

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1334

62nd Legislature
2011 Regular Session

Passed by the House April 14, 2011
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 4, 2011
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1334** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1334

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Nealey, Hurst, Walsh, Johnson, Klippert, Haler, Rodne, Bailey, Short, Dammeier, Pearson, McCune, Warnick, Hinkle, Kelley, Orcutt, Chandler, Rivers, Ross, Schmick, and Smith

Read first time 01/19/11. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to civil judgments for assault; amending RCW
2 72.09.015 and 72.09.480; reenacting and amending RCW 72.09.111; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 72.09.015 and 2010 c 181 s 1 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter.

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

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

16 (3) "Civil judgment for assault" means a civil judgment for
17 monetary damages awarded to a correctional officer or department
18 employee entered by a court of competent jurisdiction against an inmate
19 that is based on, or arises from, injury to the correctional officer or

1 department employee caused by the inmate while the correctional officer
2 or department employee was acting in the course and scope of his or her
3 employment.

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

7 ~~((+4))~~ (5) "Contraband" means any object or communication the
8 secretary determines shall not be allowed to be: (a) Brought into; (b)
9 possessed while on the grounds of; or (c) sent from any institution
10 under the control of the secretary.

11 ~~((+5))~~ (6) "Correctional facility" means a facility or institution
12 operated directly or by contract by the secretary for the purposes of
13 incarcerating adults in total or partial confinement, as defined in RCW
14 9.94A.030.

15 ~~((+6))~~ (7) "County" means a county or combination of counties.

16 ~~((+7))~~ (8) "Department" means the department of corrections.

17 ~~((+8))~~ (9) "Earned early release" means earned release as
18 authorized by RCW ~~((9.94A.728))~~ 9.94A.729.

19 ~~((+9))~~ (10) "Evidence-based" means a program or practice that has
20 had multiple-site random controlled trials across heterogeneous
21 populations demonstrating that the program or practice is effective in
22 reducing recidivism for the population.

23 ~~((+10))~~ (11) "Extended family visit" means an authorized visit
24 between an inmate and a member of his or her immediate family that
25 occurs in a private visiting unit located at the correctional facility
26 where the inmate is confined.

27 ~~((+11))~~ (12) "Good conduct" means compliance with department rules
28 and policies.

29 ~~((+12))~~ (13) "Good performance" means successful completion of a
30 program required by the department, including an education, work, or
31 other program.

32 ~~((+13))~~ (14) "Immediate family" means the inmate's children,
33 stepchildren, grandchildren, great grandchildren, parents, stepparents,
34 grandparents, great grandparents, siblings, and a person legally
35 married to or in a state registered domestic partnership with an
36 inmate. "Immediate family" does not include an inmate adopted by
37 another inmate or the immediate family of the adopted or adopting
38 inmate.

1 (~~(14)~~) (15) "Indigent inmate," "indigent," and "indigency" mean
2 an inmate who has less than a ten-dollar balance of disposable income
3 in his or her institutional account on the day a request is made to
4 utilize funds and during the thirty days previous to the request.

5 (~~(15)~~) (16) "Individual reentry plan" means the plan to prepare
6 an offender for release into the community. It should be developed
7 collaboratively between the department and the offender and based on an
8 assessment of the offender using a standardized and comprehensive tool
9 to identify the offender's risks and needs. The individual reentry
10 plan describes actions that should occur to prepare individual
11 offenders for release from prison or jail, specifies the supervision
12 and services they will experience in the community, and describes an
13 offender's eventual discharge to aftercare upon successful completion
14 of supervision. An individual reentry plan is updated throughout the
15 period of an offender's incarceration and supervision to be relevant to
16 the offender's current needs and risks.

17 (~~(16)~~) (17) "Inmate" means a person committed to the custody of
18 the department, including but not limited to persons residing in a
19 correctional institution or facility and persons released from such
20 facility on furlough, work release, or community custody, and persons
21 received from another state, state agency, county, or federal
22 jurisdiction.

23 (~~(17)~~) (18) "Labor" means the period of time before a birth
24 during which contractions are of sufficient frequency, intensity, and
25 duration to bring about effacement and progressive dilation of the
26 cervix.

