

2 **ESSB 6600** - H COMM AMD **NOT ADOPTED 3-06-98**
3 By Committee on Education

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.150
8 RCW to read as follows:

9 (1) The legislature finds that the state is not required to provide
10 basic or special education through the common schools to juveniles in
11 adult correctional facilities of the department of corrections or local
12 governments. The legislature intends to provide some education
13 services to these inmates as part of their correctional services, doing
14 so under difficult circumstances in an adult penal system because these
15 inmates chose to commit crimes that cause society to treat them as
16 adults.

17 (2) School districts shall not be required to provide any education
18 services to inmates of local adult correctional facilities or
19 department of corrections facilities even when the inmates are under
20 age twenty-one.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW
22 to read as follows:

23 (1) To the extent the department is required or chooses to provide
24 education services to juvenile inmates of its adult correctional
25 facilities under RCW 72.09.460(2) and to the extent funds are
26 appropriated, the department may contract with school districts,
27 educational service districts, community and technical colleges, or
28 private vendors to provide those educational programs. If a contract
29 is not entered into with a willing and capable education provider, the
30 department shall operate and staff its own educational programs.

31 (2) The department may consult with the superintendent of public
32 instruction, the state board for community and technical colleges, and
33 others, in finding willing and capable education providers and in
34 designing programs to provide access to education services at its
35 facilities.

1 (3) School districts shall not be required to provide any
2 education services to inmates of department of corrections adult
3 correctional facilities even when the inmates are under age twenty-one.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.48 RCW
5 to read as follows:

6 (1) To the extent a local adult correctional facility chooses or is
7 required to provide education services to juvenile inmates of its
8 facilities, the local facility may, if the local school district
9 chooses not to provide education services upon request of the facility,
10 request that the local educational service district provide educational
11 services. The educational service district may deny the request or may
12 choose to provide education services and may request funds under
13 section 4 of this act. The local adult correctional facility also may
14 choose to provide the education services itself.

15 (2) The education services provided under this section necessarily
16 may be limited services because the juvenile is housed at the facility
17 generally for less than a year, there may be few juveniles at that
18 facility, and the facility may be remote. The legislature intends to
19 provide these limited education services to help enable the juvenile to
20 make some educational progress while confined for a year or less, and
21 help to resume his or her education in more traditional methods upon
22 release from the facility.

23 (3) The services may include some special education services to
24 inmates as may be required by federal law.

25 (4) School districts shall not be required to provide any education
26 services to inmates of local adult correctional facilities even when
27 the inmates are under age twenty-one.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.305
29 RCW to read as follows:

30 To the extent funds are appropriated for the purposes of section
31 3(1) of this act, the superintendent of public instruction shall
32 provide funds to educational service districts that have been requested
33 by a local adult correctional facility to provide education services
34 for its juvenile inmates.

35 NEW SECTION. **Sec. 5.** (1) The department of corrections, with the
36 assistance of the superintendent of public instruction and the

1 administrator for the courts, shall conduct a study to determine the
2 educational needs of inmates under the age of twenty-one incarcerated
3 in jail and prison, the impact of providing educational services to
4 those inmates on the security and penological interests of the
5 correctional institutions that incarcerate those inmates, and the
6 ability of local school districts, the community and technical
7 colleges, private vendors, juvenile detention centers, and the
8 correctional institutions to provide those educational services.

9 (2) The department, the superintendent of public instruction, and
10 the administrator for the courts shall consult with the following
11 groups:

12 (a) The Washington association of school administrators;

13 (b) The individual school districts and educational service
14 districts in which the department or a county jail may operate a school
15 for inmates under age twenty-one;

16 (c) The Washington state association of counties;

17 (d) The state board for community and technical colleges;

18 (e) The higher education coordinating board;

19 (f) The United States department of education office of special
20 education programs and the office for civil rights;

21 (g) The juvenile rehabilitation administration's residential school
22 programs;

23 (h) The juvenile court administrators;

24 (i) The attorney general;

25 (j) The Washington association of prosecuting attorneys;

26 (k) The school districts that provide educational services to
27 juvenile offenders incarcerated in state juvenile residential schools;
28 and

29 (l) Any other person or association that in the opinion of the
30 department, the superintendent of public instruction, or the
31 administrator for the courts may assist in the study.

