

E2SHB 1189 - S COMM AMD

By Committee on Human Services

NOT CONSIDERED 05/17/2023

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

3 **"Sec. 1.** RCW 9.94A.501 and 2021 c 242 s 2 are each amended to
4 read as follows:

5 (1) The department shall supervise the following (~~offenders~~)
6 individuals who are sentenced to probation in superior court,
7 pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

8 (a) (~~Offenders~~) Individuals convicted of:

9 (i) Sexual misconduct with a minor second degree;

10 (ii) Custodial sexual misconduct second degree;

11 (iii) Communication with a minor for immoral purposes; and

12 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

13 (b) (~~Offenders~~) Individuals who have:

14 (i) A current conviction for a repetitive domestic violence
15 offense where domestic violence has been pleaded and proven after
16 August 1, 2011; and

17 (ii) A prior conviction for a repetitive domestic violence
18 offense or domestic violence felony offense where domestic violence
19 has been pleaded and proven after August 1, 2011.

20 (2) (~~Misdemeanor~~) Individuals convicted of misdemeanor and
21 gross misdemeanor (~~offenders~~) offenses supervised by the department
22 pursuant to this section shall be placed on community custody.

23 (3) The department shall supervise every individual convicted of
24 a felony (~~offender~~) and sentenced to community custody pursuant to
25 RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the
26 (~~offender~~) individual as one who is at a high risk to reoffend.

27 (4) Notwithstanding any other provision of this section, the
28 department shall supervise an (~~offender~~) individual sentenced to
29 community custody regardless of risk classification if the
30 (~~offender~~) individual:

1 (a) Has a current conviction for a sex offense or a serious
2 violent offense and was sentenced to a term of community custody
3 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

4 (b) Has been identified by the department as a dangerous mentally
5 ill offender pursuant to RCW 72.09.370;

6 (c) Has an indeterminate sentence and is subject to parole
7 pursuant to RCW 9.95.017;

8 (d) Has a current conviction for violating RCW 9A.44.132(1)
9 (failure to register) and was sentenced to a term of community
10 custody pursuant to RCW 9.94A.701;

11 (e) (i) Has a current conviction for a domestic violence felony
12 offense where domestic violence has been pleaded and proven after
13 August 1, 2011, and a prior conviction for a repetitive domestic
14 violence offense or domestic violence felony offense where domestic
15 violence was pleaded and proven after August 1, 2011. This subsection
16 (4) (e) (i) applies only to offenses committed prior to July 24, 2015;

17 (ii) Has a current conviction for a domestic violence felony
18 offense where domestic violence was pleaded and proven. The state and
19 its officers, agents, and employees shall not be held criminally or
20 civilly liable for its supervision of an (~~offender~~) individual
21 under this subsection (4) (e) (ii) unless the state and its officers,
22 agents, and employees acted with gross negligence;

23 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,
24 9.94A.670, 9.94A.711, or 9.94A.695;

25 (g) Is subject to supervision pursuant to RCW 9.94A.745; or

26 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
27 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
28 (felony DUI), or RCW 46.61.504(6) (felony physical control).

29 (5) The department shall supervise any (~~offender who is~~)
30 individual released by the indeterminate sentence review board
31 (~~and~~) who was sentenced to community custody or subject to
32 community custody under the terms of release.

33 (6) The department shall supervise any individual who:

34 (a) Receives a recommendation for commutation from the clemency
35 and pardons board under RCW 9.94A.885;

36 (b) Is granted a commutation by the governor; and

37 (c) Has conditions of community custody imposed as part of the
38 commutation granted by the governor.

39 (7) The department is not authorized to, and may not, supervise
40 any (~~offender~~) individual sentenced to a term of community custody

1 or any probationer unless the (~~offender~~) individual or probationer
2 is one for whom supervision is required under this section (~~or RCW~~
3 ~~9.94A.5011~~)).

4 (~~(7)~~) (8) The department shall conduct a risk assessment for
5 every individual convicted of a felony (~~offender~~) and sentenced to
6 a term of community custody who may be subject to supervision under
7 this section (~~or RCW 9.94A.5011~~)).

8 (~~(8)~~) (9) The period of time the department is authorized to
9 supervise an (~~offender~~) individual under this section may not
10 exceed the duration of community custody specified under RCW
11 9.94B.050, 9.94A.701 (1) through (9), or 9.94A.702, except in cases
12 where the court has imposed an exceptional term of community custody
13 under RCW 9.94A.535.

