
SECOND SUBSTITUTE HOUSE BILL 1044

State of Washington

67th Legislature

2021 Regular Session

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

1 AN ACT Relating to creating prison to postsecondary education
2 pathways; amending RCW 72.09.270, 72.09.460, 72.09.465, 72.68.010,
3 and 28B.15.067; amending 2019 c 397 s 1 (uncodified); adding a new
4 section to chapter 72.68 RCW; adding a new section to chapter 72.09
5 RCW; creating new sections; and providing an expiration date.

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

7 **Sec. 1.** 2019 c 397 s 1 (uncodified) is amended to read as
8 follows:

9 (1) The legislature finds that incarceration is both a rural and
10 urban issue in the state. According to one recent report, the highest
11 rates of prison admissions are in rural counties. In addition, since
12 1980, the number of women in prison has increased more than eight
13 hundred percent. The legislature finds that studies clearly and
14 consistently demonstrate that postsecondary education in prisons
15 improves safety in facilities, and incarcerated adults who obtain
16 postsecondary education and training are more likely to be employed
17 following release, which leads to a ~~((dramatic))~~ significant
18 reduction in recidivism rates, ~~((significant))~~ improvements in public
19 safety, and a major return on investment. The legislature finds that
20 reducing recidivism ~~((would))~~ decreases the financial burden to
21 taxpayers and the emotional burden of victims.

1 (2) The legislature finds that research indicates that
2 postsecondary education and training is an effective evidence-based
3 practice for reducing recidivism. An analysis commissioned by the
4 United States department of justice determined that adults who
5 received (~~such~~) an education while incarcerated were forty-three
6 percent less likely to recidivate.

7 (3) Ninety-five percent of incarcerated adults ultimately return
8 to their communities to obtain employment and contribute to society.
9 The legislature finds that according to the bureau of labor
10 statistics, unemployment rates for people with only a high school
11 education are twice that of those with an associate degree. Research
12 has shown that adults who participated in (~~such~~) education programs
13 while incarcerated were thirteen percent more likely to be employed.

14 (4) The legislature further finds that correctional education is
15 cost-effective. A 2014 study by the Washington state institute for
16 public policy estimated that (~~the state received~~), based on a
17 review of national research literature and cost-benefit analysis,
18 there is a return on investment of twenty dollars for every dollar
19 invested in correctional education.

20 (5) It is the intent of the legislature to enhance public safety,
21 including the safety of prison workers as findings show that violence
22 rates are reduced in institutions where there are educational
23 programs, to reduce crime, and to increase employment rates in a
24 cost-effective manner by exploring benefits and costs associated with
25 providing postsecondary education degree opportunities and training
26 to incarcerated adults through expanded partnerships between (~~the~~
27 ~~community and technical colleges~~) postsecondary institutions and the
28 department of corrections.

29 (6) It is the intent of the legislature to support exploring the
30 use of secure internet connections expressly for the purposes of
31 furthering postsecondary education degree opportunities and training
32 of incarcerated adults, including providing assistance to
33 incarcerated adults with completing financial aid materials. The
34 legislature intends for the department to be able to provide complete
35 assurance that all (~~offender-used~~) internet connections used by
36 incarcerated individuals are secure.

37 (7) It is also the intent of the legislature, by requiring the
38 study under section 2 of this act, to examine the effects of
39 providing postsecondary education while incarcerated on enrollment in
40 the postsecondary education system postrelease.

1 NEW SECTION. **Sec. 2.** (1)(a) Subject to the availability of
2 amounts appropriated for this specific purpose, the Washington state
3 institute for public policy shall study enrollment, completion, and
4 recidivism rates of incarcerated individuals in the postsecondary
5 education system postrelease.

6 (b) The goal of the study is to understand whether participation
7 in postsecondary education while incarcerated contributes to greater
8 enrollment and completion of postsecondary education and reduced
9 recidivism postrelease. The scope of the study shall focus on
10 postrelease enrollment and completion trends in the community and
11 technical college sector for formerly incarcerated individuals of all
12 ages. The timeline of the study may include data from 2015 to the
13 present, to the extent possible. The study's findings shall be
14 divided into a preliminary and final report. The reports shall
15 complement similar studies conducted at the University of Washington
16 or elsewhere. To the extent that it is not duplicative of other
17 studies, the Washington state institute for public policy shall study
18 the following:

19 (i) For the preliminary report, which is due October 1, 2024:

20 (A) Patterns and any effects on postrelease enrollment and
21 participation in the community and technical college system by
22 individuals who, while incarcerated, participated in postsecondary
23 education programs, including those individuals that completed some
24 coursework but did not earn a degree or certificate; and

25 (B) Differential outcomes for individuals participating in
26 different types of postsecondary education courses, certificate
27 programs, and degree programs.