32 (3) No later than May 1, 1998, the department and the
33 superintendent of public instruction shall provide to the house of
34 representatives and senate committees on education, the house of
35 representatives committee on criminal justice and corrections, the
36 senate committee on human services and corrections, and the house of
37 representatives and senate fiscal committees, a profile of all
38 offenders under the age of twenty-one who are incarcerated in a

1 department of corrections facility. The profile shall identify the
2 offenders individually by the following:

3 (a) Age;

4 (b) Offense or offenses of commitment;

5 (c) Criminal history;

6 (d) Anticipated length of stay;

7 (e) The number of serious infractions committed by the offender
8 during incarceration and the number of times, if any, the offender has
9 been placed in an intensive management unit;

10 (f) The offender's custody level;

11 (g) Whether the offender has a high school diploma or a GED;

12 (h) The last grade the offender completed;

13 (i) Whether the offender, in the educational placement before
14 incarceration, was identified as a child with a disability or had an
15 individualized education program;

16 (j) Whether the offender would qualify for transition planning and
17 services under 20 U.S.C. Sec. 1414(d)(6);

18 (k) Whether the department has security or penological interests
19 that warrant modification of an existing individualized education
20 program or placement as provided by 20 U.S.C. Sec. 1414(d)(6);

21 (l) Whether the offender has participated in any educational
22 programs offered by the department; and

23 (m) Whether the offender may be in need of special education and
24 related services. This subsection (3)(m) does not require the
25 department or the superintendent to evaluate an offender to determine
26 if the offender is a child with disabilities in need of special
27 education and related services.

28 (4) No later than September 1, 1998, the department of corrections,
29 the superintendent of public instruction, and the administrator for the
30 courts shall provide to the committees identified in subsection (3) of
31 this section a profile of inmates under the age of twenty-one confined
32 in county jails between the effective date of this section and August
33 1, 1998. The profile shall identify the inmates' characteristics as
34 listed in subsection (3) of this section and shall include all inmates
35 detained in a county correctional facility whether arrested, charged,
36 pending trial, or convicted. The department, the superintendent of
37 public instruction, and the administrator for the courts shall assist
38 the counties in gathering this information.

1 (5) No later than September 1, 1998, the department, the
2 superintendent of public instruction, and the administrator for the
3 courts shall make a preliminary report to the committees listed in
4 subsection (3) of this section, identifying the educational needs of
5 inmates under the age of twenty-one in adult correctional facilities,
6 the impact of providing educational services to those inmates on the
7 security and penological interests of the correctional institutions
8 that incarcerate those inmates, and the ability of local school
9 districts, the community and technical colleges, private vendors,
10 juvenile detention centers, and the correctional institutions to
11 provide those educational services. The department and the
12 superintendent, in consultation with the office of financial
13 management, shall estimate the various capital and operating costs of
14 providing educational services equivalent to a basic education or basic
15 skills education to offenders under age twenty-one, and special
16 education and related services to all inmates under age twenty-one or
17 to only those inmates under age eighteen and between the ages of
18 eighteen and twenty-one who were identified as a child with a
19 disability or had an individualized education program in the
20 educational placement before incarceration in an adult correctional
21 facility. The department and the superintendent of public instruction
22 shall inform the committees as to which educational entity or entities
23 are able and willing to provide those educational services.

24 (6) No later than November 1, 1998, the department, the
25 superintendent of public instruction, and the administrator for the
26 courts shall make final recommendations to the legislative committees
27 identified in subsection (3) of this section.

