

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5953

68th Legislature
2024 Regular Session

Passed by the Senate March 4, 2024
Yeas 35 Nays 14

President of the Senate

Passed by the House February 29, 2024
Yeas 79 Nays 17

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5953** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5953

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senate Human Services (originally sponsored by Senators C. Wilson, Frame, Hasegawa, Kuderer, Lovelett, Nguyen, Nobles, Salomon, Trudeau, and Valdez)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to financial aid grants for incarcerated
2 students; and amending RCW 72.09.460, 72.09.465, and 72.09.467.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 72.09.460 and 2021 c 200 s 4 are each amended to
5 read as follows:

6 (1) Recognizing that there is a positive correlation between
7 education opportunities and reduced recidivism, it is the intent of
8 the legislature to offer appropriate postsecondary degree or
9 certificate opportunities to incarcerated individuals.

10 (2) The legislature intends that all incarcerated individuals be
11 required to participate in department-approved education programs,
12 work programs, or both, unless exempted as specifically provided in
13 this section. Eligible incarcerated individuals who refuse to
14 participate in available education or work programs available at no
15 charge to the incarcerated individuals shall lose privileges
16 according to the system established under RCW 72.09.130. Eligible
17 incarcerated individuals who are required to contribute financially
18 to an education or work program and refuse to contribute shall be
19 placed in another work program. Refusal to contribute shall not
20 result in a loss of privileges.

1 (3) The legislature recognizes more incarcerated individuals may
2 agree to participate in education and work programs than are
3 available. The department must make every effort to achieve maximum
4 public benefit by placing incarcerated individuals in available and
5 appropriate education and work programs.

6 (4)(a) The department shall, to the extent possible and
7 considering all available funds, prioritize its resources to meet the
8 following goals for incarcerated individuals in the order listed:

9 (i) Achievement of basic academic skills through obtaining a high
10 school diploma or a high school equivalency certificate as provided
11 in RCW 28B.50.536, including achievement by those incarcerated
12 individuals eligible for special education services pursuant to state
13 or federal law;

14 (ii) Achievement of vocational skills necessary for purposes of
15 work programs and for an incarcerated individual to qualify for work
16 upon release;

17 (iii) Additional work and education programs necessary for
18 compliance with an incarcerated individual's individual reentry plan
19 under RCW 72.09.270, including special education services and
20 postsecondary degree or certificate education programs; and

21 (iv) Other appropriate vocational, work, or education programs
22 that are not necessary for compliance with an incarcerated
23 individual's individual reentry plan under RCW 72.09.270 including
24 postsecondary degree or certificate education programs.

25 (b)(i) If programming is provided pursuant to (a)(i) through
26 (iii) of this subsection, the department shall pay the cost of such
27 programming, including but not limited to books, materials, and
28 supplies for adult basic education programs and any postsecondary
29 education program that is not financial aid eligible at the time the
30 individual is enrolled or paid for by the department or third party.

31 (ii) For financial aid eligible postsecondary programming
32 provided pursuant to (a)(i) through (iii) of this subsection, the
33 department may require the individual to apply for any federal and
34 state financial aid grants available to the individual as a condition
35 of participation in such programming. The individual may elect to use
36 available financial aid grants, self-pay, or any other available
37 third-party funding, or use a combination of these methods to cover
38 the cost of attendance for financial aid eligible postsecondary
39 programming provided under this subsection (4)(b)(ii). If an
40 individual elects to self-pay or utilize third-party funding, the

1 individual is not subject to the postaward formula described in (c)
2 of this subsection. If the cost of attendance exceeds any financial
3 grant awards that may be available to the individual, or the person
4 is not eligible for federal or state financial aid grants, the
5 department shall pay the cost of attendance not otherwise covered by
6 third-party funding. All regulations and requirements set forth by
7 the United States department of education for federal pell grants for
8 prison education programs apply to financial aid eligible
9 postsecondary programming.

10 (c) If programming is provided pursuant to (a)(iv) of this
11 subsection, incarcerated individuals shall be required to pay all or
12 a portion of the costs, including books, fees, and tuition, for
13 participation in any vocational, work, or education program as
14 provided in department policies. The individual may apply for and
15 utilize federal and state financial aid grants available to the
16 individual. If the individual is not eligible for federal financial
17 aid grants, the individual may apply for and utilize state financial
18 aid grants available to the individual. Department policies shall
19 include a postaward formula for determining how much an incarcerated
20 individual shall be required to pay after deducting any amount from
21 available financial aid or other available sources. The postaward
22 formula shall include steps which correlate to an incarcerated
23 individual's average monthly income or average available balance in a
24 personal savings account and which are correlated to a prorated
25 portion or percent of the per credit fee for tuition, books, or other
26 ancillary educational costs. Any postaward formula offsets and funds
27 paid for by the department for educational programming shall not
28 result in the reduction of any gift aid. The postaward formula shall
29 be reviewed every two years. A third party, including but not limited
30 to nonprofit entities or community-based postsecondary education
31 programs, may pay directly to the department all or a portion of
32 costs and tuition for any programming provided pursuant to (a)(iv) of
33 this subsection on behalf of an incarcerated individual. Such
34 payments shall not be subject to any of the deductions as provided in
35 this chapter.