14 (~~(9)~~) (10) The period of time the department is authorized to
15 supervise an (~~offender~~) individual under this section may be
16 reduced by the earned award of supervision compliance credit pursuant
17 to RCW 9.94A.717.

18 **Sec. 2.** RCW 9.94A.565 and 1994 c 1 s 5 are each amended to read
19 as follows:

20 (1) Nothing in chapter 1, Laws of 1994 or chapter 10.95 RCW shall
21 ever be interpreted or construed as to reduce or eliminate the power
22 of the governor to grant a pardon or clemency to any offender on an
23 individual case-by-case basis. However, the people recommend that
24 (~~any offender~~):

25 (a) Any incarcerated individual subject to total confinement for
26 life without the possibility of parole not be considered for release
27 until the (~~offender~~) incarcerated individual has (~~reached the age~~
28 ~~of at least sixty years old and has~~) been judged to (~~be~~) no longer
29 be a threat to society(~~. The people further recommend that sex~~
30 ~~offenders~~) and has served at least 20 years in total confinement or
31 25 years in total confinement if the incarcerated individual was
32 sentenced pursuant to chapter 10.95 RCW;

33 (b) Incarcerated individuals who have been convicted of a sex
34 offense be held to the utmost scrutiny under this subsection
35 regardless of age; and

36 (c) Releases that take the form of a commutation include a period
37 of law-abiding behavior in the community.

38 (2) Nothing in this section shall ever be interpreted or
39 construed to grant any release for the purpose of reducing prison

1 overcrowding. Furthermore, the governor shall provide twice yearly
2 reports on the activities and progress of (~~offenders~~) individuals
3 subject to total confinement for life without the possibility of
4 parole who are released through executive action during his or her
5 tenure. These reports shall continue for not less than (~~ten~~) 10
6 years after the release of the (~~offender~~) individual or upon the
7 death of the released (~~offender~~) individual.

8 (3) Nothing in this chapter shall be interpreted or construed to
9 reduce or eliminate the power of the governor to grant a pardon or
10 clemency to any individual not in total confinement, or impose
11 conditions on a commutation in addition to or other than any
12 conditions recommended by the clemency and pardons board.

13 **Sec. 3.** RCW 9.94A.633 and 2021 c 242 s 4 are each amended to
14 read as follows:

15 (1) (a) An (~~offender~~) individual who violates any condition or
16 requirement of a sentence may be sanctioned by the court with up to
17 (~~sixty~~) 60 days' confinement for each violation or by the
18 department with up to (~~thirty~~) 30 days' confinement as provided in
19 RCW 9.94A.737.

20 (b) In lieu of confinement, an (~~offender~~) individual may be
21 sanctioned with work release, home detention with electronic
22 monitoring, work crew, community restitution, inpatient treatment,
23 daily reporting, curfew, educational or counseling sessions,
24 supervision enhanced through electronic monitoring, or any other
25 community-based sanctions.

26 (2) If an (~~offender~~) individual was under community custody
27 pursuant to one of the following statutes, the (~~offender~~)
28 individual may be sanctioned as follows:

29 (a) If the (~~offender~~) individual was transferred to community
30 custody in lieu of earned early release in accordance with RCW
31 9.94A.728, the (~~offender~~) individual may be transferred to a more
32 restrictive confinement status to serve up to the remaining portion
33 of the sentence, less credit for any period actually spent in
34 community custody or in detention awaiting disposition of an alleged
35 violation.

36 (b) If the (~~offender~~) individual was sentenced under the drug
37 offender sentencing alternative set out in RCW 9.94A.660, the
38 (~~offender~~) individual may be sanctioned in accordance with that
39 section.

1 (c) If the ((~~offender~~)) individual was sentenced under the
2 parenting sentencing alternative set out in RCW 9.94A.655, the
3 ((~~offender~~)) individual may be sanctioned in accordance with that
4 section.

5 (d) If the ((~~offender~~)) individual was sentenced under the
6 special sex offender sentencing alternative set out in RCW 9.94A.670,
7 the suspended sentence may be revoked and the ((~~offender~~)) individual
8 committed to serve the original sentence of confinement.

