
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1189

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Hackney, Reed, Simmons, Wylie, Santos, and Ormsby)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to the release of incarcerated individuals from
2 total confinement prior to the expiration of a sentence; amending RCW
3 9.94A.501, 9.94A.565, 9.94A.633, and 9.94A.880; reenacting and
4 amending RCW 9.94A.728 and 9.94A.885; adding new sections to chapter
5 9.94A RCW; and creating a new section.

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

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

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

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

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

14 (ii) Custodial sexual misconduct second degree;

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

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

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

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

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

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

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

11 (4) Notwithstanding any other provision of this section, the
12 department shall supervise an (~~offender~~) individual sentenced to
13 community custody regardless of risk classification if the
14 (~~offender~~) individual:

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

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

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

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

25 (e)(i) Has a current conviction for a domestic violence felony
26 offense where domestic violence has been pleaded and proven after
27 August 1, 2011, and a prior conviction for a repetitive domestic
28 violence offense or domestic violence felony offense where domestic
29 violence was pleaded and proven after August 1, 2011. This subsection
30 (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

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

37 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,
38 9.94A.670, 9.94A.711, or 9.94A.695;

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

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

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

8 (6) The department shall supervise any individual granted
9 conditional commutation pursuant to RCW 9.94A.885.

10 (7) The department is not authorized to, and may not, supervise
11 any ~~((offender))~~ individual sentenced to a term of community custody
12 or any probationer unless the ~~((offender))~~ individual or probationer
13 is one for whom supervision is required under this section ~~((or RCW~~
14 ~~9.94A.5011))~~.

15 ~~((+7))~~ (8) The department shall conduct a risk assessment for
16 every individual convicted of a felony ~~((offender))~~ and sentenced to
17 a term of community custody who may be subject to supervision under
18 this section ~~((or RCW 9.94A.5011))~~.

19 ~~((+8))~~ (9) The period of time the department is authorized to
20 supervise an ~~((offender))~~ individual under this section may not
21 exceed the duration of community custody specified under RCW
22 9.94B.050, 9.94A.701 (1) through (9), or 9.94A.702, except in cases
23 where the court has imposed an exceptional term of community custody
24 under RCW 9.94A.535.

25 ~~((+9))~~ (10) The period of time the department is authorized to
26 supervise an ~~((offender))~~ individual under this section may be
27 reduced by the earned award of supervision compliance credit pursuant
28 to RCW 9.94A.717.

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

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

36 (a) Any incarcerated individual subject to total confinement for
37 life without the possibility of parole not be considered for release
38 until the ~~((offender))~~ incarcerated individual has ~~((reached the age~~
39 ~~of at least sixty years old and has))~~ been judged to ~~((be))~~ no longer

1 ~~be~~ a threat to society(~~(. The people further recommend that sex~~
2 ~~offenders)~~) and has served at least 20 years in total confinement or
3 25 years in total confinement if the incarcerated individual was
4 sentenced pursuant to chapter 10.95 RCW;

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

8 (c) Release take the form of a commutation that includes a period
9 of law-abiding behavior in the community.

10 (2) Nothing in this section shall ever be interpreted or
11 construed to grant any release for the purpose of reducing prison
12 overcrowding. Furthermore, the governor shall provide twice yearly
13 reports on the activities and progress of (~~offenders~~) individuals
14 subject to total confinement for life without the possibility of
15 parole who are released through executive action during his or her
16 tenure. These reports shall continue for not less than (~~ten~~) 10
17 years after the release of the (~~offender~~) individual or upon the
18 death of the released (~~offender~~) individual.

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

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

26 (b) In lieu of confinement, an (~~offender~~) individual may be
27 sanctioned with work release, home detention with electronic
28 monitoring, work crew, community restitution, inpatient treatment,
29 daily reporting, curfew, educational or counseling sessions,
30 supervision enhanced through electronic monitoring, or any other
31 community-based sanctions.

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

35 (a) If the (~~offender~~) individual was transferred to community
36 custody in lieu of earned early release in accordance with RCW
37 9.94A.728, the (~~offender~~) individual may be transferred to a more
38 restrictive confinement status to serve up to the remaining portion
39 of the sentence, less credit for any period actually spent in

1 community custody or in detention awaiting disposition of an alleged
2 violation.

