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**SENATE BILL 5101**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Saldaña and Warnick

Prefiled 12/27/22.

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 medical  
2 condition that is chronic or serious and is expected to require  
3 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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