
HOUSE BILL 2184

State of Washington

65th Legislature

2017 Regular Session

By Representative Goodman

1 AN ACT Relating to the sentencing and incarceration of offenders;
2 amending RCW 72.09.010, 9.94A.480, and 9.94A.585; adding new sections
3 to chapter 72.09 RCW; adding a new section to chapter 9.94A RCW;
4 adding a new chapter to Title 43 RCW; creating new sections; and
5 providing expiration dates.

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

7 **PART 1**
8 **CREATING THE DEPARTMENT OF CORRECTIONS OMBUDS**

9 NEW SECTION. **Sec. 1.** Subject to the availability of amounts
10 appropriated for this specific purpose, the office of the corrections
11 ombuds is funded through the office of the state auditor for the
12 purpose of providing information to inmates, family members,
13 representatives of inmates, department employees, and others
14 regarding the rights of inmates; providing technical assistance to
15 support inmate self-advocacy, alternative dispute resolution, and
16 individual representation; identifying systemic issues, reporting to
17 the legislature, and advocating for systemic reform; and monitoring
18 and promoting compliance with statutes, rules, and policies
19 pertaining to conditions of correctional facilities and the rights of
20 inmates.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Abuse" means any act or failure to act by a department
5 employee, subcontractor, or volunteer which was performed, or which
6 was failed to be performed, knowingly, recklessly, or intentionally,
7 and which caused, or may have caused, injury or death to an inmate.

8 (2) "Corrections ombuds" or "ombuds" means the corrections
9 ombuds, staff of the corrections ombuds, and volunteers with the
10 office of the corrections ombuds.

11 (3) "Council" means the ombuds advisory council established in
12 section 3(1) of this act.

13 (4) "Department" means the department of corrections.

14 (5) "Inmate" means a person committed to the custody of the
15 department, including, but not limited to, persons residing in a
16 correctional institution or facility; persons released from such
17 facility on furlough, work release, or community custody; and persons
18 received from another state, another state agency, a county, or the
19 federal government.

20 (6) "Neglect" means a negligent act or omission by any department
21 employee, subcontractor, or volunteer which caused, or may have
22 caused, injury or death to an inmate.

23 (7) "Office" means the office of the corrections ombuds.

24 (8) "Organization" means the private nonprofit organization that
25 operates the office of the corrections ombuds.

26 NEW SECTION. **Sec. 3.** (1) No later than August 1, 2017, the
27 governor shall convene an ombuds advisory council with several
28 purposes in support of the ombuds function. The council shall
29 participate in a priority setting process for the purpose of
30 developing priority recommendations to the ombuds, review data
31 collected by the ombuds, review reports issued by the ombuds prior to
32 their release, and make recommendations to the ombuds regarding the
33 accomplishment of its purposes. The council also has authority to
34 issue its own reports and recommendations. The council must
35 biannually review ombuds performance, reporting to the governor and
36 the legislature regarding its findings. The council must provide the
37 legislature with recommendations regarding the ombuds budget and
38 changes in the law that would enhance ombuds effectiveness.

1 (2) The council initially consists of one democrat and one
2 republican member of the legislature. The chairs of the senate
3 committee on law and justice and the house of representatives
4 committee on public safety shall make recommendations to the
5 president of the senate and the speaker of the house of
6 representatives, who shall make the final appointments. These
7 appointed members shall select the following additional members:

8 (a) One former inmate who has successfully reintegrated into the
9 community and is no longer in the custody of the department;

10 (b) Two family members of a current inmate;

11 (c) One expert with significant criminal justice or correctional
12 experience who is not an employee or contractor with the state of
13 Washington;

14 (d) A community member with extensive knowledge and experience in
15 issues related to racial, ethnic, or religious diversity within the
16 correctional system;

17 (e) A community member with extensive knowledge and experience in
18 the accommodation needs of individuals with disabilities; and

19 (f) A community member with dispute resolution training who has
20 experience working in the criminal justice or corrections field.

21 (3) The council also includes:

22 (a) The department staff serving as the internal ombuds, if any;
23 and

24 (b) A bargaining unit representative, as selected by the
25 membership of the bargaining unit.

26 (4) After the full membership is attained, the council shall
27 develop a process for replacing members in case of resignation or
28 expiration of terms.

