

Title 72

STATE INSTITUTIONS

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72.01.010 Powers and duties apply to department of social and health services, department of children, youth, and families, and department of corrections—Joint exercise authorized. As used in this chapter:

"Department" means the departments of social and health services, children, youth, and families, and corrections; and

"Secretary" means the secretaries of social and health services, children, youth, and families, and corrections.

The powers and duties granted and imposed in this chapter, when applicable, apply to the departments of social and health services, children, youth, and families, and corrections and the secretaries of social and health services, children, youth, and families and corrections, for institutions under their control. A power or duty may be exercised or fulfilled jointly if joint action is more efficient, as determined by the secretaries. [2017 3rd sp.s. c 6 § 726; 1981 c 136 § 66; 1979 c 141 § 142; 1970 ex.s. c 18 § 56; 1959 c 28 § 72.01.010. Prior: 1907 c 166 § 10; RRS § 10919. Formerly RCW 72.04.010.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.01.042 Hours of labor for full time employees—Compensatory time—Premium pay. The hours of labor for each full time employee shall be a maximum of eight hours in any workday and forty hours in any workweek.

Employees required to work in excess of the eight-hour maximum per day or the forty-hour maximum per week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one-one hundred and seventy-sixth of the employee's gross monthly salary: PROVIDED, That in the event that an employee is granted compensatory time off, such time off should be given within the calendar year and in the event that such an arrangement is not possible the employee shall be given a premium rate of pay: PROVIDED FURTHER, That compensatory time and/or payment thereof shall be allowed only for overtime as is duly authorized and accounted for under rules and regulations established by the secretary. [1981 c 136 § 67; 1979 c 141 § 143; 1970 ex.s. c 18 § 60; 1953 c 169 § 1. Formerly RCW 43.19.255.]

Additional notes found at www.leg.wa.gov

72.01.043 Hours of labor for full time employees—Certain personnel excepted. RCW 72.01.042 shall not be applicable to the following designated personnel: Administrative officers of the department; institutional superintendents, medical staff other than nurses, and business managers; and such professional, administrative and supervisory personnel as designated prior to July 1, 1970 by the department of social and health services with the concurrence of the merit system board having jurisdiction. [1979 c 141 § 144; 1970 ex.s. c 18 § 61; 1953 c 169 § 2. Formerly RCW 43.19.256.]

Additional notes found at www.leg.wa.gov

72.01.045 Assaults to employees—Reimbursement for costs. (1) For purposes of this section only, "assault" means an unauthorized touching of an employee by a resident, patient, or juvenile offender resulting in physical injury to the employee.

(2) In recognition of the hazardous nature of employment in state institutions, the legislature hereby provides a supplementary program to reimburse employees of the department of social and health services, the department of natural resources, the department of children, youth, and families, and the department of veterans affairs for some of their costs attributable to their being the victims of assault by residents, patients, or juvenile offenders. This program shall be limited to the reimbursement provided in this section.

(3) An employee is only entitled to receive the reimbursement provided in this section if the secretary of social and health services, the commissioner of public lands, the secretary of the department of children, youth, and families, or the director of the department of veterans affairs, or the secretary's, commissioner's, or director's designee, finds that each of the following has occurred:

(a) A resident or patient has assaulted the employee and as a result thereof the employee has sustained demonstrated physical injuries which have required the employee to miss days of work;

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment; and

(c) The department of labor and industries has approved the employee's workers' compensation application pursuant to chapter 51.32 RCW.

(4) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(5) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(6) The employee shall not be entitled to the reimbursement provided in subsection (4) of this section for any workday for which the secretary, commissioner, director, or applicable designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(7) The reimbursement shall only be made for absences which the secretary, commissioner, director, or applicable designee believes are justified.

(8) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(9) All reimbursement payments required to be made to employees under this section shall be made by the employing department. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

(10) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right. [2017 3rd sp.s. c 6 § 627; 2002 c 77 § 1; 1990 c 153 § 1; 1987 c 102 § 1; 1986 c 269 § 4.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

72.01.050 Secretary's powers and duties—Management of public institutions and correctional facilities. (1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, Lakeland Village, the Rainier school, and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage, govern, and name all state correctional facilities, subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any state correctional facility is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

(4) The secretary of the department of children, youth, and families shall have full power to manage and govern Echo Glen, the Green Hill school, and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions. [2017 3rd sp.s. c 6 § 628; 1992 c 7 § 51; 1988 c 143 § 1. Prior:

(2021 Ed.)

1985 c 378 § 8; 1985 c 350 § 1; 1981 c 136 § 68; 1979 c 141 § 145; 1977 c 31 § 1; 1959 c 28 § 72.01.050; prior: 1955 c 195 § 4(1); 1915 c 107 § 1, part; 1907 c 166 § 2, part; 1901 c 119 § 3, part; RRS § 10899, part. Formerly RCW 43.28.020, part.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.01.060 Chief executive officers—Appointment—Salaries—Assistants. The secretary shall appoint the chief executive officers necessary to manage one or more of the public facilities operated by the department. This section, however, shall not apply to RCW 72.40.020.

Except as otherwise provided in this title, the chief executive officer of each institution may appoint all assistants and employees required for the management of the institution placed in his or her charge, the number of such assistants and employees to be determined and fixed by the secretary. The chief executive officer of any institution may, at his or her pleasure, discharge any person therein employed. The secretary shall investigate all complaints made against the chief executive officer of any institution and also any complaint against any other officer or employee thereof, if it has not been investigated and reported upon by the chief executive officer.

The secretary may, after investigation, for good and sufficient reasons, order the discharge of any subordinate officer or employee of an institution.

Each chief executive officer shall receive such salary as is fixed by the secretary, who shall also fix the compensation of other officers and the employees of each institution. Such latter compensation shall be fixed on or before the first day of April of each year and no change shall be made in the compensation, so fixed, during the twelve-month period commencing April 1st. [2012 c 117 § 443; 1983 1st ex.s. c 41 § 26; 1979 c 141 § 146; 1959 c 28 § 72.01.060. Prior: 1907 c 166 § 5; 1901 c 119 § 6; RRS § 10902. Formerly RCW 72.04.020.]

Authority to appoint a single executive officer for multiple institutions—Exception: RCW 43.20A.607.

Juvenile correctional institution in King county, appointment of superintendent: RCW 72.19.030.

Maple Lane School, appointment of superintendent and subordinate officers and employees: RCW 72.20.020.

State hospitals for individuals with mental illness—Superintendents: RCW 72.23.030.

Additional notes found at www.leg.wa.gov

72.01.090 Rules and regulations. The department is authorized to make its own rules for the proper execution of its powers. It shall also have the power to adopt rules and regulations for the government of the public institutions placed under its control, and shall therein prescribe, in a manner consistent with the provisions of this title, the duties of the persons connected with the management of such public institutions. [1959 c 28 § 72.01.090. Prior: 1907 c 166 § 7; 1901 c 119 § 9; RRS § 10905. Formerly RCW 72.04.060.]

72.01.110 Construction or repair of buildings—Contracts or inmate labor. The department may employ the services of competent architects for the preparation of plans and specifications for new buildings, or for repairs, changes, or additions to buildings already constructed, employ competent persons to superintend the construction of new buildings or repairs, changes, or additions to buildings already constructed and call for bids and award contracts for the erection of new buildings, or for repairs, changes, or additions to buildings already constructed: PROVIDED, That the department may proceed with the erecting of any new building, or repairs, changes, or additions to any buildings already constructed, employing thereon the labor of the inmates of the institution, when in its judgment the improvements can be made in as satisfactory a manner and at a less cost to the state by so doing. [1959 c 28 § 72.01.110. Prior: 1901 c 119 § 12; RRS § 10909. Formerly RCW 72.04.100.]

Public works: Chapter 39.04 RCW.

72.01.120 Construction or repair of buildings—Award of contracts. When improvements are to be made under contract, notice of the call for the same shall be published in at least two newspapers of general circulation in the state for two weeks prior to the award being made. The contract shall be awarded to the lowest responsible bidder. The secretary is authorized to require such security as he or she may deem proper to accompany the bids submitted, and shall also fix the amount of the bond or other security that shall be furnished by the person or firm to whom the contract is awarded. The secretary shall have the power to reject any or all bids submitted, if for any reason it is deemed for the best interest of the state to do so, and to readvertise in accordance with the provisions hereof. The secretary shall also have the power to reject the bid of any person or firm who has had a prior contract, and who did not, in the opinion of the secretary, faithfully comply with the same. [2012 c 117 § 444; 1979 c 141 § 148; 1959 c 28 § 72.01.120. Prior: 1901 c 119 § 10, part; RRS § 10906.]

72.01.130 Destruction of buildings—Reconstruction. If any of the shops or buildings in which convicts are employed are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately under the direction of the department, by and with the advice and consent of the governor, and the expenses thereof shall be paid out of any unexpended funds appropriated to the department for any purpose, not to exceed one hundred thousand dollars: PROVIDED, That if a specific appropriation for a particular project has been made by the legislature, only such funds exceeding the cost of such project may be expended for the purposes of this section. [1959 c 28 § 72.01.130. Prior: 1957 c 25 § 1; 1891 c 147 § 29; RRS § 10908. Formerly RCW 72.04.090.]

72.01.140 Agricultural and farm activities. The secretary shall:

(1) Make a survey, investigation, and classification of the lands connected with the state institutions under his or her control, and determine which thereof are of such character as to be most profitably used for agricultural, horticultural, dairying, and stock raising purposes, taking into consider-

ation the costs of making them ready for cultivation, the character of the soil, its depth and fertility, the number of kinds of crops to which it is adapted, the local climatic conditions, the local annual rainfall, the water supply upon the land or available, the needs of all state institutions for the food products that can be grown or produced, and the amount and character of the available labor of inmates at the several institutions;

(2) Establish and carry on suitable farming operations at the several institutions under his or her control;

(3) Supply the several institutions with the necessary food products produced thereat;

(4) Exchange with, or furnish to, other institutions, food products at the cost of production;

(5) Sell and dispose of surplus food products produced. [2012 c 117 § 445; 2005 c 353 § 5; 1981 c 238 § 1; 1979 c 141 § 149; 1959 c 28 § 72.01.140. Prior: 1955 c 195 § 4(7), (8), (9), (10), and (11); 1921 c 7 § 39; RRS § 10797. Formerly RCW 43.28.020, part.]

Additional notes found at www.leg.wa.gov

72.01.150 Industrial activities. The secretary shall:

(1) Establish, install and operate, at the several state institutions under his or her control, such industries and industrial plants as may be most suitable and beneficial to the inmates thereof, and as can be operated at the least relative cost and the greatest relative benefit to the state, taking into consideration the needs of the state institutions for industrial products, and the amount and character of labor of inmates available at the several institutions;

(2) Supply the several institutions with the necessary industrial products produced thereat;

(3) Exchange with, or furnish to, other state institutions industrial products at prices to be fixed by the department, not to exceed in any case the price of such products in the open market;

(4) Sell and dispose of surplus industrial products produced, to such persons and under such rules, regulations, terms, and prices as may be in his or her judgment for the best interest of the state;

(5) Sell products of the plate mill to any department, to any state, county, or other public institution and to any governmental agency, of this or any other state under such rules, regulations, terms, and prices as may be in his or her judgment for the best interests of the state. [2012 c 117 § 446; 1979 c 141 § 150; 1959 c 28 § 72.01.150. Prior: 1955 c 195 § 4(12), (13), (14), (15), and (16); 1923 c 101 § 1; 1921 c 7 § 40; RRS § 10798. Formerly RCW 43.28.020, part.]

Correctional industries: Chapter 72.60 RCW.

72.01.180 Dietitian—Duties—Travel expenses. The secretary shall have the power to select a member of the faculty of the University of Washington, or the Washington State University, skilled in scientific food analysis and dietetics, to be known as the state dietitian, who shall make and furnish to the department food analyses showing the relative food value, in respect to cost, of food products, and advise the department as to the quantity, comparative cost, and food values, of proper diets for the inmates of the state institutions under the control of the department. The state dietitian shall receive travel expenses while engaged in the performance of his or her duties in accordance with RCW 43.03.050 and

43.03.060 as now existing or hereafter amended. [2012 c 117 § 447; 1979 c 141 § 152; 1975-'76 2nd ex.s. c 34 § 166; 1959 c 28 § 72.01.180. Prior: 1921 c 7 § 32; RRS § 10790. Formerly RCW 43.19.150.]

Additional notes found at www.leg.wa.gov

72.01.190 Fire protection. The secretary may enter into an agreement with a city or town adjacent to any state institution for fire protection for such institution. [1979 c 141 § 153; 1959 c 28 § 72.01.190. Prior: 1947 c 188 § 1; Rem. Supp. 1947 § 10898a. Formerly RCW 72.04.140.]

72.01.200 Employment of teachers—Exceptions. State correctional facilities may employ certificated teachers to carry on their educational work, except for the educational programs provided pursuant to RCW 28A.190.030 through 28A.190.050 and all such teachers so employed shall be eligible to membership in the state teachers' retirement fund. [1992 c 7 § 52; 1990 c 33 § 591; 1979 ex.s. c 217 § 6; 1959 c 28 § 72.01.200. Prior: 1947 c 211 § 1; Rem. Supp. 1947 § 10319-1. Formerly RCW 72.04.130.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Teachers' qualifications at state schools for the deaf and blind: RCW 72.40.028.

Teachers' retirement: Chapter 41.32 RCW.

Additional notes found at www.leg.wa.gov

72.01.210 Institutional religious coordinators—Appointment—Qualifications. (1) The secretary of corrections shall appoint institutional religious coordinators for the state correctional institutions for convicted felons. Institutional religious coordinators shall be appointed as employees of the department of corrections. The secretary of corrections may further contract with religious coordinators to be employed as is necessary to meet the religious needs of those inmates whose religious denominations are not represented by institutional religious coordinators and where volunteer religious coordinators are not available.

(2) Institutional religious coordinators appointed by the department of corrections under this section shall have qualifications necessary to serve all faith groups represented within the department. Every religious coordinator so appointed or contracted with shall have qualifications consistent with community standards of the given faith group to which he or she belongs and shall not be required to violate the tenets of his or her faith when acting in an ecclesiastical role.

(3) The secretary of children, youth, and families shall appoint religious coordinators for the correctional institutions for juveniles found delinquent by the juvenile courts; and the secretary of corrections and the secretary of social and health services shall appoint one or more religious coordinators for other custodial, correctional, and mental institutions under their control.

(4) Except as provided in this section, the religious coordinators so appointed under this section shall have the qualifications and shall be compensated in an amount as recommended by the appointing department and approved by the director of financial management. [2019 c 146 § 7; 2019 c 107 § 2; 2017 3rd sp.s. c 6 § 727; 2008 c 104 § 3; 1993 c 281

(2021 Ed.)

§ 62; 1981 c 136 § 69; 1979 c 141 § 154; 1967 c 58 § 1; 1959 c 33 § 1; 1959 c 28 § 72.01.210. Prior: 1955 c 248 § 1. Formerly RCW 72.04.160.]

Reviser's note: This section was amended by 2019 c 107 § 2 and by 2019 c 146 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 146 § 7: "Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 146 § 8.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Finding—2008 c 104: "The legislature finds that men and women who are incarcerated have the need to develop prosocial behaviors. These behaviors will better enable these men and women to fully participate in society and adhere to law-abiding behaviors, such as continuing treatment that is undertaken in prison, once the person is released in the community.

Living in an environment where foundational skills are modeled and encouraged fosters positive outcomes for people who have been convicted and sentenced for their crimes. Basic skills include positive decision making, personal responsibility, building a healthy community, religious tolerance and understanding, ethics and morality, conflict management, family life relationships, leadership, managing emotions, restorative justice, transitional issues, and spirituality. Learning and practicing how to overcome minor and significant obstacles in a positive way will prepare offenders who are returning to our communities to begin their new crime-free lives." [2008 c 104 § 1.]

Housing allowance for state-employed religious coordinator: RCW 41.04.360.

Washington personnel resources board: RCW 41.06.110.

Additional notes found at www.leg.wa.gov

72.01.212 Institutional religious coordinators—Liability insurance—Representation by attorney general in civil lawsuits. Regardless of whether the services are voluntary or provided by employment or contract with the department of corrections, a religious coordinator who provides the services authorized by RCW 72.01.220:

(1) May not be compelled to carry personal liability insurance as a condition of providing those services; and

(2) May request that the attorney general authorize the defense of an action or proceeding for damages instituted against the religious coordinator arising out of the course of his or her duties in accordance with RCW 4.92.060, 4.92.070, and 4.92.075. [2019 c 107 § 3; 2008 c 104 § 4.]

Finding—2008 c 104: See note following RCW 72.01.210.

72.01.220 Institutional religious coordinators—Duties. It shall be the duty of the religious coordinators at the respective institutions mentioned in RCW 72.01.210, under the direction of the department, to conduct religious services and to give religious and moral instruction to the inmates of the institutions, and to attend to their spiritual wants. They shall counsel with and interview the inmates concerning their social and family problems, and shall give assistance to the inmates and their families in regard to such problems. [2019 c 107 § 4; 1959 c 28 § 72.01.220. Prior: 1955 c 248 § 2. Formerly RCW 72.04.170.]

72.01.230 Institutional religious coordinators—Offices, chapels, supplies. The religious coordinators at the respective institutions mentioned in RCW 72.01.210 shall be provided with the offices and chapels at their institutions, and

such supplies as may be necessary for the carrying out of their duties. [2019 c 107 § 5; 1959 c 28 § 72.01.230. Prior: 1955 c 248 § 3. Formerly RCW 72.04.180.]

72.01.240 Supervisor of religious coordinators. Each secretary is hereby empowered to appoint one of the religious coordinators, authorized by RCW 72.01.210, to act as supervisor of religious coordinators for his or her department, in addition to his or her duties at one of the institutions designated in RCW 72.01.210. [2019 c 107 § 6; 2012 c 117 § 448; 1981 c 136 § 70; 1979 c 141 § 155; 1959 c 28 § 72.01.240. Prior: 1955 c 248 § 4. Formerly RCW 72.04.190.]

Additional notes found at www.leg.wa.gov

72.01.260 Outside ministers not excluded. Nothing contained in RCW 72.01.210 through 72.01.240 shall be so construed as to exclude ministers of any denomination from giving gratuitous religious or moral instruction to prisoners under such reasonable rules and regulations as the secretary may prescribe. [1983 c 3 § 184; 1979 c 141 § 156; 1959 c 28 § 72.01.260. Prior: 1929 c 59 § 2; Code 1881 § 3297; RRS § 10236-1. Formerly RCW 72.08.210.]

72.01.270 Gifts, acceptance of. The secretary shall have the power to receive, hold and manage all real and personal property made over to the department by gift, devise or bequest, and the proceeds and increase thereof shall be used for the benefit of the institution for which it is received. [1979 c 141 § 157; 1959 c 28 § 72.01.270. Prior: 1901 c 119 § 8; RRS § 10904. Formerly RCW 72.04.050.]

72.01.280 Quarters for personnel—Charges. The superintendent of each public institution and the assistant physicians, steward, accountant and chief engineer of each hospital for the mentally ill may be furnished with quarters, household furniture, board, fuel, and lights for themselves and their families, and the secretary may, when in his or her opinion any public institution would be benefited by so doing, extend this privilege to any officer at any of the public institutions under his or her control. The words "family" or "families" used in this section shall be construed to mean only the spouse and dependent children of an officer. Employees may be furnished with quarters and board for themselves. The secretary shall charge and collect from such officers and employees the full cost of the items so furnished, including an appropriate charge for depreciation of capital items. [2012 c 117 § 449; 1979 c 141 § 158; 1959 c 39 § 3; 1959 c 28 § 72.01.280. Prior: 1957 c 188 § 1; 1907 c 166 § 6; 1901 c 119 § 6; RRS § 10903. Formerly RCW 72.04.040.]

72.01.282 Quarters for personnel—Deposit of receipts. All moneys received by the secretary from charges made pursuant to RCW 72.01.280 shall be deposited by him or her in the state general fund. [2012 c 117 § 450; 1981 c 136 § 71; 1979 c 141 § 159; 1959 c 210 § 1.]

Additional notes found at www.leg.wa.gov

72.01.290 Record of patients and inmates. The department shall keep at its office, accessible only to the secretary and to proper officers and employees, and to other persons authorized by the secretary, a record showing the resi-

dence, sex, age, nativity, occupation, civil condition and date of entrance, or commitment of every person, patient, inmate or convict, in the several public institutions governed by the department, the date of discharge of every person from the institution, and whether such discharge is final: PROVIDED, That in addition to this information the superintendents for the hospitals for the mentally ill shall also state the condition of the person at the time of leaving the institution. The record shall also state if the person is transferred from one institution to another and to what institution; and if dead the date and cause of death. This information shall be furnished to the department by the several institutions, and also such other obtainable facts as the department may from time to time require, not later than the fifth day of each month for the month preceding, by the chief executive officer of each public institution, upon blank forms which the department may prescribe. [1979 c 141 § 160; 1959 c 28 § 72.01.290. Prior: 1907 c 166 § 9; 1901 c 119 § 13; RRS § 10910. Formerly RCW 72.04.110.]

72.01.300 Accounting systems. The secretary shall have the power, and it shall be his or her duty, to install and maintain in the department a proper cost accounting system of accounts for each of the institutions under the control of the department, for the purpose of detecting and avoiding unprofitable expenditures and operations. [2012 c 117 § 451; 1979 c 141 § 161; 1959 c 28 § 72.01.300. Prior: 1921 c 7 § 43; RRS § 10801. Formerly RCW 43.19.160.]

72.01.310 Political influence forbidden. Any officer, including the secretary, or employee of the department or of the institutions under the control of the department, who, by solicitation or otherwise, exercises his or her influence, directly or indirectly, to influence other officers or employees of the state to adopt his or her political views or to favor any particular person or candidate for office, shall be removed from his or her office or position by the proper authority. [2012 c 117 § 452; 1979 c 141 § 162; 1959 c 28 § 72.01.310. Prior: 1901 c 119 § 15; RRS § 10917. Formerly RCW 72.04.150.]

72.01.320 Examination of conditions and needs—Report. The secretary shall examine into the conditions and needs of the several state institutions under the secretary's control and report in writing to the governor the condition of each institution. [1987 c 505 § 66; 1979 c 141 § 163; 1977 c 75 § 84; 1959 c 28 § 72.01.320. Prior: 1955 c 195 § 5. (i) 1901 c 119 § 14; RRS § 10915. (ii) 1915 c 107 § 1, part; 1907 c 166 § 2, part; 1901 c 119 § 3, part; RRS § 10899, part. Formerly RCW 43.28.030.]

72.01.365 Escorted leaves of absence for inmates—Definitions. As used in RCW 72.01.370 and 72.01.375:

"Escorted leave" means a leave of absence from a correctional facility under the continuous supervision of an escort.

"Escort" means a correctional officer or other person approved by the superintendent or the superintendent's designee to accompany an inmate on a leave of absence and be in visual or auditory contact with the inmate at all times.

"Nonviolent offender" means an inmate under confinement for an offense other than a violent offense defined by RCW 9.94A.030. [1983 c 255 § 2.]

Prisoner furloughs: Chapter 72.66 RCW.

72.01.370 Escorted leaves of absence for inmates—Grounds. The superintendent of any state correctional facility may, subject to the approval of the secretary and under RCW 72.01.375, grant escorted leaves of absence to inmates confined in such institutions to:

(1) Go to the bedside of the inmate's wife, husband, child, mother or father, or other member of the inmate's immediate family who is seriously ill;

(2) Attend the funeral of a member of the inmate's immediate family listed in subsection (1) of this section;

(3) Participate in athletic contests;

(4) Perform work in connection with the industrial, educational, or agricultural programs of the department;

(5) Receive necessary medical or dental care which is not available in the institution; and

(6) Participate as a volunteer in community service work projects which are approved by the superintendent, but only inmates who are nonviolent offenders may participate in these projects. Such community service work projects shall only be instigated at the request of a local community. [1992 c 7 § 53; 1983 c 255 § 3; 1981 c 136 § 72; 1979 c 141 § 164; 1959 c 40 § 1.]

Additional notes found at www.leg.wa.gov

72.01.375 Escorted leaves of absence for inmates—Notification of local law enforcement agencies. An inmate shall not be allowed to start a leave of absence under RCW 72.01.370 until the secretary, or the secretary's designee, has notified any county and city law enforcement agency having jurisdiction in the area of the inmate's destination. [1983 c 255 § 4.]

72.01.380 Leaves of absence for inmates—Rules—Restrictions—Costs. The secretary is authorized to make rules and regulations providing for the conditions under which inmates will be granted leaves of absence, and providing for safeguards to prevent escapes while on leave of absence: PROVIDED, That leaves of absence granted to inmates under RCW 72.01.370 shall not allow or permit any inmate to go beyond the boundaries of this state. The secretary shall also make rules and regulations requiring the reimbursement of the state from the inmate granted leave of absence, or his or her family, for the actual costs incurred arising from any leave of absence granted under the authority of RCW 72.01.370, subsections (1) and (2): PROVIDED FURTHER, That no state funds shall be expended in connection with leaves of absence granted under RCW 72.01.370, subsections (1) and (2), unless such inmate and his or her immediate family are indigent and without resources sufficient to reimburse the state for the expenses of such leaves of absence. [2012 c 117 § 453; 1981 c 136 § 73; 1979 c 141 § 165; 1959 c 40 § 2.]

Additional notes found at www.leg.wa.gov

72.01.410 Placement of person convicted as an adult for a felony offense committed under the age of eighteen.

(2021 Ed.)

(1) Whenever any person is convicted as an adult in the courts of this state of a felony offense committed under the age of eighteen, and is committed for a term of confinement, that person shall be initially placed in a facility operated by the department of children, youth, and families. The department of corrections shall determine the person's earned release date.

(a) While in the custody of the department of children, youth, and families, the person must have the same treatment, housing options, transfer, and access to program resources as any other person committed to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under (d) of this subsection, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. The person shall not be transferred to the custody of the department of corrections without the approval of the department of children, youth, and families until the person reaches the age of twenty-five.

(b) If the person's sentence includes a term of community custody, the department of children, youth, and families shall not release the person to community custody until the department of corrections has approved the person's release plan pursuant to RCW 9.94A.729(5)(b). If a person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the person completes the ordered term of confinement prior to age twenty-five.

(c) If the department of children, youth, and families determines that retaining custody of the person in a facility of the department of children, youth, and families presents a significant safety risk, the department of children, youth, and families may transfer the person to the custody of the department of corrections.

(d) The department of corrections must retain authority over custody decisions relating to a person whose earned release date is on or after the person's twenty-fifth birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under RCW 72.01.412, and must approve any leave from the facility. When the person turns age twenty-five, he or she must be transferred to the department of corrections, except as described under RCW 72.01.412. The department of children, youth, and families has all routine and day-to-day operations authority for the person while the person is in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, a person under the age of eighteen who is transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from other persons in custody who are eighteen years of age or older, until the person reaches the age of eighteen.