28 **Sec. 6.** RCW 72.09.460 and 1997 c 338 s 43 are each amended to read
29 as follows:

30 (1) The legislature intends that all inmates be required to
31 participate in department-approved education programs, work programs,
32 or both, unless exempted under subsection (4) of this section.
33 Eligible inmates who refuse to participate in available education or
34 work programs available at no charge to the inmates shall lose
35 privileges according to the system established under RCW 72.09.130.
36 Eligible inmates who are required to contribute financially to an
37 education or work program and refuse to contribute shall be placed in
38 another work program. Refusal to contribute shall not result in a loss

1 of privileges. The legislature recognizes more inmates may agree to
2 participate in education and work programs than are available. The
3 department must make every effort to achieve maximum public benefit by
4 placing inmates in available and appropriate education and work
5 programs.

6 (2)(a) The department shall provide a program of education to all
7 offenders who are under the age of eighteen and who have not met high
8 school graduation or general equivalency diploma requirements. The
9 program of education established by the department for offenders under
10 the age of eighteen must provide each offender a ~~((choice of))~~
11 curriculum that will assist the inmate in achieving a high school
12 diploma or general equivalency diploma; the department shall determine
13 the most appropriate path depending on age, education history, inmate
14 preference, and other considerations. The program of education may be
15 coordinated with prevocational training, work ethic skills, conflict
16 resolution counseling, substance abuse intervention, and anger
17 management counseling. The curriculum may balance these and other
18 rehabilitation, work, and training components.

19 (b) Access to special education in connection with education
20 programs under (a) of this subsection may be provided for those under
21 the age of twenty-two to the extent required by federal law.

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

25 (a) Achievement of basic academic skills through obtaining a high
26 school diploma or its equivalent and achievement of vocational skills
27 necessary for purposes of work programs and for an inmate to qualify
28 for work upon release;

29 (b) Additional work and education programs based on assessments and
30 placements under subsection (5) of this section; and

31 (c) Other work and education programs as appropriate.

32 (4) The department shall establish, by rule, objective medical
33 standards to determine when an inmate is physically or mentally unable
34 to participate in available education or work programs. When the
35 department determines an inmate is permanently unable to participate in
36 any available education or work program due to a medical condition, the
37 inmate is exempt from the requirement under subsection (1) of this
38 section. When the department determines an inmate is temporarily
39 unable to participate in an education or work program due to a medical

1 condition, the inmate is exempt from the requirement of subsection (1)
2 of this section for the period of time he or she is temporarily
3 disabled. The department shall periodically review the medical
4 condition of all temporarily disabled inmates to ensure the earliest
5 possible entry or reentry by inmates into available programming.

6 (5) The department shall establish, by rule, standards for
7 participation in department-approved education and work programs. The
8 standards shall address the following areas:

9 (a) Assessment. The department shall assess all inmates for their
10 basic academic skill levels using a professionally accepted method of
11 scoring reading, math, and language skills as grade level equivalents.
12 The department shall determine an inmate's education history, work
13 history, and vocational or work skills. The initial assessment shall
14 be conducted, whenever possible, within the first thirty days of an
15 inmate's entry into the correctional system, except that initial
16 assessments are not required for inmates who are sentenced to life
17 without the possibility of release, assigned to an intensive management
18 unit within the first thirty days after entry into the correctional
19 system, are returning to the correctional system within one year of a
20 prior release, or whose physical or mental condition renders them
21 unable to complete the assessment process. The department shall track
22 and record changes in the basic academic skill levels of all inmates
23 reflected in any testing or assessment performed as part of their
24 education programming;

25 (b) Placement. The department shall follow the policies set forth
26 in subsection (1) of this section in establishing criteria for placing
27 inmates in education and work programs. The department shall, to the
28 extent possible, place all inmates whose composite grade level score
29 for basic academic skills is below the eighth grade level in a combined
30 education and work program. The placement criteria shall include at
31 least the following factors:

32 (i) An inmate's release date and custody level, except an inmate
33 shall not be precluded from participating in an education or work
34 program solely on the basis of his or her release date;

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

36 (iii) An inmate's work history and vocational or work skills;

37 (iv) An inmate's economic circumstances, including but not limited
38 to an inmate's family support obligations; and

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

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

9 (d) Financial responsibility. (i) The department shall establish
10 a formula by which inmates, based on their ability to pay, shall pay
11 all or a portion of the costs or tuition of certain programs. Inmates
12 shall, based on the formula, pay a portion of the costs or tuition of
13 participation in:

14 (A) Second and subsequent vocational programs associated with an
15 inmate's work programs; and

16 (B) An associate of arts or baccalaureate degree program when
17 placement in a degree program is the result of a placement made under
18 this subsection;

19 (ii) Inmates shall pay all costs and tuition for participation in:

20 (A) Any postsecondary academic degree program which is entered
21 independently of a placement decision made under this subsection; and

22 (B) Second and subsequent vocational programs not associated with
23 an inmate's work program.

24 Enrollment in any program specified in (d)(ii) of this subsection
25 shall only be allowed by correspondence or if there is an opening in an
26 education or work program at the institution where an inmate is
27 incarcerated and no other inmate who is placed in a program under this
28 subsection will be displaced; and

29 (e) Notwithstanding any other provision in this section, an inmate
30 sentenced to life without the possibility of release:

31 (i) Shall not be required to participate in education programming;
32 and

33 (ii) May receive not more than one postsecondary academic degree in
34 a program offered by the department or its contracted providers.

35 If an inmate sentenced to life without the possibility of release
36 requires prevocational or vocational training for a work program, he or
37 she may participate in the training subject to this section.

38 (6) The department shall coordinate education and work programs
39 among its institutions, to the greatest extent possible, to facilitate

1 continuity of programming among inmates transferred between
2 institutions. Before transferring an inmate enrolled in a program, the
3 department shall consider the effect the transfer will have on the
4 inmate's ability to continue or complete a program. This subsection
5 shall not be used to delay or prohibit a transfer necessary for
6 legitimate safety or security concerns.

7 (7) Before construction of a new correctional institution or
8 expansion of an existing correctional institution, the department shall
9 adopt a plan demonstrating how cable, closed-circuit, and satellite
10 television will be used for education and training purposes in the
11 institution. The plan shall specify how the use of television in the
12 education and training programs will improve inmates' preparedness for
13 available work programs and job opportunities for which inmates may
14 qualify upon release.

15 (8) The department shall adopt a plan to reduce the per-pupil cost
16 of instruction by, among other methods, increasing the use of volunteer
17 instructors and implementing technological efficiencies. The plan
18 shall be adopted by December 1996 and shall be transmitted to the
19 legislature upon adoption. The department shall, in adoption of the
20 plan, consider distance learning, satellite instruction, video tape
21 usage, computer-aided instruction, and flexible scheduling of offender
22 instruction.

23 (9) Following completion of the review required by section 27(3),
24 chapter 19, Laws of 1995 1st sp. sess. the department shall take all
25 necessary steps to assure the vocation and education programs are
26 relevant to work programs and skills necessary to enhance the
27 employability of inmates upon release.

28 **Sec. 7.** RCW 28A.155.020 and 1995 c 77 s 8 are each amended to read
29 as follows:

30 There is established in the office of the superintendent of public
31 instruction an administrative section or unit for the education of
32 children with disabling conditions.

33 Children with disabilities are those children in school or out of
34 school who are temporarily or permanently retarded in normal
35 educational processes by reason of physical or mental disability, or by
36 reason of emotional maladjustment, or by reason of other disability,
37 and those children who have specific learning and language disabilities

1 resulting from perceptual-motor disabilities, including problems in
2 visual and auditory perception and integration.