3 (b) If the (~~offender~~) individual was sentenced under the drug
4 offender sentencing alternative set out in RCW 9.94A.660, the
5 (~~offender~~) individual may be sanctioned in accordance with that
6 section.

7 (c) If the (~~offender~~) individual was sentenced under the
8 parenting sentencing alternative set out in RCW 9.94A.655, the
9 (~~offender~~) individual may be sanctioned in accordance with that
10 section.

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

15 (e) If the (~~offender~~) individual was sentenced under the mental
16 health sentencing alternative set out in RCW 9.94A.695, the
17 (~~offender~~) individual may be sanctioned in accordance with that
18 section.

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

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

29 (h) If the individual was granted conditional commutation
30 pursuant to RCW 9.94A.885, the individual may be transferred to a
31 more restrictive confinement status to serve up to the remaining
32 portion of the sentence, less credit for any period actually spent in
33 community custody or in detention awaiting disposition of an alleged
34 violation.

35 (3) If a probationer is being supervised by the department
36 pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may
37 be sanctioned pursuant to subsection (1) of this section. The
38 department shall have authority to issue a warrant for the arrest of
39 an (~~offender~~) individual who violates a condition of community
40 custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed

1 by the department pursuant to RCW 9.94A.737. Nothing in this
2 subsection is intended to limit the power of the sentencing court to
3 respond to a probationer's violation of conditions.

4 (4) The parole or probation of an (~~offender~~) individual who is
5 charged with a new felony offense may be suspended and the
6 (~~offender~~) individual placed in total confinement pending
7 disposition of the new criminal charges if:

8 (a) The (~~offender~~) individual is on parole pursuant to RCW
9 9.95.110(1); or

10 (b) The (~~offender~~) individual is being supervised pursuant to
11 RCW 9.94A.745 and is on parole or probation pursuant to the laws of
12 another state.

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

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

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

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

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

30 (A) The (~~offender~~) incarcerated individual has a medical
31 condition that is serious and is expected to require costly care or
32 treatment;

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

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

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

4 (iii) The secretary shall require electronic monitoring for all
5 (~~offenders~~) individuals in extraordinary medical placement unless
6 the electronic monitoring equipment is detrimental to the
7 individual's health, interferes with the function of the
8 (~~offender's~~) individual's medical equipment, or results in the loss
9 of funding for the (~~offender's~~) individual's medical care, in which
10 case, an alternative type of monitoring shall be utilized. The
11 secretary shall specify who shall provide the monitoring services and
12 the terms under which the monitoring shall be performed. The
13 requirement for electronic monitoring shall be waived if the medical
14 condition as certified by the individual's treating physician
15 prevents the individual from being independently mobile.

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

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

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

22 (i) For reasons of serious health problems, senility, advanced
23 age, extraordinary meritorious acts, or other extraordinary
24 circumstances; or

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

26 (e) No more than the final (~~twelve~~) 12 months of the
27 (~~offender's~~) incarcerated individual's term of confinement may be
28 served in partial confinement for aiding the (~~offender~~)
29 incarcerated individual with: Finding work as part of the work
30 release program under chapter 72.65 RCW; or reestablishing himself or
31 herself in the community as part of the parenting program in RCW
32 9.94A.6551. This is in addition to that period of earned early
33 release time that may be exchanged for partial confinement pursuant
34 to RCW 9.94A.729(5)(d);

35 (f)(i) No more than the final five months of the (~~offender's~~)
36 incarcerated individual's term of confinement may be served in
37 partial confinement as home detention as part of the graduated
38 reentry program developed by the department under RCW
39 9.94A.733(1)(a);

1 (ii) For eligible (~~offenders~~) individuals under RCW
2 9.94A.733(1)(b), after serving at least four months in total
3 confinement in a state correctional facility, an (~~offender~~)
4 incarcerated individual may serve no more than the final 18 months of
5 the (~~offender's~~) incarcerated individual's term of confinement in
6 partial confinement as home detention as part of the graduated
7 reentry program developed by the department;

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

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

13 (i) An (~~offender~~) incarcerated individual may leave a
14 correctional facility prior to completion of his or her sentence if
15 the sentence has been reduced as provided in RCW 9.94A.870;

16 (j) Notwithstanding any other provisions of this section, an
17 (~~offender~~) incarcerated individual sentenced for a felony crime
18 listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of
19 total confinement shall not be released from total confinement before
20 the completion of the listed mandatory minimum sentence for that
21 felony crime of conviction unless allowed under RCW 9.94A.540; and

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

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

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

36 **Sec. 5.** RCW 9.94A.880 and 2011 c 336 s 335 are each amended to
37 read as follows:

38 (1) The clemency and pardons board is established as a board
39 within the office of the governor. The board consists of (~~five~~) 10

1 members appointed by the governor, subject to confirmation by the
2 senate.