29 (5) Councilmembers serve a term of three years, except that the
30 council shall create and implement a system of staggered terms, and
31 no member may serve more than two consecutive terms. The council
32 shall convene at least quarterly. Councilmembers will serve without
33 compensation, except that funds appropriated for the implementation
34 of this act may be used to reimburse members who are not employees of
35 Washington state for expenses necessary to the performance of their
36 duties.

37 NEW SECTION. **Sec. 4.** (1) Subject to the availability of amounts
38 appropriated for this specific purpose, the state auditor shall
39 designate, by a competitive bidding process, the nonprofit

1 organization that will contract to operate the office of the
2 corrections ombuds. The selection process must include direct
3 stakeholder participation in the development of the request for
4 proposals, evaluation of bids, and final selection. The state auditor
5 shall select an organization that possesses, directly or through
6 subcontracts, significant legal expertise, competence with mediation
7 and alternative dispute resolution, and experience working within
8 criminal justice and correctional environments addressing issues
9 relating to chemical dependency treatment, disability and disability-
10 related accommodation, respect for racial, ethnic, and religious
11 diversity, and other civil rights and conditions issues. The selected
12 organization must have experience and the capacity to effectively
13 communicate regarding criminal justice issues with policymakers,
14 stakeholders, and the general public, and must be prepared and able
15 to provide all program and staff support necessary, directly or
16 through subcontracts, to carry out all duties of the office.

17 (2) The contracting organization and its subcontractors, if any,
18 are not state agencies or departments, but instead are private,
19 independent entities operating under contract with the state.

20 (3) The state auditor or state may not revoke the designation of
21 the organization contracted to provide the services of the office of
22 the corrections ombuds except upon a showing of neglect of duty,
23 misconduct, or inability to perform duties. Prior to revoking the
24 designation, the state must provide notice and an opportunity for the
25 organization, the ombuds, and the public to comment upon the proposed
26 revocation, and must provide the organization an opportunity to
27 appeal the decision to a court.

28 NEW SECTION. **Sec. 5.** (1) The ombuds shall:

29 (a) Establish priorities for use of the limited resources
30 appropriated to implement this act;

31 (b) Maintain a statewide toll-free telephone number, a collect
32 telephone number, a web site, and a mailing address for the receipt
33 of complaints and inquiries;

34 (c) Provide information, as appropriate, to inmates, family
35 members, representatives of inmates, department employees, and others
36 regarding the rights of inmates;

37 (d) Provide technical assistance to support inmate participation
38 in self-advocacy, utilizing existing kite, grievance, and appeal
39 procedures;

1 (e) Monitor department compliance with applicable federal, state,
2 and local laws, rules, regulations, and policies with a view toward
3 protecting the rights of inmates;

4 (f) Monitor and participate in legislative and policy
5 developments affecting correctional facilities and advocate for
6 systemic reform aimed toward protecting the rights of inmates;

7 (g) Establish a statewide uniform reporting system to collect and
8 analyze data related to complaints regarding the department;

9 (h) Establish procedures to receive, investigate, and resolve
10 complaints;

11 (i) Submit annually to the council, by November 1st of each year,
12 a report analyzing the work of the office, including any
13 recommendations; and

14 (j) Adopt and comply with rules, policies, and procedures
15 necessary to implement this chapter.

16 (2)(a) The ombuds may initiate and attempt to resolve an
17 investigation upon his or her own initiative, or upon receipt of a
18 complaint from an inmate, a family member, a representative of an
19 inmate, a department employee, or others, regarding:

20 (i) Abuse or neglect;

21 (ii) Department decisions or actions;

22 (iii) Inactions or omissions;

23 (iv) Policies, rules, or procedures; or

24 (v) Alleged violations of law.

25 (b) Prior to filing a complaint with the ombuds, an inmate shall
26 have reasonably pursued resolution of the complaint through the
27 internal grievance process with the department of corrections.
28 However, in no event may an inmate be prevented from filing a
29 complaint more than ninety days after filing an internal grievance,
30 regardless of whether the department has completed the grievance
31 process. This subsection (2)(b) does not apply to complaints related
32 to threats of bodily harm including, but not limited to, sexual or
33 physical assaults or the denial of necessary medical treatment.

