

# HOUSE BILL REPORT

## E2SHB 1295

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### As Passed Legislature

**Title:** An act relating to the provision of public education to youth in or released from institutional education facilities.

**Brief Description:** Providing public education to youth in or released from institutional education facilities.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Callan, Eslick, Ramel, Leavitt, Simmons, Springer, Fitzgibbon, Dolan, Bateman, Shewmake, Johnson, J., Senn, Sutherland, Walen, Peterson, Davis, Goodman, Hackney, Kloba, Fey, Ramos, Frame, Ryu, Macri, Bergquist, Pollet and Stonier).

### Brief History:

#### Committee Activity:

Education: 1/22/21, 2/11/21 [DPS];

Appropriations: 2/18/21, 2/19/21 [DP2S(w/o sub ED)].

#### Floor Activity:

Passed House: 2/26/21, 97-0.

Senate Amended.

Passed Senate: 4/3/21, 46-0.

House Concurred.

Passed House: 4/15/21, 96-0.

Passed Legislature.

### Brief Summary of Engrossed Second Substitute Bill

- Establishes new and modified duties for the Office of the Superintendent of Public Instruction (OSPI), the Department of Children, Youth, and Families (DCYF), and the State Board of Education related to the provision of public education to youth in or released from secure facilities, including duties related to education access and delivery, student supports, data collection and reporting, and facility policies.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

- Directs the OSPI and the DCYF to jointly develop recommendations by November 1, 2022, for the establishment, implementation, and funding of a reformed institutional education system.
- Establishes numerous provisions related to the recommendations of the OSPI and the DCYF, including the identification of issues that must be addressed, the creation of an advisory group, and the selection of a third-party entity to facilitate the development of the recommendations and staff the advisory group.

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg, Bergquist, Callan, McCaslin, McEntire, Ortiz-Self, Rude, Steele and Stonier.

**Staff:** Ethan Moreno (786-7386).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

**Staff:** James Mackison (786-7104).

### **Background:**

#### Institutional Education—Overview.

Washington's program of basic education mandates that instruction and associated state funding be provided for school-aged students in institutional facilities. The institutional facilities are managed and operated by the Department of Children, Youth, and Families (DCYF), the Department of Social and Health Services, the Department of Corrections (DOC), counties, and cities, but the basic education services are generally provided by local school districts and educational service districts (ESDs), regional kindergarten through

grade 12 (K-12) education entities that provide services to districts and students.

The Office of the Superintendent of Public Instruction (OSPI) oversees school districts and ESDs that provide institutional education services. The OSPI also allocates legislatively provided funding to school districts and ESDs for institutional education services.

*Basic Education.* As defined in statute, the program of basic education is that which is necessary to provide students with the opportunity to develop the knowledge and skills necessary to meet state-established high school graduation requirements. Those requirements are intended to allow students to have the opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship.

*Funding.* Institutional education funding is not calculated using the prototypical school funding model that is defined in statute and used for common schools. Instead, other factors generate the funding amount for institutional education purposes, including student enrollment, variable staffing ratios, a 220-day school year, and the materials, supplies, and operating costs to support the program.

Six types of institutions receive institutional education funding:

- residential habilitation centers;
- state long-term juvenile institutions;
- state operated community facilities (also referred to as group homes);
- county juvenile detention centers;
- Washington State Department of Corrections; and
- county and city adult jails.

Institutional education allocations are distributed to school districts and ESDs to hire staff and to develop and deliver a program of education in institutions.

#### Task Force on Improving Institutional Education Programs and Outcomes.

Legislation adopted in 2020 (Engrossed Substitute House Bill 2116, enacted as Chapter 226, Laws of 2020) established an 11-member Task Force on Improving Institutional Education Programs and Outcomes (Task Force). The Task Force was charged with examining delineated issues, including:

- goals and strategies for improving the coordination and delivery of education services to youth involved with the juvenile justice system;
- the transmission of student records for students in institutional facilities;
- goals and strategies for increasing the graduation rate of youth in institutional facilities;
- an assessment of the level and adequacy of basic and special education funding for institutional facilities;
- school safety, with a focus on school safety issues that are applicable in institutional facilities; and

- special skills and services of faculty and staff, including associated professional development and nonacademic supports for addressing social-emotional and behavioral health needs.

