

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1044

Chapter 200, Laws of 2021

67th Legislature
2021 Regular Session

INCARCERATED PERSONS—POSTSECONDARY EDUCATION

EFFECTIVE DATE: July 25, 2021

Passed by the House April 14, 2021
Yeas 59 Nays 37

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 9, 2021
Yeas 28 Nays 20

DENNY HECK

President of the Senate

Approved May 10, 2021 2:56 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1044** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 10, 2021

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1044

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

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

READ FIRST TIME 02/19/21.

1 AN ACT Relating to creating prison to postsecondary education
2 pathways; amending RCW 72.09.270, 72.09.460, 72.09.465, 72.68.010,
3 and 28B.15.067; amending 2019 c 397 s 1 (uncodified); adding a new
4 section to chapter 72.68 RCW; adding a new section to chapter 72.09
5 RCW; creating new sections; and providing an expiration date.

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

7 **Sec. 1.** 2019 c 397 s 1 (uncodified) is amended to read as
8 follows:

9 (1) The legislature finds that incarceration is both a rural and
10 urban issue in the state. According to one recent report, the highest
11 rates of prison admissions are in rural counties. In addition, since
12 1980, the number of women in prison has increased more than eight
13 hundred percent. Additionally, people of color are overrepresented in
14 the prison system. The legislature finds that studies clearly and
15 consistently demonstrate that postsecondary education in prisons
16 improves safety in facilities, and incarcerated adults who obtain
17 postsecondary education and training are more likely to be employed
18 following release, which leads to a ((dramatic)) significant
19 reduction in recidivism rates, ((significant)) improvements in public
20 safety, and a major return on investment. The legislature finds that

1 reducing recidivism (~~would~~) decreases the financial burden to
2 taxpayers and the emotional burden of victims.

3 (2) The legislature finds that research indicates that
4 postsecondary education and training is an effective evidence-based
5 practice for reducing recidivism. An analysis commissioned by the
6 United States department of justice determined that adults who
7 received (~~such~~) an education while incarcerated were forty-three
8 percent less likely to recidivate.

9 (3) Ninety-five percent of incarcerated adults ultimately return
10 to their communities to obtain employment and contribute to society.
11 The legislature finds that according to the bureau of labor
12 statistics, unemployment rates for people with only a high school
13 education are twice that of those with an associate degree. Research
14 has shown that adults who participated in (~~such~~) education programs
15 while incarcerated were thirteen percent more likely to be employed.

16 (4) The legislature further finds that correctional education is
17 cost-effective. A 2014 study by the Washington state institute for
18 public policy estimated that (~~the state received~~), based on a
19 review of national research literature and cost-benefit analysis,
20 there is a return on investment of twenty dollars for every dollar
21 invested in correctional education.

22 (5) It is the intent of the legislature to enhance public safety,
23 including the safety of prison workers as findings show that violence
24 rates are reduced in institutions where there are educational
25 programs, to reduce crime, and to increase employment rates in a
26 cost-effective manner by exploring benefits and costs associated with
27 providing postsecondary education degree opportunities and training
28 to incarcerated adults through expanded partnerships between (~~the~~
29 ~~community and technical colleges~~) postsecondary institutions,
30 nonprofit entities and community-based postsecondary education
31 programs, and the department of corrections.

32 (6) It is the intent of the legislature to support exploring the
33 use of secure internet connections expressly for the purposes of
34 furthering postsecondary education degree opportunities and training
35 of incarcerated adults, including providing assistance to
36 incarcerated adults with completing financial aid materials. The
37 legislature intends for the department to be able to provide complete
38 assurance that all (~~offender-used~~) internet connections used by
39 incarcerated individuals are secure.

1 (7) It is the intent of the legislature to support expanded
2 access and opportunities to postsecondary degree and certificate
3 education programs for persons of color by setting goals and
4 partnering with nonprofit entities and community-based postsecondary
5 education programs with historical evidence of providing education
6 programs for people of color.

7 (8) It is also the intent of the legislature, by requiring the
8 study under section 2 of this act, to examine the effects of
9 providing postsecondary education while incarcerated on enrollment in
10 the postsecondary education system postrelease.

