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**SENATE BILL 5780**

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**State of Washington****67th Legislature****2022 Regular Session****By** Senators Padden and L. Wilson

Read first time 01/11/22. Referred to Committee on Human Services, Reentry &amp; Rehabilitation.

1       AN ACT Relating to altering eligibility for the graduated reentry  
2 program; amending RCW 9.94A.733; and reenacting and amending RCW  
3 9.94A.728.

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

5       **Sec. 1.** RCW 9.94A.733 and 2021 c 266 s 1 are each amended to  
6 read as follows:

7           (1) (a) Except as provided in (b) of this subsection, an offender  
8 may not participate in the graduated reentry program under this  
9 subsection unless he or she has served at least ((six)) 12 months in  
10 total confinement in a state correctional facility.

11          (i) An offender subject to (a) of this subsection may serve no  
12 more than the final ((five)) four months of the offender's term of  
13 confinement in partial confinement as home detention as part of the  
14 graduated reentry program developed by the department.

15          (ii) Home detention under (a) of this subsection may not be imposed  
16 for individuals subject to a deportation order, civil  
17 commitment, or the interstate compact for adult offender supervision  
18 under RCW 9.94A.745.

19           (b) For offenders who meet the requirements of (b)(iii) of this  
20 subsection, an offender may not participate in the graduated reentry

1 program unless he or she has served at least four months in total  
2 confinement in a state correctional facility.

3 (i) An offender under this subsection (1)(b) may serve no more  
4 than the final 18 months of the offender's term of confinement in  
5 partial confinement as home detention as part of the graduated  
6 reentry program developed by the department.

7 (ii) Home detention under this subsection (1)(b) may not be  
8 imposed for individuals subject to a deportation order or subject to  
9 the jurisdiction of the indeterminate sentence review board.

10 (iii) Home detention under this subsection (1)(b) may not be  
11 imposed ((for offenders currently serving a term of confinement for  
12 the following offenses)) if the offender has:

13 (A) ((Any)) A prior or current conviction for a sex offense;

14 (B) ((Any)) A prior or current conviction for a violent offense;

15 or

16 (C) ((Any)) A prior or current conviction for a crime against a  
17 person offense in accordance with the categorization of crimes  
18 against persons outlined in RCW 9.94A.411(2).

19 (2) The secretary of the department may transfer an offender from  
20 a department correctional facility to home detention in the community  
21 if it is determined that the graduated reentry program is an  
22 appropriate placement and must assist the offender's transition from  
23 confinement to the community.

24 (3) The department and its officers, agents, and employees are  
25 not liable for the acts of offenders participating in the graduated  
26 reentry program unless the department or its officers, agents, and  
27 employees acted with willful and wanton disregard.

28 (4) All offenders placed on home detention as part of the  
29 graduated reentry program must provide an approved residence and  
30 living arrangement prior to transfer to home detention.

31 (5) While in the community on home detention as part of the  
32 graduated reentry program, the department must:

33 (a) Require the offender to be placed on electronic home  
34 monitoring;

35 (b) Require the offender to participate in programming and  
36 treatment that the department shall assign based on an offender's  
37 assessed need; and

38 (c) Assign a community corrections officer who will monitor the  
39 offender's compliance with conditions of partial confinement and  
40 programming requirements.

1       (6) The department retains the authority to return any offender  
2 serving partial confinement in the graduated reentry program to total  
3 confinement for any reason including, but not limited to, the  
4 offender's noncompliance with any sentence requirement.

5       (7) The department may issue rental vouchers for a period not to  
6 exceed six months for those transferring to partial confinement under  
7 this section if an approved address cannot be obtained without the  
8 assistance of a voucher.

9       (8) In the selection of offenders to participate in the graduated  
10 reentry program, and in setting, modifying, and enforcing the  
11 requirements of the graduated reentry program, the department is  
12 deemed to be performing a quasi-judicial function.

13      (9) The department shall publish a monthly report on its website  
14 with the number of offenders who were transferred during the month to  
15 home detention as part of the graduated reentry program. The  
16 department shall submit an annual report by December 1st to the  
17 appropriate committees of the legislature with the number of  
18 offenders who were transferred to home detention as part of the  
19 graduated reentry program during the prior year.

20      **Sec. 2.** RCW 9.94A.728 and 2021 c 311 s 19 and 2021 c 266 s 2 are  
21 each reenacted and amended to read as follows:

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

26       (a) An offender may earn early release time as authorized by RCW  
27 9.94A.729;

28       (b) An offender may leave a correctional facility pursuant to an  
29 authorized furlough or leave of absence. In addition, offenders may  
30 leave a correctional facility when in the custody of a corrections  
31 officer or officers;

32       (c) (i) The secretary may authorize an extraordinary medical  
33 placement for an offender when all of the following conditions exist:

34           (A) The offender has a medical condition that is serious and is  
35 expected to require costly care or treatment;

36           (B) The offender poses a low risk to the community because he or  
37 she is currently physically incapacitated due to age or the medical  
38 condition or is expected to be so at the time of release; and

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

3           (ii) An offender sentenced to death or to life imprisonment  
4 without the possibility of release or parole is not eligible for an  
5 extraordinary medical placement.

6           (iii) The secretary shall require electronic monitoring for all  
7 offenders in extraordinary medical placement unless the electronic  
8 monitoring equipment interferes with the function of the offender's  
9 medical equipment or results in the loss of funding for the  
10 offender's medical care, in which case, an alternative type of  
11 monitoring shall be utilized. The secretary shall specify who shall  
12 provide the monitoring services and the terms under which the  
13 monitoring shall be performed.

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

16          (v) Persistent offenders are not eligible for extraordinary  
17 medical placement;

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

22          (e) No more than the final ((twelve)) 12 months of the offender's  
23 term of confinement may be served in partial confinement for aiding  
24 the offender with: Finding work as part of the work release program  
25 under chapter 72.65 RCW; or reestablishing himself or herself in the  
26 community as part of the parenting program in RCW 9.94A.6551. This is  
27 in addition to that period of earned early release time that may be  
28 exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

29          (f) (i) No more than the final ((five)) four months of the  
30 offender's term of confinement may be served in partial confinement  
31 as home detention as part of the graduated reentry program developed  
32 by the department under RCW 9.94A.733(1)(a);

33          (ii) For eligible offenders under RCW 9.94A.733(1)(b), after  
34 serving at least four months in total confinement in a state  
35 correctional facility, an offender may serve no more than the final  
36 18 months of the offender's term of confinement in partial  
37 confinement as home detention as part of the graduated reentry  
38 program developed by the department;

39          (g) The governor may pardon any offender;

1       (h) The department may release an offender from confinement any  
2 time within ((ten)) 10 days before a release date calculated under  
3 this section;

4       (i) An offender may leave a correctional facility prior to  
5 completion of his or her sentence if the sentence has been reduced as  
6 provided in RCW 9.94A.870;

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

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

16      (2) Notwithstanding any other provision of this section, an  
17 offender entitled to vacation of a conviction or the recalculation of  
18 his or her offender score pursuant to *State v. Blake*, No. 96873-0  
19 (Feb. 25, 2021), may be released from confinement pursuant to a court  
20 order if the offender has already served a period of confinement that  
21 exceeds his or her new standard range. This provision does not create  
22 an independent right to release from confinement prior to  
23 resentencing.

24      (3) Offenders residing in a juvenile correctional facility  
25 placement pursuant to RCW 72.01.410(1)(a) are not subject to the  
26 limitations in this section.

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