3 (2) In making appointments to the board, the governor shall
4 strive to ensure racial, ethnic, geographic, gender, sexual identity,
5 and age diversity. The board membership must consist of the
6 following:

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

8 (b) A person with lived experience as an incarcerated individual
9 or who has worked with the formerly incarcerated or successful
10 community reentry;

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

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

14 (e) A retired superior court judge; and

15 (f) A representative of an agency representing crime victims.

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

19 (4) Members of the board (~~shall~~) may serve up to two terms of
20 (~~four~~) five years (~~and~~) and may continue to serve until their
21 successors are appointed and confirmed. (~~However, the~~) The governor
22 shall stagger the initial terms (~~by appointing one of the initial~~
23 members for a term of one year, one for a term of two years, one for
24 a term of three years, and two for terms of four years)) so that no
25 more than three members are up for appointment in any given year.
26 Board members as of the effective date of this section may serve the
27 member's remaining term.

28 (~~3~~) (5) The board shall elect a chair from among its members
29 and shall adopt bylaws governing the operation of the board. The
30 chair shall approve training and each member's hearing preparation
31 time as duties authorized for compensation under subsection (6) of
32 this section.

33 (~~4~~) (6) Members of the board shall (~~receive no compensation~~
34 but shall be reimbursed for travel expenses as provided in RCW
35 43.03.050 and 43.03.060 as now existing or hereafter amended)) each
36 receive compensation in accordance with the provisions of RCW
37 43.03.250, unless waived by the member. All members shall receive
38 travel expenses incurred in the discharge of their official duties in
39 accordance with RCW 43.03.050 and 43.03.060.

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

4 ~~((5))~~ (8) The attorney general shall provide ~~((a staff as~~
5 ~~needed for the operation of))~~ legal counsel to the board.

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

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

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

13 (1) The clemency and pardons board shall receive petitions from
14 individuals, organizations, and the department and make
15 recommendations to the governor for ~~((review and commutation))~~:

16 (a) Commutation of sentences of incarcerated individuals when the
17 sentence no longer serves the interest of justice; and ~~((pardoning))~~

18 (b) Pardoning of ~~((offenders))~~ incarcerated individuals in
19 extraordinary cases ~~((, and shall make recommendations thereon to the~~
20 ~~governor))~~.

21 (2) The board shall receive petitions from individuals or
22 organizations for the restoration of civil rights lost by operation
23 of state law as a result of convictions for federal offenses or out-
24 of-state felonies. The board may issue certificates of restoration
25 limited to engaging in political office. Any certifications granted
26 by the board must be filed with the secretary of state to be
27 effective. In all other cases, the board shall make recommendations
28 to the governor.

29 (3) The board shall not recommend that the governor grant
30 clemency under subsection (1) of this section until a public hearing
31 has been held on the petition. The board shall consider available
32 statements of victims and survivors of victims, as well as any
33 statements from the law enforcement agency or agencies that conducted
34 the investigation.

35 (4) (a) The prosecuting attorney of the county where the
36 conviction was obtained shall be notified at least ~~((thirty))~~ 90 days
37 prior to the scheduled hearing that a petition has been filed and the
38 date and place at which the hearing on the petition will be held. The
39 board may waive the ~~((thirty-day))~~ 90-day notice requirement in cases

1 where it determines that waiver is necessary to permit timely action
2 on the petition. A copy of the petition shall be sent to the
3 prosecuting attorney. ~~((The prosecuting attorney shall make
4 reasonable efforts to notify victims, survivors of victims,
5 witnesses, and the law enforcement agency or agencies that conducted
6 the investigation, of the date and place of the hearing.))~~ The
7 prosecuting attorney shall make reasonable efforts to notify victims,
8 survivors of victims, witnesses, and the law enforcement agency or
9 agencies that conducted the investigation, of the date and place of
10 the hearing.

