

SENATE BILL REPORT

SB 6476

As of February 10, 2020

Title: An act relating to increasing and expanding access of inmates and immediate family members of inmates to services provided within correctional facilities.

Brief Description: Increasing and expanding access of inmates and immediate family members of inmates to services provided within correctional facilities.

Sponsors: Senators Stanford, Darneille, Wilson, C., Nguyen, Hasegawa and Saldaña.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/30/20, 2/06/20 [DPS-WM].

Ways & Means: 2/10/20.

Brief Summary of First Substitute Bill

- Increases the inmate indigency dollar threshold.
- Expands the definition of immediate family.
- Requires inmates to have at least biweekly access to the commissary program by December 1, 2020.
- Requires contracts for telecommunication and electronic media services in state correctional institutions to be posted on the Department of Corrections website.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 6476 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kelsey-anne Fung (786-7479)

SENATE COMMITTEE ON WAYS & MEANS

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.

Staff: Kayla Hammer (786-7305)

Background: Indigency. Current law defines an indigent inmate as having less than a \$10 balance of disposable income in their institutional account on the day a request is made to use funds, and during the previous 30 days. The Department of Corrections (DOC) Trust Accounting System automatically tracks indigent levels based on the spendable balance that exists at any DOC facility in which an individual has been housed.

Immediate Family. Current law defines immediate family as the inmate's children, stepchildren, grandchildren, great-grandchildren, parents, stepparents, grandparents, great-grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. Immediate family does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

Commissary. DOC policy permits the operation of a commissary for the benefit of incarcerated individuals. The commissary provides the opportunity to purchase personal items not furnished by the facility, including personal hygiene items, food, snacks, sodas, postage supplies, writing materials, vitamins, and over the counter health related items. Staff and incarcerated individuals who work for the Correctional Industries commissary process, pick, package, and deliver orders to living units or other designated areas where incarcerated individuals receive and sign for the items. Incarcerated individuals can make purchases from the commissary on specifically assigned days by submitting a telephone order or order form. There are different commissary schedules for each DOC facility regarding the last day to submit an order, days in which money is taken from the individual's account, and days when orders are distributed.

According to DOC, items sold in the commissary are stocked based on requests from incarcerated individuals and review and approval by security staff. The items available for incarcerated individuals to purchase are limited by the individual's classification level. Individuals in higher security housing units have fewer items from which to choose.

Telecommunication and Electronic Media Contracts. DOC contracts with Global Tel Link (GTL) for inmate telephone services within state correctional facilities. Through the GTL contract, DOC currently charges \$0.11 per minute plus taxes for intrastate and interstate phone calls and \$1.63 per minute plus taxes for an international phone call. Phone calls are limited to 20 minutes. Prepaid telephone accounts must be created and funded by an inmate's friends or family. There are transaction fees associated with depositing money into an inmate's telephone account.

DOC contracts with JPAY for services including money transfers, emails, video visitation, videograms, and electronic media such as music, games, movies, and audiobooks. There are transaction fees associated with transferring money to an inmate's special media account to use these services. Some examples of the rates and costs to use these services are as follows:

- email—\$2.00 for six stamps; each typed page of text costs one stamp; each attachment costs one stamp;
- videogram—five stamps per videogram;
- video visitation—\$7.95 for 30 minutes;
- music—\$3.50 per transaction; and

- online money transfers—\$3.95 for up to \$20 or \$7.95 for up to \$100.

Commissions from the sale of services goes to the Offender Betterment Fund (OBF). According to DOC policy, assets of the OBF are used solely for offender activities that enhance the security and orderly operation of a facility by reducing idleness and encouraging positive development of family and community ties. Expenditures from the OBF include supplies for the visiting area and extended family visit program; family centered activities that are noncultural events or programs that encourage stronger family relations; law library books, subscriptions, and employee salaries; recreation and hobby expenditures; and television system expenditures.

In a 2019 article by Dr. Alexes Harris, et al. titled, "Justice 'cost points': Examination of privatization within public systems of justice," Dr. Harris discusses how DOC contracts with JPAY to provide technology-based communication and entertainment services to incarcerated individuals. Dr. Harris recommended that local and state jurisdictions should require:

- private-public contracts be made publicly available;
- more transparency on how much money is saved or generated from private-public contracts;
- more financial reporting requirements for private-public contracts; and
- an examination of the pricing structures to prevent exploitative pricing.