9 (e) If the ((~~offender~~)) individual was sentenced under the mental
10 health sentencing alternative set out in RCW 9.94A.695, the
11 ((~~offender~~)) individual may be sanctioned in accordance with that
12 section.

13 (f) If the ((~~offender~~)) individual was sentenced to a work ethic
14 camp pursuant to RCW 9.94A.690, the ((~~offender~~)) individual may be
15 reclassified to serve the unexpired term of his or her sentence in
16 total confinement.

17 (g) If ((~~a sex offender~~)) an individual convicted of a sex
18 offense was sentenced pursuant to RCW 9.94A.507, the ((~~offender~~))
19 individual may be transferred to a more restrictive confinement
20 status to serve up to the remaining portion of the sentence, less
21 credit for any period actually spent in community custody or in
22 detention awaiting disposition of an alleged violation.

23 (h) If the individual received a recommendation for commutation
24 pursuant to RCW 9.94A.885, and was granted a commutation by the
25 governor with conditions of community custody, the individual may be
26 transferred to a more restrictive confinement status to serve up to
27 the remaining portion of the sentence, less credit for any period
28 actually spent in community custody or in detention awaiting
29 disposition of an alleged violation.

30 (3) If a probationer is being supervised by the department
31 pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may
32 be sanctioned pursuant to subsection (1) of this section. The
33 department shall have authority to issue a warrant for the arrest of
34 an ((~~offender~~)) individual who violates a condition of community
35 custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed
36 by the department pursuant to RCW 9.94A.737. Nothing in this
37 subsection is intended to limit the power of the sentencing court to
38 respond to a probationer's violation of conditions.

39 (4) The parole or probation of an ((~~offender~~)) individual who is
40 charged with a new felony offense may be suspended and the

1 ((offender)) individual placed in total confinement pending
2 disposition of the new criminal charges if:

3 (a) The ((offender)) individual is on parole pursuant to RCW
4 9.95.110(1); or

5 (b) The ((offender)) individual is being supervised pursuant to
6 RCW 9.94A.745 and is on parole or probation pursuant to the laws of
7 another state.

8 **Sec. 4.** RCW 9.94A.728 and 2021 c 311 s 19 and 2021 c 266 s 2 are
9 each reenacted and amended to read as follows:

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

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

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

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

25 (A) The ((offender)) incarcerated individual has a medical
26 condition that is serious and is expected to require costly care or
27 treatment;

28 (B) The ((~~offender poses a~~)) incarcerated individual has been
29 assessed as low risk to the community ((~~because he or she is~~
30 ~~currently physically incapacitated due to age or the medical~~
31 ~~condition or is expected to be so~~)) at the time of release; and

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

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

37 (iii) The secretary shall require electronic monitoring for all
38 ((~~offenders~~)) individuals in extraordinary medical placement unless
39 the electronic monitoring equipment is detrimental to the

1 individual's health, interferes with the function of the
2 ~~((offender's))~~ individual's medical equipment, or results in the loss
3 of funding for the ~~((offender's))~~ individual's medical care, in which
4 case, an alternative type of monitoring shall be utilized. The
5 secretary shall specify who shall provide the monitoring services and
6 the terms under which the monitoring shall be performed. The
7 requirement for electronic monitoring shall be waived if the medical
8 condition as certified by the individual's treating physician
9 prevents the individual from being independently mobile.

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

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

14 (d) The governor, upon recommendation from the clemency and
15 pardons board, may grant an extraordinary release ~~((for))~~:

16 (i) For reasons of serious health problems, senility, advanced
17 age, extraordinary meritorious acts, or other extraordinary
18 circumstances; or

19 (ii) Pursuant to section 7 of this act;

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

29 (f)(i) No more than the final five months of the ~~((offender's))~~
30 incarcerated individual's term of confinement may be served in
31 partial confinement as home detention as part of the graduated
32 reentry program developed by the department under RCW
33 9.94A.733(1)(a);

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

1 (g) The governor may pardon any offender;

2 (h) The department may release an (~~offender~~) incarcerated

3 individual from confinement any time within (~~ten~~) 10 days before a

4 release date calculated under this section;

5 (i) An (~~offender~~) incarcerated individual may leave a

6 correctional facility prior to completion of his or her sentence if

7 the sentence has been reduced as provided in RCW 9.94A.870;

8 (j) Notwithstanding any other provisions of this section, an

9 (~~offender~~) incarcerated individual sentenced for a felony crime

10 listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of

11 total confinement shall not be released from total confinement before

12 the completion of the listed mandatory minimum sentence for that

13 felony crime of conviction unless allowed under RCW 9.94A.540; and

14 (k) Any (~~person~~) individual convicted of one or more crimes

15 committed prior to the (~~person's eighteenth~~) individual's 18th

16 birthday may be released from confinement pursuant to RCW 9.94A.730.

