

# SENATE BILL REPORT

## 2SHB 1044

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As of March 9, 2021

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

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

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Leavitt, Simmons, Johnson, J., Eslick, Lovick, Kloba, Lekanoff, Wylie, Bateman, Senn, Goodman, Bronoske, Valdez, Callan, Ramos, Hackney, Morgan, Ormsby, Fey, Frame, Santos, Davis, Pollet and Bergquist).

**Brief History:** Passed House: 2/25/21, 96-2.

**Committee Activity:** Human Services, Reentry & Rehabilitation: 3/11/21.

### Brief Summary of Bill

- Expands the Department of Corrections (DOC) authority to implement associate workforce degree programs to postsecondary education degree and certificate programs at state correctional institutions.
- Requires DOC to establish a process for identifying, assessing, and providing accommodations to incarcerated persons with learning disabilities, traumatic brain injuries, or other cognitive impairments.
- Modifies DOC's educational goals for incarcerated persons to include special education services and postsecondary education programs.
- Directs DOC to provide unofficial transcripts at no cost to the incarcerated individual who participated in a postsecondary education program when the individual completes a program, or is released or transferred to another facility.
- Requires DOC to consider educational programming when considering transfers to other facilities and when releasing an individual to their county of origin.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

- Requires the Washington State Institute for Public Policy to issue preliminary and final reports and requires an annual, multi-state agency combined report.

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## SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Staff:** Kelsey-anne Fung (786-7479)

**Background:** Individual Reentry Plans. The Department of Corrections (DOC) must develop individual reentry plans for each person incarcerated under its jurisdiction except for persons sentenced to life without the possibility of release, sentenced to death, and those subject to deportation. Individual reentry plans must include plans to maintain contact with family; a portfolio of the person's educational achievements, previous employment, 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.

For incarcerated individuals being released to community custody, the individual must be released to their county of origin unless DOC determines an individual's return to their county of origin would be inappropriate based on victim safety concerns, negative influences on the person in the community, location of family or sponsoring persons, and court-ordered sentence conditions.

Educational Goals for Incarcerated Persons. DOC must 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:

- achievement of basic academic skills by obtaining a high school diploma or the equivalent;
- achievement of vocational skills necessary for work programs and to qualify for work upon release;
- additional work and education programs necessary to comply with an individual reentry plan; and
- other appropriate vocational, work, or education programs not necessary for compliance with an individual reentry plan, including associate degree programs.

If programming is provided for any of the first three goals above, DOC must pay for the cost, including books, materials, and supplies. If programming is provided for the last goal, the incarcerated person must pay all or a portion of the cost, including books, fees, and tuition based on a formula that correlates to the incarcerated person's average monthly income, available savings and a prorated percent of the per-credit fee. A third party may pay DOC directly for all or a portion of the programming costs aligned with the last goal.

Associate Degree Programs. In 2017, the Legislature authorized DOC to implement associate workforce degree programs at state correctional institutions. The associate workforce degree programs may include any education program from an accredited community or technical college, college, or university designed to prepare incarcerated persons to enter the workforce. Individuals may be selected to participate in a state-funded associate degree program based on priority criteria determined by DOC that considers the following:

- 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 offered at their state correctional institution, approved by DOC as an eligible and effective postsecondary education degree program, and 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 they elect to participate. Incarcerated persons sentenced to life without the possibility of release, sentenced to death, or subject to deportation under federal law may not participate in a state-funded associate degree program.

Transfers. The secretary of DOC is authorized to transfer an incarcerated individual between in-state correctional facilities or to out-of-state governmental institutions if the secretary determines that transfer is in the best interest of the state or individual. Factors to consider include overcrowding, emergency conditions, and hardship to the individual. When determining whether transfer would impose a hardship, the secretary must consider location and contact with the individual's family and whether the individual is enrolled in a vocational or educational program that cannot reasonably be resumed if the individual is returned to the state.

**Summary of Bill:** Postsecondary Education Programs at State Correctional Institutions. DOC's authority to implement associate workforce degree programs at state correctional institutions is expanded to postsecondary education degree or certificate programs, but is limited to no more than a bachelor's degree. State-recognized preapprenticeship programs may also be included as appropriate postsecondary education programs. Priority consideration may be given to incarcerated persons within ten years or less of release, instead of five years or less. DOC must work with the State Board for Community and Technical Colleges to develop a plan to assist incarcerated individuals participating in state-funded postsecondary degree or certificate programs with filing a Free Application for Federal Student Aid or the Washington Application for State Financial Aid.

