

HOUSE BILL REPORT

SHB 1701

As Passed House:

February 27, 2023

Title: An act relating to assigning the superintendent of public instruction the responsibility for the delivery and oversight of basic education services to justice-involved youth served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services.

Brief Description: Concerning basic education services to youth who are served through institutional education programs.

Sponsors: House Committee on Education (originally sponsored by Representatives Callan, Stonier, Simmons, Senn, Reed, Kloba, Pollet, Santos, Ortiz-Self, Ormsby, Macri and Bergquist).

Brief History:

Committee Activity:

Education: 2/9/23, 2/16/23 [DPS].

Floor Activity:

Passed House: 2/27/23, 96-0.

Brief Summary of Substitute Bill

- Makes the Superintendent of Public Instruction (SPI), beginning September 1, 2027, responsible for the delivery and oversight of basic education services to justice-involved students who are under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the Department of Social and Health Services.
- Directs the Office of the Superintendent of Public Instruction to develop a timeline and plan for assuming the delineated basic education responsibilities.
- Establishes a Joint Select Committee on Governance and Funding for

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Institutional Education and directs it to examine and evaluate revisions to statutes, funding formulae, funding sources, and operating and capital budget appropriation structures as necessary to assign the delineated basic education responsibilities to the SPI.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bergquist, Callan, Eslick, Harris, McClintock, Ortiz-Self, Pollet, Sandlin, Steele, Stonier and Timmons.

Staff: Ethan Moreno (786-7386).

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 (DSHS), the Department of Corrections (DOC), counties, and cities, but the basic education services are generally provided by local school districts and regionally based Educational Service Districts (ESDs).

The Office of the Superintendent of Public Instruction (OSPI) oversees school districts and ESDs that provide institutional education services. The OSPI also allocates 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. State institutional education funding is not calculated using the prototypical school funding model that is used for traditional public 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;
- the DOC; 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 institutional facilities.

2020 Task Force on Improving Institutional Education Programs and Outcomes.

An 11-member Task Force on Improving Institutional Education Programs and Outcomes was established in 2020 and charged with examining various 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; and
- special skills and services of faculty and staff, including associated professional development and nonacademic supports for addressing social-emotional and behavioral health needs.

2021 Legislation.

Legislation adopted in 2021 (Engrossed Second Substitute House Bill [E2SHB] 1295, enacted as Chapter 164, Laws of 2021) established numerous new and modified duties for the OSPI, the DCYF, and the State Board of Education (SBE) related to the provision of public education to youth in or released from secure facilities.

Among other requirements, E2SHB 1295 directed the OSPI and the DCYF 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 were to 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 DSHS.

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

- the establishment of an organizational and accountability structure that is focused on meeting complex student needs and improving student outcomes;

- the establishment of an equitable, long-term funding model that sustainably supports the organizational and accountability structure; and
- the development of a regular and ongoing review of system performance and education outcomes.

The 2021 legislation provided also that the developed recommendations must include provisions addressing 13 delineated issues, for example:

- 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 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.

The Institutional Education Structure and Accountability Advisory Group was established through E2SHB 1295 for the purpose of providing advice, assistance, and information to the OSPI and the DCYF in developing the recommendations.

The OSPI and the DCYF were directed to provide an interim report to the Governor and the Legislature by December 15, 2021, with the required recommendations provided to the same recipients by November 1, 2022. In accordance with E2SHB 1295, the agency recommendations were encouraged to include a plan and a phased timeline for their implementation in different types of institutional education facilities.

The OSPI and the DCYF submitted a report titled *Improving Institutional Education Outcomes: Final Report* to the Legislature on December 22, 2022.

Summary of Substitute Bill:

Assignment of Basic Education Responsibilities.

Beginning September 1, 2027, the Superintendent of Public Instruction (SPI) is responsible

for the delivery and oversight of basic education services to justice-involved students who are under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the DSHS.

Statutory provisions delineating the general powers and duties of the SPI are correspondingly modified to direct the SPI to perform all duties required for the delivery and oversight of basic education services to justice-involved students under the age of 21 who are served through institutional education programs in facilities that are not under the jurisdiction of the DSHS.

The OSPI must develop a timeline and plan for assuming, by September 1, 2027, responsibility for the delivery of basic education services to justice-involved students who are under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the DSHS. The timeline and plan must consider:

- the findings and recommendations produced by the Joint Select Committee on Governance and Funding for Institutional Education;
- recommendations provided in the *Improving Institutional Education Outcomes: Final Report* of the OSPI and the DCYF;
- staffing transitions for educators and staff that deliver education programming and services to the justice-involved students; and
- legislation enacted in 2024 and in subsequent years relating to the SPI's September 1, 2027 assumption of the delineated basic education responsibilities.

In meeting the timeline and plan duties, the OSPI must consult with organizations representing educators and staff that deliver education programming and services to justice-involved students who are under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the DSHS.

Beginning December 15, 2023, and annually thereafter through 2026, the OSPI must provide an interim report on progress made in achieving the timeline and plan requirements to the Governor and the education and fiscal committees of the Legislature.

Select Legislative Committee.

A Joint Select Committee on Governance and Funding for Institutional Education (Select Committee) is established. The membership of the Select Committee consists of two members from the House of Representatives and two members from the Senate, as appointed by legislative leaders.

The Select Committee must examine and evaluate revisions to statutes, funding formulae, funding sources, and operating and capital budget appropriation structures as necessary to assign the SPI with the responsibility for the delivery and oversight of basic education services to youth receiving education through institutional education programs in facilities that are not under the jurisdiction of the DSHS.

The OSPI, the DCYF, and the DSHS must cooperate with the Select Committee and provide information as the cochairs may reasonably request. Staff support for the Select Committee must be provided by the Senate Committee Services and the Office of Program Research.

The Select Committee must report its findings and recommendations, which may be in the form of draft legislation, to the Governor, the SPI, the chair of the SBE, and the appropriate committees of the Legislature by December 1, 2024.

Provisions establishing the Select Committee and prescribing its duties expire December 31, 2024.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In 2020 the Legislature began examining the process of how institutional education is delivered. Institutional education students have a very low graduation rates of about 13 percent. These students need their constitutionally required education to move forward with their lives. In 2021 legislation was adopted to make many changes to institutional education requirements and to direct the DCYF and the OSPI to make system reform recommendations. Those efforts did not result in the product the Legislature needed to proceed with its efforts. This legislation sets a date for the transfer of responsibilities to the OSPI.

The current policies, procedures, and funding models have not provided institutional education students with the resources they need. These students deserve a system that can meet their needs. There are concerns about the timing of the Select Committee. Much of the statutory work has been done, but as drafted, the bill requires the OSPI to wait until 2024 to receive the Select Committee's report.

(Opposed) None.

(Other) This legislation was not contemplated in the Governor's budget. Providing the education to institutional education students is very complex and challenging. The work group created in 2021 fell short on addressing accountability and oversight duties. The education issues are urgent and progress has been made. People are working hard, but the foundation remains under-resourced.

Consideration should be paid to the continuity of service issues for students and the complexities of potentially transitioning staff from being employed by schools to the OSPI.

Persons Testifying: (In support) Representative Lisa Callan, prime sponsor; and Jenny Plaja, Office of Superintendent of Public Instruction.

(Other) Allison Krutsinger, Department of Children, Youth, and Families; and Simone Boe, Washington Education Association.

Persons Signed In To Testify But Not Testifying: None.