27 (~~(18)~~) (19) "Physical restraint" means the use of any bodily
28 force or physical intervention to control an offender or limit an
29 offender's freedom of movement in a way that does not involve a
30 mechanical restraint. Physical restraint does not include momentary
31 periods of minimal physical restriction by direct person-to-person
32 contact, without the aid of mechanical restraint, accomplished with
33 limited force and designed to:

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

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

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

1 ~~((+19+))~~ (20) "Postpartum recovery" means (a) the entire period a
2 woman or youth is in the hospital, birthing center, or clinic after
3 giving birth and (b) an additional time period, if any, a treating
4 physician determines is necessary for healing after the woman or youth
5 leaves the hospital, birthing center, or clinic.

6 ~~((+20+))~~ (21) "Privilege" means any goods or services, education or
7 work programs, or earned early release days, the receipt of which are
8 directly linked to an inmate's (a) good conduct; and (b) good
9 performance. Privileges do not include any goods or services the
10 department is required to provide under the state or federal
11 Constitution or under state or federal law.

12 ~~((+21+))~~ (22) "Promising practice" means a practice that presents,
13 based on preliminary information, potential for becoming a
14 research-based or consensus-based practice.

15 ~~((+22+))~~ (23) "Research-based" means a program or practice that has
16 some research demonstrating effectiveness, but that does not yet meet
17 the standard of evidence-based practices.

18 ~~((+23+))~~ (24) "Restraints" means anything used to control the
19 movement of a person's body or limbs and includes:

20 (a) Physical restraint; or

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

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

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

32 ~~((+26+))~~ (27) "Superintendent" means the superintendent of a
33 correctional facility under the jurisdiction of the Washington state
34 department of corrections, or his or her designee.

35 ~~((+27+))~~ (28) "Transportation" means the conveying, by any means,
36 of an incarcerated pregnant woman or youth from the correctional
37 facility to another location from the moment she leaves the
38 correctional facility to the time of arrival at the other location, and

1 includes the escorting of the pregnant incarcerated woman or youth from
2 the correctional facility to a transport vehicle and from the vehicle
3 to the other location.

4 ~~((+28+))~~ (29) "Unfair competition" means any net competitive
5 advantage that a business may acquire as a result of a correctional
6 industries contract, including labor costs, rent, tax advantages,
7 utility rates (water, sewer, electricity, and disposal), and other
8 overhead costs. To determine net competitive advantage, the
9 correctional industries board shall review and quantify any expenses
10 unique to operating a for-profit business inside a prison.

11 ~~((+29+))~~ (30) "Vocational training" or "vocational education" means
12 "vocational education" as defined in RCW 72.62.020.

13 ~~((+30+))~~ (31) "Washington business" means an in-state manufacturer
14 or service provider subject to chapter 82.04 RCW existing on June 10,
15 2004.

16 ~~((+31+))~~ (32) "Work programs" means all classes of correctional
17 industries jobs authorized under RCW 72.09.100.

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

20 (1) The secretary shall deduct taxes and legal financial
21 obligations from the gross wages, gratuities, or workers' compensation
22 benefits payable directly to the inmate under chapter 51.32 RCW, of
23 each inmate working in correctional industries work programs, or
24 otherwise receiving such wages, gratuities, or benefits. The secretary
25 shall also deduct child support payments from the gratuities of each
26 inmate working in class II through class IV correctional industries
27 work programs. The secretary shall develop a formula for the
28 distribution of offender wages, gratuities, and benefits. The formula
29 shall not reduce the inmate account below the indigency level, as
30 defined in RCW 72.09.015.

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

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

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

36 (iii) Twenty percent to the department to contribute to the cost of
37 incarceration; ~~((and))~~

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

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

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

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

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

12 (iii) Fifteen percent to the department to contribute to the cost
13 of incarceration;

14 (iv) Twenty percent for payment of legal financial obligations for
15 all inmates who have legal financial obligations owing in any
16 Washington state superior court; (~~and~~)

17 (v) Fifteen percent for any child support owed under a support
18 order; and

19 (vi) Fifteen percent for payment of any civil judgment for assault
20 for inmates who are subject to a civil judgment for assault in any
21 Washington state court or federal court.

