

SENATE BILL REPORT

2SHB 1044

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, March 16, 2021

Title: An act relating to creating prison to postsecondary education pathways.

Brief Description: Creating prison to postsecondary education pathways.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Leavitt, Simmons, Johnson, J., Eslick, Lovick, Kloba, Lekanoff, Wylie, Bateman, Senn, Goodman, Bronoske, Valdez, Callan, Ramos, Hackney, Morgan, Ormsby, Fey, Frame, Santos, Davis, Pollet and Bergquist).

Brief History: Passed House: 2/25/21, 96-2.

Committee Activity: Human Services, Reentry & Rehabilitation: 3/11/21, 3/16/21 [DPA-WM, w/oRec].

Brief Summary of Amended Bill

- Expands the Department of Corrections (DOC) authority to implement associate workforce degree programs to postsecondary education degree and certificate programs.
- Requires DOC to establish a process for identifying, assessing, and providing accommodations to incarcerated persons with learning disabilities, traumatic brain injuries, or other cognitive impairments.
- Requires DOC to establish, and periodically review, goals for expanding access to postsecondary education programs for all incarcerated individuals, including persons of color.
- Allows DOC to contract and partner with certain accredited educational programs.
- Modifies DOC's educational goals for incarcerated persons to include special education services and postsecondary education programs.

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 DOC to provide unofficial transcripts at no cost to the incarcerated individual who participated in a postsecondary education program when the individual completes a program, or is released or transferred to another facility.
- Requires DOC to consider educational programming when considering transfers to other facilities and when releasing an individual to their county of origin.
- Requires the Washington State Institute for Public Policy to issue preliminary and final reports and requires an annual, multi-state agency combined report.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Saldaña and Wilson, C.

Minority Report: That it be referred without recommendation.
Signed by Senators Gildon, Ranking Member; Dozier and McCune.

Staff: Kelsey-anne Fung (786-7479)

Background: Individual Reentry Plans. The Department of Corrections (DOC) must develop individual reentry plans for each person incarcerated under its jurisdiction except for persons sentenced to life without the possibility of release, sentenced to death, and those subject to deportation. Individual reentry plans must include plans to maintain contact with family; a portfolio of the person's educational achievements, previous employment, work experience, and any training received; and a plan for the person to facilitate reentry into the community that addresses education, employment, substance abuse treatment, mental health treatment, family reunification, and other needs.

For incarcerated individuals being released to community custody, the individual must be released to their county of origin unless DOC determines an individual's return to their county of origin would be inappropriate based on victim safety concerns, negative influences on the person in the community, location of family or sponsoring persons, and court-ordered sentence conditions.

Educational Goals for Incarcerated Persons. DOC must offer certain education and work programs to persons incarcerated at a state correctional institution based on available funding and the following goals in the order listed:

- achievement of basic academic skills by obtaining a high school diploma or the equivalent;

- achievement of vocational skills necessary for work programs and to qualify for work upon release;
- additional work and education programs necessary to comply with an individual reentry plan; and
- other appropriate vocational, work, or education programs not necessary for compliance with an individual reentry plan, including associate degree programs.

If programming is provided for any of the first three goals above, DOC must pay for the cost, including books, materials, and supplies. If programming is provided for the last goal, the incarcerated person must pay all or a portion of the cost, including books, fees, and tuition based on a formula that correlates to the incarcerated person's average monthly income, available savings and a prorated percent of the per-credit fee. A third party may pay DOC directly for all or a portion of the programming costs aligned with the last goal.

Associate Degree Programs. In 2017, the Legislature authorized DOC to implement associate workforce degree programs at state correctional institutions. The associate workforce degree programs may include any education program from an accredited community or technical college, college, or university designed to prepare incarcerated persons to enter the workforce. Individuals may be selected to participate in a state-funded associate degree program based on priority criteria determined by DOC that considers the following:

- persons within five years or less of release;
- the person does not already possess a postsecondary education degree; and
- the person's individual reentry plan includes participation in an associate degree program offered at their state correctional institution, approved by DOC as an eligible and effective postsecondary education degree program, and is limited to an associate workforce degree.

Incarcerated persons who do not meet the priority criteria for state-funded associate degree programs must pay for the program themselves, if they elect to participate. Incarcerated persons sentenced to life without the possibility of release, sentenced to death, or subject to deportation under federal law may not participate in a state-funded associate degree program.

Transfers. The secretary of DOC is authorized to transfer an incarcerated individual between in-state correctional facilities or to out-of-state governmental institutions if the secretary determines that transfer is in the best interest of the state or individual. Factors to consider include overcrowding, emergency conditions, and hardship to the individual. When determining whether transfer would impose a hardship, the secretary must consider location and contact with the individual's family and whether the individual is enrolled in a vocational or educational program that cannot reasonably be resumed if the individual is returned to the state.