(b) A person who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for persons under the age of eighteen if the secretary of corrections determines that: (i) The person's needs and the rehabilitation goals for the person could continue to be better met by the programs and housing environment that is separate from other persons in custody who are eighteen years of age and older; and (ii) the programs

or housing environment for persons under the age of eighteen will not be substantially affected by the continued placement of the person in that environment. The person may remain placed in a housing unit for persons under the age of eighteen until such time as the secretary of corrections determines that the person's needs and goals are no longer better met in that environment but in no case past the person's twenty-fifth birthday.

(c) A person transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

(3) The department of children, youth, and families must review the placement of a person over age twenty-one in the custody of the department of children, youth, and families under this section to determine whether the person should be transferred to the custody of the department of corrections. The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age twenty-three if the person's commitment period in a juvenile institution extends beyond the person's twenty-third birthday. [2019 c 322 § 2; 2017 3rd sp.s. c 6 § 728; 2015 c 156 § 2; 2002 c 171 § 1; 1997 c 338 § 41; 1994 c 220 § 1; 1981 c 136 § 74; 1979 c 141 § 166; 1959 c 140 § 1.]

Findings—Intent—2019 c 322: "The legislature recognizes state and national efforts to reform policies that incarcerate youth and young adults in the adult criminal justice system. The legislature acknowledges that transferring youth and young adults to the adult criminal justice system is not effective in reducing future criminal behavior. Youth and young adults incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities.

The legislature intends to enhance community safety by emphasizing rehabilitation of juveniles convicted even of the most serious violent offenses under the adult criminal justice system. Juveniles adjudicated as adults should be served and housed within the facilities of the juvenile rehabilitation administration up until age twenty-five, but released earlier if their sentence ends prior to that. In doing so, the legislature takes advantage of recent changes made by congress during the reauthorization of the juvenile justice and delinquency prevention act by the juvenile justice reform act of 2018 that allow youth and young adults who at the time of their offense are younger than the maximum age of confinement in a juvenile correctional facility, to be placed in a juvenile correctional facility by operation of state law. The emphasis on rehabilitation up to age twenty-five reflects similar programming in other states, which has significantly reduced recidivism of juveniles confined in adult correctional facilities." [2019 c 322 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Juvenile not to be confined with adult inmates: RCW 13.04.116.

Additional notes found at www.leg.wa.gov

72.01.412 Placement in partial confinement on electronic home monitoring after twenty-fifth birthday—Person in the custody of the department of children, youth, and families with an earned release date between the person's twenty-fifth and twenty-sixth birthdays—When authorized—Conditions of placement. (Contingent expiration date.) (1) A person in the custody of the department of

children, youth, and families under RCW 72.01.410 who has an earned release date that is after the person's twenty-fifth birthday but on or before the person's twenty-sixth birthday may, after turning twenty-five, serve the remainder of the person's term of confinement in partial confinement on electronic home monitoring under the authority and supervision of the department of children, youth, and families, provided that the department of children, youth, and families determines that such placement and retention by the department of children, youth, and families is in the best interests of the person and the community. The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

(2) A person placed on electronic home monitoring under this section must otherwise continue to be subject to similar treatment, options, access to programs and resources, conditions, and restrictions applicable to other similarly situated persons under the jurisdiction of the department of children, youth, and families. If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

(3) If a person placed on electronic home monitoring under this section commits a violation requiring the return of the person to total confinement, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence. [2019 c 322 § 6.]

Findings—Intent—2019 c 322: See note following RCW 72.01.410.

72.01.412 Eligibility for community transition services. (Contingent effective date.) (1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 is eligible for community transition services under the authority and supervision of the department of children, youth, and families:

(a) After the person's 25th birthday:

(i) If the person's earned release date is after the person's 25th birthday but on or before the person's 26th birthday; and

(ii) The department of children, youth, and families determines that placement in community transition services is in the best interests of the person and the community; or

(b) After 60 percent of their term of confinement has been served, and no less than 15 weeks of total confinement served including time spent in detention prior to sentencing or the entry of a dispositional order if:

(i) The person has an earned release date that is before their 26th birthday; and

(ii) The department of children, youth, and families determines that such placement and retention by the department of children, youth, and families is in the best interests of the person and the community.

(2) "Term of confinement" as used in subsection (1)(a) of this section means the term of confinement ordered, reduced by the total amount of earned time eligible for the offense.

(3) The department's determination under subsection (1)(a)(ii) and (b)(ii) of this section must include consideration of the person's behavior while in confinement and any disciplinary considerations.

(4) The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

(5) A person may only be placed in community transition services under this section for the remaining 18 months of their term of confinement.

(6) A person placed in community transition services under this section must have access to appropriate treatment and programming as determined by the department of children, youth, and families, including but not limited to:

- (a) Behavioral health treatment;
- (b) Independent living;
- (c) Employment;
- (d) Education;
- (e) Connections to family and natural supports; and
- (f) Community connections.

(7) If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

(8) If a person placed on community transition services under this section commits a violation requiring the return of the person to total confinement after the person's 25th birthday, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence.

(9) The following persons are not eligible for community transition services under this section:

- (a) Persons with pending charges or warrants;
- (b) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;
- (c) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;
- (d) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;
- (e) Level III sex offenders; and
- (f) Persons requiring out-of-state placement.

(10) As used in this section, "community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of his or her term of confinement residing in the community, outside of the department of children, youth, and families institutions and community facilities;

(b) The department of children, youth, and families supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department of children, youth, and families provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department of children, youth, and families prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race; ethnicity; sexual identity; and gender identity. [2021 c 206 § 2; 2019 c 322 § 6.]

Contingent effective date—2021 c 206: "(1) Sections 1 through 6, 8, and 9 of this act take effect six months after the department of children, youth, and families designs and implements a risk assessment tool as defined

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in RCW 13.40.020 used to determine eligibility for "community transition services" as provided under RCW 13.40.205(13) and provides notice as required under subsection (2) of this section.

(2) The department of children, youth, and families must provide notice of the implementation of a risk assessment tool described under subsection (1) of this section to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department of children, youth, and families." [2021 c 206 § 11.]

Findings—2021 c 206: "The legislature finds that:

(1) The department of children, youth, and families seeks to expand trauma-informed, culturally relevant, racial equity-based, and developmentally appropriate therapeutic placement supports in less restrictive community settings. Under current law, these supports are limited to placement in community facilities—which are only available for about 25 percent of juvenile rehabilitation's population—and electronic home monitoring for persons serving adult sentences in the custody of the department of children, youth, and families' juvenile rehabilitation who have an earned release date between the ages of 25 and 26.

(2) To help reduce the bottleneck of youth and young adults placed in the department's juvenile rehabilitation institutions and enhance community-based, less restrictive options, this act creates a community transition services program, which utilizes electronic home monitoring as a tool embedded in a progressively supportive community-based approach with therapeutic supports for young people reentering the community. This approach considers developmentally appropriate programs for successful reentry by increasing access to community transition services, including housing assistance, behavioral health treatment, independent living, employment, education, and family and community connections." [2021 c 206 § 1.]

Appropriation—Rental vouchers—2021 c 206: "Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families may issue rental vouchers for a period not to exceed six months for those transferring to community transition services under this act if an approved address cannot be obtained without the assistance of a voucher." [2021 c 206 § 8.]

Findings—Intent—2019 c 322: See note following RCW 72.01.410.

72.01.415 Offender under eighteen confined to a jail—Segregation from adult offenders. An offender under the age of eighteen who is convicted in adult criminal court of a crime and who is committed for a term of confinement in a jail as defined in RCW 70.48.020, must be housed in a jail cell that does not contain adult offenders, until the offender reaches the age of eighteen. [1997 c 338 § 42.]

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Additional notes found at www.leg.wa.gov

72.01.430 Transfer of equipment, supplies, livestock between institutions—Notice—Conditions. The secretary, notwithstanding any provision of law to the contrary, is hereby authorized to transfer equipment, livestock and supplies between the several institutions within the department without reimbursement to the transferring institution excepting, however, any such equipment donated by organizations for the sole use of such transferring institutions. Whenever transfers of capital items are made between institutions of the department, notice thereof shall be given to the director of the department of enterprise services accompanied by a full description of such items with inventory numbers, if any. [2015 c 225 § 112; 1981 c 136 § 75; 1979 c 141 § 167; 1967 c 23 § 1; 1961 c 193 § 1.]

Additional notes found at www.leg.wa.gov

72.01.450 Use of facilities, equipment and personnel by school districts and institutions of higher learning authorized. The secretary is authorized to enter into agree-

ments with any school district or any institution of higher learning for the use of the facilities, equipment and personnel of any state institution of the department, for the purpose of conducting courses of education, instruction or training in the professions and skills utilized by one or more of the institutions, at such times and under such circumstances and with such terms and conditions as may be deemed appropriate. [1981 c 136 § 76; 1979 c 141 § 168; 1970 ex.s. c 50 § 2; 1967 c 46 § 1.]

Additional notes found at www.leg.wa.gov

72.01.452 Use of facilities, equipment and personnel by state agencies, counties, cities or political subdivisions. The secretary is authorized to enter into an agreement with any agency of the state, a county, city or political subdivision of the state for the use of the facilities, equipment and personnel of any institution of the department for the purpose of conducting courses of education, instruction or training in any professional skill having a relationship to one or more of the functions or programs of the department. [1979 c 141 § 169; 1970 ex.s. c 50 § 3.]

72.01.454 Use of facilities by counties, community service organizations, nonprofit associations, etc. (1) The secretary may permit the use of the facilities of any state institution by any community service organization, nonprofit corporation, group or association for the purpose of conducting a program of education, training, entertainment or other purpose, for the residents of such institutions, if determined by the secretary to be beneficial to such residents or a portion thereof.

(2) The secretary may permit the nonresidential use of the facilities of any state institution by any county, community service organization, nonprofit corporation, group or association for the purpose of conducting programs under RCW 72.06.070. [1982 c 204 § 15; 1979 c 141 § 170; 1970 ex.s. c 50 § 5.]

72.01.458 Use of files and records for courses of education, instruction and training at institutions. In any course of education, instruction or training conducted in any state institution of the department use may be made of selected files and records of such institution, notwithstanding the provisions of any statute to the contrary. [1970 ex.s. c 50 § 4.]

72.01.460 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands.

(1) Any lease of public lands with outdoor recreation potential authorized by the department shall be open and available to the public for compatible recreational use unless the department determines that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a departmental program. Any lessee may file an application with the department to close the leased land to any public use. The department shall cause written notice of the impending closure to be posted in a conspicuous place in the department's Olympia office, at the principal office of the institution administering the land, and in the office of the

county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the department that posting is not necessary, the lessee shall desist from posting. Upon a determination by the department that posting is necessary, the lessee shall post his or her leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his or her immediate family to use any such posted land for recreational purposes.

(2) The department may insert the provisions of subsection (1) of this section in all leases hereafter issued. [2012 c 117 § 454; 1981 c 136 § 77; 1979 c 141 § 171; 1969 ex.s. c 46 § 2.]

Additional notes found at www.leg.wa.gov

72.01.480 Agreements with nonprofit organizations to provide services for persons admitted or committed to institutions. The secretary is authorized to enter into agreements with any nonprofit corporation or association for the purpose of providing and coordinating voluntary and community based services for the treatment or rehabilitation of persons admitted or committed to any institution under the supervision of the department. [1981 c 136 § 78; 1979 c 141 § 172; 1970 ex.s. c 50 § 1.]

Additional notes found at www.leg.wa.gov

72.01.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 163.]

Chapter 72.02 RCW ADULT CORRECTIONS

Sections

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72.02.015 Powers of court or judge not impaired.

Nothing in this chapter shall be construed to restrict or impair the power of any court or judge having jurisdiction to pronounce sentence upon a person to whom this chapter applies, to fix the term of imprisonment and to order commitment, according to law, nor to deny the right of any such court or judge to sentence to imprisonment; nor to deny the right of any such court or judge to suspend sentence or the execution of judgment thereon or to make any other disposition of the case pursuant to law. [1988 c 143 § 9; 1959 c 214 § 13. Formerly RCW 72.13.130.]

72.02.040 Secretary acting for department exercises powers and duties. The secretary of corrections acting for the department of corrections shall exercise all powers and perform all duties prescribed by law with respect to the administration of any adult correctional program by the department of corrections. [1981 c 136 § 79; 1970 ex.s. c 18 § 57; 1959 c 28 § 72.02.040. Prior: 1957 c 272 § 16. Formerly RCW 43.28.110.]

Additional notes found at www.leg.wa.gov

72.02.045 Superintendent's authority. The superintendent of each institution has the powers, duties, and responsibilities specified in this section.

(1) Subject to the rules of the department, the superintendent is responsible for the supervision and management of the institution, the grounds and buildings, the subordinate officers and employees, and the prisoners committed, admitted, or transferred to the institution.

(2) Subject to the rules of the department and the director of the division of prisons or his or her designee and the Washington personnel resources board, the superintendent shall appoint all subordinate officers and employees.

(3) The superintendent, subject to approval by the secretary, has the authority to determine the types and amounts of property that convicted persons may possess in department facilities. This authority includes the authority to determine the types and amounts that the department will transport at the department's expense whenever a convicted person is transferred between department institutions or to other jurisdictions. Convicted persons are responsible for the costs of transporting their excess property. If a convicted person fails to pay the costs of transporting any excess property within ninety days from the date of transfer, such property shall be presumed abandoned and may be disposed of in the manner allowed by RCW 63.42.040 (1) through (3). The superintendent shall be the custodian of all funds and valuable personal property of convicted persons as may be in their possession upon admission to the institution, or which may be sent or brought in to such persons, or earned by them while in custody, or which shall be forwarded to the superintendent on behalf of convicted persons. All such funds shall be deposited in the personal account of the convicted person and the super-

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intendent shall have authority to disburse moneys from such person's personal account for the personal and incidental needs of the convicted person as may be deemed reasonably necessary. When convicted persons are released from the custody of the department either on parole, community placement, community custody, community supervision, or discharge, all funds and valuable personal property in the possession of the superintendent belonging to such convicted persons shall be delivered to them. In no case shall the state of Washington, or any state officer, including state elected officials, employees, or volunteers, be liable for the loss of such personal property, except upon a showing that the loss was occasioned by the intentional act, gross negligence, or negligence of the officer, official, employee, or volunteer, and that the actions or omissions occurred while the person was performing, or in good faith purporting to perform, his or her official duties. Recovery of damages for loss of personal property while in the custody of the superintendent under this subsection shall be limited to the lesser of the market value of the item lost at the time of the loss, or the original purchase price of the item or, in the case of hand-made goods, the materials used in fabricating the item.

(4) The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall make, amend, and repeal rules for the administration, supervision, discipline, and security of the institution.

(5) When in the superintendent's opinion an emergency exists, the superintendent may promulgate temporary rules for the governance of the institution, which shall remain in effect until terminated by the director of the division of prisons or the secretary.

(6) The superintendent shall perform such other duties as may be prescribed. [2005 c 382 § 1; 1993 c 281 § 63; 1988 c 143 § 2.]

Health care: RCW 41.05.280.

Additional notes found at www.leg.wa.gov

72.02.055 Appointment of associate superintendents.

The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall appoint such associate superintendents as shall be deemed necessary, who shall have such qualifications as shall be determined by the secretary. In the event the superintendent is absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his or her duties, one of the associate superintendents of such institution as may be designated by the director of the division of prisons and the secretary shall act as superintendent. [1988 c 143 § 3.]

72.02.100 Earnings, clothing, transportation, subsistence payments, and rental vouchers upon release of certain prisoners.

(1) Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the indeterminate sentence review board, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his or her earnings from labor or employment while in confinement and shall be supplied by the superinten-

dent of the state correctional facility with suitable and presentable clothing, the sum of forty dollars for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of one hundred dollars to his or her place of residence or the place designated in his or her parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: PROVIDED, That up to sixty additional dollars may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's community corrections officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to this section or RCW 72.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses.

(2) Within existing resources, the department of corrections may provide temporary housing assistance for a person being released from the Washington corrections center for women or mission creek corrections center for women through the use of rental vouchers, for a period not to exceed three months, if such assistance will support the person's release into the community. The department's authority to provide vouchers under this section is independent of its authority under RCW 9.94A.729. [2017 c 214 § 1; 2012 c 117 § 455; 1988 c 143 § 5; 1971 ex.s. c 171 § 1.]

72.02.110 Weekly payments to certain released prisoners. As state, federal or other funds are available, the secretary of corrections or his or her designee is authorized, in his or her discretion, not to provide the forty dollars subsistence money or the optional sixty dollars to a person or persons released as described in RCW 72.02.100, and instead to utilize the authorization and procedure contained in this section relative to such person or persons.

Any person designated by the secretary serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the indeterminate sentence review board, or is discharged from custody upon expiration of sentence, or is ordered discharged from custody by a court of appropriate jurisdiction, shall receive the sum of fifty-five dollars per week for a period of up to six weeks. The initial weekly payment shall be made to such person upon his or her release or parole by the superintendent of the institution. Subsequent weekly payments shall be made to such person by the community corrections officer at the office of such officer. In addition to the initial six weekly payments provided for in this section, a community corrections officer and his or her supervisor may, at their discretion, continue such payments up to a maximum of twenty additional weeks when they are satisfied that such person is actively seeking employment and that such payments are necessary to continue the efforts of such person to gain

employment: PROVIDED, That if, at the time of release or parole, in the opinion of the superintendent funds are otherwise available to such person, with the exception of earnings from labor or employment while in confinement, such weekly sums of money or part thereof shall not be provided to such person.

When a person receiving such payments provided for in this section becomes employed, he or she may continue to receive payments for two weeks after the date he or she becomes employed but payments made after he or she becomes employed shall be discontinued as of the date he or she is first paid for such employment: PROVIDED, That no person shall receive payments for a period exceeding the twenty-six week maximum as established in this section.

The secretary of corrections may annually adjust the amount of weekly payment provided for in this section to reflect changes in the cost of living and the purchasing power of the sum set for the previous year. [2012 c 117 § 456; 1988 c 143 § 6; 1981 c 136 § 80; 1971 ex.s. c 171 § 2.]

Additional notes found at www.leg.wa.gov

72.02.150 Disturbances at state penal facilities—Development of contingency plans—Scope—Local participation. The secretary or the secretary's designee shall be responsible for the preparation of contingency plans for dealing with disturbances at state penal facilities. The plans shall be developed or revised in cooperation with representatives of state and local agencies at least annually. Contingency plans developed shall encompass contingencies of varying levels of severity, specific contributions of personnel and material from participating agencies, and a unified chain of command. Agencies providing personnel under the plan shall provide commanders for the personnel who will be included in the unified chain of command. [1982 c 49 § 1.]

72.02.160 Disturbances at state penal facilities—Utilization of outside law enforcement personnel—Scope. Whenever the secretary or the secretary's designee determines that due to a disturbance at a state penal facility within the jurisdiction of the department that the assistance of law enforcement officers in addition to department of corrections' personnel is required, the secretary may notify the Washington state patrol, the chief law enforcement officer of any nearby county and the county in which the facility is located, and the chief law enforcement officer of any municipality near the facility or in which the facility is located. These law enforcement agencies may provide such assistance as expressed in the contingency plan or plans, or as is deemed necessary by the secretary, or the secretary's designee, to restore order at the facility, consistent with the resources available to the law enforcement agencies and the law enforcement agencies' other statutory obligations. While on the grounds of a penal facility and acting under this section, all law enforcement officials shall be under the immediate control of their respective supervisors who shall be responsive to the secretary, or the secretary's designee, which designee need not be an employee of the department of corrections. [1982 c 49 § 2.]

Reimbursement for local support at prison disturbances: RCW 72.72.050, 72.72.060.

72.02.200 Reception and classification units. There shall be units known as reception and classification centers which, subject to the rules and regulations of the department, shall be charged with the function of receiving and classifying all persons committed or transferred to the institution, taking into consideration age, type of crime for which committed, physical condition, behavior, attitude and prospects for reformation for the purposes of confinement and treatment of offenders convicted of offenses punishable by imprisonment, except offenders convicted of crime and sentenced to death. [1988 c 143 § 7; 1959 c 214 § 11. Formerly RCW 72.13.110.]

72.02.210 Sentence—Commitment to reception units. Any offender convicted of an offense punishable by imprisonment, except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department without designating the name of such institution, and be committed to the reception units for classification, confinement and placement in such correctional facility under the supervision of the department as the secretary shall deem appropriate. [1988 c 143 § 8; 1981 c 136 § 95; 1979 c 141 § 206; 1959 c 214 § 12. Formerly RCW 72.13.120.]

Additional notes found at www.leg.wa.gov

72.02.220 Cooperation with reception units by state agencies. The indeterminate sentence review board and other state agencies shall cooperate with the department in obtaining necessary investigative materials concerning offenders committed to the reception unit and supply the reception unit with necessary information regarding social histories and community background. [1988 c 143 § 10; 1979 c 141 § 207; 1959 c 214 § 14. Formerly RCW 72.13.140.]

Indeterminate sentences: Chapter 9.95 RCW.

72.02.230 Persons to be received for classification and placement. The division of prisons shall receive all persons convicted of a felony by the superior court and committed by the superior court to the reception units for classification and placement in such facility as the secretary shall designate. The superintendent of these institutions shall only receive prisoners for classification and study in the institution upon presentation of certified copies of a judgment, sentence, and order of commitment of the superior court and the statement of the prosecuting attorney, along with other reports as may have been made in reference to each individual prisoner. [1988 c 143 § 11; 1984 c 114 § 4; 1979 c 141 § 208; 1959 c 214 § 15. Formerly RCW 72.13.150.]

72.02.240 Secretary to determine placement—What laws govern confinement, parole and discharge. The secretary shall determine the state correctional institution in which the offender shall be confined during the term of imprisonment. The confinement of any offender shall be governed by the laws applicable to the institution to which the offender is certified for confinement, but parole and discharge shall be governed by the laws applicable to the sen-

tence imposed by the court. [1988 c 143 § 12; 1979 c 141 § 209; 1959 c 214 § 16. Formerly RCW 72.13.160.]

72.02.250 Commitment of convicted female persons—Procedure as to death sentences. All female persons convicted in the superior courts of a felony and sentenced to a term of confinement, shall be committed to the Washington correctional institution for women. Female persons sentenced to death shall be committed to the Washington correctional institution for women, notwithstanding the provisions of RCW 10.95.170, except that the death warrant shall provide for the execution of such death sentence at the Washington state penitentiary as provided by RCW 10.95.160, and the secretary of corrections shall transfer to the Washington state penitentiary any female offender sentenced to death not later than seventy-two hours prior to the date fixed in the death warrant for the execution of the death sentence. The provisions of this section shall not become effective until the secretary of corrections certifies to the chief justice of the supreme court, the chief judge of each division of the court of appeals, the superior courts and the prosecuting attorney of each county that the facilities and personnel for the implementation of commitments are ready to receive persons committed to the Washington correctional institution for women under the provisions of this section. [1983 c 3 § 185; 1981 c 136 § 97; 1971 c 81 § 134; 1967 ex.s. c 122 § 8. Formerly RCW 72.15.060.]

Additional notes found at www.leg.wa.gov

72.02.260 Letters of inmates may be withheld. Whenever the superintendent of an institution withholds from mailing letters written by inmates of such institution, the superintendent shall forward such letters to the secretary of corrections or the secretary's designee for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the secretary for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the secretary, retained in a separate file for two years and then destroyed. [1988 c 143 § 13; 1981 c 136 § 87; 1979 c 141 § 192; 1959 c 28 § 72.08.380. Prior: 1957 c 61 § 1. Formerly RCW 72.08.380.]

Additional notes found at www.leg.wa.gov

72.02.270 Abused victims—Murder of abuser—Notice of provisions for reduction in sentence. The department shall advise all inmates in the department's custody who were convicted of a murder that the inmate committed prior to July 23, 1989, about the provisions in RCW 9.95.045, 9.95.047, and 9.94A.890. The department shall advise the inmates of the method and deadline for submitting petitions to the indeterminate sentence review board for review of the inmate's sentence. The department shall issue the notice to the inmates no later than July 1, 1993. [1993 c 144 § 6.]

Additional notes found at www.leg.wa.gov

72.02.280 Motion pictures. Motion pictures unrated after November 1968 or rated X or NC-17 by the motion picture association of America shall not be shown in adult correctional facilities. [1994 sp.s. c 7 § 808.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

Chapter 72.04A RCW PROBATION AND PAROLE

Sections

- 72.04A.050 Transfer of certain powers and duties of board of prison terms and paroles to secretary of corrections.
 72.04A.070 Plans and recommendations for conditions of supervision of parolees.
 72.04A.080 Parolees subject to supervision of department—Progress reports.
 72.04A.090 Violations of parole or probation—Revision of parole conditions—Detention.
 72.04A.120 Parolee supervision intake fees.
 72.04A.900 RCW 72.04A.050 through 72.04A.090 inapplicable to felonies committed after July 1, 1984.

Counties may provide probation and parole services: RCW 36.01.070.

Indeterminate sentence review board: Chapter 9.95 RCW.

Siting of community-based facilities: RCW 72.65.220.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

72.04A.050 Transfer of certain powers and duties of board of prison terms and paroles to secretary of corrections. The powers and duties of the state *board of prison terms and paroles, relating to (1) the supervision of parolees of any of the state penal institutions, (2) the supervision of persons placed on probation by the courts, and (3) duties with respect to persons conditionally pardoned by the governor, are transferred to the secretary of corrections.

This section shall not be construed as affecting any of the remaining powers and duties of the *board of prison terms and paroles including, but not limited to, the following:

- (1) The fixing of minimum terms of confinement of convicted persons, or the reconsideration of its determination of minimum terms of confinement;
- (2) Determining when and under what conditions a convicted person may be released from custody on parole, and the revocation or suspension of parole or the modification or revision of the conditions of the parole, of any convicted person. [1981 c 136 § 81; 1979 c 141 § 173; 1967 c 134 § 7.]

***Reviser's note:** The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

Additional notes found at www.leg.wa.gov

72.04A.070 Plans and recommendations for conditions of supervision of parolees. The secretary of corrections shall cause to be prepared plans and recommendations for the conditions of supervision under which each inmate of any state penal institutions who is eligible for parole may be released from custody. Such plans and recommendations shall be submitted to the *board of prison terms and paroles which may, at its discretion, approve, reject, or revise or amend such plans and recommendations for the conditions of supervision of release of inmates on parole, and, in addition, the board may stipulate any special conditions of supervision to be carried out by a probation and parole officer. [1981 c 136 § 82; 1979 c 141 § 174; 1967 c 134 § 9.]