36 (d) All incarcerated individuals shall receive financial aid and
37 academic advising from an accredited institution of higher education
38 prior to enrollment in a financial aid eligible postsecondary
39 education program. Eligible individuals who choose not to participate
40 or choose to cease participation in a financial aid eligible

1 postsecondary education program shall not result in a loss of
2 privileges.

3 (e) Correspondence courses are ineligible for state and federal
4 financial aid funding.

5 (f) The department may accept any and all donations and grants of
6 money, equipment, supplies, materials, and services from any third
7 party, including but not limited to nonprofit entities and community-
8 based postsecondary education programs, and may receive, utilize, and
9 dispose of same to complete the purposes of this section.

10 ~~((e))~~ (g) Any funds collected by the department under (c) and
11 ~~((d))~~ (h) of this subsection and subsections (11) and (12) of this
12 section shall be used solely for the creation, maintenance, or
13 expansion of incarcerated individual educational and vocational
14 programs.

15 (5) The department shall provide access to a program of education
16 to all incarcerated individuals who are under the age of eighteen and
17 who have not met high school graduation requirements or requirements
18 to earn a high school equivalency certificate as provided in RCW
19 28B.50.536 in accordance with chapter 28A.193 RCW. The program of
20 education established by the department and education provider under
21 RCW 28A.193.020 for incarcerated individuals under the age of
22 eighteen must provide each incarcerated individual a choice of
23 curriculum that will assist the incarcerated individual in achieving
24 a high school diploma or high school equivalency certificate. The
25 program of education may include but not be limited to basic
26 education, prevocational training, work ethic skills, conflict
27 resolution counseling, substance abuse intervention, and anger
28 management counseling. The curriculum may balance these and other
29 rehabilitation, work, and training components.

30 (6) (a) In addition to the policies set forth in this section, the
31 department shall consider the following factors in establishing
32 criteria for assessing the inclusion of education and work programs
33 in an incarcerated individual's individual reentry plan and in
34 placing incarcerated individuals in education and work programs:

35 (i) An incarcerated individual's release date and custody level.
36 An incarcerated individual shall not be precluded from participating
37 in an education or work program solely on the basis of his or her
38 release date, except that incarcerated individuals with a release
39 date of more than one hundred twenty months in the future shall not
40 comprise more than ten percent of incarcerated individuals

1 participating in a new class I correctional industry not in existence
2 on June 10, 2004;

3 (ii) An incarcerated individual's education history and basic
4 academic skills;

5 (iii) An incarcerated individual's work history and vocational or
6 work skills;

7 (iv) An incarcerated individual's economic circumstances,
8 including but not limited to an incarcerated individual's family
9 support obligations; and

10 (v) Where applicable, an incarcerated individual's prior
11 performance in department-approved education or work programs;

12 (b) The department shall establish, and periodically review,
13 incarcerated individual behavior standards and program outcomes for
14 all education and work programs. Incarcerated individuals shall be
15 notified of applicable behavior standards and program goals prior to
16 placement in an education or work program and shall be removed from
17 the education or work program if they consistently fail to meet the
18 standards or outcomes.

19 (7) Eligible incarcerated individuals who refuse to participate
20 in available education or work programs available at no charge to the
21 incarcerated individuals shall lose privileges according to the
22 system established under RCW 72.09.130. Eligible incarcerated
23 individuals who are required to contribute financially to an
24 education or work program and refuse to contribute shall be placed in
25 another work program. Refusal to contribute shall not result in a
26 loss of privileges.

27 (8) The department shall establish, by rule, a process for
28 identifying and assessing incarcerated individuals with learning
29 disabilities, traumatic brain injuries, and other cognitive
30 impairments to determine whether the person requires accommodations
31 in order to effectively participate in educational programming,
32 including general educational development tests and postsecondary
33 education. The department shall establish a process to provide such
34 accommodations to eligible incarcerated individuals.

35 (9) The department shall establish, and periodically review,
36 goals for expanding access to postsecondary degree and certificate
37 education programs and program completion for all incarcerated
38 individuals, including persons of color. The department may contract
39 and partner with any accredited educational program sponsored by a
40 nonprofit entity, community-based postsecondary education program, or

1 institution with historical evidence of providing education programs
2 to people of color.