17 (2) Notwithstanding any other provision of this section, an

18 (~~offender~~) individual entitled to vacation of a conviction or the

19 recalculation of his or her offender score pursuant to *State v.*

20 *Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement

21 pursuant to a court order if the (~~offender~~) individual has already

22 served a period of confinement that exceeds his or her new standard

23 range. This provision does not create an independent right to release

24 from confinement prior to resentencing.

25 (3) (~~Offenders~~) Individuals residing in a juvenile correctional

26 facility placement pursuant to RCW 72.01.410(1)(a) are not subject to

27 the limitations in this section.

28 **Sec. 5.** RCW 9.94A.880 and 2011 c 336 s 335 are each amended to

29 read as follows:

30 (1) The clemency and pardons board is established as a board

31 within the office of the governor. The board consists of (~~five~~) 10

32 members appointed by the governor, subject to confirmation by the

33 senate.

34 (2) In making appointments to the board, the governor shall

35 strive to ensure racial, ethnic, geographic, gender, sexual identity,

36 and age diversity. The board membership must consist of the

37 following:

38 (a) A person with lived experience in a community of color;

1 (b) A person with lived experience as an incarcerated individual
2 or who has worked with the formerly incarcerated or successful
3 community reentry;

4 (c) A representative of a faith-based organization or church with
5 interest or experience in successful community reentry;

6 (d) A person with experience and interest in tribal affairs; and

7 (e) A person with lived experience as a crime victim or
8 experience working with crime victims.

9 (3) Board members must attend training including the principles
10 of racial equity, racism and mass incarceration, or restorative
11 justice on at least an annual basis.

12 (4) Members of the board shall serve terms of (~~four~~) five
13 years, and may continue to serve until their successors are appointed
14 (~~and confirmed~~). (~~However, the~~) No appointed member may serve
15 more than two consecutive terms. The governor shall stagger the
16 initial terms (~~by appointing one of the initial members for a term~~
17 ~~of one year, one for a term of two years, one for a term of three~~
18 ~~years, and two for terms of four years~~) so that no more than three
19 members are up for appointment in any given year.

20 (~~(3)~~) (5) The board shall elect a chair from among its members
21 and shall adopt bylaws governing the operation of the board. The
22 chair shall approve training and each member's hearing preparation
23 time as duties authorized for compensation under subsection (6) of
24 this section.

25 (~~(4)~~) (6) Members of the board shall (~~receive no compensation~~
26 ~~but shall be reimbursed for travel expenses as provided in RCW~~
27 ~~43.03.050 and 43.03.060 as now existing or hereafter amended~~) each
28 receive compensation in accordance with the provisions of RCW
29 43.03.250, unless waived by the member. All members shall receive
30 travel expenses incurred in the discharge of their official duties in
31 accordance with RCW 43.03.050 and 43.03.060.

32 (7) The board shall be funded personnel to implement and maintain
33 functional operations such as support, records management and
34 disclosure, victim liaisons, and information technology.

35 (~~(5)~~) (8) The attorney general shall provide (~~a staff as~~
36 ~~needed for the operation of~~) legal counsel to the board.

37 (9) Each petition for commutation or pardon shall be reviewed by
38 a panel of five board members. The panel membership shall be selected
39 by a random drawing conducted by board staff.

1 (10) For purposes of this section, "lived experience" has the
2 meaning provided in RCW 43.03.220.

3 **Sec. 6.** RCW 9.94A.885 and 2009 c 325 s 6 and 2009 c 138 s 4 are
4 each reenacted and amended to read as follows:

5 (1) The clemency and pardons board shall receive petitions from
6 individuals, organizations, and the department for review and
7 commutation of sentences when the sentence no longer serves the
8 interest of justice and pardoning of offenders in extraordinary
9 cases, and shall make recommendations thereon to the governor.