Between July and November of 2020, the Task Force convened five meetings during which members were presented information on the legal and fiscal frameworks governing the state's institutional education system, and perspectives from a range of experts, stakeholders, and students involved with the juvenile justice system. A final report from the Task Force was provided to the Governor and the Legislature in December 2020.

On-Time Grade Level Progression Requirements for Qualifying Students.

School districts must take specific actions to promote the on-time grade level progression and graduation of students experiencing homelessness, students in foster care, and persons who are designated as at-risk youth or a child in need of services.

Among other requirements, school districts, for the qualifying students, must:

- waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or must provide reasonable justification for the denial;
- consolidate partial credit, unresolved, or incomplete coursework and provide opportunities for credit accrual in a manner that eliminates academic and nonacademic barriers for the student;
- grant partial credit for coursework completed before the date of the student's withdrawal or transfer to the student's current school; and
- grant diplomas to students who have enrolled in three or more school districts as a high school student if state, but not local, graduation requirements have been met.

Education Data Center.

The Education Data Center (commonly known as the Education Research and Data Center or ERDC) in the Office of Financial Management, conducts collaborative analyses of early learning, K-12, and higher education programs and education issues across the preschool through higher education system. Among other duties, the ERDC is required to prepare a regular report on the educational and workforce outcomes of youth in the juvenile justice system.

Dropout Reengagement Programs.

School districts, subject to statutory directives and requirements of the OSPI, may establish dropout reengagement programs to provide educational opportunities and access to services for eligible students. Among other requirements, eligible students must:

- be between the ages of 16 and 21 at the beginning of the school year; and
- not be accumulating sufficient credits at a rate that will allow them reasonably complete a high school diploma before the age of 21, or recommended for the program by a case manager of the DSHS or the juvenile justice system.

Dropout reengagement programs must offer specified services to students, including academic instruction, case management, and academic and career counseling. The OSPI is required to develop model agreements and contracts for dropout reengagement programs and to determine uniform financial reimbursement rates, per full-time equivalent student, for the participating students.

### **Summary of Engrossed Second Substitute Bill:**

Numerous new and modified duties are established for the Office of the Superintendent of Public Instruction (OSPI), the Department of Children, Youth, and Families (DCYF), and the State Board of Education (SBE) related to the provision of public education to youth in or released from secure facilities.

Related definitions are also established for key terms used throughout the legislation, including definitions for:

- institutional education facility;
- institutional education program; and
- institutional education provider.

Additionally, "youth" is defined as a person who is under the age of 21 who is a *resident* of an institutional education facility. A youth may be a public school student or a person who is eligible to be a public school student but who is not enrolled in a school or otherwise receiving basic education services.

"Postresident youth" is defined as a person who is under the age of 21 and a *former resident* of an institutional education facility. A postresident youth may be a public school student or a person who is eligible to be a public school student but who is not enrolled in a school or otherwise receiving basic education services.

#### **I. Extension of On-Time Grade Level and Graduation Progression Requirements.**

Actions that school districts must take to promote the on-time grade level progression and graduation of students experiencing homelessness, students in foster care, and others are extended to students who are in or have been released from an institutional education facility.

For students in or released from an institutional education facility, school districts must provide students with access to world language proficiency tests, American sign language (ASL) proficiency tests, and general education development (GED) tests. Access to the tests may not be conditioned or otherwise dependent upon a student's request.

School districts must award at least one high school credit to students in or released from an institutional education facility upon meeting the standard established by the SBE on a world language or ASL proficiency test or a GED test. Additional credits may be awarded by the district if a student has completed a course or courses of study to prepare for the test. If the

school district has a local policy for awarding mastery-based credit on state or local assessments, the school district must apply this policy for students in or released from an institutional education facility.

In identifying the scores students must achieve in order to meet the standard on world language or ASL proficiency tests and GED tests, the SBE must consult with the OSPI.

## II. Dropout Reengagement Requirements.

The OSPI is directed to examine an existing dropout prevention, intervention, and retrieval system and its associated rules for the purpose of recommending new or modified dropout reengagement requirements and practices that will promote credit earning and high school completion by youth and postresident youth.

Findings and recommendations resulting from the examination must be submitted by November 1, 2021, to the Governor and the appropriate committees of the Legislature.

Institutional education students are made expressly eligible for enrollment in dropout reengagement programs and the OSPI is directed to develop procedures for school districts to report student enrollment in institutional education facilities and dropout reengagement programs.

