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**SENATE BILL 5663**

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**State of Washington 64th Legislature 2015 Regular Session**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Whenever any child under the age of eighteen is convicted as an adult in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement ((~~in a correctional institution wherein adults are confined, the secretary of corrections, after making an independent assessment and evaluation of the child and determining that the needs and correctional goals for the child could better be met by the programs and housing environment provided by the juvenile correctional institution, with the consent of the secretary of social and health services, may transfer such child to a juvenile correctional institution~~)), that child shall be initially placed in a facility operated by the department of corrections to determine the child's earned release date.

(a) If the earned release date is prior to the child's twenty-first birthday, the department of corrections shall transfer the child to the custody of the department of social and health services, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child completes the ordered term of confinement or arrives at the age of twenty-one years((~~, whereupon the child shall be returned to the institution of original commitment. Retention within a juvenile detention facility or return to an adult correctional facility shall regularly be reviewed by the secretary of corrections and the secretary of social and health services with a determination made based on the level of maturity and sophistication of the individual, the behavior and progress while within the juvenile detention facility, security needs, and the program/treatment alternatives which would best prepare the individual for a successful return to the community. Notice of such transfers shall be given to the clerk of the committing court and the parents, guardian, or next of kin of such child, if known~~)).

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

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

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

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

(2)(a) Except as provided in (b) and (c) of this subsection, an offender under the age of eighteen who is convicted in adult criminal court and who is committed to a term of confinement at the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from offenders eighteen years of age or older, until the offender reaches the age of eighteen.

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

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

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