

SSB 5953 - H COMM AMD

By Committee on Postsecondary Education & Workforce

ADOPTED 02/29/2024

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

3 **"Sec. 1.** RCW 72.09.460 and 2021 c 200 s 4 are each amended to
4 read as follows:

5 (1) Recognizing that there is a positive correlation between
6 education opportunities and reduced recidivism, it is the intent of
7 the legislature to offer appropriate postsecondary degree or
8 certificate opportunities to incarcerated individuals.

9 (2) The legislature intends that all incarcerated individuals be
10 required to participate in department-approved education programs,
11 work programs, or both, unless exempted as specifically provided in
12 this section. Eligible incarcerated individuals who refuse to
13 participate in available education or work programs available at no
14 charge to the incarcerated individuals shall lose privileges
15 according to the system established under RCW 72.09.130. Eligible
16 incarcerated individuals who are required to contribute financially
17 to an education or work program and refuse to contribute shall be
18 placed in another work program. Refusal to contribute shall not
19 result in a loss of privileges.

20 (3) The legislature recognizes more incarcerated individuals may
21 agree to participate in education and work programs than are
22 available. The department must make every effort to achieve maximum
23 public benefit by placing incarcerated individuals in available and
24 appropriate education and work programs.

25 (4)(a) The department shall, to the extent possible and
26 considering all available funds, prioritize its resources to meet the
27 following goals for incarcerated individuals in the order listed:

28 (i) Achievement of basic academic skills through obtaining a high
29 school diploma or a high school equivalency certificate as provided
30 in RCW 28B.50.536, including achievement by those incarcerated
31 individuals eligible for special education services pursuant to state
32 or federal law;

1 (ii) Achievement of vocational skills necessary for purposes of
2 work programs and for an incarcerated individual to qualify for work
3 upon release;

4 (iii) Additional work and education programs necessary for
5 compliance with an incarcerated individual's individual reentry plan
6 under RCW 72.09.270, including special education services and
7 postsecondary degree or certificate education programs; and

8 (iv) Other appropriate vocational, work, or education programs
9 that are not necessary for compliance with an incarcerated
10 individual's individual reentry plan under RCW 72.09.270 including
11 postsecondary degree or certificate education programs.

12 (b)(i) If programming is provided pursuant to (a)(i) through
13 (iii) of this subsection, the department shall pay the cost of such
14 programming, including but not limited to books, materials, and
15 supplies for adult basic education programs and any postsecondary
16 education program that is not financial aid eligible at the time the
17 individual is enrolled or paid for by the department or third party.

18 (ii) For financial aid eligible postsecondary programming
19 provided pursuant to (a)(i) through (iii) of this subsection, the
20 department may require the individual to apply for any federal and
21 state financial aid grants available to the individual as a condition
22 of participation in such programming. The individual may elect to use
23 available financial aid grants, self-pay, or any other available
24 third-party funding, or use a combination of these methods to cover
25 the cost of attendance for financial aid eligible postsecondary
26 programming provided under this subsection (4)(b)(ii). If an
27 individual elects to self-pay or utilize third-party funding, the
28 individual is not subject to the postaward formula described in (c)
29 of this subsection. If the cost of attendance exceeds any financial
30 grant awards that may be available to the individual, or the person
31 is not eligible for federal or state financial aid grants, the
32 department shall pay the cost of attendance not otherwise covered by
33 third-party funding. All regulations and requirements set forth by
34 the United States department of education for federal pell grants for
35 prison education programs apply to financial aid eligible
36 postsecondary programming.

37 (c) If programming is provided pursuant to (a)(iv) of this
38 subsection, incarcerated individuals shall be required to pay all or
39 a portion of the costs, including books, fees, and tuition, for
40 participation in any vocational, work, or education program as

1 provided in department policies. The individual may apply for and
2 utilize federal and state financial aid grants available to the
3 individual. If the individual is not eligible for federal financial
4 aid grants, the individual may apply for and utilize state financial
5 aid grants available to the individual. Department policies shall
6 include a postaward formula for determining how much an incarcerated
7 individual shall be required to pay after deducting any amount from
8 available financial aid or other available sources. The postaward
9 formula shall include steps which correlate to an incarcerated
10 individual's average monthly income or average available balance in a
11 personal savings account and which are correlated to a prorated
12 portion or percent of the per credit fee for tuition, books, or other
13 ancillary educational costs. Any postaward formula offsets and funds
14 paid for by the department for educational programming shall not
15 result in the reduction of any gift aid. The postaward formula shall
16 be reviewed every two years. A third party, including but not limited
17 to nonprofit entities or community-based postsecondary education
18 programs, may pay directly to the department all or a portion of
19 costs and tuition for any programming provided pursuant to (a)(iv) of
20 this subsection on behalf of an incarcerated individual. Such
21 payments shall not be subject to any of the deductions as provided in
22 this chapter.