10 (2) The board shall receive petitions from individuals or
11 organizations for the restoration of civil rights lost by operation
12 of state law as a result of convictions for federal offenses or out-
13 of-state felonies. The board may issue certificates of restoration
14 limited to engaging in political office. Any certifications granted
15 by the board must be filed with the secretary of state to be
16 effective. In all other cases, the board shall make recommendations
17 to the governor.

18 (3) The board shall not recommend that the governor grant
19 clemency under subsection (1) of this section until a public hearing
20 has been held on the petition. The board shall consider available
21 statements of victims and survivors of victims, as well as any
22 statements from the law enforcement agency or agencies that conducted
23 the investigation.

24 (4)(a) The prosecuting attorney of the county where the
25 conviction was obtained shall be notified at least (~~(thirty)~~) 90 days
26 prior to the scheduled hearing that a petition has been filed and the
27 date and place at which the hearing on the petition will be held. The
28 board may waive the (~~(thirty-day)~~) 90-day notice requirement in cases
29 where it determines that waiver is necessary to permit timely action
30 on the petition. A copy of the petition shall be sent to the
31 prosecuting attorney. The prosecuting attorney shall make reasonable
32 efforts to notify victims, survivors of victims, witnesses, and the
33 law enforcement agency or agencies that conducted the investigation,
34 of the date and place of the hearing. (~~(Information)~~)

35 (b) To facilitate victim and survivor of victim involvement,
36 county prosecutor's offices shall make reasonable efforts to ensure
37 that any victim impact statements and known contact information for
38 victims of record and survivors of victims are forwarded as part of
39 the judgment and sentence. In the event that no known victim or

1 survivor of the victim is known or identified for the panel, the
2 county prosecutor's office shall be given reasonable time to certify
3 to the panel that it has exhausted all reasonable efforts in locating
4 and providing contact information to the panel. Contact information
5 regarding victims, survivors of victims, or witnesses receiving this
6 notice are confidential and shall not be available to the
7 ((offender)) individual seeking clemency. ((The board shall consider
8 statements presented as set forth in RCW 7.69.032.))

9 (c) This subsection is intended solely for the guidance of the
10 board. Nothing in this section is intended or may be relied upon to
11 create a right or benefit, substantive or procedural, enforceable at
12 law by any person.

13 (d) The board shall provide written notification to any victims,
14 survivors of victims, or witnesses who participate in the hearing or
15 provide written testimony about the department of correction's victim
16 notification program and the victim information and notification
17 system administered by the Washington association of sheriffs and
18 police chiefs.

19 (5) (a) The board may recommend conditions of commutation for any
20 incarcerated individual released pursuant to this section, including
21 a term of community custody up to the length of the court-imposed
22 term of incarceration, partial confinement up to six months,
23 restrictions on travel, no contact with certain persons or classes of
24 persons, restrictions on the type of employment and any other
25 restrictions that the board determines to be reasonable and
26 appropriate, or any other condition which provides for community
27 protection from the released individual.

28 (b) The department shall monitor the released individual's
29 compliance with any conditions of community custody imposed by the
30 governor. Any violation of conditions of community custody is subject
31 to the provisions of this chapter.

32 (6) Members of the board are not civilly liable for decisions
33 made while performing their duties.

34 NEW SECTION. Sec. 7. A new section is added to chapter 9.94A
35 RCW to read as follows:

36 (1) The board may take any of the following actions: Deny a
37 petition without a hearing because the incarcerated individual does
38 not meet the initial criteria for filing a petition; or conduct a
39 hearing in accordance with RCW 9.94A.885 to consider additional

1 information, and then deny the petition or recommend commutation to
2 the governor.

3 (2) In making its decision, the board shall consider, if
4 available, the following factors and information:

5 (a) Public safety;

6 (b) The incarcerated individual's criminal history;

7 (c) The nature and circumstances of the offenses committed,
8 including the current and past offenses;

9 (d) The incarcerated individual's social and medical history;

10 (e) The incarcerated individual's acceptance of responsibility,
11 remorse, and atonement. If the individual submitted an Alford plea,
12 the impact that may have on an individual's ability to provide
13 evidence of remorse, atonement, and self-reflection in relation to
14 the offense committed;

15 (f) Evidence of the incarcerated individual's rehabilitation,
16 including behavior while incarcerated, job history, education
17 participation in available rehabilitative program and treatment, and
18 serious infraction history;

19 (g) Input from the victims of the crime;

