
SENATE BILL 6600

State of Washington

55th Legislature

1998 Regular Session

By Senators T. Sheldon, Hochstatter, Long, Kohl, Oke and Winsley; by request of Superintendent of Public Instruction

Read first time 01/22/98. Referred to Committee on Education.

1 AN ACT Relating to education of juveniles incarcerated in adult
2 correctional facilities; amending RCW 72.09.460 and 41.59.080; adding
3 a new chapter to Title 28A RCW; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 provide for the operation of education programs for department of
7 corrections' juvenile inmates. The education programs should be
8 provided primarily by school districts, educational service districts,
9 or any combination thereof. This should not preclude community and
10 technical colleges, four-year institutions of higher education, or
11 other qualified entities from contracting to provide all or part of
12 these education programs if no school district or educational service
13 district is willing to provide or operate all or part of the education
14 programs.

15 NEW SECTION. **Sec. 2.** Any school district or educational service
16 district may operate all or any portion of an education program for
17 juveniles in accordance with this chapter, notwithstanding the fact the
18 services or benefits provided extend beyond the geographic boundaries

1 of the school district or educational service district providing the
2 service.

3 NEW SECTION. **Sec. 3.** The selection of the entity or entities
4 responsible for the operation of education programs for department of
5 corrections' juvenile inmates under this chapter shall be in the
6 following order of priority:

7 (1) The school district within which there is an educational site
8 for juveniles in an adult correctional facility maintained by the state
9 department of corrections has the first right and opportunity to
10 operate an education program for inmates at that site. The district
11 may elect to do so singly or in concert with another school district,
12 educational service district, institution of higher education, or
13 private contractor, or any combination thereof.

14 (2) If the school district within which an educational site for
15 juveniles in an adult correctional facility is located elects not to
16 exercise responsibility for the operation of an education program, the
17 district shall notify the superintendent of public instruction and the
18 department of corrections of the decision. The superintendent of
19 public instruction, in cooperation with the department of corrections,
20 shall arrange for one or more education providers as follows:

21 (a) Potentially interested and capable school districts,
22 educational service districts, institutions of higher education, or
23 private contractors, or any combination thereof, shall be solicited
24 pursuant to a request for proposals;

25 (b) The entity whose proposal is selected shall be provided the
26 right and opportunity to administer and operate singly or in concert
27 with other entities an education program in accordance with its
28 proposal, this chapter, and rules adopted by the superintendent of
29 public instruction;

30 (c) If no proposal is submitted or if the superintendent of public
31 instruction judges the proposals submitted to be unacceptable in whole
32 or in part, the superintendent may negotiate the selection of one or
33 more education providers with potentially interested and capable
34 entities.

35 NEW SECTION. **Sec. 4.** Except as otherwise provided for by contract
36 under section 7 of this act, the duties and authority of a school
37 district, educational service district, institution of higher

1 education, or private contractor to provide for education programs
2 under this chapter are limited to the following:

3 (1) Employing, supervising, and controlling administrators,
4 teachers, specialized personnel, and other persons necessary to conduct
5 education programs, subject to security clearance by the department of
6 corrections;

7 (2) Purchasing, leasing, or renting and providing textbooks, maps,
8 audiovisual equipment, paper, writing instruments, physical education
9 equipment, and other instructional equipment, materials, and supplies
10 deemed necessary by the provider of the education programs;

11 (3) Conducting education programs for inmates under the age of
12 eighteen in accordance with eligibility and program standards
13 established by the department of corrections. The department of
14 corrections shall select and approve inmates eligible to participate in
15 the education programs under this chapter. The education provider
16 shall consult with the department of corrections in developing the
17 curricula, instructional methods, and educational objectives of the
18 education programs, subject to applicable requirements of state and
19 federal law;

20 (4) Controlling students while participating in programs of
21 education conducted under this section and disciplining, suspending, or
22 expelling students in accordance with procedures and standards
23 established by the department of corrections.

24 NEW SECTION. **Sec. 5.** School districts and educational service
25 districts may:

26 (1) Award appropriate diplomas or certificates to inmates who
27 successfully complete the requirements;

28 (2) Spend only funds appropriated by the legislature and allocated
29 by the superintendent of public instruction for the exclusive purpose
30 of maintaining and operating education programs under this chapter,
31 including direct and indirect costs of maintaining and operating the
32 education programs, and funds from federal and private grants,
33 bequests, and gifts made for that purpose. School districts may not
34 expend excess tax levy proceeds authorized for school district purposes
35 to pay costs incurred under this chapter.

