

# HOUSE BILL REPORT

## HB 2299

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**As Reported by House Committee On:**  
College & Workforce Development  
Appropriations

**Title:** An act relating to creating prison to postsecondary education pathways.

**Brief Description:** Creating prison to postsecondary education pathways.

**Sponsors:** Representatives Leavitt, Klippert, Lovick, Eslick, Davis, Orwall, Sells, Shewmake, Tarleton, Frame, Bergquist, Tharinger, Fey, Ormsby, Harris, Irwin, Doglio, Goodman and Appleton.

**Brief History:**

**Committee Activity:**

College & Workforce Development: 1/15/20, 2/4/20 [DPS];

Appropriations: 2/8/20 [DPS(CWD)].

**Brief Summary of Substitute Bill**

- Permits the Department of Corrections (DOC) to implement postsecondary certificate and degree programs at state correctional institutions.
- Modifies the DOC's educational goals for incarcerated persons to include special education services and postsecondary education certificates or degrees.
- Requires the DOC to establish a process for identifying and assessing incarcerated persons with learning disabilities, traumatic brain injuries, and cognitive impairments, in addition to providing accommodations for these persons.
- Requires the DOC to implement a pilot program for secure Internet connections at up to three correctional institutions participating in the federal Second Chance Pell program.
- Requires the DOC to provide unofficial transcripts to incarcerated persons who participated in postsecondary education programs any time the person completes a program, is transferred to another facility, or is released.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Requires the DOC to consider an incarcerated person's educational programming when considering transfers to other facilities and when releasing a person to their county of origin.
- Requires the Washington State Institute for Public Policy to study and report on enrollment and completion rates of incarcerated persons in the postsecondary education system post release, in addition to recidivism rates, by October 1, 2023.
- Requires an annual report from the DOC and other state agencies that includes a variety of data and information on incarcerated persons and postsecondary education.

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## HOUSE COMMITTEE ON COLLEGE & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Gildon, Assistant Ranking Minority Member; Bergquist, Mead, Paul, Pollet, Ramos, Rude, Sells, Slatter and Sutherland.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Van Werven, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Kraft and Young.

**Staff:** Megan Mulvihill (786-7304).

### **Background:**

#### Individual Reentry Plans.

The Department of Corrections (DOC) is required to develop individual reentry plans for each incarcerated person under its jurisdiction except for those persons sentenced to life without the possibility of release, sentenced to death, and those subject to deportation. Individual reentry plans include: plans to maintain contact with family; a portfolio of the person's educational achievements, previous employment and work experience, and any training received; and a plan for the person to facilitate reentry into the community that addresses education, employment, substance abuse treatment, mental health treatment, family reunification, and other needs.

#### The Department of Corrections' Educational Goals for Incarcerated Persons.

The DOC is required to offer certain education and work programs to persons incarcerated at a state correctional institution based on available funding and the following goals in the order listed:

1. Achievement of basic skills through obtaining a high school diploma or the equivalent.
2. Achievement of vocational skills necessary for work programs and to qualify for work upon release.
3. Additional work and education programs necessary to comply with an individual reentry plan.

4. Other appropriate vocational, work, or educational programs not necessary for compliance with an individual reentry plan, including associate degree programs.

If programming is provided for goals 1, 2, or 3, the DOC is responsible for the cost, including books, materials, and supplies. If programming is provided for goal 4, the incarcerated person is required to pay all or a portion of the cost, including books, fees, and tuition based on a DOC formula that correlates to the incarcerated person's average monthly income and available savings and a prorated percent of the per credit fee. A third party may pay the DOC directly for all or a portion of the programming costs aligned with the fourth goal.

#### Associate Workforce Degree Programs at State Correctional Institutions.

In 2017 the DOC was authorized to implement associate workforce degree programs at state correctional institutions without specific funds being appropriated for that purpose. The associate workforce degree programs have to be from an accredited community or technical college, college, or university designed to prepare incarcerated persons to enter the workforce. The DOC may select an incarcerated person to participate in a state-funded associate degree program based on priority criteria, including consideration of the following:

- priority given to persons within five years or less of release;
- the person does not already possess a postsecondary education degree; and
- the person's individual reentry plan includes participation in an associate degree program that is: (1) offered at their state correctional institution; (2) approved by the DOC as an eligible and effective postsecondary education degree program; and (3) is limited to an associate workforce degree.

Incarcerated persons who do not meet the priority criteria for state-funded associate degree programs must pay for the program themselves, if he or she elects to participate.

Incarcerated persons sentenced to life without the possibility of release, sentenced to death, or subject to deportation under federal law are not allowed to participate in a state-funded associate degree program.