11 NEW SECTION. **Sec. 2.** (1)(a) Subject to the availability of
12 amounts appropriated for this specific purpose, the Washington state
13 institute for public policy shall study enrollment, completion, and
14 recidivism rates of incarcerated individuals in the postsecondary
15 education system postrelease.

16 (b) The goal of the study is to understand whether participation
17 in postsecondary education while incarcerated contributes to greater
18 enrollment and completion of postsecondary education and reduced
19 recidivism postrelease. The scope of the study shall focus on
20 postrelease enrollment and completion trends in the community and
21 technical college sector for formerly incarcerated individuals of all
22 ages. The timeline of the study may include data from 2015 to the
23 present, to the extent possible. The study's findings shall be
24 divided into a preliminary and final report. The reports shall
25 complement similar studies conducted at the University of Washington
26 or elsewhere. To the extent that it is not duplicative of other
27 studies, the Washington state institute for public policy shall study
28 the following:

29 (i) For the preliminary report, which is due October 1, 2024:

30 (A) Patterns and any effects on postrelease enrollment and
31 participation in the community and technical college system by
32 individuals who, while incarcerated, participated in postsecondary
33 education programs, including those individuals that completed some
34 coursework but did not earn a degree or certificate; and

35 (B) Differential outcomes for individuals participating in
36 different types of postsecondary education courses, certificate
37 programs, and degree programs.

38 (ii) For the final report, which is due October 1, 2027, a
39 continuation of the preliminary report in addition to:

1 (A) Changes in enrollment and completion of postsecondary
2 education courses, certificate programs, and degree programs due to
3 the changes and expansion of educational programming in this act, to
4 the extent possible; and

5 (B) Recidivism outcomes beyond incarceration for those
6 incarcerated individuals that participated in postsecondary
7 certificate and degree programs while incarcerated, including
8 arrests, charges, and convictions.

9 (iii) The preliminary and final reports shall be submitted to the
10 appropriate committees of the legislature and in accordance with RCW
11 43.01.036.

12 (iv) The department of corrections, the student achievement
13 council, the state board for community and technical colleges, and
14 the education research and data center shall provide data necessary
15 to conduct the study.

16 (2) This section expires January 1, 2029.

17 **Sec. 3.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to
18 read as follows:

19 (1) The department of corrections shall develop an individual
20 reentry plan as defined in RCW 72.09.015 for every ~~((offender))~~
21 incarcerated individual who is committed to the jurisdiction of the
22 department except:

23 (a) ~~((Offenders))~~ incarcerated individuals who are sentenced to
24 life without the possibility of release or sentenced to death under
25 chapter 10.95 RCW; and

26 (b) ~~((Offenders))~~ incarcerated individuals who are subject to the
27 provisions of 8 U.S.C. Sec. 1227.

28 (2) The individual reentry plan may be one document, or may be a
29 series of individual plans that combine to meet the requirements of
30 this section.

31 (3) In developing individual reentry plans, the department shall
32 assess all ~~((offenders))~~ incarcerated individuals using standardized
33 and comprehensive tools to identify the criminogenic risks,
34 programmatic needs, and educational and vocational skill levels for
35 each ~~((offender))~~ incarcerated individual. The assessment tool should
36 take into account demographic biases, such as culture, age, and
37 gender, as well as the needs of the ~~((offender))~~ incarcerated
38 individual, including any learning disabilities, substance abuse or
39 mental health issues, and social or behavior ~~((deficits))~~ challenges.

1 (4) (a) The initial assessment shall be conducted as early as
2 sentencing, but, whenever possible, no later than forty-five days of
3 being sentenced to the jurisdiction of the department of corrections.

4 (b) The ~~((offender's))~~ incarcerated individual's individual
5 reentry plan shall be developed as soon as possible after the initial
6 assessment is conducted, but, whenever possible, no later than sixty
7 days after completion of the assessment, and shall be periodically
8 reviewed and updated as appropriate.