34 (c) The ombuds may decline to investigate any complaint as
35 provided by the rules adopted under this chapter.

36 (d) The ombuds may not investigate any complaints relating to an
37 inmate's underlying criminal conviction.

38 (e) The ombuds may not investigate a complaint from a department
39 employee that relates to the employee's employment relationship with
40 the department.

1 (f) The ombuds may refer complainants and others to appropriate
2 resources, agencies, or departments.

3 (g) The ombuds may not levy any fees for the submission or
4 investigation of complaints.

5 (h) At the conclusion of an investigation of a complaint, the
6 ombuds must render a public decision on the merits of each complaint,
7 except that the documents supporting the decision are subject to the
8 confidentiality provisions of section 7 of this act. The ombuds must
9 communicate the decision to the inmate, if any, and to the
10 department. The ombuds must state their recommendations and reasoning
11 if, in the ombuds' opinion, the department or any employee thereof
12 should:

13 (i) Consider the matter further;

14 (ii) Modify or cancel any action;

15 (iii) Alter a rule, practice, or ruling;

16 (iv) Explain in detail the administrative action in question;

17 (v) Rectify an omission; or

18 (vi) Take any other action.

19 (i) If the ombuds so requests, the department must, within the
20 time specified, inform the ombuds about any action taken on the
21 recommendations or the reasons for not complying with the
22 recommendations.

23 (j) After the conclusion of an investigation, if the ombuds
24 believes that additional action is warranted, the ombuds may:

25 (i) Report a finding of abuse, neglect, or other rights violation
26 to the appropriate committees of the legislature.

27 (ii) Take any additional action that the ombuds considers
28 appropriate.

29 (k) Before announcing a conclusion or recommendation that
30 expressly, or by implication, criticizes a person or the department,
31 the ombuds must attempt to notify the person or the department. The
32 ombuds may request to be notified by the department, within a
33 specified time, of any action taken on any recommendation presented.
34 The ombuds must notify the inmate, if any, of the actions taken by
35 the department in response to the ombuds' recommendations.

36 (3) This chapter does not require inmates to file a complaint
37 with the ombuds in order to exhaust available administrative remedies
38 for purposes of the prison litigation reform act of 1995, P.L.
39 104-134.

1 NEW SECTION. **Sec. 6.** (1) The ombuds must have reasonable access
2 to correctional facilities at all times necessary to conduct a full
3 investigation of an incident of abuse or neglect. This authority
4 includes the opportunity to interview any inmate, department
5 employee, or other person, including the person thought to be the
6 victim of such abuse, who might be reasonably believed to have
7 knowledge of the incident under investigation. Such access must be
8 afforded, upon request by the ombuds, when:

9 (a) An incident is reported or a complaint is made to the office;

10 (b) The ombuds determines there is reasonable suspicion that an
11 incident has or may have occurred; or

12 (c) The ombuds determines that there is or may be imminent danger
13 of serious abuse or neglect of an inmate.

14 (2) The ombuds must have reasonable access to department
15 facilities, including all areas which are used by inmates, all areas
16 which are accessible to inmates, and to programs for inmates at
17 reasonable times, which at a minimum must include normal working
18 hours and visiting hours. This access is for the purpose of:

19 (a) Providing information about individual rights and the
20 services available from the office, including the name, address, and
21 telephone number of the office;

22 (b) Monitoring compliance with respect to the rights and safety
23 of inmates; and

24 (c) Inspecting, viewing, photographing, and video recording all
25 areas of the facility which are used by inmates or are accessible to
26 inmates.

27 (3) Reasonable access to inmates includes the opportunity to meet
28 and communicate privately and confidentially with individuals
29 regularly, both formally and informally, by telephone, mail, and in
30 person.

31 (4) The ombuds has the right to access, inspect, and obtain
32 copies of all relevant information, records, or documents in the
33 possession or control of the department that the ombuds considers
34 necessary in an investigation of a complaint filed under this
35 chapter, and the department must assist the ombuds in obtaining the
36 necessary releases for those documents which are specifically
37 restricted or privileged for use by the ombuds.

38 (a) When conducting an investigation of potential abuse or
39 neglect, the ombuds must have access to relevant records not later

1 than ten business days after the ombuds makes a written request for
2 such records.

