

SENATE BILL REPORT

SB 5953

As Reported by Senate Committee On:
Human Services, January 25, 2024

Title: An act relating to financial aid grants for incarcerated students.

Brief Description: Concerning financial aid grants for incarcerated students.

Sponsors: Senators Wilson, C., Frame, Hasegawa, Kuderer, Lovelett, Nguyen, Nobles, Salomon, Trudeau and Valdez.

Brief History:

Committee Activity: Human Services: 1/23/24, 1/25/24 [DPS-WM, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Allows incarcerated individuals to apply for and utilize federal and state financial aid grants for postsecondary education programs at the Department of Corrections.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5953 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame and Nguyen.

Minority Report: Do not pass.

Signed by Senator Wilson, J..

Minority Report: That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; Warnick.

Staff: Kelsey-anne Fung (786-7479)

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.

Background: Postsecondary Education Programs in State Correctional Facilities. According to the Department of Corrections (DOC), every correctional facility offers adult basic education programs which provide a foundation education in reading, writing, math, and English language acquisition. Facilities also offer pre-college preparation courses, trade pre-apprenticeship programs, vocational certificates, and two-year associate degrees and four-year bachelor degrees. DOC contracts with the State Board of Community and Technical Colleges (SBCTC) to operate correctional education programs in state correctional facilities.

DOC selects incarcerated individuals to participate in its postsecondary education program based on priority criteria determined by DOC. Priority should be given to incarcerated individuals who:

- do not already possess a postsecondary education degree; and
- have a reentry plan that includes participation in a postsecondary degree or certificate program that is offered at the individual's correctional facility, approved by DOC as eligible and effective, and limited to a postsecondary degree or certificate program.

DOC must, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for incarcerated individuals in the following order:

- one—achievement of a high school diploma or high school equivalency certificate;
- two—achievement of vocational skills necessary for work programs or to qualify for work upon release,
- three—additional work and education programs necessary for compliance with an incarcerated individual's reentry plan, including special education services and postsecondary degree and certificate education programs; and
- four—other appropriate vocational, work, or education programs that are not necessary for compliance with an incarcerated individual's reentry plan, including postsecondary degree or certificate programs.

If programming is provided for one, two, or three, DOC pays for the cost of educational programming, including books, materials, and supplies.

If programming is provided for goal four, the incarcerated individual is responsible for paying all or part of the costs, including books, fees, and tuition, based on a formula that correlates to the individual's average monthly income or available savings and a prorated portion or percent of the per credit fee. A third party, including nonprofit entities or community-based postsecondary education programs, may pay for costs and tuition on the incarcerated individual's behalf.

Incarcerated individuals who do not meet the priority criteria for DOC's postsecondary degree education program must pay for the costs to participate, including books, fees, or tuition, or a third party can provide payments to DOC on the individual's behalf.

Federal Pell Grants for Incarcerated Students. Under Title IV of the federal Higher

Education Act of 1965, incarcerated individuals were eligible to receive a Pell Grant to pay for college courses. The Violent Crime Control and Law Enforcement Act of 1994 banned incarcerated individuals from receiving federal Pell aid.

The Second Chance Pell experiment began in 2015 as a pilot program that allowed incarcerated students to access Pell Grants in their postsecondary education programs. DOC has three active Second Chance Pell Grant Experimental Sites: Cedar Creek Corrections Center and Washington Corrections Center through Centralia College, and Coyote Ridge Corrections Center through Walla Walla Community College.

Congress restored eligibility in 2020 for Pell Grants for incarcerated individuals enrolled in qualifying prison education programs effective July 1, 2023. Prison education programs must be offered by an eligible public or private nonprofit institution of higher education that is approved by the state corrections department to operate in the correctional facility.

Pell Eligibility. Pell Grants are a form of need-based federal student aid that generally does not need to be repaid. Pell Grants are usually only awarded to undergraduate students who display exceptional financial need and have not earned a bachelor's, graduate, or professional degree. A person can receive Pell aid for no more than 12 terms or the equivalent. Award amounts vary based on expected family contribution, cost of attendance, full-time or part-time status, and plans to attend for a full academic year or less. A person must complete the Free Application for Federal Student Aid (FAFSA) to determine their eligibility for a Pell Grant, and there is a separate FAFSA form for incarcerated applicants.

Washington College Grant. The Washington College Grant (WA Grant) provides need-based financial aid to income-eligible resident students pursuing education beyond high school. Award amounts vary based on income, family size, and the school or program attended. The WA Grant is available to Washington residents, including undocumented individuals, recent high school graduates or working-age adults, low-to-middle-income families and individuals, and people who plan to attend an approved certificate program, job training, apprenticeship, or public and private colleges. Individuals who do not file a FAFSA can file a Washington Application for State Financial Aid (WASFA) to apply for only state financial aid.

Legislation from 2021, which expanded DOC's authority to offer postsecondary education certificate or degree programs up to a bachelor's degree, also required DOC to work with SBCTC to develop a plan to assist individuals selected to participate in postsecondary degree or certificate programs with filing a FAFSA or WASFA.

Gift Aid. Gift aid means financial aid received from the federal Pell Grant, the WA Grant, the College Bound Scholarship, the Opportunity Grant, or any other state grant, scholarship, or worker retraining program that provides funds for educational purposes with no obligation of repayment. Gift aid does not include student loans, work-study programs, the basic food employment and training program administered by the Department of Social and

Health Services, or other employment assistance programs that provide job readiness opportunities and support beyond the costs of tuition, books, and fees.

