

**HB 1334** - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 04/04/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 72.09.015 and 2010 c 181 s 1 are each amended to read  
4 as follows:

5 The definitions in this section apply throughout this chapter.

6 (1) "Adult basic education" means education or instruction designed  
7 to achieve general competence of skills in reading, writing, and oral  
8 communication, including English as a second language and preparation  
9 and testing services for obtaining a high school diploma or a general  
10 equivalency diploma.

11 (2) "Base level of correctional services" means the minimum level  
12 of field services the department of corrections is required by statute  
13 to provide for the supervision and monitoring of offenders.

14 (3) "Civil judgment for assault" means a civil judgment for  
15 monetary damages awarded to a correctional officer or department  
16 employee entered by a court of competent jurisdiction against an inmate  
17 that is based on, or arises from, injury to the correctional officer or  
18 department employee caused by the inmate while the correctional officer  
19 or department employee was acting in the course and scope of his or her  
20 employment.

21 (4) "Community custody" has the same meaning as that provided in  
22 RCW 9.94A.030 and also includes community placement and community  
23 supervision as defined in RCW 9.94B.020.

24 ((+4)) (5) "Contraband" means any object or communication the  
25 secretary determines shall not be allowed to be: (a) Brought into; (b)  
26 possessed while on the grounds of; or (c) sent from any institution  
27 under the control of the secretary.

28 ((+5)) (6) "Correctional facility" means a facility or institution  
29 operated directly or by contract by the secretary for the purposes of



1 offender's eventual discharge to aftercare upon successful completion  
2 of supervision. An individual reentry plan is updated throughout the  
3 period of an offender's incarceration and supervision to be relevant to  
4 the offender's current needs and risks.

5 ~~((+16+))~~ (17) "Inmate" means a person committed to the custody of  
6 the department, including but not limited to persons residing in a  
7 correctional institution or facility and persons released from such  
8 facility on furlough, work release, or community custody, and persons  
9 received from another state, state agency, county, or federal  
10 jurisdiction.

11 ~~((+17+))~~ (18) "Labor" means the period of time before a birth  
12 during which contractions are of sufficient frequency, intensity, and  
13 duration to bring about effacement and progressive dilation of the  
14 cervix.

15 ~~((+18+))~~ (19) "Physical restraint" means the use of any bodily  
16 force or physical intervention to control an offender or limit an  
17 offender's freedom of movement in a way that does not involve a  
18 mechanical restraint. Physical restraint does not include momentary  
19 periods of minimal physical restriction by direct person-to-person  
20 contact, without the aid of mechanical restraint, accomplished with  
21 limited force and designed to:

22 (a) Prevent an offender from completing an act that would result in  
23 potential bodily harm to self or others or damage property;

24 (b) Remove a disruptive offender who is unwilling to leave the area  
25 voluntarily; or

26 (c) Guide an offender from one location to another.

27 ~~((+19+))~~ (20) "Postpartum recovery" means (a) the entire period a  
28 woman or youth is in the hospital, birthing center, or clinic after  
29 giving birth and (b) an additional time period, if any, a treating  
30 physician determines is necessary for healing after the woman or youth  
31 leaves the hospital, birthing center, or clinic.

32 ~~((+20+))~~ (21) "Privilege" means any goods or services, education or  
33 work programs, or earned early release days, the receipt of which are  
34 directly linked to an inmate's (a) good conduct; and (b) good  
35 performance. Privileges do not include any goods or services the  
36 department is required to provide under the state or federal  
37 Constitution or under state or federal law.

1           ~~((+21))~~ (22) "Promising practice" means a practice that presents,  
2 based on preliminary information, potential for becoming a  
3 research-based or consensus-based practice.

4           ~~((+22))~~ (23) "Research-based" means a program or practice that has  
5 some research demonstrating effectiveness, but that does not yet meet  
6 the standard of evidence-based practices.

7           ~~((+23))~~ (24) "Restraints" means anything used to control the  
8 movement of a person's body or limbs and includes:

9           (a) Physical restraint; or

10           (b) Mechanical device including but not limited to: Metal  
11 handcuffs, plastic ties, ankle restraints, leather cuffs, other  
12 hospital-type restraints, tasers, or batons.

13           ~~((+24))~~ (25) "Secretary" means the secretary of corrections or his  
14 or her designee.

