

---

HOUSE BILL 3008

---

State of Washington

61st Legislature

2010 Regular Session

By Representatives Nealey, O'Brien, Ericks, Klippert, Walsh, Kretz, Haler, Kristiansen, Hurst, Warnick, Pearson, Dammeier, Hinkle, Schmick, McCune, and Wallace

Read first time 01/20/10. Referred to Committee on Human Services.

1 AN ACT Relating to civil judgments for assault; amending RCW  
2 72.09.015, 72.09.111, and 72.09.480; and prescribing penalties.

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

4 **Sec. 1.** RCW 72.09.015 and 2009 c 521 s 165 are each amended to  
5 read as follows:

6 The definitions in this section apply throughout this chapter.

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

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

15 (3) "Civil judgment for assault" means a civil judgment for  
16 monetary damages awarded to a correctional officer or department  
17 employee entered by a court of competent jurisdiction against an inmate  
18 that is based on, or arises from, injury to the correctional officer or

1 department employee caused by the inmate while the correctional officer  
2 or department employee was acting in the course and scope of his or her  
3 employment.

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

7 ~~((+4))~~ (5) "Contraband" means any object or communication the  
8 secretary determines shall not be allowed to be: (a) Brought into; (b)  
9 possessed while on the grounds of; or (c) sent from any institution  
10 under the control of the secretary.

11 ~~((+5))~~ (6) "County" means a county or combination of counties.

12 ~~((+6))~~ (7) "Department" means the department of corrections.

13 ~~((+7))~~ (8) "Earned early release" means earned release as  
14 authorized by RCW 9.94A.728.

15 ~~((+8))~~ (9) "Evidence-based" means a program or practice that has  
16 had multiple-site random controlled trials across heterogeneous  
17 populations demonstrating that the program or practice is effective in  
18 reducing recidivism for the population.

19 ~~((+9))~~ (10) "Extended family visit" means an authorized visit  
20 between an inmate and a member of his or her immediate family that  
21 occurs in a private visiting unit located at the correctional facility  
22 where the inmate is confined.

23 ~~((+10))~~ (11) "Good conduct" means compliance with department rules  
24 and policies.

25 ~~((+11))~~ (12) "Good performance" means successful completion of a  
26 program required by the department, including an education, work, or  
27 other program.

28 ~~((+12))~~ (13) "Immediate family" means the inmate's children,  
29 stepchildren, grandchildren, great grandchildren, parents, stepparents,  
30 grandparents, great grandparents, siblings, and a person legally  
31 married to or in a state registered domestic partnership with an  
32 inmate. "Immediate family" does not include an inmate adopted by  
33 another inmate or the immediate family of the adopted or adopting  
34 inmate.

35 ~~((+13))~~ (14) "Indigent inmate," "indigent," and "indigency" mean  
36 an inmate who has less than a ten-dollar balance of disposable income  
37 in his or her institutional account on the day a request is made to  
38 utilize funds and during the thirty days previous to the request.

1       (~~(14)~~) (15) "Individual reentry plan" means the plan to prepare  
2 an offender for release into the community. It should be developed  
3 collaboratively between the department and the offender and based on an  
4 assessment of the offender using a standardized and comprehensive tool  
5 to identify the offender's risks and needs. The individual reentry  
6 plan describes actions that should occur to prepare individual  
7 offenders for release from prison or jail, specifies the supervision  
8 and services they will experience in the community, and describes an  
9 offender's eventual discharge to aftercare upon successful completion  
10 of supervision. An individual reentry plan is updated throughout the  
11 period of an offender's incarceration and supervision to be relevant to  
12 the offender's current needs and risks.

13       (~~(15)~~) (16) "Inmate" means a person committed to the custody of  
14 the department, including but not limited to persons residing in a  
15 correctional institution or facility and persons released from such  
16 facility on furlough, work release, or community custody, and persons  
17 received from another state, state agency, county, or federal  
18 jurisdiction.

19       (~~(16)~~) (17) "Privilege" means any goods or services, education or  
20 work programs, or earned early release days, the receipt of which are  
21 directly linked to an inmate's (a) good conduct; and (b) good  
22 performance. Privileges do not include any goods or services the  
23 department is required to provide under the state or federal  
24 Constitution or under state or federal law.

25       (~~(17)~~) (18) "Promising practice" means a practice that presents,  
26 based on preliminary information, potential for becoming a  
27 research-based or consensus-based practice.

