
SUBSTITUTE HOUSE BILL 2171

State of Washington

68th Legislature

2024 Regular Session

By House Postsecondary Education & Workforce (originally sponsored by Representatives Leavitt, Waters, Slatter, Simmons, Reed, Ramel, Doglio, Reeves, and Davis)

READ FIRST TIME 01/19/24.

1 AN ACT Relating to financial aid grants for incarcerated
2 students; and amending RCW 72.09.460 and 72.09.467.

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

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

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

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

1 (3) The legislature recognizes more incarcerated individuals may
2 agree to participate in education and work programs than are
3 available. The department must make every effort to achieve maximum
4 public benefit by placing incarcerated individuals in available and
5 appropriate education and work programs.

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

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

14 (ii) Achievement of vocational skills necessary for purposes of
15 work programs and for an incarcerated individual to qualify for work
16 upon release;

17 (iii) Additional work and education programs necessary for
18 compliance with an incarcerated individual's individual reentry plan
19 under RCW 72.09.270, including special education services and
20 postsecondary degree or certificate education programs; and

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

25 (b) If programming is provided pursuant to (a) ~~((i) through)~~
26 (ii) and (iii) of this subsection that is eligible for financial aid,
27 the department may require an incarcerated individual to apply for,
28 but not utilize, federal and state financial aid grants for use in
29 such programming. At the incarcerated individual's option, the
30 incarcerated individual may utilize federal and state financial aid
31 grants for the cost of attendance for eligible programming provided
32 pursuant to (a)(ii) and (iii) of this subsection. An incarcerated
33 individual may receive education grants, scholarships, or third-party
34 funding to cover the cost of attendance. An incarcerated individual
35 may receive department-approved donated educational materials funded
36 by grants and donations and supplied by education providers or third
37 parties. If the cost of attendance exceeds eligibility for grants, or
38 the incarcerated individual is not eligible for financial aid or
39 chooses not to apply for or utilize financial aid, or if financial
40 aid is not available, the department shall pay the cost of such

1 programming where possible and not otherwise covered by third-party
2 funding, including but not limited to books, materials, and supplies.

3 (c) (i) If programming is provided pursuant to (a)(iv) of this
4 subsection, incarcerated individuals shall be required to pay all or
5 a portion of the costs, including books, fees, and tuition, for
6 participation in any vocational, work, or education program as
7 provided in department policies. If programming provided pursuant to
8 (a)(iv) of this subsection is eligible for financial aid, the
9 department may require an incarcerated individual to apply for, but
10 not utilize, federal and state financial aid grants for use in such
11 programming. At the incarcerated individual's option, the
12 incarcerated individual may utilize federal and state financial aid
13 grants for the cost of attendance for eligible programming provided
14 pursuant to (a)(iv) of this subsection. An incarcerated individual
15 may receive education grants, scholarships, or third-party funding to
16 cover the cost of attendance. An incarcerated individual may receive
17 department-approved donated educational materials funded by grants
18 and donations and supplied by education providers or third parties.
19 Department policies shall include a postaward formula for determining
20 how much an incarcerated individual shall be required to pay after
21 deducting any amount from utilized financial aid or third-party
22 funding. The postaward formula shall include steps which correlate to
23 an incarcerated individual's average monthly income or average
24 available balance in a personal savings account and which are
25 correlated to a prorated portion or percent of the per credit fee for
26 tuition, books, or other ancillary educational costs. The postaward
27 formula shall be reviewed every two years. A third party, including
28 but not limited to nonprofit entities or community-based
29 postsecondary education programs, may pay directly to the department
30 all or a portion of costs and tuition for any programming provided
31 pursuant to (a)(iv) of this subsection on behalf of an incarcerated
32 individual. Such payments shall not be subject to any of the
33 deductions as provided in this chapter.

34 (ii) For the purposes of this subsection, postaward formula
35 offsets and funds paid by the department for educational programming
36 shall not result in the reduction of any "gift aid," as defined in
37 RCW 28B.145.010.

38 (d) The department may accept any and all donations and grants of
39 money, equipment, supplies, materials, and services from any third
40 party, including but not limited to nonprofit entities and community-

1 based postsecondary education programs, and may receive, utilize, and
2 dispose of same to complete the purposes of this section.

