
SENATE BILL 5663

State of Washington

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2015 Regular Session

By Senators Darneille, Kohl-Welles, and Hasegawa; by request of Department of Social and Health Services

Read first time 01/28/15. Referred to Committee on Human Services, Mental Health & Housing.

1 AN ACT Relating to allowing youthful offenders who complete their
2 confinement terms prior to age twenty-one equal access to a full
3 continuum of rehabilitative and reentry services; and amending RCW
4 9.94A.728 and 72.01.410.

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

6 **Sec. 1.** RCW 9.94A.728 and 2010 c 224 s 6 are each amended to
7 read as follows:

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

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

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

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

1 ~~((i))~~ (A) The offender has a medical condition that is serious
2 and is expected to require costly care or treatment;

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

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

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

12 ~~((c))~~ (iii) The secretary shall require electronic monitoring
13 for all offenders in extraordinary medical placement unless the
14 electronic monitoring equipment interferes with the function of the
15 offender's medical equipment or results in the loss of funding for
16 the offender's medical care, in which case, an alternative type of
17 monitoring shall be utilized. The secretary shall specify who shall
18 provide the monitoring services and the terms under which the
19 monitoring shall be performed.

20 ~~((d))~~ (iv) The secretary may revoke an extraordinary medical
21 placement under this subsection (1)(c) at any time.

22 ~~((e))~~ (v) Persistent offenders are not eligible for
23 extraordinary medical placement;

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

28 ~~((5))~~ (e) No more than the final six months of the offender's
29 term of confinement may be served in partial confinement designed to
30 aid the offender in finding work and reestablishing himself or
31 herself in the community or no more than the final twelve months of
32 the offender's term of confinement may be served in partial
33 confinement as part of the parenting program in RCW 9.94A.6551. This
34 is in addition to that period of earned early release time that may
35 be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

36 ~~((6))~~ (f) The governor may pardon any offender;

37 ~~((7))~~ (g) The department may release an offender from
38 confinement any time within ten days before a release date calculated
39 under this section;

1 ~~((+8))~~ (h) An offender may leave a correctional facility prior
2 to completion of his or her sentence if the sentence has been reduced
3 as provided in RCW 9.94A.870; and

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

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

13 **Sec. 2.** RCW 72.01.410 and 2002 c 171 s 1 are each amended to
14 read as follows:

15 (1) Whenever any child under the age of eighteen is convicted as
16 an adult in the courts of this state of a crime amounting to a
17 felony, and is committed for a term of confinement ~~((in a~~
18 ~~correctional institution wherein adults are confined, the secretary~~
19 ~~of corrections, after making an independent assessment and evaluation~~
20 ~~of the child and determining that the needs and correctional goals~~
21 ~~for the child could better be met by the programs and housing~~
22 ~~environment provided by the juvenile correctional institution, with~~
23 ~~the consent of the secretary of social and health services, may~~
24 ~~transfer such child to a juvenile correctional institution)), that~~

25 child shall be initially placed in a facility operated by the
26 department of corrections to determine the child's earned release
27 date.

28 (a) If the earned release date is prior to the child's twenty-
29 first birthday, the department of corrections shall transfer the
30 child to the custody of the department of social and health services,
31 or to such other institution as is now, or may hereafter be
32 authorized by law to receive such child, until such time as the child
33 completes the ordered term of confinement or arrives at the age of
34 twenty-one years~~(, whereupon the child shall be returned to the~~
35 ~~institution of original commitment. Retention within a juvenile~~
36 ~~detention facility or return to an adult correctional facility shall~~
37 ~~regularly be reviewed by the secretary of corrections and the~~
38 ~~secretary of social and health services with a determination made~~
39 ~~based on the level of maturity and sophistication of the individual,~~

1 ~~the behavior and progress while within the juvenile detention~~
2 ~~facility, security needs, and the program/treatment alternatives~~
3 ~~which would best prepare the individual for a successful return to~~
4 ~~the community. Notice of such transfers shall be given to the clerk~~
5 ~~of the committing court and the parents, guardian, or next of kin of~~
6 ~~such child, if known)).~~

7 (i) While in the custody of the department of social and health
8 services, the child must have the same treatment, housing options,
9 transfer, and access to program resources as any other child
10 committed directly to that juvenile correctional facility or
11 institution pursuant to chapter 13.40 RCW. Treatment, placement, and
12 program decisions shall be at the sole discretion of the department
13 of social and health services. The youth shall only be transferred
14 back to the custody of the department of corrections with the
15 approval of the department of social and health services or when the
16 child reaches the age of twenty-one.

17 (ii) If the child's sentence includes a term of community
18 custody, the department of social and health services shall not
19 release the child to community custody until the department of
20 corrections has approved the child's release plan pursuant to RCW
21 9.94A.729(5)(b). If a child is held past his or her earned release
22 date pending release plan approval, the department of social and
23 health services shall retain custody until a plan is approved or the
24 child completes the ordered term of confinement prior to age twenty-
25 one.

26 (iii) If the department of social and health services determines
27 that retaining custody of the child presents a safety risk, the child
28 may be returned to the custody of the department of corrections.

29 (b) If the child's earned release date is on or after the child's
30 twenty-first birthday, the department of corrections shall, with the
31 consent of the secretary of social and health services, transfer the
32 child to a facility or institution operated by the department of
33 social and health services. Despite the transfer, the department of
34 corrections retains authority over custody decisions and must approve
35 any leave from the facility. When the child turns age twenty-one, he
36 or she must be transferred back to the department of corrections. The
37 department of social and health services has all routine and day-to-
38 day operations authority for the child while in its custody.

39 (2)(a) Except as provided in (b) and (c) of this subsection, an
40 offender under the age of eighteen who is convicted in adult criminal

1 court and who is committed to a term of confinement at the department
2 of corrections must be placed in a housing unit, or a portion of a
3 housing unit, that is separated from offenders eighteen years of age
4 or older, until the offender reaches the age of eighteen.

5 (b) An offender who reaches eighteen years of age may remain in a
6 housing unit for offenders under the age of eighteen if the secretary
7 of corrections determines that: (i) The offender's needs and the
8 correctional goals for the offender could continue to be better met
9 by the programs and housing environment that is separate from
10 offenders eighteen years of age and older; and (ii) the programs or
11 housing environment for offenders under the age of eighteen will not
12 be substantially affected by the continued placement of the offender
13 in that environment. The offender may remain placed in a housing unit
14 for offenders under the age of eighteen until such time as the
15 secretary of corrections determines that the offender's needs and
16 correctional goals are no longer better met in that environment but
17 in no case past the offender's twenty-first birthday.

18 (c) An offender under the age of eighteen may be housed in an
19 intensive management unit or administrative segregation unit
20 containing offenders eighteen years of age or older if it is
21 necessary for the safety or security of the offender or staff. In
22 these cases, the offender (~~shall~~) must be kept physically separate
23 from other offenders at all times.

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