3 Except as provided in section 1 of this act, the superintendent of
4 public instruction shall require each school district in the state to
5 insure an appropriate educational opportunity for all children with
6 disabilities between the ages of three and twenty-one(~~(, but))~~). When
7 ~~((the))~~ a child's twenty-first birthday occurs during the school year,
8 the educational program may be continued until the end of that school
9 year. The superintendent of public instruction, by rule, shall
10 establish for the purpose of excess cost funding, as provided in RCW
11 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100,
12 functional definitions of the various types of disabling conditions and
13 eligibility criteria for special education programs for students with
14 disabilities. For the purposes of RCW 28A.155.010 through 28A.155.100,
15 an appropriate education is defined as an education directed to the
16 unique needs, abilities, and limitations of the children with
17 disabilities. School districts are strongly encouraged to provide
18 parental training in the care and education of the children and to
19 involve parents in the classroom.

20 Nothing in this section shall prohibit the establishment or
21 continuation of existing cooperative programs between school districts
22 or contracts with other agencies approved by the superintendent of
23 public instruction, which can meet the obligations of school districts
24 to provide education for children with disabilities, or prohibit the
25 continuation of needed related services to school districts by the
26 department of social and health services.

27 This section shall not be construed as in any way limiting the
28 powers of local school districts set forth in RCW 28A.155.070.

29 No child shall be removed from the jurisdiction of juvenile court,
30 a local jail, or the department of corrections for training or
31 education under RCW 28A.155.010 through 28A.155.100 without the
32 approval of the superior court of the county.

33 **Sec. 8.** RCW 28A.225.010 and 1996 c 134 s 1 are each amended to
34 read as follows:

35 (1) All parents in this state of any child eight years of age and
36 under eighteen years of age shall cause such child to attend the public
37 school of the district in which the child resides and such child shall

1 have the responsibility to and therefore shall attend for the full time
2 when such school may be in session unless:

3 (a) The child is attending an approved private school for the same
4 time or is enrolled in an extension program as provided in RCW
5 28A.195.010(4);

6 (b) The child is receiving home-based instruction as provided in
7 subsection (4) of this section;

8 (c) The child is attending an education center as provided in
9 chapter 28A.205 RCW;

10 (d) The school district superintendent of the district in which the
11 child resides shall have excused such child from attendance because the
12 child is physically or mentally unable to attend school, is attending
13 a residential school operated by the department of social and health
14 services, is incarcerated in an adult correctional facility of the
15 department of corrections or a local government, or has been
16 temporarily excused upon the request of his or her parents for purposes
17 agreed upon by the school authorities and the parent: PROVIDED, That
18 such excused absences shall not be permitted if deemed to cause a
19 serious adverse effect upon the student's educational progress:
20 PROVIDED FURTHER, That students excused for such temporary absences may
21 be claimed as full time equivalent students to the extent they would
22 otherwise have been so claimed for the purposes of RCW 28A.150.250 and
23 28A.150.260 and shall not affect school district compliance with the
24 provisions of RCW 28A.150.220; or

25 (e) The child is sixteen years of age or older and:

26 (i) The child is regularly and lawfully employed and either the
27 parent agrees that the child should not be required to attend school or
28 the child is emancipated in accordance with chapter 13.64 RCW;

29 (ii) The child has already met graduation requirements in
30 accordance with state board of education rules and regulations; or

31 (iii) The child has received a certificate of educational
32 competence under rules and regulations established by the state board
33 of education under RCW 28A.305.190.

34 (2) A parent for the purpose of this chapter means a parent,
35 guardian, or person having legal custody of a child.

36 (3) An approved private school for the purposes of this chapter and
37 chapter 28A.200 RCW shall be one approved under regulations established
38 by the state board of education pursuant to RCW 28A.305.130.

