S-0865.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5101**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Human Services (originally sponsored by Senators Saldaña, Warnick, Dhingra, Kuderer, Nguyen, Nobles, Shewmake, and C. Wilson)

AN ACT Relating to extraordinary medical placement for incarcerated individuals at the department of corrections; and reenacting and amending RCW 9.94A.728.

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

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

(1) No ((~~person~~)) incarcerated individual 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:

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

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

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

(A) The ((~~offender~~)) incarcerated individual has a permanent or terminal physical disability or medical condition that is serious and complex and is expected to require costly care or treatment;

(B) The ((~~offender poses a~~)) incarcerated individual has been assessed as 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

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

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

(iii) The secretary shall require electronic monitoring for all ((~~offenders~~)) individuals in extraordinary medical placement unless the electronic monitoring equipment is detrimental to the individual's health, interferes with the function of the ((~~offender's~~)) individual's medical equipment, or results in the loss of funding for the ((~~offender's~~)) individual'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. The requirement for electronic monitoring shall be waived if the medical condition as certified by the individual's treating physician prevents the individual from being independently mobile.

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

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

(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;

(e) No more than the final ((~~twelve~~)) 12 months of the ((~~offender's~~)) incarcerated individual's term of confinement may be served in partial confinement for aiding the ((~~offender~~)) incarcerated individual with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community 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);

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

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

(g) The governor may pardon any ((~~offender~~)) incarcerated individual;

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

(i) An ((~~offender~~)) incarcerated individual 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;

(j) Notwithstanding any other provisions of this section, an ((~~offender~~)) incarcerated individual 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; and

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

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

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

**--- END ---**