Beginning in the 2021-22 school year, enrollments for students in residential schools, juveniles in detention facilities, and individuals under the age of 18 in adult correctional facilities may be funded above one full-time equivalent (FTE) if the enrollments above one FTE allow for participation in dropout reengagement programs. The state funding for enrollments in dropout reengagement programs is in addition to institutional education facility enrollments and must be allocated by the OSPI in accordance with applicable requirements.

## III. Professional Development for Institutional Education Staff.

Institutional education providers must annually deliver to all staff providing an institutional education program, one day of professional development that builds pedagogical strategies to navigate the intersectionality of factors impacting student learning, including trauma, and physical, mental, and behavioral health in order to achieve academic milestone progression.

The professional development must, at a minimum, include training on delineated topics, examples of which include:

- the cognitive, psychosocial, and emotional development of adolescents;
- mental and behavioral health literacy;
- the complex needs of students involved in the juvenile justice system, including the trauma associated with incarceration or voluntary or involuntary commitment in a long-term psychiatric inpatient program; and
- racial literacy and cultural competency.

The required professional development, which must be funded by the state, must be in addition to other professional learning requirements previously established in statute.

#### IV. Service Improvement and Delivery Duties for the Department of Children, Youth, and Families.

The DCYF is directed to meet new requirements for the institutional education students in facilities it operates. The DCYF, with the input of institutional education providers, must:

- identify data needed by the DCYF and institutional education facilities to evaluate the facilities' administrative and operational role in providing education to students and supporting students' educational outcomes. This data must include attendance, discipline rates, course and certificate completion rates, and other educational metrics;
- analyze, and make a plan to resolve, the DCYF and institutional education facilities policies and practices that suspend the provision of educational services to a student as a disciplinary action, so that students are never denied the opportunity to engage in educational activities; and
- review and resolve the DCYF and institutional education facility policies and practices that create barriers to students participating in meaningful learning opportunities in whatever location and format those opportunities are provided.

#### V. Every Student Succeeds Act/Consolidated Plan—Reporting Duties for the Office of the Superintendent of Public Instruction.

New reporting requirements pertaining to the state's consolidated plan mandated by the federal Every Student Succeeds Act are established. Beginning July 1, 2022, and every three years thereafter, the OSPI must report on the funding and services provided in support of youth with respect to provisions of the consolidated plan addressing prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk. The stated purpose of the report is to provide the Legislature with the opportunity to determine whether subsequent legislation should be enacted to ensure the education needs of youth and postresident youth. The report, which must be submitted to the appropriate committees of the Legislature, must also include information about the education outcomes resulting from the funding and provided services, and a delineation of the recipients of certain federal funds and how they are being used to support the education needs of youth and postresident youth.

#### VI. Additional Requirements and Supports for the Provision of Institutional Education—Duties for the Office of the Superintendent of Public Instruction.

The OSPI is directed to modify or establish requirements and supports for the provision of public education to youth and postresident youth. In meeting these requirements, the OSPI must complete the following duties:

- adopt rules requiring institutional education providers at state long-term juvenile institutions and state-operated community facilities to conduct an individualized education program (IEP) review for each newly admitted youth who either does not have an IEP or does not have an IEP that has been reviewed in the previous 12

- months;
- adopt rules requiring most institutional education providers to, upon admission of a youth to an institutional education facility, conduct a review and assessment of needed services for each facility transition the youth experiences within the juvenile justice system; and
- adopt, for youth in state long-term juvenile institutions and state-operated community facilities, rules to implement accountability measures for special education services delivered by institutional education providers, including the establishment of mediation and appeals options related to special education services that recognize the unique situation of youth and postresident youth.

A summary of any adopted or pending rules developed in accordance with the recommendations, must be submitted to the appropriate committees of the Legislature by November 1, 2021.

#### VII. Data Collection and Website Posting Duties for the Office of the Superintendent of Public Instruction.

The OSPI is directed to annually collect and post on its website data related to institutional education programs, disaggregated by gender, race, ethnicity, and age, including data on:

- IEPs;
- access to relevant instruction;
- student attendance;
- metrics of student education status upon the beginning of residency in an institutional education facility;
- student education progress during residency in an institutional education facility;
- student education attainment during residency in an institutional education facility;
- and
- long-term education and workforce outcomes of youth in and released from institutional education facilities as provided annually by the Education Research and Data Center (ERDC).

