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**HOUSE BILL 1024**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Simmons, Reed, Berry, Ryu, Goodman, Bateman, Ramel, Peterson, Street, Doglio, Macri, Reeves, Wylie, Alvarado, Thai, Santos, Ormsby, and Fosse

Prefiled 12/09/22. Read first time 01/09/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to labor and income of incarcerated persons;  
2 amending RCW 10.01.160, 72.09.015, 72.09.100, 72.09.110, 72.09.111,  
3 72.09.130, 72.09.460, and 72.09.480; reenacting and amending RCW  
4 9.94A.760; adding a new section to chapter 72.09 RCW; creating new  
5 sections; repealing RCW 72.09.400 and 72.09.410; and providing an  
6 effective date.

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

8 NEW SECTION. **Sec. 1.** This act may be known and cited as the  
9 real labor real wages act.

10 **Sec. 2.** RCW 9.94A.760 and 2022 c 260 s 4 and 2022 c 29 s 4 are  
11 each reenacted and amended to read as follows:

12 (1) Whenever a person is convicted in superior court, the court  
13 may order the payment of a legal financial obligation as part of the  
14 sentence. The court may not order an offender to pay costs as  
15 described in RCW 10.01.160 if the court finds that the offender at  
16 the time of sentencing is indigent as defined in RCW 10.01.160(3). An  
17 offender being indigent as defined in RCW 10.01.160(3) is not grounds  
18 for failing to impose restitution or the crime victim penalty  
19 assessment under RCW 7.68.035. The court must on either the judgment  
20 and sentence or on a subsequent order to pay, designate the total

1 amount of a legal financial obligation and segregate this amount  
2 among the separate assessments made for restitution, costs, fines,  
3 and other assessments required by law. On the same order, the court  
4 is also to set a sum that the offender is required to pay on a  
5 monthly basis towards satisfying the legal financial obligation. If  
6 the court fails to set the offender monthly payment amount, the  
7 department shall set the amount if the department has active  
8 supervision of the offender, otherwise the county clerk shall set the  
9 amount.

10 (2) Upon receipt of each payment made by or on behalf of an  
11 offender, the county clerk shall distribute the payment in the  
12 following order of priority until satisfied:

13 (a) First, proportionally to restitution to victims that have not  
14 been fully compensated from other sources;

15 (b) Second, proportionally to restitution to insurance or other  
16 sources with respect to a loss that has provided compensation to  
17 victims;

18 (c) Third, proportionally to crime victims' assessments; and

19 (d) Fourth, proportionally to costs, fines, and other assessments  
20 required by law.

21 ~~(3) ((If the court determines that the offender, at the time of  
22 sentencing, has the means to pay for the cost of incarceration, the  
23 court may require the offender to pay for the cost of incarceration.  
24 The court shall not order the offender to pay the cost of  
25 incarceration if the court finds that the offender at the time of  
26 sentencing is indigent as defined in RCW 10.01.160(3). Costs of  
27 incarceration ordered by the court shall not exceed a rate of \$50 per  
28 day of incarceration, if incarcerated in a prison, or the actual cost  
29 of incarceration per day of incarceration, if incarcerated in a  
30 county jail. In no case may the court require the offender to pay  
31 more than \$100 per day for the cost of incarceration. All funds  
32 recovered from offenders for the cost of incarceration in the county  
33 jail shall be remitted to the county and the costs of incarceration  
34 in a prison shall be remitted to the department.~~

35 ~~(4))~~ The court may add to the judgment and sentence or  
36 subsequent order to pay a statement that a notice of payroll  
37 deduction is to be issued immediately. If the court chooses not to  
38 order the immediate issuance of a notice of payroll deduction at  
39 sentencing, the court shall add to the judgment and sentence or  
40 subsequent order to pay a statement that a notice of payroll

1 deduction may be issued or other income-withholding action may be  
2 taken, without further notice to the offender if a monthly court-  
3 ordered legal financial obligation payment is not paid when due, and  
4 an amount equal to or greater than the amount payable for one month  
5 is owed.

6 If a judgment and sentence or subsequent order to pay does not  
7 include the statement that a notice of payroll deduction may be  
8 issued or other income-withholding action may be taken if a monthly  
9 legal financial obligation payment is past due, the department or the  
10 county clerk may serve a notice on the offender stating such  
11 requirements and authorizations. Service shall be by personal service  
12 or any form of mail requiring a return receipt.

13 ~~((5))~~ (4)(a) Independent of the department or the county clerk,  
14 the party or entity to whom the legal financial obligation is owed  
15 shall have the authority to use any other remedies available to the  
16 party or entity to collect the legal financial obligation. These  
17 remedies include enforcement in the same manner as a judgment in a  
18 civil action by the party or entity to whom the legal financial  
19 obligation is owed. Restitution collected through civil enforcement  
20 must be paid through the registry of the court and must be  
21 distributed proportionately according to each victim's loss when  
22 there is more than one victim. The judgment and sentence shall  
23 identify the party or entity to whom restitution is owed so that the  
24 state, party, or entity may enforce the judgment.

25 (b) If restitution is ordered pursuant to RCW 9.94A.750(6) or  
26 9.94A.753(6) to a victim of rape of a child or a victim's child born  
27 from the rape, the Washington state child support registry shall be  
28 identified as the party to whom payments must be made. Restitution  
29 obligations arising from the rape of a child in the first, second, or  
30 third degree that result in the pregnancy of the victim may be  
31 enforced for the time periods provided under RCW 9.94A.750(6) and  
32 9.94A.753(6).

33 (c) All other restitution obligations for an offense committed  
34 prior to July 1, 2000, may be enforced at any time during the 10-year  
35 period following the offender's release from total confinement or  
36 within 10 years of entry of the judgment and sentence, whichever  
37 period ends later. Prior to the expiration of the initial 10-year  
38 period, the superior court may extend the criminal judgment an  
39 additional 10 years for payment of restitution obligations. All other  
40 restitution obligations for an offense committed on or after July 1,

1 2000, may be enforced at any time the offender remains under the  
2 court's jurisdiction. For an offense committed on or after July 1,  
3 2000, the court shall retain jurisdiction over the offender, for  
4 purposes of the offender's compliance with payment of the restitution  
5 obligations, until the obligation is completely satisfied, regardless  
6 of the statutory maximum for the crime.

7 (d) All other legal financial obligations other than restitution  
8 may be enforced at any time during the 10-year period following the  
9 offender's release from total confinement or within 10 years of entry  
10 of the judgment and sentence, whichever period ends later. Prior to  
11 the expiration of the initial 10-year period, the superior court may  
12 extend the criminal judgment an additional 10 years for payment of  
13 nonrestitution legal financial obligations only if the court finds  
14 that the offender has the current or likely future ability to pay the  
15 obligations. A person does not have the current ability to pay if the  
16 person is indigent as defined in RCW 10.01.160(3).

17 (e) The department may only supervise the offender's compliance  
18 with payment of the legal financial obligations during any period in  
19 which the department is authorized to supervise the offender in the  
20 community under RCW 9.94A.728, 9.94A.501, or in which the offender is  
21 confined in a state correctional institution or a correctional  
22 facility pursuant to a transfer agreement with the department, and  
23 the department shall supervise the offender's compliance during any  
24 such period. The department is not responsible for supervision of the  
25 offender during any subsequent period of time the offender remains  
26 under the court's jurisdiction. The county clerk is authorized to  
27 collect unpaid legal financial obligations at any time the offender  
28 remains under the jurisdiction of the court for purposes of his or  
29 her legal financial obligations.