28       (~~(18)~~) (19) "Research-based" means a program or practice that has  
29 some research demonstrating effectiveness, but that does not yet meet  
30 the standard of evidence-based practices.

31       (~~(19)~~) (20) "Secretary" means the secretary of corrections or his  
32 or her designee.

33       (~~(20)~~) (21) "Significant expansion" includes any expansion into  
34 a new product line or service to the class I business that results from  
35 an increase in benefits provided by the department, including a  
36 decrease 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           ~~((+21))~~ (22) "Superintendent" means the superintendent of a  
2       correctional facility under the jurisdiction of the Washington state  
3       department of corrections, or his or her designee.

4           ~~((+22))~~ (23) "Unfair competition" means any net competitive  
5       advantage that a business may acquire as a result of a correctional  
6       industries contract, including labor costs, rent, tax advantages,  
7       utility rates (water, sewer, electricity, and disposal), and other  
8       overhead costs. To determine net competitive advantage, the  
9       correctional industries board shall review and quantify any expenses  
10      unique to operating a for-profit business inside a prison.

11          ~~((+23))~~ (24) "Vocational training" or "vocational education" means  
12      "vocational education" as defined in RCW 72.62.020.

13          ~~((+24))~~ (25) "Washington business" means an in-state manufacturer  
14      or service provider subject to chapter 82.04 RCW existing on June 10,  
15      2004.

16          ~~((+25))~~ (26) "Work programs" means all classes of correctional  
17      industries jobs authorized under RCW 72.09.100.

18           **Sec. 2.** RCW 72.09.111 and 2009 c 479 s 60 are each amended to read  
19      as follows:

20           (1) The secretary shall deduct taxes and legal financial  
21      obligations from the gross wages, gratuities, or workers' compensation  
22      benefits payable directly to the inmate under chapter 51.32 RCW, of  
23      each inmate working in correctional industries work programs, or  
24      otherwise receiving such wages, gratuities, or benefits. The secretary  
25      shall also deduct child support payments from the gratuities of each  
26      inmate working in class II through class IV correctional industries  
27      work programs. The secretary shall develop a formula for the  
28      distribution of offender wages, gratuities, and benefits. The formula  
29      shall not reduce the inmate account below the indigency level, as  
30      defined in RCW 72.09.015.

31           (a) The formula shall include the following minimum deductions from  
32      class I gross wages and from all others earning at least minimum wage:

- 33           (i) Five percent to the state general fund;  
34           (ii) Ten percent to a department personal inmate savings account;  
35           (iii) Twenty percent to the department to contribute to the cost of  
36      incarceration; ~~((and))~~

1 (iv) Twenty percent for payment of legal financial obligations for  
2 all inmates who have legal financial obligations owing in any  
3 Washington state superior court; and

4 (v) Twenty percent for payment of any civil judgment for assault  
5 for inmates who are subject to a civil judgment for assault in any  
6 Washington state court or federal court.

7 (b) The formula shall include the following minimum deductions from  
8 class II gross gratuities:

9 (i) Five percent to the state general fund;

10 (ii) Ten percent to a department personal inmate savings account;

11 (iii) Fifteen percent to the department to contribute to the cost  
12 of incarceration;

13 (iv) Twenty percent for payment of legal financial obligations for  
14 all inmates who have legal financial obligations owing in any  
15 Washington state superior court; (~~and~~)

16 (v) Fifteen percent for any child support owed under a support  
17 order; and

18 (vi) Fifteen percent for payment of any civil judgment for assault  
19 for inmates who are subject to a civil judgment for assault in any  
20 Washington state court or federal court.

21 (c) The formula shall include the following minimum deductions from  
22 any workers' compensation benefits paid pursuant to RCW 51.32.080:

23 (i) Five percent to the state general fund;

24 (ii) Ten percent to a department personal inmate savings account;

25 (iii) Twenty percent to the department to contribute to the cost of  
26 incarceration; and

27 (iv) An amount equal to any legal financial obligations owed by the  
28 inmate established by an order of any Washington state superior court  
29 up to the total amount of the award.

30 (d) The formula shall include the following minimum deductions from  
31 class III gratuities:

32 (i) Five percent for the state general fund; (~~and~~)

33 (ii) Fifteen percent for any child support owed under a support  
34 order; and

35 (iii) Fifteen percent for payment of any civil judgment for assault  
36 for inmates who are subject to a civil judgment for assault in any  
37 Washington state court or federal court.