28 (ii) For the final report, which is due October 1, 2027, a
29 continuation of the preliminary report in addition to:

30 (A) Changes in enrollment and completion of postsecondary
31 education courses, certificate programs, and degree programs due to
32 the changes and expansion of educational programming in this act, to
33 the extent possible; and

34 (B) Recidivism outcomes beyond incarceration for those
35 incarcerated individuals that participated in postsecondary
36 certificate and degree programs while incarcerated, including
37 arrests, charges, and convictions.

38 (iii) The preliminary and final reports shall be submitted to the
39 appropriate committees of the legislature and in accordance with RCW
40 43.01.036.

1 (iv) The department of corrections, the student achievement
2 council, the state board for community and technical colleges, and
3 the education research and data center shall provide data necessary
4 to conduct the study.

5 (2) This section expires January 1, 2029.

6 **Sec. 3.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to
7 read as follows:

8 (1) The department of corrections shall develop an individual
9 reentry plan as defined in RCW 72.09.015 for every ~~((offender))~~
10 incarcerated individual who is committed to the jurisdiction of the
11 department except:

12 (a) ~~((offenders))~~ incarcerated individuals who are sentenced to
13 life without the possibility of release or sentenced to death under
14 chapter 10.95 RCW; and

15 (b) ~~((offenders))~~ incarcerated individuals who are subject to the
16 provisions of 8 U.S.C. Sec. 1227.

17 (2) The individual reentry plan may be one document, or may be a
18 series of individual plans that combine to meet the requirements of
19 this section.

20 (3) In developing individual reentry plans, the department shall
21 assess all ~~((offenders))~~ incarcerated individuals using standardized
22 and comprehensive tools to identify the criminogenic risks,
23 programmatic needs, and educational and vocational skill levels for
24 each ~~((offender))~~ incarcerated individual. The assessment tool should
25 take into account demographic biases, such as culture, age, and
26 gender, as well as the needs of the ~~((offender))~~ incarcerated
27 individual, including any learning disabilities, substance abuse or
28 mental health issues, and social or behavior ~~((deficits))~~ challenges.

29 (4)(a) The initial assessment shall be conducted as early as
30 sentencing, but, whenever possible, no later than forty-five days of
31 being sentenced to the jurisdiction of the department of corrections.

32 (b) The ~~((offender's))~~ incarcerated individual's individual
33 reentry plan shall be developed as soon as possible after the initial
34 assessment is conducted, but, whenever possible, no later than sixty
35 days after completion of the assessment, and shall be periodically
36 reviewed and updated as appropriate.

37 (5) The individual reentry plan shall, at a minimum, include:

38 (a) A plan to maintain contact with the ~~((inmate's))~~ incarcerated
39 individual's children and family, if appropriate. The plan should

1 determine whether parenting classes, or other services, are
2 appropriate to facilitate successful reunification with the
3 ((~~offender's~~)) incarcerated individual's children and family;

4 (b) An individualized portfolio for each ((~~offender~~))
5 incarcerated individual that includes the ((~~offender's~~)) incarcerated
6 individual's education achievements, certifications, employment, work
7 experience, skills, and any training received prior to and during
8 incarceration; and

9 (c) A plan for the ((~~offender~~)) incarcerated individual during
10 the period of incarceration through reentry into the community that
11 addresses the needs of the ((~~offender~~)) incarcerated individual
12 including education, employment, substance abuse treatment, mental
13 health treatment, family reunification, and other areas which are
14 needed to facilitate a successful reintegration into the community.

