

CERTIFICATION OF ENROLLMENT

SENATE BILL 5694

Chapter 254, Laws of 2022

67th Legislature
2022 Regular Session

DEPARTMENT OF CORRECTIONS—AGREEMENTS WITH INDIAN TRIBES

EFFECTIVE DATE: June 9, 2022

Passed by the Senate February 2, 2022
Yeas 47 Nays 0

DENNY HECK

President of the Senate

Passed by the House March 1, 2022
Yeas 95 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved March 31, 2022 12:35 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5694** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

April 1, 2022

**Secretary of State
State of Washington**

SENATE BILL 5694

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By Senators Stanford, Robinson, and C. Wilson

Prefiled 01/06/22. Read first time 01/10/22. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to recognizing Indian tribes as among the
2 governmental entities with which the department of corrections may
3 enter into agreements on matters to include the housing of inmates
4 convicted in tribal court; amending RCW 72.09.015, 72.09.050,
5 72.68.080, 72.68.090, and 72.68.100; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that many
8 federally recognized Indian tribes in Washington exercise felony
9 criminal jurisdiction, yet none operate or have access to a prison
10 facility. Tribal defendants sentenced to greater than one year in
11 custody must serve their time in local jail facilities ill-equipped
12 to house inmates for long sentences. This act will authorize the
13 Washington state department of corrections to negotiate agreements
14 with Indian tribes that will provide a public safety benefit to all
15 residents of Washington by allowing tribal court inmates to serve
16 their felony sentences in an appropriate facility with access to
17 rehabilitative services.

18 **Sec. 2.** RCW 72.09.015 and 2020 c 319 s 2 are each amended to
19 read as follows:

20 The definitions in this section apply throughout this chapter.

1 (1) "Adult basic education" means education or instruction
2 designed to achieve general competence of skills in reading, writing,
3 and oral communication, including English as a second language and
4 preparation and testing services for obtaining a high school diploma
5 or a high school equivalency certificate as provided in RCW
6 28B.50.536.

7 (2) "Base level of correctional services" means the minimum level
8 of field services the department of corrections is required by
9 statute to provide for the supervision and monitoring of offenders.

10 (3) "Civil judgment for assault" means a civil judgment for
11 monetary damages awarded to a correctional officer or department
12 employee entered by a court of competent jurisdiction against an
13 inmate that is based on, or arises from, injury to the correctional
14 officer or department employee caused by the inmate while the
15 correctional officer or department employee was acting in the course
16 and scope of his or her employment.

17 (4) "Community custody" has the same meaning as that provided in
18 RCW 9.94A.030 and also includes community placement and community
19 supervision as defined in RCW 9.94B.020.

20 (5) "Contraband" means any object or communication the secretary
21 determines shall not be allowed to be: (a) Brought into; (b)
22 possessed while on the grounds of; or (c) sent from any institution
23 under the control of the secretary.

24 (6) "Correctional facility" means a facility or institution
25 operated directly or by contract by the secretary for the purposes of
26 incarcerating adults in total or partial confinement, as defined in
27 RCW 9.94A.030.

28 (7) "County" means a county or combination of counties.

29 (8) "Department" means the department of corrections.

30 (9) "Earned early release" means earned release as authorized by
31 RCW 9.94A.729.

32 (10) "Evidence-based" means a program or practice that has had
33 multiple-site random controlled trials across heterogeneous
34 populations demonstrating that the program or practice is effective
35 in reducing recidivism for the population.

36 (11) "Extended family visit" means an authorized visit between an
37 inmate and a member of his or her immediate family that occurs in a
38 private visiting unit located at the correctional facility where the
39 inmate is confined.

1 (12) "Good conduct" means compliance with department rules and
2 policies.

3 (13) "Good performance" means successful completion of a program
4 required by the department, including an education, work, or other
5 program.