9 (5) The individual reentry plan shall, at a minimum, include:

10 (a) A plan to maintain contact with the ~~((inmate's))~~ incarcerated
11 individual's children and family, if appropriate. The plan should
12 determine whether parenting classes, or other services, are
13 appropriate to facilitate successful reunification with the
14 ~~((offender's))~~ incarcerated individual's children and family;

15 (b) An individualized portfolio for each ~~((offender))~~
16 incarcerated individual that includes the ~~((offender's))~~ incarcerated
17 individual's education achievements, certifications, employment, work
18 experience, skills, and any training received prior to and during
19 incarceration; and

20 (c) A plan for the ~~((offender))~~ incarcerated individual during
21 the period of incarceration through reentry into the community that
22 addresses the needs of the ~~((offender))~~ incarcerated individual
23 including education, employment, substance abuse treatment, mental
24 health treatment, family reunification, and other areas which are
25 needed to facilitate a successful reintegration into the community.

26 (6) (a) Prior to discharge of any ~~((offender))~~ incarcerated
27 individual, the department shall:

28 (i) Evaluate the ~~((offender's))~~ incarcerated individual's needs
29 and, to the extent possible, connect the ~~((offender))~~ incarcerated
30 individual with existing services and resources that meet those
31 needs; and

32 (ii) Connect the ~~((offender))~~ incarcerated individual with a
33 community justice center and/or community transition coordination
34 network in the area in which the ~~((offender))~~ incarcerated individual
35 will be residing once released from the correctional system if one
36 exists.

37 (b) If the department recommends partial confinement in an
38 ~~((offender's))~~ incarcerated individual's individual reentry plan, the
39 department shall maximize the period of partial confinement for the
40 ~~((offender))~~ incarcerated individual as allowed pursuant to RCW

1 9.94A.728 to facilitate the ~~((offender's))~~ incarcerated individual's
2 transition to the community.

3 (7) The department shall establish mechanisms for sharing
4 information from individual reentry plans to those persons involved
5 with the ~~((offender's))~~ incarcerated individual's treatment,
6 programming, and reentry, when deemed appropriate. When feasible,
7 this information shall be shared electronically.

8 (8) (a) In determining the county of discharge for an ~~((offender))~~
9 incarcerated individual released to community custody, the department
10 may ~~((not))~~ approve a residence location that is not in the
11 ~~((offender's))~~ incarcerated individual's county of origin ~~((unless it~~
12 ~~is determined by))~~ if the department determines that the ~~((offender's~~
13 ~~return to his or her county of origin would be inappropriate~~
14 ~~considering))~~ residence location would be appropriate based on any
15 court-ordered condition of the ~~((offender's))~~ incarcerated
16 individual's sentence, victim safety concerns, ~~((negative influences~~
17 ~~on the offender in the community, or the))~~ and factors that increase
18 opportunities for successful reentry and long-term support including,
19 but not limited to, location of family or other sponsoring persons or
20 organizations that will support the ~~((offender))~~ incarcerated
21 individual, ability to complete an educational program that the
22 incarcerated individual is enrolled in, availability of appropriate
23 programming or treatment, and access to housing, employment, and
24 prosocial influences on the person in the community.

25 (b) In implementing the provisions of this subsection, the
26 department shall approve residence locations in a manner that will
27 not cause any one county to be disproportionately impacted.

28 (c) If the ~~((offender))~~ incarcerated individual is not returned
29 to his or her county of origin, the department shall provide the law
30 and justice council of the county in which the ~~((offender))~~
31 incarcerated individual is placed with a written explanation.

32 ~~((e))~~ (d) (i) For purposes of this section, except as provided
33 in (d) (ii) of this subsection, the ~~((offender's))~~ incarcerated
34 individual's county of origin means the county of the ~~((offender's))~~
35 incarcerated individual's residence at the time of the incarcerated
36 individual's first felony conviction in Washington state.

37 (ii) If the incarcerated individual is a homeless person as
38 defined in RCW 43.185C.010, or the incarcerated individual's
39 residence is unknown, then the incarcerated individual's county of

1 origin means the county of the incarcerated individual's first felony
2 conviction in Washington state.

3 (9) Nothing in this section creates a vested right in
4 programming, education, or other services.