***Reviser's note:** The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

72.04A.080 Parolees subject to supervision of department—Progress reports. Each inmate hereafter released on parole shall be subject to the supervision of the department of corrections, and the probation and parole officers of the department shall be charged with the preparation of progress reports of parolees and to give guidance and supervision to such parolees within the conditions of a parolee's release from custody. Copies of all progress reports prepared by the probation and parole officers shall be supplied to the *board of prison terms and paroles for their files and records. [1981 c 136 § 83; 1979 c 141 § 175; 1967 c 134 § 10.]

***Reviser's note:** The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

Additional notes found at www.leg.wa.gov

72.04A.090 Violations of parole or probation—Revision of parole conditions—Detention. Whenever a parolee breaches a condition or conditions under which he or she was granted parole, or violates any law of the state or rules and regulations of the indeterminate sentencing [sentence] review board, any probation and parole officer may arrest, or cause the arrest and suspension of parole of, such parolee without a warrant, pending a determination by the board. The facts and circumstances of such conduct of the parolee shall be reported by the probation and parole officer, with recommendations, to the indeterminate sentence review board, who may order the revocation or suspension of parole, revise or modify the conditions of parole or take such other action as may be deemed appropriate in accordance with RCW 9.95.120. The indeterminate sentence review board, after consultation with the secretary of corrections, shall make all rules and regulations concerning procedural matters, which shall include the time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the indeterminate sentence review board to perform its functions under this section.

The probation and parole officers shall have like authority and power regarding the arrest and detention of a probationer who has breached a condition or conditions under which he or she was granted probation by the superior court, or violates any law of the state, pending a determination by the superior court.

In the event a probation and parole officer shall arrest or cause the arrest and suspension of parole of a parolee or probationer in accordance with the provisions of this section, such parolee or probationer shall be confined and detained in the county jail of the county in which the parolee or probationer was taken into custody, and the sheriff of such county shall receive and keep in the county jail, where room is available, all prisoners delivered thereto by the probation and parole officer, and such parolees shall not be released from custody on bail or personal recognizance, except upon approval of the indeterminate sentence review board and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole. [2012 c 117 § 457; 1981 c 136 § 84; 1979 c 141 § 176; 1969 c 98 § 1; 1967 c 134 § 11.]

Suspension, revision of parole, retaking violators, community corrections officers, etc.: RCW 9.95.120.

Additional notes found at www.leg.wa.gov

72.04A.120 Parolee supervision intake fees. (1) Any person placed on parole shall be required to pay the supervision intake fee, prescribed under RCW 9.94A.780(3). The department may exempt a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment which provides the offender sufficient income to make such payments.

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

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the department.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the department.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment.

(3) Payment of the assessed amount shall constitute a condition of parole for purposes of the application of RCW 72.04A.090.

(4) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the dedicated fund established pursuant to RCW 72.11.040. [2012 c 117 § 458; 2011 1st sp.s. c 40 § 12; 1991 c 104 § 2; 1989 c 252 § 20; 1982 c 207 § 1.]

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

72.04A.900 RCW 72.04A.050 through 72.04A.090 inapplicable to felonies committed after July 1, 1984. The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW 72.04A.050, 72.04A.070, 72.04A.080, and 72.04A.090. [1981 c 137 § 34.]

Chapter 72.05 RCW

CHILDREN AND YOUTH SERVICES

Sections

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72.05.460	Youth adjudicated/sentenced by tribal court—Department may provide residential custody services in state juvenile rehabilitation facility—Contract between department and tribe.

Children with disabilities, parental responsibility, order of commitment: Chapter 26.40 RCW.

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Educational programs for residential school residents: RCW 28A.190.030 through 28A.190.060.

Employment of dental hygienist without supervision of dentist authorized: RCW 18.29.056.

Financial responsibility for cost of detention of minor: RCW 13.16.085.

Minors—Mental health services, commitment: Chapter 71.34 RCW.

Placement of person convicted as an adult for a felony offense committed under the age of eighteen: RCW 72.01.410.

Uniform interstate compact on juveniles: Chapter 13.24 RCW.

72.05.010 Declaration of purpose. (1) The purposes of RCW 72.05.010 through 72.05.210 are: To provide for every child with behavior problems, persons with disabilities, and hearing and visually impaired children, within the purview of RCW 72.05.010 through 72.05.210, as now or hereafter amended, such care, guidance and instruction, control and treatment as will best serve the welfare of the child or person and society; to insure nonpolitical and qualified operation, supervision, management, and control of the Green Hill school, the Naselle Youth Camp, Echo Glen, Lakeland Village, Rainier school, the Yakima Valley school, Fircrest school, the Child Study and Treatment Center and Secondary School of western state hospital, and like residential state schools, camps, and centers hereafter established; and to provide for the persons committed or admitted to those schools that type of care, instruction, and treatment most likely to accomplish their rehabilitation and restoration to normal citizenship.

(2) To further such purposes, Green Hill School, Echo Glen, Naselle Youth Camp, and such other juvenile rehabilitation facilities, as may hereafter be established, are placed under the department of children, youth, and families; Lakeland Village, Rainier school, the Yakima Valley school, Fircrest school, the Child Study and Treatment Center and Secondary School of western state hospital, and like residential state schools, camps, and centers, hereafter established, are

placed under the department of social and health services. [2020 c 274 § 54; 2017 3rd sp.s. c 6 § 701; 1985 c 378 § 9; 1980 c 167 § 7; 1979 ex.s. c 217 § 7; 1979 c 141 § 177; 1959 c 28 § 72.05.010. Prior: 1951 c 234 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.05.020 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(2) "Department" means the department of children, youth, and families.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "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.

(5) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a juvenile offender'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 a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

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

(c) Guide a juvenile offender from one location to another.

(6) "Postpartum recovery" means (a) the entire period a 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 youth leaves the hospital, birthing center, or clinic.

(7) "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.

(8) "Secretary" means the secretary of the department.

(9) "Service provider" means the entity that operates a community facility.

(10) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the institution or community facility to another location from the moment she leaves the institution or community facility to the time of arrival at the other location, and includes the

escorting of the pregnant incarcerated woman or youth from the institution or community facility to a transport vehicle and from the vehicle to the other location. [2017 3rd sp.s. c 6 § 702; 2010 c 181 § 7; 1998 c 269 § 2; 1979 c 141 § 178; 1970 ex.s. c 18 § 58; 1959 c 28 § 72.05.020. Prior: 1951 c 234 § 2. Formerly RCW 43.19.260.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—Finding—1998 c 269: "It is the intent of the legislature to:

(1) Enhance public safety and maximize the rehabilitative potential of juvenile offenders through modifications to licensed community residential placements for juveniles;

(2) Ensure community support for community facilities by enabling community participation in decisions involving these facilities and assuring the safety of communities in which community facilities for juvenile offenders are located; and

(3) Improve public safety by strengthening the safeguards in placement, oversight, and monitoring of the juvenile offenders placed in the community, and by establishing minimum standards for operation of licensed residential community facilities. The legislature finds that community support and participation is vital to the success of community programming." [1998 c 269 § 1.]

Additional notes found at www.leg.wa.gov

72.05.130 Powers and duties of department—"Close security" institutions designated. The department of social and health services and the department of children, youth, and families shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control, and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities, placed under the control of each, except for the programs of education provided pursuant to RCW 28A.190.030 through 28A.190.050 which shall be established, operated, and administered by the school district conducting the program, and in order to accomplish these purposes, the powers and duties of the secretary of the department of social and health services and the secretary of the department of children, youth, and families for the institutions placed under the respective department shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. Such reports shall not be open to public inspection, but shall be open to the inspection of the governor and to the superior court judges of the state of Washington.

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of persons with disabilities, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the department, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection with, or apart from, any other state institution under the supervision and direction of the secretary of the department of social and health services or the secretary of the department of children, youth, and families. Such diagnostic services shall be avail-

able to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state. When the secretary of the department of social and health services or the secretary of the department of children, youth, and families determines it necessary, the secretary of the department of social and health services or the secretary of the department of children, youth, and families may create waiting lists and set priorities for use of diagnostic services for juvenile offenders on the basis of those most severely in need.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the department of social and health services or the department of children, youth, and families, and the transfer of such persons from any such institution, school, or facility to any other such school, institution, or facility: PROVIDED, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court.

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the department. Green Hill school is hereby designated as a "close security" institution to which shall be given the custody of children with the most serious behavior problems. [2020 c 274 § 55; 2017 3rd sp.s. c 6 § 703; 1990 c 33 § 592; 1985 c 378 § 10; 1983 c 191 § 12; 1979 ex.s. c 217 § 8; 1979 c 141 § 179; 1959 c 28 § 72.05.130. Prior: 1951 c 234 § 13. Formerly RCW 43.19.370.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

72.05.150 "Minimum security" institutions. The department shall have power to acquire, establish, maintain, and operate "minimum security" facilities for the care, custody, education, and treatment of children with less serious behavior problems. Such facilities may include parental schools or homes, farm units, and forest camps. Admission to such minimum security facilities shall be by juvenile court commitment or by transfer as herein otherwise provided. In carrying out the purposes of this section, the department may establish or acquire the use of such facilities by gift, purchase, lease, contract, or other arrangement with existing public entities, and to that end the secretary may execute necessary leases, contracts, or other agreements. In establishing forest camps, the department may contract with other divisions of the state and the federal government; including, but not limited to, the department of natural resources, the state parks and recreation commission, the U.S. forest service, and the national park service, on a basis whereby such camps may be made as nearly as possible self-sustaining. Under any such arrangement the contracting agency shall reimburse the

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department for the value of services which may be rendered by the inmates of a camp. [1979 ex.s. c 67 § 6; 1979 c 141 § 181; 1959 c 28 § 72.05.150. Prior: 1951 c 234 § 15. Formerly RCW 43.19.390.]

Additional notes found at www.leg.wa.gov

72.05.152 Juvenile forest camps—Industrial insurance benefits prohibited—Exceptions. No inmate of a juvenile forest camp who is affected by this chapter or receives benefits pursuant to RCW 72.05.152 and 72.05.154 shall be considered as an employee or to be employed by the state or the department of social and health services or the department of natural resources, nor shall any such inmate, except those provided for in RCW 72.05.154, come within any of the provisions of the workers' compensation act, or be entitled to any benefits thereunder, whether on behalf of himself or herself or any other person. All moneys paid to inmates shall be considered a gratuity. [2012 c 117 § 459; 1987 c 185 § 37; 1973 c 68 § 1.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Additional notes found at www.leg.wa.gov

72.05.154 Juvenile forest camps—Industrial insurance—Eligibility for benefits—Exceptions. From and after July 1, 1973, any inmate working in a juvenile forest camp established and operated pursuant to RCW 72.05.150, pursuant to an agreement between the department of children, youth, and families and the department of natural resources shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions provided by this section.

No inmate as described in RCW 72.05.152, until released upon an order of parole by the department of children, youth, and families, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his or her dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter amended, or to the benefits of chapter 51.36 RCW relating to medical aid: PROVIDED, That RCW 72.05.152 and this section shall not affect the eligibility, payment or distribution of benefits for any industrial injury to the inmate which occurred prior to his or her existing commitment to the department of children, youth, and families.

Any and all premiums or assessments as may arise under this section pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid by the state department of natural resources. [2017 3rd sp.s. c 6 § 704; 2012 c 117 § 460; 1973 c 68 § 2.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.05.160 Contracts with other divisions, agencies authorized. In carrying out the provisions of RCW 72.05.010 through 72.05.210, the department shall have power to contract with other divisions or departments of the

state or its political subdivisions, with any agency of the federal government, or with any private social agency. [1979 c 141 § 182; 1959 c 28 § 72.05.160. Prior: 1951 c 234 § 16. Formerly RCW 43.19.400.]

72.05.170 Counseling and consultative services. The department may provide professional counseling services to delinquent children and their parents, consultative services to communities dealing with problems of children and youth, and may give assistance to law enforcement agencies by means of juvenile control officers who may be selected from the field of police work. [1977 ex.s. c 80 § 45; 1959 c 28 § 72.05.170. Prior: 1955 c 240 § 1. Formerly RCW 43.19.405.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

72.05.200 Parental right to provide treatment preserved. Nothing in RCW 72.05.010 through 72.05.210 shall be construed as limiting the right of a parent, guardian or person standing in loco parentis in providing any medical or other remedial treatment recognized or permitted under the laws of this state. [1959 c 28 § 72.05.200. Prior: 1951 c 234 § 19. Formerly RCW 43.19.410.]

72.05.210 Juvenile court law—Applicability—Synonymous terms. RCW 72.05.010 through 72.05.210 shall be construed in connection with and supplemental to the juvenile court law as embraced in chapter 13.04 RCW. Process, procedure, probation by the court prior to commitment, and commitment shall be as provided therein. The terms "delinquency", "delinquent" and "delinquent children" as used and applied in the juvenile court law and the terms "behavior problems" and "children with behavior problems" as used in RCW 72.05.010 through 72.05.210 are synonymous and interchangeable. [1959 c 28 § 72.05.210. Prior: 1951 c 234 § 20. Formerly RCW 43.19.420.]

72.05.310 Parental schools—Personnel. The department may employ personnel, including but not limited to, superintendents and all other officers, agents, and teachers necessary to the operation of parental schools. [1979 c 141 § 184; 1959 c 28 § 72.05.310. Prior: 1957 c 297 § 3. Formerly RCW 43.28.170.]

72.05.400 Operation of community facility—Establishing or relocating—Public participation required—Secretary's duties. (1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the community facility may be operated only after the public notification and opportunities for review and comment as required by this section.

(2) The secretary shall establish a process for early and continuous public participation in establishing or relocating community facilities. The process shall include, at a minimum, public meetings in the local communities affected, as well as opportunities for written and oral comments, in the following manner:

(a) If there are more than three sites initially selected as potential locations and the selection process by the secretary or a service provider reduces the number of possible sites for a community facility to no fewer than three, the secretary or

the chief operating officer of the service provider shall notify the public of the possible siting and hold at least two public hearings in each community where a community facility may be sited.

(b) When the secretary or service provider has determined the community facility's location, the secretary or the chief operating officer of the service provider shall hold at least one additional public hearing in the community where the community facility will be sited.

(c) When the secretary has entered negotiations with a service provider and only one site is under consideration, then at least two public hearings shall be held.

(d) To provide adequate notice of, and opportunity for interested persons to comment on, a proposed location, the secretary or the chief operating officer of the service provider shall provide at least fourteen days' advance notice of the meeting to all newspapers of general circulation in the community, all radio and television stations generally available to persons in the community, any school district in which the community facility would be sited or whose boundary is within two miles of a proposed community facility, any library district in which the community facility would be sited, local business or fraternal organizations that request notification from the secretary or agency, and any person or property owner within a one-half mile radius of the proposed community facility. Before initiating this process, the department shall contact local government planning agencies in the communities containing the proposed community facility. The department shall coordinate with local government agencies to ensure that opportunities are provided for effective citizen input and to reduce the duplication of notice and meetings.

(3) The secretary shall not issue a license to any service provider until the service provider submits proof that the requirements of this section have been met.

(4) This section shall apply only to community facilities sited after September 1, 1998. [1998 c 269 § 5.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.405 Juveniles in community facility—Infraction policy—Return to institution upon serious violation—Definitions by rule. The department shall adopt an infraction policy for juveniles placed in community facilities. The policy shall require written documentation by the department and service providers of all infractions and violations by juveniles of conditions set by the department. Any juvenile who commits a serious infraction or a serious violation of conditions set by the department must be returned to an institution. The secretary shall not return a juvenile to a community facility until a new risk assessment has been completed and the secretary reasonably believes that the juvenile can adhere to the conditions set by the department. The department must define the terms "serious infraction" and "serious violation" in rule, which must include the commission of any criminal offense excluding unlawful use or possession of a controlled substance or use or possession of an alcoholic beverage. The department shall adopt and implement rules based on empirically validated best practices to appropriately address offenses involving unlawful use or possession of a controlled substance and unlawful use or possession of alco-

hol committed by individuals placed in juvenile community facilities. [2019 c 468 § 2; 1998 c 269 § 6.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.410 Violations by juveniles in community facility—Toll-free hotline for reporting. (1) The department shall publish and operate a staffed, toll-free twenty-four-hour hotline for the purpose of receiving reports of violation of conditions set for juveniles who are placed in community facilities.

(2) The department shall include the phone number on all documents distributed to the juvenile and the juvenile's employer, school, parents, and treatment providers.

(3) The department shall include the phone number in every contract it executes with any service provider after September 1, 1998. [1998 c 269 § 8.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.415 Establishing community placement oversight committees—Review and recommendations—Liability—Travel expenses—Notice to law enforcement of placement decisions. (1) The secretary shall develop a process with local governments that allows each community to establish a community placement oversight committee. The department may conduct community awareness activities. The community placement oversight committees developed pursuant to this section shall be implemented no later than September 1, 1999.

(2) The community placement oversight committees may review and make recommendations regarding the placement of any juvenile who the secretary proposes to place in the community facility.

(3) The community placement oversight committees, their members, and any agency represented by a member shall not be liable in any cause of action as a result of its decision in regard to a proposed placement of a juvenile unless the committee acts with gross negligence or bad faith in making a placement decision.

(4) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) Except as provided in RCW 13.40.215, at least seventy-two hours prior to placing a juvenile in a community facility the secretary shall provide to the chief law enforcement officer of the jurisdiction in which the community facility is sited: (a) The name of the juvenile; (b) the juvenile's criminal history; and (c) such other relevant and disclosable information as the law enforcement officer may require. [2017 3rd sp.s. c 6 § 705; 1998 c 269 § 9.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.420 Placement in community facility—Necessary conditions and actions—Department's duties. (1)

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The department shall not initially place an offender in a community facility unless:

(a) The department has conducted a risk assessment, including a determination of drug and alcohol abuse, and the results indicate the juvenile will pose not more than a minimum risk to public safety; and

(b) The offender has spent at least ten percent of his or her sentence, but in no event less than thirty days, in a secure institution operated by, or under contract with, the department.

The risk assessment must include consideration of all prior convictions and all available nonconviction data released upon request under RCW 10.97.050, and any serious infractions or serious violations while under the jurisdiction of the secretary or the courts.

(2) No juvenile offender may be placed in a community facility until the juvenile's student records and information have been received and the department has reviewed them in conjunction with all other information used for risk assessment, security classification, and placement of the juvenile.

(3) A juvenile offender shall not be placed in a community facility until the department's risk assessment and security classification is complete and local law enforcement has been properly notified. [1998 c 269 § 10.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.425 Student records and information—Necessary for risk assessment, security classification, and proper placement—Rules. (1) The department shall establish by rule, in consultation with the office of the superintendent of public instruction, those student records and information necessary to conduct a risk assessment, make a security classification, and ensure proper placement. Those records shall include at least:

(a) Any history of placement in special education programs;

(b) Any past, current, or pending disciplinary action;

(c) Any history of violent, aggressive, or disruptive behavior, or gang membership, or behavior listed in RCW 13.04.155;

(d) Any use of weapons that is illegal or in violation of school policy;

(e) Any history of truancy;

(f) Any drug or alcohol abuse;

(g) Any health conditions affecting the juvenile's placement needs; and

(h) Any other relevant information.

(2) For purposes of this section "gang" has the meaning defined in RCW 28A.225.225. [1998 c 269 § 13.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.430 Placement and supervision of juveniles in community facility—Monitoring requirements—Copies of agreements. (1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the placement and supervision of juveniles must be accomplished in accordance with this section.

(2) The secretary shall require that any juvenile placed in a community facility and who is employed or assigned as a

volunteer be subject to monitoring for compliance with requirements for attendance at his or her job or assignment. The monitoring requirements shall be included in a written agreement between the employer or supervisor, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

- (a) Acknowledgment of the juvenile's offender status;
 - (b) The name, address, and telephone number of the community facility at which the juvenile resides;
 - (c) The twenty-four-hour telephone number required under RCW 72.05.410;
 - (d) The name and work telephone number of all persons responsible for the supervision of the juvenile;
 - (e) A prohibition on the juvenile's departure from the work or volunteer site without prior approval of the person in charge of the community facility;
 - (f) A prohibition on personal telephone calls except to the community facility;
 - (g) A prohibition on receiving compensation in any form other than a negotiable instrument;
 - (h) A requirement that rest breaks during work hours be taken only in those areas at the location which are designated for such breaks;
 - (i) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;
 - (j) A requirement that any unexcused absence, tardiness, or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;
 - (k) A requirement that any notice from the juvenile that he or she will not report to the work or volunteer site be verified as legitimate by contacting the person in charge of the community facility; and
 - (l) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.
- (3) The secretary shall require that any juvenile placed in a community facility and who is enrolled in a public or private school be subject to monitoring for compliance with requirements for attendance at his or her school. The monitoring requirements shall be included in a written agreement between the school district or appropriate administrative officer, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:
- (a) Acknowledgment of the juvenile's offender status;
 - (b) The name, address, and telephone number of the community facility at which the juvenile resides;
 - (c) The twenty-four-hour telephone number required under RCW 72.05.410;
 - (d) The name and work telephone number of at least two persons at the school to contact if issues arise concerning the juvenile's compliance with the terms of his or her attendance at school;
 - (e) A prohibition on the juvenile's departure from the school without prior approval of the appropriate person at the school;
 - (f) A prohibition on personal telephone calls except to the community facility;

(g) A requirement that the juvenile remain on school grounds except for authorized and supervised school activities;

(h) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;

(i) A requirement that any unexcused absence or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;

(j) A requirement that any notice from the juvenile that he or she will not attend school be verified as legitimate by contacting the person in charge of the community facility; and

(k) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(4) The secretary shall require that when any juvenile placed in a community facility is employed, assigned as a volunteer, or enrolled in a public or private school:

(a) Program staff members shall make and document periodic and random accountability checks while the juvenile is at the school or work facility;

(b) A program counselor assigned to the juvenile shall contact the juvenile's employer, teacher, or school counselor regularly to discuss school or job performance-related issues.

(5) The department shall maintain a copy of all agreements executed under this section. The department shall also provide each affected juvenile with a copy of every agreement to which he or she is a party. The service provider shall maintain a copy of every agreement it executes under this section. [1998 c 269 § 14.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.435 Common use of residential group homes for juvenile offenders—Placement of juvenile convicted of a class A felony. (1) The department shall establish by rule a policy for the common use of residential group homes for juvenile offenders under the jurisdiction of the department.

(2) A juvenile confined under the jurisdiction of the department who is convicted of a class A felony is not eligible for placement in a community facility operated by the department that houses juveniles under the department's care pursuant to a dependency proceeding under chapter 13.34 RCW unless:

(a) The juvenile is housed in a separate living unit solely for juvenile offenders;

(b) The community facility is a specialized treatment program and the youth is not assessed as sexually aggressive under RCW 13.40.470; or

(c) The community facility is a specialized treatment program that houses one or more sexually aggressive youth and the juvenile is not assessed as sexually vulnerable under RCW 13.40.470. [2017 3rd sp.s. c 6 § 706; (2018 c 58 § 52 expired July 1, 2019); 1998 c 269 § 15.]

Expiration date—2018 c 58 § 52: "Section 52 of this act expires July 1, 2019." [2018 c 58 § 53.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.440 Eligibility for employment or volunteer position with juveniles—Must report convictions—Rules.

(1) A person shall not be eligible for an employed or volunteer position within the department of children, youth, and families or any agency with which it contracts in which the person may have regular access to juveniles under the jurisdiction of the department of children, youth, and families or the department of corrections if the person has been convicted of one or more of the following:

- (a) Any felony sex offense;
- (b) Any violent offense, as defined in RCW 9.94A.030.

(2) Subsection (1) of this section applies only to persons hired by the department or any of its contracting agencies after September 1, 1998.

(3) Any person employed by the department of children, youth, and families, or by any contracting agency, who may have regular access to juveniles under the jurisdiction of the department of children, youth, and families or the department of corrections and who is convicted of an offense set forth in this section after September 1, 1998, shall report the conviction to his or her supervisor. The report must be made within seven days of conviction. Failure to report within seven days of conviction constitutes misconduct under Title 50 RCW.

(4) For purposes of this section "may have regular access to juveniles" means access for more than a nominal amount of time.

(5) The department shall adopt rules to implement this section. [2017 3rd sp.s. c 6 § 707; 1998 c 269 § 16.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

72.05.450 Use of restraints on pregnant youth in custody—Allowed in extraordinary circumstances.

(1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant youth in an institution or a community facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee of an institution or community facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event an employee of an institution or community facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of an institution or community facility covered by this chapter must also include the kind of restraints used and the reasons those restraints were

considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or community facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee accompanying the pregnant youth shall immediately remove all restraints. [2010 c 181 § 8.]

72.05.451 Use of restraints on pregnant youth in custody—Provision of information to staff and pregnant youth in custody.

(1) The secretary shall provide an informational packet about the requirements of chapter 181, Laws of 2010 to all medical staff and nonmedical staff of the institution or community facility who are involved in the transportation of youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in RCW 70.48.800.

(2) The secretary shall cause the requirements of chapter 181, Laws of 2010 to be provided to all youth who are pregnant, at the time the secretary assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of chapter 181, Laws of 2010 to be posted in conspicuous locations in the institutions or community facilities, including but not limited to the locations in which medical care is provided within the facilities. [2010 c 181 § 9.]

72.05.460 Youth adjudicated/sentenced by tribal court—Department may provide residential custody services in state juvenile rehabilitation facility—Contract between department and tribe.

(1) The department may provide residential custody services in a state juvenile rehabilitation facility to youth adjudicated and sentenced by a court of any federally recognized Indian tribe located within the state of Washington, pursuant to a contract between the department and the tribe that is entered into in compliance with the interlocal cooperation act, chapter 39.34 RCW.

(2) As used in this section:

(a) "Residential custody services" means a comprehensive program established pursuant to RCW 72.05.130 for the custody, care, education, treatment, instruction, guidance, control, and rehabilitation of youth committed to a state juvenile rehabilitation facility.

(b) "State juvenile rehabilitation facility" means an institution as defined in *RCW 13.40.020(13), a community facility as defined in RCW 72.05.020(1), or other juvenile reha-

bilitation facility operated by the department. [2018 c 31 § 1.]

*Reviser's note: RCW 13.40.020 was amended by 2021 c 328 § 5, changing subsection (13) to subsection (14), effective January 1, 2022.

Chapter 72.06 RCW MENTAL HEALTH

Sections

- 72.06.010 "Department" defined.
72.06.050 Mental health—Dissemination of information and advice by department.
72.06.060 Mental health—Psychiatric outpatient clinics.
72.06.070 Mental health—Cooperation of department and state hospitals with local programs.

Reviser's note: 1979 ex.s. c 108, which was to be added to this chapter, has been codified as chapter 72.72 RCW.

Minors—Mental health services, commitment: Chapter 71.34 RCW.

State hospitals for individuals with mental illness: Chapter 72.23 RCW.

