
HOUSE BILL 1233

State of Washington

69th Legislature

2025 Regular Session

By Representatives Simmons and Scott

Prefiled 01/09/25.

1 AN ACT Relating to work programs for incarcerated persons;
2 amending RCW 72.09.015, 72.09.100, 72.09.130, and 72.09.460; adding a
3 new section to chapter 72.09 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 ending forced labor act.

7 **Sec. 2.** RCW 72.09.015 and 2022 c 254 s 2 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter.

10 (1) "Adult basic education" means education or instruction
11 designed to achieve general competence of skills in reading, writing,
12 and oral communication, including English as a second language and
13 preparation and testing services for obtaining a high school diploma
14 or a high school equivalency certificate as provided in RCW
15 28B.50.536.

16 (2) "Base level of correctional services" means the minimum level
17 of field services the department of corrections is required by
18 statute to provide for the supervision and monitoring of
19 ((offenders)) incarcerated persons.

1 (3) "Civil judgment for assault" means a civil judgment for
2 monetary damages awarded to a correctional officer or department
3 employee entered by a court of competent jurisdiction against an
4 ((inmate)) incarcerated person that is based on, or arises from,
5 injury to the correctional officer or department employee caused by
6 the ((inmate)) incarcerated person while the correctional officer or
7 department employee was acting in the course and scope of his or her
8 employment.

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

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

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

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

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

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

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

28 (11) "Extended family visit" means an authorized visit between an
29 ((inmate)) incarcerated person and a member of his or her immediate
30 family that occurs in a private visiting unit located at the
31 correctional facility where the ((inmate)) incarcerated person is
32 confined.

33 (12) "Good conduct" means compliance with department rules and
34 policies.

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

38 (14) "Immediate family" means the ((inmate's)) incarcerated
39 person's children, stepchildren, grandchildren, great grandchildren,
40 parents, stepparents, grandparents, great grandparents, siblings,

1 aunts, uncles, and a person legally married to or in a state
2 registered domestic partnership with an (~~inmate~~) incarcerated
3 person. "Immediate family" includes the immediate family of an
4 (~~inmate~~) incarcerated person who was adopted as a child or an
5 adult, but does not include an (~~inmate~~) incarcerated person adopted
6 by another (~~inmate~~) incarcerated person.

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

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

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

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

36 (19) "Physical restraint" means the use of any bodily force or
37 physical intervention to control an (~~offender~~) incarcerated person
38 or limit an (~~offender's~~) incarcerated person's freedom of movement
39 in a way that does not involve a mechanical restraint. Physical
40 restraint does not include momentary periods of minimal physical

1 restriction by direct person-to-person contact, without the aid of
2 mechanical restraint, accomplished with limited force and designed
3 to:

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

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

9 (c) Guide an (~~offender~~) incarcerated person from one location
10 to another.

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

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

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

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

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

30 (a) Physical restraint; or

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

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

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

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

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

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

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

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

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

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

27 **Sec. 3.** RCW 72.09.100 and 2012 c 220 s 2 are each amended to
28 read as follows:

29 It is the intent of the legislature to vest in the department the
30 power to provide for a comprehensive ((inmate)) work program and to
31 remove statutory and other restrictions which have limited work
32 programs in the past. It is also the intent of the legislature to
33 ensure that the department, in developing and selecting correctional
34 industries work programs, does not encourage the development of, or
35 provide for selection of or contracting for, or the significant
36 expansion of, any new or existing class I correctional industries
37 work programs that unfairly compete with Washington businesses. The
38 legislature intends that the requirements relating to fair
39 competition in the correctional industries work programs be liberally

1 construed by the department to protect Washington businesses from
2 unfair competition. For purposes of establishing such a comprehensive
3 program, the legislature recommends that the department consider
4 adopting any or all, or any variation of, the following classes of
5 work programs:

6 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

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

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

29 (e) (~~(inmates)~~) Incarcerated persons who work in free venture
30 industries shall do so at their own choice. They shall be paid a wage
31 comparable to the wage paid for work of a similar nature in the
32 locality in which the industry is located, as determined by the
33 director of correctional industries. If the director cannot
34 reasonably determine the comparable wage, then the pay shall not be
35 less than the federal minimum wage.