22 (c) The formula shall include the following minimum deductions from
23 any workers' compensation benefits paid pursuant to RCW 51.32.080:

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

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

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

29 (iv) An amount equal to any legal financial obligations owed by the
30 inmate established by an order of any Washington state superior court
31 up to the total amount of the award.

32 (d) The formula shall include the following minimum deductions from
33 class III gratuities:

34 (i) Five percent for the crime victims' compensation account
35 provided in RCW 7.68.045; (~~and~~)

36 (ii) Fifteen percent for any child support owed under a support
37 order; and

1 (iii) Fifteen percent for payment of any civil judgment for assault
2 for inmates who are subject to a civil judgment for assault in any
3 Washington state court or federal court.

4 (e) The formula shall include the following minimum deduction from
5 class IV gross gratuities:

6 (i) Five percent to the department to contribute to the cost of
7 incarceration; ~~((and))~~

8 (ii) Fifteen percent for any child support owed under a support
9 order; and

10 (iii) Fifteen percent for payment of any civil judgment for assault
11 for inmates who are subject to a civil judgment for assault in any
12 Washington state court or federal court.

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

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

20 (i) During confinement to pay for accredited postsecondary
21 educational expenses;

22 (ii) Prior to the release from confinement to pay for department-
23 approved reentry activities that promote successful community
24 reintegration; or

25 (iii) When the secretary determines that an emergency exists for
26 the inmate.

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

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

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

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

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

11 (7) The department shall develop the necessary administrative
12 structure to recover inmates' wages and keep records of the amount
13 inmates pay for the costs of incarceration and amenities. All funds
14 deducted from inmate wages under subsection (1) of this section for the
15 purpose of contributions to the cost of incarceration shall be
16 deposited in a dedicated fund with the department and shall be used
17 only for the purpose of enhancing and maintaining correctional
18 industries work programs.

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

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

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

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

30 (a) "Cost of incarceration" means the cost of providing an inmate
31 with shelter, food, clothing, transportation, supervision, and other
32 services and supplies as may be necessary for the maintenance and
33 support of the inmate while in the custody of the department, based on
34 the average per inmate costs established by the department and the
35 office of financial management.

36 (b) "Minimum term of confinement" means the minimum amount of time

1 an inmate will be confined in the custody of the department,
2 considering the sentence imposed and adjusted for the total potential
3 earned early release time available to the inmate.

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

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

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

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

14 (c) Twenty percent for payment of legal financial obligations for
15 all inmates who have legal financial obligations owing in any
16 Washington state superior court;

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

19 (e) Twenty percent to the department to contribute to the cost of
20 incarceration; and

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

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

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

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

37 (6)(a) The deductions required under subsection (2) of this section
38 shall not apply to funds received by the department from an offender or

1 from a third party on behalf of an offender for payment of education or
2 vocational programs or postsecondary education degree programs as
3 provided in RCW 72.09.460 and 72.09.465.

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

9 (7) The deductions required under subsection (2) of this section
10 shall not apply to any money received by the department, on behalf of
11 an inmate, from family or other outside sources for the payment of
12 postage expenses. Money received under this subsection may only be
13 used for the payment of postage expenses and may not be transferred to
14 any other account or purpose. Money that remains unused in the
15 inmate's postage fund at the time of release shall be subject to the
16 deductions outlined in subsection (2) of this section.

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

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

26 (10) The interest earned on an inmate savings account created as a
27 result of the plan in section 4, chapter 325, Laws of 1999 shall be
28 exempt from the mandatory deductions under this section and RCW
29 72.09.111.

30 (11) Nothing in this section shall limit the authority of the
31 department of social and health services division of child support, the
32 county clerk, or a restitution recipient from taking collection action
33 against an inmate's moneys, assets, or property pursuant to chapter
34 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the
35 collection of moneys received by the inmate from settlements or awards
36 resulting from legal action.

--- END ---