
SECOND SUBSTITUTE HOUSE BILL 1338

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Reeves, Waters, Walen, Senn, Simmons, Kloba, Reed, Lekanoff, Gregerson, Doglio, Tharinger, Springer, Fosse, Davis, and Orwall)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to education and vocational programs in state
2 correctional institutions; amending RCW 72.09.080, 72.09.460, and
3 72.09.465; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that obtaining a
6 job with a living wage leads to lower rates of reoffending among
7 individuals released from prison. Formerly incarcerated people who
8 receive training in fields that require postsecondary education
9 credentials, vocational certification, or other specific skills can
10 upon release command higher compensation with which to support
11 themselves and their families. The legislature also finds that
12 Washington state employers across a wide range of industries need a
13 highly skilled workforce and would be more likely to hire formerly
14 incarcerated individuals if vocational training and education
15 programs in prison correlated with areas of need for industries
16 across Washington state.

17 (2) Therefore, it is the intent of the legislature to endeavor to
18 increase the share of incarcerated people who are enrolled in
19 programs that provide postsecondary education degrees and
20 credentials, certifications, or other skills likely to lead to jobs
21 upon release that provide a living wage. It is also the intent of the

1 legislature to strengthen the correctional industries advisory
2 committee's important efforts to achieve this goal by requiring
3 representation for businesses in a position to employ formerly
4 incarcerated individuals at salaries that allow them to return home
5 safely and successfully.

6 **Sec. 2.** RCW 72.09.080 and 2011 1st sp.s. c 21 s 40 are each
7 amended to read as follows:

8 (1) The correctional industries advisory committee shall consist
9 of nine voting members, appointed by the secretary. Each member shall
10 serve a three-year staggered term. The speaker of the house of
11 representatives and the president of the senate shall each appoint
12 one member from each of the two largest caucuses in their respective
13 houses. The legislators so appointed shall be nonvoting members and
14 shall serve two-year terms, or until they cease to be members of the
15 house from which they were appointed, whichever occurs first. The
16 nine members appointed by the secretary shall include three
17 representatives from labor, three representatives from (~~business~~)
18 businesses that employ formerly incarcerated individuals representing
19 cross sections of industries and all sizes of employers, and three
20 members from the general public.

21 (2) The committee shall elect a chair and such other officers as
22 it deems appropriate from among the voting members.

23 (3) The voting members of the committee shall serve with
24 compensation pursuant to RCW 43.03.240 and shall be reimbursed by the
25 department for travel expenses and per diem under RCW 43.03.050 and
26 43.03.060, as now or hereafter amended. Legislative members shall be
27 reimbursed under RCW 44.04.120, as now or hereafter amended.

28 (4) The secretary shall provide such staff services, facilities,
29 and equipment as the board shall require to carry out its duties.

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

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

36 (2) The legislature intends that all incarcerated individuals be
37 required to participate in department-approved education programs,
38 work programs, or both, unless exempted as specifically provided in

1 this section. Eligible incarcerated individuals who refuse to
2 participate in available education or work programs available at no
3 charge to the incarcerated individuals shall lose privileges
4 according to the system established under RCW 72.09.130. Eligible
5 incarcerated individuals who are required to contribute financially
6 to an education or work program and refuse to contribute shall be
7 placed in another work program. Refusal to contribute shall not
8 result in a loss of privileges.

9 (3) The legislature recognizes more incarcerated individuals may
10 agree to participate in education and work programs than are
11 available. The department must make every effort to achieve maximum
12 public benefit by placing incarcerated individuals in available and
13 appropriate education and work programs.

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

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

22 (ii) Achievement of vocational skills necessary for purposes of
23 work programs and for an incarcerated individual to qualify for work
24 upon release;

25 (iii) Additional work and education programs necessary for
26 compliance with an incarcerated individual's individual reentry plan
27 under RCW 72.09.270, including special education services and
28 postsecondary degree or certificate education programs; and

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

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

39 (c) If financial aid eligible postsecondary programming is
40 provided pursuant to (a)(i) through (iii) of this subsection, the

1 individual may be required to apply for and utilize any federal and
2 state financial aid grants available to the individual. If the cost
3 of attendance exceeds the grant award, or the person is not eligible
4 for financial aid or able to apply, the department shall pay the cost
5 of attendance.

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

27 ~~((d))~~ (e) The department may accept any and all donations and
28 grants of money, equipment, supplies, materials, and services from
29 any third party, including but not limited to nonprofit entities and
30 community-based postsecondary education programs, and may receive,
31 utilize, and dispose of same to complete the purposes of this
32 section.

33 ~~((e))~~ (f) Any funds collected by the department under ~~((e))~~
34 (d) and ~~((d))~~ (e) of this subsection and subsections (11) and (12)
35 of this section shall be used solely for the creation, maintenance,
36 or expansion of incarcerated individual educational and vocational
37 programs.

38 (5) The department shall provide access to a program of education
39 to all incarcerated individuals who are under the age of eighteen and
40 who have not met high school graduation requirements or requirements

1 to earn a high school equivalency certificate as provided in RCW
2 28B.50.536 in accordance with chapter 28A.193 RCW. The program of
3 education established by the department and education provider under
4 RCW 28A.193.020 for incarcerated individuals under the age of
5 eighteen must provide each incarcerated individual a choice of
6 curriculum that will assist the incarcerated individual in achieving
7 a high school diploma or high school equivalency certificate. The
8 program of education may include but not be limited to basic
9 education, prevocational training, work ethic skills, conflict
10 resolution counseling, substance abuse intervention, and anger
11 management counseling. The curriculum may balance these and other
12 rehabilitation, work, and training components.