15 (6) (a) Prior to discharge of any ((~~offender~~)) incarcerated
16 individual, the department shall:

17 (i) Evaluate the ((~~offender's~~)) incarcerated individual's needs
18 and, to the extent possible, connect the ((~~offender~~)) incarcerated
19 individual with existing services and resources that meet those
20 needs; and

21 (ii) Connect the ((~~offender~~)) incarcerated individual with a
22 community justice center and/or community transition coordination
23 network in the area in which the ((~~offender~~)) incarcerated individual
24 will be residing once released from the correctional system if one
25 exists.

26 (b) If the department recommends partial confinement in an
27 ((~~offender's~~)) incarcerated individual's individual reentry plan, the
28 department shall maximize the period of partial confinement for the
29 ((~~offender~~)) incarcerated individual as allowed pursuant to RCW
30 9.94A.728 to facilitate the ((~~offender's~~)) incarcerated individual's
31 transition to the community.

32 (7) The department shall establish mechanisms for sharing
33 information from individual reentry plans to those persons involved
34 with the ((~~offender's~~)) incarcerated individual's treatment,
35 programming, and reentry, when deemed appropriate. When feasible,
36 this information shall be shared electronically.

37 (8) (a) (i) In determining the county of discharge for an
38 ((~~offender~~)) incarcerated individual released to community custody,
39 the department may not approve a residence location that is not in
40 the ((~~offender's~~)) incarcerated individual's county of origin unless

1 it is determined by the department that the ((~~offender's~~))
2 incarcerated individual's return to his or her county of origin would
3 be inappropriate considering any court-ordered condition of the
4 ((~~offender's~~)) incarcerated individual's sentence, victim safety
5 concerns, negative influences on the ((~~offender~~)) incarcerated
6 individual in the community, or the location of family or other
7 sponsoring persons or organizations that will support the
8 ((~~offender~~)) incarcerated individual.

9 (ii) Unless there are victim safety concerns, the department
10 shall consider the incarcerated individual's return to their county
11 of origin to be inappropriate if the incarcerated individual is
12 enrolled in an educational program and a return to their county of
13 origin would result in the incarcerated individual not being able to
14 complete the program.

15 (b) If the ((~~offender~~)) incarcerated individual is not returned
16 to his or her county of origin, the department shall provide the law
17 and justice council of the county in which the ((~~offender~~))
18 incarcerated individual is placed with a written explanation.

19 (c) For purposes of this section, the ((~~offender's~~)) incarcerated
20 individual's county of origin means the county of the ((~~offender's~~))
21 incarcerated individual's first felony conviction in Washington.

22 (9) Nothing in this section creates a vested right in
23 programming, education, or other services.

24 **Sec. 4.** RCW 72.09.460 and 2017 c 120 s 3 are each amended to
25 read as follows:

26 (1) Recognizing that there is a positive correlation between
27 education opportunities and reduced recidivism, it is the intent of
28 the legislature to offer appropriate ((~~associate~~)) postsecondary
29 degree or certificate opportunities to ((~~inmates designed to prepare~~
30 ~~the inmate to enter the workforce~~)) incarcerated individuals.

31 (2) The legislature intends that all ((~~inmates~~)) incarcerated
32 individuals be required to participate in department-approved
33 education programs, work programs, or both, unless exempted as
34 specifically provided in this section. Eligible ((~~inmates~~))
35 incarcerated individuals who refuse to participate in available
36 education or work programs available at no charge to the ((~~inmates~~))
37 incarcerated individuals shall lose privileges according to the
38 system established under RCW 72.09.130. Eligible ((~~inmates~~))
39 incarcerated individuals who are required to contribute financially

1 to an education or work program and refuse to contribute shall be
2 placed in another work program. Refusal to contribute shall not
3 result in a loss of privileges.

4 (3) The legislature recognizes more (~~inmates~~) incarcerated
5 individuals may agree to participate in education and work programs
6 than are available. The department must make every effort to achieve
7 maximum public benefit by placing (~~inmates~~) incarcerated
8 individuals in available and appropriate education and work programs.