1 NEW SECTION. **Sec. 6.** To support each education program under this
2 chapter, the department of corrections and each superintendent or chief
3 administrator of a correction facility shall:

4 (1) Through construction, lease, or rental of space, provide
5 necessary building and exercise spaces for the education program that
6 is secure, separate, and apart from space occupied by nonstudent
7 inmates;

8 (2) Through construction, lease, or rental, provide vocational
9 instruction machines; technology and supporting equipment; tools,
10 building, and exercise facilities; and other equipment and fixtures
11 deemed necessary by the department of corrections to conduct the
12 education program;

13 (3) Provide heat, lights, telephone, janitorial services, repair
14 services, and other support services for the building and exercise
15 spaces, equipment, and fixtures provided under this section;

16 (4) Employ, supervise, and control security staff to safeguard
17 agents of the education providers and inmates while engaged in
18 educational and related activities conducted under this chapter;

19 (5) Provide clinical and medical evaluation services necessary for
20 a determination by the education provider of the educational needs of
21 inmates; and

22 (6) Provide such other support services and facilities as are
23 reasonably necessary to conduct the education program.

24 NEW SECTION. **Sec. 7.** Each provider of education programs under
25 this chapter and the department of corrections shall negotiate and
26 execute a written contract for each school year or such longer period
27 as may be agreed to that delineates the manner in which their
28 respective duties and authority will be cooperatively performed and
29 exercised, and any disputes and grievances resolved through mediation,
30 and if necessary, arbitration. Any such contract may provide for the
31 performance of duties by a school district or educational service
32 district in addition to those set forth in this chapter, including
33 duties imposed upon the department of corrections and its agents under
34 section 6 of this act if supplemental funding provided by the
35 department of corrections is available to fully pay the direct and
36 indirect costs of these additional duties.

1 NEW SECTION. **Sec. 8.** By April 15th of each school year, the
2 department of corrections shall provide written notice to the
3 superintendent of public instruction, school districts, and educational
4 service districts providing an education program under this chapter of
5 any reasonably foreseeable education site closures, reductions in the
6 number of inmates or education services, or any other cause for a
7 reduction in certificated or classified staff the next school year. In
8 the event the department of corrections fails to provide notice as
9 required by this section, the department is liable and responsible for
10 the payment of the salary and employment-related costs for the next
11 school year of each employee whose contract would or could have been
12 nonrenewed but for the failure of the department to provide notice.
13 Disputes arising under this section shall be resolved in accordance
14 with the alternative dispute resolution method or methods specified in
15 the contract required by section 7 of this act.

16 NEW SECTION. **Sec. 9.** The superintendent of public instruction
17 may:

18 (1) Allocate money appropriated by the legislature to administer
19 and provide education programs under this chapter to school districts,
20 educational service districts, and other education providers selected
21 under section 3 of this act that have assumed the primary
22 responsibility to administer and provide education programs under this
23 chapter. The allocation of moneys to any private contractor is
24 contingent upon and must be in accordance with a contract between the
25 private contractor and the department of corrections; and

26 (2) Adopt rules in accordance with chapter 34.05 RCW that establish
27 reporting, program compliance, audit, and such other accountability
28 requirements as are reasonably necessary to implement this chapter and
29 related provisions of the biennial operating act effectively.

30 NEW SECTION. **Sec. 10.** The department of corrections shall
31 indemnify and hold harmless school districts and educational service
32 districts for all excess costs incurred in the good faith performance,
33 or as an incident to the good faith performance, of duties under this
34 chapter. Excess costs means direct and indirect costs that exceed the
35 state, federal, and private moneys otherwise made available to a
36 district for the performance of duties under this chapter. Disputes
37 arising under this section shall be resolved in accordance with the

1 alternative dispute resolution method or methods specified in the
2 contract required by section 7 of this act.

3 **Sec. 11.** RCW 72.09.460 and 1997 c 338 s 43 are each amended to
4 read as follows:

5 (1) The legislature intends that all inmates be required to
6 participate in department-approved education programs, work programs,
7 or both, unless exempted under subsection (4) of this section.
8 Eligible inmates who refuse to participate in available education or
9 work programs available at no charge to the inmates shall lose
10 privileges according to the system established under RCW 72.09.130.
11 Eligible inmates who are required to contribute financially to an
12 education or work program and refuse to contribute shall be placed in
13 another work program. Refusal to contribute shall not result in a loss
14 of privileges. The legislature recognizes more inmates may agree to
15 participate in education and work programs than are available. The
16 department must make every effort to achieve maximum public benefit by
17 placing inmates in available and appropriate education and work
18 programs.

19 (2) The department shall provide access to a program of education
20 to all offenders who are under the age of eighteen and who have not met
21 high school graduation or general equivalency diploma requirements in
22 accordance with chapter 28A.-- RCW (sections 1 through 10 and 13 of
23 this act). The program of education established by the department and
24 education provider under section 3 of this act for offenders under the
25 age of eighteen must provide each offender a choice of curriculum that
26 will assist the inmate in achieving a high school diploma or general
27 equivalency diploma.

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

31 (a) Achievement of basic academic skills through obtaining a high
32 school diploma or its equivalent and achievement of vocational skills
33 necessary for purposes of work programs and for an inmate to qualify
34 for work upon release;

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

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

1 (4) The department shall establish, by rule, objective medical
2 standards to determine when an inmate is physically or mentally unable
3 to participate in available education or work programs. When the
4 department determines an inmate is permanently unable to participate in
5 any available education or work program due to a medical condition, the
6 inmate is exempt from the requirement under subsection (1) of this
7 section. When the department determines an inmate is temporarily
8 unable to participate in an education or work program due to a medical
9 condition, the inmate is exempt from the requirement of subsection (1)
10 of this section for the period of time he or she is temporarily
11 disabled. The department shall periodically review the medical
12 condition of all temporarily disabled inmates to ensure the earliest
13 possible entry or reentry by inmates into available programming.

