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HOUSE BILL 1341

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Orcutt, O'Brien, Mielke, Lovick and Anderson

Read first time 01/23/2003.      Referred to Committee on Criminal Justice & Corrections.

1            AN ACT Relating to offender work programs; and amending RCW  
2    9.94A.725, 9.94A.731, 70.48.210, and 72.65.020.

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

4            **Sec. 1.** RCW 9.94A.725 and 2000 c 28 s 27 are each amended to read  
5    as follows:

6            Participation in a work crew is conditioned upon the offender's  
7    acceptance into the program, abstinence from alcohol and controlled  
8    substances as demonstrated by urinalysis and breathalyzer monitoring,  
9    with the cost of monitoring to be paid by the offender, unless  
10   indigent; and upon compliance with the rules of the program, which  
11   rules require the offender to work to the best of his or her abilities  
12   and provide the program with accurate, verified residence information.  
13   Work crew may be imposed simultaneously with electronic home detention.

14            Offenders convicted of any sex offense or any crime against a  
15   minor, or having any other court imposed restriction denying them  
16   access to minors, may not participate in any project or program under  
17   this section in or near the buildings, grounds, or facilities of  
18   schools during hours when minor children are present. No state or  
19   local corrections agency may allow an offender to participate in any

1 project or program under this section in or near the buildings,  
2 grounds, or facilities of schools during hours when minor children are  
3 present unless the agency performed a complete and thorough criminal  
4 background check on the offender.

5 Where work crew is imposed as part of a sentence of nine months or  
6 more, the offender must serve a minimum of thirty days of total  
7 confinement before being eligible for work crew.

8 Work crew tasks shall be performed for a minimum of thirty-five  
9 hours per week. Only those offenders sentenced to a facility operated  
10 or utilized under contract by a county or the state, or sanctioned  
11 under RCW 9.94A.737, are eligible to participate on a work crew.  
12 Offenders sentenced for a sex offense are not eligible for the work  
13 crew program.

14 An offender who has successfully completed four weeks of work crew  
15 at thirty-five hours per week shall thereafter receive credit toward  
16 the work crew sentence for hours worked at approved, verified  
17 employment. Such employment credit may be earned for up to twenty-four  
18 hours actual employment per week provided, however, that every such  
19 offender shall continue active participation in work crew projects  
20 according to a schedule approved by a work crew supervisor until the  
21 work crew sentence has been served.

22 The hours served as part of a work crew sentence may include  
23 substance abuse counseling and/or job skills training.

24 The civic improvement tasks performed by offenders on work crew  
25 shall be unskilled labor for the benefit of the community as determined  
26 by the head of the county executive branch or his or her designee.  
27 Civic improvement tasks shall not be done on private property unless it  
28 is owned or operated by a nonprofit entity, except that, for emergency  
29 purposes only, work crews may perform snow removal on any private  
30 property. The civic improvement tasks shall have minimal negative  
31 impact on existing private industries or the labor force in the county  
32 where the service or labor is performed. The civic improvement tasks  
33 shall not affect employment opportunities for people with developmental  
34 disabilities contracted through sheltered workshops as defined in RCW  
35 82.04.385. In case any dispute arises as to a civic improvement task  
36 having more than minimum negative impact on existing private industries  
37 or labor force in the county where their service or labor is performed,

1 the matter shall be referred by an interested party, as defined in RCW  
2 39.12.010(4), for arbitration to the director of the department of  
3 labor and industries of the state.

4 Whenever an offender receives credit against a work crew sentence  
5 for hours of approved, verified employment, the offender shall pay to  
6 the agency administering the program the monthly assessment of an  
7 amount not less than ten dollars per month nor more than fifty dollars  
8 per month. This assessment shall be considered payment of the costs of  
9 providing the work crew program to an offender. The court may exempt  
10 a person from the payment of all or any part of the assessment based  
11 upon any of the following factors:

12 (1) The offender has diligently attempted but has been unable to  
13 obtain employment that provides the offender sufficient income to make  
14 such payment.

15 (2) The offender is a student in a school, college, university, or  
16 a course of vocational or technical training designed to fit the  
17 student for gainful employment.

18 (3) The offender has an employment handicap, as determined by an  
19 examination acceptable to or ordered by the court.

20 (4) The offender is responsible for the support of dependents and  
21 the payment of the assessment constitutes an undue hardship.

22 (5) Other extenuating circumstances as determined by the court.