15           ~~((+25))~~ (26) "Significant expansion" includes any expansion into  
16 a new product line or service to the class I business that results from  
17 an increase in benefits provided by the department, including a  
18 decrease in labor costs, rent, or utility rates (for water, sewer,  
19 electricity, and disposal), an increase in work program space, tax  
20 advantages, or other overhead costs.

21           ~~((+26))~~ (27) "Superintendent" means the superintendent of a  
22 correctional facility under the jurisdiction of the Washington state  
23 department of corrections, or his or her designee.

24           ~~((+27))~~ (28) "Transportation" means the conveying, by any means,  
25 of an incarcerated pregnant woman or youth from the correctional  
26 facility to another location from the moment she leaves the  
27 correctional facility to the time of arrival at the other location, and  
28 includes the escorting of the pregnant incarcerated woman or youth from  
29 the correctional facility to a transport vehicle and from the vehicle  
30 to the other location.

31           ~~((+28))~~ (29) "Unfair competition" means any net competitive  
32 advantage that a business may acquire as a result of a correctional  
33 industries contract, including labor costs, rent, tax advantages,  
34 utility rates (water, sewer, electricity, and disposal), and other  
35 overhead costs. To determine net competitive advantage, the  
36 correctional industries board shall review and quantify any expenses  
37 unique to operating a for-profit business inside a prison.

1       ~~((+29+))~~ (30) "Vocational training" or "vocational education" means  
2 "vocational education" as defined in RCW 72.62.020.

3       ~~((+30+))~~ (31) "Washington business" means an in-state manufacturer  
4 or service provider subject to chapter 82.04 RCW existing on June 10,  
5 2004.

6       ~~((+31+))~~ (32) "Work programs" means all classes of correctional  
7 industries jobs authorized under RCW 72.09.100.

8       **Sec. 2.** RCW 72.09.111 and 2010 c 122 s 5 and 2010 c 116 s 1 are  
9 each reenacted and amended to read as follows:

10       (1) The secretary shall deduct taxes and legal financial  
11 obligations from the gross wages, gratuities, or workers' compensation  
12 benefits payable directly to the inmate under chapter 51.32 RCW, of  
13 each inmate working in correctional industries work programs, or  
14 otherwise receiving such wages, gratuities, or benefits. The secretary  
15 shall also deduct child support payments from the gratuities of each  
16 inmate working in class II through class IV correctional industries  
17 work programs. The secretary shall develop a formula for the  
18 distribution of offender wages, gratuities, and benefits. The formula  
19 shall not reduce the inmate account below the indigency level, as  
20 defined in RCW 72.09.015.

21       (a) The formula shall include the following minimum deductions from  
22 class I gross wages and from all others earning at least minimum wage:

23       (i) Five percent to the crime victims' compensation account  
24 provided in RCW 7.68.045;

25       (ii) Ten percent to a department personal inmate savings account;

26       (iii) Twenty percent to the department to contribute to the cost of  
27 incarceration; ~~((and))~~

28       (iv) Twenty percent for payment of legal financial obligations for  
29 all inmates who have legal financial obligations owing in any  
30 Washington state superior court; and

31       (v) Twenty percent for payment of any civil judgment for assault  
32 for inmates who are subject to a civil judgment for assault in any  
33 Washington state court or federal court.

34       (b) The formula shall include the following minimum deductions from  
35 class II gross gratuities:

36       (i) Five percent to the crime victims' compensation account  
37 provided in RCW 7.68.045;

