
HOUSE BILL 1338

State of Washington

68th Legislature

2023 Regular Session

By Representatives Reeves, Waters, Walen, Senn, Simmons, Kloba, Reed, Lekanoff, Gregerson, Doglio, Tharinger, Springer, Fosse, Davis, and Orwall

Read first time 01/16/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to education and vocational programs in state
2 correctional institutions; amending RCW 72.09.080, 72.09.460, and
3 72.09.465; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that obtaining a
6 job with a living wage leads to lower rates of reoffending among
7 individuals released from prison. Formerly incarcerated people who
8 receive training in fields that require postsecondary education
9 credentials, vocational certification, or other specific skills can
10 upon release command higher compensation with which to support
11 themselves and their families. The legislature also finds that
12 Washington state employers across a wide range of industries need a
13 highly skilled workforce and would be more likely to hire formerly
14 incarcerated individuals if vocational training and education
15 programs in prison correlated with areas of need for industries
16 across Washington state.

17 (2) Therefore, it is the intent of the legislature to endeavor to
18 increase the share of incarcerated people who are enrolled in
19 programs that provide postsecondary education credentials, vocational
20 certifications, and other skills likely to lead to jobs upon release
21 that provide a living wage. It is also the intent of the legislature

1 to strengthen the correctional industries advisory committee's
2 important efforts to achieve this goal by requiring representation
3 for businesses in a position to employ formerly incarcerated
4 individuals at salaries that allow them to return home safely and
5 successfully.

6 **Sec. 2.** RCW 72.09.080 and 2011 1st sp.s. c 21 s 40 are each
7 amended to read as follows:

8 (1) The correctional industries advisory committee shall consist
9 of nine voting members, appointed by the secretary. Each member shall
10 serve a three-year staggered term. The speaker of the house of
11 representatives and the president of the senate shall each appoint
12 one member from each of the two largest caucuses in their respective
13 houses. The legislators so appointed shall be nonvoting members and
14 shall serve two-year terms, or until they cease to be members of the
15 house from which they were appointed, whichever occurs first. The
16 nine members appointed by the secretary shall include three
17 representatives from labor, three representatives from (~~business~~)
18 businesses that employ formerly incarcerated individuals representing
19 cross sections of industries and all sizes of employers, and three
20 members from the general public.

21 (2) The committee shall elect a chair and such other officers as
22 it deems appropriate from among the voting members.

23 (3) The voting members of the committee shall serve with
24 compensation pursuant to RCW 43.03.240 and shall be reimbursed by the
25 department for travel expenses and per diem under RCW 43.03.050 and
26 43.03.060, as now or hereafter amended. Legislative members shall be
27 reimbursed under RCW 44.04.120, as now or hereafter amended.

28 (4) The secretary shall provide such staff services, facilities,
29 and equipment as the board shall require to carry out its duties.

30 **Sec. 3.** RCW 72.09.460 and 2021 c 200 s 4 are each amended to
31 read as follows:

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

36 (2) The legislature intends that all incarcerated individuals be
37 required to participate in department-approved education programs,
38 work programs, or both, unless exempted as specifically provided in

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

9 (3) The legislature recognizes more incarcerated individuals may
10 agree to participate in education and work programs than are
11 available. The department must make every effort to achieve maximum
12 public benefit by placing incarcerated individuals in available and
13 appropriate education and work programs.

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

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

22 (ii) Achievement of vocational skills necessary for purposes of
23 work programs and for an incarcerated individual to qualify for work
24 upon release;

25 (iii) Additional work and education programs necessary for
26 compliance with an incarcerated individual's individual reentry plan
27 under RCW 72.09.270, including special education services and
28 postsecondary degree or certificate education programs; and

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

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

37 (c) If programming is provided pursuant to (a)(iv) of this
38 subsection, incarcerated individuals shall be required to pay all or
39 a portion of the costs, including books, fees, and tuition, for
40 participation in any vocational, work, or education program as

1 provided in department policies. Department policies shall include a
2 formula for determining how much an incarcerated individual shall be
3 required to pay. The formula shall include steps which correlate to
4 an incarcerated individual's average monthly income or average
5 available balance in a personal savings account and which are
6 correlated to a prorated portion or percent of the per credit fee for
7 tuition, books, or other ancillary educational costs. The formula
8 shall be reviewed every two years. A third party, including but not
9 limited to nonprofit entities or community-based postsecondary
10 education programs, may pay directly to the department all or a
11 portion of costs and tuition for any programming provided pursuant to
12 (a)(iv) of this subsection on behalf of an incarcerated individual.
13 Such payments shall not be subject to any of the deductions as
14 provided in this chapter.

