

HOUSE BILL REPORT

2SHB 1044

As Amended by the Senate

Title: An act relating to creating prison to postsecondary education pathways.

Brief Description: Creating prison to postsecondary education pathways.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Leavitt, Simmons, Johnson, J., Eslick, Lovick, Kloba, Lekanoff, Wylie, Bateman, Senn, Goodman, Bronoske, Valdez, Callan, Ramos, Hackney, Morgan, Ormsby, Fey, Frame, Santos, Davis, Pollet and Bergquist).

Brief History:

Committee Activity:

College & Workforce Development: 1/20/21, 1/25/21 [DPS];
Appropriations: 2/11/21, 2/16/21 [DP2S(w/o sub CWD)].

Floor Activity:

Passed House: 2/25/21, 96-2.
Senate Amended.
Passed Senate: 4/9/21, 28-20.

Brief Summary of Second Substitute Bill

- Permits the Department of Corrections (DOC) to implement postsecondary education certificate and degree programs at state correctional institutions.
- Modifies the DOC's educational goals for incarcerated persons to include special education services and postsecondary education certificates or degrees.
- Requires the DOC to establish a process for identifying, assessing, and accommodating incarcerated persons with learning disabilities, traumatic brain injuries, and cognitive impairments.
- Requires the DOC to provide unofficial transcripts to incarcerated

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persons who participated in postsecondary education programs any time the person completes a program, is transferred to another facility, or is released.

- Requires the DOC to consider an incarcerated person's educational programming when considering transfers to other facilities and when releasing a person to their county of origin.
- Requires the Washington State Institute for Public Policy to study and report on enrollment, completion, and recidivism rates of incarcerated persons in the postsecondary education system post release.
- Requires an annual report from the DOC and other state agencies that includes a variety of data and information on incarcerated persons and postsecondary education.

HOUSE COMMITTEE ON COLLEGE & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Chambers, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Chandler, Hansen, Hoff, Paul, Pollet, Sells and Sutherland.

Minority Report: Do not pass. Signed by 1 member: Representative Kraft.

Staff: Megan Mulvihill (786-7304).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on College & Workforce Development. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Without recommendation. Signed by 2 members: Representatives Stokesbary, Ranking Minority Member; Chandler.

Staff: Yvonne Walker (786-7841).

Background:

Individual Reentry Plans.

The Department of Corrections (DOC) is required to develop individual reentry plans for each incarcerated person under its jurisdiction except for those persons sentenced to life without the possibility of release, sentenced to death, and those subject to deportation. Individual reentry plans include: plans to maintain contact with family; a portfolio of the person's educational achievements, previous employment and work experience, and any training received; and a plan to facilitate reentry into the community that addresses education, employment, substance abuse treatment, mental health treatment, family reunification, and other needs.

The Department of Corrections' Educational Goals for Incarcerated Persons.

The DOC is required to offer certain education and work programs to persons incarcerated at a state correctional institution based on available funding and with the following goals, prioritized in the order listed:

1. the achievement of basic skills by obtaining a high school diploma or the equivalent;
2. the achievement of vocational skills necessary for work programs and to qualify for work upon release;
3. participation in additional work and education programs necessary to comply with an individual reentry plan; and
4. participation in other appropriate vocational, work, or educational programs not necessary for compliance with an individual reentry plan, including associate degree programs.

If programming is provided for goals 1, 2, or 3, the DOC is responsible for the cost, including books, materials, and supplies. If programming is provided for goal 4, the incarcerated person is required to pay all or a portion of the cost, including books, fees, and tuition based on a DOC formula that correlates to the incarcerated person's average monthly income, available savings, and a prorated percent of the per-credit fee. A third party may pay the DOC directly for all or a portion of the programming costs aligned with the fourth goal.

Associate Workforce Degree Programs at State Correctional Institutions.