1 (ii) Ten percent to a department personal inmate savings account;  
2 (iii) Fifteen percent to the department to contribute to the cost  
3 of incarceration;  
4 (iv) Twenty percent for payment of legal financial obligations for  
5 all inmates who have legal financial obligations owing in any  
6 Washington state superior court; (~~and~~)  
7 (v) Fifteen percent for any child support owed under a support  
8 order; and  
9 (vi) Fifteen percent for payment of any civil judgment for assault  
10 for inmates who are subject to a civil judgment for assault in any  
11 Washington state court or federal court.  
12 (c) The formula shall include the following minimum deductions from  
13 any workers' compensation benefits paid pursuant to RCW 51.32.080:  
14 (i) Five percent to the crime victims' compensation account  
15 provided in RCW 7.68.045;  
16 (ii) Ten percent to a department personal inmate savings account;  
17 (iii) Twenty percent to the department to contribute to the cost of  
18 incarceration; and  
19 (iv) An amount equal to any legal financial obligations owed by the  
20 inmate established by an order of any Washington state superior court  
21 up to the total amount of the award.  
22 (d) The formula shall include the following minimum deductions from  
23 class III gratuities:  
24 (i) Five percent for the crime victims' compensation account  
25 provided in RCW 7.68.045; (~~and~~)  
26 (ii) Fifteen percent for any child support owed under a support  
27 order; and  
28 (iii) Fifteen percent for payment of any civil judgment for assault  
29 for inmates who are subject to a civil judgment for assault in any  
30 Washington state court or federal court.  
31 (e) The formula shall include the following minimum deduction from  
32 class IV gross gratuities:  
33 (i) Five percent to the department to contribute to the cost of  
34 incarceration; (~~and~~)  
35 (ii) Fifteen percent for any child support owed under a support  
36 order; and  
37 (iii) Fifteen percent for payment of any civil judgment for assault

1 for inmates who are subject to a civil judgment for assault in any  
2 Washington state court or federal court.

3 (2) Any person sentenced to life imprisonment without possibility  
4 of release or parole under chapter 10.95 RCW or sentenced to death  
5 shall be exempt from the requirement under subsection (1)(a)(ii),  
6 (b)(ii), or (c)(ii).

7 (3)(a) The department personal inmate savings account, together  
8 with any accrued interest, may be made available to an inmate at the  
9 following times:

10 (i) During confinement to pay for accredited postsecondary  
11 educational expenses;

12 (ii) Prior to the release from confinement to pay for department-  
13 approved reentry activities that promote successful community  
14 reintegration; or

15 (iii) When the secretary determines that an emergency exists for  
16 the inmate.

17 (b) The secretary shall establish guidelines for the release of  
18 funds pursuant to (a) of this subsection, giving consideration to the  
19 inmate's need for resources at the time of his or her release from  
20 confinement.

21 (c) Any funds remaining in an offender's personal inmate savings  
22 account shall be made available to the offender at the time of his or  
23 her release from confinement.

24 (4) The management of classes I, II, and IV correctional industries  
25 may establish an incentive payment for offender workers based on  
26 productivity criteria. This incentive shall be paid separately from  
27 the hourly wage/gratuity rate and shall not be subject to the specified  
28 deduction for cost of incarceration.

29 (5) In the event that the offender worker's wages, gratuity, or  
30 workers' compensation benefit is subject to garnishment for support  
31 enforcement, the crime victims' compensation account, savings, and cost  
32 of incarceration deductions shall be calculated on the net wages after  
33 taxes, legal financial obligations, and garnishment.

34 (6) The department shall explore other methods of recovering a  
35 portion of the cost of the inmate's incarceration and for encouraging  
36 participation in work programs, including development of incentive  
37 programs that offer inmates benefits and amenities paid for only from  
38 wages earned while working in a correctional industries work program.

1 (7) The department shall develop the necessary administrative  
2 structure to recover inmates' wages and keep records of the amount  
3 inmates pay for the costs of incarceration and amenities. All funds  
4 deducted from inmate wages under subsection (1) of this section for the  
5 purpose of contributions to the cost of incarceration shall be  
6 deposited in a dedicated fund with the department and shall be used  
7 only for the purpose of enhancing and maintaining correctional  
8 industries work programs.

9 (8) It shall be in the discretion of the secretary to apportion the  
10 inmates between class I and class II depending on available contracts  
11 and resources.

12 (9) Nothing in this section shall limit the authority of the  
13 department of social and health services division of child support from  
14 taking collection action against an inmate's moneys, assets, or  
15 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

16 **Sec. 3.** RCW 72.09.480 and 2010 c 122 s 6 are each amended to read  
17 as follows:

18 (1) Unless the context clearly requires otherwise, the definitions  
19 in this section apply to this section.

20 (a) "Cost of incarceration" means the cost of providing an inmate  
21 with shelter, food, clothing, transportation, supervision, and other  
22 services and supplies as may be necessary for the maintenance and  
23 support of the inmate while in the custody of the department, based on  
24 the average per inmate costs established by the department and the  
25 office of financial management.

