
HOUSE BILL 1063

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62nd Legislature

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By Representatives Appleton, Roberts, Darneille, and Moeller

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1 AN ACT Relating to providing juveniles sentenced as adults to life
2 without the possibility of parole with meaningful periodic sentencing
3 reviews to be conducted by the indeterminate sentencing review board;
4 amending RCW 9.95.003, 9.95.009, 9.95.011, 9.95.013, 9.95.017,
5 9.95.115, 9.95.116, 9.95.120, 10.95.030, 72.09.270, and 72.09.460; and
6 providing an effective date.

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

8 **Sec. 1.** RCW 9.95.003 and 2007 c 362 s 1 are each amended to read
9 as follows:

10 The board shall consist of a (~~chairman~~) chair and four other
11 members, each of whom shall be appointed by the governor with the
12 consent of the senate. Each member shall hold office for a term of
13 five years, and until his or her successor is appointed and qualified.
14 The terms shall expire on April 15th of the expiration year. Vacancies
15 in the membership of the board shall be filled by appointment by the
16 governor with the consent of the senate. In the event of the inability
17 of any member to act, the governor shall appoint some competent person
18 to act in his or her stead during the continuance of such inability.
19 The members shall not be removable during their respective terms except

1 for cause determined by the superior court of Thurston county. The
2 governor in appointing the members shall designate one of them to serve
3 as ((~~chairman~~)) chair at the governor's pleasure. The appointed
4 ((~~chairman~~)) chair shall serve as a fully participating board member
5 and as the director of the agency.

6 The members of the board and its officers and employees shall not
7 engage in any other business or profession or hold any other public
8 office without the prior approval of the executive ethics board
9 indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and
10 42.52.120; nor shall they, at the time of appointment or employment or
11 during their incumbency, serve as the representative of any political
12 party on an executive committee or other governing body thereof, or as
13 an executive officer or employee of any political committee or
14 association. The members of the board shall each severally receive
15 salaries fixed by the governor in accordance with the provisions of RCW
16 43.03.040, and in addition shall receive travel expenses incurred in
17 the discharge of their official duties in accordance with RCW 43.03.050
18 and 43.03.060.

19 The board may employ, and fix, with the approval of the governor,
20 the compensation of and prescribe the duties of a senior administrative
21 officer and such officers, employees, and assistants as may be
22 necessary, and provide necessary quarters, supplies, and equipment.
23 For the purposes of hearings set forth in RCW 9.95.011(3), this shall
24 include but not be limited to experts in adolescent psychosocial and
25 brain development.

26 **Sec. 2.** RCW 9.95.009 and 1990 c 3 s 707 are each amended to read
27 as follows:

28 (1) On July 1, 1986, the board of prison terms and paroles shall be
29 redesignated as the indeterminate sentence review board. The board's
30 membership shall be reduced as follows: On July 1, 1986, and on July
31 1st of each year until 1998, the number of board members shall be
32 reduced in a manner commensurate with the board's remaining workload as
33 determined by the office of financial management based upon its
34 population forecast for the indeterminate sentencing system and in
35 conjunction with the budget process. To meet the statutory obligations
36 of the indeterminate sentence review board, the number of board members
37 shall not be reduced to fewer than three members, although the office

1 of financial management may designate some or all members as part-time
2 members and specify the extent to which they shall be less than full-
3 time members. Any reduction shall take place by the expiration, on
4 that date, of the term or terms having the least time left to serve.

5 (2) On August 1, 2011, the office of financial management shall
6 determine whether any changes in the membership of the board are
7 necessary based upon its population forecast of the population of
8 offenders who will be reviewed by the board pursuant to RCW
9 9.95.011(3).

10 (3)(a) After July 1, 1984, the board shall continue its functions
11 with respect to persons:

12 (i) Convicted of crimes committed prior to July 1, 1984, and
13 committed to the department of corrections; and

14 (ii) Sentenced in adult court to a term of life without parole for
15 a crime committed prior to his or her eighteenth birthday and committed
16 to the department of corrections.