23 **Sec. 2.** RCW 9.94A.731 and 2000 c 28 s 29 are each amended to read  
24 as follows:

25 (1) An offender sentenced to a term of partial confinement shall be  
26 confined in the facility for at least eight hours per day or, if  
27 serving a work crew sentence shall comply with the conditions of that  
28 sentence as set forth in RCW 9.94A.030(~~(+30+)~~) (31) and 9.94A.725. The  
29 offender shall be required as a condition of partial confinement to  
30 report to the facility at designated times. During the period of  
31 partial confinement, an offender may be required to comply with crime-  
32 related prohibitions and affirmative conditions imposed by the court or  
33 the department pursuant to this chapter.

34 (2) An offender in a county jail ordered to serve all or part of a  
35 term of less than one year in work release, work crew, or a program of  
36 home detention who violates the rules of the work release facility,  
37 work crew, or program of home detention or fails to remain employed or

1 enrolled in school may be transferred to the appropriate county  
2 detention facility without further court order but shall, upon request,  
3 be notified of the right to request an administrative hearing on the  
4 issue of whether or not the offender failed to comply with the order  
5 and relevant conditions. Pending such hearing, or in the absence of a  
6 request for the hearing, the offender shall serve the remainder of the  
7 term of confinement as total confinement. This subsection shall not  
8 affect transfer or placement of offenders committed to the department.

9 (3) Participation in work release shall be conditioned upon the  
10 offender attending work or school at regularly defined hours and  
11 abiding by the rules of the work release facility.

12 Offenders convicted of any sex offense or any crime against a  
13 minor, or having any other court imposed restriction denying them  
14 access to minors, may not participate in any project or program under  
15 this section in or near the buildings, grounds, or facilities of  
16 schools during hours when minor children are present. No state or  
17 local corrections agency may allow an offender to participate in any  
18 project or program under this section in or near the buildings,  
19 grounds, or facilities of schools during hours when minor children are  
20 present unless the agency performed a complete and thorough criminal  
21 background check on the offender.

22 **Sec. 3.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read  
23 as follows:

24 (1) All cities and counties are authorized to establish and  
25 maintain farms, camps, and work release programs and facilities, as  
26 well as special detention facilities. The facilities shall meet the  
27 requirements of chapter 70.48 RCW and any rules adopted thereunder.

28 (2) Farms and camps may be established either inside or outside the  
29 territorial limits of a city or county. A sentence of confinement in  
30 a city or county jail may include placement in a farm or camp. Unless  
31 directed otherwise by court order, the chief law enforcement officer or  
32 department of corrections, may transfer the prisoner to a farm or camp.  
33 The sentencing court, chief law enforcement officer, or department of  
34 corrections may not transfer to a farm or camp a greater number of  
35 prisoners than can be furnished with constructive employment and can be  
36 reasonably accommodated.

1 (3) The city or county may establish a city or county work release  
2 program and housing facilities for the prisoners in the program. In  
3 such regard, factors such as employment conditions and the condition of  
4 jail facilities should be considered. When a work release program is  
5 established the following provisions apply:

6 (a) A person convicted of a felony and placed in a city or county  
7 jail is eligible for the work release program. A person sentenced to  
8 a city or county jail is eligible for the work release program. The  
9 program may be used as a condition of probation for a criminal offense.  
10 Good conduct is a condition of participation in the program.

11 (b) The court may permit a person who is currently, regularly  
12 employed to continue his or her employment. The chief law enforcement  
13 officer or department of corrections shall make all necessary  
14 arrangements if possible. The court may authorize the person to seek  
15 suitable employment and may authorize the chief law enforcement officer  
16 or department of corrections to make reasonable efforts to find  
17 suitable employment for the person. A person participating in the work  
18 release program may not work in an establishment where there is a labor  
19 dispute.

20 (c) The work release prisoner shall be confined in a work release  
21 facility or jail unless authorized to be absent from the facility for  
22 program-related purposes, unless the court directs otherwise.

23 (d) Each work release prisoner's earnings may be collected by the  
24 chief law enforcement officer or a designee. The chief law enforcement  
25 officer or a designee may deduct from the earnings moneys for the  
26 payments for the prisoner's board, personal expenses inside and outside  
27 the jail, a share of the administrative expenses of this section,  
28 court-ordered victim compensation, and court-ordered restitution.  
29 Support payments for the prisoner's dependents, if any, shall be made  
30 as directed by the court. With the prisoner's consent, the remaining  
31 funds may be used to pay the prisoner's preexisting debts. Any  
32 remaining balance shall be returned to the prisoner.

