

SSB 5101 - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

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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