1 (e) The formula shall include the following minimum deduction from  
2 class IV gross gratuities:

3 (i) Five percent to the department to contribute to the cost of  
4 incarceration; ~~((and))~~

5 (ii) Fifteen percent for any child support owed under a support  
6 order; and

7 (iii) Fifteen percent for payment of any civil judgment for assault  
8 for inmates who are subject to a civil judgment for assault in any  
9 Washington state court or federal court.

10 (2) Any person sentenced to life imprisonment without possibility  
11 of release or parole under chapter 10.95 RCW or sentenced to death  
12 shall be exempt from the requirement under subsection (1)(a)(ii),  
13 (b)(ii), or (c)(ii).

14 (3)(a) The department personal inmate savings account, together  
15 with any accrued interest, shall only be available to an inmate at the  
16 following times:

17 (i) The time of his or her release from confinement;

18 (ii) Prior to his or her release from confinement in order to  
19 secure approved housing; or

20 (iii) When the secretary determines that an emergency exists for  
21 the inmate.

22 (b) If funds are made available pursuant to (a)(ii) or (iii) of  
23 this subsection, the funds shall be made available to the inmate in an  
24 amount determined by the secretary.

25 (c) The management of classes I, II, and IV correctional industries  
26 may establish an incentive payment for offender workers based on  
27 productivity criteria. This incentive shall be paid separately from  
28 the hourly wage/gratuity rate and shall not be subject to the specified  
29 deduction for cost of incarceration.

30 (4)(a) Subject to availability of funds for the correctional  
31 industries program, the expansion of inmate employment in class I and  
32 class II correctional industries shall be implemented according to the  
33 following schedule:

34 (i) Not later than June 30, 2005, the secretary shall achieve a net  
35 increase of at least two hundred in the number of inmates employed in  
36 class I or class II correctional industries work programs above the  
37 number so employed on June 30, 2003;

1 (ii) Not later than June 30, 2006, the secretary shall achieve a  
2 net increase of at least four hundred in the number of inmates employed  
3 in class I or class II correctional industries work programs above the  
4 number so employed on June 30, 2003;

5 (iii) Not later than June 30, 2007, the secretary shall achieve a  
6 net increase of at least six hundred in the number of inmates employed  
7 in class I or class II correctional industries work programs above the  
8 number so employed on June 30, 2003;

9 (iv) Not later than June 30, 2008, the secretary shall achieve a  
10 net increase of at least nine hundred in the number of inmates employed  
11 in class I or class II correctional industries work programs above the  
12 number so employed on June 30, 2003;

13 (v) Not later than June 30, 2009, the secretary shall achieve a net  
14 increase of at least one thousand two hundred in the number of inmates  
15 employed in class I or class II correctional industries work programs  
16 above the number so employed on June 30, 2003;

17 (vi) Not later than June 30, 2010, the secretary shall achieve a  
18 net increase of at least one thousand five hundred in the number of  
19 inmates employed in class I or class II correctional industries work  
20 programs above the number so employed on June 30, 2003.

21 (b) Failure to comply with the schedule in this subsection does not  
22 create a private right of action.

23 (5) In the event that the offender worker's wages, gratuity, or  
24 workers' compensation benefit is subject to garnishment for support  
25 enforcement, the state general fund, savings, and cost of incarceration  
26 deductions shall be calculated on the net wages after taxes, legal  
27 financial obligations, and garnishment.

28 (6) The department shall explore other methods of recovering a  
29 portion of the cost of the inmate's incarceration and for encouraging  
30 participation in work programs, including development of incentive  
31 programs that offer inmates benefits and amenities paid for only from  
32 wages earned while working in a correctional industries work program.

33 (7) The department shall develop the necessary administrative  
34 structure to recover inmates' wages and keep records of the amount  
35 inmates pay for the costs of incarceration and amenities. All funds  
36 deducted from inmate wages under subsection (1) of this section for the  
37 purpose of contributions to the cost of incarceration shall be

1 deposited in a dedicated fund with the department and shall be used  
2 only for the purpose of enhancing and maintaining correctional  
3 industries work programs.

4 (8) It shall be in the discretion of the secretary to apportion the  
5 inmates between class I and class II depending on available contracts  
6 and resources.