6 (14) "Immediate family" means the inmate's children,
7 stepchildren, grandchildren, great grandchildren, parents,
8 stepparents, grandparents, great grandparents, siblings, aunts,
9 uncles, and a person legally married to or in a state registered
10 domestic partnership with an inmate. "Immediate family" includes the
11 immediate family of an inmate who was adopted as a child or an adult,
12 but does not include an inmate adopted by another inmate.

13 (15) "Indigent inmate," "indigent," and "indigency" mean an
14 inmate who has less than a (~~twenty-five dollar~~) \$25 balance of
15 disposable income in his or her institutional account on the day a
16 request is made to utilize funds and during the (~~thirty~~) 30 days
17 previous to the request.

18 (16) "Individual reentry plan" means the plan to prepare an
19 offender for release into the community. It should be developed
20 collaboratively between the department and the offender and based on
21 an assessment of the offender using a standardized and comprehensive
22 tool to identify the offender's risks and needs. The individual
23 reentry plan describes actions that should occur to prepare
24 individual offenders for release from prison or jail, specifies the
25 supervision and services they will experience in the community, and
26 describes an offender's eventual discharge to aftercare upon
27 successful completion of supervision. An individual reentry plan is
28 updated throughout the period of an offender's incarceration and
29 supervision to be relevant to the offender's current needs and risks.

30 (17) "Inmate" means a person committed to the custody of the
31 department, including but not limited to persons residing in a
32 correctional institution or facility and persons released from such
33 facility on furlough, work release, or community custody, and persons
34 received from another state, state agency, county, federally
35 recognized tribe, or federal jurisdiction.

36 (18) "Labor" means the period of time before a birth during which
37 contractions are of sufficient frequency, intensity, and duration to
38 bring about effacement and progressive dilation of the cervix.

39 (19) "Physical restraint" means the use of any bodily force or
40 physical intervention to control an offender or limit an offender's

1 freedom of movement in a way that does not involve a mechanical
2 restraint. Physical restraint does not include momentary periods of
3 minimal physical restriction by direct person-to-person contact,
4 without the aid of mechanical restraint, accomplished with limited
5 force and designed to:

6 (a) Prevent an offender from completing an act that would result
7 in potential bodily harm to self or others or damage property;

8 (b) Remove a disruptive offender who is unwilling to leave the
9 area voluntarily; or

10 (c) Guide an offender from one location to another.

11 (20) "Postpartum recovery" means (a) the entire period a woman or
12 youth is in the hospital, birthing center, or clinic after giving
13 birth and (b) an additional time period, if any, a treating physician
14 determines is necessary for healing after the woman or youth leaves
15 the hospital, birthing center, or clinic.

16 (21) "Privilege" means any goods or services, education or work
17 programs, or earned early release days, the receipt of which are
18 directly linked to an inmate's (a) good conduct; and (b) good
19 performance. Privileges do not include any goods or services the
20 department is required to provide under the state or federal
21 Constitution or under state or federal law.

22 (22) "Promising practice" means a practice that presents, based
23 on preliminary information, potential for becoming a research-based
24 or consensus-based practice.

25 (23) "Research-based" means a program or practice that has some
26 research demonstrating effectiveness, but that does not yet meet the
27 standard of evidence-based practices.

28 (24) "Restraints" means anything used to control the movement of
29 a person's body or limbs and includes:

30 (a) Physical restraint; or

31 (b) Mechanical device including but not limited to: Metal
32 handcuffs, plastic ties, ankle restraints, leather cuffs, other
33 hospital-type restraints, tasers, or batons.

34 (25) "Secretary" means the secretary of corrections or his or her
35 designee.

36 (26) "Significant expansion" includes any expansion into a new
37 product line or service to the class I business that results from an
38 increase in benefits provided by the department, including a decrease
39 in labor costs, rent, or utility rates (for water, sewer,

1 electricity, and disposal), an increase in work program space, tax
2 advantages, or other overhead costs.

3 (27) "Superintendent" means the superintendent of a correctional
4 facility under the jurisdiction of the Washington state department of
5 corrections, or his or her designee.