5 **Sec. 4.** RCW 72.09.460 and 2017 c 120 s 3 are each amended to
6 read as follows:

7 (1) Recognizing that there is a positive correlation between
8 education opportunities and reduced recidivism, it is the intent of
9 the legislature to offer appropriate ~~((associate))~~ postsecondary
10 degree or certificate opportunities to ~~((inmates designed to prepare~~
11 ~~the inmate to enter the workforce))~~ incarcerated individuals.

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

24 (3) The legislature recognizes more ~~((inmates))~~ incarcerated
25 individuals may agree to participate in education and work programs
26 than are available. The department must make every effort to achieve
27 maximum public benefit by placing ~~((inmates))~~ incarcerated
28 individuals in available and appropriate education and work programs.

29 (4) (a) The department shall, to the extent possible and
30 considering all available funds, prioritize its resources to meet the
31 following goals for ~~((inmates))~~ incarcerated individuals in the order
32 listed:

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

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

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

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

14 (b) If programming is provided pursuant to (a)(i) through (iii)
15 of this subsection, the department shall pay the cost of such
16 programming, including but not limited to books, materials, and
17 supplies.

18 (c) If programming is provided pursuant to (a)(iv) of this
19 subsection, (~~inmates~~) incarcerated individuals shall be required to
20 pay all or a portion of the costs, including books, fees, and
21 tuition, for participation in any vocational, work, or education
22 program as provided in department policies. Department policies shall
23 include a formula for determining how much an (~~offender~~)
24 incarcerated individual shall be required to pay. The formula shall
25 include steps which correlate to an (~~offender~~) incarcerated
26 individual's average monthly income or average available balance in a
27 personal (~~inmate~~) savings account and which are correlated to a
28 prorated portion or percent of the per credit fee for tuition, books,
29 or other ancillary educational costs. The formula shall be reviewed
30 every two years. A third party, including but not limited to
31 nonprofit entities or community-based postsecondary education
32 programs, may pay directly to the department all or a portion of
33 costs and tuition for any programming provided pursuant to (a)(iv) of
34 this subsection on behalf of an (~~inmate~~) incarcerated individual.
35 Such payments shall not be subject to any of the deductions as
36 provided in this chapter.

37 (d) The department may accept any and all donations and grants of
38 money, equipment, supplies, materials, and services from any third
39 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 (~~((9) and (10))~~) (11) and (12) of
5 this section shall be used solely for the creation, maintenance, or
6 expansion of (~~(inmate)~~) incarcerated individual educational and
7 vocational programs.

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

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

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

38 (ii) An (~~(inmate's)~~) incarcerated individual's education history
39 and basic academic skills;

1 (iii) An (~~inmate's~~) incarcerated individual's work history and
2 vocational or work skills;

3 (iv) An (~~inmate's~~) incarcerated individual's economic
4 circumstances, including but not limited to an (~~inmate's~~)
5 incarcerated individual's family support obligations; and

6 (v) Where applicable, an (~~inmate's~~) incarcerated individual's
7 prior performance in department-approved education or work programs;

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

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

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

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

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

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

37 ~~((10))~~ (12) Notwithstanding any other provision in this
38 section, an ~~((inmate sentenced to life without the possibility of~~
39 ~~release))~~ incarcerated individual sentenced to death under chapter
40 10.95 RCW ~~((7))~~ or subject to the provisions of 8 U.S.C. Sec. 1227:

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

4 (b) May not participate in ~~((an associate))~~ a postsecondary
5 degree education program offered by the department or its contracted
6 providers, unless the incarcerated individual's participation in the
7 program is paid for by a third party or by the individual;

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

10 (d) Shall be subject to the applicable provisions of this chapter
11 relating to ~~((inmate))~~ incarcerated individual financial
12 responsibility for programming.

13 (13) If an incarcerated individual has participated in
14 postsecondary education programs, the department shall provide the
15 incarcerated individual with a copy of the incarcerated individual's
16 unofficial transcripts, at no cost to the individual, upon the
17 incarcerated individual's release or transfer to a different
18 facility. Upon the incarcerated individual's completion of a
19 postsecondary education program, the department shall provide to the
20 incarcerated individual, at no cost to the individual, a copy of the
21 incarcerated individual's unofficial transcripts. This requirement
22 applies regardless of whether the incarcerated individual became
23 ineligible to participate in or abandoned a postsecondary education
24 program.