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

40 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

4 (b)(i) The industries selected for development within this class
5 shall, as much as possible, match the available pool of (~~inmate~~)
6 incarcerated person work skills and aptitudes with the work
7 opportunities in the free community. The industries shall be closely
8 patterned after private sector industries but with the objective of
9 reducing public support costs rather than making a profit.

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

14 (A) Public agencies;

15 (B) Nonprofit organizations;

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

18 (D) An employee and immediate family members of an employee of
19 the department;

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

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

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

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

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

33 (c) Under no circumstance shall (~~offenders~~) incarcerated
34 persons under the custody of the department of corrections make or
35 assemble uniforms to be worn by correctional officers employed with
36 the department.

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

1 (ii) The secretary shall conduct a yearly marketing review of the
2 products and services offered under this subsection. Such review
3 shall include an analysis of the potential impact of the proposed
4 products and services on the Washington state business community. To
5 avoid waste or spoilage and consequent loss to the state, when there
6 is no public sector market for such goods, by-products and surpluses
7 of timber, agricultural, and animal husbandry enterprises may be sold
8 to private persons, at private sale. Surplus by-products and
9 surpluses of timber, agricultural and animal husbandry enterprises
10 that cannot be sold to public agencies or to private persons may be
11 donated to nonprofit organizations. All sales of surplus products
12 shall be carried out in accordance with rules prescribed by the
13 secretary.

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

16 (f) (~~Inmates~~) Incarcerated persons working in this class of
17 industries shall do so at their own choice and shall be paid for
18 their work on a gratuity scale which shall not exceed the wage paid
19 for work of a similar nature in the locality in which the industry is
20 located and which is approved by the director of correctional
21 industries, provided that the payment is no less than \$1.00 per hour.

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

25 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

26 (a) Industries in this class shall be operated by the department.
27 They shall be designed and managed to accomplish the following
28 objectives:

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

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

37 (iii) Whenever possible, to offset tax and other public support
38 costs.

39 (b) Class III (~~correctional~~) industries shall be reviewed by
40 the department to set policy for work crews. The department shall

1 prepare quarterly detail statements showing where work crews worked,
2 what (~~(correctional)~~) industry class, and the hours worked.

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

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

8 (e) Except for (~~(inmates)~~) incarcerated persons who work in work
9 training programs, (~~(inmates)~~) incarcerated persons in this class
10 shall do so at their own choice and shall be paid for their work in
11 accordance with (~~(an inmate)~~) a gratuity scale(~~(. The scale shall be~~
12 ~~adopted)~~) approved by the secretary of corrections, provided that the
13 payment is no less than \$1.00 per hour and the monthly maximum limit
14 on such payment is no less than \$200.

15 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

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

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

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

35 (e) (~~(Inmates)~~) incarcerated persons who work in this class of
36 industries shall do so at their own choice and shall receive a
37 gratuity which shall not exceed the wage paid for work of a similar
38 nature in the locality in which the industry is located.

39 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

1 (a) Programs in this class shall be subject to supervision by the
2 department. The purpose of this class of industries is to enable an
3 (~~inmate~~) incarcerated person, placed on community supervision, to
4 work off all or part of a community restitution order as ordered by
5 the sentencing court.

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

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

12 **Sec. 4.** RCW 72.09.130 and 1995 1st sp.s. c 19 s 6 are each
13 amended to read as follows:

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

27 (2) Earned early release days shall be recommended by the
28 department as a reward for accomplishment. The system shall be fair,
29 measurable, and understandable to (~~offenders~~) incarcerated persons,
30 staff, and the public. At least once in each (~~twelve~~) 12-month
31 period, the department shall inform the (~~offender~~) incarcerated
32 person in writing as to his or her conduct and performance. This
33 written evaluation shall include reasons for awarding or not awarding
34 recommended earned early release days for good conduct and good
35 performance. An (~~inmate~~) incarcerated person is not eligible to
36 receive earned early release days during any time in which he or she
37 refuses to participate in an available education (~~or work~~) program
38 into which he or she has been placed under RCW 72.09.460. An

1 incarcerated person's earned early release days may not be reduced
2 based on the person's choice to not participate in work programs.