6 (28) "Transportation" means the conveying, by any means, of an
7 incarcerated pregnant woman or youth from the correctional facility
8 to another location from the moment she leaves the correctional
9 facility to the time of arrival at the other location, and includes
10 the escorting of the pregnant incarcerated woman or youth from the
11 correctional facility to a transport vehicle and from the vehicle to
12 the other location.

13 (29) "Unfair competition" means any net competitive advantage
14 that a business may acquire as a result of a correctional industries
15 contract, including labor costs, rent, tax advantages, utility rates
16 (water, sewer, electricity, and disposal), and other overhead costs.
17 To determine net competitive advantage, the department of corrections
18 shall review and quantify any expenses unique to operating a for-
19 profit business inside a prison.

20 (30) "Vocational training" or "vocational education" means
21 "vocational education" as defined in RCW 72.62.020.

22 (31) "Washington business" means an in-state manufacturer or
23 service provider subject to chapter 82.04 RCW existing on June 10,
24 2004.

25 (32) "Work programs" means all classes of correctional industries
26 jobs authorized under RCW 72.09.100.

27 **Sec. 3.** RCW 72.09.050 and 2020 c 318 s 5 are each amended to
28 read as follows:

29 The secretary shall manage the department of corrections and
30 shall be responsible for the administration of adult correctional
31 programs, including but not limited to the operation of all state
32 correctional institutions or facilities used for the confinement of
33 convicted felons. In addition, the secretary shall have broad powers
34 to enter into agreements with any federal agency, any federally
35 recognized tribe, or any other state, or any Washington state agency
36 or local government providing for the operation of any correctional
37 facility or program for persons convicted of felonies or misdemeanors
38 or for juvenile offenders. Such agreements for counties with local
39 law and justice councils shall be required in the local law and

1 justice plan pursuant to RCW 72.09.300. The agreements may provide
2 for joint operation or operation by the department of corrections,
3 alone, for by any of the other governmental entities, alone. The
4 secretary may employ persons to aid in performing the functions and
5 duties of the department. The secretary may delegate any of his or
6 her functions or duties to department employees, including the
7 authority to certify and maintain custody of records and documents on
8 file with the department. The secretary is authorized to promulgate
9 standards for the department of corrections within appropriation
10 levels authorized by the legislature.

11 Pursuant to the authority granted in chapter 34.05 RCW, the
12 secretary shall adopt rules providing for inmate restitution when
13 restitution is determined appropriate as a result of a disciplinary
14 action.

15 **Sec. 4.** RCW 72.68.080 and 1983 c 255 s 11 are each amended to
16 read as follows:

17 All persons sentenced to prison by the authority of the United
18 States or of any state or territory of the United States or federally
19 recognized tribe may be received by the department and imprisoned in
20 a state correctional institution as defined in RCW 72.65.010 in
21 accordance with the sentence of the court by which they were tried.
22 The prisoners so confined shall be subject in all respects to
23 discipline and treatment as though committed under the laws of this
24 state.

25 **Sec. 5.** RCW 72.68.090 and 1979 c 141 s 288 are each amended to
26 read as follows:

27 The secretary is authorized to enter into contracts with the
28 proper officers or agencies of the United States, federally
29 recognized tribes, and of other states and territories of the United
30 States relative to the per diem rate to be paid the state of
31 Washington for the conditions of the keep of each prisoner.

32 **Sec. 6.** RCW 72.68.100 and 1992 c 7 s 58 are each amended to read
33 as follows:

34 The secretary shall not enter into any contract for the care or
35 commitment of any prisoner of the federal government, any federally
36 recognized tribe, or any other state unless there is vacant space and
37 unused facilities in state correctional facilities.

Passed by the Senate February 2, 2022.
Passed by the House March 1, 2022.
Approved by the Governor March 31, 2022.
Filed in Office of Secretary of State April 1, 2022.

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