9 (4)(a) The department shall, to the extent possible and
10 considering all available funds, prioritize its resources to meet the
11 following goals for (~~inmates~~) incarcerated individuals in the order
12 listed:

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

18 (ii) Achievement of vocational skills necessary for purposes of
19 work programs and for an (~~inmate~~) incarcerated individual to
20 qualify for work upon release;

21 (iii) Additional work and education programs necessary for
22 compliance with an (~~offender's~~) incarcerated individual's
23 individual reentry plan under RCW 72.09.270, including special
24 education services and postsecondary degree or certificate education
25 programs; and

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

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

35 (c) If programming is provided pursuant to (a)(iv) of this
36 subsection, (~~inmates~~) incarcerated individuals shall be required to
37 pay all or a portion of the costs, including books, fees, and
38 tuition, for participation in any vocational, work, or education
39 program as provided in department policies. Department policies shall
40 include a formula for determining how much an (~~offender~~)

1 incarcerated individual shall be required to pay. The formula shall
2 include steps which correlate to an (~~offender~~) incarcerated
3 individual's average monthly income or average available balance in a
4 personal (~~inmate~~) savings account and which are correlated to a
5 prorated portion or percent of the per credit fee for tuition, books,
6 or other ancillary educational costs. The formula shall be reviewed
7 every two years. A third party may pay directly to the department all
8 or a portion of costs and tuition for any programming provided
9 pursuant to (a)(iv) of this subsection on behalf of an (~~inmate~~)
10 incarcerated individual. Such payments shall not be subject to any of
11 the deductions as provided in this chapter.

12 (d) The department may accept any and all donations and grants of
13 money, equipment, supplies, materials, and services from any third
14 party, including but not limited to nonprofit entities, and may
15 receive, utilize, and dispose of same to complete the purposes of
16 this section.

17 (e) Any funds collected by the department under (c) and (d) of
18 this subsection and subsections (~~(9) and~~) (10) and (11) of this
19 section shall be used solely for the creation, maintenance, or
20 expansion of (~~inmate~~) incarcerated individual educational and
21 vocational programs.

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

38 (6) (a) In addition to the policies set forth in this section, the
39 department shall consider the following factors in establishing
40 criteria for assessing the inclusion of education and work programs

1 in an ((~~inmate's~~)) incarcerated individual's individual reentry plan
2 and in placing ((~~inmates~~)) incarcerated individuals in education and
3 work programs:

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

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

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

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

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

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

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

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

1 in order to effectively participate in educational programming,
2 including general educational development tests and postsecondary
3 education. The department shall establish a process to provide such
4 accommodations to eligible incarcerated individuals.

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

22 ((+9)) (10) The department shall establish policies requiring an
23 ((offender)) incarcerated individual to pay all or a portion of the
24 costs and tuition for any vocational training or postsecondary
25 education program if the ((offender)) incarcerated individual
26 previously abandoned coursework related to ((associate))
27 postsecondary degree or certificate education or vocational training
28 without excuse as defined in rule by the department. Department
29 policies shall include a formula for determining how much an
30 ((offender)) incarcerated individual shall be required to pay. The
31 formula shall include steps which correlate to an ((offender))
32 incarcerated individual's average monthly income or average available
33 balance in a personal ((inmate)) savings account and which are
34 correlated to a prorated portion or percent of the per credit fee for
35 tuition, books, or other ancillary costs. The formula shall be
36 reviewed every two years. A third party may pay directly to the
37 department all or a portion of costs and tuition for any program on
38 behalf of an ((inmate)) incarcerated individual under this
39 subsection. Such payments shall not be subject to any of the
40 deductions as provided in this chapter.

1 (~~(10)~~) (11) Notwithstanding any other provision in this
2 section, an (~~inmate~~) incarcerated individual sentenced to life
3 without the possibility of release, sentenced to death under chapter
4 10.95 RCW, or subject to the provisions of 8 U.S.C. Sec. 1227:

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

8 (b) May not participate in (~~an associate~~) a postsecondary
9 degree education program offered by the department or its contracted
10 providers, unless the incarcerated individual's participation in the
11 program is paid for by a third party;

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

14 (d) Shall be subject to the applicable provisions of this chapter
15 relating to (~~inmate~~) incarcerated individual financial
16 responsibility for programming.

17 (12) If an incarcerated individual has participated in
18 postsecondary education programs, the department shall provide the
19 incarcerated individual with a copy of the incarcerated individual's
20 unofficial transcripts, at no cost to the individual, upon the
21 incarcerated individual's release or transfer to a different
22 facility. Upon the incarcerated individual's completion of a
23 postsecondary education program, the department shall provide to the
24 incarcerated individual, at no cost to the individual, a copy of the
25 incarcerated individual's unofficial transcripts. This requirement
26 applies regardless of whether the incarcerated individual became
27 ineligible to participate in or abandoned a postsecondary education
28 program.