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

30 **Sec. 5.** RCW 72.09.465 and 2017 c 120 s 4 are each amended to
31 read as follows:

32 (1) (a) The department may implement ~~((associate))~~ postsecondary
33 degree or certificate education programs at state correctional
34 institutions. ~~((During the 2015-2017 fiscal biennium, the department~~
35 ~~may implement postsecondary degree programs within state~~
36 ~~institutions, including the state correctional institution with the~~
37 ~~largest population of females, within its existing funds and under~~
38 ~~the limitations in this section, to include any funding provided~~
39 ~~under subsection (3) of this section.))~~

1 **(b)** The department may consider for inclusion in any
2 ~~((associate))~~ postsecondary degree or certificate education program,
3 any education program from an accredited community or technical
4 college, college, or university that is ~~((part of an associate~~
5 ~~workforce degree program designed to prepare the inmate to enter the~~
6 ~~workforce))~~ limited to no more than a bachelor's degree. Washington
7 state-recognized preapprenticeship programs may also be included as
8 appropriate postsecondary education programs.

9 (2) ~~((Inmates))~~ Incarcerated individuals not meeting the
10 department's priority criteria for the state-funded ~~((associate))~~
11 postsecondary degree education program shall be required to pay the
12 costs for participation in a postsecondary education degree program
13 if he or she elects to participate through self-pay, including costs
14 of books, fees, tuition, or any other appropriate ancillary costs, by
15 one or more of the following means:

16 (a) The ~~((inmate))~~ incarcerated individual who is participating
17 in the postsecondary education degree program may, during
18 confinement, provide the required payment or payments to the
19 department; or

20 (b) A third party shall provide the required payment or payments
21 directly to the department on behalf of an ~~((inmate))~~ incarcerated
22 individual, and such payments shall not be subject to any of the
23 deductions as provided in this chapter.

24 (3) The department may accept any and all donations and grants of
25 money, equipment, supplies, materials, and services from any third
26 party, including but not limited to nonprofit entities, and may
27 receive, utilize, and dispose of same to provide postsecondary
28 education to ~~((inmates))~~ incarcerated individuals.

29 (4) An ~~((inmate))~~ incarcerated individual may be selected to
30 participate in a state-funded ~~((associate))~~ postsecondary degree or
31 certificate education program, based on priority criteria determined
32 by the department, in which the following conditions may be
33 considered:

34 (a) Priority should be given to ~~((inmates within five years or~~
35 ~~less of release;~~

36 ~~((b) The inmate does))~~ incarcerated individuals who do not already
37 possess a postsecondary education degree; and

38 ~~((c) The inmate's))~~ (b) Incarcerated individuals with individual
39 reentry ~~((plan includes))~~ plans that include participation in ~~((an~~

1 ~~associate))~~ a postsecondary degree or certificate education program
2 that is:

3 (i) Offered at the (~~inmate's~~) incarcerated individual's state
4 correctional institution;

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

7 (iii) Limited to (~~an associate workforce~~) a postsecondary
8 degree or certificate program.

9 (5) (~~During the 2015-2017 fiscal biennium, an inmate may be~~
10 ~~selected to participate in a state-funded postsecondary education~~
11 ~~degree program, based on priority criteria determined by the~~
12 ~~department, in which the following conditions may be considered:~~

13 ~~(a) Priority should be given to inmates within five years of~~
14 ~~release;~~

15 ~~(b) The inmate does not already possess a postsecondary education~~
16 ~~degree; and~~

17 ~~(c) The inmate's individual reentry plan includes participation~~
18 ~~in a postsecondary education degree program that is:~~

19 ~~(i) Offered at the inmate's state correctional institution; and~~

20 ~~(ii) Approved by the department as an eligible and effective~~
21 ~~postsecondary education degree program.))~~ The department shall work
22 with the college board as defined in RCW 28B.50.030 to develop a plan
23 to assist incarcerated individuals selected to participate in
24 postsecondary degree or certificate programs with filing a free
25 application for federal student aid or the Washington application for
26 state financial aid.