30 (~~(+6)~~) (5) In order to assist the court in setting a monthly sum  
31 that the offender must pay during the period of supervision, the  
32 offender is required to report to the department for purposes of  
33 preparing a recommendation to the court. When reporting, the offender  
34 is required, under oath, to respond truthfully and honestly to all  
35 questions concerning present, past, and future earning capabilities  
36 and the location and nature of all property or financial assets. The  
37 offender is further required to bring all documents requested by the  
38 department.

39 (~~(+7)~~) (6) After completing the investigation, the department  
40 shall make a report to the court on the amount of the monthly payment

1 that the offender should be required to make towards a satisfied  
2 legal financial obligation.

3 ~~((+8))~~ (7)(a) During the period of supervision, the department  
4 may make a recommendation to the court that the offender's monthly  
5 payment schedule be modified so as to reflect a change in financial  
6 circumstances. If the department sets the monthly payment amount, the  
7 department may modify the monthly payment amount without the matter  
8 being returned to the court. During the period of supervision, the  
9 department may require the offender to report to the department for  
10 the purposes of reviewing the appropriateness of the collection  
11 schedule for the legal financial obligation. During this reporting,  
12 the offender is required under oath to respond truthfully and  
13 honestly to all questions concerning earning capabilities and the  
14 location and nature of all property or financial assets. The offender  
15 shall bring all documents requested by the department in order to  
16 prepare the collection schedule.

17 (b) Subsequent to any period of supervision, or if the department  
18 is not authorized to supervise the offender in the community, the  
19 county clerk may make a recommendation to the court that the  
20 offender's monthly payment schedule be modified so as to reflect a  
21 change in financial circumstances. If the county clerk sets the  
22 monthly payment amount, or if the department set the monthly payment  
23 amount and the department has subsequently turned the collection of  
24 the legal financial obligation over to the county clerk, the clerk  
25 may modify the monthly payment amount without the matter being  
26 returned to the court. During the period of repayment, the county  
27 clerk may require the offender to report to the clerk for the purpose  
28 of reviewing the appropriateness of the collection schedule for the  
29 legal financial obligation. During this reporting, the offender is  
30 required under oath to respond truthfully and honestly to all  
31 questions concerning earning capabilities and the location and nature  
32 of all property or financial assets. The offender shall bring all  
33 documents requested by the county clerk in order to prepare the  
34 collection schedule.

35 ~~((+9))~~ (8) After the judgment and sentence or payment order is  
36 entered, the department is authorized, for any period of supervision,  
37 to collect the legal financial obligation from the offender.  
38 Subsequent to any period of supervision or, if the department is not  
39 authorized to supervise the offender in the community, the county  
40 clerk is authorized to collect unpaid legal financial obligations

1 from the offender. Any amount collected by the department shall be  
2 remitted daily to the county clerk for the purpose of disbursements.  
3 The department and the county clerks are authorized, but not  
4 required, to accept credit cards as payment for a legal financial  
5 obligation, and any costs incurred related to accepting credit card  
6 payments shall be the responsibility of the offender.

7 ~~((10))~~ (9) The department or any obligee of the legal financial  
8 obligation may seek a mandatory wage assignment for the purposes of  
9 obtaining satisfaction for the legal financial obligation pursuant to  
10 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify  
11 the county clerk. The county clerks shall notify the department, or  
12 the administrative office of the courts, whichever is providing the  
13 monthly billing for the offender.

14 ~~((11))~~ (10) The requirement that the offender pay a monthly sum  
15 towards a legal financial obligation constitutes a condition or  
16 requirement of a sentence and the offender is subject to the  
17 penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737,  
18 or 9.94A.740. If the court determines that the offender is homeless  
19 or a person who is mentally ill, as defined in RCW 71.24.025, failure  
20 to pay a legal financial obligation is not willful noncompliance and  
21 shall not subject the offender to penalties.

22 ~~((12))~~ (11)(a) The administrative office of the courts shall  
23 mail individualized periodic billings to the address known by the  
24 office for each offender with an unsatisfied legal financial  
25 obligation.

26 (b) The billing shall direct payments to the county clerk.

27 (c) The county clerk shall provide the administrative office of  
28 the courts with notice of payments by such offenders no less  
29 frequently than weekly.

30 (d) The county clerks, the administrative office of the courts,  
31 and the department shall maintain agreements to implement this  
32 subsection.

33 ~~((13))~~ (12) The department shall arrange for the collection of  
34 unpaid legal financial obligations during any period of supervision  
35 in the community through the county clerk. The department shall  
36 either collect unpaid legal financial obligations or arrange for  
37 collections through another entity if the clerk does not assume  
38 responsibility or is unable to continue to assume responsibility for  
39 collection pursuant to subsection ~~((5))~~ (4) of this section. The  
40 costs for collection services shall be paid by the offender.

1        ~~((14))~~ (13) The county clerk may access the records of the  
2 employment security department for the purposes of verifying  
3 employment or income, seeking any assignment of wages, or performing  
4 other duties necessary to the collection of an offender's legal  
5 financial obligations.

6        ~~((15))~~ (14) Nothing in this chapter makes the department, the  
7 state, the counties, or any state or county employees, agents, or  
8 other persons acting on their behalf liable under any circumstances  
9 for the payment of these legal financial obligations or for the acts  
10 of any offender who is no longer, or was not, subject to supervision  
11 by the department for a term of community custody, and who remains  
12 under the jurisdiction of the court for payment of legal financial  
13 obligations.

14        **Sec. 3.** RCW 10.01.160 and 2022 c 260 s 9 are each amended to  
15 read as follows:

16        (1) Except as provided in subsection (3) of this section, the  
17 court may require a defendant to pay costs. Costs may be imposed only  
18 upon a convicted defendant, except for costs imposed upon a  
19 defendant's entry into a deferred prosecution program, costs imposed  
20 upon a defendant for pretrial supervision, or costs imposed upon a  
21 defendant for preparing and serving a warrant for failure to appear.

22        (2) Costs shall be limited to expenses specially incurred by the  
23 state in prosecuting the defendant or in administering the deferred  
24 prosecution program under chapter 10.05 RCW or pretrial supervision.  
25 They cannot include expenses inherent in providing a constitutionally  
26 guaranteed jury trial or expenditures in connection with the  
27 maintenance and operation of government agencies that must be made by  
28 the public irrespective of specific violations of law. Expenses  
29 incurred for serving of warrants for failure to appear and jury fees  
30 under RCW 10.46.190 may be included in costs the court may require a  
31 defendant to pay. Costs for administering a deferred prosecution may  
32 not exceed \$250. Costs for administering a pretrial supervision other  
33 than a pretrial electronic alcohol monitoring program, drug  
34 monitoring program, or 24/7 sobriety program may not exceed \$150.  
35 Costs for preparing and serving a warrant for failure to appear may  
36 not exceed \$100. ~~((Costs of incarceration imposed on a defendant  
37 convicted of a misdemeanor or a gross misdemeanor may not exceed the  
38 actual cost of incarceration. In no case may the court require the  
39 offender to pay more than \$100 per day for the cost of incarceration.~~

1 ~~Payment of other court-ordered financial obligations, including all~~  
2 ~~legal financial obligations and costs of supervision take precedence~~  
3 ~~over the payment of the cost of incarceration ordered by the court.~~  
4 ~~All funds received from defendants for the cost of incarceration in~~  
5 ~~the county or city jail must be remitted for criminal justice~~  
6 ~~purposes to the county or city that is responsible for the~~  
7 ~~defendant's jail costs.)~~ Costs imposed constitute a judgment against  
8 a defendant and survive a dismissal of the underlying action against  
9 the defendant. However, if the defendant is acquitted on the  
10 underlying action, the costs for preparing and serving a warrant for  
11 failure to appear do not survive the acquittal, and the judgment that  
12 such costs would otherwise constitute shall be vacated.

