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HOUSE BILL 1674

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State of Washington

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By Representatives Pettigrew, Walsh, Goodman, Walkinshaw, Kagi, Appleton, Reykdal, Moscoso, Ormsby, McBride, and Jinkins; by request of Department of Social and Health Services

Read first time 01/26/15. Referred to Committee on Public Safety.

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       ~~((+e+))~~ (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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