72.06.010 "Department" defined. "Department" for the purposes of this chapter shall mean the department of social and health services. [1970 ex.s. c 18 § 59; 1959 c 28 § 72.06.010. Prior: 1957 c 272 § 9. Formerly RCW 43.28.040.]

Additional notes found at www.leg.wa.gov

72.06.050 Mental health—Dissemination of information and advice by department. The department shall cooperate with other departments of state government and its political subdivisions in the following manner:

- (1) By disseminating educational information relating to the prevention, diagnosis and treatment of mental illness.
- (2) Upon request therefor, by advising public officers, organizations and agencies interested in the mental health of the people of the state. [1977 ex.s. c 80 § 46; 1959 c 28 § 72.06.050. Prior: 1955 c 136 § 2. Formerly RCW 43.28.600.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

72.06.060 Mental health—Psychiatric outpatient clinics. The department is hereby authorized to establish and maintain psychiatric outpatient clinics at such of the several state mental institutions as the secretary shall designate for the prevention, diagnosis and treatment of mental illnesses, and the services of such clinics shall be available to any citizen of the state in need thereof, when determined by a physician that such services are not otherwise available, subject to the rules of the department. [1979 c 141 § 185; 1977 ex.s. c 80 § 47; 1959 c 28 § 72.06.060. Prior: 1955 c 136 § 3. Formerly RCW 43.28.610.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

72.06.070 Mental health—Cooperation of department and state hospitals with local programs. The department and the several state hospitals for the mentally ill shall cooperate with local mental health programs by providing necessary information, recommendations relating to proper aftercare for patients paroled or discharged from such institutions and shall also supply the services of psychiatrists, psychologists and other persons specialized in mental illness as

they are available. [1959 c 28 § 72.06.070. Prior: 1955 c 136 § 4. Formerly RCW 43.28.620.]

Chapter 72.09 RCW DEPARTMENT OF CORRECTIONS

Sections

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72.09.560 Camp for alien offenders.

72.09.580 Offender records and reports.

72.09.585 Mental health services information—Required inquiries and disclosures—Release to court, individuals, indeterminate sentence review board, state and local agencies.

72.09.588 Pregnant inmates—Midwifery or doula services—Reasonable accommodations.

72.09.590 Community safety.

72.09.600 Rules—Chapter 196, Laws of 1999.

72.09.620 Extraordinary medical placement—Reports.

72.09.630 Custodial sexual misconduct—Investigation of allegations.

72.09.650 Use of force by limited authority Washington peace officers—Detention of persons.

72.09.651 Use of restraints on pregnant women or youth in custody—Allowed in extraordinary circumstances.

72.09.652 Use of restraints on pregnant women or youth in custody—Provision of information to staff and pregnant women and youth in custody.

72.09.670 Gang involvement among incarcerated offenders—Intervention programs—Study.

72.09.680 Statewide security advisory committee.

72.09.682 Multidisciplinary teams—Inmate job assignments.

72.09.684 Training curriculum—Safety issues—Total confinement correctional facilities.

72.09.686 Body alarms and proximity cards—Study and report.

72.09.688 Video monitoring cameras—Study and report.

72.09.690 Pepper spray—Plan for use.

72.09.710 Drug offenders—Notice of release or escape.

72.09.712 Prisoner escape, parole, release, community custody or work release placement, or furlough—Notification procedures.

72.09.713 Prisoner escape, parole, release, community custody or work release placement, or furlough—Notice of work release placement.

72.09.714 Prisoner escape, release, or furlough—Homicide, violent, and sex offenses—Rights of victims and witnesses.

72.09.716 Prisoner escape, release, or furlough—Requests for notification.

72.09.718 Prisoner escape, release, or furlough—Notification as additional requirement.

72.09.720 Prisoner escape, release, or furlough—Consequences of failure to notify.

72.09.730 Schools—Notice to designated recipient of offender release.

72.09.740 Reimbursement for state patrol expenses towards water line construction for Shelton academy.

72.09.745 Security threat groups—Information collection.

72.09.750 Access to reentry programs and services for wrongly convicted persons.

72.09.755 Department of corrections—Use of screening and assessment process.

72.09.760 Facility commissary program—Access.

72.09.765 Inmate access to telecommunication services—Contracting—Reporting.

72.09.770 Unexpected fatality review—Records—Discovery.

72.09.900 Effective date—1981 c 136.

72.09.901 Short title.

72.09.902 Construction—1981 c 136.

72.09.903 Savings—1981 c 136.

72.09.904 Construction—1999 c 196.

72.09.905 Short title—1999 c 196.

72.09.906 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Data provided for statewide automated victim information and notification system, when required: RCW 36.28A.0402.

Disturbances at state penal facilities

development of contingency plans—Scope—Local participation: RCW 72.02.150.

reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

Interagency agreement on fetal alcohol exposure programs: RCW 71.24.610.

72.09.010 Legislative intent. It is the intent of the legislature to establish a comprehensive system of corrections for convicted law violators within the state of Washington to accomplish the following objectives.

(1) The system should ensure the public safety. The system should be designed and managed to provide the maximum feasible safety for the persons and property of the general public, the staff, and the inmates.

(2) The system should punish the offender for violating the laws of the state of Washington. This punishment should generally be limited to the denial of liberty of the offender.

(3) The system should positively impact offenders by stressing personal responsibility and accountability and by discouraging recidivism.

(4) The system should treat all offenders fairly and equitably without regard to race, religion, sex, national origin, residence, or social condition.

(5) The system, as much as possible, should reflect the values of the community including:

(a) Avoiding idleness. Idleness is not only wasteful but destructive to the individual and to the community.

(b) Adoption of the work ethic. It is the community expectation that all individuals should work and through their efforts benefit both themselves and the community.

(c) Providing opportunities for self improvement. All individuals should have opportunities to grow and expand their skills and abilities so as to fulfill their role in the community.

(d) Linking the receipt or denial of privileges to responsible behavior and accomplishments. The individual who works to improve himself or herself and the community should be rewarded for these efforts. As a corollary, there should be no rewards for no effort.

(e) Sharing in the obligations of the community. All citizens, the public and inmates alike, have a personal and fiscal obligation in the corrections system. All communities must share in the responsibility of the corrections system.

(6) The system should provide for prudent management of resources. The avoidance of unnecessary or inefficient public expenditures on the part of offenders and the department is essential. Offenders must be accountable to the department, and the department to the public and the legisla-

ture. The human and fiscal resources of the community are limited. The management and use of these resources can be enhanced by wise investment, productive programs, the reduction of duplication and waste, and the joining together of all involved parties in a common endeavor. Since most offenders return to the community, it is wise for the state and the communities to make an investment in effective rehabilitation programs for offenders and the wise use of resources.

(7) The system should provide for restitution. Those who have damaged others, persons or property, have a responsibility to make restitution for these damages.

(8) The system should be accountable to the citizens of the state. In return, the individual citizens and local units of government must meet their responsibilities to make the corrections system effective.

(9) The system should meet those national standards which the state determines to be appropriate. [1995 1st sp.s. c 19 § 2; 1981 c 136 § 2.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.015 Definitions. 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.

(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 that is based on, or arises from, injury to the correctional officer or department employee caused by the inmate 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 and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate 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 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. "Immediate family" includes the immediate family of an inmate who was adopted as a child or an adult, but does not include an inmate adopted by another inmate.

(15) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a twenty-five dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

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

(17) "Inmate" means 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, 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 or limit an offender'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 from completing an act that would result in potential bodily harm to self or others or damage property;

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

(c) Guide an offender 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 (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. [2020 c 319 § 2; 2013 c 39 § 22. Prior: 2011 1st sp.s. c 21 § 38; 2011 c 282 § 1; 2010 c 181 § 1; 2009 c 521 § 165; 2008 c 231 § 47; 2007 c 483 § 202; 2004 c 167 § 6; 1995 1st sp.s. c 19 § 3; 1987 c 312 § 2.]

(2021 Ed.)

Finding—2020 c 319: "The legislature recognizes the importance of maintaining strong family ties throughout an individual's period of incarceration to help facilitate rehabilitation. Studies have shown that regular visits from family members can reduce recidivism rates by thirteen percent. The legislature recognizes the importance and value that a strong, connected family network can provide to an individual once he or she is released from incarceration. The legislature further recognizes the financial and emotional toll that incarceration can take on the family of those experiencing incarceration. The legislature resolves to increase family interaction by expanding eligibility for family visitation and by providing transparency and availability of services inside correctional institutions. Furthermore, the current indigent cap of ten dollars, which has not increased since 1995, limits access to services inside correctional institutions. Therefore, the legislature finds and declares that the cap shall be increased to twenty-five dollars." [2020 c 319 § 1.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Intent—2007 c 483: See note following RCW 72.09.270.

Findings—2007 c 483: See RCW 72.78.005.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

Additional notes found at www.leg.wa.gov

72.09.030 Department created—Secretary. There is created a department of state government to be known as the department of corrections. The executive head of the department shall be the secretary of corrections who shall be appointed by the governor with the consent of the senate. The secretary shall serve at the pleasure of the governor and shall receive a salary to be fixed under RCW 43.03.040. [1981 c 136 § 3.]

72.09.040 Transfer of functions from department of social and health services. All powers, duties, and functions assigned to the secretary of social and health services and to the department of social and health services relating to adult correctional programs and institutions are hereby transferred to the secretary of corrections and to the department of corrections. Except as may be specifically provided, all functions of the department of social and health services relating to juvenile rehabilitation and the juvenile justice system shall remain in the department of social and health services. Where functions of the department of social and health services and the department of corrections overlap in the juvenile rehabilitation and/or juvenile justice area, the governor may allocate such functions between these departments. [1998 c 245 § 139; 1981 c 136 § 4.]

72.09.050 Powers and duties of secretary. The secretary shall manage the department of corrections and shall be responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons. In addition, the secretary shall have broad powers to enter into agreements with any federal agency, or any other state, or any Washington state agency or local government providing for the operation of any correctional facility or program for persons convicted of felonies or misdemeanors or for juvenile offenders. Such agreements for counties with local law and justice councils shall be required in the local law and justice plan pursuant to RCW 72.09.300. The agreements may provide for joint operation or operation

by the department of corrections, alone, for by any of the other governmental entities, alone. The secretary may employ persons to aid in performing the functions and duties of the department. The secretary may delegate any of his or her functions or duties to department employees, including the authority to certify and maintain custody of records and documents on file with the department. The secretary is authorized to promulgate standards for the department of corrections within appropriation levels authorized by the legislature.

Pursuant to the authority granted in chapter 34.05 RCW, the secretary shall adopt rules providing for inmate restitution when restitution is determined appropriate as a result of a disciplinary action. [2020 c 318 § 5. Prior: 1999 c 309 § 1902; 1999 c 309 § 924; 1995 c 189 § 1; 1991 c 363 § 149; 1987 c 312 § 4; 1986 c 19 § 1; 1981 c 136 § 5.]

Findings—Intent—Construction—Effective date—2020 c 318: See notes following RCW 72.68.110.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Additional notes found at www.leg.wa.gov

72.09.055 Affordable housing—Inventory of suitable property. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the *department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 202; 1993 c 461 § 12.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—1993 c 461: See note following RCW 43.63A.510.

72.09.057 Fees for reproduction, shipment, and certification of documents and records. The department may charge reasonable fees for the reproduction, shipment, and certification of documents, records, and other materials in the files of the department. [1995 c 189 § 2.]

72.09.060 Organization of department—Program for public involvement and volunteers. The department of corrections may be organized into such divisions or offices as the secretary may determine, but shall include divisions for (1) correctional industries, (2) prisons and other custodial institutions and (3) probation, parole, community restitution, and other nonincarcerative sanctions. The secretary shall have at least one person on his or her staff who shall have the responsibility for developing a program which encourages the use of volunteers, for citizen advisory groups, and for similar public involvement programs in the correc-

tions area. Minimum qualification for staff assigned to public involvement responsibilities shall include previous experience in working with volunteers or volunteer agencies. [2002 c 175 § 48; 1989 c 185 § 3; 1981 c 136 § 6.]

Additional notes found at www.leg.wa.gov

72.09.070 Correctional industries advisory committee—Recommendations. There is created a correctional industries advisory committee which shall have the composition provided in RCW 72.09.080. The advisory committee shall make recommendations to the secretary regarding the implementation of RCW 72.09.100. [2011 1st sp.s. c 21 § 35; 2004 c 167 § 1; 1994 sp.s. c 7 § 535; 1993 sp.s. c 20 § 3; 1989 c 185 § 4; 1981 c 136 § 8.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

72.09.080 Correctional industries advisory committee—Appointment of members, chair—Compensation—Support. (1) The correctional industries advisory committee shall consist of nine voting members, appointed by the secretary. Each member shall serve a three-year staggered term. The speaker of the house of representatives and the president of the senate shall each appoint one member from each of the two largest caucuses in their respective houses. The legislators so appointed shall be nonvoting members and shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first. The nine members appointed by the secretary shall include three representatives from labor, three representatives from business representing cross sections of industries and all sizes of employers, and three members from the general public.

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

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

(4) The secretary shall provide such staff services, facilities, and equipment as the board shall require to carry out its duties. [2011 1st sp.s. c 21 § 40; 1993 sp.s. c 20 § 4; 1989 c 185 § 5; 1981 c 136 § 9.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

72.09.090 Correctional industries account—Expenditure—Profits—Appropriations. The correctional industries account is established in the state treasury. The department of corrections shall deposit in the account all moneys collected and all profits that accrue from the industrial and agricultural operations of the department and any moneys appropriated to the account. Moneys in the account may be spent only for expenses arising in the correctional industries operations.

The division's net profits from correctional industries' sales and contracts shall be reinvested, without appropriation,

in the expansion and improvement of correctional industries. However, the secretary shall annually recommend that some portion of the profits from correctional industries be returned to the state general fund.

The secretary shall request appropriations or increased appropriations whenever it appears that additional money is needed to provide for the establishment and operation of a comprehensive correctional industries program. During the 2015-2017 fiscal biennium, the legislature may appropriate from the correctional industries account for increased case-load costs at the department of corrections such amounts as reflect the excess fund balance of the account. [2016 sp.s. c 36 § 945; 2011 1st sp.s. c 21 § 36; 1989 c 185 § 6; 1987 c 7 § 203; 1981 c 136 § 10.]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

72.09.095 Transfer of funds to department of labor and industries for crime victims' compensation. Each year the department shall transfer twenty-five percent of the total annual revenues and receipts received in each institutional betterment fund subaccount to the department of labor and industries for the purpose of providing direct benefits to crime victims through the crime victims' compensation program as outlined in chapter 7.68 RCW. This transfer takes priority over any expenditure of betterment funds and shall be reflected on the monthly financial statements of each institution's betterment fund subaccount.

Any funds so transferred to the department of labor and industries shall be in addition to the crime victims' compensation amount provided in an omnibus appropriation bill. It is the intent of the legislature that the funds forecasted or transferred pursuant to this section shall not reduce the funding levels provided by appropriation. [1995 c 234 § 2.]

Finding—1995 c 234: "The legislature finds that the responsibility for criminal activity should fall squarely on the criminal. To the greatest extent possible society should not be expected to have to pay the price for crimes twice, once for the criminal activity and again by feeding, clothing, and housing the criminal. The corrections system should be the first place criminals are given the opportunity to be responsible for their criminal act, not just through the loss of their personal freedom, but by making financial contributions to alleviate the pain and suffering of victims of crime." [1995 c 234 § 1.]

72.09.100 Inmate work program—Classes of work programs—Participation—Benefits. It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. It is also the intent of the legislature to ensure that the department, in developing and selecting correctional industries work programs, does not encourage the development of, or provide for selection of or contracting for, or the significant expansion of, any new or existing class I correctional industries work programs that unfairly compete with Washington businesses. The legislature intends that the requirements relating to fair competition in the correctional industries work programs be liberally construed by the department to protect Washington businesses from unfair competition. For purposes of establishing such a comprehensive

program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES.

(a) The employer model industries in this class shall be operated and managed in total or in part by any profit or non-profit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

(b) The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers.

(c) The department shall review these proposed industries, including any potential new class I industries work program or the significant expansion of an existing class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new class I correctional industries work program, or an agreement for a significant expansion of an existing class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

(d) The department shall supply appropriate security and custody services without charge to the participating firms.

(e) Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(f) An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) CLASS II: TAX REDUCTION INDUSTRIES.

(a) Industries in this class shall be state-owned and operated enterprises designed primarily to reduce the costs for goods and services for tax-supported agencies and for non-profit organizations.

(b)(i) The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit.

(ii) Except as provided in *RCW 43.19.534(3) and this section, the products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to the following:

(A) Public agencies;

(B) Nonprofit organizations;

(C) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization;

(D) An employee and immediate family members of an employee of the department;

(E) A person under the supervision of the department and his or her immediate family members; and

(F) A licensed health professional for the sole purpose of providing eyeglasses to enrollees of the state medical program at no more than the health professional's cost of acquisition.

(iii) The department shall authorize the type and quantity of items that may be purchased and sold under (b)(ii)(D) and (E) of this subsection.

(iv) It is prohibited to purchase any item purchased under (b)(ii)(D) and (E) of this subsection for the purpose of resale.

(v) Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons.

(c) Under no circumstance shall offenders under the custody of the department of corrections make or assemble uniforms to be worn by correctional officers employed with the department.

(d)(i) Class II correctional industries products and services shall be reviewed by the department before offering such products and services for sale to private contractors.

(ii) The secretary shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus by-products and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

(e) Security and custody services shall be provided without charge by the department.

(f) Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

(g) Provisions of RCW 41.06.142 shall not apply to contracts with Washington state businesses entered into by the department through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

(a) Industries in this class shall be operated by the department. They shall be designed and managed to accomplish the following objectives:

(i) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(ii) Whenever possible, to provide forty hours of work or work training per week.

(iii) Whenever possible, to offset tax and other public support costs.

(b) Class III correctional industries shall be reviewed by the department to set policy for work crews. The department shall prepare quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked.

(c) Supervising, management, and custody staff shall be employees of the department.

(d) All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

(e) Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES.

(a) Industries in this class shall be operated by the department. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

(b) Class IV correctional industries shall be reviewed by the department to set policy for work crews. The department shall prepare quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. Class IV correctional industries operated in work camps established pursuant to RCW 72.64.050 are exempt from the requirements of this subsection (4)(b).

(c) Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

(d) The department shall reimburse participating units of local government for liability and workers compensation insurance costs.

(e) Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

(a) Programs in this class shall be subject to supervision by the department. The purpose of this class of industries is to enable an inmate, placed on community supervision, to work off all or part of a community restitution order as ordered by the sentencing court.

(b) Employment shall be in a community restitution program operated by the state, local units of government, or a nonprofit agency.

(c) To the extent that funds are specifically made available for such purposes, the department shall reimburse nonprofit agencies for workers compensation insurance costs. [2012 c 220 § 2. Prior: 2011 1st sp.s. c 21 § 37; 2011 c 100 § 1; 2005 c 346 § 1; 2004 c 167 § 3; (2004 c 167 § 2 expired July 1, 2005); prior: 2002 c 354 § 238; 2002 c 175 § 49; 1995 1st sp.s. c 19 § 33; 1994 c 224 § 1; 1992 c 123 § 1; 1990 c 22 § 1; 1989 c 185 § 7; 1986 c 193 § 2; 1985 c 151 § 1; 1983 c 255 § 5; 1981 c 136 § 11.]

***Reviser's note:** RCW 43.19.534 was recodified as RCW 39.26.251 by 2012 c 224 § 28, effective January 1, 2013.

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Effective date—2011 c 100: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 18, 2011]." [2011 c 100 § 2.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

Fish and game projects in prison work programs subject to RCW 72.09.100: RCW 72.63.020.

Additional notes found at www.leg.wa.gov

72.09.101 Inmate work program—Administrators' duty. Administrators of work programs described in RCW 72.09.100 shall ensure that no inmate convicted of a sex offense as defined in chapter 9A.44 RCW obtains access to names, addresses, or telephone numbers of private individuals while performing his or her duties in an inmate work program. [1998 c 83 § 1.]

Additional notes found at www.leg.wa.gov

72.09.104 Prison work programs to operate automated data input and retrieval systems. The *department of general administration and the department of corrections shall implement prison work programs to operate automated data input and retrieval systems for appropriate departments of state government. [1983 c 296 § 3.]

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

Findings—1983 c 296: "The legislature finds and declares that the costs of state government automated data input and retrieval are escalating. The legislature further finds and declares that new record conversion technologies offer a promising means for coping with current records management problems." [1983 c 296 § 1.]

Additional notes found at www.leg.wa.gov

72.09.106 Subcontracting of data input and microfilm capacities. Class II correctional industries may subcontract its data input and microfilm capacities to firms from the private sector. Inmates employed under these subcontracts will be paid in accordance with the Class I free venture industries procedures and wage scale. [1989 c 185 § 8; 1983 c 296 § 4.]

Findings—Policy—1983 c 296: See notes following RCW 72.09.104.

72.09.110 Inmates' wages—Supporting cost of corrections—Crime victims' compensation and family support. All inmates working in prison industries shall participate in the cost of corrections, including costs to develop and implement correctional industries programs, by means of deductions from their gross wages. The secretary may direct the state treasurer to deposit a portion of these moneys in the crime victims compensation account. The secretary shall direct that all moneys received by an inmate for testifying in any judicial proceeding shall be deposited into the crime victims compensation account.

When the secretary finds it appropriate and not unduly destructive of the work incentive, the secretary may also provide deductions for savings and family support. [1993 sp.s. c 20 § 5; 1991 c 133 § 1; 1989 c 185 § 9; 1986 c 162 § 1; 1981 c 136 § 12.]

(2021 Ed.)

72.09.111 Inmate wages—Deductions—Availability of savings—Recovery of cost of incarceration—Definition. (1) The secretary shall deduct taxes and legal financial obligations from the wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

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

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

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

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

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

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

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

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

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

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

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

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

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

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

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

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

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

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

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

(i) Five percent for the crime victims' compensation account provided in RCW 7.68.045;

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

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

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

(i) Five percent to the department to contribute to the cost of incarceration;

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

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

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

(3)(a) The department personal inmate savings account, together with any accrued interest, may be made available to an inmate at the following times:

(i) During confinement to pay for accredited postsecondary educational expenses;

(ii) Prior to the release from confinement to pay for department-approved reentry activities that promote successful community reintegration; or

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

(b) The secretary shall establish guidelines for the release of funds pursuant to (a) of this subsection, giving consideration to the inmate's need for resources at the time of his or her release from confinement.

(c) Any funds remaining in an offender's personal inmate savings account shall be made available to the offender at the time of his or her release from confinement.

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

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

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

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the pur-

pose of enhancing and maintaining correctional industries work programs.

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

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

(10) For purposes of this section, "wages" means monetary compensation due to an offender worker by reason of his or her participation in a class I work program, subject to allowable deductions. [2017 c 81 § 1; 2011 c 282 § 2. Prior: 2010 c 122 § 5; 2010 c 116 § 1; 2009 c 479 § 60; 2007 c 483 § 605; 2004 c 167 § 7; prior: 2003 c 379 § 25; 2003 c 271 § 2; 2002 c 126 § 2; 1999 c 325 § 2; 1994 sp.s. c 7 § 534; 1993 sp.s. c 20 § 2.]

Finding—Intent—2007 c 483: See note following RCW 35.82.340.

Findings—2007 c 483: See RCW 72.78.005.

Intent—Purpose—2003 c 379 §§ 13-27: See note following RCW 9.94A.760.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

72.09.115 Proposed new class I correctional industries work program—Threshold analysis—Business impact analysis—Public hearing—Finding. (1) The department must prepare a threshold analysis for any proposed new class I correctional industries work program or the significant expansion of an existing class I correctional industries work program before the department enters into an agreement to provide such products or services. The analysis must state whether the proposed new or expanded program will impact any Washington business and must be based on information sufficient to evaluate the impact on Washington business.

(2) If the threshold analysis determines that a proposed new or expanded class I correctional industries work program will impact a Washington business, the department must complete a business impact analysis before the department enters into an agreement to provide such products or services. The business impact analysis must include:

(a) A detailed statement identifying the scope and types of impacts caused by the proposed new or expanded correctional industries work program on Washington businesses; and

(b) A detailed statement of the business costs of the proposed correctional industries work program compared to the business costs of the Washington businesses that may be impacted by the proposed class I correctional industries work program. Business costs of the proposed correctional industries work program include rent, water, sewer, electricity, disposal, labor costs, and any other quantifiable expense unique to operating in a prison. Business costs of the impacted Washington business include rent, water, sewer, electricity, disposal, property taxes, and labor costs including employee taxes, unemployment insurance, and workers' compensation.

(3) The completed threshold analysis and any completed business impact analysis with all supporting documents must

be shared in a meaningful and timely manner with local chambers of commerce, trade or business associations, local and state labor union organizations, and government entities before a finding required under subsection (4) of this section is made on the proposed new or expanded class I correctional industries work program.

(4) If a business impact analysis is completed, the department must conduct a public hearing to take public testimony on the business impact analysis. The department must, at a minimum, establish a publicly accessible web site containing information reasonably calculated to provide notice to each Washington business assigned the same three-digit standard industrial classification code, or the corresponding North American industry classification system code, as the organization seeking the class I correctional industries work program agreement of the date, time, and place of the hearing. Notice of the hearing shall be posted at least thirty days prior to the hearing.

(5) Following the public hearing, the department shall adopt a finding that the proposed new or expanded class I correctional industries work program: (a) Will not compete with any Washington business; (b) will not compete unfairly with any Washington business; or (c) will compete unfairly with any Washington business and is therefore prohibited under chapter 167, Laws of 2004. [2004 c 167 § 4.]

72.09.116 Information obtained under RCW 72.09.115 exempt from public disclosure. All records, documents, data, and other materials obtained under the requirements of RCW 72.09.115 from an existing correctional industries class I work program participant or an applicant for a proposed new or expanded class I correctional industries work program are exempt from public disclosure under chapter 42.56 RCW. [2005 c 274 § 347; 2004 c 167 § 8.]

72.09.120 Distribution of list of inmate job opportunities. In order to assist inmates in finding work within prison industries, the department shall periodically prepare and distribute a list of prison industries' job opportunities, which shall include job descriptions and the educational and skill requirements for each job. [1981 c 136 § 16.]

72.09.130 Incentive system for participation in education and work programs—Rules—Dissemination. (1) The department shall adopt, by rule, a system that clearly links an inmate'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 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 can earn for good conduct and good performance.

(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, staff, and the public. At least once in each twelve-month period, the department shall inform the offender in writing as to his or her conduct and performance. This written evaluation shall include reasons for awarding or not awarding rec-

ommended earned early release days for good conduct and good performance. An inmate 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.