13 (3) (a) In no case may the court require a person to pay for the  
14 cost of incarceration.

15 (b) The court shall not order a defendant to pay costs if the  
16 defendant at the time of sentencing is indigent. In determining the  
17 amount and method of payment of costs for defendants who are not  
18 indigent, the court shall take account of the financial resources of  
19 the defendant and the nature of the burden that payment of costs will  
20 impose. For the purposes of this section, a defendant is "indigent"  
21 if the defendant: (a) Meets the criteria defined in RCW 10.101.010(3)  
22 (a) through (c); (b) is homeless or mentally ill as defined in RCW  
23 71.24.025; (c) has household income above 125 percent of the federal  
24 poverty guidelines and has recurring basic living costs, as defined  
25 in RCW 10.101.010, that render the defendant without the financial  
26 ability to pay; or (d) has other compelling circumstances that exist  
27 that demonstrate an inability to pay.

28 (4) A defendant who has been ordered to pay costs and who has not  
29 willfully failed to pay the obligation, as described in RCW  
30 9.94A.6333, 9.94B.040, and 10.01.180, may at any time petition the  
31 sentencing court for remission of the payment of costs or of any  
32 unpaid portion thereof. If it appears to the satisfaction of the  
33 court that payment of the amount due will impose manifest hardship on  
34 the defendant or the defendant's immediate family, the court may  
35 remit all or part of the amount due in costs, modify the method of  
36 payment under RCW 10.01.170, or convert the unpaid costs to community  
37 restitution hours, if the jurisdiction operates a community  
38 restitution program, at the rate of no less than the state minimum  
39 wage established in RCW 49.46.020 for each hour of community



1 restitution. Manifest hardship exists where the defendant is indigent  
2 as defined in subsection (3) of this section.

3 (5) Except for direct costs relating to evaluating and reporting  
4 to the court, prosecutor, or defense counsel regarding a defendant's  
5 competency to stand trial as provided in RCW 10.77.060, this section  
6 shall not apply to costs related to medical or mental health  
7 treatment or services a defendant receives while in custody of the  
8 secretary of the department of social and health services or other  
9 governmental units. This section shall not prevent the secretary of  
10 the department of social and health services or other governmental  
11 units from imposing liability and seeking reimbursement from a  
12 defendant committed to an appropriate facility as provided in RCW  
13 10.77.084 while criminal proceedings are stayed. This section shall  
14 also not prevent governmental units from imposing liability on  
15 defendants for costs related to providing medical or mental health  
16 treatment while the defendant is in the governmental unit's custody.  
17 Medical or mental health treatment and services a defendant receives  
18 at a state hospital or other facility are not a cost of prosecution  
19 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter  
20 43.20B RCW, and any other applicable statute.

21 **Sec. 4.** RCW 72.09.015 and 2022 c 254 s 2 are each amended to  
22 read as follows:

23 The definitions in this section apply throughout this chapter.

24 (1) "Adult basic education" means education or instruction  
25 designed to achieve general competence of skills in reading, writing,  
26 and oral communication, including English as a second language and  
27 preparation and testing services for obtaining a high school diploma  
28 or a high school equivalency certificate as provided in RCW  
29 28B.50.536.

30 (2) "Base level of correctional services" means the minimum level  
31 of field services the department of corrections is required by  
32 statute to provide for the supervision and monitoring of  
33 (~~offenders~~) incarcerated persons.

34 (3) "Civil judgment for assault" means a civil judgment for  
35 monetary damages awarded to a correctional officer or department  
36 employee entered by a court of competent jurisdiction against an  
37 (~~inmate~~) incarcerated person that is based on, or arises from,  
38 injury to the correctional officer or department employee caused by  
39 the (~~inmate~~) incarcerated person while the correctional officer or

1 department employee was acting in the course and scope of his or her  
2 employment.

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

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

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

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

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

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

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

22 (11) "Extended family visit" means an authorized visit between an  
23 ((inmate)) incarcerated person and a member of his or her immediate  
24 family that occurs in a private visiting unit located at the  
25 correctional facility where the ((inmate)) incarcerated person is  
26 confined.

27 (12) "Good conduct" means compliance with department rules and  
28 policies.

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

32 (14) "Immediate family" means the ((inmate's)) incarcerated  
33 person's children, stepchildren, grandchildren, great grandchildren,  
34 parents, stepparents, grandparents, great grandparents, siblings,  
35 aunts, uncles, and a person legally married to or in a state  
36 registered domestic partnership with an ((inmate)) incarcerated  
37 person. "Immediate family" includes the immediate family of an  
38 ((inmate)) incarcerated person who was adopted as a child or an  
39 adult, but does not include an ((inmate)) incarcerated person adopted  
40 by another ((inmate)) incarcerated person.

1 (15) "Indigent inmate," "indigent incarcerated person,"  
2 "indigent," and "indigency" mean an (~~inmate~~) incarcerated person  
3 who has less than a \$25 balance of disposable income in his or her  
4 institutional account on the day a request is made to utilize funds  
5 and during the 30 days previous to the request.

6 (16) "Individual reentry plan" means the plan to prepare an  
7 (~~offender~~) incarcerated person for release into the community. It  
8 should be developed collaboratively between the department and the  
9 (~~offender~~) person and based on an assessment of the (~~offender~~)  
10 person using a standardized and comprehensive tool to identify the  
11 (~~offender's~~) person's risks and needs. The individual reentry plan  
12 describes actions that should occur to prepare individual  
13 (~~offenders~~) incarcerated persons for release from prison or jail,  
14 specifies the supervision and services they will experience in the  
15 community, and describes (~~an offender's~~) a person's eventual  
16 discharge to aftercare upon successful completion of supervision. An  
17 individual reentry plan is updated throughout the period of (~~an~~  
18 ~~offender's~~) a person's incarceration and supervision to be relevant  
19 to the (~~offender's~~) person's current needs and risks.

20 (17) "Inmate," (~~means~~) "incarcerated individual," and  
21 "incarcerated person" mean a person committed to the custody of the  
22 department, including but not limited to persons residing in a  
23 correctional institution or facility and persons released from such  
24 facility on furlough, work release, or community custody, and persons  
25 received from another state, state agency, county, federally  
26 recognized tribe, or federal jurisdiction.

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

30 (19) "Physical restraint" means the use of any bodily force or  
31 physical intervention to control an (~~offender~~) incarcerated person  
32 or limit an (~~offender's~~) incarcerated person's freedom of movement  
33 in a way that does not involve a mechanical restraint. Physical  
34 restraint does not include momentary periods of minimal physical  
35 restriction by direct person-to-person contact, without the aid of  
36 mechanical restraint, accomplished with limited force and designed  
37 to:

38 (a) Prevent an (~~offender~~) incarcerated person from completing  
39 an act that would result in potential bodily harm to self or others  
40 or damage property;

1 (b) Remove a disruptive (~~offender~~) incarcerated person who is  
2 unwilling to leave the area voluntarily; or

3 (c) Guide an (~~offender~~) incarcerated person from one location  
4 to another.

5 (20) "Postpartum recovery" means (a) the entire period a woman or  
6 youth is in the hospital, birthing center, or clinic after giving  
7 birth and (b) an additional time period, if any, a treating physician  
8 determines is necessary for healing after the woman or youth leaves  
9 the hospital, birthing center, or clinic.

10 (21) "Privilege" means any goods or services, education or work  
11 programs, or earned early release days, the receipt of which are  
12 directly linked to an (~~inmate's~~) incarcerated person's (a) good  
13 conduct; and (b) good performance. Privileges do not include any  
14 goods or services the department is required to provide under the  
15 state or federal Constitution or under state or federal law.

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

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

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

24 (a) Physical restraint; or

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

28 (25) "Secretary" means the secretary of corrections or his or her  
29 designee.