Summary of Amended Bill: Postsecondary Education Programs at State Correctional

Institutions. DOC's authority to implement associate workforce degree programs at state correctional institutions is expanded to postsecondary education degree or certificate programs, but is limited to no more than a bachelor's degree. State-recognized preapprenticeship programs may also be included as appropriate postsecondary education programs. Priority consideration based on the number of years remaining on a person's sentence is removed. DOC must work with the State Board for Community and Technical Colleges to develop a plan to assist incarcerated individuals participating in postsecondary degree or certificate programs with filing a Free Application for Federal Student Aid or the Washington Application for State Financial Aid.

Incarcerated persons sentenced to death or subject to deportation may not participate in a postsecondary education degree program unless it is paid for by a third party. The prohibition on participation in education programming for persons sentenced to life without the possibility of release is removed.

Educational Goals for Incarcerated Persons. DOC's educational goals for incarcerated persons are modified as follows:

- achievement of basic skills through obtaining a high school diploma or the equivalent, including achievement by persons eligible for special education services pursuant to federal or state law;
- achievement of vocational skills necessary for work programs and to qualify for work upon release;
- additional work and education programs necessary to comply with an individual reentry plan, including special education services and postsecondary degree or certificate education programs; and
- other appropriate vocational, work, or education programs not necessary for compliance with an individual reentry plan, including postsecondary degree or certificate education programs.

DOC must establish a process by rule for identifying and assessing incarcerated persons with learning disabilities, traumatic brain injuries, and other cognitive impairments to determine whether the person requires accommodations to effectively participate in educational programming, including GED tests and postsecondary education. DOC must establish a process to provide accommodations to these persons.

DOC must establish and periodically review goals for expanding access to postsecondary degree and certificate education programs and program completion for all incarcerated individuals, including persons of color. DOC may contract and partner with any accredited educational program sponsored by a nonprofit entity, community-based postsecondary education program, or institution with historical evidence of providing education programs to people of color.

Transfers. When determining whether to transfer an incarcerated individual to another in-state facility, DOC must consider whether the person is enrolled in a vocational or

educational program, including those operated by approved outside providers, which cannot be continued at the receiving facility. DOC must work with the person's case manager, counselor, education navigator, or other appropriate person to attempt to meet the needs of DOC and the individual.

County of Origin. The definition of county of origin is changed from the county of the incarcerated individual's first felony conviction to county of the incarcerated individual's residence at the time of the individual's first felony conviction. If a person meets the definition of a homeless person or the person's residence is unknown, the county of origin is the county of the person's first felony conviction. The presumption is changed for determining county of origin for persons being discharged to community custody. DOC may approve a residence location that is not in the person's county of origin if DOC determines the residence location would be appropriate based on any court-ordered condition of the person's sentence, victim safety concerns, and factors that increase opportunities for successful reentry and long-term support including, but not limited to, location of family and other sponsoring person or organizations that will support the person, ability to complete an educational program that the individual is enrolled in, availability of appropriate programming or treatment, and access to housing, employment, and prosocial influences on the person in the community. DOC must approve residence locations in a manner that will not cause any one county to be disproportionately impacted

Transcripts. For incarcerated individuals who participated in postsecondary education programs, DOC must provide the person with a copy of their unofficial transcripts, at no cost to the individual, upon the person's release or transfer to another facility, or upon the person's completion of a postsecondary education program. This requirement applies regardless of whether the incarcerated individual became ineligible to participate or abandoned a postsecondary education program.

Tuition Fees. Tuition fees charged at public higher education institutions do not apply to incarcerated students at DOC who are participating in credit-eligible postsecondary education courses and degree programs when the program expenses are funded by nontuition resources such as grants, contracts, and donations.

Washington State Institute for Public Policy Study. Subject to appropriations, the Washington State Institute for Public Policy (WSIPP) must conduct a study on enrollment, completion, and recidivism rates of incarcerated individuals in the postsecondary education system post-release. A preliminary report is due October 1, 2024, and a final report is due October 1, 2027. WSIPP must study:

- patterns and effects on post-release enrollment and participation in the community and technical college system by individuals who, while incarcerated, participated in postsecondary education;
- differential outcomes for individuals participating in different types of postsecondary education courses, certificates, and degree programs;
- changes in enrollment and completion of postsecondary education courses, certificate

- programs, and degree programs due to the expansion in postsecondary education programming; and
- recidivism outcomes other than incarceration for individuals who participated in postsecondary education while incarcerated.