3 (e) Any funds collected by the department under (c) and (d) of
4 this subsection and subsections (11) and (12) of this section shall
5 be used solely for the creation, maintenance, or expansion of
6 incarcerated individual educational and vocational programs.

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

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

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

35 (ii) An incarcerated individual's education history and basic
36 academic skills;

37 (iii) An incarcerated individual's work history and vocational or
38 work skills;

1 (iv) An incarcerated individual's economic circumstances,
2 including but not limited to an incarcerated individual's family
3 support obligations; and

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

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

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

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

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

37 (10) The department shall establish, by rule, objective medical
38 standards to determine when an incarcerated individual is physically
39 or mentally unable to participate in available education or work
40 programs. When the department determines an incarcerated individual

1 is permanently unable to participate in any available education or
2 work program due to a health condition, the incarcerated individual
3 is exempt from the requirement under subsection (2) of this section.
4 When the department determines an incarcerated individual is
5 temporarily unable to participate in an education or work program due
6 to a medical condition, the incarcerated individual is exempt from
7 the requirement of subsection (2) of this section for the period of
8 time he or she is temporarily disabled. The department shall
9 periodically review the medical condition of all incarcerated
10 individuals with temporary disabilities to ensure the earliest
11 possible entry or reentry by incarcerated individuals into available
12 programming.

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

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

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

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

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

3 (d) Shall be subject to the applicable provisions of this chapter
4 relating to incarcerated individual financial responsibility for
5 programming.

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

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

23 **Sec. 2.** RCW 72.09.467 and 2021 c 200 s 8 are each amended to
24 read as follows:

25 (1) The department, the state board for community and technical
26 colleges, the student achievement council, and the Washington
27 statewide reentry council, in collaboration with an organization
28 representing the presidents of the public four-year institutions of
29 higher education, shall submit a combined report, pursuant to RCW
30 43.01.036, by December 1, 2021, and annually thereafter, to the
31 appropriate committees of the legislature having oversight over
32 higher education issues and correctional matters. The state agencies
33 shall consult and engage with nonprofit and community-based
34 postsecondary education providers during the development of the
35 annual report.

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

37 (a) The number of incarcerated individuals served in the
38 department's postsecondary education system, the number of
39 individuals not served, the number of individuals leaving the

1 department's custody without a high school equivalency who were in
2 the department's custody longer than one year, and the number of
3 individuals released without any postsecondary education, each
4 disaggregated by demographics;

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

8 (c) A review of the department's identification and assessment of
9 incarcerated individuals with learning disabilities, traumatic brain
10 injuries, and other cognitive impairments or disabilities that may
11 limit their ability to participate in educational programming,
12 including general educational development testing and postsecondary
13 education. The report shall identify barriers to the identification
14 and assessment of these individuals and include recommendations that
15 will further facilitate access to educational programming for these
16 individuals;

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

21 (~~(d)~~) (e) A review of policies on transfer, in order to create
22 recommendations to institutions and the legislature that to ensure
23 postsecondary education credits earned while incarcerated transfer
24 seamlessly upon postrelease enrollment in a postsecondary education
25 institution. The review must identify barriers or challenges on
26 transferring credits experienced by individuals and the number of
27 credits earned while incarcerated that transferred to the receiving
28 colleges postrelease;

29 (~~(e)~~) (f) The number of individuals participating in
30 correspondence courses and completion rates of correspondence
31 courses, disaggregated by demographics;

32 (~~(f)~~) (g) An examination of the collaboration between
33 correctional facilities, the educational programs, nonprofit and
34 community-based postsecondary education providers, and the
35 institutions, with the goal of ensuring that roles and
36 responsibilities are clearly defined, including the roles and
37 responsibilities of each entity in relation to ensuring incarcerated
38 individual access to, and accommodations in, educational programming;
39 and

1 (~~(g)~~) (h) A review of the partnerships with nonprofit and
2 community-based postsecondary education organizations at state
3 correctional facilities that provide accredited certificate and
4 degree-granting programs and those that provide reentry services in
5 support of educational programs and goals, including a list of the
6 programs and services offered and recommendations to improve program
7 delivery and access.

8 (3) The report shall strive to include, where possible, the
9 voices and experiences of current or formerly incarcerated
10 individuals.

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