3 (10) The department shall establish, by rule, objective medical
4 standards to determine when an incarcerated individual is physically
5 or mentally unable to participate in available education or work
6 programs. When the department determines an incarcerated individual
7 is permanently unable to participate in any available education or
8 work program due to a health condition, the incarcerated individual
9 is exempt from the requirement under subsection (2) of this section.
10 When the department determines an incarcerated individual is
11 temporarily unable to participate in an education or work program due
12 to a medical condition, the incarcerated individual is exempt from
13 the requirement of subsection (2) of this section for the period of
14 time he or she is temporarily disabled. The department shall
15 periodically review the medical condition of all incarcerated
16 individuals with temporary disabilities to ensure the earliest
17 possible entry or reentry by incarcerated individuals into available
18 programming.

19 (11) The department shall establish policies requiring an
20 incarcerated individual to pay all or a portion of the costs and
21 tuition for any vocational training or postsecondary education
22 program if the incarcerated individual previously abandoned
23 coursework related to postsecondary degree or certificate education
24 or vocational training without excuse as defined in rule by the
25 department. Department policies shall include a formula for
26 determining how much an incarcerated individual shall be required to
27 pay. The formula shall include steps which correlate to an
28 incarcerated individual's average monthly income or average available
29 balance in a personal savings account and which are correlated to a
30 prorated portion or percent of the per credit fee for tuition, books,
31 or other ancillary costs. The formula shall be reviewed every two
32 years. A third party may pay directly to the department all or a
33 portion of costs and tuition for any program on behalf of an
34 incarcerated individual under this subsection. Such payments shall
35 not be subject to any of the deductions as provided in this chapter.

36 (12) Notwithstanding any other provision in this section, an
37 incarcerated individual (~~sentenced to death under chapter 10.95 RCW~~
38 ~~or~~) subject to the provisions of 8 U.S.C. Sec. 1227:

1 (a) Shall not be required to participate in education programming
2 except as may be necessary for the maintenance of discipline and
3 security;

4 (b) May not participate in a postsecondary degree education
5 program offered by the department or its contracted providers, unless
6 the incarcerated individual's participation in the program is paid
7 for by a third party or by the individual;

8 (c) May participate in prevocational or vocational training that
9 may be necessary to participate in a work program;

10 (d) Shall be subject to the (~~applicable provisions of this~~
11 ~~chapter~~) requirements relating to incarcerated individual financial
12 responsibility for programming under subsection (4) of this section.

13 (13) If an incarcerated individual has participated in
14 postsecondary education programs, the department shall provide the
15 incarcerated individual with a copy of the incarcerated individual's
16 unofficial transcripts, at no cost to the individual, upon the
17 incarcerated individual's release or transfer to a different
18 facility. Upon the incarcerated individual's completion of a
19 postsecondary education program, the department shall provide to the
20 incarcerated individual, at no cost to the individual, a copy of the
21 incarcerated individual's unofficial transcripts. This requirement
22 applies regardless of whether the incarcerated individual became
23 ineligible to participate in or abandoned a postsecondary education
24 program.

25 (14) For the purposes of this section (~~,"third party"~~):

26 (a) "Third party" includes a nonprofit entity or community-based
27 postsecondary education program that partners with the department to
28 provide accredited postsecondary education degree and certificate
29 programs at state correctional facilities.

30 (b) "Gift aid" has the meaning provided in RCW 28B.145.010.

31 **Sec. 2.** RCW 72.09.465 and 2021 c 200 s 5 are each amended to
32 read as follows:

33 (1)(a) The department may implement postsecondary degree or
34 certificate education programs at state correctional institutions.

35 (b) The department may consider for inclusion in any
36 postsecondary degree or certificate education program, any education
37 program from an accredited community or technical college, college,
38 or university that is limited to no more than a bachelor's degree.

1 Washington state-recognized preapprenticeship programs may also be
2 included as appropriate postsecondary education programs.

3 (2) Incarcerated individuals not meeting the department's
4 priority criteria for the ~~((state-funded))~~ postsecondary degree
5 education program offered by the department or its contracted
6 providers shall be required to pay the costs for participation in a
7 postsecondary education degree program if ~~((he or she elects))~~ they
8 elect to participate through self-pay, including costs of books,
9 fees, tuition, or any other appropriate ancillary costs, by one or
10 more of the following means:

11 (a) ~~((The))~~ For a postsecondary degree education program that is
12 eligible for financial aid, the incarcerated individual who is
13 participating in the ~~((postsecondary education degree))~~ program may,
14 during confinement, provide the required payment or payments to the
15 ~~((department))~~ school; ~~((or))~~

16 (b) For a postsecondary degree education program that is not
17 eligible for financial aid, the incarcerated individual who is
18 participating in the program may, during confinement, provide the
19 required payment or payments to the department; or

20 (c) A third party ~~((shall))~~ may provide the required payment or
21 payments directly to the department on behalf of an incarcerated
22 individual, and such payments shall not be subject to any of the
23 deductions as provided in this chapter.

