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**SUBSTITUTE HOUSE BILL 2793**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Johnson, Sheahan, Talcott, DeBolt, Sump, Honeyford, Sterk, Eickmeyer, Pennington, Robertson, Carrell, Sherstad, Mielke, Clements, Cairnes, Hickel, Romero, Backlund and Mulliken)

Read first time 02/07/98. Referred to Committee on .

1 AN ACT Relating to education of offenders prosecuted as adults;  
2 amending RCW 28A.155.020; adding a new section to chapter 28A.150 RCW;  
3 creating new sections; and declaring an emergency.

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

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

7 To the extent the department of corrections, a county adult  
8 correctional facility, or the superintendent of public instruction is  
9 required to offer basic and special education services, the department,  
10 the superintendent, or the county, as appropriate, may contract with  
11 school districts, educational service districts, community and  
12 technical colleges, private vendors, or juvenile court administrators  
13 to provide those educational programs. The department or the county  
14 adult correctional facilities may also operate and staff their own  
15 educational programs. The superintendent of public instruction may not  
16 require school districts to provide basic or special education services  
17 to inmates of county adult correctional facilities or department of  
18 corrections' facilities even when the inmates are under age twenty-one.

1        NEW SECTION.    **Sec. 2.**    (1) The department of corrections and the  
2 superintendent of public instruction shall conduct a study to determine  
3 the educational needs of inmates under the age of twenty-one  
4 incarcerated in jail and prison, the impact of providing educational  
5 services to those inmates on the security and penological interests of  
6 the correctional institutions that incarcerate those inmates, and the  
7 ability of local school districts, the community and technical  
8 colleges, private vendors, juvenile detention centers, and the  
9 correctional institutions to provide those educational services.

10        (2) The department and the superintendent of public instruction  
11 shall consult with the following 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 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) Columbia legal services;

26        (k) The Washington association of prosecuting attorneys;

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

30        (m) Any other person or association that in the opinion of the  
31 department or the superintendent of public instruction may assist in  
32 the study.

33        (3) No later than May 1, 1998, the department and the  
34 superintendent of public instruction shall provide to the committees on  
35 education in the house and senate, the criminal justice and corrections  
36 committee in the house, the human services and corrections committee in  
37 the senate, and the house and senate fiscal committees, a profile of  
38 all 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 general  
12 equivalency diploma;

13 (h) The last grade the offender completed;

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

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

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

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

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

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

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

23 (6) No later than November 1, 1998, the department and the  
24 superintendent of public instruction shall make final recommendations  
25 to the committees.

26 **Sec. 3.** RCW 28A.155.020 and 1995 c 77 s 8 are each amended to read  
27 as follows:

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

31 Children with disabilities are those children in school or out of  
32 school who are temporarily or permanently retarded in normal  
33 educational processes by reason of physical or mental disability, or by  
34 reason of emotional maladjustment, or by reason of other disability,  
35 and those children who have specific learning and language disabilities  
36 resulting from perceptual-motor disabilities, including problems in  
37 visual and auditory perception and integration.

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

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

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

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

31        NEW SECTION. Sec. 4. This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 immediately.

35        NEW SECTION. Sec. 5. If specific funding for the purposes of this  
36 act, referencing this act by bill or chapter number, is not provided by

1 June 30, 1998, in the omnibus appropriations act, this act is null and  
2 void.

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