30 (26) "Significant expansion" includes any expansion into a new  
31 product line or service to the class I business that results from an  
32 increase in benefits provided by the department, including a decrease  
33 in labor costs, rent, or utility rates (for water, sewer,  
34 electricity, and disposal), an increase in work program space, tax  
35 advantages, or other overhead costs.

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

39 (28) "Transportation" means the conveying, by any means, of an  
40 incarcerated pregnant woman or youth from the correctional facility

1 to another location from the moment she leaves the correctional  
2 facility to the time of arrival at the other location, and includes  
3 the escorting of the pregnant incarcerated woman or youth from the  
4 correctional facility to a transport vehicle and from the vehicle to  
5 the other location.

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

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

15 (31) "Washington business" means an in-state manufacturer or  
16 service provider subject to chapter 82.04 RCW existing on June 10,  
17 2004.

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

20 **Sec. 5.** RCW 72.09.100 and 2012 c 220 s 2 are each amended to  
21 read as follows:

22 It is the intent of the legislature to vest in the department the  
23 power to provide for a comprehensive ((inmate)) work program and to  
24 remove statutory and other restrictions which have limited work  
25 programs in the past. It is also the intent of the legislature to  
26 ensure that the department, in developing and selecting correctional  
27 industries work programs, does not encourage the development of, or  
28 provide for selection of or contracting for, or the significant  
29 expansion of, any new or existing class I correctional industries  
30 work programs that unfairly compete with Washington businesses. The  
31 legislature intends that the requirements relating to fair  
32 competition in the correctional industries work programs be liberally  
33 construed by the department to protect Washington businesses from  
34 unfair competition. For purposes of establishing such a comprehensive  
35 program, the legislature recommends that the department consider  
36 adopting any or all, or any variation of, the following classes of  
37 work programs:

- 38 (1) CLASS I: FREE VENTURE INDUSTRIES.

1 (a) The employer model industries in this class shall be operated  
2 and managed in total or in part by any profit or nonprofit  
3 organization pursuant to an agreement between the organization and  
4 the department. The organization shall produce goods or services for  
5 sale to both the public and private sector.

6 (b) The customer model industries in this class shall be operated  
7 and managed by the department to provide Washington state  
8 manufacturers or businesses with products or services currently  
9 produced or provided by out-of-state or foreign suppliers.

10 (c) The department shall review these proposed industries,  
11 including any potential new class I industries work program or the  
12 significant expansion of an existing class I industries work program,  
13 before the department contracts to provide such products or services.  
14 The review shall include the analysis required under RCW 72.09.115 to  
15 determine if the proposed correctional industries work program will  
16 compete with any Washington business. An agreement for a new class I  
17 correctional industries work program, or an agreement for a  
18 significant expansion of an existing class I correctional industries  
19 work program, that unfairly competes with any Washington business is  
20 prohibited.

21 (d) The department shall supply appropriate security and custody  
22 services without charge to the participating firms.

23 (e) (~~Inmates~~) Incarcerated persons who work in free venture  
24 industries shall do so at their own choice. They shall be paid a wage  
25 comparable to the wage paid for work of a similar nature in the  
26 locality in which the industry is located, as determined by the  
27 director of correctional industries. If the director cannot  
28 reasonably determine the comparable wage, then the pay shall not be  
29 less than the (~~federal~~) state minimum wage as described in RCW  
30 49.46.020.

31 (f) An (~~inmate~~) incarcerated person who is employed in the  
32 class I program of correctional industries shall not be eligible for  
33 unemployment compensation benefits pursuant to any of the provisions  
34 of Title 50 RCW until released on parole or discharged.

35 (2) CLASS II: TAX REDUCTION INDUSTRIES.

36 (a) Industries in this class shall be state-owned and operated  
37 enterprises designed primarily to reduce the costs for goods and  
38 services for tax-supported agencies and for nonprofit organizations.

39 (b) (i) The industries selected for development within this class  
40 shall, as much as possible, match the available pool of (~~inmate~~)

1 incarcerated person work skills and aptitudes with the work  
2 opportunities in the free community. The industries shall be closely  
3 patterned after private sector industries but with the objective of  
4 reducing public support costs rather than making a profit.

5 (ii) Except as provided in RCW (~~(43.19.534(3))~~) 39.26.251(2) and  
6 this section, the products and services of this industry, including  
7 purchased products and services necessary for a complete product  
8 line, may be sold to the following:

9 (A) Public agencies;

10 (B) Nonprofit organizations;

11 (C) Private contractors when the goods purchased will be  
12 ultimately used by a public agency or a nonprofit organization;

13 (D) An employee and immediate family members of an employee of  
14 the department;

15 (E) A person under the supervision of the department and his or  
16 her immediate family members; and

17 (F) A licensed health professional for the sole purpose of  
18 providing eyeglasses to enrollees of the state medical program at no  
19 more than the health professional's cost of acquisition.

20 (iii) The department shall authorize the type and quantity of  
21 items that may be purchased and sold under (b)(ii)(D) and (E) of this  
22 subsection.

23 (iv) It is prohibited to purchase any item purchased under  
24 (b)(ii)(D) and (E) of this subsection for the purpose of resale.

25 (v) Clothing manufactured by an industry in this class may be  
26 donated to nonprofit organizations that provide clothing free of  
27 charge to low-income persons.

28 (c) Under no circumstance shall (~~offenders~~) incarcerated  
29 persons under the custody of the department of corrections make or  
30 assemble uniforms to be worn by correctional officers employed with  
31 the department.

32 (d)(i) Class II correctional industries products and services  
33 shall be reviewed by the department before offering such products and  
34 services for sale to private contractors.

35 (ii) The secretary shall conduct a yearly marketing review of the  
36 products and services offered under this subsection. Such review  
37 shall include an analysis of the potential impact of the proposed  
38 products and services on the Washington state business community. To  
39 avoid waste or spoilage and consequent loss to the state, when there  
40 is no public sector market for such goods, by-products and surpluses

1 of timber, agricultural, and animal husbandry enterprises may be sold  
2 to private persons, at private sale. Surplus by-products and  
3 surpluses of timber, agricultural and animal husbandry enterprises  
4 that cannot be sold to public agencies or to private persons may be  
5 donated to nonprofit organizations. All sales of surplus products  
6 shall be carried out in accordance with rules prescribed by the  
7 secretary.

8 (e) Security and custody services shall be provided without  
9 charge by the department.

10 (f) (~~Inmates~~) Incarcerated persons working in this class of  
11 industries shall do so at their own choice and shall be paid for  
12 their work on a gratuity scale which shall not exceed the wage paid  
13 for work of a similar nature in the locality in which the industry is  
14 located and which is approved by the director of correctional  
15 industries, provided that the payment is no less than the state  
16 minimum wage as described in RCW 49.46.020.

17 (g) Provisions of RCW 41.06.142 shall not apply to contracts with  
18 Washington state businesses entered into by the department through  
19 class II industries.

20 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

21 (a) Industries in this class shall be operated by the department.  
22 They shall be designed and managed to accomplish the following  
23 objectives:

24 (i) Whenever possible, to provide basic work training and  
25 experience so that the (~~inmate~~) incarcerated person will be able to  
26 qualify for better work both within correctional industries and the  
27 free community. It is not intended that an (~~inmate's~~) incarcerated  
28 person's work within this class of industries should be his or her  
29 final and total work experience as an (~~inmate~~) incarcerated person.

30 (ii) Whenever possible, to provide forty hours of work or work  
31 training per week.

32 (iii) Whenever possible, to offset tax and other public support  
33 costs.