State Agency Report. DOC, the State Board for Community and Technical Colleges, the Washington Student Achievement Council, and the Washington Statewide Reentry Council, in collaboration with an organization representing the presidents of the public four-year higher education institutions, must submit a combined report to the appropriate committees of the Legislature with oversight over higher education and correctional matters by December 1, 2021, and annually thereafter. The state agencies must consult and engage with nonprofit and community-based postsecondary education providers during the development of the annual report. The report must strive to include voices and experiences of current or formerly incarcerated individuals and must include the following:

- a review, disaggregated by demographics, on the number of incarcerated persons served and not served in DOC's postsecondary education system, the number of persons leaving DOC custody after one year without a high school equivalency certificate, and the number of persons released without any postsecondary education;
- a review of DOC's identification and assessment of incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments or disabilities that may limit participation in education programming, and the barriers to identification and assessment and recommendations to further facilitate access for these individuals;
- identification of issues related to ensuring credits earned in credit-bearing courses are transferable, and the number of transferable and non-transferable credits awarded;
- a review of transfer policies, including barriers and challenges experienced by individuals, to ensure postsecondary education credits earned while incarcerated transfer seamlessly upon post-release enrollment in a postsecondary education institution;
- the number of persons participating in correspondence courses and completion rates, disaggregated by demographics;
- an examination of the collaboration between correctional facilities, educational programs, nonprofit and community-based postsecondary education providers, and institutions to ensure roles and responsibilities are clearly defined; and
- a review of partnerships with nonprofit and community-based postsecondary education organizations at state correctional facilities that provide postsecondary education programs and reentry services, including a list of programs and services offered and recommendations to improve program delivery and access.

References to offender, inmate, and prisoner are changed to incarcerated individuals throughout the bill. Third party includes a nonprofit entity or community-based postsecondary education program that partners with DOC to provide accredited postsecondary education degree and certificate programs at state correctional facilities.

EFFECT OF HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE AMENDMENT(S):

- Alters the definition of county of origin and the process for approving residence locations outside a person's county of origin.
- Clarifies third parties include nonprofit entities and community-based postsecondary education programs.
- Requires DOC to establish and periodically review goals for expanding access to postsecondary education programs and program completion for all incarcerated individuals, including persons of color, and allows DOC to contract and partner with certain accredited educational programs with historical evidence of providing education programs to people of color.
- Alters priority criteria by removing priority for persons within ten years or less of release.
- Removes the prohibition on educational programming for persons serving sentences for life without the possibility of release.
- Requires the state agencies to consult with and engage with nonprofit and community-based postsecondary education providers during the development of the annual, multi-agency report.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

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 Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Correctional education programs improve job prospects, reduce recidivism, and save taxpayer dollars. There are long-term contributions to public safety and communities in which formerly incarcerated individuals return. There is demand among state businesses for a larger pool of certificated workers, and providing more postsecondary education opportunities can address the need for skilled workers and reduce state spending on criminal justice, all while providing formerly incarcerated individuals and their families with tools to obtain employment, stabilize their lives, and build sustainable careers. Postsecondary education opportunities improve literacy skills, reduce crime, promote equity, and are cost-effective. There are also significant positive effects on children whose parents are incarcerated and participate in education programs, breaking intergenerational cycles of inequality and poverty.

DOC will need expanded technological supports to expand on secured Internet pilot and

provide disability support services. Not only does education have a transformative effect on those inside but it also has a positive influence on prison culture for both staff and the incarcerated. Restrictions on incarcerated individuals serving long sentences are inhumane and should be removed. Removing barriers and expanding access to education opportunities will lead to better reentry outcomes for persons of color and their communities.

OTHER: DOC is not equipped to assess or provide accommodations to persons with disabilities. DOC should contract with the Office of Education Ombuds or a nonprofit organization for technical assistance and to make sure persons with developmental disabilities receive accommodations.

Persons Testifying: PRO: Representative Mari Leavitt, Prime Sponsor; Sam Locke, Associated Students of the University of Washington, Bothell; Noel Vest, Stanford University; Erin Frasier, Washington State Building & Construction Trades Council; Guillermo Rogel, Statewide Poverty Action Network; Sultana Shabazz, Tacoma Community College; Noreen Light; Matt Donahue, Seattle Department of Transportation; Loretta Taylor, Department of Corrections; Pat Seibert-Love, State Board of Community and Technical Colleges; Shane Sweetman, Garrett Heyns Education Center; Byron Coates; JoAnn Taricani, faculty, University of Washington; Hawetan Adugna, Lake Washington High School; Joel Strom, University Beyond Bars; Dirk van Velzen, Prison Scholar Fund; Dan Goldhaber; Lydia Flora Barlow, NAACP.

OTHER: Adrienne Stuart, Washington State Developmental Disabilities Council.

Persons Signed In To Testify But Not Testifying: No one.