#### County of Origin Discharge Considerations.

When the DOC discharges a person released to community custody, it must determine the appropriate county to release the person to. The DOC is prohibited from approving a residence location that is not in the person's county of origin unless the DOC determines that a return to the county of origin would be inappropriate due to any court-ordered condition of the person's sentence, victim safety concerns, negative influences on the person in the community, or the location of family or other sponsoring persons or organizations supporting the person.

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#### **Summary of Substitute Bill:**

##### The Department of Corrections' Educational Goals for Incarcerated Persons.

The DOC's educational goals for incarcerated persons are modified as follows:

1. Achievement of basic skills through obtaining a high school diploma or the equivalent, including achievement of persons eligible for special education services pursuant to federal or state law.
2. Achievement of vocational skills necessary for work programs and to qualify for work upon release.
3. Additional work and education programs necessary to comply with an individual reentry plan, including special education services and postsecondary certificate or degree programs.
4. Other appropriate vocational, work, or educational programs not necessary for compliance with an individual reentry plan, including postsecondary certificate or degree programs.

The DOC must establish a process for identifying and assessing incarcerated persons with learning disabilities, traumatic brain injuries, and other cognitive impairments to determine whether the person requires accommodations in order to effectively participate in educational programming, including General Educational Development tests (GED) and postsecondary education. The DOC must establish a process to provide accommodations to these persons.

#### Postsecondary Education Programs at State Correctional Institutions.

The DOC's authority to implement associate workforce degree programs at state correctional institutions is expanded to postsecondary certificate or degree programs, but is limited to no more than a bachelor's degree. In addition, priority consideration may be given to incarcerated persons within 10 years or less of release. Incarcerated persons sentenced to life without the possibility of release, sentenced to death, or subject to deportation may participate in a postsecondary education degree program if it is paid for by a third party. The DOC may assist incarcerated persons participating in state-funded postsecondary education with filing a Free Application for Federal Student Aid (FAFSA) or the Washington Application for State Financial Aid (WASFA).

The DOC is required to provide an incarcerated person that participated in postsecondary education programs with a copy of their unofficial transcript, at no cost to the person, any time the person completes a postsecondary education program, is transferred to a different facility, or is released.

#### Tuition Fees.

Standard tuition fees charged at the public institutions of higher education do not apply to persons incarcerated under the DOC who participate in credit-eligible postsecondary education courses and degree programs if the program expenses are funded by nontuition resources, such as grants, contracts, and donations.

#### County of Origin Discharge Considerations.

The DOC must also consider the incarcerated person's return to their county of origin to be inappropriate if the person is enrolled in an educational program that can not be completed in their county of origin, unless there are victim safety concerns.

#### Transfers of Persons Incarcerated at Correctional Facilities.

When determining whether to transfer an incarcerated person to a different in-state facility, the DOC is required to consider whether the person is enrolled in a vocational or educational

program, including programs operated by approved outside providers, which cannot be continued at the receiving facility.

Washington State Institute for Public Policy Study.

The Washington State Institute for Public Policy (WSIPP) must study recidivism rates and enrollment and completion rates of incarcerated persons in the postsecondary education system post release. The DOC, the Washington Student Achievement Council (WSAC), and the State Board for Community and Technical Colleges (SBCTC) must provide the data necessary to complete the study. The study, which is due October 1, 2023, must include:

- the effects of post-release enrollment in the postsecondary education system by persons who, while incarcerated, completed some course work but did not earn a certificate or degree;
- post-release patterns of participation in postsecondary education of persons who, while incarcerated, participated in postsecondary education;
- differential outcomes for persons participating in different types of postsecondary education courses and certificate and degree programs; and
- an examination of recidivism outcomes after incarceration.

State Agency Report on Postsecondary Education Programs and Incarcerated Persons.

The DOC, SBCTC, WSAC, and Washington Statewide Reentry Council, in collaboration with an organization representing the presidents of the public four-year institutions of higher education, must report to the committees of the Legislature with oversight over higher education and correctional matters, by December 1, 2020, and annually thereafter, on the following:

- the number of incarcerated persons served in the DOC's postsecondary education system, the number of persons not served, the number of persons leaving the DOC's custody after a minimum of one year without a high school equivalency certificate, and the number of persons released without any postsecondary education, all disaggregated by demographics;
- a review of the DOC's identification and assessment of incarcerated persons with learning disabilities, traumatic brain injuries, and other cognitive impairments or disabilities that affect their ability to participate in educational programming, and an identification of the barriers to the identification and assessment of these persons with recommendations to improve;
- identification of issues related to ensuring that credits earned in credit-bearing courses are transferable, including the number of transferable credits awarded and nontransferable credits awarded;
- a review of transfer policies, including identifying barriers or challenges, in order to create recommendations to ensure the seamless transfer of incarcerated persons to postsecondary educational institutions;
- the number of persons participating in correspondence courses and the completion rates, disaggregated by demographics;
- an examination of the collaboration between correctional facilities, educational programs, and the postsecondary educational institutions, with the goal of clearly defining roles and responsibilities; and
- a review of partnerships with nonprofit organizations at state correctional facilities that provide postsecondary education programs and reentry services.