(3) The department shall provide each offender in its custody a written description of the system created under this section. [1995 1st sp.s. c 19 § 6; 1981 c 136 § 17.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.135 Adoption of standards for correctional facilities. The department of corrections shall, no later than July 1, 1987, adopt standards for the operation of state adult correctional facilities. These standards shall be the minimums necessary to meet federal and state constitutional requirements relating to health, safety, and welfare of inmates and staff, and specific state and federal statutory requirements, and to provide for the public's health, safety, and welfare. The need for each standard shall be documented. [1987 c 462 § 15.]

Additional notes found at www.leg.wa.gov

72.09.190 Legal services for inmates. (1) It is the intent of the legislature that reasonable legal services be provided to persons committed to the custody of the department of corrections. The department shall contract with persons or organizations to provide legal services. The secretary shall adopt procedures designed to minimize any conflict of interest, or appearance thereof, in respect to the provision of legal services and the department's administration of such contracts.

(2) Persons who contract to provide legal services are expressly forbidden to solicit plaintiffs or promote litigation which has not been pursued initially by a person entitled to such services under this section.

(3) Persons who contract to provide legal services shall exhaust all informal means of resolving a legal complaint or dispute prior to the filing of any court proceeding.

(4) Nothing in this section forbids the secretary to supplement contracted legal services with any of the following: (a) Law libraries, (b) law student interns, and (c) volunteer attorneys.

(5) The total due a contractor as compensation, fees, or reimbursement under the terms of the contract shall be reduced by the total of any other compensation, fees, or reimbursement received by or due the contractor for the performance of any legal service to inmates during the contract period. Any amount received by a contractor under contract which is not due under this section shall be immediately returned by the contractor. [1981 c 136 § 23.]

72.09.200 Transfer of files, property, and appropriations. All reports, documents, surveys, books, records, files, papers, and other writings in the possession of the department of social and health services pertaining to the functions transferred by RCW 72.09.040 shall be delivered to the custody of the department of corrections. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed exclusively in carrying out the powers and duties transferred by RCW 72.09.040 shall be made available to the

department of corrections. All funds, credits, or other assets held in connection with the functions transferred by RCW 72.09.040 shall be assigned to the department of corrections.

Any appropriations made to the department of social and health services for the purpose of carrying out the powers, duties, and functions transferred by RCW 72.09.040 shall on July 1, 1981, be transferred and credited to the department of corrections for the purpose of carrying out the transferred powers, duties, and functions.

Whenever any question arises as to the transfer of any funds including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under RCW 72.09.040, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

If apportionments of budgeted funds are required because of the transfers authorized in this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1981 c 136 § 31.]

72.09.210 Transfer of employees. All employees of the department of social and health services who are directly employed in connection with the exercise of the powers and performance of the duties and functions transferred to the department of corrections by RCW 72.09.040 shall be transferred on July 1, 1981, to the jurisdiction of the department of corrections.

All such employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department of corrections. Except as otherwise provided, such employees shall be assigned without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1981 c 136 § 32.]

72.09.220 Employee rights under collective bargaining. Nothing contained in RCW 72.09.010 through 72.09.190, 72.09.901, and section 13, chapter 136, Laws of 1981 may be construed to downgrade any rights of any employee under any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 64; 1981 c 136 § 33.]

Additional notes found at www.leg.wa.gov

72.09.225 Sexual misconduct by state employees, contractors. (1) When the secretary has reasonable cause to believe that sexual intercourse or sexual contact between an employee and an inmate has occurred, notwithstanding any rule adopted under chapter 41.06 RCW the secretary shall immediately suspend the employee.

(2) The secretary shall immediately institute proceedings to terminate the employment of any person:

(a) Who is found by the department, based on a preponderance of the evidence, to have had sexual intercourse or sexual contact with the inmate; or

(b) Upon a guilty plea or conviction for any crime specified in chapter 9A.44 RCW when the victim was an inmate.

(3) When the secretary has reasonable cause to believe that sexual intercourse or sexual contact between the employee of a contractor and an inmate has occurred, the secretary shall require the employee of a contractor to be immediately removed from any employment position which would permit the employee to have any access to any inmate.

(4) The secretary shall disqualify for employment with a contractor in any position with access to an inmate, any person:

(a) Who is found by the department, based on a preponderance of the evidence, to have had sexual intercourse or sexual contact with the inmate; or

(b) Upon a guilty plea or conviction for any crime specified in chapter 9A.44 RCW when the victim was an inmate.

(5) The secretary, when considering the renewal of a contract with a contractor who has taken action under subsection (3) or (4) of this section, shall require the contractor to demonstrate that there has been significant progress made in reducing the likelihood that any of its employees will have sexual intercourse or sexual contact with an inmate. The secretary shall examine whether the contractor has taken steps to improve hiring, training, and monitoring practices and whether the employee remains with the contractor. The secretary shall not renew a contract unless he or she determines that significant progress has been made.

(6)(a) For the purposes of RCW 50.20.060, a person terminated under this section shall be considered discharged for misconduct.

(b)(i) The department may, within its discretion or upon request of any member of the public, release information to an individual or to the public regarding any person or contract terminated under this section.

(ii) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the public.

(iii) Except as provided in chapter 42.56 RCW, or elsewhere, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section. Nothing in this section implies that information regarding persons designated in subsection (2) of this section is confidential except as may otherwise be provided by law.

(7) The department shall adopt rules to implement this section. The rules shall reflect the legislative intent that this section prohibits individuals who are employed by the department or a contractor of the department from having sexual intercourse or sexual contact with inmates. The rules shall also reflect the legislative intent that when a person is employed by the department or a contractor of the department, and has sexual intercourse or sexual contact with an

inmate against the employed person's will, the termination provisions of this section shall not be invoked.

(8) As used in this section:

(a) "Contractor" includes all subcontractors of a contractor;

(b) "Inmate" means an inmate as defined in RCW 72.09.015 or a person under the supervision of the department; and

(c) "Sexual intercourse" and "sexual contact" have the meanings provided in RCW 9A.44.010. [2005 c 274 § 348; 1999 c 72 § 2.]

Additional notes found at www.leg.wa.gov

72.09.230 Duties continued during transition. All state officials required to maintain contact with or provide services to the department or secretary of social and health services relating to adult corrections shall continue to perform the services for the department of corrections.

In order to ease the transition of adult corrections to the department of corrections, the governor may require an inter-agency agreement between the department and the department of social and health services under which the department of social and health services would, on a temporary basis, continue to perform all or part of any specified function of the department of corrections. [1981 c 136 § 34.]

72.09.240 Reimbursement of employees for offender assaults. (1) In recognition of prison overcrowding and the hazardous nature of employment in state correctional institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the department of corrections and the department of natural resources for some of their costs attributable to their being the victims of offender assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the secretary of corrections or the commissioner of public lands, or the secretary's or commissioner's designee, finds that each of the following has occurred:

(a) An offender has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not continue longer than three hundred sixty-five consecutive days after

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the date of the injury or the date of termination of time loss benefits related to the assault by the department of labor and industries, whichever is later.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the secretary or the commissioner of public lands, or the secretary's or commissioner's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the secretary or the commissioner of public lands, or the secretary's or commissioner's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the department of corrections or the department of natural resources. The payments shall be considered as a salary or wage expense and shall be paid by the department of corrections or the department of natural resources in the same manner and from the same appropriations as other salary and wage expenses of the department of corrections or the department of natural resources.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

(10) For the purposes of this section, "offender" means: (a) Offender as defined in RCW 9.94A.030; and (b) any other person in the custody of or subject to the jurisdiction of the department of corrections. [2016 c 8 § 1; 2002 c 77 § 2; 1988 c 149 § 1; 1984 c 246 § 9.]

Additional notes found at www.leg.wa.gov

72.09.251 Communicable disease prevention guidelines. (1) The department shall develop and implement policies and procedures for the uniform distribution of communicable disease prevention guidelines to all corrections staff who, in the course of their regularly assigned job responsibilities, may come within close physical proximity to offenders with communicable diseases.

(2) The guidelines shall identify special precautions necessary to reduce the risk of transmission of communicable diseases.

(3) For the purposes of this section, "communicable disease" means sexually transmitted diseases, as defined in RCW 70.24.017, diseases caused by blood-borne pathogens, or any other illness caused by an infectious agent that can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air. [1997 c 345 § 4.]

Findings—Intent—1997 c 345: See note following RCW 70.24.340.

72.09.260 Litter cleanup programs—Requirements. (1) The department shall assist local units of government in establishing community restitution programs for litter cleanup. Community restitution litter cleanup programs must

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include the following: (a) Procedures for documenting the number of community restitution hours worked in litter cleanup by each offender; (b) plans to coordinate litter cleanup activities with local governmental entities responsible for roadside and park maintenance; (c) insurance coverage for offenders during litter cleanup activities pursuant to RCW 51.12.045; (d) provision of adequate safety equipment and, if needed, weather protection gear; and (e) provision for including felons and misdemeanants in the program.

(2) Community restitution programs established under this section shall involve, but not be limited to, persons convicted of nonviolent, drug-related offenses.

(3) Nothing in this section shall diminish the department's authority to place offenders in community restitution programs or to determine the suitability of offenders for specific programs.

(4) As used in this section, "litter cleanup" includes cleanup and removal of solid waste that is illegally dumped. [2002 c 175 § 50; 1990 c 66 § 2.]

Findings—Intent—1990 c 66: "The legislature finds that the amount of litter along the state's roadways is increasing at an alarming rate and that local governments often lack the human and fiscal resources to remove litter from public roads. The legislature also finds that persons committing nonviolent, drug-related offenses can often be productively engaged through programs to remove litter from county and municipal roads. It is therefore the intent of the legislature to assist local units of government in establishing community restitution programs for litter cleanup and to establish a funding source for such programs." [2002 c 175 § 51; 1990 c 66 § 1.]

Additional notes found at www.leg.wa.gov

72.09.270 Individual reentry plan. (1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every incarcerated individual who is committed to the jurisdiction of the department except:

(a) Incarcerated individuals who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) Incarcerated individuals who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all incarcerated individuals using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each incarcerated individual. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the incarcerated individual, including any learning disabilities, substance abuse or mental health issues, and social or behavior challenges.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The incarcerated individual's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the incarcerated individual's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the incarcerated individual's children and family;

(b) An individualized portfolio for each incarcerated individual that includes the incarcerated individual's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the incarcerated individual during the period of incarceration through reentry into the community that addresses the needs of the incarcerated individual including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any incarcerated individual, the department shall:

(i) Evaluate the incarcerated individual's needs and, to the extent possible, connect the incarcerated individual with existing services and resources that meet those needs; and

(ii) Connect the incarcerated individual with a community justice center and/or community transition coordination network in the area in which the incarcerated individual will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an incarcerated individual's individual reentry plan, the department shall maximize the period of partial confinement for the incarcerated individual as allowed pursuant to RCW 9.94A.728 to facilitate the incarcerated individual's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the incarcerated individual's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for an incarcerated individual released to community custody, the department may approve a residence location that is not in the incarcerated individual's county of origin if the department determines that the residence location would be appropriate based on any court-ordered condition of the incarcerated individual's sentence, victim safety concerns, and factors that increase opportunities for successful reentry and long-term support including, but not limited to, location of family or other sponsoring persons or organizations that will support the incarcerated individual, ability to complete an educational program that the incarcerated individual is enrolled in, availability of appropriate programming or treatment, and access to housing, employment, and prosocial influences on the person in the community.

(b) In implementing the provisions of this subsection, the department shall approve residence locations in a manner that will not cause any one county to be disproportionately impacted.

(c) If the incarcerated individual is not returned to his or her county of origin, the department shall provide the law and

justice council of the county in which the incarcerated individual is placed with a written explanation.

(d)(i) For purposes of this section, except as provided in (d)(ii) of this subsection, the incarcerated individual's county of origin means the county of the incarcerated individual's residence at the time of the incarcerated individual's first felony conviction in Washington state.

(ii) If the incarcerated individual is a homeless person as defined in RCW 43.185C.010, or the incarcerated individual's residence is unknown, then the incarcerated individual's county of origin means the county of the incarcerated individual's first felony conviction in Washington state.

(9) Nothing in this section creates a vested right in programming, education, or other services. [2021 c 200 § 3; 2008 c 231 § 48; 2007 c 483 § 203.]

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Intent—2007 c 483: "Individual reentry plans are intended to be a tool for the department of corrections to identify the needs of an offender. Individual reentry plans are meant to assist the department in targeting programming and services to offenders with the greatest need and to the extent that those services are funded and available. The state cannot meet every need that may have contributed to every offender's criminal proclivities. Further, an individual reentry plan, and the programming resulting from that plan, are not a guarantee that an offender will not recidivate. Rather, the legislature intends that by identifying offender needs and offering programs that have been proven to reduce the likelihood of reoffense, the state will benefit by an overall reduction in recidivism." [2007 c 483 § 201.]

Findings—2007 c 483: See RCW 72.78.005.

Additional notes found at www.leg.wa.gov

72.09.275 Duty to notify inmate of process for restoration of voting rights. (Effective until January 1, 2022.) The department shall notify an inmate, in writing, of the process for provisional and permanent restoration of voting rights, as described in RCW 29A.08.520, prior to the termination of authority of the department over the inmate. The department shall also provide the inmate with:

- (1) A voter registration form and written instructions for returning the form by mail; and
- (2) Written information regarding registering to vote in person and electronically. [2019 c 43 § 1.]

72.09.275 Duty to notify of process for restoration of voting rights. (Effective January 1, 2022.) (1) The department shall notify a person, in writing, of the process for restoration of voting rights, as described in RCW 29A.08.520, prior to the release from, or transfer to partial confinement from, total confinement under the jurisdiction of the department of corrections unless a person is being released from a department of corrections facility to an out-of-state jurisdiction or federal detention center, pursuant to a felony conviction. The department shall also provide the person with:

- (a) A voter registration form and written instructions for returning the form by mail; and
 - (b) Written information regarding registering to vote in person and electronically.
- (2) For purposes of this section:
- (a) A sentence of total confinement does not include confinement imposed as a sanction for a community custody violation under RCW 9.94A.633(1).
 - (b) "Total confinement" has the same meaning as in RCW 9.94A.030. [2021 c 10 § 7; 2019 c 43 § 1.]

(2021 Ed.)

Effective date—2021 c 10: See note following RCW 29A.08.520.

72.09.280 Community justice centers. (1) The department shall continue to establish community justice centers throughout the state for the purpose of providing comprehensive services and monitoring for offenders who are reentering the community.

(2) For the purposes of this chapter, "community justice center" is defined as a nonresidential facility staffed primarily by the department in which recently released offenders may access services necessary to improve their successful reentry into the community. Such services may include but are not limited to, those listed in the individual reentry plan, mental health, chemical dependency, sex offender treatment, anger management, parenting education, financial literacy, housing assistance, and employment assistance.

(3) At a minimum, the community justice center shall include:

- (a) A violator program to allow the department to utilize a range of available sanctions for offenders who violate conditions of their supervision;
- (b) An employment opportunity program to assist an offender in finding employment; and
- (c) Resources for connecting offenders with services such as treatment, transportation, training, family reunification, and community services.

(4) In addition to any other programs or services offered by a community justice center, the department shall designate a transition coordinator to facilitate connections between the former offender and the community. The department may designate transition coordination services to be provided by a community transition coordination network pursuant to *RCW 72.78.030 if one has been established in the community where the community justice center is located and the department has entered into a memorandum of understanding with the county to share resources.

(5) The transition coordinator shall provide information to former offenders regarding services available to them in the community regardless of the length of time since the offender's release from the correctional facility. The transition coordinator shall, at a minimum, be responsible for the following:

(a) Gathering and maintaining information regarding services currently existing within the community that are available to offenders including, but not limited to:

(i) Programs offered through the department of social and health services, the department of health, the department of licensing, housing authorities, local community and technical colleges, other state or federal entities which provide public benefits, and nonprofit entities;

(ii) Services such as housing assistance, employment assistance, education, vocational training, parent education, financial literacy, treatment for substance abuse, mental health, anger management, and any other service or program that will assist the former offender to successfully transition into the community;

(b) Coordinating access to the existing services with the community providers and provide offenders with information regarding how to access the various type of services and resources that are available in the community.

(6)(a) A minimum of six community justice centers shall be operational by December 1, 2009. The six community justice centers include those in operation on July 22, 2007.

(b) By December 1, 2011, the department shall establish a minimum of three additional community justice centers within the state.

(7) In locating new centers, the department shall:

(a) Give priority to the counties with the largest population of offenders who were under the jurisdiction of the department of corrections and that do not already have a community justice center;

(b) Ensure that at least two centers are operational in eastern Washington; and

(c) Comply with RCW 72.09.290 and all applicable zoning laws and regulations.

(8) Before beginning the siting or opening of the new community justice center, the department shall:

(a) Notify the city, if applicable, and the county within which the community justice center is proposed. Such notice shall occur at least sixty days prior to selecting a specific location to provide the services listed in this section;

(b) Consult with the community providers listed in subsection (5) of this section to determine if they have the capacity to provide services to offenders through the community justice center; and

(c) Give due consideration to all comments received in response to the notice of the start of site selection and consultation with community providers.

(9) The department shall make efforts to enter into memoranda of understanding or agreements with the local community policing and supervision programs as defined in RCW 72.78.010 in which the community justice center is located to address:

(a) Efficiencies that may be gained by sharing space or resources in the provision of reentry services to offenders, including services provided through a community transition coordination network established pursuant to *RCW 72.78.030 if a network has been established in the county;

(b) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases;

(c) Partnerships to establish neighborhood corrections initiatives between the department of corrections and local police to supervise offenders.

(i) A neighborhood corrections initiative includes shared mechanisms to facilitate supervision of offenders which may include activities such as joint emphasis patrols to monitor high-risk offenders, service of bench and secretary warrants and detainers, joint field visits, connecting offenders with services, and, where appropriate, directing offenders into sanction alternatives in lieu of incarceration.

(ii) The agreement must address:

(A) The roles and responsibilities of police officers and corrections staff participating in the partnership; and

(B) The amount of corrections staff and police officer time that will be dedicated to partnership efforts. [2007 c 483 § 302.]

*Reviser's note: RCW 72.78.030 expired June 30, 2013.

Findings—2007 c 483: See RCW 72.78.005.

72.09.285 Rental voucher list—Housing providers.

(1) A housing provider may be placed on a list with the department to receive rental vouchers under RCW 9.94A.729 in accordance with the provisions of this section.

(2) For living environments with between four and eight beds, or a greater number of individuals if permitted by local code, the department shall provide transition support that verifies an offender is participating in programming or services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, development of positive living skills, or employment programming. In addition, when selecting housing providers, the department shall consider the compatibility of the proposed offender housing with the surrounding neighborhood and underlying zoning. The department shall adopt procedures to limit the concentration of housing providers who provide housing to sex offenders in a single neighborhood or area.

(3)(a) The department shall provide the local law and justice council, county sheriff, or, if such housing is located within a city, a city's chief law enforcement officer with notice anytime a housing provider or new housing location requests to be or is added to the list within that county.

(b) The county or city local government may provide the department with a community impact statement, which includes the number and location of other special needs housing in the neighborhood and a review of services and supports in the area to assist offenders in their transition. If a community impact statement is provided to the department within twenty-five business days of the notice of a new housing provider or housing location request, the department shall consider the community impact statement in determining whether to add the provider to the list and, if the provider is added, shall include the community impact statement in the notice that a provider is added to the list within that county.

(4) If a certificate of inspection, as provided in RCW 59.18.125, is required by local regulation and the local government does not have a current certificate of inspection on file, the local government shall have ten business days from the later of (a) receipt of notice from the department as provided in subsection (3) of this section; or (b) the date the local government is given access to the dwelling unit to conduct an inspection or reinspection to issue a certificate. This section is deemed satisfied if a local government does not issue a timely certificate of inspection.

(5)(a) If, within ten business days of receipt of a notice from the department of a new location or new housing provider, the county or city determines that the housing is in a neighborhood with an existing concentration of special needs housing, including but not limited to offender reentry housing, retirement homes, assisted living, emergency or transitional housing, or adult family homes, the county or city may request that the department program administrator remove the new location or new housing provider from the list.

(b) This subsection does not apply to housing providers approved by the department to receive rental vouchers on July 28, 2013.

(6) The county or city may at any time request a housing provider be removed from the list if it provides information to the department that:

(a) It has determined that the housing does not comply with state and local fire and building codes or applicable zoning and development regulations in effect at the time the housing provider first began receiving housing vouchers; or

(b) The housing provider is not complying with the provisions of this section.

(7) After receiving a request to remove a housing provider from the county or city, the department shall immediately notify the provider of the concerns and request that the provider demonstrate that it is in compliance with the provisions of this section. If, after ten days' written notice, the housing provider cannot demonstrate to the department that it is in compliance with the reasons for the county's or city's request for removal, the department shall remove the housing provider from the list.

(8) A housing provider who provides housing pursuant to this section is not liable for civil damages arising from the criminal conduct of an offender to any greater extent than a regular tenant, and no special duties are created under this section. [2017 c 141 § 1; 2013 c 266 § 2.]

72.09.290 Correctional facility siting list. (1) No later than July 1, 2007, and every biennium thereafter starting with the biennium beginning July 1, 2009, the department shall prepare a list of counties and rural multicounty geographic areas in which work release facilities, community justice centers and other community-based correctional facilities are anticipated to be sited during the next three fiscal years and transmit the list to the office of financial management and the counties on the list. The list may be updated as needed.

(2) In preparing the list, the department shall make substantial efforts to provide for the equitable distribution of work release, community justice centers, or other community-based correctional facilities among counties. The department shall give great weight to the following factors in determining equitable distribution:

(a) The locations of existing residential facilities owned or operated by, or operated under contract with, the department in each county;

(b) The number and proportion of adult offenders sentenced to the custody or supervision of the department by the courts of the county or rural multicounty geographic area; and

(c) The number of adult registered sex offenders classified as level II or III and adult sex offenders registered per thousand persons residing in the county.

(3) For purposes of this section, "equitable distribution" means siting or locating work release, community justice centers, or other community-based correctional facilities in a manner that reasonably reflects the proportion of offenders sentenced to the custody or supervision of the department by the courts of each county or rural multicounty geographic area designated by the department, and, to the extent practicable, the proportion of offenders residing in particular jurisdictions or communities within such counties or rural multicounty geographic areas. Equitable distribution is a policy goal, not a basis for any legal challenge to the siting, construction, occupancy, or operation of any facility anywhere in the state. [2007 c 483 § 303.]

Findings—2007 c 483: See RCW 72.78.005.

(2021 Ed.)

72.09.300 Local law and justice council—Rules. (1) Every county legislative authority shall by resolution or ordinance establish a local law and justice council. The county legislative authority shall determine the size and composition of the council, which shall include the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections and his or her designees. Officials designated may appoint representatives.

(2) A combination of counties may establish a local law and justice council by intergovernmental agreement. The agreement shall comply with the requirements of this section.

(3) The local law and justice council may address issues related to:

(a) Maximizing local resources including personnel and facilities, reducing duplication of services, and sharing resources between local and state government in order to accomplish local efficiencies without diminishing effectiveness;

(b) Jail management;

(c) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases; and

(d) Partnerships between the department and local community policing and supervision programs to facilitate supervision of offenders under the respective jurisdictions of each and timely response to an offender's failure to comply with the terms of supervision.

(4) The county legislative authority may request technical assistance in coordinating services with other units or agencies of state or local government, which shall include the department, the office of financial management, and the Washington association of sheriffs and police chiefs.

(5) Upon receiving a request for assistance from a county, the department may provide the requested assistance.

(6) The secretary may adopt rules for the submittal, review, and approval of all requests for assistance made to the department. [2007 c 483 § 108; 1996 c 232 § 7; 1994 sp.s. c 7 § 542; 1993 sp.s. c 21 § 8; 1991 c 363 § 148; 1987 c 312 § 3.]

Findings—2007 c 483: See RCW 72.78.005.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Purpose—1987 c 312 § 3: "It is the purpose of RCW 72.09.300 to encourage local and state government to join in partnerships for the sharing of resources regarding the management of offenders in the correctional system. The formation of partnerships between local and state government is intended to reduce duplication while assuring better accountability and offender management through the most efficient use of resources at both the local and state level." [1987 c 312 § 1.]

Additional notes found at www.leg.wa.gov

72.09.310 Community custody violator. An inmate in community custody who willfully discontinues making himself or herself available to the department for supervision by

making his or her whereabouts unknown or by failing to maintain contact with the department as directed by the community corrections officer shall be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a class C felony under chapter 9A.20 RCW. [1992 c 75 § 6; 1988 c 153 § 6.]

Additional notes found at www.leg.wa.gov

72.09.311 Confinement of community custody violators. (1) The department of corrections shall conduct an analysis of the necessary capacity throughout the state to appropriately confine offenders who violate community custody and formulate recommendations for future capacity. In conducting its analysis, the department must consider:

(a) The need to decrease reliance on local correctional facilities to house violators; and

(b) The costs and benefits of developing a violator treatment center to provide inpatient treatment, therapies, and counseling.

(2) If the department recommends locating or colocating new violator facilities, for jurisdictions planning under RCW 36.70A.040, the department shall work within the local jurisdiction's comprehensive plan process for identifying and siting an essential public facility under RCW 36.70A.200. For jurisdictions not planning under RCW 36.70A.040, the department shall apply the local jurisdiction's zoning or applicable land use code.

(3) The department shall report the results of its analysis to the governor and the appropriate committees of the legislature by November 15, 2008.

(4) To the extent possible within existing funds, the department is authorized to proceed with the conversion of existing facilities that are appropriate to house violators. [2008 c 30 § 1.]

72.09.312 Community custody violations—Data and information—Report to the governor and legislature. (1) The department shall track and collect data and information on violations of community custody conditions and the sanctions imposed for violations under RCW 9.94A.737, which includes, but is not limited to, the following:

(a) The number and types of high level violations and the types of sanctions imposed, including term lengths for confinement sanctions;

(b) The number and types of low level violations and the types of sanctions imposed, including nonconfinement sanctions, confinement sanctions, and term lengths for confinement sanctions;

(c) The circumstances and frequency at which low level violations are elevated to high level violations under RCW 9.94A.737(2)(b);

(d) The number of warrants issued for violations;

(e) The number of violations resulting in confinement under RCW 9.94A.737(5), including the length of the confinement, the number of times new charges are filed, and the number of times the department received written notice that new charges would not be filed;

(f) Trends in the rate of violations, including the rate of all violations, high level violations, and low level violations; and

(g) Trends in the rate of confinement, including frequency of confinement sanctions and average stays.

(2) The department shall submit a report with a summary of the data and information collected under this section, including statewide and regional trends, to the governor and appropriate committees of the legislature by November 1, 2021, and every November 1st of each year thereafter. [2020 c 82 § 4.]

Appropriation—Report—2020 c 82: See note following RCW 9.94A.737.

