the correctional facility or  
8 be released prior to the expiration of the sentence except as  
9 follows:

10 (a) An ~~((offender))~~ incarcerated individual may earn early  
11 release time as authorized by RCW 9.94A.729;

12 (b) An ~~((offender))~~ incarcerated individual may leave a  
13 correctional facility pursuant to an authorized furlough or leave of  
14 absence. In addition, ~~((offenders))~~ incarcerated individuals may  
15 leave a correctional facility when in the custody of a corrections  
16 officer or officers;

17 (c)(i) The secretary may authorize an extraordinary medical  
18 placement for an ~~((offender))~~ incarcerated individual when all of the  
19 following conditions exist:

20 (A) The ~~((offender))~~ incarcerated individual has ~~((a—medical  
21 condition that is serious and is expected to require costly care or  
22 treatment))~~ been assessed by two physicians and is determined to be  
23 one of the following:

24 (I) Affected by a permanent or degenerative medical condition to  
25 such a degree that the individual does not presently, and likely will  
26 not in the future, pose a threat to public safety; or

27 (II) In ill health and is expected to die within six months and  
28 does not presently, and likely will not in the future, pose a threat  
29 to public safety;

30 (B) The ~~((offender poses a))~~ incarcerated individual has been  
31 assessed as low risk to the community ~~((because he or she is~~

1 ~~currently physically incapacitated due to age or the medical~~  
2 ~~condition or is expected to be so~~) at the time of release; and

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

5 (ii) An ~~((offender))~~ incarcerated individual sentenced to death  
6 or to life imprisonment without the possibility of release or parole  
7 is not eligible for an extraordinary medical placement.

8 (iii) The secretary shall require electronic monitoring for all  
9 ~~((offenders))~~ individuals in extraordinary medical placement unless  
10 the electronic monitoring equipment is detrimental to the  
11 individual's health, interferes with the function of the  
12 ~~((offender's))~~ individual's medical equipment, or results in the loss  
13 of funding for the ~~((offender's))~~ individual's medical care, in which  
14 case, an alternative type of monitoring shall be utilized. The  
15 secretary shall specify who shall provide the monitoring services and  
16 the terms under which the monitoring shall be performed.

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

19 (v) Persistent offenders are not eligible for extraordinary  
20 medical placement;

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

25 (e) No more than the final ~~((twelve))~~ 12 months of the  
26 ~~((offender's))~~ incarcerated individual's term of confinement may be  
27 served in partial confinement for aiding the ~~((offender))~~  
28 incarcerated individual with: Finding work as part of the work  
29 release program under chapter 72.65 RCW; or reestablishing himself or  
30 herself in the community as part of the parenting program in RCW  
31 9.94A.6551. This is in addition to that period of earned early  
32 release time that may be exchanged for partial confinement pursuant  
33 to RCW 9.94A.729(5) (d);

34 (f)(i) No more than the final five months of the ~~((offender's))~~  
35 incarcerated individual's term of confinement may be served in  
36 partial confinement as home detention as part of the graduated  
37 reentry program developed by the department under RCW  
38 9.94A.733(1) (a);

39 (ii) For eligible ~~((offenders))~~ incarcerated individuals under  
40 RCW 9.94A.733(1) (b), after serving at least four months in total

1 confinement in a state correctional facility, an ((~~offender~~))  
2 incarcerated individual may serve no more than the final 18 months of  
3 the ((~~offender's~~)) incarcerated individual's term of confinement in  
4 partial confinement as home detention as part of the graduated  
5 reentry program developed by the department;

6 (g) The governor may pardon any ((~~offender~~)) incarcerated  
7 individual;

8 (h) The department may release an ((~~offender~~)) incarcerated  
9 individual from confinement any time within ((~~ten~~)) 10 days before a  
10 release date calculated under this section;

11 (i) An ((~~offender~~)) incarcerated individual may leave a  
12 correctional facility prior to completion of his or her sentence if  
13 the sentence has been reduced as provided in RCW 9.94A.870;

14 (j) Notwithstanding any other provisions of this section, an  
15 ((~~offender~~)) incarcerated individual sentenced for a felony crime  
16 listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of  
17 total confinement shall not be released from total confinement before  
18 the completion of the listed mandatory minimum sentence for that  
19 felony crime of conviction unless allowed under RCW 9.94A.540; and

20 (k) Any ((~~person~~)) individual convicted of one or more crimes  
21 committed prior to the ((~~person's—eighteenth~~)) individual's 18th  
22 birthday may be released from confinement pursuant to RCW 9.94A.730.

23 (2) Notwithstanding any other provision of this section, an  
24 ((~~offender~~)) incarcerated individual entitled to vacation of a  
25 conviction or the recalculation of his or her offender score pursuant  
26 to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from  
27 confinement pursuant to a court order if the ((~~offender~~))  
28 incarcerated individual has already served a period of confinement  
29 that exceeds his or her new standard range. This provision does not  
30 create an independent right to release from confinement prior to  
31 resentencing.

32 (3) ((~~Offenders~~)) Individuals residing in a juvenile correctional  
33 facility placement pursuant to RCW 72.01.410(1)(a) are not subject to  
34 the limitations in this section."

35 Correct the title.

EFFECT: Provides that, in addition to other qualifying conditions, an incarcerated individual may be authorized for an extraordinary medical placement when the individual has been assessed by two physicians and is determined to be either (1) affected by a

permanent or degenerative medical condition to such a degree that the individual does not pose a threat to public safety and likely will not in the future, or (2) in ill health and is expected to die within six months and does not presently, and likely will not in the future, pose a threat to public safety. Removes language specifying that the requirement for electronic monitoring for an individual in extraordinary medical placement will be waived if the medical condition prevents the individual from being independently mobile.

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