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**ENGROSSED SUBSTITUTE HOUSE BILL 1233**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Simmons, Scott, Peterson, Davis, Ormsby, and Hill)

AN ACT Relating to work programs for incarcerated persons; amending RCW 72.09.015, 72.09.130, and 72.09.460; and adding a new section to chapter 72.09 RCW.

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

**Sec.**  RCW 72.09.015 and 2022 c 254 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a high school equivalency certificate as provided in RCW 28B.50.536.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of ((~~offenders~~)) incarcerated persons.

(3) "Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or department employee entered by a court of competent jurisdiction against an ((~~inmate~~)) incarcerated person that is based on, or arises from, injury to the correctional officer or department employee caused by the ((~~inmate~~)) incarcerated person while the correctional officer or department employee was acting in the course and scope of his or her employment.

(4) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(5) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(6) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(7) "County" means a county or combination of counties.

(8) "Department" means the department of corrections.

(9) "Earned early release" means earned release as authorized by RCW 9.94A.729.

(10) "Evidence‑based" means a program or practice that has had multiple‑site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(11) "Extended family visit" means an authorized visit between an ((~~inmate~~)) incarcerated person and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the ((~~inmate~~)) incarcerated person is confined.

(12) "Good conduct" means compliance with department rules and policies.

(13) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

(14) "Immediate family" means the ((~~inmate's~~)) incarcerated person's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, aunts, uncles, and a person legally married to or in a state registered domestic partnership with an ((~~inmate~~)) incarcerated person. "Immediate family" includes the immediate family of an ((~~inmate~~)) incarcerated person who was adopted as a child or an adult, but does not include an ((~~inmate~~)) incarcerated person adopted by another ((~~inmate~~)) incarcerated person.

(15) "Indigent inmate," "indigent incarcerated person," "indigent," and "indigency" mean an ((~~inmate~~)) incarcerated person who has less than a $25 balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the 30 days previous to the request.

(16) "Individual reentry plan" means the plan to prepare an ((~~offender~~)) incarcerated person for release into the community. It should be developed collaboratively between the department and the ((~~offender~~)) person and based on an assessment of the ((~~offender~~)) person using a standardized and comprehensive tool to identify the ((~~offender's~~)) person's risks and needs. The individual reentry plan describes actions that should occur to prepare individual ((~~offenders~~)) incarcerated persons for release from prison or jail, specifies the supervision and services they will experience in the community, and describes ((~~an offender's~~)) a person's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of ((~~an offender's~~)) a person's incarceration and supervision to be relevant to the ((~~offender's~~)) person's current needs and risks.

(17) "Inmate," ((~~means~~)) "incarcerated individual," and "incarcerated person" mean a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, federally recognized tribe, or federal jurisdiction.

(18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(19) "Physical restraint" means the use of any bodily force or physical intervention to control an ((~~offender~~)) incarcerated person or limit an ((~~offender's~~)) incarcerated person's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an ((~~offender~~)) incarcerated person from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive ((~~offender~~)) incarcerated person who is unwilling to leave the area voluntarily; or

(c) Guide an ((~~offender~~)) incarcerated person from one location to another.

(20) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(21) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an ((~~inmate's~~)) incarcerated person's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

(22) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research‑based or consensus‑based practice.

(23) "Research‑based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence‑based practices.

(24) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(25) "Secretary" means the secretary of corrections or his or her designee.

(26) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

(27) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

(28) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(29) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the department of corrections shall review and quantify any expenses unique to operating a for-profit business inside a prison.

(30) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(31) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

(32) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

**Sec.**  RCW 72.09.130 and 1995 1st sp.s. c 19 s 6 are each amended to read as follows:

(1) The department shall adopt, by rule, a system that clearly links an ((~~inmate's~~)) incarcerated person's behavior and participation in available education and work programs with the receipt or denial of earned early release days and other privileges. The system shall include increases or decreases in the degree of liberty granted the ((~~inmate~~)) incarcerated person within the programs operated by the department, access to or withholding of privileges available within correctional institutions, and recommended increases or decreases in the number of earned early release days that an ((~~inmate~~)) incarcerated person can earn for good conduct and good performance, except that an incarcerated person's earned early release and other privileges may not be reduced based on the person's choice to not participate in work programs.