In 2017 the DOC was authorized to implement associate workforce degree programs at state correctional institutions without specific funds being appropriated for that purpose. The associate workforce degree programs must be offered by an accredited community or technical college, college, or university designed to prepare incarcerated persons to enter the workforce. The DOC may select an incarcerated person to participate in a state-funded associate degree program based on priority criteria, including consideration of the following:

- persons within five years or less of release should be prioritized;
- the person does not already possess a postsecondary education degree; and
- the person's individual reentry plan includes participation in an associate degree program that is: (1) offered at their state correctional institution; (2) approved by the DOC as an eligible and effective postsecondary education degree program; and (3) is

limited to an associate workforce degree.

Incarcerated persons who wish to participate in a state-funded associate degree program, but do not meet the priority criteria, must pay for the program themselves. Incarcerated persons sentenced to life without the possibility of release, sentenced to death, or subject to deportation under federal law are not allowed to participate in a state-funded associate degree program.

County of Origin Discharge Considerations.

The DOC must determine which county is the appropriate residence for a person released to community custody. The DOC is prohibited from approving a residence that is not in the person's county of origin unless the DOC determines that returning to the county of origin would be inappropriate due to: any court-ordered condition of the person's sentence; victim safety concerns; negative influences on the person from within the community; or the location of family, other sponsoring persons, or organizations supporting the person.

Summary of Second Substitute Bill:

The Department of Corrections' Educational Goals for Incarcerated Persons.

The DOC's educational goals for incarcerated persons are modified as follows:

1. the achievement of basic skills by obtaining a high school diploma or the equivalent, including achievement by those persons eligible for special education services pursuant to federal or state law;
2. the achievement of vocational skills necessary for work programs and to qualify for work upon release;
3. participation in additional work and education programs necessary to comply with an individual reentry plan, including special education services and postsecondary education certificate or degree programs; and
4. participation in other appropriate vocational, work, or educational programs not necessary for compliance with an individual reentry plan, including postsecondary education certificate or degree programs.

The DOC must establish a process for identifying and assessing incarcerated persons with learning disabilities, traumatic brain injuries, and other cognitive impairments to determine whether they require accommodations in order to effectively participate in educational programming, including General Educational Development (GED) tests and postsecondary education. The DOC must establish a process to provide accommodations to these persons.

Postsecondary Education Programs at State Correctional Institutions.

The DOC's authority to implement associate workforce degree programs at state correctional institutions is expanded to postsecondary education certificate or degree programs, but is limited to no more than a bachelor's degree. In addition, priority consideration may be given to incarcerated persons within 10 years or less of release. Incarcerated persons sentenced to life without the possibility of release, sentenced to death,

or subject to deportation may participate in a postsecondary education degree program if it is paid for by a third party. The DOC must work with the State Board for Community and Technical Colleges (SBCTC) to develop a plan to assist incarcerated persons participating in state-funded postsecondary education with filing a Free Application for Federal Student Aid (FAFSA) or the Washington Application for State Financial Aid (WASFA).

The DOC is required to provide incarcerated individuals who participated in postsecondary education programs with a copy of their unofficial transcript any time the person completes a postsecondary education program, is transferred to a different facility, or is released. This copy must be provided at no cost to the individual.

Tuition Fees.

Standard tuition fees charged at public institutions of higher education do not apply to persons incarcerated under the DOC who participate in credit-eligible postsecondary education if the expenses are funded by non-tuition resources, such as grants, contracts, and donations.

County of Origin Discharge Considerations.

Upon release, the DOC must consider an incarcerated person's return to their county of origin to be inappropriate if the person is enrolled in an educational program that cannot be completed in their county of origin, unless there are victim safety concerns.

Transfers of Persons Incarcerated at Correctional Facilities.

When determining whether to transfer an incarcerated person to a different in-state facility, the DOC is required to consider whether the person is enrolled in a vocational or educational program, including programs operated by approved outside providers, which cannot be continued at the receiving facility.

Washington State Institute for Public Policy Study.