17 (b) When making decisions on duration of confinement, including
18 those relating to persons committed under a mandatory life sentence,
19 and parole release under RCW 9.95.100 and 9.95.110, the board shall
20 consider the purposes, standards, and sentencing ranges adopted
21 pursuant to RCW 9.94A.850 and the minimum term recommendations of the
22 sentencing judge and prosecuting attorney where such recommendations
23 exist in the trial record, and shall attempt to make decisions
24 reasonably consistent with those ranges, standards, purposes, and
25 recommendations: PROVIDED, That the board and its successors shall
26 give adequate written reasons whenever a minimum term or parole release
27 decision is made which is outside the sentencing ranges adopted
28 pursuant to RCW 9.94A.850. In making such decisions, the board and its
29 successors shall consider the different charging and disposition
30 practices under the indeterminate sentencing system.

31 ~~((+3))~~ (4) Notwithstanding the provisions of subsection ~~((+2))~~
32 (3) of this section, the indeterminate sentence review board shall give
33 public safety considerations the highest priority when making all
34 discretionary decisions on the remaining indeterminate population
35 regarding the ability for parole, parole release, and conditions of
36 parole.

1 **Sec. 3.** RCW 9.95.011 and 2009 c 28 s 21 are each amended to read
2 as follows:

3 (1) When the court commits a convicted person to the department of
4 corrections on or after July 1, 1986, for an offense committed before
5 July 1, 1984, the court shall, at the time of sentencing or revocation
6 of probation, fix the minimum term. The term so fixed shall not exceed
7 the maximum sentence provided by law for the offense of which the
8 person is convicted.

9 The court shall attempt to set the minimum term reasonably
10 consistent with the purposes, standards, and sentencing ranges adopted
11 under RCW 9.94A.850, but the court is subject to the same limitations
12 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through
13 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The
14 court's minimum term decision is subject to review to the same extent
15 as a minimum term decision by the parole board before July 1, 1986.

16 Thereafter, the expiration of the minimum term set by the court
17 minus any time credits earned under RCW 9.95.070 and 9.95.110
18 constitutes the parole eligibility review date, at which time the board
19 may consider the convicted person for parole under RCW 9.95.100 and
20 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the
21 board's authority to reduce or increase the minimum term, once set by
22 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,
23 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

24 (2)(a) Except as provided in (b) of this subsection, not less than
25 ninety days prior to the expiration of the minimum term of a person
26 sentenced under RCW 9.94A.507, for a sex offense committed on or after
27 September 1, 2001, less any time credits permitted by statute, the
28 board shall review the person for conditional release to community
29 custody as provided in RCW 9.95.420. If the board does not release the
30 person, it shall set a new minimum term not to exceed an additional
31 five years. The board shall review the person again not less than
32 ninety days prior to the expiration of the new minimum term.

33 (b) If at the time a person sentenced under RCW 9.94A.507 for a sex
34 offense committed on or after September 1, 2001, arrives at a
35 department of corrections facility, the offender's minimum term has
36 expired or will expire within one hundred twenty days of the offender's
37 arrival, then no later than one hundred twenty days after the
38 offender's arrival at a department of corrections facility, but after

1 the board receives the results from the end of sentence review process
2 and the recommendations for additional or modified conditions of
3 community custody from the department, the board shall review the
4 person for conditional release to community custody as provided in RCW
5 9.95.420. If the board does not release the person, it shall set a new
6 minimum term not to exceed an additional five years. The board shall
7 review the person again not less than ninety days prior to the
8 expiration of the new minimum term.

9 (c) In setting a new minimum term, the board may consider the
10 length of time necessary for the offender to complete treatment and
11 programming as well as other factors that relate to the offender's
12 release under RCW 9.95.420. The board's rules shall permit an offender
13 to petition for an earlier review if circumstances change or the board
14 receives new information that would warrant an earlier review.

15 (3) The board is authorized to review the sentences of persons
16 sentenced to life without parole for crimes committed prior to the
17 person's eighteenth birthday and set a release date pursuant to RCW
18 9.95.115(2).

19 (a) The board shall conduct a sentence review at least once within
20 the first fifteen years of his or her sentence. For persons identified
21 in this subsection who were sentenced on or before August 1, 2011, and
22 who have already served more than fifteen years, the board shall
23 conduct an initial sentence review no later than July 1, 2012, unless
24 he or she is released on other grounds prior to that date. If the
25 board does not set a release date upon its initial review, it shall
26 engage in another sentence review at least once in the three years
27 following its decision and at least once every three years thereafter
28 until the release of the offender.