34 (b) Class III correctional industries shall be reviewed by the  
35 department to set policy for work crews. The department shall prepare  
36 quarterly detail statements showing where work crews worked, what  
37 correctional industry class, and the hours worked.

38 (c) Supervising, management, and custody staff shall be employees  
39 of the department.



1 (d) All able and eligible (~~(inmates)~~) incarcerated persons who  
2 are assigned work and who are not working in other classes of  
3 industries shall work in this class.

4 (e) Except for (~~(inmates)~~) incarcerated persons who work in work  
5 training programs, (~~(inmates)~~) incarcerated persons in this class  
6 shall do so at their own choice and shall be paid for their work in  
7 accordance with (~~(an inmate)~~) a gratuity scale(~~(. The scale shall be~~  
8 ~~adopted)~~) approved by the secretary of corrections, provided that the  
9 payment is no less than the state minimum wage as described in RCW  
10 49.46.020.

11 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

12 (a) Industries in this class shall be operated by the department.  
13 They shall be designed and managed to provide services in the  
14 (~~(inmate's)~~) incarcerated person's resident community at a reduced  
15 cost. The services shall be provided to public agencies, to persons  
16 who are poor or infirm, or to nonprofit organizations.

17 (b) Class IV correctional industries shall be reviewed by the  
18 department to set policy for work crews. The department shall prepare  
19 quarterly detail statements showing where work crews worked, what  
20 correctional industry class, and the hours worked. Class IV  
21 correctional industries operated in work camps established pursuant  
22 to RCW 72.64.050 are exempt from the requirements of this subsection  
23 (4)(b).

24 (c) (~~(Inmates)~~) Incarcerated persons in this program shall reside  
25 in facilities owned by, contracted for, or licensed by the  
26 department. A unit of local government shall provide work supervision  
27 services without charge to the state and shall pay the (~~(inmate's)~~)  
28 incarcerated person's wage.

29 (d) The department shall reimburse participating units of local  
30 government for liability and workers compensation insurance costs.

31 (e) (~~(Inmates)~~) Incarcerated persons who work in this class of  
32 industries shall do so at their own choice and shall receive a  
33 gratuity which shall not exceed the wage paid for work of a similar  
34 nature in the locality in which the industry is located, provided  
35 that the payment is no less than the state minimum wage as described  
36 in RCW 49.46.020.

37 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

38 (a) Programs in this class shall be subject to supervision by the  
39 department. The purpose of this class of industries is to enable an  
40 (~~(inmate)~~) incarcerated person, placed on community supervision, to

1 work off all or part of a community restitution order as ordered by  
2 the sentencing court.

3 (b) Employment shall be in a community restitution program  
4 operated by the state, local units of government, or a nonprofit  
5 agency.

6 (c) To the extent that funds are specifically made available for  
7 such purposes, the department shall reimburse nonprofit agencies for  
8 workers compensation insurance costs.

9 **Sec. 6.** RCW 72.09.110 and 1993 sp.s. c 20 s 5 are each amended  
10 to read as follows:

11 ~~((All inmates working in prison industries shall participate in  
12 the cost of corrections, including costs to develop and implement  
13 correctional industries programs, by means of deductions from their  
14 gross wages. The secretary may direct the state treasurer to deposit  
15 a portion of these moneys in the crime victims compensation  
16 account.))~~ The secretary shall direct that all moneys received by an  
17 ~~((inmate))~~ incarcerated person for testifying in any judicial  
18 proceeding shall be deposited into the crime victims compensation  
19 account.

20 When the secretary finds it appropriate and not unduly  
21 destructive of the work incentive, the secretary may also provide  
22 deductions from correctional industries wages and gratuities for  
23 savings and family support.

24 **Sec. 7.** RCW 72.09.111 and 2017 c 81 s 1 are each amended to read  
25 as follows:

26 (1) The secretary shall deduct taxes and legal financial  
27 obligations from the wages, gratuities, or workers' compensation  
28 benefits payable directly to the ~~((inmate))~~ incarcerated person under  
29 chapter 51.32 RCW, of each ~~((inmate))~~ incarcerated person working in  
30 correctional industries work programs, or otherwise receiving such  
31 wages, gratuities, or benefits. The secretary shall also deduct child  
32 support payments from the gratuities of each ~~((inmate))~~ incarcerated  
33 person working in class II through class IV correctional industries  
34 work programs. The secretary shall develop a formula for the  
35 distribution of ~~((offender))~~ incarcerated person wages, gratuities,  
36 and benefits. The formula shall not reduce the ~~((inmate))~~  
37 incarcerated person's account below the indigency level, as defined  
38 in RCW 72.09.015.

1 (a) The formula shall include the following maximum allowable  
2 deductions from class I wages (~~and from all others earning at least~~  
3 ~~minimum wage~~):

4 (i) (~~Five~~) 10 percent to the crime victims' compensation  
5 account provided in RCW 7.68.045;

6 (ii) (~~Ten~~) 50 percent to a department personal (~~inmate~~)  
7 savings account;

8 (~~Twenty percent to the department to contribute to the~~  
9 ~~cost of incarceration;~~

10 (~~iv~~—~~Twenty~~) 10 percent for payment of legal financial  
11 obligations for all (~~inmates~~) incarcerated persons who have legal  
12 financial obligations owing in any Washington state superior court;  
13 (~~and~~

14 (~~v~~—~~Twenty~~) (iv) 10 percent for payment of any civil judgment  
15 for assault for (~~inmates~~) incarcerated persons who are subject to a  
16 civil judgment for assault in any Washington state court or federal  
17 court; and

18 (v) 10 percent for debts owed to the department.

19 (b) The formula shall include the following minimum deductions  
20 from class II gross gratuities:

21 (i) (~~Five~~) 10 percent to the crime victims' compensation  
22 account provided in RCW 7.68.045;

23 (ii) (~~Ten~~) 50 percent to a department personal (~~inmate~~)  
24 savings account;

25 (~~Fifteen percent to the department to contribute to the~~  
26 ~~cost of incarceration;~~

27 (~~iv~~—~~Twenty~~) 10 percent for payment of legal financial  
28 obligations for all (~~inmates~~) incarcerated persons who have legal  
29 financial obligations owing in any Washington state superior court;

30 (~~(v) Fifteen~~) (iv) 20 percent for any child support owed under  
31 a support order; (~~and~~

32 (~~vi~~—~~Fifteen~~) (v) 10 percent for payment of any civil judgment  
33 for assault for (~~inmates~~) incarcerated persons who are subject to a  
34 civil judgment for assault in any Washington state court or federal  
35 court; and

36 (vi) 10 percent for debts owed to the department.

37 (~~(c) The formula shall include the following minimum deductions~~  
38 ~~from any workers' compensation benefits paid pursuant to RCW~~  
39 ~~51.32.080:~~

1 ~~(i) Five percent to the crime victims' compensation account~~  
2 ~~provided in RCW 7.68.045;~~

3 ~~(ii) Ten percent to a department personal inmate savings account;~~

4 ~~(iii) Twenty percent to the department to contribute to the cost~~  
5 ~~of incarceration; and~~

6 ~~(iv) An amount equal to any legal financial obligations owed by~~  
7 ~~the inmate established by an order of any Washington state superior~~  
8 ~~court up to the total amount of the award.~~

9 ~~(d) The formula shall include the following minimum deductions~~  
10 ~~from class III gratuities:~~

11 ~~(i) Five percent for the crime victims' compensation account~~  
12 ~~provided in RCW 7.68.045;~~

13 ~~(ii) Fifteen percent for any child support owed under a support~~  
14 ~~order; and~~

15 ~~(iii) Fifteen percent for payment of any civil judgment for~~  
16 ~~assault for inmates who are subject to a civil judgment for assault~~  
17 ~~in any Washington state court or federal court.~~

18 ~~(e) The formula shall include the following minimum deduction~~  
19 ~~from class IV gross gratuities:~~

20 ~~(i) Five percent to the department to contribute to the cost of~~  
21 ~~incarceration;~~

22 ~~(ii) Fifteen percent for any child support owed under a support~~  
23 ~~order; and~~

24 ~~(iii) Fifteen percent for payment of any civil judgment for~~  
25 ~~assault for inmates who are subject to a civil judgment for assault~~  
26 ~~in any Washington state court or federal court.))~~

27 (2) Any person sentenced to life imprisonment without possibility  
28 of release or parole under chapter 10.95 RCW or sentenced to death  
29 shall be exempt from the requirement under subsection (1)(a)(ii)(~~7~~)  
30 or (b)(ii)(~~7~~ ~~or~~ (c)(ii)).