26 (b) "Minimum term of confinement" means the minimum amount of time  
27 an inmate will be confined in the custody of the department,  
28 considering the sentence imposed and adjusted for the total potential  
29 earned early release time available to the inmate.

30 (c) "Program" means any series of courses or classes necessary to  
31 achieve a proficiency standard, certificate, or postsecondary degree.

32 (2) When an inmate, except as provided in subsections (4) and (8)  
33 of this section, receives any funds in addition to his or her wages or  
34 gratuities, except settlements or awards resulting from legal action,  
35 the additional funds shall be subject to the following deductions and  
36 the priorities established in chapter 72.11 RCW:



1 (a) Five percent to the crime victims' compensation account  
2 provided in RCW 7.68.045;

3 (b) Ten percent to a department personal inmate savings account;

4 (c) Twenty percent for payment of legal financial obligations for  
5 all inmates who have legal financial obligations owing in any  
6 Washington state superior court;

7 (d) Twenty percent for any child support owed under a support  
8 order; (~~and~~)

9 (e) Twenty percent to the department to contribute to the cost of  
10 incarceration; and

11 (f) Twenty percent for payment of any civil judgment for assault  
12 for all inmates who are subject to a civil judgment for assault in any  
13 Washington state court or federal court.

14 (3) When an inmate, except as provided in subsection (8) of this  
15 section, receives any funds from a settlement or award resulting from  
16 a legal action, the additional funds shall be subject to the deductions  
17 in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11  
18 RCW.

19 (4) When an inmate who is subject to a child support order receives  
20 funds from an inheritance, the deduction required under subsection  
21 (2)(e) and (f) of this section shall only apply after the child support  
22 obligation has been paid in full.

23 (5) The amount deducted from an inmate's funds under subsection (2)  
24 of this section shall not exceed the department's total cost of  
25 incarceration for the inmate incurred during the inmate's minimum or  
26 actual term of confinement, whichever is longer.

27 (6)(a) The deductions required under subsection (2) of this section  
28 shall not apply to funds received by the department from an offender or  
29 from a third party on behalf of an offender for payment of education or  
30 vocational programs or postsecondary education degree programs as  
31 provided in RCW 72.09.460 and 72.09.465.

32 (b) The deductions required under subsection (2) of this section  
33 shall not apply to funds received by the department from a third party,  
34 including but not limited to a nonprofit entity on behalf of the  
35 department's education, vocation, or postsecondary education degree  
36 programs.

37 (7) The deductions required under subsection (2) of this section  
38 shall not apply to any money received by the department, on behalf of

1 an inmate, from family or other outside sources for the payment of  
2 postage expenses. Money received under this subsection may only be  
3 used for the payment of postage expenses and may not be transferred to  
4 any other account or purpose. Money that remains unused in the  
5 inmate's postage fund at the time of release shall be subject to the  
6 deductions outlined in subsection (2) of this section.

7 (8) When an inmate sentenced to life imprisonment without  
8 possibility of release or sentenced to death under chapter 10.95 RCW  
9 receives funds, deductions are required under subsection (2) of this  
10 section, with the exception of a personal inmate savings account under  
11 subsection (2)(b) of this section.

12 (9) The secretary of the department of corrections, or his or her  
13 designee, may exempt an inmate from a personal inmate savings account  
14 under subsection (2)(b) of this section if the inmate's earliest  
15 release date is beyond the inmate's life expectancy.

16 (10) The interest earned on an inmate savings account created as a  
17 result of the plan in section 4, chapter 325, Laws of 1999 shall be  
18 exempt from the mandatory deductions under this section and RCW  
19 72.09.111.

20 (11) Nothing in this section shall limit the authority of the  
21 department of social and health services division of child support, the  
22 county clerk, or a restitution recipient from taking collection action  
23 against an inmate's moneys, assets, or property pursuant to chapter  
24 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the  
25 collection of moneys received by the inmate from settlements or awards  
26 resulting from legal action."

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**ADOPTED 04/04/2011**

27 On page 1, line 1 of the title, after "assault;" strike the  
28 remainder of the title and insert "amending RCW 72.09.015 and  
29 72.09.480; reenacting and amending RCW 72.09.111; and prescribing  
30 penalties."

EFFECT: This amendment makes a technical correction, which fixes an incorrect cross-reference.

--- END ---