29 (b) After the board's initial review and before the subsequent
30 review required under (a) of this subsection, the department of
31 corrections, on behalf of the offender, may petition the board for
32 review if circumstances change or the board receives new information
33 that would warrant an earlier review. The board may also set an
34 earlier date for review at the conclusion of a hearing in which it is
35 determined that a sentence should not be reduced.

36 **Sec. 4.** RCW 9.95.013 and 1989 c 259 s 5 are each amended to read
37 as follows:

1 The board shall apply all of the statutory requirements of RCW
2 9.95.009(~~(+2+)~~) (3), requiring decisions of the board to be reasonably
3 consistent with the ranges, standards, and purposes of the sentencing
4 reform act, chapter 9.94A RCW, and the minimum term recommendations of
5 the sentencing judge and the prosecuting attorney where such
6 recommendations exist in the trial record, to every person who, on July
7 23, 1989, is incarcerated and has been adjudged under the provisions of
8 RCW 9.92.090.

9 **Sec. 5.** RCW 9.95.017 and 2009 c 28 s 22 are each amended to read
10 as follows:

11 (1) The board shall cause to be prepared criteria for duration of
12 confinement, release on parole, and length of parole for persons
13 committed to prison for crimes committed before July 1, 1984, and
14 persons committed to prison for life without the possibility of parole
15 for crimes committed prior to the person's eighteenth birthday.

16 The proposed criteria should take into consideration RCW
17 9.95.009(~~(+2+)~~) (3). Before submission to the governor, the board
18 shall solicit comments and review on their proposed criteria for parole
19 release.

20 (2) Persons committed to the department of corrections and who are
21 under the authority of the board for crimes committed on or after
22 September 1, 2001, are subject to the provisions for duration of
23 confinement, release to community custody, and length of community
24 custody established in RCW 9.94A.507, 9.94A.704, 72.09.335, and
25 9.95.420 through 9.95.440.

26 **Sec. 6.** RCW 9.95.115 and 2001 2nd sp.s. c 12 s 332 are each
27 amended to read as follows:

28 (1) The indeterminate sentence review board is hereby granted
29 authority to parole any person sentenced to the custody of the
30 department of corrections, under a mandatory life sentence for a crime
31 committed before July 1, 1984, except those persons sentenced to life
32 without the possibility of parole. No such person shall be granted
33 parole unless the person has been continuously confined therein for a
34 period of twenty consecutive years less earned good time: PROVIDED,
35 That no such person shall be released under parole who is subject to

1 civil commitment as a sexually violent predator under chapter 71.09
2 RCW.

3 (2) The indeterminate sentence review board is hereby granted
4 authority to set a release date for a person in the custody of the
5 department of corrections who is sentenced to life without the
6 possibility of parole for a crime committed before the person's
7 eighteenth birthday. No such person shall be released who is subject
8 to civil commitment as a sexually violent predator under chapter 71.09
9 RCW.

10 (3) Once a release date has been set pursuant to subsection (2) of
11 this section, the indeterminate sentence review board is hereby granted
12 the authority to set a term of community custody for a period of time
13 up to the maximum sentence ordered by the court.

14 **Sec. 7.** RCW 9.95.116 and 1989 c 259 s 2 are each amended to read
15 as follows:

16 (1) The board shall fix the duration of confinement for persons
17 committed to the custody of the department of corrections under a
18 mandatory life sentence for a crime or crimes committed before July 1,
19 1984. However, no duration of confinement shall be fixed for those
20 persons committed under a life sentence without the possibility of
21 parole.

22 The duration of confinement for persons covered by this section
23 shall be fixed no later than July 1, 1992, or within six months after
24 the admission or readmission of the convicted person to the custody of
25 the department of corrections, whichever is later.

26 (2) The board shall review the sentences of persons who were
27 sentenced as adults to a term of life without parole for a crime
28 committed prior to his or her eighteenth birthday.