1 (4) For the purposes of this chapter and chapter 28A.200 RCW,
2 instruction shall be home-based if it consists of planned and
3 supervised instructional and related educational activities, including
4 a curriculum and instruction in the basic skills of occupational
5 education, science, mathematics, language, social studies, history,
6 health, reading, writing, spelling, and the development of an
7 appreciation of art and music, provided for a number of hours
8 equivalent to the total annual program hours per grade level
9 established for approved private schools under RCW 28A.195.010 and
10 28A.195.040 and if such activities are:

11 (a) Provided by a parent who is instructing his or her child only
12 and are supervised by a certificated person. A certificated person for
13 purposes of this chapter and chapter 28A.200 RCW shall be a person
14 certified under chapter 28A.410 RCW. For purposes of this section,
15 "supervised by a certificated person" means: The planning by the
16 certificated person and the parent of objectives consistent with this
17 subsection; a minimum each month of an average of one contact hour per
18 week with the child being supervised by the certificated person; and
19 evaluation of such child's progress by the certificated person. The
20 number of children supervised by the certificated person shall not
21 exceed thirty for purposes of this subsection; or

22 (b) Provided by a parent who is instructing his or her child only
23 and who has either earned forty-five college level quarter credit hours
24 or its equivalent in semester hours or has completed a course in home-
25 based instruction at a postsecondary institution or a vocational-
26 technical institute; or

27 (c) Provided by a parent who is deemed sufficiently qualified to
28 provide home-based instruction by the superintendent of the local
29 school district in which the child resides.

30 (5) The legislature recognizes that home-based instruction is less
31 structured and more experiential than the instruction normally provided
32 in a classroom setting. Therefore, the provisions of subsection (4) of
33 this section relating to the nature and quantity of instructional and
34 related educational activities shall be liberally construed.

35 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of the
37 state government and its existing public institutions, and takes effect
38 immediately.

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 11.** Funding for the education programs in this
6 act for juveniles incarcerated in adult correctional facilities shall
7 be provided in the omnibus appropriations act and shall be considered
8 sufficient for the education needs of juveniles incarcerated in adult
9 correctional facilities."

10 Correct the title.

11 EFFECT: The striking amendment replaces the underlying bill with
12 provisions that:

13 (1) Find that the state is not required to give juveniles in adult
14 correctional facilities basic or special education services through the
15 common schools, and provide that school districts cannot be required to
16 provide any educational services in adult correctional facilities;

17 (2) Allow DOC, to the extent DOC must or chooses to provide
18 education services to juveniles, to contract with school districts,
19 ESDs, community and technical colleges, & private providers. If a
20 contract is not entered into with a willing and capable provider, DOC
21 provides its own education services. DOC may consult with SPI,
22 community colleges, and others in finding a provider and developing
23 education programs. School districts cannot be required to provide any
24 educational services in DOC facilities;

25 (3) Allow, to the extent a local adult correctional facility must
26 or chooses to provide education services to juvenile inmates, the local
27 facility to provide the services itself, request that the local school
28 district provide services, or, if the school district chooses not to,
29 ask the ESD to provide the service. If the ESD chooses to provide the
30 service, it may apply for funds from SPI. Education services to these
31 inmates necessarily are limited services, but can include some special
32 education to the extent required by federal law. School districts
33 cannot be required to provide any educational services in local adult
34 correctional facilities;

35 (4) To the extent funds are appropriated, SPI provide funds to ESDs
36 providing education services to local adult correction facilities;

37 (5) Create a study of the educational needs of juveniles in adult
38 jails and prisons. The study is to be done by DOC with assistance from
39 SPI and the Administrator for the Courts;

40 (6) Amend current law to clarify that education services to
41 juveniles in DOC facilities are a part of overall incarceration program
42 for these inmates, provide that DOC chooses whether particular
43 juveniles receive a curriculum to assist in a high school diploma or a
44 GED, and provide that special education services can be provided to
45 those 18 - 22 to the extent required by federal law; and

1 (7) Provide that funds are to be appropriated for these programs in
2 the budget, and the appropriation is considered sufficient to meet the
3 educational needs of juveniles in adult facilities.

--- END ---