72.09.315 Court-ordered treatment—Violations—Required notifications. (1) When an offender is under court-ordered mental health or chemical dependency treatment in the community and the supervision of the department of corrections, and the community corrections officer becomes aware that the person is in violation of the terms of the court's treatment order, the community corrections officer shall notify the designated crisis responder, as appropriate, of the violation and request an evaluation for purposes of revocation of the less restrictive alternative or conditional release.

(2) When a designated crisis responder notifies the department that an offender in a state correctional facility is the subject of a petition for involuntary treatment under chapter 71.05 RCW, the department shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department classified the offender as a high risk or high-needs offender. [2016 sp.s. c 29 § 426; 2004 c 166 § 17.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Additional notes found at www.leg.wa.gov

72.09.320 Community placement—Liability. The state of Washington, the department and its employees, community corrections officers, their staff, and volunteers who assist community corrections officers in the community placement program are not liable for civil damages resulting from any act or omission in the rendering of community placement activities unless the act or omission constitutes gross negligence. For purposes of this section, "volunteers" is defined according to RCW 51.12.035. [1988 c 153 § 10.]

Additional notes found at www.leg.wa.gov

72.09.330 Sex offenders and kidnapping offenders—Registration—Notice to persons convicted of sex offenses and kidnapping offenses. (1) The department shall provide written notification to an inmate convicted of a sex offense or kidnapping offense of the registration requirements of RCW 9A.44.130 at the time of the inmate's release from confinement and shall receive and retain a signed acknowledgment of receipt.

(2) The department shall provide written notification to an individual convicted of a sex offense or kidnapping offense from another state of the registration requirements of RCW 9A.44.130 at the time the department accepts supervision and has legal authority of the individual under the terms and conditions of the interstate compact agreement under RCW 9.95.270. [1997 c 113 § 8; 1990 c 3 § 405.]

Reviser's note: The definitions in RCW 9A.44.128 apply to this section.

Findings—1997 c 113: See note following RCW 4.24.550.
Sex offense and kidnapping offense defined: RCW 9A.44.128.

72.09.333 Sex offenders—Facilities on McNeil Island. The secretary is authorized to operate a correctional facility on McNeil Island for the confinement of sex offenders and other offenders sentenced by the courts, and to make necessary repairs, renovations, additions, and improvements to state property for that purpose, notwithstanding any local comprehensive plans, development regulations, permitting requirements, or any other local laws. Operation of the correctional facility and other state facilities authorized by this section and other law includes access to adequate docking facilities on state-owned tidelands at the town of Steilacoom. [2001 2nd sp.s. c 12 § 202.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

72.09.335 Sex offenders—Treatment assessment and opportunity. (1) The department shall determine placement for sex offender treatment by assessing the offender's risk for sexual reoffense as the primary factor. The department shall offer offenders the opportunity for sex offender treatment during incarceration based on the following priority:

(a) Offenders who are assessed as high risk for sexual reoffense;

(b) Offenders sentenced under RCW 9.94A.507 who are assessed as moderate risk for sexual reoffense;

(c) Offenders not sentenced under RCW 9.94A.507 who are assessed as moderate risk for sexual reoffense;

(d) Offenders sentenced under RCW 9.94A.507 who are assessed as low risk for sexual reoffense but whose potential release under RCW 9.95.420 will require participation in sex offender treatment, as determined by the indeterminate sentence review board.

(2) As capacity allows, offenders not sentenced under RCW 9.94A.507 who are assessed as low risk for sexual reoffense may be offered the opportunity for sex offender treatment during incarceration.

(3) This section creates no enforceable right to participate in sex offender treatment. [2017 c 144 § 1; 2009 c 28 § 34; 2001 2nd sp.s. c 12 § 305.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

72.09.337 Sex offenders—Rules regarding. The secretary of corrections, the secretary of social and health services, the secretary of children, youth, and families, and the indeterminate sentence review board may adopt rules to implement chapter 12, Laws of 2001 2nd sp. sess. [2017 3rd sp.s. c 6 § 631; 2001 2nd sp.s. c 12 § 502.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

(2021 Ed.)

72.09.340 Supervision of sex offenders—Public safety—Policy for release plan evaluation and approval—Implementation, publicizing, notice—Rejection of residence locations of felony sex offenders of minor victims—Notice—Supervised visitation considerations. (1) In making all discretionary decisions regarding release plans for and supervision of sex offenders, the department shall set priorities and make decisions based on an assessment of public safety risks.

(2) The department shall have a policy governing the department's evaluation and approval of release plans for sex offenders. The policy shall include, at a minimum, a formal process by which victims, witnesses, and other interested people may provide information and comments to the department on potential safety risks to specific individuals or classes of individuals posed by a specific sex offender. The department shall make all reasonable efforts to publicize the availability of this process through currently existing mechanisms and shall seek the assistance of courts, prosecutors, law enforcement, and victims' advocacy groups in doing so. Notice of an offender's proposed residence shall be provided to all people registered to receive notice of an offender's release under RCW 72.09.712(2), except that in no case may this notification requirement be construed to require an extension of an offender's release date.

(3)(a) For any offender convicted of a felony sex offense against a minor victim after June 6, 1996, the department shall not approve a residence location if the proposed residence: (i) Includes a minor victim or child of similar age or circumstance as a previous victim who the department determines may be put at substantial risk of harm by the offender's residence in the household; or (ii) is within close proximity of the current residence of a minor victim, unless the whereabouts of the minor victim cannot be determined or unless such a restriction would impede family reunification efforts ordered by the court or directed by the department of social and health services. The department is further authorized to reject a residence location if the proposed residence is within close proximity to schools, child care centers, playgrounds, or other grounds or facilities where children of similar age or circumstance as a previous victim are present who the department determines may be put at substantial risk of harm by the sex offender's residence at that location.

(b) In addition, for any offender prohibited from living in a community protection zone under RCW 9.94A.703(1)(c), the department may not approve a residence location if the proposed residence is in a community protection zone.

(4) At the time of providing notice of a sex offender's proposed residence as provided in subsection (2) of this section, the department shall include notice that a victim or immediate family member of a victim may request that the offender refrain from contacting him or her as a condition of the offender's community custody if that condition is not already provided by court order.

(5) When the department requires supervised visitation as a term or condition of a sex offender's community placement under RCW 9.94B.050(6), the department shall, prior to approving a supervisor, consider the following:

(a) The relationships between the proposed supervisor, the offender, and the minor;

(b) The proposed supervisor's acknowledgment and understanding of the offender's prior criminal conduct, general knowledge of the dynamics of child sexual abuse, and willingness and ability to protect the minor from the potential risks posed by contact with the offender; and

(c) Recommendations made by the department of social and health services about the best interests of the child. [2014 c 35 § 2; 2009 c 28 § 35; 2005 c 436 § 3; 1996 c 215 § 3; 1990 c 3 § 708.]

Reviser's note: 2005 c 436 § 6 (an expiration date section) was repealed by 2006 c 131 § 2.

Additional notes found at www.leg.wa.gov

72.09.345 Sex offenders—Release of information to protect public—End-of-sentence review committee—Assessment—Records access—Review, classification, referral of offenders—Issuance of narrative notices. (1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for law enforcement agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders.

(3) The committee shall assess, on a case-by-case basis, the public risk posed by:

(a) Offenders preparing for release from confinement for a sex offense or sexually violent offense committed on or after July 1, 1984;

(b) Sex offenders accepted from another state under a reciprocal agreement under the interstate corrections compact authorized in chapter 72.74 RCW;

(c) Juveniles preparing for release from confinement for a sex offense and releasing from the department of social and health services juvenile rehabilitation administration;

(d) Juveniles, following disposition, under the jurisdiction of a county juvenile court for a registerable sex offense; and

(e) Juveniles found to have committed a sex offense and accepted from another state under a reciprocal agreement under the interstate compact for juveniles authorized in chapter 13.24 RCW.

(4) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(5) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of community custody in order

to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(6) The committee shall classify as risk level I those sex offenders whose risk assessments indicate they are at a low risk to sexually reoffend within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate they are at a moderate risk to sexually reoffend within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate they are at a high risk to sexually reoffend within the community at large.

(7) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification. [2015 c 261 § 14; 2011 c 338 § 5; 2008 c 231 § 49; 1997 c 364 § 4.]

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Additional notes found at www.leg.wa.gov

72.09.350 Corrections mental health center—Collaborative arrangement with University of Washington—Services for offenders with mental illness—Annual report to the legislature. (1) The department of corrections and the University of Washington may enter into a collaborative arrangement to provide improved services for offenders with mental illness with a focus on prevention, treatment, and reintegration into society. The participants in the collaborative arrangement may develop a strategic plan within sixty days after May 17, 1993, to address the management of offenders with mental illness within the correctional system, facilitating their reentry into the community and the mental health system, and preventing the inappropriate incarceration of individuals with mental illness. The collaborative arrangement may also specify the establishment and maintenance of a corrections mental health center located at McNeil Island corrections center. The collaborative arrangement shall require that an advisory panel of key stakeholders be established and consulted throughout the development and implementation of the center. The stakeholders advisory panel shall include a broad array of interest groups drawn from representatives of mental health, criminal justice, and correctional systems. The stakeholders advisory panel shall include, but is not limited to, membership from: The department of corrections, the department of social and health services, the health care authority, behavioral health administrative services organizations, managed care organizations under chapter 74.09 RCW, local and regional law enforcement agencies, the sentencing guidelines commission, county and city jails, mental health advocacy groups for individuals with mental illness or developmental disabilities, the traumatically brain-injured, and the general public. The center established by the

department of corrections and University of Washington, in consultation with the stakeholder advisory groups, shall have the authority to:

(a) Develop new and innovative treatment approaches for corrections mental health clients;

(b) Improve the quality of mental health services within the department and throughout the corrections system;

(c) Facilitate mental health staff recruitment and training to meet departmental, county, and municipal needs;

(d) Expand research activities within the department in the area of treatment services, the design of delivery systems, the development of organizational models, and training for corrections mental health care professionals;

(e) Improve the work environment for correctional employees by developing the skills, knowledge, and understanding of how to work with offenders with special chronic mental health challenges;

(f) Establish a more positive rehabilitative environment for offenders;

(g) Strengthen multidisciplinary mental health collaboration between the University of Washington, other groups committed to the intent of this section, and the department of corrections;

(h) Strengthen department linkages between institutions of higher education, public sector mental health systems, and county and municipal corrections;

(i) Assist in the continued formulation of corrections mental health policies;

(j) Develop innovative and effective recruitment and training programs for correctional personnel working with offenders with mental illness;

(k) Assist in the development of a coordinated continuum of mental health care capable of providing services from corrections entry to community return; and

(l) Evaluate all current and innovative approaches developed within this center in terms of their effective and efficient achievement of improved mental health of inmates, development and utilization of personnel, the impact of these approaches on the functioning of correctional institutions, and the relationship of the corrections system to mental health and criminal justice systems. Specific attention should be paid to evaluating the effects of programs on the reintegration of offenders with mental illness into the community and the prevention of inappropriate incarceration of persons with mental illness.

(2) The corrections mental health center may conduct research, training, and treatment activities for the offender with mental illness within selected sites operated by the department. The department shall provide support services for the center such as food services, maintenance, perimeter security, classification, offender supervision, and living unit functions. The University of Washington may develop, implement, and evaluate the clinical, treatment, research, and evaluation components of the mentally ill offender center. The institute of for public policy and management may be consulted regarding the development of the center and in the recommendations regarding public policy. As resources permit, training within the center shall be available to state, county, and municipal agencies requiring the services. Other state colleges, state universities, and mental health providers may be involved in activities as required on a subcontract

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basis. Community mental health organizations, research groups, and community advocacy groups may be critical components of the center's operations and involved as appropriate to annual objectives. Clients with mental illness may be drawn from throughout the department's population and transferred to the center as clinical need, available services, and department jurisdiction permits.

(3) The department shall prepare a report of the center's progress toward the attainment of stated goals and provide the report to the legislature annually. [2019 c 325 § 5024; 2018 c 201 § 9011; 2014 c 225 § 94; 1993 c 459 § 1.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

72.09.370 Persons with mental illness who are believed to present a danger to themselves or others—Plan for postrelease treatment and support services—

Rules. (1) The reentry community services program is established to provide intensive services to persons identified under this subsection and to thereby promote successful reentry, public safety, and recovery. The secretary shall identify persons in confinement or partial confinement who: (a) Are reasonably believed to present a danger to themselves or others if released to the community without supportive services; and (b) have a mental disorder. In evaluating these criteria, the secretary shall consider behavior known to the department and factors, based on research, that are linked to risk of dangerousness for persons with mental illnesses within the criminal justice system and shall include consideration of the person's history of substance use disorder or abuse.

(2) Prior to release of a person identified under this section, a team consisting of representatives of the department of corrections, the health care authority, and, as necessary, the indeterminate sentence review board, divisions or administrations within the department of social and health services, specifically including the division of developmental disabilities, the appropriate managed care organization or behavioral health administrative services organization, and reentry community services providers, as appropriate, shall develop a plan, as determined necessary by the team, for delivery of treatment and support services to the person upon release. In developing the plan, the person shall be offered assistance in executing a mental health advance directive under chapter 71.32 RCW, after being fully informed of the benefits, scope, and purposes of such directive. The team may include a school district representative for persons under the age of 21. The team shall consult with the person's counsel, if any, and, as appropriate, the person's family and community. The team shall notify the crime victim/witness program, which shall provide notice to all people registered to receive notice under RCW 72.09.712 of the proposed release plan developed by the team. Victims, witnesses, and other interested people notified by the department may provide information and comments to the department on potential safety risk to specific individuals or classes of individuals posed by the specific person. The team may recommend: (a) That the person be evaluated by a designated crisis responder, as defined in chapter 71.05 RCW; (b) department-supervised community

treatment; or (c) voluntary community mental health or substance use disorder or abuse treatment.

(3) Prior to release of a person identified under this section, the team shall determine whether or not an evaluation by a designated crisis responder is needed. If an evaluation is recommended, the supporting documentation shall be immediately forwarded to the appropriate designated crisis responder. The supporting documentation shall include the person's criminal history, history of judicially required or administratively ordered involuntary antipsychotic medication while in confinement, and any known history of involuntary civil commitment.

(4) If an evaluation by a designated crisis responder is recommended by the team, such evaluation shall occur not more than ten days, nor less than five days, prior to release.

(5) A second evaluation by a designated crisis responder shall occur on the day of release if requested by the team, based upon new information or a change in the person's mental condition, and the initial evaluation did not result in an emergency detention or a summons under chapter 71.05 RCW.

(6) If the designated crisis responder determines an emergency detention under chapter 71.05 RCW is necessary, the department shall release the person only to a state hospital or to a consenting evaluation and treatment facility or secure withdrawal management and stabilization facility. The department shall arrange transportation of the person to the hospital or facility.

(7) If the designated crisis responder believes that a less restrictive alternative treatment is appropriate, he or she shall seek a summons, pursuant to the provisions of chapter 71.05 RCW, to require the person to appear at an evaluation and treatment facility or secure withdrawal management and stabilization facility. If a summons is issued, the person shall remain within the corrections facility until completion of his or her term of confinement and be transported, by corrections personnel on the day of completion, directly to the identified facility.

(8) The secretary shall adopt rules to implement this section. [2021 c 243 § 6; 2019 c 325 § 5025; 2018 c 201 § 9012; 2016 sp.s. c 29 § 427; 2014 c 225 § 95. Prior: 2009 c 319 § 3; 2009 c 28 § 36; 2001 2nd sp.s. c 12 § 362; 1999 c 214 § 2.]

Findings—2021 c 243: See note following RCW 74.09.670.

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Effective date—2014 c 225: See note following RCW 71.24.016.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Intent—1999 c 214: "The legislature intends to improve the process of identifying, and providing additional mental health treatment for, persons: (1) Determined to be dangerous to themselves or others as a result of a mental disorder or a combination of a mental disorder and chemical dependency or abuse; and (2) under, or being released from, confinement or partial confinement of the department of corrections.

The legislature does not create a presumption that any person subject to the provisions of this act is dangerous as a result of a mental disorder or chemical dependency or abuse. The legislature intends that every person subject to the provisions of this act retain the amount of liberty consistent with his or her condition, behavior, and legal status and that any restraint of

liberty be done solely on the basis of forensic and clinical practices and standards." [1999 c 214 § 1.]

Additional notes found at www.leg.wa.gov

72.09.380 Rule making—Medicaid—Secretary of corrections—Director of health care authority. The secretary of the department of corrections and the director of the health care authority shall adopt rules and develop working agreements which will ensure that offenders identified under RCW 72.09.370(1) will be assisted in making application for medicaid to facilitate a decision regarding their eligibility for such entitlements prior to the end of their term of confinement in a correctional facility. [2018 c 201 § 9013; 1999 c 214 § 3.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Intent—1999 c 214: See note following RCW 72.09.370.

72.09.381 Rule making—Chapter 214, Laws of 1999—Secretary of corrections—Director of health care authority. The secretary of the department of corrections and the director of the health care authority shall, in consultation with the behavioral health administrative services organizations, managed care organizations contracted with the health care authority, and provider representatives, each adopt rules as necessary to implement chapter 214, Laws of 1999. [2019 c 325 § 5026; 2018 c 201 § 9014; 2014 c 225 § 96; 1999 c 214 § 11.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2014 c 225: See note following RCW 71.24.016.

Intent—1999 c 214: See note following RCW 72.09.370.

72.09.400 Work ethic camp program—Findings—Intent. The legislature finds that high crime rates and a heightened sense of vulnerability have led to increased public pressure on criminal justice officials to increase offender punishment and remove the most dangerous criminals from the streets. As a result, there is unprecedented growth in the corrections populations and overcrowding of prisons and local jails. Skyrocketing costs and high rates of recidivism have become issues of major public concern. Attention must be directed towards implementing a long-range corrections strategy that focuses on inmate responsibility through intensive work ethic training.

The legislature finds that many offenders lack basic life skills and have been largely unaffected by traditional correctional philosophies and programs. In addition, many first-time offenders who enter the prison system learn more about how to be criminals than the important qualities, values, and skills needed to successfully adapt to a life without crime.

The legislature finds that opportunities for offenders to improve themselves are extremely limited and there has not been adequate emphasis on alternatives to total confinement for nonviolent offenders.

The legislature finds that the explosion of drug crimes since the inception of the sentencing reform act and the response of the criminal justice system have resulted in a much higher proportion of substance abuse-affected offenders in the state's prisons and jails. The needs of this popula-

tion differ from those of other offenders and present a great challenge to the system. The problems are exacerbated by the shortage of drug treatment and counseling programs both in and outside of prisons.

The legislature finds that the concept of a work ethic camp that requires the offender to complete an appropriate and balanced combination of highly structured and goal-oriented work programs such as correctional industries based work camps and/or class I and class II work projects, drug rehabilitation, and intensive life management work ethic training, can successfully reduce offender recidivism and lower the overall cost of incarceration.

It is the purpose and intent of RCW 72.09.400 through *72.09.420, 9.94A.690, and **section 5, chapter 338, Laws of 1993 to implement a regimented work ethic camp that is designed to directly address the high rate of recidivism, reduce upwardly spiraling prison costs, preserve scarce and high cost prison space for the most dangerous offenders, and provide judges with a tough and sound alternative to traditional incarceration without compromising public safety. [1993 c 338 § 1.]

Reviser's note: *(1) RCW 72.09.420 was repealed by 1998 c 273 § 1.
**(2) 1993 c 338 § 5 was vetoed by the governor.

Sentencing: RCW 9.94A.690.

Additional notes found at www.leg.wa.gov

72.09.410 Work ethic camp program—Generally.

The department of corrections shall establish one work ethic camp. The secretary shall locate the work ethic camp within an already existing department compound or facility, or in a facility that is scheduled to come on line within the initial implementation date outlined in this section. The facility selected for the camp shall appropriately accommodate the logistical and cost-effective objectives contained in RCW 72.09.400 through *72.09.420, 9.94A.690, and **section 5, chapter 338, Laws of 1993. The department shall be ready to assign inmates to the camp one hundred twenty days after July 1, 1993. The department shall establish the work ethic camp program cycle to last from one hundred twenty to one hundred eighty days. The department shall develop all aspects of the work ethic camp program including, but not limited to, program standards, conduct standards, educational components including preparation for a high school equivalency certificate as described in RCW 28B.50.536, offender incentives, drug rehabilitation program parameters, individual and team work goals, techniques for improving the offender's self-esteem, citizenship skills for successful living in the community, measures to hold the offender accountable for his or her behavior, and the successful completion of the work ethic camp program granted to the offender based on successful attendance, participation, and performance as defined by the secretary. The work ethic camp shall be designed and implemented so that offenders are continually engaged in meaningful activities and unstructured time is kept to a minimum. In addition, the department is encouraged to explore the integration and overlay of a military style approach to the work ethic camp. [2013 c 39 § 23; 1993 c 338 § 3.]

Reviser's note: *(1) RCW 72.09.420 was repealed by 1998 c 273 § 1.
**(2) 1993 c 338 § 5 was vetoed by the governor.

Additional notes found at www.leg.wa.gov

72.09.450 Limitation on denial of access to services and supplies—Recoupment of assessments—Collections.

(1) An inmate shall not be denied access to services or supplies required by state or federal law solely on the basis of his or her inability to pay for them.

(2) The department shall record all lawfully authorized assessments for services or supplies as a debt to the department. The department shall recoup the assessments when the inmate's institutional account exceeds the indigency standard, and may pursue other remedies to recoup the assessments after the period of incarceration.

(3) The department shall record as a debt any costs assessed by a court against an inmate plaintiff where the state is providing defense pursuant to chapter 4.92 RCW. The department shall recoup the debt when the inmate's institutional account exceeds the indigency standard and may pursue other remedies to recoup the debt after the period of incarceration.

(4) In order to maximize the cost-efficient collection of unpaid offender debt existing after the period of an offender's incarceration, the department is authorized to use the following nonexclusive options: (a) Use the collection services available through the department of enterprise services, or (b) notwithstanding any provision of chapter 41.06 RCW, contract with collection agencies for collection of the debts. The costs for enterprise services or collection agency services shall be paid by the debtor. Any contract with a collection agency shall only be awarded after competitive bidding. Factors the department shall consider in awarding a collection contract include but are not limited to a collection agency's history and reputation in the community; and the agency's access to a local database that may increase the efficiency of its collections. The servicing of an unpaid obligation to the department does not constitute assignment of a debt, and no contract with a collection agency may remove the department's control over unpaid obligations owed to the department. [2015 c 225 § 113; 1996 c 277 § 1; 1995 1st sp.s. c 19 § 4.]

Findings—Purpose—1995 1st sp.s. c 19: "The legislature finds the increasing number of inmates incarcerated in state correctional institutions, and the expenses associated with their incarceration, require expanded efforts to contain corrections costs. Cost containment requires improved planning and oversight, and increased accountability and responsibility on the part of inmates and the department.

The legislature further finds motivating inmates to participate in meaningful education and work programs in order to learn transferable skills and earn basic privileges is an effective and efficient way to meet the penological objectives of the corrections system.

The purpose of this act is to assure that the department fulfills its mission to reduce offender recidivism, to mirror the values of the community by clearly linking inmate behavior to receipt of privileges, and to prudently manage the resources it receives through tax dollars. This purpose is accomplished through the implementation of specific cost-control measures and creation of a planning and oversight process that will improve the department's effectiveness and efficiencies." [1995 1st sp.s. c 19 § 1.]

Additional notes found at www.leg.wa.gov

72.09.460 Incarcerated individual participation in education and work programs—Postsecondary degree education opportunities—Legislative intent—Priorities—Rules—Payment of costs. (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. 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) 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.

(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. 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 educational costs. The 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) 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.

(e) Any funds collected by the department under (c) and (d) 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 educa-

tion 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

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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 sentenced to death under chapter 10.95 RCW or 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 applicable provisions of this chapter relating to incarcerated individual financial responsibility for programming.

(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, "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. [2021 c 200 § 4; 2017 c 120 § 3; 2013 c 39 § 24; 2007 c 483 § 402; 2004 c 167 § 5; 1998 c 244 § 10; 1997 c 338 § 43; 1995 1st sp.s. c 19 § 5.]

Findings—Intent—2021 c 200; 2019 c 397; 2017 c 120: See note following RCW 28B.50.815.

Findings—Intent—2007 c 483: "Research and practice show that long-term success in helping offenders prepare for economic self-sufficiency requires strategies that address their education and employment needs. Recent research suggests that a solid academic foundation and employment- and career-focused programs can be cost-effective in reducing the likelihood of reoffense. To this end, the legislature intends that the state strive to provide every inmate with basic academic skills as well as educational and vocational training designed to meet the assessed needs of the offender.

Nonetheless, it is vital that offenders engaged in educational or vocational training contribute to their own success. An offender should financially contribute to his or her education, particularly postsecondary educational pursuits. The legislature intends to provide more flexibility for offenders in obtaining postsecondary education by allowing third parties to make contributions to the offender's education without mandatory deductions. In developing the loan program, the department is encouraged to adopt rules and standards similar to those that apply to students in noninstitutional settings for issues such as applying for a loan, maintaining accountability, and accruing interest on the loan obligation." [2007 c 483 § 401.]

Findings—2007 c 483: See RCW 72.78.005.

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

Additional notes found at www.leg.wa.gov

72.09.465 Postsecondary degree education programs. (1)(a) The department may implement postsecondary degree or certificate education programs at state correctional institutions.

(b) The department may consider for inclusion in any postsecondary degree or certificate education program, any education program from an accredited community or technical college, college, or university that is limited to no more than a bachelor's degree. Washington state-recognized preapprenticeship programs may also be included as appropriate postsecondary education programs.

(2) Incarcerated individuals not meeting the department's priority criteria for the state-funded postsecondary degree education program shall be required to pay the costs for participation in a postsecondary education degree program if he or she elects to participate through self-pay, including costs of books, fees, tuition, or any other appropriate ancillary costs, by one or more of the following means:

(a) The incarcerated individual who is participating in the postsecondary education degree program may, during confinement, provide the required payment or payments to the department; or

(b) A third party shall provide the required payment or payments directly to the department on behalf of an incarcerated individual, and such payments shall not be subject to any of the deductions as provided in this chapter.

(3) 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 may receive, utilize, and dispose of same to provide postsecondary education to incarcerated individuals.

(4) An incarcerated individual may be selected to participate in a state-funded postsecondary degree or certificate education program, based on priority criteria determined by the department, in which the following conditions may be considered:

(a) Priority should be given to incarcerated individuals who do not already possess a postsecondary education degree; and

(b) Incarcerated individuals with individual reentry plans that include participation in a postsecondary degree or certificate education program that is:

(i) Offered at the incarcerated individual's state correctional institution;

(ii) Approved by the department as an eligible and effective postsecondary education degree program; and

(iii) Limited to a postsecondary degree or certificate program.

(5) The department shall work with the college board as defined in RCW 28B.50.030 to develop a plan to assist incarcerated individuals selected to participate in postsecondary degree or certificate programs with filing a free application for federal student aid or the Washington application for state financial aid.