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

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

26 (ii) An incarcerated individual's education history and basic
27 academic skills;

28 (iii) An incarcerated individual's work history and vocational or
29 work skills;

30 (iv) An incarcerated individual's economic circumstances,
31 including but not limited to an incarcerated individual's family
32 support obligations; and

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

35 (b) The department shall establish, and periodically review,
36 incarcerated individual behavior standards and program outcomes for
37 all education and work programs. Incarcerated individuals shall be
38 notified of applicable behavior standards and program goals prior to
39 placement in an education or work program and shall be removed from

1 the education or work program if they consistently fail to meet the
2 standards or outcomes.

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

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

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

27 (10) The department shall establish, by rule, objective medical
28 standards to determine when an incarcerated individual is physically
29 or mentally unable to participate in available education or work
30 programs. When the department determines an incarcerated individual
31 is permanently unable to participate in any available education or
32 work program due to a health condition, the incarcerated individual
33 is exempt from the requirement under subsection (2) of this section.
34 When the department determines an incarcerated individual is
35 temporarily unable to participate in an education or work program due
36 to a medical condition, the incarcerated individual is exempt from
37 the requirement of subsection (2) of this section for the period of
38 time he or she is temporarily disabled. The department shall
39 periodically review the medical condition of all incarcerated
40 individuals with temporary disabilities to ensure the earliest

1 possible entry or reentry by incarcerated individuals into available
2 programming.

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

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

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

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

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

32 (d) Shall be subject to the applicable provisions of this chapter
33 relating to incarcerated individual financial responsibility for
34 programming.

35 (13) If an incarcerated individual has participated in
36 postsecondary education programs, the department shall provide the
37 incarcerated individual with a copy of the incarcerated individual's
38 unofficial transcripts, at no cost to the individual, upon the
39 incarcerated individual's release or transfer to a different
40 facility. Upon the incarcerated individual's completion of a

1 postsecondary education program, the department shall provide to the
2 incarcerated individual, at no cost to the individual, a copy of the
3 incarcerated individual's unofficial transcripts. This requirement
4 applies regardless of whether the incarcerated individual became
5 ineligible to participate in or abandoned a postsecondary education
6 program.

7 (14) For the purposes of this section, "third party" includes a
8 nonprofit entity or community-based postsecondary education program
9 that partners with the department to provide accredited postsecondary
10 education degree and certificate programs at state correctional
11 facilities.

12 **Sec. 4.** RCW 72.09.465 and 2021 c 200 s 5 are each amended to
13 read as follows:

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

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

22 (c)(i) The department shall, in its programs established under
23 this section, provide access to a direct transfer associate degree as
24 a pathway of employment in living wage career fields or as a transfer
25 degree to a baccalaureate degree. The department, in consultation
26 with the state board for community and technical colleges, must
27 identify direct transfer agreement courses as common courses
28 throughout the community and technical colleges to avoid difficulties
29 in transferring credits.

30 (ii) For purposes of this subsection (1)(c), "direct transfer
31 agreement" means a degree awarded by a community or technical college
32 to students who have completed a transfer curriculum to fulfill most
33 general education requirements for purposes of a baccalaureate
34 degree.

35 (2) Incarcerated individuals not meeting the department's
36 priority criteria for the state-funded postsecondary degree education
37 program shall be required to pay the costs for participation in a
38 postsecondary education degree program if he or she elects to
39 participate through self-pay, including costs of books, fees,

1 tuition, or any other appropriate ancillary costs, by one or more of
2 the following means:

3 (a) ~~((The))~~ For postsecondary degree programs that are eligible
4 for financial aid, the incarcerated individual who is participating
5 in the ~~((postsecondary education degree))~~ program may, during
6 confinement, provide the required payment or payments to the
7 ~~((department))~~ school; ~~((or))~~

8 (b) For a postsecondary degree program that is not eligible for
9 financial aid, the incarcerated individual who is participating in
10 the program may, during confinement, provide the required payment or
11 payments to the department; or

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

16 (3) The department may accept any and all donations and grants of
17 money, equipment, supplies, materials, and services from any third
18 party, including but not limited to nonprofit entities, and may
19 receive, utilize, and dispose of same to provide postsecondary
20 education to incarcerated individuals.

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

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

27 (b) Incarcerated individuals with individual reentry plans that
28 include participation in a postsecondary degree or certificate
29 education program that is:

30 (i) Offered at the incarcerated individual's state correctional
31 institution;

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

34 (iii) Limited to a postsecondary degree or certificate program;
35 and

36 (c) Priority may be given to incarcerated individuals based on
37 earliest release date, but no more than 67 percent of program
38 participants may be prioritized in this manner.

39 (5) The department shall work with the college board as defined
40 in RCW 28B.50.030 to develop a plan to assist incarcerated

1 individuals selected to participate in postsecondary degree or
2 certificate programs with filing a free application for federal
3 student aid or the Washington application for state financial aid.

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

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

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