3 (b) The ombuds must have immediate access, not later than
4 seventy-two hours after the ombuds makes such a request, to relevant
5 records, without consent from another party, if the ombuds determines
6 there is reasonable suspicion that the health or safety of an inmate
7 is in serious and immediate jeopardy, or in any case of death of an
8 inmate while in department custody.

9 (5) A state or local government agency or entity that has records
10 that are relevant to a complaint or an investigation conducted by the
11 ombuds must provide the ombuds with access to such records.

12 NEW SECTION. **Sec. 7.** (1) Correspondence and communication with
13 the office is confidential and must be protected as privileged
14 correspondence in the same manner as legal correspondence or
15 communication.

16 (2) The office shall establish confidentiality rules and
17 procedures for all information maintained by the office.

18 (3) The office shall preserve the confidentiality of information
19 obtained while providing services, including general information,
20 technical assistance, and investigations, to individuals, including
21 inmates, family members and representatives of inmates, department
22 employees, and others. Confidential information may not be disclosed
23 unless the individual gives informed consent, the disclosure is
24 impliedly authorized in order to carry out ombuds services, or the
25 disclosure is authorized by subsection (4) of this section.

26 (4) To the extent the ombuds reasonably believes necessary, the
27 ombuds:

28 (a) Must reveal information obtained in the course of providing
29 ombuds services to prevent reasonably certain death or substantial
30 bodily harm; and

31 (b) May reveal information obtained in the course of providing
32 ombuds services to prevent the commission of a crime.

33 (5) If the ombuds receives personally identifying information
34 about individual corrections staff during the course of an
35 investigation that the ombuds determines is unrelated or unnecessary
36 to the subject of the investigation or recommendation for action, the
37 ombuds will not further disclose such information. If the ombuds
38 determines that such disclosure is necessary to an investigation or

1 recommendation, the ombuds will contact the staff member as well as
2 the bargaining unit representative before any disclosure.

3 NEW SECTION. **Sec. 8.** (1) A civil action may not be brought
4 against any employee of the office for good faith performance of
5 responsibilities under this chapter.

6 (2) No discriminatory, disciplinary, or retaliatory action may be
7 taken against a department employee, subcontractor, or volunteer, an
8 inmate, or a family member or representative of an inmate for any
9 communication made, or information given or disclosed, to aid the
10 office in carrying out its responsibilities, unless the communication
11 or information is made, given, or disclosed maliciously or without
12 good faith.

13 (3) The department may not hinder the lawful actions of the
14 ombuds or employees of the office, or willfully refuse to comply with
15 lawful demands of the office.

16 (4) This section is not intended to infringe on the rights of an
17 employer to supervise, discipline, or terminate an employee for other
18 reasons.

19 **PART 2**
20 **DEPARTMENT OF CORRECTIONS**

21 **Sec. 9.** RCW 72.09.010 and 1995 1st sp.s. c 19 s 2 are each
22 amended to read as follows:

23 It is the intent of the legislature to establish a comprehensive
24 system of corrections for convicted law violators within the state of
25 Washington to accomplish the following objectives.

26 (1) The (~~system should~~) highest duty of the department and the
27 secretary is to ensure the public safety. The system should be
28 designed and managed to provide the maximum feasible safety for the
29 persons and property of the general public, the staff, and the
30 inmates.

31 (2) The system should punish the offender for violating the laws
32 of the state of Washington. This punishment should generally be
33 limited to the denial of liberty of the offender.

34 (3) The system should positively impact offenders by stressing
35 personal responsibility and accountability and by discouraging
36 recidivism.

1 (4) The system should treat all offenders fairly and equitably
2 without regard to race, religion, sex, national origin, residence, or
3 social condition.

4 (5) The system, as much as possible, should reflect the values of
5 the community including:

6 (a) Avoiding idleness. Idleness is not only wasteful but
7 destructive to the individual and to the community.

8 (b) Adoption of the work ethic. It is the community expectation
9 that all individuals should work and through their efforts benefit
10 both themselves and the community.

11 (c) Providing opportunities for self improvement. All individuals
12 should have opportunities to grow and expand their skills and
13 abilities so as to fulfill their role in the community.

