
SUBSTITUTE SENATE BILL 5101

State of Washington

68th Legislature

2023 Regular Session

By Senate Human Services (originally sponsored by Senators Saldaña, Warnick, Dhingra, Kuderer, Nguyen, Nobles, Shewmake, and C. Wilson)

READ FIRST TIME 01/27/23.

1 AN ACT Relating to extraordinary medical placement for
2 incarcerated individuals at the department of corrections; and
3 reenacting and amending RCW 9.94A.728.

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

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

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

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

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

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

1 (A) The ~~((offender))~~ incarcerated individual has a permanent or
2 terminal physical disability or medical condition that is serious and
3 complex and is expected to require costly care or treatment;

4 (B) The ~~((offender poses a))~~ incarcerated individual has been
5 assessed as low risk to the community ~~((because he or she is~~
6 ~~currently physically incapacitated due to age or the medical~~
7 ~~condition or is expected to be so))~~ at the time of release; and

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

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

13 (iii) The secretary shall require electronic monitoring for all
14 ~~((offenders))~~ individuals in extraordinary medical placement unless
15 the electronic monitoring equipment is detrimental to the
16 individual's health, interferes with the function of the
17 ~~((offender's))~~ individual's medical equipment, or results in the loss
18 of funding for the ~~((offender's))~~ individual's medical care, in which
19 case, an alternative type of monitoring shall be utilized. The
20 secretary shall specify who shall provide the monitoring services and
21 the terms under which the monitoring shall be performed. The
22 requirement for electronic monitoring shall be waived if the medical
23 condition as certified by the individual's treating physician
24 prevents the individual from being independently mobile.

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

27 (v) Persistent offenders are not eligible for extraordinary
28 medical placement;

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

33 (e) No more than the final ~~((twelve))~~ 12 months of the
34 ~~((offender's))~~ incarcerated individual's term of confinement may be
35 served in partial confinement for aiding the ~~((offender))~~
36 incarcerated individual with: Finding work as part of the work
37 release program under chapter 72.65 RCW; or reestablishing himself or
38 herself in the community as part of the parenting program in RCW
39 9.94A.6551. This is in addition to that period of earned early

1 release time that may be exchanged for partial confinement pursuant
2 to RCW 9.94A.729(5) (d);

3 (f) (i) No more than the final five months of the (~~offender's~~)
4 incarcerated individual's term of confinement may be served in
5 partial confinement as home detention as part of the graduated
6 reentry program developed by the department under RCW
7 9.94A.733(1) (a);

8 (ii) For eligible (~~offenders~~) incarcerated individuals under
9 RCW 9.94A.733(1) (b), after serving at least four months in total
10 confinement in a state correctional facility, an (~~offender~~)
11 incarcerated individual may serve no more than the final 18 months of
12 the (~~offender's~~) incarcerated individual's term of confinement in
13 partial confinement as home detention as part of the graduated
14 reentry program developed by the department;

15 (g) The governor may pardon any (~~offender~~) incarcerated
16 individual;

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

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

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

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

32 (2) Notwithstanding any other provision of this section, an
33 (~~offender~~) incarcerated individual entitled to vacation of a
34 conviction or the recalculation of his or her offender score pursuant
35 to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from
36 confinement pursuant to a court order if the (~~offender~~)
37 incarcerated individual has already served a period of confinement
38 that exceeds his or her new standard range. This provision does not
39 create an independent right to release from confinement prior to
40 resentencing.

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

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