7 (9) Nothing in this section shall limit the authority of the  
8 department of social and health services division of child support from  
9 taking collection action against an inmate's moneys, assets, or  
10 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

11 **Sec. 3.** RCW 72.09.480 and 2009 c 479 s 61 are each amended to read  
12 as follows:

13 (1) Unless the context clearly requires otherwise, the definitions  
14 in this section apply to this section.

15 (a) "Cost of incarceration" means the cost of providing an inmate  
16 with shelter, food, clothing, transportation, supervision, and other  
17 services and supplies as may be necessary for the maintenance and  
18 support of the inmate while in the custody of the department, based on  
19 the average per inmate costs established by the department and the  
20 office of financial management.

21 (b) "Minimum term of confinement" means the minimum amount of time  
22 an inmate will be confined in the custody of the department,  
23 considering the sentence imposed and adjusted for the total potential  
24 earned early release time available to the inmate.

25 (c) "Program" means any series of courses or classes necessary to  
26 achieve a proficiency standard, certificate, or postsecondary degree.

27 (2) When an inmate, except as provided in subsections (4) and (8)  
28 of this section, receives any funds in addition to his or her wages or  
29 gratuities, except settlements or awards resulting from legal action,  
30 the additional funds shall be subject to the following deductions and  
31 the priorities established in chapter 72.11 RCW:

32 (a) Five percent to the state general fund;

33 (b) Ten percent to a department personal inmate savings account;

34 (c) Twenty percent for payment of legal financial obligations for  
35 all inmates who have legal financial obligations owing in any  
36 Washington state superior court;



1 (d) Twenty percent for any child support owed under a support  
2 order; (~~and~~)

3 (e) Twenty percent to the department to contribute to the cost of  
4 incarceration; and

5 (f) Twenty percent for payment of any civil judgment for assault  
6 for all inmates who are subject to a civil judgment for assault in any  
7 Washington state court or federal court.

8 (3) When an inmate, except as provided in subsection (8) of this  
9 section, receives any funds from a settlement or award resulting from  
10 a legal action, the additional funds shall be subject to the deductions  
11 in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11  
12 RCW.

13 (4) When an inmate who is subject to a child support order receives  
14 funds from an inheritance, the deduction required under subsection  
15 (2)(e) and (f) of this section shall only apply after the child support  
16 obligation has been paid in full.

17 (5) The amount deducted from an inmate's funds under subsection (2)  
18 of this section shall not exceed the department's total cost of  
19 incarceration for the inmate incurred during the inmate's minimum or  
20 actual term of confinement, whichever is longer.

21 (6)(a) The deductions required under subsection (2) of this section  
22 shall not apply to funds received by the department from an offender or  
23 from a third party on behalf of an offender for payment of education or  
24 vocational programs or postsecondary education degree programs as  
25 provided in RCW 72.09.460 and 72.09.465.

26 (b) The deductions required under subsection (2) of this section  
27 shall not apply to funds received by the department from a third party,  
28 including but not limited to a nonprofit entity on behalf of the  
29 department's education, vocation, or postsecondary education degree  
30 programs.

31 (7) The deductions required under subsection (2) of this section  
32 shall not apply to any money received by the department, on behalf of  
33 an inmate, from family or other outside sources for the payment of  
34 postage expenses. Money received under this subsection may only be  
35 used for the payment of postage expenses and may not be transferred to  
36 any other account or purpose. Money that remains unused in the  
37 inmate's postage fund at the time of release shall be subject to the  
38 deductions outlined in subsection (2) of this section.

1 (8) When an inmate sentenced to life imprisonment without  
2 possibility of release or sentenced to death under chapter 10.95 RCW  
3 receives funds, deductions are required under subsection (2) of this  
4 section, with the exception of a personal inmate savings account under  
5 subsection (2)(b) of this section.

6 (9) The secretary of the department of corrections, or his or her  
7 designee, may exempt an inmate from a personal inmate savings account  
8 under subsection (2)(b) of this section if the inmate's earliest  
9 release date is beyond the inmate's life expectancy.

10 (10) The interest earned on an inmate savings account created as a  
11 result of the plan in section 4, chapter 325, Laws of 1999 shall be  
12 exempt from the mandatory deductions under this section and RCW  
13 72.09.111.

14 (11) Nothing in this section shall limit the authority of the  
15 department of social and health services division of child support, the  
16 county clerk, or a restitution recipient from taking collection action  
17 against an inmate's moneys, assets, or property pursuant to chapter  
18 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the  
19 collection of moneys received by the inmate from settlements or awards  
20 resulting from legal action.

--- END ---