14 (d) Linking the receipt or denial of privileges to responsible
15 behavior and accomplishments. The individual who works to improve
16 himself or herself and the community should be rewarded for these
17 efforts. As a corollary, there should be no rewards for no effort.

18 (e) Sharing in the obligations of the community. All citizens,
19 the public and inmates alike, have a personal and fiscal obligation
20 in the corrections system. All communities must share in the
21 responsibility of the corrections system.

22 (6) The system should provide for prudent management of
23 resources. The avoidance of unnecessary or inefficient public
24 expenditures on the part of offenders and the department is
25 essential. Offenders must be accountable to the department, and the
26 department to the public and the legislature. The human and fiscal
27 resources of the community are limited. The management and use of
28 these resources can be enhanced by wise investment, productive
29 programs, the reduction of duplication and waste, and the joining
30 together of all involved parties in a common endeavor. Since most
31 offenders return to the community, it is wise for the state and the
32 communities to make an investment in effective rehabilitation
33 programs for offenders and the wise use of resources.

34 (7) The system should provide for restitution. Those who have
35 damaged others, persons or property, have a responsibility to make
36 restitution for these damages.

37 (8) The system should be accountable to the citizens of the
38 state. In return, the individual citizens and local units of
39 government must meet their responsibilities to make the corrections
40 system effective.

1 (9) The system should meet those national standards which the
2 state determines to be appropriate.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 72.09
4 RCW to read as follows:

5 To ensure public safety and the administration of justice, if the
6 department has actual knowledge or reason to believe that a computer
7 calculation error is or has caused an error in the calculation of the
8 release date for any prisoner, the department shall immediately
9 manually calculate the release date of that prisoner as well as the
10 release dates of any similarly sentenced prisoners.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 72.09
12 RCW to read as follows:

13 On December 1st of each year, and in compliance with RCW
14 43.01.036, the department must submit a report to the governor and
15 relevant policy and fiscal committees of the legislature that details
16 any information technology backlog at the department along with
17 specific requirements and plans to address such backlog.

18 **PART 3**

19 **JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

20 NEW SECTION. **Sec. 12.** (1) Pursuant to chapter 43.09 RCW, the
21 joint legislative audit and review committee must conduct a
22 performance audit of the information technology and records related
23 units at the department of corrections, including:

24 (a) The administrative structure of the units, including whether
25 the units should be restructured to respond efficiently to changes in
26 sentencing laws and other emergent issues;

27 (b) The sufficiency of staffing levels and expertise at each of
28 the units; and

29 (c) An evaluation of the advance corrections project's impact on
30 workload and staff resources at each of the units.

31 (2) The joint legislative audit and review committee shall report
32 its findings to the governor and relevant policy and fiscal
33 committees of the legislature by December 1, 2018.

34 **PART 4**

35 **SENTENCING REFORM**

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 9.94A
2 RCW to read as follows:

3 In consultation with the administrative office of the courts,
4 superior court judges' association, Washington association of
5 prosecuting attorneys, Washington association of criminal defense
6 lawyers, Washington public defenders' association, and Washington
7 association of county clerks, the department shall develop a
8 mandatory sentencing elements worksheet. The worksheet shall be used
9 to identify and record the elements of the court's order that are
10 required by the department to calculate an offender's confinement
11 term, and community custody term when ordered. The Washington
12 administrative office of the courts must include the mandatory
13 sentencing elements worksheet in a specific section within its felony
14 judgment and sentence forms.

15 **Sec. 14.** RCW 9.94A.480 and 2011 1st sp.s. c 40 s 27 are each
16 amended to read as follows:

17 (1) A current, newly created or reworked judgment and sentence
18 document for each felony sentencing shall record any and all
19 recommended sentencing agreements or plea agreements and the
20 sentences for any and all felony crimes kept as public records under
21 RCW 9.94A.475 shall contain the clearly printed name and legal
22 signature of the sentencing judge. The judgment and sentence document
23 as defined in this section shall also provide additional space for
24 the sentencing judge's reasons for going either above or below the
25 presumptive sentence range for any and all felony crimes covered as
26 public records under RCW 9.94A.475. In addition, each felony judgment
27 and sentence document must contain in a specific section the
28 mandatory sentencing elements worksheet developed by the department
29 of corrections in section 13 of this act. Both the sentencing judge
30 and the prosecuting attorney's office shall each retain or receive a
31 completed copy of each sentencing document as defined in this section
32 for their own records.