31 (3)(a) The department personal ((inmate)) savings account,  
32 together with any accrued interest, may be made available to an  
33 ((inmate)) incarcerated person at the following times:

34 (i) During confinement to pay for accredited postsecondary  
35 educational expenses;

36 (ii) Prior to the release from confinement to pay for department-  
37 approved reentry activities that promote successful community  
38 reintegration; or

39 (iii) When the secretary determines that an emergency exists for  
40 the ((inmate)) incarcerated person.

1 (b) The secretary shall establish guidelines for the release of  
2 funds pursuant to (a) of this subsection, giving consideration to the  
3 (~~inmate's~~) incarcerated person's need for resources at the time of  
4 his or her release from confinement.

5 (c) Any funds remaining in an (~~offender's~~) incarcerated  
6 person's personal (~~inmate~~) savings account shall be made available  
7 to the (~~offender~~) person at the time of his or her release from  
8 confinement.

9 (4) The management of classes I, II, and IV correctional  
10 industries may establish an incentive payment for (~~offender~~)  
11 incarcerated workers based on productivity criteria. This incentive  
12 shall be paid separately from the hourly wage/gratuity rate and shall  
13 not be subject to the specified deduction for cost of incarceration.

14 (5) In the event that the (~~offender~~) incarcerated person  
15 worker's wages, gratuity, or workers' compensation benefit is subject  
16 to garnishment for support enforcement, the crime victims'  
17 compensation account(~~(7)~~) and savings(~~(7) and cost of incarceration~~)  
18 deductions shall be calculated on the net wages after taxes, legal  
19 financial obligations, and garnishment.

20 (6) The department shall explore other methods (~~(of recovering a~~  
21 ~~portion of the cost of the inmate's incarceration and)~~) for  
22 encouraging participation in work programs, including development of  
23 incentive programs that offer (~~inmates~~) incarcerated persons  
24 benefits and amenities paid for only from wages earned while working  
25 in a correctional industries work program.

26 (7) The department shall develop the necessary administrative  
27 structure to recover (~~inmates'~~) incarcerated persons' wages and  
28 keep records of the amount (~~inmates~~) incarcerated persons pay for  
29 the costs of incarceration and amenities. All funds deducted from  
30 (~~inmate~~) incarcerated person wages (~~(under subsection (1) of this~~  
31 ~~section)~~) prior to the effective date of this section for the purpose  
32 of contributions to the cost of incarceration shall be deposited in a  
33 dedicated fund with the department and shall be used only for the  
34 purpose of enhancing and maintaining correctional industries work  
35 programs.

36 (8) It shall be in the discretion of the secretary to apportion  
37 (~~the inmates~~) incarcerated persons between class I and class II  
38 depending on available contracts and resources.

39 (9) Nothing in this section shall limit the authority of the  
40 department of social and health services division of child support

1 from taking collection action against an (~~inmate's~~) incarcerated  
2 person's moneys, assets, or property pursuant to chapter 26.23,  
3 74.20, or 74.20A RCW.

4 (10) For purposes of this section, "wages" means monetary  
5 compensation due to an (~~offender~~) incarcerated worker by reason of  
6 his or her participation in a class I work program, subject to  
7 allowable deductions.

8 **Sec. 8.** RCW 72.09.130 and 1995 1st sp.s. c 19 s 6 are each  
9 amended to read as follows:

10 (1) The department shall adopt, by rule, a system that clearly  
11 links an (~~inmate's~~) incarcerated person's behavior and  
12 participation in available education and (~~work~~) other reentry  
13 programs with the receipt or denial of earned early release days and  
14 other privileges. The system shall include increases or decreases in  
15 the degree of liberty granted the (~~inmate~~) incarcerated person  
16 within the programs operated by the department, access to or  
17 withholding of privileges available within correctional institutions,  
18 and recommended increases or decreases in the number of earned early  
19 release days that an (~~inmate~~) incarcerated person can earn for good  
20 conduct and good performance, except an incarcerated person's earned  
21 early release and other privileges may not be reduced based on the  
22 person's choice to not participate in work programs.

23 (2) Earned early release days shall be recommended by the  
24 department as a reward for accomplishment. The system shall be fair,  
25 measurable, and understandable to (~~offenders~~) incarcerated persons,  
26 staff, and the public. At least once in each twelve-month period, the  
27 department shall inform the (~~offender~~) incarcerated person in  
28 writing as to his or her conduct and performance. This written  
29 evaluation shall include reasons for awarding or not awarding  
30 recommended earned early release days for good conduct and good  
31 performance. An (~~inmate~~) incarcerated person is not eligible to  
32 receive earned early release days during any time in which he or she  
33 refuses to participate in an available education (~~or work~~) program  
34 into which he or she has been placed under RCW 72.09.460. An  
35 incarcerated person's earned early release days may not be reduced  
36 based on the person's choice to not participate in work programs.

37 (3) The department shall provide each (~~offender~~) incarcerated  
38 person in its custody a written description of the system created  
39 under this section.

1       **Sec. 9.** RCW 72.09.460 and 2021 c 200 s 4 are each amended to  
2 read as follows:

3       (1) Recognizing that there is a positive correlation between  
4 education opportunities and reduced recidivism, it is the intent of  
5 the legislature to offer appropriate postsecondary degree or  
6 certificate opportunities to incarcerated individuals.

7       (2) The legislature intends that all incarcerated individuals be  
8 required to participate in department-approved education programs,  
9 (~~work programs, or both,~~) unless exempted as specifically provided  
10 in this section. Eligible incarcerated individuals who refuse to  
11 participate in available education (~~or work~~) programs available at  
12 no charge to the incarcerated individuals shall lose privileges  
13 according to the system established under RCW 72.09.130; however, an  
14 incarcerated person's choice to not participate in a work program may  
15 not result in loss of privileges under section 11 of this act.  
16 Eligible incarcerated individuals who are required to contribute  
17 financially to an education or work program and refuse to contribute  
18 shall be placed in another work program. Refusal to contribute shall  
19 not result in a loss of privileges.

20       (3) The legislature recognizes more incarcerated individuals may  
21 agree to participate in education and work programs than are  
22 available. The department must make every effort to achieve maximum  
23 public benefit by placing incarcerated individuals in available and  
24 appropriate education and work programs.

25       (4)(a) The department shall, to the extent possible and  
26 considering all available funds, prioritize its resources to meet the  
27 following goals for incarcerated individuals in the order listed:

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

33       (ii) Achievement of vocational skills necessary for purposes of  
34 work programs and for an incarcerated individual to qualify for work  
35 upon release;

36       (iii) Additional work and education programs necessary for  
37 compliance with an incarcerated individual's individual reentry plan  
38 under RCW 72.09.270, including special education services and  
39 postsecondary degree or certificate education programs; and

1 (iv) Other appropriate vocational, work, or education programs  
2 that are not necessary for compliance with an incarcerated  
3 individual's individual reentry plan under RCW 72.09.270 including  
4 postsecondary degree or certificate education programs.