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

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

33 (b) Placement. The department shall follow the policies set forth
34 in subsection (1) of this section in establishing criteria for placing
35 inmates in education and work programs. The department shall, to the
36 extent possible, place all inmates whose composite grade level score
37 for basic academic skills is below the eighth grade level in a combined
38 education and work program. The placement criteria shall include at
39 least the following factors:

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

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

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

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

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

10 (c) Performance and goals. The department shall establish, and
11 periodically review, inmate behavior standards and program goals for
12 all education and work programs. Inmates shall be notified of
13 applicable behavior standards and program goals prior to placement in
14 an education or work program and shall be removed from the education or
15 work program if they consistently fail to meet the standards or goals;

16 (d) Financial responsibility. (i) The department shall establish
17 a formula by which inmates, based on their ability to pay, shall pay
18 all or a portion of the costs or tuition of certain programs. Inmates
19 shall, based on the formula, pay a portion of the costs or tuition of
20 participation in:

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

23 (B) An associate of arts or baccalaureate degree program when
24 placement in a degree program is the result of a placement made under
25 this subsection;

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

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

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

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

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

38 (i) Shall not be required to participate in education programming;
39 and

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

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

6 (6) The department shall coordinate education and work programs
7 among its institutions, to the greatest extent possible, to facilitate
8 continuity of programming among inmates transferred between
9 institutions. Before transferring an inmate enrolled in a program, the
10 department shall consider the effect the transfer will have on the
11 inmate's ability to continue or complete a program. This subsection
12 shall not be used to delay or prohibit a transfer necessary for
13 legitimate safety or security concerns.

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

22 (8) The department shall adopt a plan to reduce the per-pupil cost
23 of instruction by, among other methods, increasing the use of volunteer
24 instructors and implementing technological efficiencies. The plan
25 shall be adopted by December 1996 and shall be transmitted to the
26 legislature upon adoption. The department shall, in adoption of the
27 plan, consider distance learning, satellite instruction, video tape
28 usage, computer-aided instruction, and flexible scheduling of offender
29 instruction.

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

35 **Sec. 12.** RCW 41.59.080 and 1975 1st ex.s. c 288 s 9 are each
36 amended to read as follows:

37 The commission, upon proper application for certification as an
38 exclusive bargaining representative or upon petition for change of unit

1 definition by the employer or any employee organization within the time
2 limits specified in RCW 41.59.070(3), and after hearing upon reasonable
3 notice, shall determine the unit appropriate for the purpose of
4 collective bargaining. In determining, modifying or combining the
5 bargaining unit, the commission shall consider the duties, skills, and
6 working conditions of the educational employees; the history of
7 collective bargaining; the extent of organization among the educational
8 employees; and the desire of the educational employees; except that:

9 (1) A unit including nonsupervisory educational employees shall not
10 be considered appropriate unless it includes all such nonsupervisory
11 educational employees of the employer and includes nonsupervisory
12 employees employed to provide an education program under chapter 28A.--
13 RCW (sections 1 through 10 and 13 of this act) for inmates of an adult
14 correctional facility; and

15 (2) A unit that includes only supervisors may be considered
16 appropriate if a majority of the employees in such category indicate by
17 vote that they desire to be included in such a unit; and

18 (3) A unit that includes only principals and assistant principals
19 may be considered appropriate if a majority of such employees indicate
20 by vote that they desire to be included in such a unit; and

21 (4) A unit that includes both principals and assistant principals
22 and other supervisory employees may be considered appropriate if a
23 majority of the employees in each category indicate by vote that they
24 desire to be included in such a unit; and

25 (5) A unit that includes supervisors and/or principals and
26 assistant principals and nonsupervisory educational employees may be
27 considered appropriate if a majority of the employees in each category
28 indicate by vote that they desire to be included in such a unit; and

29 (6) A unit that includes only employees in vocational-technical
30 institutes or occupational skill centers may be considered to
31 constitute an appropriate bargaining unit if the history of bargaining
32 in any such school district so justifies; and

33 (7) Notwithstanding the definition of collective bargaining, a unit
34 that contains only supervisors and/or principals and assistant
35 principals shall be limited in scope of bargaining to compensation,
36 hours of work, and the number of days of work in the annual employment
37 contracts.

1 NEW SECTION. **Sec. 13.** This chapter shall be implemented only to
2 the extent that resources adequate to start up, administer, or provide
3 the education programs selected and approved by the superintendent of
4 public instruction and department of corrections are provided.

5 NEW SECTION. **Sec. 14.** Sections 1 through 10 and 13 of this act
6 constitute a new chapter in Title 28A RCW.

7 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 immediately.

11 NEW SECTION. **Sec. 16.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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