24 (3) The department may accept any and all donations and grants of
25 money, equipment, supplies, materials, and services from any third
26 party, including but not limited to nonprofit entities, and may
27 receive, utilize, and dispose of same to provide postsecondary
28 education to incarcerated individuals.

29 (4) An incarcerated individual may be selected to participate in
30 a state-funded postsecondary degree or certificate education program,
31 based on priority criteria determined by the department, in which the
32 following conditions may be considered:

33 (a) Priority should be given to incarcerated individuals who do
34 not already possess a postsecondary education degree; and

35 (b) Incarcerated individuals with individual reentry plans that
36 include participation in a postsecondary degree or certificate
37 education program that is:

38 (i) Offered at the incarcerated individual's state correctional
39 institution;

1 (ii) Approved by the department as an eligible and effective
2 postsecondary education degree program; and

3 (iii) Limited to a postsecondary degree or certificate program.

4 (5) The department shall work with the college board as defined
5 in RCW 28B.50.030 to develop a plan to assist incarcerated
6 individuals selected to participate in postsecondary degree or
7 certificate programs with filing a free application for federal
8 student aid or the Washington application for state financial aid.

9 (6) Any funds collected by the department under this section
10 shall be used solely for the creation, maintenance, or expansion of
11 postsecondary education degree programs for incarcerated individuals.

12 **Sec. 3.** RCW 72.09.467 and 2021 c 200 s 8 are each amended to
13 read as follows:

14 (1) The department, the state board for community and technical
15 colleges, the student achievement council, and the Washington
16 statewide reentry council, in collaboration with an organization
17 representing the presidents of the public four-year institutions of
18 higher education, shall submit a combined report, pursuant to RCW
19 43.01.036, by December 1, 2021, and annually thereafter, to the
20 appropriate committees of the legislature having oversight over
21 higher education issues and correctional matters. The state agencies
22 shall consult and engage with nonprofit and community-based
23 postsecondary education providers during the development of the
24 annual report.

25 (2) At a minimum, the combined report must include:

26 (a) The number of incarcerated individuals served in the
27 department's postsecondary education system, the number of
28 individuals not served, the number of individuals leaving the
29 department's custody without a high school equivalency who were in
30 the department's custody longer than one year, and the number of
31 individuals released without any postsecondary education, each
32 disaggregated by demographics;

33 (b) A complete list of postsecondary degree and certificate
34 education programs offered at each state correctional facility,
35 including enrollment rates and completion rates for each program;

36 (c) A review of the department's identification and assessment of
37 incarcerated individuals with learning disabilities, traumatic brain
38 injuries, and other cognitive impairments or disabilities that may
39 limit their ability to participate in educational programming,

1 including general educational development testing and postsecondary
2 education. The report shall identify barriers to the identification
3 and assessment of these individuals and include recommendations that
4 will further facilitate access to educational programming for these
5 individuals;

6 ~~((e))~~ (d) An identification of issues related to ensuring that
7 credits earned in credit-bearing courses are transferable. The report
8 must also include the number of transferable credits awarded and the
9 number of credits awarded that are not transferable;

10 ~~((d))~~ (e) A review of policies on transfer, in order to create
11 recommendations to institutions and the legislature that to ensure
12 postsecondary education credits earned while incarcerated transfer
13 seamlessly upon postrelease enrollment in a postsecondary education
14 institution. The review must identify barriers or challenges on
15 transferring credits experienced by individuals and the number of
16 credits earned while incarcerated that transferred to the receiving
17 colleges postrelease;

18 ~~((e))~~ (f) The number of individuals participating in
19 correspondence courses and completion rates of correspondence
20 courses, disaggregated by demographics;

21 ~~((f))~~ (g) An examination of the collaboration between
22 correctional facilities, the educational programs, nonprofit and
23 community-based postsecondary education providers, and the
24 institutions, with the goal of ensuring that roles and
25 responsibilities are clearly defined, including the roles and
26 responsibilities of each entity in relation to ensuring incarcerated
27 individual access to, and accommodations in, educational programming;
28 and

29 ~~((g))~~ (h) A review of the partnerships with nonprofit and
30 community-based postsecondary education organizations at state
31 correctional facilities that provide accredited certificate and
32 degree-granting programs and those that provide reentry services in
33 support of educational programs and goals, including a list of the
34 programs and services offered and recommendations to improve program
35 delivery and access.

36 (3) The report shall strive to include, where possible, the
37 voices and experiences of current or formerly incarcerated
38 individuals.

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