33 (2) The caseload forecast council shall be sent a completed copy
34 of the judgment and sentence document upon conviction for each felony
35 sentencing under subsection (1) of this section.

36 (3) If any completed judgment and sentence document as defined in
37 subsection (1) of this section is not sent to the caseload forecast
38 council as required in subsection (2) of this section, the caseload
39 forecast council shall have the authority and shall undertake

1 reasonable and necessary steps to assure that all past, current, and
2 future sentencing documents as defined in subsection (1) of this
3 section are received by the caseload forecast council.

4 **Sec. 15.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to
5 read as follows:

6 (1) A sentence within the standard sentence range, under RCW
7 9.94A.510 or 9.94A.517, for an offense shall not be appealed. For
8 purposes of this section, a sentence imposed on a first-time offender
9 under RCW 9.94A.650 shall also be deemed to be within the standard
10 sentence range for the offense and shall not be appealed.

11 (2) A sentence outside the standard sentence range for the
12 offense is subject to appeal by the defendant or the state. The
13 appeal shall be to the court of appeals in accordance with rules
14 adopted by the supreme court.

15 (3) Pending review of the sentence, the sentencing court or the
16 court of appeals may order the defendant confined or placed on
17 conditional release, including bond.

18 (4) To reverse a sentence which is outside the standard sentence
19 range, the reviewing court must find: (a) Either that the reasons
20 supplied by the sentencing court are not supported by the record
21 which was before the judge or that those reasons do not justify a
22 sentence outside the standard sentence range for that offense; or (b)
23 that the sentence imposed was clearly excessive or clearly too
24 lenient.

25 (5) A review under this section shall be made solely upon the
26 record that was before the sentencing court. Written briefs shall not
27 be required and the review and decision shall be made in an expedited
28 manner according to rules adopted by the supreme court.

29 (6) The court of appeals shall issue a written opinion in support
30 of its decision whenever the judgment of the sentencing court is
31 reversed and may issue written opinions in any other case where the
32 court believes that a written opinion would provide guidance to
33 sentencing courts and others in implementing this chapter and in
34 developing a common law of sentencing within the state.

35 (7) The department may petition for a review of a sentence
36 committing an offender to the custody or jurisdiction of the
37 department. The review shall be limited to errors of law or to
38 address a missing, incomplete, or illegible mandatory sentencing
39 elements section required pursuant to RCW 9.94A.480(1). Such petition

1 shall be filed with the court of appeals no later than ninety days
2 after the department has actual knowledge of terms of the sentence.
3 The petition shall include a certification by the department that all
4 reasonable efforts to resolve the dispute at the superior court level
5 have been exhausted.

6 NEW SECTION. **Sec. 16.** (1) Subject to the availability of
7 amounts appropriated for this specific purpose, by December 1, 2017,
8 the sentencing guidelines commission shall contract for the services
9 of an external consultant to evaluate the state's sentencing laws and
10 practices. The consultant must have demonstrated experience and
11 knowledge in Washington's sentencing system and other sentencing
12 systems and models in other states and nations. The consultant must
13 have demonstrated experience in conducting significant research
14 studies. The evaluation must include:

15 (a) An assessment of sentencing complexities in law and in
16 implementation, including an assessment of possible challenges faced
17 by the courts, jails, and the department of corrections;

18 (b) An assessment of whether the sentencing reform act conforms
19 to its intended purposes, including reducing disparity between
20 similarly situated offenders;

21 (c) An assessment of the sentencing changes adopted by the
22 legislature since 1981, including frequency, nature, and impact;

23 (d) An assessment of sentence lengths among different categories
24 of offenders and whether those sentences conform to current research
25 literature on the relationship between sentences lengths and
26 recidivism;

27 (e) An assessment of the consistent or inconsistent application
28 and impact of sentencing laws on offenders and the community;

29 (f) An assessment of the state's sentencing laws and practices as
30 compared to other states and other sentencing models including, but
31 not limited to, whether the current sentencing laws and practices
32 promote public safety, fairness, and equity as compared to other
33 models of sentencing;

34 (g) An assessment of whether the elimination of the parole system
35 and establishment of determinate sentencing is connected to or has
36 resulted in excessive incarceration of low-risk offenders;

37 (h) Recommendations for changing and improving sentencing laws
38 and practices to address implementation challenges, promote public
39 safety, reduce recidivism, reduce disparity, reduce incarceration

1 rates for low-risk offenders, reduce costs to taxpayers, and promote
2 fairness and equity, including a phased implementation plan for
3 possible retroactive and prospective changes; and

4 (i) Recommendations for establishing an ongoing review of
5 sentencing laws and practices.