23 (d) All incarcerated individuals shall receive financial aid and
24 academic advising from an accredited institution of higher education
25 prior to enrollment in a financial aid eligible postsecondary
26 education program. Eligible individuals who choose not to participate
27 or choose to cease participation in a financial aid eligible
28 postsecondary education program shall not result in a loss of
29 privileges.

30 (e) Correspondence courses are ineligible for state and federal
31 financial aid funding.

32 (f) The department may accept any and all donations and grants of
33 money, equipment, supplies, materials, and services from any third
34 party, including but not limited to nonprofit entities and community-
35 based postsecondary education programs, and may receive, utilize, and
36 dispose of same to complete the purposes of this section.

37 (~~(e)~~) (g) Any funds collected by the department under (c) and
38 (~~(d)~~) (h) of this subsection and subsections (11) and (12) of this
39 section shall be used solely for the creation, maintenance, or

1 expansion of incarcerated individual educational and vocational
2 programs.

3 (5) The department shall provide access to a program of education
4 to all incarcerated individuals who are under the age of eighteen and
5 who have not met high school graduation requirements or requirements
6 to earn a high school equivalency certificate as provided in RCW
7 28B.50.536 in accordance with chapter 28A.193 RCW. The program of
8 education established by the department and education provider under
9 RCW 28A.193.020 for incarcerated individuals under the age of
10 eighteen must provide each incarcerated individual a choice of
11 curriculum that will assist the incarcerated individual in achieving
12 a high school diploma or high school equivalency certificate. The
13 program of education may include but not be limited to basic
14 education, prevocational training, work ethic skills, conflict
15 resolution counseling, substance abuse intervention, and anger
16 management counseling. The curriculum may balance these and other
17 rehabilitation, work, and training components.

18 (6) (a) In addition to the policies set forth in this section, the
19 department shall consider the following factors in establishing
20 criteria for assessing the inclusion of education and work programs
21 in an incarcerated individual's individual reentry plan and in
22 placing incarcerated individuals in education and work programs:

23 (i) An incarcerated individual's release date and custody level.
24 An incarcerated individual shall not be precluded from participating
25 in an education or work program solely on the basis of his or her
26 release date, except that incarcerated individuals with a release
27 date of more than one hundred twenty months in the future shall not
28 comprise more than ten percent of incarcerated individuals
29 participating in a new class I correctional industry not in existence
30 on June 10, 2004;

31 (ii) An incarcerated individual's education history and basic
32 academic skills;

33 (iii) An incarcerated individual's work history and vocational or
34 work skills;

35 (iv) An incarcerated individual's economic circumstances,
36 including but not limited to an incarcerated individual's family
37 support obligations; and

38 (v) Where applicable, an incarcerated individual's prior
39 performance in department-approved education or work programs;

1 (b) The department shall establish, and periodically review,
2 incarcerated individual behavior standards and program outcomes for
3 all education and work programs. Incarcerated individuals shall be
4 notified of applicable behavior standards and program goals prior to
5 placement in an education or work program and shall be removed from
6 the education or work program if they consistently fail to meet the
7 standards or outcomes.

8 (7) Eligible incarcerated individuals who refuse to participate
9 in available education or work programs available at no charge to the
10 incarcerated individuals shall lose privileges according to the
11 system established under RCW 72.09.130. Eligible incarcerated
12 individuals who are required to contribute financially to an
13 education or work program and refuse to contribute shall be placed in
14 another work program. Refusal to contribute shall not result in a
15 loss of privileges.

16 (8) The department shall establish, by rule, a process for
17 identifying and assessing incarcerated individuals with learning
18 disabilities, traumatic brain injuries, and other cognitive
19 impairments to determine whether the person requires accommodations
20 in order to effectively participate in educational programming,
21 including general educational development tests and postsecondary
22 education. The department shall establish a process to provide such
23 accommodations to eligible incarcerated individuals.

24 (9) The department shall establish, and periodically review,
25 goals for expanding access to postsecondary degree and certificate
26 education programs and program completion for all incarcerated
27 individuals, including persons of color. The department may contract
28 and partner with any accredited educational program sponsored by a
29 nonprofit entity, community-based postsecondary education program, or
30 institution with historical evidence of providing education programs
31 to people of color.

