

# SENATE BILL REPORT

## SB 5692

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As of January 14, 2022

**Title:** An act relating to programming at the department of corrections.

**Brief Description:** Concerning programming at the department of corrections.

**Sponsors:** Senators Gildon, Honeyford, Randall, Rivers and Wagoner.

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 1/14/22.

**Brief Summary of Bill**

- Requires the Washington State Institute for Public Policy to evaluate certain programs at the Department of Corrections (DOC) and submit a report to the Legislature and Washington State Criminal Sentencing Task Force (CSTF).
- Requires CSTF to develop and recommend a formula for awarding earned early release time to individuals who complete certain DOC programming and submit a report to the Governor and Legislature.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Staff:** Kelsey-anne Fung (786-7479)

**Background:** Washington State Institute for Public Policy. The Legislature created the Washington State Institute for Public Policy (WSIPP) in 1983. WSIPP is governed by a board of directors representing the Legislature, the Governor, and public universities. WSIPP carries out practical, non-partisan research and analysis at the direction of the Legislature or the board of directors. Since the 1990s, the Legislature has directed WSIPP to identify evidence-based policies with the goal of providing Washington's policymakers and budget writers with a list of well-researched public policies that can, with

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a high degree of certainty, lead to better statewide outcomes coupled with a more efficient use of taxpayer dollars.

In 2013, the Legislature passed legislation to facilitate the use of evidence-based programs in adult corrections. WSIPP was directed to define evidence-based and research-based, and create an inventory of adult corrections programs classified as evidence-based or research-based. WSIPP produced the first inventory of evidence-based and research-based programs for adult corrections in 2013. The most recent update was published in February 2018 and includes 57 programs.

Reentry Community Services Program at the Department of Corrections. Legislation passed during the 2021 session requires WSIPP to update its previous evaluations of the Reentry Community Services Program (RCS), formerly known as the Offender Reentry Community Services Program, and broaden its cost-benefit analysis to include impacts on the use of public services. WSIPP was also directed to assist with other research questions such as the potential cost, benefit, and risks involved in expanding or replicating the RCS program, and what modifications to the program are most likely to be advantageous. WSIPP must provide a preliminary report by July 1, 2022, and a final report by November 1, 2023, to the Governor and relevant committees of the Legislature.

Correctional Postsecondary Education Program at the Department of Corrections. Legislation passed during the 2021 session requires WSIPP to study enrollment, completion, and recidivism rates of incarcerated individuals in the postsecondary education system post-release. The goal is to understand whether participation in postsecondary education while incarcerated contributes to greater enrollment and completion of postsecondary education and reduced recidivism post-release. WSIPP must provide a preliminary report by October 1, 2024, and a final report by October 1, 2027, to the appropriate committees of the Legislature.

Criminal Sentencing Task Force. The Legislature passed a budget proviso in 2019 directing the William D. Ruckelshaus Center to facilitate a task force to review state sentencing laws and provide recommendations to reduce sentencing implementation complexities and errors, improve the effectiveness of the sentencing system, and promote and improve public safety. The authorization for the task force, and associated funding, was extended during the 2021 legislative session from January 1, 2021, to June 30, 2022.

Early Release Time. Generally, an incarcerated person's sentence may be reduced by earned release time, which is earned through good behavior and good performance, as determined by the correctional agency with jurisdiction over the person. The amount that a sentence may be reduced by earned release time depends on various factors, including the date of the offense and the underlying offense. Certain sentences or portions of sentences are not eligible for earned release time. Per DOC policy, an incarcerated person may also receive earned time sentence reduction for participating or attempting to participate in facility work, education, or training programs, subject to certain exceptions.

**Summary of Bill:** WSIPP must prepare an evaluation of the top five programs at DOC with the highest participation rates that are classified by WSIPP as evidence-based. This is in addition to the Reentry Community Services Program at DOC. The correctional postsecondary education program at DOC may not be included as one of the program evaluations.

For each program identified by WSIPP, the evaluation must analyze the program's effectiveness and impact on recidivism. WSIPP must submit a report on the five program evaluations, in addition to the evaluation on the Reentry Community Services Program, to the Legislature and the Criminal Sentencing Task Force (CSTF) by December 1, 2023.

CSTF must develop and recommend a formula for awarding earned early release time to individuals who complete DOC programming recognized by the WSIPP program evaluations as having a positive, demonstrable impact on recidivism. CSTF must also identify which offenses, if any, would be ineligible for the formula. CSTF must report its findings and formula recommendations to the Governor and appropriate committees of the Legislature by September 1, 2024.

The act expires June 30, 2025.

**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:** PRO: This bill improves public safety by positively changing lives, which supports DOC's mission and their priority on successful reentry. The Legislature should be able to make informed, evidence-based decisions based on current data so it can direct money to programs that work. If an incarcerated person takes it upon themselves to aggressively go through a rehabilitation program, and those programs actually contribute to reduce recidivism, the person should be rewarded. Incarcerated persons should have evidence-based programming to have the best possible results upon release and ensure those in state institutions have the knowledge, skills, and abilities they need to live successful, law abiding lives. This bill promotes redemption and second chances.

In order for DOC to live up to its values, effective programs need to be prioritized. This will begin the process of identifying where funding is being allocated, who is participating, and who is excluded. Having evidence-based programming involved in earned time calculations has the potential of positively impacting incarcerated persons and the community.

CON: There are concerns that the bill may restrict access to good time. Tying earned early release time to certain programming may be unfair because DOC programs vary by facility and most DOC programs are not available to 50percent or more of inmates. Tying earned release time to certain programs will make the current problem worse. There should not be offenses ineligible for earned time under the bill. All offenses should be eligible.

OTHER: There are concerns about equitable access to and availability of programming. Not every prison offers the same recidivism reduction programming, and instead the study should focus on identifying gaps to ensure each facility has equitable offerings. Otherwise, earned time will be awarded based on what facility the person is at. Further, not everyone in custody is eligible for certain programming, and this could lead to inequities in earning good time.

DOC is also very restrictive about who participates in programming, which may be based on infraction history and sentence length. Because losing good time is easy in prison, the earned time under the formula should be supplemental and not take away what incarcerated individuals already get.

**Persons Testifying:** PRO: Senator Chris Gildon, Prime Sponsor; Davina Kerrelola, FOTi; Kehaulani Walker.

CON: David Trieweiler, Washington Association of Criminal Defense Lawyers.

OTHER: Antonio Ginatta, Columbia Legal Services; James Chambers.

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