Incarcerated persons sentenced to life without the possibility of release, sentenced to death, or subject to deportation may not participate in a postsecondary education degree program unless it is paid for by a third party.

Educational Goals for Incarcerated Persons. DOC's educational goals for incarcerated persons are modified as follows:

- achievement of basic skills through obtaining a high school diploma or the equivalent, including achievement by persons eligible for special education services pursuant to federal or state law;
- achievement of vocational skills necessary for work programs and to qualify for work upon release;
- additional work and education programs necessary to comply with an individual reentry plan, including special education services and postsecondary degree or certificate education programs; and
- other appropriate vocational, work, or education programs not necessary for compliance with an individual reentry plan, including postsecondary degree or certificate education programs.

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

Transfers. When determining whether to transfer an incarcerated individual to another in-state facility, DOC must consider whether the person is enrolled in a vocational or educational program, including those operated by approved outside providers, which cannot be continued at the receiving facility. DOC must work with the person's case manager, counselor, education navigator, or other appropriate person to attempt to meet the needs of DOC and the individual.

County of Origin. Unless there are victim safety concerns, DOC must consider the incarcerated person's return to their county of origin to be inappropriate if the individual is enrolled in an educational program that cannot be completed in their county of origin.

Transcripts. For incarcerated individuals who participated in postsecondary education programs, DOC must provide the person with a copy of their unofficial transcripts, at no cost to the individual, upon the person's release or transfer to another facility, or upon the person's completion of a postsecondary education program. This requirement applies regardless of whether the incarcerated individual became ineligible to participate or abandoned a postsecondary education program.

Tuition Fees. Tuition fees charged at public higher education institutions do not apply to incarcerated students at DOC who are participating in credit-eligible postsecondary education courses and degree programs when the program expenses are funded by nontuition resources such as grants, contracts, and donations.

Washington State Institute for Public Policy Study. Subject to appropriations, the

Washington State Institute for Public Policy (WSIPP) must conduct a study on enrollment, completion, and recidivism rates of incarcerated individuals in the postsecondary education system post-release. A preliminary report is due October 1, 2024, and a final report is due October 1, 2027. WSIPP must study:

- patterns and effects on post-release enrollment and participation in the community and technical college system by individuals who, while incarcerated, participated in postsecondary education;
- differential outcomes for individuals participating in different types of postsecondary education courses, certificates, and degree programs;
- changes in enrollment and completion of postsecondary education courses, certificate programs, and degree programs due to the expansion in postsecondary education programming; and
- recidivism outcomes other than incarceration for individuals who participated in postsecondary education while incarcerated.

State Agency Report. DOC, the State Board for Community and Technical Colleges, the Washington Student Achievement Council, and the Washington Statewide Reentry Council, in collaboration with an organization representing the presidents of the public four-year higher education institutions, must submit a combined report to the appropriate committees of the Legislature with oversight over higher education and correctional matters by December 1, 2021, and annually thereafter. The report must strive to include voices and experiences of current or formerly incarcerated individuals and must include the following:

- a review, disaggregated by demographics, on the number of incarcerated persons served and not served in DOC's postsecondary education system, the number of persons leaving DOC custody after one year without a high school equivalency certificate, and the number of persons released without any postsecondary education;
- a review of DOC's identification and assessment of incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments or disabilities that may limit participation in education programming, and the barriers to identification and assessment and recommendations to further facilitate access for these individuals;
- identification of issues related to ensuring credits earned in credit-bearing courses are transferable, and the number of transferable and non-transferable credits awarded;
- a review of transfer policies, including barriers and challenges experienced by individuals, to ensure postsecondary education credits earned while incarcerated transfer seamlessly upon post-release enrollment in a postsecondary education institution;
- the number of persons participating in correspondence courses and completion rates, disaggregated by demographics;
- an examination of the collaboration between correctional facilities, educational programs, and postsecondary education institutions to ensure roles and responsibilities are clearly defined; and
- a review of partnerships with nonprofit organizations at state correctional facilities that provide postsecondary education programs and reentry services.

References to offender, inmate, and prisoner are changed to incarcerated individuals throughout the bill.

**Appropriation:** The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.