The Washington State Institute for Public Policy (WSIPP) must study recidivism, enrollment, and completion rates of incarcerated persons in the postsecondary education system post-release. The DOC, the Washington Student Achievement Council (WSAC), the Education Research and Data Center, and the SBCTC must provide the data necessary to complete the study. The study's findings are to be published in two reports, a preliminary report due October 1, 2024, and a final report due October 1, 2027. The WSIPP study must include:

- patterns and effects on post-release enrollment and participation in the community and technical college sector by individuals who, while incarcerated, participated in postsecondary education;
- differential outcomes for individuals participating in different types of postsecondary education courses, certificates, and degree programs;
- changes in enrollment and completion of postsecondary education courses, certificate programs, and degree programs due to the expansion in postsecondary education programming; and

- recidivism outcomes other than incarceration for those individuals who participated in postsecondary education while incarcerated.

State Agency Report on Postsecondary Education Programs and Incarcerated Persons.

The DOC, SBCTC, WSAC, and Washington Statewide Reentry Council, in collaboration with an organization representing the presidents of the public four-year institutions of higher education, must report to the committees of the Legislature with oversight over higher education and correctional matters, by December 1, 2021, and annually thereafter. The report must strive to include the voices of current or formerly incarcerated individuals, and must include the following:

- a review, disaggregated by demographics, of the number of incarcerated persons served and not served in the DOC's postsecondary education system, the number of persons leaving the DOC's custody after a minimum of one year without a high school equivalency certificate, and the number of persons released without any postsecondary education;
- a review of the DOC's identification and assessment of incarcerated persons with learning disabilities, traumatic brain injuries, and other cognitive impairments or disabilities that affect their ability to participate in educational programming, and the barriers to the identification and assessment of these persons with recommendations to improve;
- identification of issues related to ensuring that credits earned in credit-bearing courses are transferable, including a breakdown of both transferable and nontransferable credits awarded;
- a review of transfer policies, including the identification of barriers or challenges, in order to create recommendations to ensure the seamless transfer of incarcerated persons to postsecondary educational institutions;
- the number of persons participating in correspondence courses and the completion rates, disaggregated by demographics;
- an examination of the collaboration between correctional facilities, educational programs, and the postsecondary educational institutions, with the goal of clearly defining roles and responsibilities; and
- a review of partnerships with nonprofit organizations at state correctional facilities that provide postsecondary education programs and reentry services.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment made the following changes:

- alters county of origin to allow the DOC to approve residence locations outside the county of origin based on court-ordered sentence conditions, victim safety concerns, and factors that increase opportunities for successfully reentry and long-term support, such as the ability to complete an education program;
- alters the definition of county of origin and requires the DOC to approve locations in a manner that will not have disproportionate impacts on counties;
- modifies the priority criteria for determining who receives state-funded postsecondary

- education by removing priority for persons within 10 years or less of release;
- removes the prohibition on postsecondary education for incarcerated individuals serving life sentences;
- allows an incarcerated individual sentenced to death or subject to deportation to participate in postsecondary education if participation is paid for by a third party or the individual;
- requires the DOC to establish and periodically review goals for expanding access to postsecondary education for all incarcerated individuals, including persons of color, and allows the DOC to contract and partner with accredited educational programs sponsored by a nonprofit entity, community-based postsecondary education programs, or institutions with historical evidence of providing education programs to people of color;
- requires state agencies to engage with nonprofit and community-based postsecondary education providers during the development of the annual, multi-agency report in section 8;
- includes nonprofit and community-based education providers in the examination of collaboration between facilities and programs for the annual, multi-agency report in section 8;
- requires a review of partnerships with nonprofit and community-based postsecondary education organizations at state correctional facilities, including a list of the programs and services offered and recommendations to improve program delivery as a part of the annual, multi-agency report in section 8; and
- clarifies that third parties include nonprofit entities and community-based postsecondary education programs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (College & Workforce Development):

(In support) Education is one of the most effective tools to create a transformative impact on a person's life, on prison culture, and on recidivism. Incarcerated individuals who participate in postsecondary education have greater rates of employment and reduced recidivism rates. Robust re-entry programs are essential for safety. These programs help save tax dollars and increase public safety. For every dollar spent by the state, there are \$20 in savings. Education increases the chance that these individuals become taxpayers who can support their families. A lack of education has an impact on society. An individual who enters a low-wage job is likely to stay low-income. Children who see their family members take education seriously also take education seriously. Postsecondary education can break generational poverty, and a successful transition into the community is something

everyone can support.