29 (3) Prior to fixing a duration of confinement under this section,
30 the board shall request from the sentencing judge and the prosecuting
31 attorney an updated statement in accordance with RCW 9.95.030. In
32 addition to the report and recommendations of the prosecuting attorney
33 and sentencing judge, the board shall also consider any victim impact
34 statement submitted by a victim, survivor, or a representative, and any
35 statement submitted by an investigative law enforcement officer. The
36 board shall provide the convicted person with copies of any new

1 statement and an opportunity to comment thereon prior to fixing the
2 duration of confinement.

3 (4) Victims shall have the option of having their statement to the
4 board videotaped so that their statements may be preserved for any
5 future hearings.

6 **Sec. 8.** RCW 9.95.120 and 2003 c 218 s 5 are each amended to read
7 as follows:

8 Whenever the board or a community corrections officer of this state
9 has reason to believe a person convicted of a crime committed before
10 July 1, 1984, or who is subject to review by the board under this act,
11 has breached a condition of his or her parole or violated the law of
12 any state where he or she may then be or the rules and regulations of
13 the board, any community corrections officer of this state may arrest
14 or cause the arrest and detention and suspension of parole of such
15 convicted person pending a determination by the board whether the
16 parole of such convicted person shall be revoked. All facts and
17 circumstances surrounding the violation by such convicted person shall
18 be reported to the board by the community corrections officer, with
19 recommendations. The board, after consultation with the secretary of
20 corrections, shall make all rules and regulations concerning procedural
21 matters, which shall include the time when state community corrections
22 officers shall file with the board reports required by this section,
23 procedures pertaining thereto and the filing of such information as may
24 be necessary to enable the board to perform its functions under this
25 section. On the basis of the report by the community corrections
26 officer, or at any time upon its own discretion, the board may revise
27 or modify the conditions of parole or order the suspension of parole by
28 the issuance of a written order bearing its seal, which order shall be
29 sufficient warrant for all peace officers to take into custody any
30 convicted person who may be on parole and retain such person in their
31 custody until arrangements can be made by the board for his or her
32 return to a state correctional institution for convicted felons. Any
33 such revision or modification of the conditions of parole or the order
34 suspending parole shall be personally served upon the parolee.

35 Any parolee arrested and detained in physical custody by the
36 authority of a state community corrections officer, or upon the written
37 order of the board, shall not be released from custody on bail or

1 personal recognizance, except upon approval of the board and the
2 issuance by the board of an order of reinstatement on parole on the
3 same or modified conditions of parole.

4 All chiefs of police, marshals of cities and towns, sheriffs of
5 counties, and all police, prison, and peace officers and constables
6 shall execute any such order in the same manner as any ordinary
7 criminal process.

8 Whenever a paroled prisoner is accused of a violation of his or her
9 parole, other than the commission of, and conviction for, a felony or
10 misdemeanor under the laws of this state or the laws of any state where
11 he or she may then be, he or she shall be entitled to a fair and
12 impartial hearing of such charges within thirty days from the time that
13 he or she is served with charges of the violation of conditions of
14 parole after his or her arrest and detention. The hearing shall be
15 held before one or more members of the board at a place or places,
16 within this state, reasonably near the site of the alleged violation or
17 violations of parole.

18 In the event that the board suspends a parole by reason of an
19 alleged parole violation or in the event that a parole is suspended
20 pending the disposition of a new criminal charge, the board shall have
21 the power to nullify the order of suspension and reinstate the
22 individual to parole under previous conditions or any new conditions
23 that the board may determine advisable. Before the board shall nullify
24 an order of suspension and reinstate a parole they shall have
25 determined that the best interests of society and the individual shall
26 best be served by such reinstatement rather than a return to a
27 correctional institution.

28 **Sec. 9.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to read
29 as follows:

30 (1) Except as provided in subsections (2) and (3) of this section,
31 any person convicted of the crime of aggravated first degree murder
32 shall be sentenced to life imprisonment without possibility of release
33 or parole. A person sentenced to life imprisonment under this section
34 shall not have that sentence suspended, deferred, or commuted by any
35 judicial officer and the indeterminate sentence review board or its
36 successor may not parole such prisoner nor reduce the period of
37 confinement in any manner whatsoever including but not limited to any

1 sort of good-time calculation. The department of social and health
2 services or its successor or any executive official may not permit such
3 prisoner to participate in any sort of release or furlough program.

