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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)

READ FIRST TIME 02/28/25.

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

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

5 **Sec. 1.** RCW 72.09.015 and 2022 c 254 s 2 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter.

8 (1) "Adult basic education" means education or instruction  
9 designed to achieve general competence of skills in reading, writing,  
10 and oral communication, including English as a second language and  
11 preparation and testing services for obtaining a high school diploma  
12 or a high school equivalency certificate as provided in RCW  
13 28B.50.536.

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

18 (3) "Civil judgment for assault" means a civil judgment for  
19 monetary damages awarded to a correctional officer or department  
20 employee entered by a court of competent jurisdiction against an  
21 ((inmate)) incarcerated person that is based on, or arises from,

1 injury to the correctional officer or department employee caused by  
2 the ((inmate)) incarcerated person while the correctional officer or  
3 department employee was acting in the course and scope of his or her  
4 employment.

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

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

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

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

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

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

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

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

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

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

34 (14) "Immediate family" means the ((inmate's)) incarcerated  
35 person's children, stepchildren, grandchildren, great grandchildren,  
36 parents, stepparents, grandparents, great grandparents, siblings,  
37 aunts, uncles, and a person legally married to or in a state  
38 registered domestic partnership with an ((inmate)) incarcerated  
39 person. "Immediate family" includes the immediate family of an  
40 ((inmate)) incarcerated person who was adopted as a child or an

1 adult, but does not include an (~~inmate~~) incarcerated person adopted  
2 by another (~~inmate~~) incarcerated person.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) Physical restraint; or

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

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

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

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

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

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

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

20 (31) "Washington business" means an in-state manufacturer or  
21 service provider subject to chapter 82.04 RCW existing on June 10,  
22 2004.

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

25 **Sec. 2.** RCW 72.09.130 and 1995 1st sp.s. c 19 s 6 are each  
26 amended to read as follows:

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

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

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

18 **Sec. 3.** RCW 72.09.460 and 2024 c 272 s 1 are each amended to  
19 read as follows:

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

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

37 (3) The legislature recognizes more incarcerated individuals may  
38 agree to participate in education and work programs than are  
39 available. The department must make every effort to achieve maximum

1 public benefit by placing incarcerated individuals in available and  
2 appropriate education and work programs.

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

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

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

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

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

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

28 (ii) For financial aid eligible postsecondary programming  
29 provided pursuant to (a) (i) through (iii) of this subsection, the  
30 department may require the individual to apply for any federal and  
31 state financial aid grants available to the individual as a condition  
32 of participation in such programming. The individual may elect to use  
33 available financial aid grants, self-pay, or any other available  
34 third-party funding, or use a combination of these methods to cover  
35 the cost of attendance for financial aid eligible postsecondary  
36 programming provided under this subsection (4) (b) (ii). If an  
37 individual elects to self-pay or utilize third-party funding, the  
38 individual is not subject to the postaward formula described in (c)  
39 of this subsection. If the cost of attendance exceeds any financial  
40 grant awards that may be available to the individual, or the person

1 is not eligible for federal or state financial aid grants, the  
2 department shall pay the cost of attendance not otherwise covered by  
3 third-party funding. All regulations and requirements set forth by  
4 the United States department of education for federal pell grants for  
5 prison education programs apply to financial aid eligible  
6 postsecondary programming.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (12) Notwithstanding any other provision in this section, an  
35 incarcerated individual subject to the provisions of 8 U.S.C. Sec.  
36 1227:

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

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

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

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

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

22 (14) For the purposes of this section:

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

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

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09  
29 RCW to read as follows:

30 Except when ordered by a court for community restitution,  
31 incarcerated persons are not required to work or otherwise  
32 participate in work programs under RCW 72.09.100; PROVIDED, HOWEVER,  
33 That if an incarcerated person has agreed to work or participate in a  
34 work program, the incarcerated person must comply with all  
35 established rules related to attending and disenrolling from work or  
36 the work program. Work programs are voluntary, and incarcerated  
37 persons may choose to participate or refuse to participate in such  
38 programs. Notwithstanding any other provision of law, the department  
39 may not issue infractions or take any other punitive, disciplinary,

1 or retaliatory actions against an incarcerated person in response to  
2 the person's choice to not participate in work programs. Incarcerated  
3 persons participating in class I, II, III, or IV programs must be  
4 paid a wage or gratuity for their work as provided under RCW  
5 72.09.100.

--- **END** ---