

HOUSE BILL ANALYSIS

SSB 5549

Title: An act relating to extraordinary medical placement for offenders.

Brief Description: Authorizing extraordinary medical placements for offenders with serious medical conditions.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Long and Hargrove; by request of Sentencing Guidelines Commission).

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Staff: Yvonne Walker (786-7841).

Background:

Under the Sentencing Reform Act, felony offenders receive determinate sentences. A determinate sentence is one where the length of confinement is determined at the time of sentencing; the sentence length generally is not subject to alteration based on events occurring after the sentence is imposed.

Some of the primary exceptions to this system of determinate sentencing involves:

- *Earned early release programs.* These programs allow inmates to shorten their sentence length if they display good behavior by participating in work, education, or treatment programs and by not violating prison or jail rules during confinement.
- *Community Custody.* The period of time when an offender's incarceration sentence is reduced based upon earned early release credits and he is released back out into the community but remains under the custody of the Department of Corrections for a specified period. Any violations during the offender's community custody status are handled administratively by the Department of Corrections and can result in the offender returning to prison to complete his or her original prison sentence.
- *Furlough or Leave of Absence.* The period of time when eligible inmates may be temporarily released to do such activities as meet an emergency

situation, such as a death or critical illness of a family member, to obtain medical treatment not available in the facility, or to seek employment or make residential plans for parole.

- *Governor's Recommendation.* Upon the recommendation from the Clemency and Pardons Board, the Governor may grant an extraordinary release for reasons of serious health problems, senility, or advanced age. The Governor may also pardon an offender.

Offenders sentenced to mandatory minimum sentences are prohibited from being released from total confinement before the completion of their mandatory minimum sentence for that felony crime (e.g. first degree rape or first degree murder).

The Department of Corrections is prohibited from releasing any inmate, prior to completion of his or her determinate sentence, for such exceptions as age or medical conditions. As of December 31, 1998, there were 1,184 inmates age 50 or older incarcerated in Washington. The average age was 56.9 years and the oldest inmate was an 85-year-old male sex offender.

Summary:

The Secretary of the Department of Corrections or a jail administrator may grant an "extraordinary medical placement" to an offender who has been sentenced under determinate sentencing or indeterminate sentencing, when all of the following conditions exist:

- (1) The offender has a medical condition that is serious enough to require costly care or treatment;
- (2) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and
- (3) Granting the extraordinary medical placement will result in a cost savings to the state.

An exception is made for an offender who receives a mandatory minimum sentence to participate in the extraordinary medical placement as long as they have met the criteria listed above.

Electronic monitoring is mandatory for all offenders who are granted extraordinary medical placement unless the electronic monitoring interferes with the functioning of the offender's medical equipment or results in a loss of funding for medical care. The Department of Corrections is required to specify who will provide the monitoring services.

The Department of Corrections may revoke an extraordinary medical placement at any time.

An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

The Secretary of the Department of Corrections must report annually to the Legislature on:

- The number of offenders considered for an extraordinary medical placement;
- The number of offenders who were granted such a placement;
- The number of offenders who were denied such a placement;
- The length of time between initial consideration and the placement decision for each offender who was granted an extraordinary medical placement;
- The number of offenders granted an extraordinary medical placement who were later returned to total confinement; and
- The cost savings realized by the state.

Fiscal Note: Requested on March 22, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research