33 (e) The prisoner's sentence may be reduced by earned early release  
34 time in accordance with procedures that shall be developed and  
35 promulgated by the work release facility. The earned early release  
36 time shall be for good behavior and good performance as determined by  
37 the facility. The facility shall not credit the offender with earned  
38 early release credits in advance of the offender actually earning the

1 credits. In the case of an offender convicted of a serious violent  
2 offense or a sex offense that is a class A felony committed on or after  
3 July 1, 1990, the aggregate earned early release time may not exceed  
4 fifteen percent of the sentence. In no other case may the aggregate  
5 earned early release time exceed one-third of the total sentence.

6 (f) If the work release prisoner violates the conditions of custody  
7 or employment, the prisoner shall be returned to the sentencing court.  
8 The sentencing court may require the prisoner to spend the remainder of  
9 the sentence in actual confinement and may cancel any earned reduction  
10 of the sentence.

11 (g) Offenders convicted of any sex offense or any crime against a  
12 minor, or having any other court imposed restriction denying them  
13 access to minors, may not participate in any project or program under  
14 this section in or near the buildings, grounds, or facilities of  
15 schools during hours when minor children are present. No state or  
16 local corrections agency may allow an offender to participate in any  
17 project or program under this section in or near the buildings,  
18 grounds, or facilities of schools during hours when minor children are  
19 present unless the agency performed a complete and thorough criminal  
20 background check on the offender.

21 (4) A special detention facility may be operated by a  
22 noncorrectional agency or by noncorrectional personnel by contract with  
23 the governing unit. The employees shall meet the standards of training  
24 and education established by the criminal justice training commission  
25 as authorized by RCW 43.101.080. The special detention facility may  
26 use combinations of features including, but not limited to, low-  
27 security or honor prisoner status, work farm, work release, community  
28 review, prisoner facility maintenance and food preparation, training  
29 programs, or alcohol or drug rehabilitation programs. Special  
30 detention facilities may establish a reasonable fee schedule to cover  
31 the cost of facility housing and programs. The schedule shall be on a  
32 sliding basis that reflects the person's ability to pay.

33 **Sec. 4.** RCW 72.65.020 and 1984 c 209 s 28 are each amended to read  
34 as follows:

35 (1) The secretary is authorized to extend the limits of the place  
36 of confinement and treatment within the state of any prisoner convicted  
37 of a felony, sentenced to a term of confinement and treatment by the

1 superior court, and serving such sentence in a state correctional  
2 institution under the jurisdiction of the department, by authorizing a  
3 work release plan for such prisoner, permitting him, under prescribed  
4 conditions, to do any of the following:

5 (a) Work at paid employment.

6 (b) Participate in a vocational training program: PROVIDED, That  
7 the tuition and other expenses of such a vocational training program  
8 shall be paid by the prisoner, by someone in his behalf, or by the  
9 department: PROVIDED FURTHER, That any expenses paid by the department  
10 shall be recovered by the department pursuant to the terms of RCW  
11 72.65.050.

12 (c) Interview or make application to a prospective employer or  
13 employers, or enroll in a suitable vocational training program.

14 Such work release plan of any prison shall require that he be  
15 confined during the hours not reasonably necessary to implement the  
16 plan, in ~~((+1))~~ (i) a state correctional institution, ~~((+2))~~ (ii) a  
17 county or city jail, which jail has been approved after inspection  
18 pursuant to RCW 70.48.050, or ~~((+3))~~ (iii) any other appropriate,  
19 supervised facility, after an agreement has been entered into between  
20 the department and the appropriate authorities of the facility for the  
21 housing of work release prisoners.

22 (2) Offenders convicted of any sex offense or any crime against a  
23 minor, or having any other court imposed restriction denying them  
24 access to minors, may not participate in any project or program under  
25 this section in or near the buildings, grounds, or facilities of  
26 schools during hours when minor children are present. No state or  
27 local corrections agency may allow an offender to participate in any  
28 project or program under this section in or near the buildings,  
29 grounds, or facilities of schools during hours when minor children are  
30 present unless the agency performed a complete and thorough criminal  
31 background check on the offender.

32 (3) This section applies only to persons sentenced for crimes that  
33 were committed before July 1, 1984.

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