11 (b) To facilitate victim and survivor of victim involvement,
12 county prosecutor's offices shall make reasonable efforts to ensure
13 that any victim impact statements and known contact information for
14 victims of record and survivors of victims are forwarded as part of
15 the judgment and sentence. In the event that no known victim or
16 survivor of the victim is known or identified for the panel, the
17 county prosecutor's office shall be given reasonable time to certify
18 to the panel that it has exhausted all reasonable efforts in locating
19 and providing contact information to the panel. Information regarding
20 victims, survivors of victims, or witnesses receiving this notice are
21 confidential and shall not be available to the ~~((offender))~~
22 incarcerated individual seeking clemency or commutation. ((The board
23 shall consider statements presented as set forth in RCW 7.69.032.))

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

28 (d) The board shall provide written notification to any victims,
29 survivors of victims, or witnesses who participate in the hearing or
30 provide written testimony about the department of correction's victim
31 notification program and the victim information and notification
32 everyday service administered by the Washington association of
33 sheriffs and police chiefs.

34 (5) (a) The board may recommend conditions of commutation for any
35 incarcerated individual released pursuant to this section, including
36 a term of community custody up to the length of the court-imposed
37 term of incarceration, partial confinement up to six months,
38 restrictions on travel, no contact with certain persons or classes of
39 persons, restrictions on the type of employment and any other
40 restrictions that the board determines to be reasonable and

1 appropriate, or any other condition which provides for community
2 protection from the released individual.

3 (b) The department shall monitor the released individual's
4 compliance with conditions of community custody imposed by the
5 governor. Any violation of conditions of community custody is subject
6 to the provisions of this chapter.

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

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

11 (1) The board may take any of the following actions: Deny a
12 petition without a hearing because the incarcerated individual does
13 not meet the initial criteria for filing a petition; or conduct a
14 hearing in accordance with RCW 9.94A.885 to consider additional
15 information, and then deny the petition or recommend commutation to
16 the governor.

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

19 (a) Public safety;

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

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

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

24 (e) The incarcerated individual's acceptance of responsibility,
25 remorse, and atonement. If the individual submitted an Alford plea,
26 the impact that may have on an individual's ability to provide
27 evidence of remorse, atonement, and self-reflection in relation to
28 the offense committed;

29 (f) Evidence of the incarcerated individual's rehabilitation,
30 including behavior while incarcerated, job history, education
31 participation in available rehabilitative program and treatment, and
32 serious infraction history;

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

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

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

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

1 (k) A risk assessment and psychological evaluation provided by
2 the department;

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

5 (m) Statements of correctional staff, program supervisors, and
6 volunteer facilitators regarding the incarcerated individual. Such
7 statements shall be voluntary and withheld as confidential. The board
8 shall not publicly identify the names, content, or statement in the
9 hearing or its written decision;

10 (n) Any other relevant factors.

11 (3) Further, the board shall consider a release plan presented by
12 the incarcerated individual showing where the incarcerated individual
13 will reside and how he or she will support himself or herself during
14 the first year after his or her release. The department shall
15 independently review the proposed release plan and make an
16 independent evaluation to ensure the incarcerated individual is not
17 released to an area where the victim resides or that impacts
18 community safety.

19 (4) If the board recommends commutation or denies the petition,
20 it shall specify the reasons for the decision.

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

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

31 (7) The incarcerated individual does not have a right to
32 appointed counsel. Both lawyers and nonlawyers may assist the
33 incarcerated individual in the preparation of his or her petition and
34 at the hearing.

35 (8) All information contained in a petition or that is submitted
36 to the board is subject to public disclosure.

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

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

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

5 The clemency and pardons board shall transmit to the governor and
6 the legislature, at least annually, a report of its work, in which
7 shall be given such information as may be relevant. The information
8 must include the names of any offenders granted clemency or pardons
9 in the previous calendar year, the crimes of which those offenders
10 were convicted, and any known acts of recidivism during the preceding
11 calendar year by any offender listed in any report submitted under
12 this section.

13 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
14 this act, referencing this act by bill or chapter number, is not
15 provided by June 30, 2023, in the omnibus appropriations act, this
16 act is null and void.

--- END ---