The Office of the Corrections Ombuds. The Office of the Corrections Ombuds (OCO) was created in 2018 as an independent and impartial office to provide information to inmates and their families, promote public awareness and understanding of inmates rights and responsibilities; identify system issues and responses for the Governor and the Legislature; and ensure compliance with relevant statutes, rules, and policies pertaining to corrections facilities, services, and treatment of inmates under the jurisdiction of DOC. In its 2019 annual report, the OCO recommended that DOC should proactively look to maximize family connections wherever possible and prohibit the complete restriction of family connections, except where there is a clear and present security concern. OCO recommended the definition of immediate family to also include aunts, uncles, cousins, nieces, nephews, and others for the purposes of extended family visitation.

Summary of Bill (First Substitute): The disposable income balance is increased from \$10 to \$25 when defining an indigent inmate. The definition of immediate family is expanded to include aunts, uncles, and the immediate family of an inmate who was adopted as a child or an adult.

DOC is strongly encouraged to provide at least weekly access to the facility commissary program across all DOC institutions of total confinement. DOC is prohibited from reducing frequency at DOC institutions that currently have weekly access. By December 1, 2020, DOC must provide at least biweekly access to the facility commissary program at all institutions of total confinement.

Contracts to provide inmates with access to telecommunication and electronic media services in state correctional facilities must be made publicly available and posted on DOC's website, and certain information from the contract must be prominently displayed. By July 1st of each year, the contractor must report specified information to DOC, including:

- a summary of services offered at each correctional facility;
- rates charged or associated with each type of service provided, including any fees;
- a total accounting of commissions provided to DOC or the correctional facility;
- a summary and accounting of services used by indigent inmates;
- one-time and ongoing costs for installing and maintaining hardware;
- average customer service response time rates per facility; and
- an accounting of all revenues or losses incurred by the contractor by quarter.

By November 1st each year, DOC must report to the Governor and Legislature on contracts for telecommunication and electronic media services and the contractor's annual compliance with state law.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):

- Removes cousins, nephews, and nieces from the immediate family definition.
- Removes required weekly access to the commissary and instead strongly encourages weekly access to the commissary for inmates across all DOC total confinement facilities.
- Prohibits DOC from reducing frequency for facilities that have weekly access to the commissary as of the effective date of this act.
- Requires DOC to provide inmates with biweekly access to the commissary across all DOC total confinement facilities by December 1, 2020.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: I believe in the importance of maintaining connections between inmates and families. It facilitates good behavior, rehabilitation, and reduces recidivism. It also works in both directions. A lot of costs are born by families, who are already struggling financially. DOC has slowly and methodically moved things to the commissary that used to be under the state's purview to give, which has increased the amount of things that inmates have to purchase, such as Tylenol and medicated lotions. Because CI took over food production, and due to the poor nutrition and quality of food inside correctional facilities, inmates have to supplement diets by purchasing items from the commissary.

Family holds significant, emotional, economic, and parental roles in the lives of those incarcerated. Maintaining family connections helps reduce recidivism. Multifamily living is often normal in disproportionately impacted, marginalized, and impoverished backgrounds. Adoptive families of incarcerated persons not currently recognized by DOC as immediate family members. Definition of immediate family prevents extended family members from

attending family events and funding media accounts, which family members and inmates rely on to stay in contact.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator Derek Stanford, Prime Sponsor; Susan Cooksey, Washington Coalition for Prison Reform; Melody Simle, Washington Coalition for Prison Reform; Suzanne Cook, citizen; Byron Coates, Washington Coalition for Prison Reform; Noreen Light, Washington Coalition for Prison Reform; Portia Linear, citizen.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: The indigent cap has not been adjusted for inflation in nearly 20 years. Increasing the cap will relieve the burden felt by family members. The costs for family members outside can be very high and this could help address the issue.

Persons Testifying (Ways & Means): PRO: Susan Cooksey, Washington Coalition for Prison Reform; Noreen Light, Washington Coalition for Prison Reform.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.