29 **Sec. 5.** RCW 72.09.465 and 2017 c 120 s 4 are each amended to
30 read as follows:

31 (1) (a) The department may implement (~~associate~~) postsecondary
32 degree or certificate education programs at state correctional
33 institutions. (~~During the 2015-2017 fiscal biennium, the department~~
34 ~~may implement postsecondary degree programs within state~~
35 ~~institutions, including the state correctional institution with the~~
36 ~~largest population of females, within its existing funds and under~~
37 ~~the limitations in this section, to include any funding provided~~
38 ~~under subsection (3) of this section.~~)

1 **(b)** The department may consider for inclusion in any
2 (~~associate~~) postsecondary degree or certificate education program,
3 any education program from an accredited community or technical
4 college, college, or university that is (~~part of an associate~~
5 ~~workforce degree program designed to prepare the inmate to enter the~~
6 ~~workforce~~) limited to no more than a bachelor's degree. Washington
7 state-recognized preapprenticeship programs may also be included as
8 appropriate postsecondary education programs.

9 (2) (~~Inmates~~) Incarcerated individuals not meeting the
10 department's priority criteria for the state-funded (~~associate~~)
11 postsecondary degree education program shall be required to pay the
12 costs for participation in a postsecondary education degree program
13 if he or she elects to participate through self-pay, including costs
14 of books, fees, tuition, or any other appropriate ancillary costs, by
15 one or more of the following means:

16 (a) The (~~inmate~~) incarcerated individual who is participating
17 in the postsecondary education degree program may, during
18 confinement, provide the required payment or payments to the
19 department; or

20 (b) A third party shall provide the required payment or payments
21 directly to the department on behalf of an (~~inmate~~) incarcerated
22 individual, and such payments shall not be subject to any of the
23 deductions as provided in this chapter.

24 (3) The department may accept any and all donations and grants of
25 money, equipment, supplies, materials, and services from any third
26 party, including but not limited to nonprofit entities, and may
27 receive, utilize, and dispose of same to provide postsecondary
28 education to (~~inmates~~) incarcerated individuals.

29 (4) An (~~inmate~~) incarcerated individual may be selected to
30 participate in a state-funded (~~associate~~) postsecondary degree or
31 certificate education program, based on priority criteria determined
32 by the department, in which the following conditions may be
33 considered:

34 (a) Priority should be given to (~~inmates~~) incarcerated
35 individuals within (~~five~~) ten years or less of release;

36 (b) The (~~inmate~~) incarcerated individual does not already
37 possess a postsecondary education degree; and

38 (c) The (~~inmate's~~) incarcerated individual's individual reentry
39 plan includes participation in (~~an associate~~) a postsecondary
40 degree or certificate education program that is:

1 (i) Offered at the (~~inmate's~~) incarcerated individual's state
2 correctional institution;

3 (ii) Approved by the department as an eligible and effective
4 postsecondary education degree program; and

5 (iii) Limited to (~~an associate workforce~~) a postsecondary
6 degree or certificate program.

7 (5) (~~During the 2015-2017 fiscal biennium, an inmate may be~~
8 ~~selected to participate in a state-funded postsecondary education~~
9 ~~degree program, based on priority criteria determined by the~~
10 ~~department, in which the following conditions may be considered:~~

11 ~~(a) Priority should be given to inmates within five years of~~
12 ~~release;~~

13 ~~(b) The inmate does not already possess a postsecondary education~~
14 ~~degree; and~~

15 ~~(c) The inmate's individual reentry plan includes participation~~
16 ~~in a postsecondary education degree program that is:~~

17 ~~(i) Offered at the inmate's state correctional institution; and~~

18 ~~(ii) Approved by the department as an eligible and effective~~
19 ~~postsecondary education degree program.)) The department shall work
20 with the college board as defined in RCW 28B.50.030 to develop a plan
21 to assist incarcerated individuals selected to participate in state-
22 funded postsecondary degree or certificate programs with filing a
23 free application for federal student aid or the Washington
24 application for state financial aid.~~

25 (6) Any funds collected by the department under this section
26 shall be used solely for the creation, maintenance, or expansion of
27 (~~inmate~~) postsecondary education degree programs for incarcerated
28 individuals.