32 (10) The department shall establish, by rule, objective medical
33 standards to determine when an incarcerated individual is physically
34 or mentally unable to participate in available education or work
35 programs. When the department determines an incarcerated individual
36 is permanently unable to participate in any available education or
37 work program due to a health condition, the incarcerated individual
38 is exempt from the requirement under subsection (2) of this section.
39 When the department determines an incarcerated individual is
40 temporarily unable to participate in an education or work program due

1 to a medical condition, the incarcerated individual is exempt from
2 the requirement of subsection (2) of this section for the period of
3 time he or she is temporarily disabled. The department shall
4 periodically review the medical condition of all incarcerated
5 individuals with temporary disabilities to ensure the earliest
6 possible entry or reentry by incarcerated individuals into available
7 programming.

8 (11) The department shall establish policies requiring an
9 incarcerated individual to pay all or a portion of the costs and
10 tuition for any vocational training or postsecondary education
11 program if the incarcerated individual previously abandoned
12 coursework related to postsecondary degree or certificate education
13 or vocational training without excuse as defined in rule by the
14 department. Department policies shall include a formula for
15 determining how much an incarcerated individual shall be required to
16 pay. The formula shall include steps which correlate to an
17 incarcerated individual's average monthly income or average available
18 balance in a personal savings account and which are correlated to a
19 prorated portion or percent of the per credit fee for tuition, books,
20 or other ancillary costs. The formula shall be reviewed every two
21 years. A third party may pay directly to the department all or a
22 portion of costs and tuition for any program on behalf of an
23 incarcerated individual under this subsection. Such payments shall
24 not be subject to any of the deductions as provided in this chapter.

25 (12) Notwithstanding any other provision in this section, an
26 incarcerated individual (~~(sentenced to death under chapter 10.95 RCW~~
27 ~~or~~)) subject to the provisions of 8 U.S.C. Sec. 1227:

28 (a) Shall not be required to participate in education programming
29 except as may be necessary for the maintenance of discipline and
30 security;

31 (b) May not participate in a postsecondary degree education
32 program offered by the department or its contracted providers, unless
33 the incarcerated individual's participation in the program is paid
34 for by a third party or by the individual;

35 (c) May participate in prevocational or vocational training that
36 may be necessary to participate in a work program;

37 (d) Shall be subject to the (~~applicable provisions of this~~
38 ~~chapter~~)) requirements relating to incarcerated individual financial
39 responsibility for programming under subsection (4) of this section.

1 (13) If an incarcerated individual has participated in
2 postsecondary education programs, the department shall provide the
3 incarcerated individual with a copy of the incarcerated individual's
4 unofficial transcripts, at no cost to the individual, upon the
5 incarcerated individual's release or transfer to a different
6 facility. Upon the incarcerated individual's completion of a
7 postsecondary education program, the department shall provide to the
8 incarcerated individual, at no cost to the individual, a copy of the
9 incarcerated individual's unofficial transcripts. This requirement
10 applies regardless of whether the incarcerated individual became
11 ineligible to participate in or abandoned a postsecondary education
12 program.

13 (14) For the purposes of this section(~~(, "third party")~~):

14 (a) "Third party" includes a nonprofit entity or community-based
15 postsecondary education program that partners with the department to
16 provide accredited postsecondary education degree and certificate
17 programs at state correctional facilities.

18 (b) "Gift aid" has the meaning provided in RCW 28B.145.010.

19 **Sec. 2.** RCW 72.09.465 and 2021 c 200 s 5 are each amended to
20 read as follows:

21 (1)(a) The department may implement postsecondary degree or
22 certificate education programs at state correctional institutions.

23 (b) The department may consider for inclusion in any
24 postsecondary degree or certificate education program, any education
25 program from an accredited community or technical college, college,
26 or university that is limited to no more than a bachelor's degree.
27 Washington state-recognized preapprenticeship programs may also be
28 included as appropriate postsecondary education programs.

29 (2) Incarcerated individuals not meeting the department's
30 priority criteria for the (~~(state-funded)~~) postsecondary degree
31 education program offered by the department or its contracted
32 providers shall be required to pay the costs for participation in a
33 postsecondary education degree program if (~~(he or she elects)~~) they
34 elect to participate through self-pay, including costs of books,
35 fees, tuition, or any other appropriate ancillary costs, by one or
36 more of the following means:

37 (a) (~~(The)~~) For a postsecondary degree education program that is
38 eligible for financial aid, the incarcerated individual who is
39 participating in the (~~(postsecondary education degree)~~) program may,

1 during confinement, provide the required payment or payments to the
2 ((department)) school; ((or))

3 (b) For a postsecondary degree education program that is not
4 eligible for financial aid, the incarcerated individual who is
5 participating in the program may, during confinement, provide the
6 required payment or payments to the department; or

7 (c) A third party ((shall)) may provide the required payment or
8 payments directly to the department on behalf of an incarcerated
9 individual, and such payments shall not be subject to any of the
10 deductions as provided in this chapter.

