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**HOUSE BILL 2791**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Pettigrew, Goodman, Moscoso, Senn, Frame, Stanford, Santos, and Walkinshaw

AN ACT Relating to the Washington statewide reentry council; reenacting and amending RCW 41.06.070; adding a new chapter to Title 43 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that the cycle of recidivism warrants a closer examination of our criminal justice system, correctional systems, and community services in Washington. Over ninety-five percent of persons in prison will return to the community, and more than half of those persons will reoffend and be reincarcerated in today's system. This high rate of recidivism results in more crimes, more victims, more prisons, and more trauma within families and communities. We can do better for the people of Washington.

The legislature intends to establish the Washington statewide reentry council to develop collaborative and cooperative relationships between the criminal justice system, victims and their families, impacted individuals and their families, and service providers, with the purpose of improving public safety and outcomes for people reentering the community from incarceration.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Council" means the Washington statewide reentry council.

(2) "Department" means the department of commerce.

NEW SECTION. **Sec.**  (1) The Washington statewide reentry council is created and located within the department for the purpose of promoting successful reentry of offenders after incarceration.

(2) The department shall administer the council by:

(a) Providing administrative staff support;

(b) Providing the council and its staff use of the department's facilities; and

(c) Managing grants and other funds received, used, and disbursed by the council.

NEW SECTION. **Sec.**  (1) The council comprises thirteen members appointed by the governor.

(2) The governor must create a membership that includes:

(a)(i) Representatives of: The department of corrections; a statewide organization representing law enforcement interests; a statewide organization representing the interests of crime victims; a statewide organization representing prosecutors; a statewide organization representing public defenders; a statewide or local organization representing businesses and employers; housing providers; and faith-based organizations or communities;

(ii) At least two persons with experience reentering the community after incarceration; and

(iii) Two other community leaders.

(b) At least one position of the council must be reserved for an invited person with a background in tribal affairs, and such position has all of the same voting and other powers of other members.

(3) When making appointments, the governor shall consider:

(a) The racial and ethnic background of applicants in order for the appointed membership to reflect the disproportionate impact of incarceration on minority groups in the state;

(b) The gender of applicants in order for the membership to reflect the gender diversity of the state;

(c) The geographic location of applicants in order for the membership to represent different geographic regions of the state; and

(d) The experiences and background of applicants relating to the incarcerated population.

NEW SECTION. **Sec.**  (1) The governor shall make initial appointments to the council no later than June 30, 2016. Initial appointments are for staggered terms from the date of appointment according to the following: Four members have four-year terms; four members have three year terms; and five members have two-year terms. The governor shall designate the appointees who will serve the staggered terms.

(2) Except for initial appointments under subsection (1) of this section, all appointments are for two years from the date of appointment. Any member may be reappointed for additional terms. Any member of the council may be removed by the governor for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless such notice and hearing is expressly waived in writing by the affected member. In the event of a vacancy due to death, resignation, or removal, or upon the expiration of a term, the governor shall appoint a successor for the remainder of the unexpired term according to the procedures in subsection (3) of this section. Vacancies must be filled within ninety days.

(3) By December 1, 2016, the council shall create a selection committee to recruit, review, and recommend future members. Prior to thirty days before the expiration of a term or within sixty days of a vacancy due to death, resignation, or removal, the selection committee shall submit a recommendation of possible appointees. The governor shall consider the recommendations of the committee when making appointments.

(4) The council shall elect cochairs from among its membership. Cochairs are elected for two-year terms from the date of election. Any former or current cochair may be reelected for an additional term.

NEW SECTION. **Sec.**  (1) In addition to other powers and duties prescribed in this chapter, the council is empowered to:

(a) Meet at such times and places as necessary;

(b) Advise the legislature and the governor on issues relating to reentry and reintegration of offenders;

(c) Review, study, and make policy and funding recommendations on issues directly and indirectly related to reentry and reintegration of offenders in Washington state, including, but not limited to: Correctional programming and other issues in state and local correctional facilities; housing; employment; education; treatment; and other issues contributing to recidivism;

(d) Apply for, receive, use, and leverage public and private grants as well as specifically appropriated funds to establish, manage, and promote initiatives and programs related to successful reentry and reintegration of offenders;

(e) Contract for services as it deems necessary in order to carry out initiatives and programs;

(f) Adopt policies and procedures to facilitate the orderly administration of initiatives and programs;

(g) Create committees and subcommittees of the council as is necessary for the council to conduct its business; and

(h) Create and consult with advisory groups comprising nonmembers. Advisory groups are not eligible for reimbursement under section 7 of this act.