29 NEW SECTION. Sec. 6. A new section is added to chapter 72.68
30 RCW to read as follows:

31 (1) In determining whether to transfer an incarcerated individual
32 to a different facility in the state, the department shall consider
33 whether the incarcerated individual is enrolled in a vocational or
34 educational program, including those operated by approved outside
35 providers, which cannot be continued at the receiving facility. The
36 department shall work with the incarcerated individual's case
37 manager, counselor, education navigator, or other appropriate person
38 to attempt to meet the needs of the department and the incarcerated
39 individual regarding transfer.

1 (2) Nothing in this section creates a vested right in
2 programming, education, or other services.

3 **Sec. 7.** RCW 72.68.010 and 2020 c 318 s 4 are each amended to
4 read as follows:

5 (1) Whenever in its judgment the best interests of the state or
6 the welfare of any (~~prisoner~~) incarcerated individual confined in
7 any penal institution will be better served by his or her transfer to
8 another institution or to a foreign country of which the (~~prisoner~~)
9 incarcerated individual is a citizen or national, the secretary may
10 effect such transfer consistent with applicable federal laws and
11 treaties. The secretary has the authority to transfer (~~offenders~~)
12 incarcerated individuals between in-state correctional facilities or
13 to out-of-state governmental institutions if the secretary determines
14 that transfer is in the best interest of the state or the
15 (~~offender~~) incarcerated individual. The determination of what is in
16 the best interest of the state or (~~offender~~) incarcerated
17 individual may include but is not limited to considerations of
18 overcrowding, emergency conditions, or hardship to the (~~offender~~)
19 incarcerated individual. In determining whether the transfer will
20 impose a hardship on the (~~offender~~) incarcerated individual, the
21 secretary shall consider: (a) The location of the (~~offender's~~)
22 incarcerated individual's family and whether the (~~offender~~)
23 incarcerated individual has maintained contact with members of his or
24 her family; (b) whether, if the (~~offender~~) incarcerated individual
25 has maintained contact, the contact will be significantly disrupted
26 by the transfer due to the family's inability to maintain the contact
27 as a result of the transfer; and (c) whether the (~~offender~~)
28 incarcerated individual is enrolled in a vocational or educational
29 program that cannot reasonably be resumed or completed if the
30 (~~offender~~) incarcerated individual is transferred to another
31 correctional institution or returned to the state.

32 (2) (a) The secretary has the authority to transfer (~~offenders~~)
33 incarcerated individuals to an out-of-state private correctional
34 entity only if:

35 (i) The governor finds that an emergency exists such that the
36 population of a state correctional facility exceeds its reasonable,
37 maximum capacity, resulting in safety and security concerns;

38 (ii) The governor has considered all other legal options to
39 address capacity, including those pursuant to RCW 9.94A.870;

1 (iii) The secretary determines that transfer is in the best
2 interest of the state or the (~~offender~~) incarcerated individual;
3 and

4 (iv) The contract with the out-of-state private correctional
5 entity includes requirements for access to public records to the same
6 extent as if the facility were operated by the department, (~~inmate~~)
7 incarcerated individual access to the office of the corrections
8 ombuds, and inspections and visits without notice.

9 (b) Should any of these requirements in this subsection not be
10 met, the contract with the private correctional entity shall be
11 terminated.

12 (3) If directed by the governor, the secretary shall, in carrying
13 out this section and RCW 43.06.350, adopt rules under chapter 34.05
14 RCW to effect the transfer of (~~prisoners~~) incarcerated individuals
15 requesting transfer to foreign countries.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09
17 RCW to read as follows:

18 (1) The department, the state board for community and technical
19 colleges, the student achievement council, and the Washington
20 statewide reentry council, in collaboration with an organization
21 representing the presidents of the public four-year institutions of
22 higher education, shall submit a combined report, pursuant to RCW
23 43.01.036, by December 1, 2021, and annually thereafter, to the
24 appropriate committees of the legislature having oversight over
25 higher education issues and correctional matters.