27 (6) Any funds collected by the department under this section
28 shall be used solely for the creation, maintenance, or expansion of
29 (~~inmate~~) postsecondary education degree programs for incarcerated
30 individuals.

31 NEW SECTION. Sec. 6. A new section is added to chapter 72.68
32 RCW to read as follows:

33 (1) In determining whether to transfer an incarcerated individual
34 to a different facility in the state, the department shall consider
35 whether the incarcerated individual is enrolled in a vocational or
36 educational program, including those operated by approved outside
37 providers, which cannot be continued at the receiving facility. The
38 department shall work with the incarcerated individual's case
39 manager, counselor, education navigator, or other appropriate person

1 to attempt to meet the needs of the department and the incarcerated
2 individual regarding transfer.

3 (2) Nothing in this section creates a vested right in
4 programming, education, or other services.

5 **Sec. 7.** RCW 72.68.010 and 2020 c 318 s 4 are each amended to
6 read as follows:

7 (1) Whenever in its judgment the best interests of the state or
8 the welfare of any (~~prisoner~~) incarcerated individual confined in
9 any penal institution will be better served by his or her transfer to
10 another institution or to a foreign country of which the (~~prisoner~~)
11 incarcerated individual is a citizen or national, the secretary may
12 effect such transfer consistent with applicable federal laws and
13 treaties. The secretary has the authority to transfer (~~offenders~~)
14 incarcerated individuals between in-state correctional facilities or
15 to out-of-state governmental institutions if the secretary determines
16 that transfer is in the best interest of the state or the
17 (~~offender~~) incarcerated individual. The determination of what is in
18 the best interest of the state or (~~offender~~) incarcerated
19 individual may include but is not limited to considerations of
20 overcrowding, emergency conditions, or hardship to the (~~offender~~)
21 incarcerated individual. In determining whether the transfer will
22 impose a hardship on the (~~offender~~) incarcerated individual, the
23 secretary shall consider: (a) The location of the (~~offender's~~)
24 incarcerated individual's family and whether the (~~offender~~)
25 incarcerated individual has maintained contact with members of his or
26 her family; (b) whether, if the (~~offender~~) incarcerated individual
27 has maintained contact, the contact will be significantly disrupted
28 by the transfer due to the family's inability to maintain the contact
29 as a result of the transfer; and (c) whether the (~~offender~~)
30 incarcerated individual is enrolled in a vocational or educational
31 program that cannot reasonably be resumed or completed if the
32 (~~offender~~) incarcerated individual is transferred to another
33 correctional institution or returned to the state.

34 (2) (a) The secretary has the authority to transfer (~~offenders~~)
35 incarcerated individuals to an out-of-state private correctional
36 entity only if:

37 (i) The governor finds that an emergency exists such that the
38 population of a state correctional facility exceeds its reasonable,
39 maximum capacity, resulting in safety and security concerns;

1 (ii) The governor has considered all other legal options to
2 address capacity, including those pursuant to RCW 9.94A.870;

3 (iii) The secretary determines that transfer is in the best
4 interest of the state or the (~~offender~~) incarcerated individual;
5 and

6 (iv) The contract with the out-of-state private correctional
7 entity includes requirements for access to public records to the same
8 extent as if the facility were operated by the department, (~~inmate~~)
9 incarcerated individual access to the office of the corrections
10 ombuds, and inspections and visits without notice.

11 (b) Should any of these requirements in this subsection not be
12 met, the contract with the private correctional entity shall be
13 terminated.

14 (3) If directed by the governor, the secretary shall, in carrying
15 out this section and RCW 43.06.350, adopt rules under chapter 34.05
16 RCW to effect the transfer of (~~prisoners~~) incarcerated individuals
17 requesting transfer to foreign countries.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09
19 RCW to read as follows:

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

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

32 (a) The number of incarcerated individuals served in the
33 department's postsecondary education system, the number of
34 individuals not served, the number of individuals leaving the
35 department's custody without a high school equivalency who were in
36 the department's custody longer than one year, and the number of
37 individuals released without any postsecondary education, each
38 disaggregated by demographics;