This expansion recognizes the importance of academic degrees and that every student should have a choice. Students would not be limited by the five associate workforce degrees that are currently offered. This especially impacts women. Some individuals currently pay tuition for an out-of-state correspondence course because there are no in-state options available. Educational choice is important because you never know the path someone will take in the future. It can take 10 years to get a four-year degree while incarcerated so the expansion to allow those within 10 years of release to participate in postsecondary education is appreciated. There's a difference between legislating outcomes versus opportunities. There are a number of folks who go into the correctional system wanting change. It is inhumane to further punish people who have served their time by limiting their opportunities.

There is research about some interventions, but not a lot on educational interventions. The WSIPP study must examine these effects and is complimentary to a study at the University of Washington. Programs with small effects can still pass the cost-benefit analysis test and pay for themselves. Section 8 of the bill directs several state agencies to review vital information for policy makers to leverage resources and achieve shared goals.

Incarcerated individuals deserve better assessments and tools to determine what special accommodations they need. There are many who struggle with learning disabilities. Incarcerated students need wrap-around supports. Many of the obstacles to reach graduation are removed with this bill, but there are still many obstacles for individuals with disabilities.

While supportive of education services, the DOC needs additional funding to expand education. There are also concerns about incarcerated students using all of their Federal Pell or Washington College Grants while incarcerated and exhausting their financial aid for future education.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) Postsecondary education is essential to employment and it changes prison culture from punitive to rehabilitative. However, there are currently barriers to providing postsecondary education in incarceration facilities, such as it is only available to offenders that are within five years of release. It is essential to increase postsecondary education as it not only provides offenders with knowledge and self-worth, but it also provides skills for individuals to be productive members of society. One of the primary factors leading to recidivism is a lack of family living wages which is tied to employment and education.

As part of funding this bill, the DOC will need more technology and staff to fully

implement this bill. In addition, the legislation should be structured so that the data that is derived from providing education to incarcerated individuals is made available across all institutions so that other researchers can gain knowledge from the results. Lastly, one must remember that access to education is not only one of the greatest determinants to recidivism but that it is also cost-beneficial to taxpayers. People who were formerly incarcerated deserve the same career opportunities when they reenter society as everyone else.

(Opposed) None.

Persons Testifying (College & Workforce Development): Representative Leavitt, prime sponsor; Noel Vest, Stanford University; Dan Goldhaber; Joyce Oswald; Adrienne Stuart, Washington State Developmental Disabilities Council; Shane Sweetman and Travis Trumbly, Centralia College at Cedar Creek Corrections Center; Alex Hur, Statewide Poverty Action Network; Pat Seibert-Love, Washington State Board for Community and Technical Colleges; Loretta Taylor, Department of Corrections; Eileen Aparis and Jennifer Pritchard, Seattle Goodwill; Russell Brown, Washington Association of Prosecuting Attorneys; JoAnn Taricani, University of Washington; Erin Lynam, Grays Harbor College; Dirk van Velzen, Prison Scholar Fund; Jenny Iredale, Olympic Personal Growth; Melissa Kulczyk, Carpenters Union Local 129; Noreen Light; Carolina Landa; and Sam Locke.

Persons Testifying (Appropriations): Pat Seibert-Love, State Board for Community and Technical Colleges; Loretta Taylor, Washington State Department of Corrections; Noreen Light; Samantha Cruz Mendoza, Associated Students of Washington State University; Sam Locke, Associated Students of the University of Washington - Bothell; Shane Sweetman, Centralia College; Byron Coates; Jacob Vigdor, University of Washington; Dirk van Velzen, Prison Scholar Fund; and Dan Goldhaber.

Persons Signed In To Testify But Not Testifying (College & Workforce Development): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.