(2) The council shall select an executive director to administer the business of the council.

(a) The council may delegate to the executive director by resolution all duties necessary to efficiently carry on the business of the council. Approval by a majority vote of the council is required for any decisions regarding employment of the executive director.

(b) The executive director may not be a member of the council while serving as executive director.

(c) Employment of the executive director terminates after a term of three years. At the end of a term, the council may consider hiring the executive director for an additional three-year term or an extension of a specified period less than three years. The council may fix the compensation of the executive director.

(d) The executive director shall reside in and be funded by the department.

(3) In conducting its business, the council shall solicit input and participation from stakeholders interested in reducing recidivism, promoting public safety, and improving community conditions for people reentering the community from incarceration. The council shall consult: The two largest caucuses in the house of representatives; the two largest caucuses in the senate; the governor; local governments; educators; mental health and substance abuse providers; behavioral health organizations; managed care organizations; city and county jails; the department of corrections; specialty courts; persons with expertise in evidence-based and research-based reentry practices; and persons with criminal histories and their families.

(4) The council shall submit to the governor and appropriate committees of the legislature a preliminary report no later than December 1, 2016, and a full report by December 1st every two years thereafter.

NEW SECTION. **Sec.**  The members of the council shall serve without compensation, but are entitled to be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec.**  (1) Meetings of the council must be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the cochairs or when a majority of the council membership so requests. Members may participate in a meeting of the council by means of a conference telephone or similar communication equipment as described in RCW 23B.08.200.

(2) Seven members of the council constitute a quorum.

(3) The council must convene its first meeting no later than August 1, 2016. The council must meet at least twice during the 2016 calendar year and at least four times during each subsequent year.

NEW SECTION. **Sec.**  (1) The joint legislative audit and review committee shall conduct a performance audit of the council every six years, with the first audit to be completed by November 1, 2022.

(2) Each audit must include but not be limited to:

(a) A determination of the extent to which funds expended by the council or provided in biennial budget acts expressly for implementing the duties of the council have contributed toward reducing recidivism in Washington;

(b) A determination of the efficiency and effectiveness of the council, based upon the achievement of the objectives and benchmarks established by this chapter and any applicable biennial budget acts; and

(c) Any recommendations for changes to the council's performance and structure necessary to ensure or improve accountability.

(3) The council may use the audits as the basis for developing changes to its policies and programs.

NEW SECTION. **Sec.**  (1) The Washington state institute for public policy shall conduct a meta-analysis on the effectiveness of programs aimed at assisting offenders with reentering the community after incarceration. The study must include a review and update of the literature on reentry programs in Washington and across the country. The institute shall report on the types of programs demonstrated to be effective in reducing recidivism among the general offender population. The institute shall report results to the governor, appropriate committees of the legislature, and the Washington statewide reentry council no later than June 1, 2017.

(2) This section expires August 1, 2017.

**Sec.**  RCW 41.06.070 and 2011 1st sp.s. c 43 s 1010, 2011 1st sp.s. c 39 s 4, and 2011 1st sp.s. c 16 s 22 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

(o) Officers and employees of the Washington state dairy products commission;

(p) Officers and employees of the Washington tree fruit research commission;

(q) Officers and employees of the Washington state beef commission;

(r) Officers and employees of the Washington grain commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(u) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(v) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(w) Staff employed by the department of commerce to administer energy policy functions;

(x) The manager of the energy facility site evaluation council;

(y) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (v) of this subsection;

(z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(aa) Officers and employees of the consolidated technology services agency created in RCW 43.105.006 that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security;

(bb) The executive director of the Washington statewide reentry council.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (t) and (2) of this section, shall be determined by the director. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From July 1, 2011, through June 29, 2013, salaries for all positions exempt from classification under this chapter are subject to RCW 41.04.820.

From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources;

(b) The salary increase will not adversely impact the provision of client services; and

(c) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2013, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 43 RCW.

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