1 (b) A review of the department's identification and assessment of
2 incarcerated individuals with learning disabilities, traumatic brain
3 injuries, and other cognitive impairments or disabilities that may
4 limit their ability to participate in educational programming,
5 including general educational development testing and postsecondary
6 education. The report shall identify barriers to the identification
7 and assessment of these individuals and include recommendations that
8 will further facilitate access to educational programming for these
9 individuals;

10 (c) An identification of issues related to ensuring that credits
11 earned in credit-bearing courses are transferable. The report must
12 also include the number of transferable credits awarded and the
13 number of credits awarded that are not transferable;

14 (d) A review of policies on transfer, in order to create
15 recommendations to institutions and the legislature that to ensure
16 postsecondary education credits earned while incarcerated transfer
17 seamlessly upon postrelease enrollment in a postsecondary education
18 institution. The review must identify barriers or challenges on
19 transferring credits experienced by individuals and the number of
20 credits earned while incarcerated that transferred to the receiving
21 colleges postrelease;

22 (e) The number of individuals participating in correspondence
23 courses and completion rates of correspondence courses, disaggregated
24 by demographics;

25 (f) An examination of the collaboration between correctional
26 facilities, the educational programs, nonprofit and community-based
27 postsecondary education providers, and the institutions, with the
28 goal of ensuring that roles and responsibilities are clearly defined,
29 including the roles and responsibilities of each entity in relation
30 to ensuring incarcerated individual access to, and accommodations in,
31 educational programming; and

32 (g) A review of the partnerships with nonprofit and community-
33 based postsecondary education organizations at state correctional
34 facilities that provide accredited certificate and degree-granting
35 programs and those that provide reentry services in support of
36 educational programs and goals, including a list of the programs and
37 services offered and recommendations to improve program delivery and
38 access.

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

4 **Sec. 9.** RCW 28B.15.067 and 2020 c 114 s 4 are each amended to
5 read as follows:

6 (1) Tuition fees shall be established under the provisions of
7 this chapter.

8 (2) Tuition operating fees for resident undergraduates at
9 institutions of higher education as defined in RCW 28B.10.016,
10 excluding applied baccalaureate degrees as defined in RCW 28B.50.030,
11 may increase by no more than the average annual percentage growth
12 rate in the median hourly wage for Washington for the previous
13 fourteen years as the wage is determined by the federal bureau of
14 labor statistics.

15 (3) The governing boards of the state universities, regional
16 universities, and The Evergreen State College; and the state board
17 for community and technical colleges may reduce or increase full-time
18 tuition fees for all students other than resident undergraduates,
19 including nonresident students, summer school students, and students
20 in other self-supporting degree programs. Percentage increases in
21 full-time tuition may exceed the fiscal growth factor. Except during
22 the 2013-2015 fiscal biennium, the state board for community and
23 technical colleges may pilot or institute differential tuition
24 models. The board may define scale, scope, and rationale for the
25 models.

26 (4) The tuition fees established under this chapter shall not
27 apply to high school students enrolling in participating institutions
28 of higher education under RCW 28A.600.300 through 28A.600.400.

29 (5) (a) The tuition fees established under this chapter shall not
30 apply to eligible students enrolling in a dropout reengagement
31 program through an interlocal agreement between a school district and
32 a community or technical college under RCW 28A.175.100 through
33 28A.175.110.

34 (b) The tuition fees established under this chapter shall not
35 apply to students incarcerated with the department of corrections who
36 are participating in credit-eligible postsecondary education courses
37 and degree programs when the program expenses are funded by
38 nontuition resources such as, but not limited to, grants, contracts,
39 and donations.

1 (6) As a result of any changes in tuition under section 3,
2 chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the
3 state universities, the regional universities, and The Evergreen
4 State College shall not reduce resident undergraduate enrollment
5 below the 2014-15 academic year levels.

6 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
7 this act, referencing this act by bill or chapter number, is not
8 provided by June 30, 2021, in the omnibus appropriations act, this
9 act is null and void.

Passed by the House April 14, 2021.
Passed by the Senate April 9, 2021.
Approved by the Governor May 10, 2021.
Filed in Office of Secretary of State May 10, 2021.

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