
SENATE BILL 5838

State of Washington

66th Legislature

2019 Regular Session

By Senators Darneille, Rolfes, and Nguyen

1 AN ACT Relating to correctional industries; and amending RCW
2 72.09.015, 72.09.070, and 72.09.080.

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

4 **Sec. 1.** RCW 72.09.015 and 2013 c 39 s 22 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
8 designed to achieve general competence of skills in reading, writing,
9 and oral communication, including English as a second language and
10 preparation and testing services for obtaining a high school diploma
11 or a high school equivalency certificate as provided in RCW
12 28B.50.536.

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

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

1 correctional officer or department employee was acting in the course
2 and scope of his or her employment.

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

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

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

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

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

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

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

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

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

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

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

38 (15) "Indigent inmate," "indigent," and "indigency" mean an
39 inmate who has less than a ten-dollar balance of disposable income in

1 his or her institutional account on the day a request is made to
2 utilize funds and during the thirty days previous to the request.

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

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

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

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

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

33 (b) Remove a disruptive offender who is unwilling to leave the
34 area voluntarily; or

35 (c) Guide an offender from one location to another.

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

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

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

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

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

15 (a) Physical restraint; or

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

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

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

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

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

37 (29) "Unfair competition" means any net competitive advantage
38 that a business may acquire as a result of a correctional industries
39 contract, including labor costs, rent, tax advantages, utility rates
40 (water, sewer, electricity, and disposal), and other overhead costs.

1 To determine net competitive advantage, the department of corrections
2 shall review and quantify any expenses unique to operating a for-
3 profit business inside a prison.

4 (30) "Unfair competition rates" means rates intended to subvert,
5 harm, or eliminate competition, and/or gain an unfair advantage over
6 competitors. Examples of unfair competition rates include but are not
7 limited to rates that: (a) Cause or are likely to cause substantial
8 injury to competition; or (b) cannot be reasonably matched by
9 competition. Public policy may also be considered in the analysis of
10 whether a particular act or practice is unfair.

11 (31) "Vocational training" or "vocational education" means
12 "vocational education" as defined in RCW 72.62.020.

13 ~~((31))~~ (32) "Washington business" means an in-state
14 manufacturer or service provider subject to chapter 82.04 RCW
15 existing on June 10, 2004.

16 ~~((32))~~ (33) "Work programs" means all classes of correctional
17 industries jobs authorized under RCW 72.09.100.

18 **Sec. 2.** RCW 72.09.070 and 2011 1st sp.s. c 21 s 35 are each
19 amended to read as follows:

20 (1) There is created a correctional industries ((advisory))
21 committee which shall have the composition provided in RCW 72.09.080.
22 The ((advisory)) committee shall make recommendations to the
23 secretary regarding the implementation of RCW 72.09.100.

24 (2) The correctional industries committee shall set the unfair
25 competition rate every two years, and shall consider a variety of
26 factors when making the decision, including but not limited to market
27 share rates from other states, input from the business community,
28 changes in market desirability, and any other relevant factors. The
29 correctional industries committee shall provide written notice of the
30 determined unfair competition rate, and the factors used to determine
31 the rate, to the legislature, within thirty days of the unfair
32 competition rate determination.

33 **Sec. 3.** RCW 72.09.080 and 2011 1st sp.s. c 21 s 40 are each
34 amended to read as follows:

35 (1) The correctional industries ((advisory)) committee shall
36 consist of nine voting members, appointed by the secretary. Each
37 member shall serve a three-year staggered term. The speaker of the
38 house of representatives and the president of the senate shall each

1 appoint one member from each of the two largest caucuses in their
2 respective houses. The legislators so appointed shall be nonvoting
3 members and shall serve two-year terms, or until they cease to be
4 members of the house from which they were appointed, whichever occurs
5 first. The nine members appointed by the secretary shall include
6 three representatives from labor, three representatives from business
7 representing cross-sections of industries and all sizes of employers,
8 and three members from the general public.

9 (2) The committee shall elect a chair and such other officers as
10 it deems appropriate from among the voting members.

11 (3) The voting members of the committee shall serve with
12 compensation pursuant to RCW 43.03.240 and shall be reimbursed by the
13 department for travel expenses and per diem under RCW 43.03.050 and
14 43.03.060, as now or hereafter amended. Legislative members shall be
15 reimbursed under RCW 44.04.120, as now or hereafter amended.

16 (4) The secretary shall provide such staff services, facilities,
17 and equipment as the ((board)) committee shall require to carry out
18 its duties.

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