4 (2) If, pursuant to a special sentencing proceeding held under RCW
5 10.95.050, the trier of fact finds that there are not sufficient
6 mitigating circumstances to merit leniency, the sentence shall be
7 death. In no case, however, shall a person be sentenced to death if
8 the person had an intellectual disability at the time the crime was
9 committed, under the definition of intellectual disability set forth in
10 (a) of this subsection. A diagnosis of intellectual disability shall
11 be documented by a licensed psychiatrist or licensed psychologist
12 designated by the court, who is an expert in the diagnosis and
13 evaluation of intellectual disabilities. The defense must establish an
14 intellectual disability by a preponderance of the evidence and the
15 court must make a finding as to the existence of an intellectual
16 disability.

17 (a) "Intellectual disability" means the individual has: (i)
18 Significantly subaverage general intellectual functioning; (ii)
19 existing concurrently with deficits in adaptive behavior; and (iii)
20 both significantly subaverage general intellectual functioning and
21 deficits in adaptive behavior were manifested during the developmental
22 period.

23 (b) "General intellectual functioning" means the results obtained
24 by assessment with one or more of the individually administered general
25 intelligence tests developed for the purpose of assessing intellectual
26 functioning.

27 (c) "Significantly subaverage general intellectual functioning"
28 means intelligence quotient seventy or below.

29 (d) "Adaptive behavior" means the effectiveness or degree with
30 which individuals meet the standards of personal independence and
31 social responsibility expected for his or her age.

32 (e) "Developmental period" means the period of time between
33 conception and the eighteenth birthday.

34 (3) If the person convicted of the crime of aggravated first degree
35 murder was under the age of eighteen at the time of the crime for which
36 he or she is convicted, the person may not be sentenced to death or to
37 a term of life without the possibility of parole. Rather, the court
38 shall sentence the person to a term within the standard range

1 established in RCW 9.94A.510 for offense seriousness level XV, unless
2 the court determines that a departure from the standard range is
3 appropriate pursuant to RCW 9.94A.535.

4 (4) Where a person was sentenced prior to August 1, 2011, to life
5 without the possibility of parole for a crime committed before the age
6 of eighteen, the person shall be eligible for sentence review and a
7 determination of a release date as set forth in RCW 9.95.011(3).

8 **Sec. 10.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to
9 read as follows:

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

13 (a) Offenders who are sentenced to life without the possibility of
14 release and who were age eighteen or older at the time of the crime for
15 which he or she is convicted, or offenders sentenced to death under
16 chapter 10.95 RCW; and

17 (b) Offenders who are subject to the provisions of 8 U.S.C. Sec.
18 1227.

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

22 (3) In developing individual reentry plans, the department shall
23 assess:

24 (a) All offenders using standardized and comprehensive tools to
25 identify the criminogenic risks, programmatic needs, and educational
26 and vocational skill levels for each offender. The assessment tool
27 should take into account demographic biases, such as culture, age, and
28 gender, as well as the needs of the offender, including any learning
29 disabilities, substance abuse or mental health issues, and social or
30 behavior deficits; and

31 (b) Offenders convicted of a crime which occurred before the
32 offender was eighteen years old for additional life skills which should
33 be developed to prepare the offender for living on his or her own as an
34 adult in the community. Examples of these life skills include, but are
35 not limited to, managing a budget, opening and maintaining a bank
36 account, shopping for necessary items such as food and clothing, and
37 applying to rent living quarters.

1 (4)(a) The initial assessment shall be conducted as early as
2 sentencing, but, whenever possible, no later than forty-five days of
3 being sentenced to the jurisdiction of the department of corrections.
4 For offenders sentenced to life without the possibility of parole prior
5 to August 1, 2011, for a crime which occurred before the offender was
6 eighteen years old, the initial assessment shall be conducted no later
7 than December 31, 2011.

8 (b) The offender's individual reentry plan shall be developed as
9 soon as possible after the initial assessment is conducted, but,
10 whenever possible, no later than sixty days after completion of the
11 assessment, and shall be periodically reviewed and updated as
12 appropriate.

