
SUBSTITUTE SENATE BILL 5101

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

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—medical
2 condition that is serious and is expected to require costly care or
3 treatment)) been assessed by two physicians and is determined to be
4 one of the following:

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

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

11 (B) The ((offender—poses—a)) incarcerated individual has been
12 assessed as low risk to the community ((because he or she is
13 currently physically incapacitated due to age or the medical
14 condition or is expected to be so)) at the time of release; and

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

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

20 (iii) The secretary shall require electronic monitoring for all
21 ((offenders)) individuals in extraordinary medical placement unless
22 the electronic monitoring equipment is detrimental to the
23 individual's health, interferes with the function of the
24 ((offender's)) individual's medical equipment, or results in the loss
25 of funding for the ((offender's)) individual's medical care, in which
26 case, an alternative type of monitoring shall be utilized. The
27 secretary shall specify who shall provide the monitoring services and
28 the terms under which the monitoring shall be performed.

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

31 (v) Persistent offenders are not eligible for extraordinary
32 medical placement;

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

37 (e) No more than the final ((twelve)) 12 months of the
38 ((offender's)) incarcerated individual's term of confinement may be
39 served in partial confinement for aiding the ((offender))
40 incarcerated individual with: Finding work as part of the work

1 release program under chapter 72.65 RCW; or reestablishing himself or
2 herself in the community as part of the parenting program in RCW
3 9.94A.6551. This is in addition to that period of earned early
4 release time that may be exchanged for partial confinement pursuant
5 to RCW 9.94A.729(5) (d);

6 (f) (i) No more than the final five months of the (~~offender's~~)
7 incarcerated individual's term of confinement may be served in
8 partial confinement as home detention as part of the graduated
9 reentry program developed by the department under RCW
10 9.94A.733(1) (a);

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

18 (g) The governor may pardon any (~~offender~~) incarcerated
19 individual;

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

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

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

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

35 (2) Notwithstanding any other provision of this section, an
36 (~~offender~~) incarcerated individual entitled to vacation of a
37 conviction or the recalculation of his or her offender score pursuant
38 to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from
39 confinement pursuant to a court order if the (~~offender~~)
40 incarcerated individual has already served a period of confinement

1 that exceeds his or her new standard range. This provision does not
2 create an independent right to release from confinement prior to
3 resentencing.

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

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