11 (3) The department may accept any and all donations and grants of
12 money, equipment, supplies, materials, and services from any third
13 party, including but not limited to nonprofit entities, and may
14 receive, utilize, and dispose of same to provide postsecondary
15 education to incarcerated individuals.

16 (4) An incarcerated individual may be selected to participate in
17 a state-funded postsecondary degree or certificate education program,
18 based on priority criteria determined by the department, in which the
19 following conditions may be considered:

20 (a) Priority should be given to incarcerated individuals who do
21 not already possess a postsecondary education degree; and

22 (b) Incarcerated individuals with individual reentry plans that
23 include participation in a postsecondary degree or certificate
24 education program that is:

25 (i) Offered at the incarcerated individual's state correctional
26 institution;

27 (ii) Approved by the department as an eligible and effective
28 postsecondary education degree program; and

29 (iii) Limited to a postsecondary degree or certificate program.

30 (5) The department shall work with the college board as defined
31 in RCW 28B.50.030 to develop a plan to assist incarcerated
32 individuals selected to participate in postsecondary degree or
33 certificate programs with filing a free application for federal
34 student aid or the Washington application for state financial aid.

35 (6) Any funds collected by the department under this section
36 shall be used solely for the creation, maintenance, or expansion of
37 postsecondary education degree programs for incarcerated individuals.

38 **Sec. 3.** RCW 72.09.467 and 2021 c 200 s 8 are each amended to
39 read as follows:

1 (1) The department, the state board for community and technical
2 colleges, the student achievement council, and the Washington
3 statewide reentry council, in collaboration with an organization
4 representing the presidents of the public four-year institutions of
5 higher education, shall submit a combined report, pursuant to RCW
6 43.01.036, by December 1, 2021, and annually thereafter, to the
7 appropriate committees of the legislature having oversight over
8 higher education issues and correctional matters. The state agencies
9 shall consult and engage with nonprofit and community-based
10 postsecondary education providers during the development of the
11 annual report.

12 (2) At a minimum, the combined report must include:

13 (a) The number of incarcerated individuals served in the
14 department's postsecondary education system, the number of
15 individuals not served, the number of individuals leaving the
16 department's custody without a high school equivalency who were in
17 the department's custody longer than one year, and the number of
18 individuals released without any postsecondary education, each
19 disaggregated by demographics;

20 (b) A complete list of postsecondary degree and certificate
21 education programs offered at each state correctional facility,
22 including enrollment rates and completion rates for each program;

23 (c) A review of the department's identification and assessment of
24 incarcerated individuals with learning disabilities, traumatic brain
25 injuries, and other cognitive impairments or disabilities that may
26 limit their ability to participate in educational programming,
27 including general educational development testing and postsecondary
28 education. The report shall identify barriers to the identification
29 and assessment of these individuals and include recommendations that
30 will further facilitate access to educational programming for these
31 individuals;

32 ~~((e))~~ (d) An identification of issues related to ensuring that
33 credits earned in credit-bearing courses are transferable. The report
34 must also include the number of transferable credits awarded and the
35 number of credits awarded that are not transferable;

36 ~~((d))~~ (e) A review of policies on transfer, in order to create
37 recommendations to institutions and the legislature that to ensure
38 postsecondary education credits earned while incarcerated transfer
39 seamlessly upon postrelease enrollment in a postsecondary education
40 institution. The review must identify barriers or challenges on

1 transferring credits experienced by individuals and the number of
2 credits earned while incarcerated that transferred to the receiving
3 colleges postrelease;

4 ~~((e))~~ (f) The number of individuals participating in
5 correspondence courses and completion rates of correspondence
6 courses, disaggregated by demographics;

7 ~~((f))~~ (g) An examination of the collaboration between
8 correctional facilities, the educational programs, nonprofit and
9 community-based postsecondary education providers, and the
10 institutions, with the goal of ensuring that roles and
11 responsibilities are clearly defined, including the roles and
12 responsibilities of each entity in relation to ensuring incarcerated
13 individual access to, and accommodations in, educational programming;
14 and

15 ~~((g))~~ (h) A review of the partnerships with nonprofit and
16 community-based postsecondary education organizations at state
17 correctional facilities that provide accredited certificate and
18 degree-granting programs and those that provide reentry services in
19 support of educational programs and goals, including a list of the
20 programs and services offered and recommendations to improve program
21 delivery and access.

22 (3) The report shall strive to include, where possible, the
23 voices and experiences of current or formerly incarcerated
24 individuals."

25 Correct the title.

EFFECT: Prohibits correspondence courses from receiving state and federal financial aid funding.

Requires the annual state agency report to the Legislature on postsecondary degree education programs and incarcerated individuals to add a complete list of postsecondary degree and certificate education programs offered at each state correctional facility, including enrollment and completion rates for each program.

--- END ---