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

14 (a) A plan to maintain contact with the inmate's children and
15 family, if appropriate. The plan should determine whether parenting
16 classes, or other services, are appropriate to facilitate successful
17 reunification with the offender's children and family;

18 (b) An individualized portfolio for each offender that includes the
19 offender's education achievements, certifications, employment, work
20 experience, skills, and any training received prior to and during
21 incarceration; and

22 (c) A plan for the offender during the period of incarceration
23 through reentry into the community that addresses the needs of the
24 offender including education, employment, substance abuse treatment,
25 mental health treatment, family reunification, and other areas which
26 are needed to facilitate a successful reintegration into the community.

27 (6)(a) Prior to discharge of any offender, the department shall:

28 (i) Evaluate the offender's needs and, to the extent possible,
29 connect the offender with existing services and resources that meet
30 those needs; and

31 (ii) Connect the offender with a community justice center and/or
32 community transition coordination network in the area in which the
33 offender will be residing once released from the correctional system if
34 one exists.

35 (b) If the department recommends partial confinement in an
36 offender's individual reentry plan, the department shall maximize the
37 period of partial confinement for the offender as allowed pursuant to
38 RCW 9.94A.728 to facilitate the offender's transition to the community.

1 (7) The department shall establish mechanisms for sharing
2 information from individual reentry plans to those persons involved
3 with the offender's treatment, programming, and reentry, when deemed
4 appropriate. When feasible, this information shall be shared
5 electronically.

6 (8)(a) In determining the county of discharge for an offender
7 released to community custody, the department may not approve a
8 residence location that is not in the offender's county of origin
9 unless it is determined by the department that the offender's return to
10 his or her county of origin would be inappropriate considering any
11 court-ordered condition of the offender's sentence, victim safety
12 concerns, negative influences on the offender in the community, or the
13 location of family or other sponsoring persons or organizations that
14 will support the offender.

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

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

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

23 **Sec. 11.** RCW 72.09.460 and 2007 c 483 s 402 are each amended to
24 read as follows:

25 (1) The legislature intends that all inmates be required to
26 participate in department-approved education programs, work programs,
27 or both, unless exempted as specifically provided in this section.
28 Eligible inmates who refuse to participate in available education or
29 work programs available at no charge to the inmates shall lose
30 privileges according to the system established under RCW 72.09.130.
31 Eligible inmates who are required to contribute financially to an
32 education or work program and refuse to contribute shall be placed in
33 another work program. Refusal to contribute shall not result in a loss
34 of privileges.

35 (2) The legislature recognizes more inmates may agree to
36 participate in education and work programs than are available. The
37 department must make every effort to achieve maximum public benefit by

1 placing inmates in available and appropriate education and work
2 programs. In instances where more inmates agree to participate in
3 education and work programs than are available, priority shall be given
4 to inmates who were under eighteen years old at the time of the crime
5 for which they were convicted and who are within two years of the
6 sentencing review eligibility date set forth in RCW 9.95.011(3).

7 (3)(a) The department shall, to the extent possible and considering
8 all available funds, prioritize its resources to meet the following
9 goals for inmates in the order listed:

10 (i) Achievement of basic academic skills through obtaining a high
11 school diploma or its equivalent;

12 (ii) Achievement of vocational skills necessary for purposes of
13 work programs and for an inmate to qualify for work upon release;

14 (iii) Additional work and education programs necessary for
15 compliance with an offender's individual reentry plan under RCW
16 72.09.270 with the exception of postsecondary education degree programs
17 as provided in RCW 72.09.465; and

18 (iv) Other appropriate vocational, work, or education programs that
19 are not necessary for compliance with an offender's individual reentry
20 plan under RCW 72.09.270 with the exception of postsecondary education
21 degree programs as provided in RCW 72.09.465.

22 (b) If programming is provided pursuant to (a)(i) through (iii) of
23 this subsection, the department shall pay the cost of such programming,
24 including but not limited to books, materials, supplies, and postage
25 costs related to correspondence courses.

26 (c) If programming is provided pursuant to (a)(iv) of this
27 subsection, inmates shall be required to pay all or a portion of the
28 costs, including books, fees, and tuition, for participation in any
29 vocational, work, or education program as provided in department
30 policies. Department policies shall include a formula for determining
31 how much an offender shall be required to pay. The formula shall
32 include steps which correlate to an offender average monthly income or
33 average available balance in a personal inmate savings account and
34 which are correlated to a prorated portion or percent of the per credit
35 fee for 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 programming

1 provided pursuant to (a)(iv) of this subsection on behalf of an inmate.
2 Such payments shall not be subject to any of the deductions as provided
3 in this chapter.