(6) Any funds collected by the department under this section shall be used solely for the creation, maintenance, or expansion of postsecondary education degree programs for

incarcerated individuals. [2021 c 200 § 5; 2017 c 120 § 4; 2016 sp.s. c 36 § 946; 2007 c 483 § 403.]

Findings—Intent—2021 c 200; 2019 c 397; 2017 c 120: See note following RCW 28B.50.815.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Findings—Intent—2007 c 483: See note following RCW 72.09.460.

Findings—2007 c 483: See RCW 72.78.005.

72.09.467 Postsecondary degree education programs—Reports to the legislature. (1) The department, the state board for community and technical colleges, the student achievement council, and the Washington statewide reentry council, in collaboration with an organization representing the presidents of the public four-year institutions of higher education, shall submit a combined report, pursuant to RCW 43.01.036, by December 1, 2021, and annually thereafter, to the appropriate committees of the legislature having oversight over higher education issues and correctional matters. The state agencies shall consult and engage with nonprofit and community-based postsecondary education providers during the development of the annual report.

(2) At a minimum, the combined report must include:

(a) The number of incarcerated individuals served in the department's postsecondary education system, the number of individuals not served, the number of individuals leaving the department's custody without a high school equivalency who were in the department's custody longer than one year, and the number of individuals released without any postsecondary education, each disaggregated by demographics;

(b) A review of the department's identification and assessment of incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments or disabilities that may limit their ability to participate in educational programming, including general educational development testing and postsecondary education. The report shall identify barriers to the identification and assessment of these individuals and include recommendations that will further facilitate access to educational programming for these individuals;

(c) An identification of issues related to ensuring that credits earned in credit-bearing courses are transferable. The report must also include the number of transferable credits awarded and the number of credits awarded that are not transferable;

(d) A review of policies on transfer, in order to create recommendations to institutions and the legislature that to ensure postsecondary education credits earned while incarcerated transfer seamlessly upon postrelease enrollment in a postsecondary education institution. The review must identify barriers or challenges on transferring credits experienced by individuals and the number of credits earned while incarcerated that transferred to the receiving colleges postrelease;

(e) The number of individuals participating in correspondence courses and completion rates of correspondence courses, disaggregated by demographics;

(f) An examination of the collaboration between correctional facilities, the educational programs, nonprofit and community-based postsecondary education providers, and the institutions, with the goal of ensuring that roles and responsibilities are clearly defined, including the roles and responsibilities of each entity in relation to ensuring incarcer-

ated individual access to, and accommodations in, educational programming; and

(g) A review of the partnerships with nonprofit and community-based postsecondary education organizations at state correctional facilities that provide accredited certificate and degree-granting programs and those that provide reentry services in support of educational programs and goals, including a list of the programs and services offered and recommendations to improve program delivery and access.

(3) The report shall strive to include, where possible, the voices and experiences of current or formerly incarcerated individuals. [2021 c 200 § 8.]

72.09.469 Postsecondary degree education programs—Study. (Expires January 1, 2029.) (1)(a) Subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall study enrollment, completion, and recidivism rates of incarcerated individuals in the postsecondary education system postrelease.

(b) The goal of the study is to understand whether participation in postsecondary education while incarcerated contributes to greater enrollment and completion of postsecondary education and reduced recidivism postrelease. The scope of the study shall focus on postrelease enrollment and completion trends in the community and technical college sector for formerly incarcerated individuals of all ages. The timeline of the study may include data from 2015 to the present, to the extent possible. The study's findings shall be divided into a preliminary and final report. The reports shall complement similar studies conducted at the University of Washington or elsewhere. To the extent that it is not duplicative of other studies, the Washington state institute for public policy shall study the following:

(i) For the preliminary report, which is due October 1, 2024:

(A) Patterns and any effects on postrelease enrollment and participation in the community and technical college system by individuals who, while incarcerated, participated in postsecondary education programs, including those individuals that completed some coursework but did not earn a degree or certificate; and

(B) Differential outcomes for individuals participating in different types of postsecondary education courses, certificate programs, and degree programs.

(ii) For the final report, which is due October 1, 2027, a continuation of the preliminary report in addition to:

(A) Changes in enrollment and completion of postsecondary education courses, certificate programs, and degree programs due to the changes and expansion of educational programming in chapter 200, Laws of 2021, to the extent possible; and

(B) Recidivism outcomes beyond incarceration for those incarcerated individuals that participated in postsecondary certificate and degree programs while incarcerated, including arrests, charges, and convictions.

(iii) The preliminary and final reports shall be submitted to the appropriate committees of the legislature and in accordance with RCW 43.01.036.

(iv) The department of corrections, the student achievement council, the state board for community and technical

colleges, and the education research and data center shall provide data necessary to conduct the study.

(2) This section expires January 1, 2029. [2021 c 200 § 2.]

72.09.470 Inmate contributions for cost of privileges—Standards. To the greatest extent practical, all inmates shall contribute to the cost of privileges. The department shall establish standards by which inmates shall contribute a portion of the department's capital costs of providing privileges, including television cable access, extended family visitation, weight lifting, and other recreational sports equipment and supplies. The standards shall also require inmates to contribute a significant portion of the department's operating costs directly associated with providing privileges, including staff and supplies. Inmate contributions may be in the form of individual user fees assessed against an inmate's institution account, deductions from an inmate's gross wages or gratuities, or inmates' collective contributions to the institutional welfare/betterment fund. The department shall make every effort to maximize individual inmate contributions to payment for privileges. The department shall not limit inmates' financial support for privileges to contributions from the institutional welfare/betterment fund. The standards shall consider the assets available to the inmates, the cost of administering compliance with the contribution requirements, and shall promote a responsible work ethic. [1995 1st sp.s. c 19 § 7.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.480 Inmate funds subject to deductions—Definitions—Exceptions—Child support collection actions.

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

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

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

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

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

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

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

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

(d) Twenty percent for any child support owed under a support order;

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

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

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

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

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

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

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

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

(8) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and offender copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the inmate's medical fund at the time of release is subject to deductions under subsection (2) of this section.

(9) Inmates sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal

inmate savings account under subsection (2)(b) of this section.

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

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

(12) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action. [2015 c 238 § 1; 2011 c 282 § 3; 2010 c 122 § 6; 2009 c 479 § 61. Prior: 2007 c 483 § 404; 2007 c 365 § 1; 2007 c 91 § 1; 2003 c 271 § 3; 1999 c 325 § 1; 1998 c 261 § 2; 1997 c 165 § 1; 1995 1st sp.s. c 19 § 8.]

Reviser's note: *(1) RCW 72.09.460 and 72.09.465 were amended by 2017 c 120 §§ 3 and 4, referring to "postsecondary education degree programs" and "associate degree education programs." RCW 72.09.460 and 72.09.465 were subsequently amended by 2021 c 200 §§ 4 and 5, referring to "postsecondary degree or certificate education programs."

** (2) 1999 c 325 § 4 requires the secretary of corrections to prepare and submit a plan to the governor and legislature by December 1, 1999.

Findings—Intent—2007 c 483: See note following RCW 72.09.460.

Findings—2007 c 483: See RCW 72.78.005.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

Additional notes found at www.leg.wa.gov

72.09.490 Policy on extended family visitation. (1) The department shall establish a uniform policy on the privilege of extended family visitation. Not fewer than sixty days before making any changes in any policy on extended family visitation, the department shall: (a) Notify the appropriate legislative committees of the proposed change; and (b) notify the committee created under *RCW 72.09.570 of the proposed change. The department shall seek the advice of the committee established under *RCW 72.09.570 and other appropriate committees on all proposed changes and shall, before the effective date of any change, offer the committees an opportunity to provide input on proposed changes.

(2) In addition to its duties under chapter 34.05 RCW, the department shall provide the committee established under *RCW 72.09.570 and other appropriate committees of the legislature a written copy of any proposed adoption, revision, or repeal of any rule relating to extended family visitation. Except for adoption, revision, or repeal of a rule on an emergency basis, the copy shall be provided not fewer than thirty days before any public hearing scheduled on the rule. [1995 1st sp.s. c 19 § 9.]

*Reviser's note: RCW 72.09.570 expired July 1, 1997.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.495 Incarcerated parents—Policies to encourage family contact and engagement. (1) The secretary of

corrections shall review current department policies and assess the following:

(a) The impact of existing policies on the ability of offenders to maintain familial contact and engagement between inmates and children; and

(b) The adequacy and availability of programs targeted at inmates with children.

(2) The secretary shall adopt policies that encourage familial contact and engagement between inmates and their children with the goal of reducing recidivism and intergenerational incarceration. Programs and policies should take into consideration the children's need to maintain contact with his or her parent and the inmate's ability to develop plans to financially support their children, assist in reunification when appropriate, and encourage the improvement of parenting skills where needed.

(3) The department shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the families of inmates, particularly the children of incarcerated parents;

(b) Evaluate data to determine the impact on recidivism and intergenerational incarceration; and

(c) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee. [2007 c 384 § 2.]

Intent—Finding—2007 c 384: "The legislature recognizes the significant impact on the lives and well-being of children and families when a parent is incarcerated. It is the intent of the legislature to support children and families, and maintain familial connections when appropriate, during the period a parent is incarcerated. Further, the legislature finds that there must be a greater emphasis placed on identifying state policies and programs impacting children with incarcerated parents. Additionally, greater effort must be made to ensure that the policies and programs of the state are supportive of the children, and meet their needs during the time the parent is incarcerated.

According to the final report of the children of incarcerated parents oversight committee, helping offenders build durable family relationships may reduce the likelihood that their children will go to prison later in life. Additionally, the report indicates that offenders who reconnect with their families in sustaining ways are less likely to reoffend. In all efforts to help offenders build these relationships with their children, the safety of the children will be paramount." [2007 c 384 § 1.]

72.09.500 Prohibition on weight-lifting. An inmate found by the superintendent in the institution in which the inmate is incarcerated to have committed an aggravated assault against another person, under rules adopted by the department, is prohibited from participating in weight lifting for a period of two years from the date the finding is made. At the conclusion of the two-year period the superintendent shall review the inmate's infraction record to determine if additional weight-lifting prohibitions are appropriate. If, based on the review, it is determined by the superintendent that the inmate poses a threat to the safety of others or the order of the facility, or otherwise does not meet requirements for the weight-lifting privilege, the superintendent may impose an additional reasonable restriction period. [1995 1st sp.s. c 19 § 10.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.510 Limitation on purchasing recreational equipment and dietary supplements that increase muscle

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mass. Purchases of recreational equipment following June 15, 1995, shall be cost-effective and, to the extent possible, minimize an inmate's ability to substantially increase muscle mass. Dietary supplements made for the sole purpose of increasing muscle mass shall not be available for purchase by inmates unless prescribed by a physician for medical purposes or for inmates officially competing in department-sanctioned competitive weight lifting. [1995 1st sp.s. c 19 § 11.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.520 Limitation on purchase of televisions. No inmate may acquire or possess a television for personal use for at least sixty days following completion of his or her intake and evaluation process at the Washington Corrections Center or the Washington Corrections Center for Women. [1995 1st sp.s. c 19 § 12.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.530 Prohibition on receipt or possession of contraband—Rules. The secretary shall, in consultation with the attorney general, adopt by rule a uniform policy that prohibits receipt or possession of anything that is determined to be contraband. The rule shall provide consistent maximum protection of legitimate penological interests, including prison security and order and deterrence of criminal activity. The rule shall protect the legitimate interests of the public and inmates in the exchange of ideas. The secretary shall establish a method of reviewing all incoming and outgoing material, consistent with constitutional constraints, for the purpose of confiscating anything determined to be contraband. The secretary shall consult regularly with the committee created under *RCW 72.09.570 on the development of the policy and implementation of the rule. [1995 1st sp.s. c 19 § 13.]

*Reviser's note: RCW 72.09.570 expired July 1, 1997.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.540 Inmate name change—Limitations on use—Penalty. The department may require an offender who obtains an order under RCW 4.24.130 to use the name under which he or she was committed to the department during all official communications with department personnel and in all matters relating to the offender's incarceration or community supervision. An offender officially communicating with the department may also use his or her new name in addition to the name under which he or she was committed. Violation of this section is a misdemeanor. [1995 1st sp.s. c 19 § 15.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.560 Camp for alien offenders. The department is authorized to establish a camp for alien offenders and shall be ready to assign offenders to the camp not later than January 1, 1997. The secretary shall locate the camp within the boundaries of an existing department facility. [1998 c 245 § 140; 1995 1st sp.s. c 19 § 21.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.09.580 Offender records and reports. Except as specifically prohibited by other law, and for purposes of determining, modifying, or monitoring compliance with conditions of community custody, the department:

(1) Shall have access to all relevant records and information in the possession of public agencies relating to offenders, including police reports, prosecutors' statements of probable cause, complete criminal history information, psychological evaluations and psychiatric hospital reports, sex offender treatment program reports, and juvenile records; and

(2) May require periodic reports from providers of treatment or other services required by the court or the department, including progress reports, evaluations and assessments, and reports of violations of conditions imposed by the court or the department. [2008 c 231 § 50; 1999 c 196 § 12.]

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Additional notes found at www.leg.wa.gov

72.09.585 Mental health services information—Required inquiries and disclosures—Release to court, individuals, indeterminate sentence review board, state and local agencies. (1) When the department is determining an offender's risk management level, the department shall inquire of the offender and shall be told whether the offender is subject to court-ordered treatment for mental health services or chemical dependency services. The department shall request and the offender shall provide an authorization to release information form that meets applicable state and federal requirements and shall provide the offender with written notice that the department will request the offender's mental health and substance use disorder treatment information. An offender's failure to inform the department of court-ordered treatment is a violation of the conditions of supervision if the offender is in the community and an infraction if the offender is in confinement, and the violation or infraction is subject to sanctions.

(2) When an offender discloses that he or she is subject to court-ordered mental health services or chemical dependency treatment, the department shall provide the mental health services provider or chemical dependency treatment provider with a written request for information and any necessary authorization to release information forms. The written request shall comply with rules adopted by the health care authority or protocols developed jointly by the department and the health care authority. A single request shall be valid for the duration of the offender's supervision in the community. Disclosures of information related to mental health services made pursuant to a department request shall not require consent of the offender.

(3) The information received by the department under RCW 71.05.445 or 70.02.250 may be released to the indeterminate sentence review board as relevant to carry out its responsibility of planning and ensuring community protection with respect to persons under its jurisdiction. Further disclosure by the indeterminate sentence review board is subject to the limitations set forth in subsections (5) and (6) of this section and must be consistent with the written policy of the indeterminate sentence review board. The decision to disclose or not shall not result in civil liability for the indeterminate sentence review board or staff assigned to perform

board-related duties provided that the decision was reached in good faith and without gross negligence.

(4) The information received by the department under RCW 71.05.445 or 70.02.250 may be used to meet the statutory duties of the department to provide evidence or report to the court. Disclosure to the public of information provided to the court by the department related to mental health services shall be limited in accordance with RCW 9.94A.500 or this section.

(5) The information received by the department under RCW 71.05.445 or 70.02.250 may be disclosed by the department to other state and local agencies as relevant to plan for and provide offenders transition, treatment, and supervision services, or as relevant and necessary to protect the public and counteract the danger created by a particular offender, and in a manner consistent with the written policy established by the secretary. The decision to disclose or not shall not result in civil liability for the department or its employees so long as the decision was reached in good faith and without gross negligence. The information received by a state or local agency from the department shall remain confidential and subject to the limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be released only as relevant and necessary to counteract the danger created by a particular offender.

(6) The information received by the department under RCW 71.05.445 or 70.02.250 may be disclosed by the department to individuals only with respect to offenders who have been determined by the department to have a high risk of reoffending by a risk assessment, as defined in RCW 9.94A.030, only as relevant and necessary for those individuals to take reasonable steps for the purpose of self-protection, or as provided in RCW 72.09.370(2). The information may not be disclosed for the purpose of engaging the public in a system of supervision, monitoring, and reporting offender behavior to the department. The department must limit the disclosure of information related to mental health services to the public to descriptions of an offender's behavior, risk he or she may present to the community, and need for mental health treatment, including medications, and shall not disclose or release to the public copies of treatment documents or records, except as otherwise provided by law. All disclosure of information to the public must be done in a manner consistent with the written policy established by the secretary. The decision to disclose or not shall not result in civil liability for the department or its employees so long as the decision was reached in good faith and without gross negligence. Nothing in this subsection prevents any person from reporting to law enforcement or the department behavior that he or she believes creates a public safety risk. [2018 c 201 § 9015; 2013 c 200 § 32; 2011 1st sp.s. c 40 § 24; 2004 c 166 § 5; 2000 c 75 § 4.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2013 c 200: See note following RCW 70.02.010.

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Intent—2000 c 75: See note following RCW 71.05.445.

Additional notes found at www.leg.wa.gov

72.09.588 Pregnant inmates—Midwifery or doula services—Reasonable accommodations. (1) The department must make reasonable accommodations for the provision of available midwifery or doula services to inmates who are pregnant or who have given birth in the last six weeks. Persons providing midwifery or doula services must be granted appropriate facility access, must be allowed to attend and provide assistance during labor and childbirth where feasible, and must have access to the inmate's relevant health care information, as defined in RCW 70.02.010, if the inmate authorizes disclosure.

(2) For purposes of this section, the following definitions apply:

(a) "Doula services" are services provided by a trained doula and designed to provide physical, emotional, or informational support to a pregnant woman before, during, and after delivery of a child. Doula services may include, but are not limited to: Support and assistance during labor and childbirth; prenatal and postpartum education; breastfeeding assistance; parenting education; and support in the event that a woman has been or will become separated from her child.

(b) "Midwifery services" means medical aid rendered by a midwife to a woman during prenatal, intrapartum, or postpartum stages or to a woman's newborn up to two weeks of age.

(c) "Midwife" means a midwife licensed under chapter 18.50 RCW or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) Nothing in this section requires the department to establish or provide funding for midwifery or doula services, or prevents the department from adopting policy guidelines for the delivery of midwifery or doula services to inmates. Services provided under this section may not supplant health care services routinely provided to the inmate. [2018 c 41 § 1.]

72.09.590 Community safety. To the extent practicable, the department shall deploy community corrections staff on the basis of geographic areas in which offenders under the department's jurisdiction are located, and shall establish a systematic means of assessing risk to the safety of those communities. [1999 c 196 § 13.]

Additional notes found at www.leg.wa.gov

72.09.600 Rules—Chapter 196, Laws of 1999. The secretary of corrections may adopt rules to implement sections 1 through 13, chapter 196, Laws of 1999. [1999 c 196 § 14.]

Additional notes found at www.leg.wa.gov

72.09.620 Extraordinary medical placement—Reports. The secretary shall report annually to the legislature on the number of offenders considered for an extraordinary medical placement, the number of offenders who were granted such a placement, the number of offenders who were denied such a placement, the length of time between initial consideration and the placement decision for each offender who was granted an extraordinary medical placement, the number of offenders granted an extraordinary medical placement who were later returned to total confinement, and the cost savings realized by the state. [1999 c 324 § 7.]

(2021 Ed.)

72.09.630 Custodial sexual misconduct—Investigation of allegations. The department shall investigate any alleged violations of RCW 9A.44.160 or 9A.44.170 that are alleged to have been committed by an employee or contract personnel of the department, to determine whether there is probable cause to believe that the allegation is true before reporting the alleged violation to a prosecuting attorney. [1999 c 45 § 7.]

72.09.650 Use of force by limited authority Washington peace officers—Detention of persons. (1) An employee of the department who is a limited authority Washington peace officer under RCW 10.93.020 may use reasonable force to detain, search, or remove persons who enter or remain without permission within a correctional facility or institutional grounds or whenever, upon probable cause, it appears to such employee that a person has committed or is attempting to commit a crime, or possesses contraband within a correctional facility or institutional grounds. Should any person be detained, the department shall immediately notify a local law enforcement agency having jurisdiction over the correctional facility or institutional grounds of the detainment. The department is authorized to detain the person for a reasonable time to search the person and confiscate any contraband, and until custody of the person and any illegal contraband can be transferred to a law enforcement officer when appropriate. An employee of the department who is a limited authority Washington peace officer under RCW 10.93.020 may use that force necessary in the protection of persons and properties located within the confines of the correctional facility or institutional grounds.

(2) The rights granted in subsection (1) of this section are in addition to any others that may exist by law including, but not limited to, the rights granted in RCW 9A.16.020. [2001 c 11 § 1.]

Additional notes found at www.leg.wa.gov

72.09.651 Use of restraints on pregnant women or youth in custody—Allowed in extraordinary circumstances. (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer determines that extraordinary circumstances exist and restraints are used, the corrections officer must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for

the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer accompanying the pregnant woman or youth shall immediately remove all restraints. [2010 c 181 § 2.]

72.09.652 Use of restraints on pregnant women or youth in custody—Provision of information to staff and pregnant women and youth in custody. (1) The secretary shall provide an informational packet about the requirements of chapter 181, Laws of 2010 to all medical staff and non-medical staff who are involved in the transportation of women and youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in RCW 70.48.800.

(2) The secretary shall cause the requirements of chapter 181, Laws of 2010 to be provided to all women or youth who are pregnant, at the time the department assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of chapter 181, Laws of 2010 to be posted in conspicuous locations in the correctional facilities, including but not limited to the locations in which medical care is provided within the facilities. [2010 c 181 § 3.]

72.09.670 Gang involvement among incarcerated offenders—Intervention programs—Study. (1) The department shall study and establish best practices to reduce gang involvement and recruitment among incarcerated offenders. The department shall study and make recommendations regarding the establishment of:

(a) Intervention programs within the institutions of the department for offenders who are seeking to opt out of gangs. The intervention programs shall include, but are not limited to, tattoo removal, anger management, preparation to obtain a high school equivalency certificate as described in RCW 28B.50.536, and other interventions; and

(b) An intervention program to assist gang members with successful reentry into the community.

(2) The department shall report to the legislature on its findings and recommendations by January 1, 2009. [2013 c 39 § 25; 2008 c 276 § 601.]

Additional notes found at www.leg.wa.gov

72.09.680 Statewide security advisory committee. (1) The department shall establish a statewide security advisory committee to conduct comprehensive reviews of the department's total confinement security-related policies and procedures.

(2) The statewide security advisory committee shall make recommendations to the secretary regarding methods to provide consistent application of the policies and procedures regarding security issues in total confinement correctional facilities.

(3) The statewide security advisory committee shall include a balance of institutional staff including, but not limited to, custody staff. At a minimum, the statewide security advisory committee shall include:

(a) The director of prisons or his or her designee;

(b) A nonsupervisory classified employee and/or sergeant from each local advisory committee of a major facility and one nonsupervisory classified employee and/or sergeant representative from a minimum facility;

(c) A senior-ranking security custody staff member from each major correctional facility and a senior-ranking custody staff member from a minimum correctional facility;

(d) A senior-ranking community corrections officer; and

(e) A delegate from the union that represents department employees located at correctional facilities.

(4) The statewide security advisory committee shall develop guidelines to establish local security advisory committees for each total confinement correctional facility within the department. The chair of each local security advisory committee shall be the captain at a major facility and the lieutenant at a minimum security facility. The local security advisory committee should consist of a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff, class counselors, program staff, and mental health staff.

(5) The department shall report back to the governor and appropriate committees of the legislature by November 1, 2011, and annually thereafter. The report shall include:

(a) Recommendations raised by both the statewide and local security advisory committees;

(b) Recommendations, if any, for improving the ability of nonsupervisory classified employees to provide input on safety concerns including labor and industries mandated safety committees and the inclusion of safety issues in collective bargaining;

(c) Actions taken by the department as a result of recommendations by the statewide and local security advisory committees; and

(d) Recommendations for additional resources or legislation to address security concerns in total confinement correctional facilities.

(6) The department shall report back to the governor and the appropriate committees of the legislature by November 1, 2011, on issues related to safety within community corrections. The department shall engage employees from all levels of the community corrections division in preparing the report. [2011 c 252 § 2.]

Intent—2011 c 252: "It is the intent of the legislature to promote safe state correctional facilities. Following the tragic murder of officer Jayme Biendl, the governor and department of corrections requested the national institute of corrections to review safety procedures at the Monroe reformatory. While the report found the Monroe reformatory is a safe institution, it recommends changes that would enhance safety. The legislature recognizes that operating safe institutions requires ongoing efforts to address areas where improvements can be made to enhance the safety of state correctional facilities. This act addresses ways to increase safety at state correctional facilities and implements changes recommended in the report of the national institute of corrections." [2011 c 252 § 1.]

72.09.682 Multidisciplinary teams—Inmate job assignments. (1) The department shall establish multidisciplinary teams at each total confinement correctional facility that will evaluate offenders' placements in inmate job assignments and custody promotions. The teams at each facility shall determine suitable placements based on the offender's risk, behavior, or other factors considered by the team.

(2) At a minimum, each team shall have representation from a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff, class counselors, program staff, and mental health staff. [2011 c 252 § 3.]

Intent—2011 c 252: See note following RCW 72.09.680.

72.09.684 Training curriculum—Safety issues—Total confinement correctional facilities. (1) The department shall develop training curriculum regarding staff safety issues at total confinement correctional facilities. At a minimum, the training shall address the following issues:

- (a) Security routines;
- (b) Physical plant layout;
- (c) Offender movement and program area coverage; and
- (d) Situational awareness and de-escalation techniques.

(2) The department shall seek the input of both the statewide security and local [statewide and local security] advisory committees in developing the curriculum.

(3) The department shall deliver such training to applicable correctional staff at in-service training by July 1, 2012. [2011 c 252 § 4.]

Intent—2011 c 252: See note following RCW 72.09.680.

72.09.686 Body alarms and proximity cards—Study and report. (1) The department may pilot the use of body alarms and proximity cards within available resources.

(2) The department shall hire a consultant to study the feasibility of implementing a statewide system for staff safety, utilizing body alarms and proximity cards for staff within the department's total confinement correctional facilities and report findings and recommendations to the governor and appropriate committees of the legislature by November 1, 2011. At a minimum, the report shall include:

- (a) Recommendations for the use of body alarms by security level;
- (b) Recommendations for specific positions that should require the use of body alarms;
- (c) The information technological and infrastructure requirements needed for body alarms and proximity cards;
- (d) The training requirements for body alarms;
- (e) Lessons learned from any pilot project the department may implement in the interim;
- (f) The estimated cost of the alarms and proximity cards and needed supporting infrastructure, staffing, and training requirements.

(3) The consultant shall seek the input of both the statewide and local security advisory committees in preparing his or her report. [2011 c 252 § 5.]

Intent—2011 c 252: See note following RCW 72.09.680.