6 (2) The consultant shall complete its evaluation and submit a
7 report to the commission, the joint legislative task force on
8 criminal sentencing under section 17 of this act, the appropriate
9 committees of the legislature, and the governor by September 1, 2018.
10 The contract for services must include a requirement for three
11 briefings before the legislature to take place during the 2018
12 interim and 2019 regular legislative session, including for the joint
13 legislative task force on sentencing, the house of representatives,
14 and the senate.

15 (3) This section expires July 1, 2019.

16 NEW SECTION. **Sec. 17.** (1) A joint legislative task force on
17 criminal sentencing is established.

18 (2) The task force is composed of members as provided in this
19 subsection.

20 (a) The president of the senate shall appoint one member from
21 each of the two largest caucuses of the senate.

22 (b) The speaker of the house of representatives shall appoint one
23 member from each of the two largest caucuses of the house of
24 representatives.

25 (c) The president of the senate and the speaker of the house of
26 representatives jointly shall appoint members representing the:

27 (i) Washington association of sheriffs and police chiefs;

28 (ii) Washington state patrol;

29 (iii) Caseload forecast council;

30 (iv) Washington association of prosecuting attorneys;

31 (v) Washington association of criminal defense attorneys or the
32 Washington defender association;

33 (vi) Washington state association of counties;

34 (vii) Office of the attorney general;

35 (viii) American civil liberties union of Washington;

36 (ix) Sentencing guidelines commission;

37 (x) Department of corrections;

38 (xi) Superior court judges' association; and

39 (xii) Administrative office of the courts.

1 (3) The task force shall review sentencing laws after
2 consideration of the study under section 16 of this act and the
3 consultant's recommendations. The task force shall develop
4 recommendations to reduce sentencing implementation complexities and
5 errors, improve the effectiveness and fairness of the sentencing
6 system, and promote public safety. The task force shall submit a
7 report, including findings and recommendations, to the governor and
8 the appropriate committees of the legislature by December 1, 2019.

9 (4) The legislative membership shall convene the initial meeting
10 of the task force no later than September 2018.

11 (5) The legislative members of the task force shall choose the
12 task force's cochairs, which must include one senator and one
13 representative from among the legislative membership of the task
14 force.

15 (6) Staff support for the task force must be provided by the
16 senate committee services and the house office of program research.

17 (7) Legislative members of the task force are reimbursed for
18 travel expenses in accordance with RCW 44.04.120. Nonlegislative
19 members are not entitled to be reimbursed for travel expenses if they
20 are elected officials or are participating on behalf of an employer,
21 governmental entity, or other organization. Any reimbursement for
22 other nonlegislative members is subject to chapter 43.03 RCW.

23 (8) The expenses of the task force shall be paid jointly by the
24 senate and the house of representatives. Task force expenditures are
25 subject to approval by the senate facilities and operations committee
26 and the house executive rules committee, or their successor
27 committees.

28 (9) This section expires July 1, 2020.

29 **PART 5**

30 **GENERAL PROVISIONS**

31 NEW SECTION. **Sec. 18.** In the contract for the next regularly
32 scheduled performance audit under RCW 42.40.110 following the
33 effective date of this section, the office of financial management
34 must require the audit to review any relevant documentation regarding
35 the department of corrections early release error, with particular
36 focus on the ability of department of corrections employees to use
37 the state employee whistleblower program. The audit must include

1 findings and recommendations, including possible changes to improve
2 the effectiveness of the whistleblower program.

3 NEW SECTION. **Sec. 19.** Sections 1 through 8 of this act
4 constitute a new chapter in Title 43 RCW.

5 NEW SECTION. **Sec. 20.** Sections 13 through 15 of this act apply
6 to sentences imposed on or after January 1, 2018.

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