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

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

24 (5) The department shall provide access to a program of education
25 to all incarcerated individuals who are under the age of eighteen and
26 who have not met high school graduation requirements or requirements
27 to earn a high school equivalency certificate as provided in RCW
28 28B.50.536 in accordance with chapter 28A.193 RCW. The program of
29 education established by the department and education provider under
30 RCW 28A.193.020 for incarcerated individuals under the age of
31 eighteen must provide each incarcerated individual a choice of
32 curriculum that will assist the incarcerated individual in achieving
33 a high school diploma or high school equivalency certificate. The
34 program of education may include but not be limited to basic
35 education, prevocational training, work ethic skills, conflict
36 resolution counseling, substance abuse intervention, and anger
37 management counseling. The curriculum may balance these and other
38 rehabilitation, work, and training components.

39 (6)(a) In addition to the policies set forth in this section, the
40 department shall consider the following factors in establishing

1 criteria for assessing the inclusion of education and work programs
2 in an incarcerated individual's individual reentry plan and in
3 placing incarcerated individuals in education and work programs:

4 (i) An incarcerated individual's release date and custody level.
5 An incarcerated individual shall not be precluded from participating
6 in an education or work program solely on the basis of his or her
7 release date, except that incarcerated individuals with a release
8 date of more than one hundred twenty months in the future shall not
9 comprise more than ten percent of incarcerated individuals
10 participating in a new class I correctional industry not in existence
11 on June 10, 2004;

12 (ii) An incarcerated individual's education history and basic
13 academic skills;

14 (iii) An incarcerated individual's work history and vocational or
15 work skills;

16 (iv) An incarcerated individual's economic circumstances,
17 including but not limited to an incarcerated individual's family
18 support obligations; and

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

21 (b) The department shall establish, and periodically review,
22 incarcerated individual behavior standards and program outcomes for
23 all education and work programs. Incarcerated individuals shall be
24 notified of applicable behavior standards and program goals prior to
25 placement in an education or work program and shall be removed from
26 the education or work program if they consistently fail to meet the
27 standards or outcomes.

28 (7) Eligible incarcerated individuals who refuse to participate
29 in available education or work programs available at no charge to the
30 incarcerated individuals shall lose privileges according to the
31 system established under RCW 72.09.130. Eligible incarcerated
32 individuals who are required to contribute financially to an
33 education or work program and refuse to contribute shall be placed in
34 another work program. Refusal to contribute shall not result in a
35 loss of privileges.

36 (8) The department shall establish, by rule, a process for
37 identifying and assessing incarcerated individuals with learning
38 disabilities, traumatic brain injuries, and other cognitive
39 impairments to determine whether the person requires accommodations
40 in order to effectively participate in educational programming,

1 including general educational development tests and postsecondary
2 education. The department shall establish a process to provide such
3 accommodations to eligible incarcerated individuals.

4 (9) The department shall establish, and periodically review,
5 goals for expanding access to postsecondary degree and certificate
6 education programs and program completion for all incarcerated
7 individuals, including persons of color. The department may contract
8 and partner with any accredited educational program sponsored by a
9 nonprofit entity, community-based postsecondary education program, or
10 institution with historical evidence of providing education programs
11 to people of color.

12 (10) The department shall establish, by rule, objective medical
13 standards to determine when an incarcerated individual is physically
14 or mentally unable to participate in available education or work
15 programs. When the department determines an incarcerated individual
16 is permanently unable to participate in any available education or
17 work program due to a health condition, the incarcerated individual
18 is exempt from the requirement under subsection (2) of this section.
19 When the department determines an incarcerated individual is
20 temporarily unable to participate in an education or work program due
21 to a medical condition, the incarcerated individual is exempt from
22 the requirement of subsection (2) of this section for the period of
23 time he or she is temporarily disabled. The department shall
24 periodically review the medical condition of all incarcerated
25 individuals with temporary disabilities to ensure the earliest
26 possible entry or reentry by incarcerated individuals into available
27 programming.