Provisions governing the ERDC's regular report on the education and workforce outcomes of youth in the juvenile justice system are modified to require an annual report on the education and workforce outcomes of youth in and released from institutional education facilities. The report must be provided to the OSPI in a manner that is suitable for the collection and website posting obligations of the OSPI.

The OSPI is also directed, with input from institutional education providers and the DCYF, to annually recommend modifications to the SBE for changes to annual school improvement plan requirements in administrative rules that would allow plans for state long-term juvenile institutions to be formatted for the specific needs and circumstances of institutional settings.

Additionally, the OSPI must provide a copy of the disaggregated data to the board of



directors of each school district that provides education services to youth and postresident youth. The stated purpose of providing the data is to give each board of directors the opportunity to:

- review the performance of the institutional education provider; and
- make changes to annual school improvement plans required by rule, or other policies and procedures as necessary to improve youth and postresident youth outcomes.

VIII. Jointly Developed Institutional Education Policies of the Office of the Superintendent of Public Instruction and the Department of Children, Youth, and Families.

*Recommendations.* The OSPI and the DCYF are directed to jointly develop recommendations for the establishment, implementation, and funding of a reformed institutional education system that successfully meets the education and support needs of persons in and released from secure settings. With limited exceptions, the recommendations should be directed toward meeting the education needs of persons in or released from institutional education facilities that are not operated by or under the jurisdiction of the Department of Social and Health Services.

The recommendations must be based on the foundational concept that every student can succeed if given the necessary supports, and must address:

- the establishment of an organizational and accountability structure for institutional education that is focused on meeting complex student needs and improving student outcomes;
- the establishment of an equitable, long-term funding model for institutional education that sustainably supports the organizational and accountability structure; and
- the development of a regular and ongoing review of system performance and education outcomes.

The developed recommendations must also include provisions addressing 13 delineated issues, examples of which include:

- the content and structure of common education, information, and support systems that would include a common, culturally competent curriculum, improve system efficacy, and minimize the negative academic impacts of transitions;
- a coordinated staffing model for institutional education facility and institutional education provider operations and effectiveness in meeting student needs, and a mechanism for developing subsequent recommendations for improvements to the model;
- practices to ensure that there is a robust program of education advocates for youth in all institutional education facilities;
- maximizing youth and postresident youth access to: career and technical education and postsecondary education pathways at institutional education facilities and at off-site locations; and mastery-based learning that leads to credit accrual and graduation pathways;
- establishing new or modified requirements and procedures for the successful release of youth from institutional education facilities by recommending an effective team-

based transition process with identified preresident and postresident transition services and supports that include basic needs, social-emotional support, and academic support; and

- establishing and supporting youth advisory, leadership, and mentoring programs to ensure pathways for youth and postresident youth involvement and development.

*Advisory Group.* The Institutional Education Structure and Accountability Advisory Group (Advisory Group) is established for the purpose of providing advice, assistance, and information to the OSPI and the DCYF in developing the recommendations. In developing the recommendations, the OSPI and the DCYF are required to consult with the Advisory Group.

The Advisory Group must consist of representatives from the following entities, but other members may be added by request of the Superintendent of Public Instruction (SPI) or the Secretary of the DCYF:

- the SBE;
- the Department of Social and Health Services;
- a statewide organization representing counties;
- the Administrative Office of the Courts;
- the Office of the Education Ombuds;
- the Educational Opportunity Gap Oversight and Accountability Committee;
- a statewide organization representing teachers;
- a statewide organization representing classified education staff;
- nonprofit organizations representing the interest of youth and families involved in the juvenile justice system;
- persons who are or have been involved in the juvenile justice system and their families; and
- a statewide organization representing state employees.

*Third-Party Facilitator.* The SPI and the Secretary of the DCYF must, by August 15, 2021, jointly designate an entity to facilitate the development of the required recommendations and the Advisory Group. Additionally, staff support for the Advisory Group must be provided by the designated entity.

Criteria for the selection of the designated entity are established, and the entity must:

- be a nonprofit and nonpartisan organization with content expertise in improving education for incarcerated young people, including education program delivery, system structure, accountability, and school finance; and
- have experience facilitating complex cross-agency facilitation.