26 (2) At a minimum, the combined report must include:

27 (a) The number of incarcerated individuals served in the
28 department's postsecondary education system, the number of
29 individuals not served, the number of individuals leaving the
30 department's custody without a high school equivalency who were in
31 the department's custody longer than one year, and the number of
32 individuals released without any postsecondary education, each
33 disaggregated by demographics;

34 (b) A review of the department's identification and assessment of
35 incarcerated individuals with learning disabilities, traumatic brain
36 injuries, and other cognitive impairments or disabilities that may
37 limit their ability to participate in educational programming,
38 including general educational development testing and postsecondary
39 education. The report shall identify barriers to the identification

1 and assessment of these individuals and include recommendations that
2 will further facilitate access to educational programming for these
3 individuals;

4 (c) An identification of issues related to ensuring that credits
5 earned in credit-bearing courses are transferable. The report must
6 also include the number of transferable credits awarded and the
7 number of credits awarded that are not transferable;

8 (d) A review of policies on transfer, in order to create
9 recommendations to institutions and the legislature that to ensure
10 postsecondary education credits earned while incarcerated transfer
11 seamlessly upon postrelease enrollment in a postsecondary education
12 institution. The review must identify barriers or challenges on
13 transferring credits experienced by individuals and the number of
14 credits earned while incarcerated that transferred to the receiving
15 colleges postrelease;

16 (e) The number of individuals participating in correspondence
17 courses and completion rates of correspondence courses, disaggregated
18 by demographics;

19 (f) An examination of the collaboration between correctional
20 facilities, the educational programs, and the institutions, with the
21 goal of ensuring that roles and responsibilities are clearly defined,
22 including the roles and responsibilities of each entity in relation
23 to ensuring incarcerated individual access to, and accommodations in,
24 educational programming; and

25 (g) A review of the partnerships with nonprofit organizations at
26 state correctional facilities that provide accredited certificate and
27 degree granting programs and those that provide reentry services in
28 support of educational programs and goals.

29 (3) The report shall strive to include, where possible, the
30 voices and experiences of current or formerly incarcerated
31 individuals.

32 **Sec. 9.** RCW 28B.15.067 and 2020 c 114 s 4 are each amended to
33 read as follows:

34 (1) Tuition fees shall be established under the provisions of
35 this chapter.

36 (2) Tuition operating fees for resident undergraduates at
37 institutions of higher education as defined in RCW 28B.10.016,
38 excluding applied baccalaureate degrees as defined in RCW 28B.50.030,
39 may increase by no more than the average annual percentage growth

1 rate in the median hourly wage for Washington for the previous
2 fourteen years as the wage is determined by the federal bureau of
3 labor statistics.

4 (3) The governing boards of the state universities, regional
5 universities, and The Evergreen State College; and the state board
6 for community and technical colleges may reduce or increase full-time
7 tuition fees for all students other than resident undergraduates,
8 including nonresident students, summer school students, and students
9 in other self-supporting degree programs. Percentage increases in
10 full-time tuition may exceed the fiscal growth factor. Except during
11 the 2013-2015 fiscal biennium, the state board for community and
12 technical colleges may pilot or institute differential tuition
13 models. The board may define scale, scope, and rationale for the
14 models.

15 (4) The tuition fees established under this chapter shall not
16 apply to high school students enrolling in participating institutions
17 of higher education under RCW 28A.600.300 through 28A.600.400.

18 (5) (a) The tuition fees established under this chapter shall not
19 apply to eligible students enrolling in a dropout reengagement
20 program through an interlocal agreement between a school district and
21 a community or technical college under RCW 28A.175.100 through
22 28A.175.110.

23 (b) The tuition fees established under this chapter shall not
24 apply to students incarcerated with the department of corrections who
25 are participating in credit-eligible postsecondary education courses
26 and degree programs when the program expenses are funded by
27 nontuition resources such as, but not limited to, grants, contracts,
28 and donations.

29 (6) As a result of any changes in tuition under section 3,
30 chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the
31 state universities, the regional universities, and The Evergreen
32 State College shall not reduce resident undergraduate enrollment
33 below the 2014-15 academic year levels.

34 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
35 this act, referencing this act by bill or chapter number, is not
36 provided by June 30, 2021, in the omnibus appropriations act, this
37 act is null and void.

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