(2) Earned early release days shall be recommended by the department as a reward for accomplishment. The system shall be fair, measurable, and understandable to ((~~offenders~~)) incarcerated persons, staff, and the public. At least once in each ((~~twelve~~)) 12-month period, the department shall inform the ((~~offender~~)) incarcerated person in writing as to his or her conduct and performance. This written evaluation shall include reasons for awarding or not awarding recommended earned early release days for good conduct and good performance. An ((~~inmate~~)) incarcerated person is not eligible to receive earned early release days during any time in which he or she refuses to participate in an available education ((~~or work~~)) program into which he or she has been placed under RCW 72.09.460. An incarcerated person's earned early release days may not be reduced based on the person's choice to not participate in work programs.

(3) The department shall provide each ((~~offender~~)) incarcerated person in its custody a written description of the system created under this section.

**Sec.**  RCW 72.09.460 and 2024 c 272 s 1 are each amended to read as follows:

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

(2) The legislature intends that all incarcerated individuals be required to participate in department-approved education programs, ((~~work programs, or both,~~)) unless exempted as specifically provided in this section. Eligible incarcerated individuals who refuse to participate in available education ((~~or work~~)) programs available at no charge to the incarcerated individuals shall lose privileges according to the system established under RCW 72.09.130; however, an incarcerated person's choice to not participate in a work program may not result in loss of privileges pursuant to section 4 of this act. Eligible incarcerated individuals who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

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

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

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

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

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

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

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

(ii) For financial aid eligible postsecondary programming provided pursuant to (a)(i) through (iii) of this subsection, the department may require the individual to apply for any federal and state financial aid grants available to the individual as a condition of participation in such programming. The individual may elect to use available financial aid grants, self-pay, or any other available third-party funding, or use a combination of these methods to cover the cost of attendance for financial aid eligible postsecondary programming provided under this subsection (4)(b)(ii). If an individual elects to self-pay or utilize third-party funding, the individual is not subject to the postaward formula described in (c) of this subsection. If the cost of attendance exceeds any financial grant awards that may be available to the individual, or the person is not eligible for federal or state financial aid grants, the department shall pay the cost of attendance not otherwise covered by third-party funding. All regulations and requirements set forth by the United States department of education for federal pell grants for prison education programs apply to financial aid eligible postsecondary programming.

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

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

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

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

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

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

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

(i) An incarcerated individual's release date and custody level. An incarcerated individual shall not be precluded from participating in an education or work program solely on the basis of his or her release date, except that incarcerated individuals with a release date of more than one hundred twenty months in the future shall not comprise more than ten percent of incarcerated individuals participating in a new class I correctional industry not in existence on June 10, 2004;

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

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

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

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

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

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

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

(9) The department shall 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. The department 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.

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

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

(12) Notwithstanding any other provision in this section, an incarcerated individual subject to the provisions of 8 U.S.C. Sec. 1227:

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

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

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

(d) Shall be subject to the requirements relating to incarcerated individual financial responsibility for programming under subsection (4) of this section.

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

(14) For the purposes of this section:

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 72.09 RCW to read as follows:

Except when ordered by a court for community restitution, incarcerated persons are not required to work or otherwise participate in work programs under RCW 72.09.100; PROVIDED, HOWEVER, That if an incarcerated person has agreed to work or participate in a work program, the incarcerated person must comply with all established rules related to attending and disenrolling from work or the work program. Work programs are voluntary, and incarcerated persons may choose to participate or refuse to participate in such programs. Notwithstanding any other provision of law, the department may not issue infractions or take any other punitive, disciplinary, or retaliatory actions against an incarcerated person in response to the person's choice to not participate in work programs. Incarcerated persons participating in class I, II, III, or IV programs must be paid a wage or gratuity for their work as provided under RCW 72.09.100.

**--- END ---**