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

6 **Sec. 5.** RCW 72.09.460 and 2024 c 272 s 1 are each amended to
7 read as follows:

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

12 (2) The legislature intends that all incarcerated individuals be
13 required to participate in department-approved education programs,
14 (~~work programs, or both,~~) unless exempted as specifically provided
15 in this section. Eligible incarcerated individuals who refuse to
16 participate in available education (~~or work~~) programs available at
17 no charge to the incarcerated individuals shall lose privileges
18 according to the system established under RCW 72.09.130; however, an
19 incarcerated person's choice to not participate in a work program may
20 not result in loss of privileges pursuant to section 6 of this act.
21 Eligible incarcerated individuals who are required to contribute
22 financially to an education or work program and refuse to contribute
23 shall be placed in another work program. Refusal to contribute shall
24 not result in a loss of privileges.

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

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

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

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

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

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

12 (b)(i) If programming is provided pursuant to (a)(i) through
13 (iii) of this subsection, the department shall pay the cost of such
14 programming, including but not limited to books, materials, and
15 supplies for adult basic education programs and any postsecondary
16 education program that is not financial aid eligible at the time the
17 individual is enrolled or paid for by the department or third party.

18 (ii) For financial aid eligible postsecondary programming
19 provided pursuant to (a)(i) through (iii) of this subsection, the
20 department may require the individual to apply for any federal and
21 state financial aid grants available to the individual as a condition
22 of participation in such programming. The individual may elect to use
23 available financial aid grants, self-pay, or any other available
24 third-party funding, or use a combination of these methods to cover
25 the cost of attendance for financial aid eligible postsecondary
26 programming provided under this subsection (4)(b)(ii). If an
27 individual elects to self-pay or utilize third-party funding, the
28 individual is not subject to the postaward formula described in (c)
29 of this subsection. If the cost of attendance exceeds any financial
30 grant awards that may be available to the individual, or the person
31 is not eligible for federal or state financial aid grants, the
32 department shall pay the cost of attendance not otherwise covered by
33 third-party funding. All regulations and requirements set forth by
34 the United States department of education for federal pell grants for
35 prison education programs apply to financial aid eligible
36 postsecondary programming.

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. The individual may apply for and
2 utilize federal and state financial aid grants available to the
3 individual. If the individual is not eligible for federal financial
4 aid grants, the individual may apply for and utilize state financial
5 aid grants available to the individual. Department policies shall
6 include a postaward formula for determining how much an incarcerated
7 individual shall be required to pay after deducting any amount from
8 available financial aid or other available sources. The postaward
9 formula shall include steps which correlate to an incarcerated
10 individual's average monthly income or average available balance in a
11 personal savings account and which are correlated to a prorated
12 portion or percent of the per credit fee for tuition, books, or other
13 ancillary educational costs. Any postaward formula offsets and funds
14 paid for by the department for educational programming shall not
15 result in the reduction of any gift aid. The postaward formula shall
16 be reviewed every two years. A third party, including but not limited
17 to nonprofit entities or community-based postsecondary education
18 programs, may pay directly to the department all or a portion of
19 costs and tuition for any programming provided pursuant to (a)(iv) of
20 this subsection on behalf of an incarcerated individual. Such
21 payments shall not be subject to any of the deductions as provided in
22 this chapter.

23 (d) All incarcerated individuals shall receive financial aid and
24 academic advising from an accredited institution of higher education
25 prior to enrollment in a financial aid eligible postsecondary
26 education program. Eligible individuals who choose not to participate
27 or choose to cease participation in a financial aid eligible
28 postsecondary education program shall not result in a loss of
29 privileges.