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

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

27 (d) The department may accept any and all donations and grants of  
28 money, equipment, supplies, materials, and services from any third  
29 party, including but not limited to nonprofit entities and community-  
30 based postsecondary education programs, and may receive, utilize, and  
31 dispose of same to complete the purposes of this section.

32 (e) Any funds collected by the department under (c) and (d) of  
33 this subsection and subsections (11) and (12) of this section shall  
34 be used solely for the creation, maintenance, or expansion of  
35 incarcerated individual educational and vocational programs.

36 (5) The department shall provide access to a program of education  
37 to all incarcerated individuals who are under the age of eighteen and  
38 who have not met high school graduation requirements or requirements  
39 to earn a high school equivalency certificate as provided in RCW  
40 28B.50.536 in accordance with chapter 28A.193 RCW. The program of



1 education established by the department and education provider under  
2 RCW 28A.193.020 for incarcerated individuals under the age of  
3 eighteen must provide each incarcerated individual a choice of  
4 curriculum that will assist the incarcerated individual in achieving  
5 a high school diploma or high school equivalency certificate. The  
6 program of education may include but not be limited to basic  
7 education, prevocational training, work ethic skills, conflict  
8 resolution counseling, substance abuse intervention, and anger  
9 management counseling. The curriculum may balance these and other  
10 rehabilitation, work, and training components.

11 (6) (a) In addition to the policies set forth in this section, the  
12 department shall consider the following factors in establishing  
13 criteria for assessing the inclusion of education and work programs  
14 in an incarcerated individual's individual reentry plan and in  
15 placing incarcerated individuals in education and work programs:

16 (i) An incarcerated individual's release date and custody level.  
17 An incarcerated individual shall not be precluded from participating  
18 in an education or work program solely on the basis of his or her  
19 release date, except that incarcerated individuals with a release  
20 date of more than one hundred twenty months in the future shall not  
21 comprise more than ten percent of incarcerated individuals  
22 participating in a new class I correctional industry not in existence  
23 on June 10, 2004;

24 (ii) An incarcerated individual's education history and basic  
25 academic skills;

26 (iii) An incarcerated individual's work history and vocational or  
27 work skills;

28 (iv) An incarcerated individual's economic circumstances,  
29 including but not limited to an incarcerated individual's family  
30 support obligations; and

31 (v) Where applicable, an incarcerated individual's prior  
32 performance in department-approved education or work programs;

33 (b) The department shall establish, and periodically review,  
34 incarcerated individual behavior standards and program outcomes for  
35 all education and work programs. Incarcerated individuals shall be  
36 notified of applicable behavior standards and program goals prior to  
37 placement in an education or work program and shall be removed from  
38 the education or work program if they consistently fail to meet the  
39 standards or outcomes.

1 (7) Eligible incarcerated individuals who refuse to participate  
2 in available education (~~(or work)~~) programs available at no charge to  
3 the incarcerated individuals shall lose privileges according to the  
4 system established under RCW 72.09.130. Eligible incarcerated  
5 individuals who are required to contribute financially to an  
6 education or work program and refuse to contribute shall be placed in  
7 another work program. Refusal to contribute shall not result in a  
8 loss of privileges.

9 (8) The department shall establish, by rule, a process for  
10 identifying and assessing incarcerated individuals with learning  
11 disabilities, traumatic brain injuries, and other cognitive  
12 impairments to determine whether the person requires accommodations  
13 in order to effectively participate in educational programming,  
14 including general educational development tests and postsecondary  
15 education. The department shall establish a process to provide such  
16 accommodations to eligible incarcerated individuals.

17 (9) The department shall establish, and periodically review,  
18 goals for expanding access to postsecondary degree and certificate  
19 education programs and program completion for all incarcerated  
20 individuals, including persons of color. The department may contract  
21 and partner with any accredited educational program sponsored by a  
22 nonprofit entity, community-based postsecondary education program, or  
23 institution with historical evidence of providing education programs  
24 to people of color.

25 (10) The department shall establish, by rule, objective medical  
26 standards to determine when an incarcerated individual is physically  
27 or mentally unable to participate in available education or work  
28 programs. When the department determines an incarcerated individual  
29 is permanently unable to participate in any available education or  
30 work program due to a health condition, the incarcerated individual  
31 is exempt from the requirement under subsection (2) of this section.  
32 When the department determines an incarcerated individual is  
33 temporarily unable to participate in an education or work program due  
34 to a medical condition, the incarcerated individual is exempt from  
35 the requirement of subsection (2) of this section for the period of  
36 time he or she is temporarily disabled. The department shall  
37 periodically review the medical condition of all incarcerated  
38 individuals with temporary disabilities to ensure the earliest  
39 possible entry or reentry by incarcerated individuals into available  
40 programming.

1           (11) The department shall establish policies requiring an  
2 incarcerated individual to pay all or a portion of the costs and  
3 tuition for any vocational training or postsecondary education  
4 program if the incarcerated individual previously abandoned  
5 coursework related to postsecondary degree or certificate education  
6 or vocational training without excuse as defined in rule by the  
7 department. Department policies shall include a formula for  
8 determining how much an incarcerated individual shall be required to  
9 pay. The formula shall include steps which correlate to an  
10 incarcerated individual's average monthly income or average available  
11 balance in a personal savings account and which are correlated to a  
12 prorated portion or percent of the per credit fee for tuition, books,  
13 or other ancillary costs. The formula shall be reviewed every two  
14 years. A third party may pay directly to the department all or a  
15 portion of costs and tuition for any program on behalf of an  
16 incarcerated individual under this subsection. Such payments shall  
17 not be subject to any of the deductions as provided in this chapter.

18           (12) Notwithstanding any other provision in this section, an  
19 incarcerated individual sentenced to death under chapter 10.95 RCW or  
20 subject to the provisions of 8 U.S.C. Sec. 1227:

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

24           (b) May not participate in a postsecondary degree education  
25 program offered by the department or its contracted providers, unless  
26 the incarcerated individual's participation in the program is paid  
27 for by a third party or by the individual;

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

30           (d) Shall be subject to the applicable provisions of this chapter  
31 relating to incarcerated individual financial responsibility for  
32 programming.

33           (13) If an incarcerated individual has participated in  
34 postsecondary education programs, the department shall provide the  
35 incarcerated individual with a copy of the incarcerated individual's  
36 unofficial transcripts, at no cost to the individual, upon the  
37 incarcerated individual's release or transfer to a different  
38 facility. Upon the incarcerated individual's completion of a  
39 postsecondary education program, the department shall provide to the  
40 incarcerated individual, at no cost to the individual, a copy of the

1 incarcerated individual's unofficial transcripts. This requirement  
2 applies regardless of whether the incarcerated individual became  
3 ineligible to participate in or abandoned a postsecondary education  
4 program.

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

10 **Sec. 10.** RCW 72.09.480 and 2015 c 238 s 1 are each amended to  
11 read as follows:

12 (1) Unless the context clearly requires otherwise, the  
13 definitions in this section apply to this section.

14 (a) (~~("Cost of incarceration" means the cost of providing an~~  
15 ~~inmate with shelter, food, clothing, transportation, supervision, and~~  
16 ~~other services and supplies as may be necessary for the maintenance~~  
17 ~~and support of the inmate while in the custody of the department,~~  
18 ~~based on the average per inmate costs established by the department~~  
19 ~~and the office of financial management.~~

20 ~~(b))~~ "Minimum term of confinement" means the minimum amount of  
21 time an ~~((inmate))~~ incarcerated person will be confined in the  
22 custody of the department, considering the sentence imposed and  
23 adjusted for the total potential earned early release time available  
24 to the ~~((inmate))~~ incarcerated person.

