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## Education Committee

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### HB 3029

**Brief Description:** Providing education programs for juveniles in adult jails.

**Sponsors:** Representatives Haigh, Pettigrew, Quall, Ormsby, Appleton, Kagi, Wallace, Kenney and Darneille; by request of Superintendent of Public Instruction.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Provides for a program of education for juveniles confined in adult jail facilities.</li></ul>
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**Hearing Date:** 1/29/10

**Staff:** Cece Clynych (786-7195).

**Background:**

Provisions are made in statute for educational programs for juveniles confined in state adult prisons, state institutions for juvenile rehabilitation, and county juvenile detention facilities. No specific statutory provision is made for educational programs for juveniles confined in adult jails.

State Adult Prisons.

School districts, educational service districts, or any combination thereof are identified as the primary providers of the educational program for juvenile inmates in adult correctional facilities run by the Department of Corrections (DOC). Higher education institutions or other qualified entities may contract to provide all or part of the program if no school district or educational district is willing to operate such a program.

These educational programs are for inmates under 18 years of age. Students who are 18 and have participated in such an educational program may continue in the program with the permission of the DOC and the educational provider.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The DOC provides the facilities, utilities, and security staff. The educational provider employs the teachers and furnishes the textbooks and curriculum. The DOC and the provider negotiate and execute a written contract for each school year, or such longer period as agreed upon.

By April 15 of each year, the DOC must provide notice to the district superintendent of any foreseeable facility closure or reduction in numbers or any other cause for a reduction in the school district's staff for the next school year. If the DOC fails to provide such notice, it is liable and responsible for the payment of the salary and employment related costs of each school district employee whose contract the district would have nonrenewed but for the failure to notify. Disputes regarding failure to notify must be resolved pursuant to the alternative dispute method set forth in the contract.

In an opinion issued in 2000, the Washington Supreme Court held that this statutory framework put in place by the Legislature satisfied constitutional requirements.

#### State Institutions for Juvenile Rehabilitation.

The Department of Social and Health Services (DSHS) and certain school districts in the state must provide a program of education for residents who have been admitted pursuant to the Juvenile Justice Act to state institutions for juvenile rehabilitation such as Green Hill, Maple Lane, Naselle Youth Camp, and the like. Although a juvenile offender may not be committed to a juvenile correctional facility beyond his or her twenty-first birthday, there are circumstances under which a juvenile may remain under the authority of DSHS beyond his or her eighteenth birthday. The educational program is for residents who are less than 21 and have not met high school graduation requirements.

The school district within which the facility is located is responsible for provision of the educational program. School districts may utilize the services of an education service district. The school district provides the teachers, administrators, textbooks, and curriculum. The DSHS is responsible for the facilities, furnishings, utilities, and such.

Pursuant to the statutory framework, the DSHS and the district negotiate and execute a contract for each school year, or such longer period as agreed upon. By April 15 of each year, the DSHS must provide notice to the district superintendent of any foreseeable facility closure or reduction in numbers or any other cause for a reduction in the school district's staff for the next school year. If the DSHS fails to provide such notice, it is liable and responsible for the payment of the salary and employment related costs of each school district employee whose contract the district would have nonrenewed but for the failure to notify.

#### County Juvenile Detention Facilities.

Construction, acquisition, and maintenance of a juvenile detention facility is a mandatory function of counties. In an opinion issued in 1982, the Washington Supreme Court held that education must be provided in juvenile detention facilities and that it was the responsibility of the counties to provide that education. Subsequently, in 1983, the Legislature provided by statute for a program of education to be provided by the counties and the school districts for juveniles confined in these detention facilities. The duties, authority, and liabilities mirror those set forth in the statutes governing the state institutions for juvenile rehabilitation, except that the counties assume the DSHS role.

## **Summary of Bill:**

Legislative intent is expressed to provide for the operation of education programs for juvenile inmates incarcerated in adult jails. Findings are made that these new statutory provisions fully satisfy any constitutional duty to provide education programs for juvenile inmates in adult jails and that biennial appropriations for education programs made pursuant to this new statutory framework amply provide for any constitutional duty to educate juvenile inmates in adult jails.

The program of education is to be made available by the adult jail facilities and the several school districts of the state for persons under the age of 18 who have been incarcerated in any adult jail facility. Each school district within which such a jail facility is located must provide the program of education, either singly or in concert with another district. Districts may contract with educational service districts, community and technical colleges, four-year institutions of higher education, or other qualified entities to provide all or part of the program.

The school district must supply the teachers, administrators, and textbooks. The district or educational provider must also:

- provide the educational program in accordance with program standards established by the Office of Superintendent of Public Instruction (OSPI);
- expend funds appropriated, granted, or gifted for the direct and indirect costs of maintaining and operating the program for the exclusive purpose of maintaining and operating such programs;
- provide educational services to juvenile inmates within five days of receiving notification from an adult jail facility within the district's boundaries that an individual under the age of 18 has been incarcerated; and
- develop the curricula, instruction methods, and educational objectives subject to applicable requirements of state and federal law. For inmates under the age of 18 who have not met high school graduation requirements, appropriate courses of instruction and school-related student activities shall be provided by the district to the extent that it is practical and judged appropriate by the district and the administrator of the adult jail facility.

In the course of providing the educational program in an adult jail, districts may:

- award appropriate diplomas or certificates to juvenile inmates who successfully complete graduation requirements;
- allow students 18 years of age who have participated in an education program in an adult jail to continue in the program, under rules adopted by the OSPI; and
- spend only funds appropriated by the Legislature, allocated by the OSPI, gifted or granted for such a program. A district may not expend excess tax levy proceeds authorized for school district purposes to pay costs of such a program.

The adult jail facility is responsible for the facilities, furnishings, equipment, utilities, and for providing security staff and such other support services reasonably necessary to conduct the education program. The adult jail facility is tasked with notifying the district in which the

facility is located within three business days that an eligible juvenile inmate has been incarcerated in the jail facility.

Each education provider and adult jail facility must negotiate and execute a written contract for each school year, or such longer period as may be agreed to, that delineates the respective duties and provides for dispute resolution through mediation and, if necessary, arbitration. A contract may provide for the performance of additional duties by an education provider, including those duties imposed upon the jail facility, if supplemental funding provided by the jail facility is available to fully pay the direct and indirect costs of the additional duties.

By April 15 of each year, the jail administrator must provide notice to the OSPI and the education provider of any foreseeable facility closure or reduction in numbers or any other cause for a reduction in the school district's staff for the next school year. If the jail administrator fails to provide such notice, it is liable and responsible for the payment of the salary and employment related costs of each employee whose contract the district would not have renewed but for the failure to notify. Disputes regarding this provision must be resolved in accordance with the alternative dispute resolution method specified in the contract.

By September 30, 2010, districts, in coordination with adult jail facilities located within their boundaries, must submit an instructional service plan to the OSPI. Plans must meet the requirements set forth in the OSPI's rules. Once a district has submitted a plan, it is not required to resubmit unless there is a significant change to the plan.

The OSPI is tasked with allocating the money appropriated by the Legislature for this purpose to school districts that have assumed the primary responsibility to administer and provide the educational program or to the educational service district operating the program under contract. The OSPI must also adopt rules establishing the reporting, compliance, audit, and other accountability requirements necessary for implementation.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** This bill takes place 90 days after adjournment of the session in which the bill is passed.