4 (d) The department may accept any and all donations and grants of
5 money, equipment, supplies, materials, and services from any third
6 party, including but not limited to nonprofit entities, and may
7 receive, utilize, and dispose of same to complete the purposes of this
8 section.

9 (e) Any funds collected by the department under (c) and (d) of this
10 subsection and subsections (8) and (9) of this section shall be used
11 solely for the creation, maintenance, or expansion of inmate
12 educational and vocational programs.

13 (4) The department shall provide access to a program of education
14 to all offenders who are under the age of eighteen and who have not met
15 high school graduation or general equivalency diploma requirements in
16 accordance with chapter 28A.193 RCW. The program of education
17 established by the department and education provider under RCW
18 28A.193.020 for offenders under the age of eighteen must provide each
19 offender a choice of curriculum that will assist the inmate in
20 achieving a high school diploma or general equivalency diploma. The
21 program of education may include but not be limited to basic education,
22 prevocational training, work ethic skills, conflict resolution
23 counseling, substance abuse intervention, and anger management
24 counseling. The curriculum may balance these and other rehabilitation,
25 work, and training components.

26 (5)(a) In addition to the policies set forth in this section, the
27 department shall consider the following factors in establishing
28 criteria for assessing the inclusion of education and work programs in
29 an inmate's individual reentry plan and in placing inmates in education
30 and work programs:

31 (i) An inmate's release date and custody level. An inmate shall
32 not be precluded from participating in an education or work program
33 solely on the basis of his or her release date, except that inmates
34 with a release date of more than one hundred twenty months in the
35 future shall not comprise more than ten percent of inmates
36 participating in a new class I correctional industry not in existence
37 on June 10, 2004;

38 (ii) An inmate's education history and basic academic skills;

1 (iii) An inmate's work history and vocational or work skills;
2 (iv) An inmate's economic circumstances, including but not limited
3 to an inmate's family support obligations; and

4 (v) Where applicable, an inmate's prior performance in department-
5 approved education or work programs;

6 (b) The department shall establish, and periodically review, inmate
7 behavior standards and program goals for all education and work
8 programs. Inmates shall be notified of applicable behavior standards
9 and program goals prior to placement in an education or work program
10 and shall be removed from the education or work program if they
11 consistently fail to meet the standards or goals.

12 (6) Eligible inmates who refuse to participate in available
13 education or work programs available at no charge to the inmates shall
14 lose privileges according to the system established under RCW
15 72.09.130. Eligible inmates who are required to contribute financially
16 to an education or work program and refuse to contribute shall be
17 placed in another work program. Refusal to contribute shall not result
18 in a loss of privileges.

19 (7) The department shall establish, by rule, objective medical
20 standards to determine when an inmate is physically or mentally unable
21 to participate in available education or work programs. When the
22 department determines an inmate is permanently unable to participate in
23 any available education or work program due to a health condition, the
24 inmate is exempt from the requirement under subsection (1) of this
25 section. When the department determines an inmate is temporarily
26 unable to participate in an education or work program due to a medical
27 condition, the inmate is exempt from the requirement of subsection (1)
28 of this section for the period of time he or she is temporarily
29 disabled. The department shall periodically review the medical
30 condition of all inmates with temporary disabilities to ensure the
31 earliest possible entry or reentry by inmates into available
32 programming.

33 (8) The department shall establish policies requiring an offender
34 to pay all or a portion of the costs and tuition for any vocational
35 training or postsecondary education program if the offender previously
36 abandoned coursework related to education or vocational training
37 without excuse as defined in rule by the department. Department
38 policies shall include a formula for determining how much an offender

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

10 (9) Notwithstanding any other provision in this section, an inmate
11 sentenced to life without the possibility of release, sentenced to
12 death under chapter 10.95 RCW, or subject to the provisions of 8 U.S.C.
13 Sec. 1227:

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

17 (b) May receive not more than one postsecondary academic degree in
18 a program offered by the department or its contracted providers;

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

21 (d) Shall be subject to the applicable provisions of this chapter
22 relating to inmate financial responsibility for programming.

23 NEW SECTION. **Sec. 12.** This act takes effect August 1, 2011.

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