28 (11) The department shall establish policies requiring an
29 incarcerated individual to pay all or a portion of the costs and
30 tuition for any vocational training or postsecondary education
31 program if the incarcerated individual previously abandoned
32 coursework related to postsecondary degree or certificate education
33 or vocational training without excuse as defined in rule by the
34 department. Department policies shall include a formula for
35 determining how much an incarcerated individual shall be required to
36 pay. The formula shall include steps which correlate to an
37 incarcerated individual's average monthly income or average available
38 balance in a personal savings account and which are correlated to a
39 prorated portion or percent of the per credit fee for tuition, books,
40 or other ancillary costs. The formula shall be reviewed every two

1 years. A third party may pay directly to the department all or a
2 portion of costs and tuition for any program on behalf of an
3 incarcerated individual under this subsection. Such payments shall
4 not be subject to any of the deductions as provided in this chapter.

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

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

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

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

17 (d) Shall be subject to the applicable provisions of this chapter
18 relating to incarcerated individual financial responsibility for
19 programming.

20 (13) If an incarcerated individual has participated in
21 postsecondary education programs, the department may not transfer the
22 individual to a different facility unless the department first
23 consults with the individual's educational program to review whether
24 the transfer will not adversely affect the individual's progress
25 toward program completion. If the department transfers the
26 individual, it shall provide the incarcerated individual with a copy
27 of the incarcerated individual's unofficial transcripts, at no cost
28 to the individual, upon the incarcerated individual's release or
29 transfer to a different facility. Upon the incarcerated individual's
30 completion of a postsecondary education program, the department shall
31 provide to the incarcerated individual, at no cost to the individual,
32 a copy of the incarcerated individual's unofficial transcripts. This
33 requirement applies regardless of whether the incarcerated individual
34 became ineligible to participate in or abandoned a postsecondary
35 education program.

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

1 **Sec. 4.** RCW 72.09.465 and 2021 c 200 s 5 are each amended to
2 read as follows:

3 (1)(a) The department may implement postsecondary degree or
4 certificate education programs at state correctional institutions,
5 with the goal of increasing participation so that at least 50 percent
6 of incarcerated individuals are participating in a program by January
7 1, 2026.

8 (b) The department may consider for inclusion in any
9 postsecondary degree or certificate education program, any education
10 program from an accredited community or technical college, college,
11 or university that is limited to no more than a bachelor's degree.
12 Washington state-recognized preapprenticeship programs may also be
13 included as appropriate postsecondary education programs. The
14 department shall prioritize programs that result in vocational
15 credentials or qualifications for living wage jobs once a
16 participating individual is released from incarceration.

17 (2) Incarcerated individuals not meeting the department's
18 priority criteria for the state-funded postsecondary degree education
19 program shall be required to pay the costs for participation in a
20 postsecondary education degree program if he or she elects to
21 participate through self-pay, including costs of books, fees,
22 tuition, or any other appropriate ancillary costs, by one or more of
23 the following means:

24 (a) The incarcerated individual who is participating in the
25 postsecondary education degree program may, during confinement,
26 provide the required payment or payments to the department; or

27 (b) A third party shall provide the required payment or payments
28 directly to the department on behalf of an incarcerated individual,
29 and such payments shall not be subject to any of the deductions as
30 provided in this chapter.

31 (3) The department may accept any and all donations and grants of
32 money, equipment, supplies, materials, and services from any third
33 party, including but not limited to nonprofit entities, and may
34 receive, utilize, and dispose of same to provide postsecondary
35 education to incarcerated individuals.

36 (4) An incarcerated individual may be selected to participate in
37 a state-funded postsecondary degree or certificate education program,
38 based on priority criteria determined by the department, in which the
39 following conditions may be considered:

1 (a) Priority should be given to incarcerated individuals who do
2 not already possess a postsecondary education degree; (~~and~~)
3 (b) Incarcerated individuals with individual reentry plans that
4 include participation in a postsecondary degree or certificate
5 education program that is:
6 (i) Offered at the incarcerated individual's state correctional
7 institution;
8 (ii) Approved by the department as an eligible and effective
9 postsecondary education degree program; and
10 (iii) Limited to a postsecondary degree or certificate program;
11 and
12 (c) Priority may be given to incarcerated individuals based on
13 earliest release date, but no more than 90 percent of program
14 participants may be prioritized in this manner.
15 (5) The department shall work with the college board as defined
16 in RCW 28B.50.030 to develop a plan to assist incarcerated
17 individuals selected to participate in postsecondary degree or
18 certificate programs with filing a free application for federal
19 student aid or the Washington application for state financial aid.
20 (6) Any funds collected by the department under this section
21 shall be used solely for the creation, maintenance, or expansion of
22 postsecondary education degree programs for incarcerated individuals.

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