

**ESSB 5121** - H COMM AMD  
By Committee on Public Safety

ADOPTED 04/08/2021

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 9.94A.733 and 2018 c 166 s 1 are each amended to  
4 read as follows:

5 ~~(1) ((No more than the final six months of the offender's term of~~  
6 ~~confinement may be served in partial confinement as home detention as~~  
7 ~~part of the graduated reentry program developed by the department.~~  
8 ~~However, an offender may not participate in the graduated reentry~~  
9 ~~program under this section unless he or she has served at least~~  
10 ~~twelve months in total confinement in a state correctional~~  
11 ~~facility.))~~ (a) Except as provided in (b) of this subsection, an  
12 offender may not participate in the graduated reentry program under  
13 this subsection unless he or she has served at least six months in  
14 total confinement in a state correctional facility.

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

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

23 (b) For offenders who meet the requirements of (b)(iii) of this  
24 subsection, an offender may not participate in the graduated reentry  
25 program unless he or she has served at least four months in total  
26 confinement in a state correctional facility.

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

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

4 (iii) Home detention under this subsection (1)(b) may not be  
5 imposed for offenders currently serving a term of confinement for the  
6 following offenses:

7 (A) Any sex offense;

8 (B) Any violent offense; or

9 (C) Any crime against a person offense in accordance with the  
10 categorization of crimes against persons outlined in RCW  
11 9.94A.411(2).

12 (2) The secretary of the department may transfer an offender from  
13 a department correctional facility to home detention in the community  
14 if it is determined that the graduated reentry program is an  
15 appropriate placement and must assist the offender's transition from  
16 confinement to the community.

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

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

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

26 (a) Require the offender to be placed on electronic home  
27 monitoring;

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

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

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

38 (7) The department may issue rental vouchers for a period not to  
39 exceed six months for those transferring to partial confinement under

1 this section if an approved address cannot be obtained without the  
2 assistance of a voucher.

3 (8) In the selection of offenders to participate in the graduated  
4 reentry program, and in setting, modifying, and enforcing the  
5 requirements of the graduated (~~release~~ ~~[reentry]~~) reentry program,  
6 the department is deemed to be performing a quasi-judicial function.

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

14 **Sec. 2.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to  
15 read as follows:

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

20 (a) An offender may earn early release time as authorized by RCW  
21 9.94A.729;

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

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

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

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

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

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

38 (iii) The secretary shall require electronic monitoring for all  
39 offenders in extraordinary medical placement unless the electronic

1 monitoring equipment interferes with the function of the offender's  
2 medical equipment or results in the loss of funding for the  
3 offender's medical care, in which case, an alternative type of  
4 monitoring shall be utilized. The secretary shall specify who shall  
5 provide the monitoring services and the terms under which the  
6 monitoring shall be performed.

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

9 (v) Persistent offenders are not eligible for extraordinary  
10 medical placement;

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

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

22 (f) (~~No more than the final six months~~) (i) No more than the  
23 final five months of the offender's term of confinement may be served  
24 in partial confinement as home detention as part of the graduated  
25 reentry program developed by the department under RCW  
26 9.94A.733(1)(a);

27 (ii) For eligible offenders under RCW 9.94A.733(1)(b), after  
28 serving at least four months in total confinement in a state  
29 correctional facility, an offender may serve no more than the final  
30 18 months of the offender's term of confinement in partial  
31 confinement as home detention as part of the graduated reentry  
32 program developed by the department;

33 (g) The governor may pardon any offender;

34 (h) The department may release an offender from confinement any  
35 time within ten days before a release date calculated under this  
36 section;

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

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

7 (k) Any person convicted of one or more crimes committed prior to  
8 the person's eighteenth birthday may be released from confinement  
9 pursuant to RCW 9.94A.730.

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 NEW SECTION. **Sec. 3.** The changes to restrictions on partial  
14 confinement and the graduated reentry program under sections 1 and 2  
15 of this act apply prospectively and retroactively to persons  
16 currently serving a sentence in any facility or institution either  
17 operated by the state or utilized under contract."

18 Correct the title.

EFFECT: Allows a qualifying individual who has served at least  
four months in total confinement to serve no more than the final 18  
months of the individual's term of confinement, rather than the  
remaining portion, in partial confinement as part of the graduated  
reentry program.

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