30 (e) Correspondence courses are ineligible for state and federal
31 financial aid funding.

32 (f) The department may accept any and all donations and grants of
33 money, equipment, supplies, materials, and services from any third
34 party, including but not limited to nonprofit entities and community-
35 based postsecondary education programs, and may receive, utilize, and
36 dispose of same to complete the purposes of this section.

37 (g) Any funds collected by the department under (c) and (h) [(f)]
38 of this subsection and subsections (11) and (12) of this section
39 shall be used solely for the creation, maintenance, or expansion of
40 incarcerated individual educational and vocational programs.

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

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

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

29 (ii) An incarcerated individual's education history and basic
30 academic skills;

31 (iii) An incarcerated individual's work history and vocational or
32 work skills;

33 (iv) An incarcerated individual's economic circumstances,
34 including but not limited to an incarcerated individual's family
35 support obligations; and

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

38 (b) The department shall establish, and periodically review,
39 incarcerated individual behavior standards and program outcomes for
40 all education and work programs. Incarcerated individuals shall be

1 notified of applicable behavior standards and program goals prior to
2 placement in an education or work program and shall be removed from
3 the education or work program if they consistently fail to meet the
4 standards or outcomes.

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

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

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

29 (10) The department shall establish, by rule, objective medical
30 standards to determine when an incarcerated individual is physically
31 or mentally unable to participate in available education or work
32 programs. When the department determines an incarcerated individual
33 is permanently unable to participate in any available education or
34 work program due to a health condition, the incarcerated individual
35 is exempt from the requirement under subsection (2) of this section.
36 When the department determines an incarcerated individual is
37 temporarily unable to participate in an education or work program due
38 to a medical condition, the incarcerated individual is exempt from
39 the requirement of subsection (2) of this section for the period of
40 time he or she is temporarily disabled. The department shall

1 periodically review the medical condition of all incarcerated
2 individuals with temporary disabilities to ensure the earliest
3 possible entry or reentry by incarcerated individuals into available
4 programming.

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

22 (12) Notwithstanding any other provision in this section, an
23 incarcerated individual subject to the provisions of 8 U.S.C. Sec.
24 1227:

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

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

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

34 (d) Shall be subject to the requirements relating to incarcerated
35 individual financial responsibility for programming under subsection
36 (4) of this section.

37 (13) If an incarcerated individual has participated in
38 postsecondary education programs, the department shall provide the
39 incarcerated individual with a copy of the incarcerated individual's
40 unofficial transcripts, at no cost to the individual, upon the

1 incarcerated individual's release or transfer to a different
2 facility. Upon the incarcerated individual's completion of a
3 postsecondary education program, the department shall provide to the
4 incarcerated individual, at no cost to the individual, a copy of the
5 incarcerated individual's unofficial transcripts. This requirement
6 applies regardless of whether the incarcerated individual became
7 ineligible to participate in or abandoned a postsecondary education
8 program.

9 (14) For the purposes of this section:

10 (a) "Third party" includes a nonprofit entity or community-based
11 postsecondary education program that partners with the department to
12 provide accredited postsecondary education degree and certificate
13 programs at state correctional facilities.

14 (b) "Gift aid" has the meaning provided in RCW 28B.145.010.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.09
16 RCW to read as follows:

17 Except when ordered by a court for community restitution,
18 incarcerated persons are not required to work or otherwise
19 participate in work programs under RCW 72.09.100. Work programs are
20 voluntary, and incarcerated persons may choose to participate or
21 refuse to participate in such programs. Notwithstanding any other
22 provision of law, the department may not issue infractions or take
23 any other punitive, disciplinary, or retaliatory actions against an
24 incarcerated person in response to the person's choice to not
25 participate in work programs. Incarcerated persons participating in
26 class I, II, III, or IV programs must be paid a wage or gratuity for
27 their work as provided under RCW 72.09.100.

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