Summary of Bill (First Substitute): For programming provided to meet goals one, two, or three that is financial aid eligible, DOC may require the individual to apply for any federal and state financial aid grants available to the individual as a condition of participation in such programming. The individual may elect to use available financial aid grants, self-pay, or any other available third-party funding, or use a combination of these methods to cover the cost of attendance. If an individual elects to self-pay or utilize third-party funding, the individual is not subject to the postaward formula. If the costs of attendance exceeds any financial aid grant award that may be available to the individual, or the person is not eligible for federal or state financial aid grants, DOC must pay the cost of attendance not covered by third-party funding. All regulations and requirements from the U.S. Department of Education for federal Pell Grants for prison education programs apply to financial aid eligible postsecondary programming.

For programming provided to meet goals one, two, or three that is not financial aid eligible at the time the individual is enrolled or paid for by DOC or a third party, DOC must pay for the costs of such programming.

For programming provided to meet goal four, the incarcerated individual is responsible for paying all or portion of the costs. An individual may apply for and utilize federal and state financial aid grants available to the individual. If the individual is not eligible for federal financial aid grants, the individual may apply for and utilize state financial aid grants available to the individual. DOC must use a postaward formula for determining how much an incarcerated person must pay for programming after deducting any amount from available financial aid or other sources. Any postaward formula offsets and funds paid for by DOC for educational programming may not reduce any gift aid.

All incarcerated individuals shall receive financial aid and academic advising from an accredited institution of higher education prior to enrollment in a financial aid eligible postsecondary education program. Eligible individuals who choose not to participate or choose to cease participation in a financial aid eligible postsecondary program shall not result in a loss of privileges.

Individuals subject to a detainer are subject to financial responsibility requirements for programming under the postaward formula. Restrictions on participation for individuals sentenced to death are removed.

Incarcerated individuals not meeting DOC's priority criteria for postsecondary degree education programs offered by DOC or its contracted providers must pay for the costs of participation by one or more of the following means:

- for a postsecondary degree education program that is eligible for financial aid, the incarcerated individual may provide the required payments to the school;

- for a postsecondary degree education program that is not eligible for financial aid, the incarcerated individual may provide the required payments to DOC; or
- a third party may provide the required payments to DOC on the incarcerated individual's behalf.

EFFECT OF CHANGES MADE BY HUMAN SERVICES COMMITTEE (First Substitute):

- Removes the requirement that a person utilize any federal or state financial aid as a condition of participation in postsecondary education programming.
- Allows the individual to elect to use available financial aid grants, self-pay, or other available third-party funding, or a combination of these methods.
- Provides that if a person elects to self-pay or use third-party funding, the person is not subject to the postaward formula.
- Allows individuals pursuing programming for goal four to apply for and utilize federal and state financial aid.
- Requires all incarcerated individuals receive financial aid and academic advising before enrolling, and that individuals who choose not to participate or cease participation must not lose privileges.
- Makes technical changes.

Appropriation: None.

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.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Education increases safety for the incarcerated and for staff. It is a valuable incentive that dramatically reduces disruptive behavior and incidents. Access to higher education keeps minds busy and support successful reintegration into the community. The state should take advantage of the new opportunity for Federal Pell Grants and expand access to higher education for the incarcerated. This bill will allow individuals to transition to the community successfully by extending eligibility for Pell Grants to all correctional facilities.

With the federal restoration of Pell, this is an exciting opportunity to expand and enhance educational programming by providing access to state and federal financial aid grants. Current law requires DOC to pay for all costs required for post release employment. Important changes are occurring to create pathways for students who elect to pursue postsecondary education to leverage federal and state financial aid grants. DOC is planning on establishing 27 education pathways in 2025. A financial aid first model would enable

DOC to reinvest and redistribute existing state dollars to expand educational opportunities up to a bachelor's degree, fund cost of attendance for those who do not qualify for financial aid so everyone has access, and increase student supports like student navigation, advising, and technology services. As the Second Chance Pell pilot is being phased out, this bill will allow a broader population to access higher education.

OTHER: There are concerns with mandating the utilization of Pell Grants. It forces students to use an already limited funding source to select from only a handful of programs available to them while incarcerated. Instead of forcing the use of Pell, it should provide an option to use payment options available to them to explore different avenues for financing education. Many states have Pell-first models without requiring the person to tap into Pell lifetime eligibility. By not requiring the use of Pell, the student can better plan for education during and after incarceration. The bill should require DOC reports on educational programming to include enrollment and completion rates for vocational programs.

The goal with the federal government restoring access to Pell Grants was seeing programs expand nationwide. Every student that wants additional education should have it. If there is a mandate to draw down aid, those savings should be passed onto the students themselves for larger access, more inclusive programs, and greater enrollment. DOC must also provide assistance with the logistics of filling out a FAFSA.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Kelley Messinger, Consultant Reentry Division Department of Corrections; Danielle Armbruster, Washington State Department of Corrections; Kristen Morgan, Washington State Department of Corrections; Becky Thompson, Washington Student Achievement Council.

OTHER: Hanan Al-Zubaidy, SBCTC; Brooke Davies, Justice Action Network; Bryce McKibben, The Hope Center at Temple University.

Persons Signed In To Testify But Not Testifying: No one.