### Secure Internet Pilot Program.

Subject to appropriation, the DOC must conduct a pilot program for secure Internet connections at up to three correctional institutions participating in the federal Second Chance Pell program. The Internet use is limited to adult basic education, completion of the FAFSA or WASFA, and postsecondary education and training. The DOC must report to the Governor and Legislature by December 1, 2021, on:

- a description of how the Internet connections were implemented, including barriers or challenges;
- the number of incarcerated persons who participated in programs that used Internet and a description of how the Internet changed practices; and
- data on whether the Internet increased GED, FAFSA or WASFA filings, access to Pell grants or other state financial aid, and postsecondary education and training credit, certificate, and degree completions.

### **Substitute Bill Compared to Original Bill:**

The substitute bill adds the requirement for the DOC to implement a secure Internet pilot program at three correctional institutions, and specifies that the DOC may assist incarcerated persons with filing a FAFSA or WASFA. Postsecondary education is limited to no more than a bachelor's degree. Lastly, the substitute bill made changes to the DOC annual report, including disaggregating data by demographics and requiring a review of partnerships with nonprofit organizations.

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**Appropriation:** None.

**Fiscal Note:** Available. New one requested on February 5, 2020.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) Ninety-five percent of incarcerated persons are released and recidivism rates go down when people have the opportunity to get a degree. Education at correctional institutions has many benefits: improves safety inside correctional institutions, helps people find employment, and preparing people for the workforce leads to safer communities. The government saves money when people do not recidivate as studies show that every dollar spent has a return of \$20 in investment. The DOC education programs work and have a real impact. Some of the incarcerated persons participating in education programs get hired directly by the companies supporting the programs. Once incarcerated persons get to see themselves as students they can envision their future. It motivates, provides hope, and gives them something to believe in. Expansion into postsecondary education is needed and overdue. The best way to do this is through secure Internet access. Internet access is invaluable as it allows the students to learn where they are. Last year the Legislature passed the pilot program to implement secure Internet at one correctional institution. A computer science program used it for coding, and it allows for a greater level of learning than before.

These students will now enter the workforce equally prepared. This helps clarify authority in the tuition statute by allowing nontuition resources to be used to fund credit-eligible programs at correctional institutions.

Incarcerated persons released to their county of origin have a waiting period before they can continue their education program, which creates a barrier while on probation. The more a student studies without interruption, the more likely they are to complete their education program.

There is intent to uphold the Americans with Disabilities Act, and the DOC cannot do that currently. Thousands of inmates with disabilities cycle through the DOC GED programming. The DOC does not currently have a system for assessing individuals with disabilities, resulting in those persons being left out of educational programming. This bill ensures that inmates with cognitive disabilities would have opportunities.

The Legislature currently supports workforce associate degrees. There are five degrees offered, in addition to vocational certifications. There are more job opportunities than the existing degrees offer. There are a couple of concerns around fiscal impacts.

(Opposed) None.

(Other) Any new requirements or enhancements for education without expanding resources may lead to a decline in the number of students served. In 2017 when the associate workforce degrees were added, the college reduced the number of students served. The needs outlined in the bill are understood, but there is concern about how it may impact services currently provided.

**Persons Testifying:** (In support) Representative Leavitt, prime sponsor; Melissa Kulczyk, Local 129 Carpenters Union; Kelli Bush and Carolina Landa, The Evergreen State College; Rachael SeEVERS, Disability Rights Washington; Spencer Lively, University of Washington; Loretta Taylor, Department of Corrections; and Noreen Light.

(Other) Marc Anthony Cervantez, University of Washington Bothell; Pat Seibert-Love, State Board for Community and Technical Colleges; and Sultana Shabazz and Marissa Schlesinger, Tacoma Community College.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on College & Workforce Development be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Chandler, Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Senn, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Caldier, Dye, Kraft and Schmick.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Mosbrucker.

**Staff:** Yvonne Walker (786-7841).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On College & Workforce Development:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Education can be transformative. The return on investment for education in prisons is 20 to one. Education in the prison is shown to reduce recidivism by 43 percent. Education and job training brings hope to a lot of families. Ideally everyone who is incarcerated should have the opportunity to benefit from education, particularly those that are serving a lengthy sentence. Both offline education and the secured Internet access are important in giving people the practical skills they are going to need every day when they get out of prison. This bill supports rehabilitation, reentry, community safety, and saves money.

(Opposed) None.

**Persons Testifying:** Noreen Light.

**Persons Signed In To Testify But Not Testifying:** None.