25 ~~((c))~~ (b) "Program" means any series of courses or classes  
26 necessary to achieve a proficiency standard, certificate, or  
27 postsecondary degree.

28 (2) When an ~~((inmate))~~ incarcerated person, except as provided in  
29 subsection~~((s (4) and))~~ (8) of this section, receives any funds in  
30 addition to his or her wages or gratuities, except settlements or  
31 awards resulting from legal action, the additional funds shall be  
32 subject to the following maximum allowable deductions and the  
33 priorities established in chapter 72.11 RCW:

34 (a) ~~((Five))~~ 10 percent to the crime victims' compensation  
35 account provided in RCW 7.68.045;

36 (b) ~~((Ten))~~ 50 percent to a department personal ~~((inmate))~~  
37 savings account;

1 (c) (~~Twenty~~) 10 percent for payment of legal financial  
2 obligations for all (~~inmates~~) incarcerated persons who have legal  
3 financial obligations owing in any Washington state superior court;

4 (d) (~~Twenty~~) 20 percent for any child support owed under a  
5 support order;

6 (e) (~~Twenty percent to the department to contribute to the cost~~  
7 ~~of incarceration; and~~

8 (~~f) Twenty~~) 10 percent for payment of any civil judgment for  
9 assault for all (~~inmates~~) incarcerated persons who are subject to a  
10 civil judgment for assault in any Washington state court or federal  
11 court; and

12 (f) 10 percent for debts owed to the department.

13 (3) When an (~~inmate~~) incarcerated person, except as provided in  
14 subsection (~~(9)~~) (8) of this section, receives any funds from a  
15 settlement or award resulting from a legal action, the additional  
16 funds shall be subject to the deductions in RCW 72.09.111(1)(a) and  
17 the priorities established in chapter 72.11 RCW.

18 (4) When an (~~inmate~~) incarcerated person who is subject to a  
19 child support order receives funds from an inheritance, the deduction  
20 required under subsection (2)(e) (~~and (f)~~) of this section shall  
21 only apply after the child support obligation has been paid in full.

22 (5) (~~The amount deducted from an inmate's funds under subsection~~  
23 ~~(2) of this section shall not exceed the department's total cost of~~  
24 ~~incarceration for the inmate incurred during the inmate's minimum or~~  
25 ~~actual term of confinement, whichever is longer.~~

26 (~~6~~) (a) The deductions required under subsection (2) of this  
27 section shall not apply to funds received by the department from an  
28 (~~offender~~) incarcerated person or from a third party on behalf of  
29 an (~~offender~~) incarcerated person for payment of education or  
30 vocational programs or postsecondary (~~education~~) degree or  
31 certificate education programs as provided in RCW 72.09.460 and  
32 72.09.465.

33 (b) The deductions required under subsection (2) of this section  
34 shall not apply to funds received by the department from a third  
35 party, including but not limited to a nonprofit entity on behalf of  
36 the department's education, vocation, or postsecondary education  
37 degree programs.

38 (~~7~~) (6) The deductions required under subsection (2) of this  
39 section shall not apply to any money received by the department, on  
40 behalf of an (~~inmate~~) incarcerated person, from family or other

1 outside sources for the payment of postage expenses. Money received  
2 under this subsection may only be used for the payment of postage  
3 expenses and may not be transferred to any other account or purpose.  
4 Money that remains unused in the (~~(inmate's))~~ incarcerated person's  
5 postage fund at the time of release shall be subject to the  
6 deductions outlined in subsection (2) of this section.

7 (~~((8))~~) (7) The deductions required under subsection (2) of this  
8 section do not apply to any money received by the department on  
9 behalf of an (~~(inmate))~~ incarcerated person from family or other  
10 outside sources for the payment of certain medical expenses. Money  
11 received under this subsection may only be used for the payment of  
12 medical expenses associated with the purchase of eyeglasses, over-  
13 the-counter medications, and (~~(offender))~~ incarcerated person  
14 copayments. Funds received specifically for these purposes may not be  
15 transferred to any other account or purpose. Money that remains  
16 unused in the (~~(inmate's))~~ incarcerated person's medical fund at the  
17 time of release is subject to deductions under subsection (2) of this  
18 section.

19 (~~((9)—Inmates))~~) (8) Incarcerated persons sentenced to life  
20 imprisonment without possibility of release or sentenced to death  
21 under chapter 10.95 RCW receives funds, deductions are required under  
22 subsection (2) of this section, with the exception of a personal  
23 (~~(inmate))~~ savings account under subsection (2)(b) of this section.

24 (~~((10))~~) (9) The secretary of the department of corrections, or  
25 his or her designee, may exempt an (~~(inmate))~~ incarcerated person  
26 from a personal (~~(inmate))~~ incarcerated person savings account under  
27 subsection (2)(b) of this section if the (~~(inmate's))~~ incarcerated  
28 person's earliest release date is beyond the (~~(inmate's))~~  
29 incarcerated person's life expectancy.

30 (~~((11))~~) (10) The interest earned on (~~(an inmate))~~ a personal  
31 savings account created as a result of the plan in section 4, chapter  
32 325, Laws of 1999 shall be exempt from the mandatory deductions under  
33 this section and RCW 72.09.111.

34 (~~((12))~~) (11) Nothing in this section shall limit the authority  
35 of the department of social and health services division of child  
36 support, the county clerk, or a restitution recipient from taking  
37 collection action against an (~~(inmate's))~~ incarcerated person's  
38 moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20,  
39 or 74.20A RCW including, but not limited to, the collection of moneys

1 received by the ((inmate)) incarcerated person from settlements or  
2 awards resulting from legal action.

3 NEW SECTION. **Sec. 11.** A new section is added to chapter 72.09  
4 RCW to read as follows:

5 Except when ordered by a court for community restitution,  
6 incarcerated persons are not required to work or otherwise  
7 participate in work programs under RCW 72.09.100. Work programs are  
8 voluntary, and incarcerated persons may choose to participate or  
9 refuse to participate in such programs. The department may not issue  
10 infractions or engage in punitive actions against any incarcerated  
11 person who refuses to participate in work programs. Incarcerated  
12 persons participating in classes I, II, III, or IV programs must be  
13 paid a wage or gratuity for their work as provided under RCW  
14 72.09.100.

15 NEW SECTION. **Sec. 12.** (1) The department of corrections shall:

16 (a) Determine all items and services charged to incarcerated  
17 persons under RCW 72.09.450 and 72.09.470, and departmental policy,  
18 and shall itemize the costs of those items and services;

19 (b) Calculate the average debts owed by incarcerated persons to  
20 the department for items and services under (a) of this subsection;

21 (c) Calculate the average percentage of costs for items and  
22 services under (a) of this subsection actually paid by an average  
23 incarcerated person to the department prior to release from  
24 confinement;

25 (d) Calculate the average debts owed by incarcerated persons to  
26 the department for items and services under (a) of this subsection  
27 upon release from confinement; and

28 (e) Determine the total amount of debt owed by all persons,  
29 regardless of incarceration status, to the department for items and  
30 services under (a) of this subsection.

31 (2) The department of corrections shall submit a report with the  
32 information under subsection (1) of this section to the governor and  
33 the appropriate committees of the legislature by October 1, 2023.

34 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
35 each repealed:

36 (1) RCW 72.09.400 (Work ethic camp program—Findings—Intent) and  
37 1993 c 338 s 1; and

1           (2) RCW 72.09.410 (Work ethic camp program—Generally) and 2013 c  
2 39 s 23 & 1993 c 338 s 3.

3           NEW SECTION.   **Sec. 14.** Sections 1 through 11 and 13 of this act  
4 take effect January 1, 2024.

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