*Reporting Requirements.* The OSPI and the DCYF must provide an interim report to the Governor and the education and fiscal committees of the House of Representatives and the Senate by December 15, 2021. The required recommendations must be provided to the same recipients by November 1, 2022. The recommendations should include a plan and a

phased timeline for their implementation in different types of institutional education facilities, including state long-term juvenile institutions, state-operated community facilities, residential habilitation centers, and county juvenile detention centers.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony (Education):**

(In support) The Task Force on Improving Institutional Education Programs and Outcomes (Task Force) was requested because of two decades without legislative examination of institutional education issues. The bill is the culmination of recommendations of the Task Force. The bill addresses the shortcomings in the delivery of institutional education. Institutional education issues were not part of the McCleary case discussions. The bill addresses short-term issues and requires deeper system reviews. Almost every child that is incarcerated is released. Because of the work of the Task Force, and after 20 years of silence, the Legislature knows better and must do better. Institutional education student voices were included in the Task Force efforts, and the Legislature should continue to hear from them.

Institutional education facilities need more robust education opportunities, including dual credit opportunities. The students need additional time to graduate, as they only have four periods per day instead of six, and separate rooms to minimize the chaos in the institutional settings. Institutional education students also need individual laptops just like students in traditional district settings.

It is difficult for institutional education students to retain credits and they need a better way to do so. The students also need more access to vocational classes. Institutional education students are transferred from institution to institution, and it seems as if they are locked up and set aside. The students need more understanding and effective teachers, and students of different ages should not be in the same classroom.

The data of the more successful school districts should be examined and replicated in the juvenile rehabilitation system. Institutional education students are being asked to learn from laptops, but more human-to-human instruction and interaction is necessary. The textbooks and online courses used in institutional education classrooms are outdated and should be updated.

The bill is appreciated, especially its provisions related to collaborative thinking and partnerships. Community colleges have programs to accelerate credit accrual, so partnering

with community and technical colleges could result in institutional education benefits. Some of those partnerships are already underway and should be scaled up.

About 40 percent of juvenile rehabilitation youth have been in foster care, and policymakers must disrupt the foster care to incarceration pipeline and make good use of educational opportunities for students when they are in secure settings. Institutional education is seriously under resourced and largely unmonitored in Washington. Currently, there is no responsibility to provide services to students after they exit the juvenile rehabilitation system, but this must be changed. The withholding of education services must never be used as punishment for disruptive behavior.

Institutional education students indicated during Task Force meetings that they need competent, caring educators to connect to their learning and that special education needs were not being met. This bill will respond to student concerns, and has important professional development and education advocate provisions. The bill will also help create smoother transitions for students and the services they need and receive. Increased funding for the state's institutional education programs is strongly supported, and the funding formula has gone largely unchanged since the 1990s.

This bill is an outcome from the Task Force. The bill addresses many concerns expressed during the meetings of the Task Force and is a solid foundation for building a better system to serve students. Many of the ideas outlined in the bill will remove barriers to student success.

This bill has pieces that will result in improvements to education outcomes for youth currently in institutional facilities and for future students. Some elements of the bill, such as improving transition services and targeted professional development, will have more immediate impacts. Other aspects of the bill, including efforts to restructure and fund institutional education programs, will have a longer horizon. This is a broad bill with many new requirements, some of which need clarification and refinement.

Very few people who enter the juvenile rehabilitation system exit and graduate from high school. All young people who enter the juvenile rehabilitation system should leave better than when they entered. Education access and completion is foundational to a rehabilitation model. Agencies and partners are committed to working together to improve institutional education delivery in an education-first model.

(Opposed) None.

#### **Staff Summary of Public Testimony (Appropriations):**

(In support) Institutional education is a program where multiple agencies overlap in serving students, which can create gaps in instruction. There is room to improve in educating students in institutional settings. The bill provides funding for training tailored to educators

inside institutions. The third-party facilitation is helpful and allows agencies responsible for institutional education to work as participants in the workgroup rather than as the facilitators and staff support.

(Opposed) None.

**Persons Testifying (Education):** Representative Callan, prime sponsor; Donna Hood, Issaquah School District; Dawn Rains, Treehouse; Lorrell Noahr, Washington Education Association; Tim Touhey, Green Hill Academic School; Martin Mueller, Office of the Superintendent of Public Instruction; Tyler Hyuhn; Joaquim Fryson; Tyus Reed; and Allison Krutsinger, Department of Children, Youth and Families.

**Persons Testifying (Appropriations):** Katherine Mahoney, Office of the Superintendent of Public Instruction.

**Persons Signed In To Testify But Not Testifying (Education):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.