20 (h) Input from the police and prosecutors in the jurisdictions
21 where the incarcerated individual's crimes were committed;

22 (i) Input from persons in the community pledging their support of
23 the incarcerated individual, if released;

24 (j) The available resources in the community to help the
25 incarcerated individual transition to life outside of prison;

26 (k) A risk assessment and psychological evaluation provided by
27 the department;

28 (l) The sentencing judge's analysis in imposing an exceptional
29 sentence, if any;

30 (m) Information from the department provided in the form of a
31 case analysis regarding the incarcerated individual which includes
32 the individual's disciplinary record, risk-level classification
33 history, program participation, work history, behavioral
34 observations, and community concerns. The department will also
35 provide recommendations on potential release conditions that the
36 individual must comply with. The board shall not publicly identify
37 the content of the department's case analysis; and

38 (n) Any other relevant factors.

39 (3) Further, the board shall consider a release plan presented by
40 the incarcerated individual showing where the incarcerated individual

1 will reside and how he or she will support himself or herself during
2 the first year after his or her release. The department shall
3 independently review the proposed release plan and make an
4 independent evaluation to ensure the incarcerated individual is not
5 released to an area where the victim resides or that impacts
6 community safety.

7 (4) If the board, following a hearing, recommends commutation or
8 denies the petition, it shall specify the reasons for the decision.

9 (5) The conditions for commutation may include: Partial
10 confinement for up to six months, regular drug and/or alcohol
11 testing, no violations of law, restrictions on travel, no contact
12 with certain individuals or classes of individuals, restrictions on
13 the type of employment and any other restrictions that the board
14 determines to be reasonable and appropriate, or any other condition
15 which provides for community protection from the released individual.

16 (6) An incarcerated individual whose petition for commutation is
17 denied may file a new petition for commutation three years from the
18 date of denial or at an earlier date as may be set by the board.

19 (7) The incarcerated individual does not have a right to
20 appointed counsel. Both lawyers and nonlawyers may assist the
21 incarcerated individual in the preparation of his or her petition and
22 at the hearing.

23 (8) All information contained in a petition or that is submitted
24 to the board, except as provided in RCW 9.94A.885, is subject to
25 public disclosure.

26 (9) The board may adopt rules setting out criteria and procedures
27 for the review of petitions under this section and RCW 9.94A.885 as
28 appropriate.

29 (10) For purposes of this section, "board" means the clemency and
30 pardons board.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A
32 RCW to read as follows:

33 The clemency and pardons board shall transmit to the governor and
34 the legislature, at least annually, a report of its work, in which
35 shall be given such information as may be relevant. The information
36 must include the names of any offenders granted clemency or pardons
37 in the previous calendar year, the crimes of which those offenders
38 were convicted, and any convictions during the previous five years by
39 any offender listed in any report submitted under this section.

1 NEW SECTION. **Sec. 9.** An appointed member on the clemency and
2 pardons board as of the effective date of this section may serve the
3 remainder of their term, and is eligible for appointment to a second
4 term.

5 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2023, in the omnibus appropriations act, this
8 act is null and void."

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By Committee on Human Services

NOT CONSIDERED 05/17/2023

9 On page 1, line 2 of the title, after "sentence;" strike the
10 remainder of the title and insert "amending RCW 9.94A.501, 9.94A.565,
11 9.94A.633, and 9.94A.880; reenacting and amending RCW 9.94A.728 and
12 9.94A.885; adding new sections to chapter 9.94A RCW; and creating new
13 sections."

EFFECT: Clarifies department of corrections' (DOC) supervision authority applies only to individuals who receive a recommendation for commutation from clemency and pardons board (CPB), the commutation is granted by the governor, and the governor imposes community custody as a condition of the commutation.

Provides that nothing in this chapter shall limit the governor's power to grant a pardon or clemency to any individual not in total confinement, or impose conditions in addition to or other than those recommended by CPB.

Clarifies that a current CPB member is eligible to serve the remainder of their term and be appointed to a second term.

Removes a retired superior court judge as one of the required members of the CPB.

Instead of considering statements from DOC staff, the CPB can consider a DOC case analysis that includes information regarding discipline and behavior, risk level, work and program history, community concerns, and potential release conditions.

Alters the CPB annual reporting requirement to convictions during the previous five years for any offender granted clemency or pardons included in a report.

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