72.09.688 Video monitoring cameras—Study and report. (1) The department shall hire a consultant to study the deployment of video monitoring cameras within the

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department to make recommendations regarding statewide standards for the positioning and use of video monitoring cameras in total confinement correctional facilities and report findings and recommendations to the governor and appropriate committees of the legislature by November 1, 2011. At a minimum, the report shall include:

(a) Recommendations for the use of video monitoring cameras by security level;

(b) Recommendations for specific locations within a total confinement correctional facility which would benefit from the use of video monitoring cameras;

(c) The information technological and infrastructure requirements needed for effective use of video monitoring cameras;

(d) Recommendations for how video monitoring cameras would best be deployed in current total confinement correctional facilities;

(e) Recommendations about how video monitoring cameras should be incorporated into future prison construction to insure consistency in camera use systemwide;

(f) The estimated cost of the video monitoring cameras, supporting infrastructure needed, and staffing required by the total confinement correctional facility.

(2) The consultant shall seek the input of both the statewide and local security advisory committees in preparing his or her report. [2011 c 252 § 6.]

Intent—2011 c 252: See note following RCW 72.09.680.

72.09.690 Pepper spray—Plan for use. (1) The department shall develop a comprehensive plan for the use of oleoresin capsicum aerosol products, commonly referred to as pepper spray, as a security measure available for staff at total confinement correctional facilities.

(2) The department may initiate a pilot project, within available funds, to expand the deployment of oleoresin capsicum aerosol products within total confinement correctional facilities.

(3) The department's plan for the deployment of oleoresin capsicum aerosol products to staff shall include findings, if any, from the pilot project, recommendations regarding which facility's use should be limited to, what the training requirements should be, the estimated costs, and an implementation schedule.

(4) The department shall seek the input of both the statewide and local security advisory committees in developing its plan.

(5) The department shall report its plan, including costs, to the governor and appropriate committees of the legislature by November 1, 2011. [2011 c 252 § 7.]

Intent—2011 c 252: See note following RCW 72.09.680.

72.09.710 Drug offenders—Notice of release or escape. (1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community custody, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

(b) Any person specified in writing by the prosecuting attorney.

Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2) (a) or (b). [2008 c 231 § 26; 2003 c 53 § 61; 1996 c 205 § 4; 1991 c 147 § 1. Formerly RCW 9.94A.610, 9.94A.154.]

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

72.09.712 Prisoner escape, parole, release, community custody or work release placement, or furlough—Notification procedures. (Effective until July 1, 2022.) (1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know

where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section. [2019 c 46 § 5043. Prior: 2009 c 521 § 166; 2009 c 400 § 1; 2008 c 231 § 27; 1996 c 215 § 4; prior: 1994 c 129 § 3; 1994 c 77 § 1; prior: 1992 c 186 § 7; 1992 c 45 § 2; 1990 c 3 § 121; 1989 c 30 § 1; 1985 c 346 § 1. Formerly RCW 9.94A.612, 9.94A.155.]

*Reviser's note: Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Additional notes found at www.leg.wa.gov

72.09.712 Prisoner escape, parole, release, community custody or work release placement, or furlough—Notification procedures. (Effective July 1, 2022.)

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a

violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section. [2021 c 215 § 160; 2019 c 46 § 5043. Prior: 2009 c 521 § 166; 2009 c 400 § 1; 2008 c 231 § 27; 1996 c 215 § 4; prior: 1994 c 129 § 3; 1994 c 77 § 1; prior: 1992 c 186 § 7; 1992 c 45 § 2; 1990 c 3 § 121; 1989 c 30 § 1; 1985 c 346 § 1. Formerly RCW 9.94A.612, 9.94A.155.]

*Reviser's note: RCW 26.10.220 was repealed by 2020 c 312 § 905.

Effective date—2021 c 215: See note following RCW 7.105.900.

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Additional notes found at www.leg.wa.gov

72.09.713 Prisoner escape, parole, release, community custody or work release placement, or furlough—Notice of work release placement. (1) When a victim of a crime or the victim's next of kin requests notice under RCW 72.09.712 regarding a specific inmate, the department shall advise the requester in writing of the possibility that part of the sentence may be served by the inmate in a work release facility and instruct the requester on how to submit input to the department regarding the inmate's work release placement.

(2) When the department notifies a victim or the victim's next of kin under RCW 72.09.712 of an offender's placement in work release, the department shall also provide instruction on how to submit input regarding the offender's work release placement.

(3) The department shall consider any input received from a victim or the victim's next of kin under subsection (1) or (2) of this section if the input is received at least seven days prior to the offender's placement in work release. The department may consider any input from a victim or the victim's next of kin under subsection (1) or (2) of this section if the input is received less than seven days prior to the offender's placement in work release. The department may alter its placement decision based on any input considered under this subsection. [2009 c 69 § 1.]

Additional notes found at www.leg.wa.gov

72.09.714 Prisoner escape, release, or furlough—Homicide, violent, and sex offenses—Rights of victims and witnesses. (Effective until July 1, 2022.) The department of corrections shall provide the victims, witnesses, and next of kin in the case of a homicide and victims and witnesses involved in violent offense cases, sex offenses as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, 26.50.110, 26.52.070, or 74.34.145,

or a felony harassment pursuant to RCW 9A.46.060 or 9A.46.110, a statement of the rights of victims and witnesses to request and receive notification under RCW 72.09.712 and 72.09.716. [2019 c 46 § 5044. Prior: 2009 c 400 § 2; 2009 c 28 § 37; 1989 c 30 § 2; 1985 c 346 § 2. Formerly RCW 9.94A.614, 9.94A.156.]

*Reviser's note: Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Additional notes found at www.leg.wa.gov

72.09.714 Prisoner escape, release, or furlough—Homicide, violent, and sex offenses—Rights of victims and witnesses. (Effective July 1, 2022.) The department of corrections shall provide the victims, witnesses, and next of kin in the case of a homicide and victims and witnesses involved in violent offense cases, sex offenses as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, *26.10.220, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, or a felony harassment pursuant to RCW 9A.46.060 or 9A.46.110, a statement of the rights of victims and witnesses to request and receive notification under RCW 72.09.712 and 72.09.716. [2021 c 215 § 161; 2019 c 46 § 5044. Prior: 2009 c 400 § 2; 2009 c 28 § 37; 1989 c 30 § 2; 1985 c 346 § 2. Formerly RCW 9.94A.614, 9.94A.156.]

*Reviser's note: RCW 26.10.220 was repealed by 2020 c 312 § 905.

Effective date—2021 c 215: See note following RCW 7.105.900.

Additional notes found at www.leg.wa.gov

72.09.716 Prisoner escape, release, or furlough—Requests for notification. Requests for notification under RCW 72.09.712 shall be made by sending a written request by certified mail directly to the department of corrections and giving the defendant's name, the name of the county in which the trial took place, and the month of the trial. Notification information and necessary forms shall be available through the department of corrections, county prosecutors' offices, and other agencies as deemed appropriate by the department of corrections. [2009 c 28 § 38; 1985 c 346 § 3. Formerly RCW 9.94A.616, 9.94A.157.]

Additional notes found at www.leg.wa.gov

72.09.718 Prisoner escape, release, or furlough—Notification as additional requirement. The notification requirements of RCW 72.09.712 are in addition to any requirements in RCW 43.43.745 or other law. [2009 c 28 § 39; 1985 c 346 § 4. Formerly RCW 9.94A.618, 9.94A.158.]

Additional notes found at www.leg.wa.gov

72.09.720 Prisoner escape, release, or furlough—Consequences of failure to notify. Civil liability shall not result from failure to provide notice required under RCW 72.09.712 through 72.09.718, 9.94A.030, and 43.43.745 unless the failure is the result of gross negligence. [2009 c 28 § 40; 1985 c 346 § 7. Formerly RCW 9.94A.620, 9.94A.159.]

Additional notes found at www.leg.wa.gov

72.09.730 Schools—Notice to designated recipient of offender release. (1) The provisions of this section apply only to an offender released from confinement who:

(a) Was convicted of a violent offense or sex offense as those terms are defined in RCW 9.94A.030;

(b) Is twenty-one years of age or younger at the time of release; and

(c) Has not received a high school diploma or its equivalent.

(2) At the earliest practicable date, and in no event later than thirty days before release from confinement, the department must provide written notification of the release of an offender described in subsection (1) of this section to the designated recipient of the school where the offender:

(a) Was enrolled prior to incarceration or detention; or

(b) Has expressed an intention to enroll following his or her release.

(3) If after providing notification as required under subsection (2) of this section, the release of an offender described in subsection (1) of this section is delayed, the department must inform the designated recipient of the modified release date.

(4) This section applies whenever an offender is being released from total confinement, regardless if the release is to parole, community custody, work release placement, or furlough.

(5) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; or (c) the administrator of a private school approved under chapter 28A.195 RCW. [2020 c 167 § 9; 2011 c 107 § 1.]

72.09.740 Reimbursement for state patrol expenses towards water line construction for Shelton academy. Prior to connection of the Washington correction center in Shelton to the city water system and consistent with Article II, section 40 of the state Constitution, the department must reimburse the state patrol highway account created in RCW 46.68.030 for any expenses incurred by the Washington state patrol for the department's share of the cost to construct a water line to the Washington state patrol's Shelton academy as identified in chapter 86, Laws of 2012. [2012 c 86 § 805.]

Contingency—2012 c 86 § 805: "If funding is provided in the 2012 supplemental omnibus capital appropriations act for more than \$2,047,000, for the purposes of constructing a water line to the Washington state patrol's Shelton academy, section 805 of this act is null and void." [2012 c 86 § 806.] Funding was not provided in the 2012 supplemental omnibus capital appropriations act (chapter 2, Laws of 2012 2nd sp.s.).

72.09.745 Security threat groups—Information collection. (1) The department may collect, evaluate, and analyze data and specific investigative and intelligence information concerning the existence, structure, activities, and operations of security threat groups and the participants involved therein under the jurisdiction of the department. The data compiled may aid in addressing violence reduction, illegal activities, and identification of offender separation or protection needs, and may be used to assist law enforcement agencies and prosecutors in developing evidence for purposes of criminal prosecution upon request.

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(2) The following security threat group information collected and maintained by the department shall be exempt from public disclosure under chapter 42.56 RCW: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates. [2013 c 315 § 1.]

72.09.750 Access to reentry programs and services for wrongly convicted persons. When a court refers a person to the department under RCW 4.100.060 as part of the person's award in a wrongful conviction claim, the department must provide reasonable access to existing reentry programs and services. Nothing in this section requires the department to establish new reentry programs or services. [2013 c 175 § 12.]

72.09.755 Department of corrections—Use of screening and assessment process. The department of corrections shall, to the extent that resources are available for this purpose, utilize the integrated, comprehensive screening and assessment process for chemical dependency and mental disorders developed under RCW 71.24.630. [2016 sp.s. c 29 § 528; 2005 c 504 § 602. Formerly RCW 70.96C.020.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Additional notes found at www.leg.wa.gov

72.09.760 Facility commissary program—Access. (1) In providing access to the facility commissary program in state correctional facilities, the department is strongly encouraged to provide, at a minimum, weekly access to the facility commissary program across all departmental institutions of total confinement. The department may not reduce frequency at departmental institutions that have weekly access to the facility commissary program as of June 11, 2020.

(2) By December 1, 2020, the department must provide access to the facility commissary program at least twenty-six times per year or once every two weeks at all institutions of total confinement. [2020 c 319 § 3.]

Finding—2020 c 319: See note following RCW 72.09.015.

72.09.765 Inmate access to telecommunication services—Contracting—Reporting. (1) Any contract to provide inmates with access to telecommunication services and electronic media services in state correctional facilities shall be made publicly available and posted on the department's web site.

(2) The information in this subsection from the contract shall be prominently displayed on the department's public web site:

(a) Rates for facilitating telecommunication services including, but not limited to, phone calls, video visitation,

videograms and video clips, emails, and accessing music and entertainment;

(b) Fees charged for money transfers and transactions, maintenance of financial accounts, and any other fee charged to the user to facilitate the money transfer or online deposit account; and

(c) All fees or costs charged to the inmate or customer in exchange for use of telecommunication or electronic media services through the contract.

(3) By July 1st of each year, the contractor that provides inmates with access to telecommunication services and electronic media services under subsection (1) of this section shall report to the department the following information:

(a) A summary of services offered at each correctional facility;

(b) Rates charged for, or associated with, providing each type of service including, but not limited to, monthly financial account maintenance fees, transaction fees associated with money transfers, per call and connection surcharges, bill statement fees, and refund fees;

(c) A total accounting of commissions provided to the department or correctional facility;

(d) A summary and accounting of services used by inmates categorized as indigent;

(e) One-time and ongoing costs incurred for installing and maintaining hardware;

(f) Average customer service response time rates per facility and the average time taken to resolve an issue or provide a refund for defective services; and

(g) An accounting of all revenues or losses incurred by the contractor by quarter.

(4) By November 1st of each year, and in compliance with RCW 43.01.036, the department shall report to the governor and legislature on contracts for telecommunication services and electronic media services under this section and the contractor's annual compliance with this section.

(5) This section applies to any contract in effect on June 11, 2020, and to any renegotiation, renewal, or extension of such contract. [2020 c 319 § 4.]

Finding—2020 c 319: See note following RCW 72.09.015.

72.09.770 Unexpected fatality review—Records—Discovery. (1)(a) The department shall conduct an unexpected fatality review in any case in which the death of an incarcerated individual is unexpected, or any case identified by the office of the corrections ombuds for review.

(b) The department shall convene an unexpected fatality review team and determine the membership of the review team. The team shall comprise of individuals with appropriate expertise including, but not limited to, individuals whose professional expertise is pertinent to the dynamics of the case. The unexpected fatality review team shall include the office of the corrections ombuds or the ombuds' designee, and a representative from the department of health. The department shall ensure that the unexpected fatality review team is made up of individuals who had no previous involvement in the case.

(c) The primary purpose of the unexpected fatality review shall be the development of recommendations to the department and legislature regarding changes in practices or

policies to prevent fatalities and strengthen safety and health protections for prisoners in the custody of the department.

(d) Upon conclusion of an unexpected fatality review required pursuant to this section, the department shall, within 120 days following the fatality, issue a report on the results of the review, unless an extension has been granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public website where all unexpected fatality review reports required under this section must be posted and maintained. An unexpected fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public website, except that confidential information may be redacted by the department consistent with the requirements of applicable state and federal laws.

(e) Within 10 days of completion of an unexpected fatality review under this section, the department shall develop an associated corrective action plan to implement any recommendations made by the review team in the unexpected fatality review report. Corrective action plans shall be implemented within 120 days, unless an extension has been granted by the governor. Corrective action plans are subject to public disclosure, and must be posted on the department's website in accordance with (d) of this subsection, except that confidential information may be redacted by the department consistent with the requirements of applicable state and federal laws.

(f) The department shall develop and implement procedures to carry out the requirements of this section.

(2) In any review of an unexpected fatality, the department and the unexpected fatality review team shall have access to all records and files regarding the person or otherwise relevant to the review that have been produced or retained by the agency.

(3)(a) An unexpected fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting an unexpected fatality review, or member of an unexpected fatality review team, may not be examined in a civil or administrative proceeding regarding: (i) The work of the unexpected fatality review team; (ii) the incident under review; (iii) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the unexpected fatality review team or the incident under review; or (iv) the statements, deliberations, thoughts, analyses, or impressions of any other member of the unexpected fatality review team, or any person who provided information to the unexpected fatality review team relating to the work of the unexpected fatality review team or the incident under review.

(c) Documents prepared by or for an unexpected fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in an unexpected fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by an unexpected fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by, or has provided a statement for, an unex-

pected fatality review, but if the person is called as a witness, the person may not be examined regarding the person's interactions with the unexpected fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions set forth in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with an unexpected fatality reviewed by an unexpected fatality review team.

(4) For the purposes of this section:

(a) "Unexpected fatality review" means a review of any death that was not the result of a diagnosed or documented terminal illness or other debilitating or deteriorating illness or condition where the death was anticipated, and includes the death of any person under the jurisdiction of the department, regardless of where the death actually occurred. A review must include an analysis of the root cause or causes of the unexpected fatality, and an associated corrective action plan for the department to address identified root causes and recommendations made by the unexpected fatality review team under this section.

(b) "Jurisdiction of the department" does not include persons on community custody under the supervision of the department. [2021 c 139 § 1.]

72.09.900 Effective date—1981 c 136. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981. [1981 c 136 § 124.]

72.09.901 Short title. This chapter may be known and cited as the corrections reform act of 1981. [1981 c 136 § 1.]

72.09.902 Construction—1981 c 136. All references to the department or secretary of social and health services in other chapters of the Revised Code of Washington shall be construed as meaning the department or secretary of corrections when referring to the functions established by this chapter. [1981 c 136 § 29.]

72.09.903 Savings—1981 c 136. All rules and all pending business before the secretary of social and health services and the department of social and health services pertaining to matters transferred by RCW 72.09.040 shall be continued and acted upon by the department of corrections.

All existing contracts and obligations pertaining to the powers, duties, and functions transferred shall remain in full force and effect and shall be performed by the department of corrections.

The transfer of powers, duties, and functions under RCW 72.09.040 shall not affect the validity of any act performed prior to July 1, 1981, by the department of social and health services or its secretary and, except as otherwise specifically

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provided, shall not affect the validity of any rights existing on July 1, 1981.

If questions arise regarding whether any sort of obligation is properly that of the department of social and health services or the department of corrections, such questions shall be resolved by the director of financial management. [1981 c 136 § 30.]

72.09.904 Construction—1999 c 196. Nothing in chapter 196, Laws of 1999 shall be construed to create an immunity or defense from liability for personal injury or wrongful death based solely on availability of funds. [1999 c 196 § 17.]

72.09.905 Short title—1999 c 196. This act may be known and cited as the offender accountability act. [1999 c 196 § 18.]

72.09.906 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 164.]

Chapter 72.10 RCW

HEALTH CARE SERVICES—DEPARTMENT OF CORRECTIONS

Sections

72.10.005	Intent—Application.
72.10.010	Definitions.
72.10.020	Health services delivery plan—Reports to the legislature— Policy for distribution of personal hygiene items.
72.10.030	Contracts for services.
72.10.040	Rules.
72.10.050	Rules to implement RCW 72.10.020.
72.10.060	Inmates who have received mental health treatment—Notifi- cation to treatment provider at time of release.
72.10.070	Prison medical director—Qualifications.

72.10.005 Intent—Application. It is the intent of the legislature that inmates in the custody of the department of corrections receive such basic medical services as may be mandated by the federal Constitution and the Constitution of the state of Washington. Notwithstanding any other laws, it is the further intent of the legislature that the department of corrections may contract directly with any persons, firms, agencies, or corporations qualified to provide such services. Nothing in this chapter is to be construed to authorize a reduction in state employment in service component areas presently rendering such services or to preclude work typically and his-

torically performed by department employees. [1989 c 157 § 1.]

72.10.010 Definitions. As used in this chapter:

- (1) "Department" means the department of corrections.
- (2) "Health care practitioner" means an individual or firm licensed or certified to actively engage in a regulated health profession.
- (3) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).
- (4) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.
- (5) "Health care services" means medical, dental, and mental health care services.
- (6) "Secretary" means the secretary of the department.
- (7) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the department, or his or her designee. [1995 1st sp.s. c 19 § 16; 1989 c 157 § 2.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.10.020 Health services delivery plan—Reports to the legislature—Policy for distribution of personal hygiene items. (1) Upon entry into the correctional system, offenders shall receive an initial medical examination. The department shall prepare a health profile for each offender that includes at least the following information: (a) An identification of the offender's serious medical and dental needs; (b) an evaluation of the offender's capacity for work and recreation; and (c) a financial assessment of the offender's ability to pay for all or a portion of his or her health care services from personal resources or private insurance.

(2)(a) The department may develop and implement a plan for the delivery of health care services and personal hygiene items to offenders in the department's correctional facilities, at the discretion of the secretary, and in conformity with federal law.

(b) To discourage unwarranted use of health care services caused by unnecessary visits to health care providers, offenders shall participate in the costs of their health care services by paying an amount that is commensurate with their resources as determined by the department, or a nominal amount of no less than four dollars per visit, as determined by the secretary. Under the authority granted in RCW 72.01.050(2), the secretary may authorize the superintendent to collect this amount directly from an offender's institution account. All copayments collected from offenders' institution accounts shall be a reduction in the expenditures for offender health care at the department.

(c) Offenders are required to make copayments for initial health care visits that are offender initiated and, by rule adopted by the department, may be charged a copayment for subsequent visits related to the medical condition which caused the initial visit.

(d) No offender may be refused any health care service because of indigence.

(e) At no time shall the withdrawal of funds for the payment of a medical service copayment result in reducing an offender's institution account to an amount less than the level of indigency as defined in chapter 72.09 RCW.

(3)(a) The secretary shall adopt, by rule, a uniform policy relating to the distribution and replenishment of personal hygiene items for inmates incarcerated in all department institutions. The policy shall provide for the initial distribution of adequate personal hygiene items to inmates upon their arrival at an institution.

(b) The acquisition of replenishment personal hygiene items is the responsibility of inmates, except that indigent inmates shall not be denied adequate personal hygiene items based on their inability to pay for them.

(c) The policy shall provide that the replenishment personal hygiene items be distributed to inmates only in authorized quantities and at intervals that reflect prudent use and customary wear and consumption of the items.

(4) To the extent that federal law allows and federal financial participation is available, for the limited purpose of implementing this section, the department, or the department's designee, is authorized to act on behalf of an inmate for purposes of applying for medicaid eligibility.

(5) The following become a debt and are subject to RCW 72.09.450:

(a) All copayments under subsection (2) of this section that are not collected when the visit occurs; and

(b) All charges for replenishment personal hygiene items that are not collected when the item is distributed.

(6) The department, in accordance with medically accepted best practices and in consultation with the health care authority, shall develop and implement uniform standards across all of the department's correctional facilities for determining when a patient's current health status requires a referral for consultation or treatment outside the department. These standards must be based on the health care community standard of care to ensure medical referrals for consultation or treatment are timely and promote optimal patient outcomes. [2020 c 58 § 2; 2016 c 197 § 8; 2012 c 237 § 1; 1995 1st sp.s. c 19 § 17; 1989 c 157 § 3.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.10.030 Contracts for services. (1) Notwithstanding any other provisions of law, the secretary may enter into contracts with health care practitioners, health care facilities, and other entities or agents as may be necessary to provide medical, behavioral health, and chemical dependency treatment care to inmates. The contracts shall not cause the termination of classified employees of the department rendering the services at the time the contract is executed.

(2) In contracting for services, the secretary is authorized to provide for indemnification of health care practitioners who cannot obtain professional liability insurance through reasonable effort, from liability on any action, claim, or proceeding instituted against them arising out of the good faith performance or failure of performance of services on behalf of the department. The contracts may provide that for the purposes of chapter 4.92 RCW only, those health care practitioners with whom the department has contracted shall be considered state employees.

(3) Providers of hospital services that are hospitals licensed under chapter 70.41 RCW shall contract with the department for inpatient, outpatient, and ancillary services if deemed appropriate by the department. Payments to hospitals shall conform to the following requirements:

(a) The department shall pay hospitals through the provider one system operated by the Washington state health care authority;

(b) The department shall reimburse the hospitals using the reimbursement methodology in use by the state medicaid program; and

(c) The department shall only reimburse a provider of hospital services to a hospital patient at a rate no more than the amount payable under the medicaid reimbursement structure plus a percentage increase that is determined in the operating budget, regardless of whether the hospital is located within or outside of Washington. [2012 c 237 § 2; 1989 c 157 § 4.]

72.10.040 Rules. The secretary shall have the power to make rules necessary to carry out the intent of this chapter. [1989 c 157 § 5.]

72.10.050 Rules to implement RCW 72.10.020. The department shall adopt rules to implement RCW 72.10.020. [1995 1st sp.s. c 19 § 18.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

72.10.060 Inmates who have received mental health treatment—Notification to treatment provider at time of release. The secretary shall, for any person committed to a state correctional facility after July 1, 1998, inquire at the time of commitment whether the person had received outpatient mental health treatment within the two years preceding confinement and the name of the person providing the treatment.

The secretary shall inquire of the treatment provider if he or she wishes to be notified of the release of the person from confinement, for purposes of offering treatment upon the inmate's release. If the treatment provider wishes to be notified of the inmate's release, the secretary shall attempt to provide such notice at least seven days prior to release.

At the time of an inmate's release if the secretary is unable to locate the treatment provider, the secretary shall notify the health care authority and the behavioral health administrative services organization in the county the inmate will most likely reside following release.

If the secretary has, prior to the release from the facility, evaluated the inmate and determined he or she requires post-release mental health treatment, a copy of relevant records and reports relating to the inmate's mental health treatment or status shall be promptly made available to the offender's present or future treatment provider. The secretary shall determine which records and reports are relevant and may provide a summary in lieu of copies of the records. [2019 c 325 § 5027; 2014 c 225 § 97; 1998 c 297 § 48.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

Effective dates—Severability—Intent—1998 c 297: See notes following RCW 71.05.010.

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72.10.070 Prison medical director—Qualifications. (1) The department shall establish minimum job qualifications for the position of prison medical director in accordance with best practices.

(2) A candidate for prison medical director must meet the established minimum qualifications to be considered for the position.

(3) The established minimum qualifications shall be reviewed by the department every five years or more frequently as the department deems necessary.

(4) By December 1, 2020, and in compliance with RCW 43.01.036, the department shall report to the appropriate committees of the legislature the minimum job qualifications established and the status of implementing the minimum job qualifications throughout the department's correctional facilities. [2020 c 58 § 1.]

**Chapter 72.11 RCW
OFFENDERS' RESPONSIBILITY FOR LEGAL
FINANCIAL OBLIGATIONS**

Sections

72.11.010	Definitions.
72.11.020	Inmate funds—Legal financial obligations—Disbursal by secretary.
72.11.030	Inmate accounts—Legal financial obligations—Priority—Deductions.
72.11.040	Cost of supervision fund.

72.11.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereafter used in this chapter shall have the following meanings:

(1) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for payment of restitution to a victim, statutorily imposed crime victims compensation fee, court costs, a county or interlocal drug fund, court-appointed attorneys' fees and costs of defense, fines, and any other legal financial obligation that is assessed as a result of a felony conviction.

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

(3) "Offender" means an individual who is currently under the jurisdiction of the Washington state department of corrections, and who also has a court-ordered legal financial obligation as a result of a felony conviction.

(4) "Secretary" means the secretary of the department of corrections or the secretary's designee.

(5) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections. [1989 c 252 § 22.]

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

72.11.020 Inmate funds—Legal financial obligations—Disbursal by secretary. The secretary shall be custodian of all funds of a convicted person that are in his or her possession upon admission to a state institution, or that are sent or brought to the person, or earned by the person while in custody, or that are forwarded to the superintendent on behalf of a convicted person. All such funds shall be deposited in the personal account of the convicted person within the institutional resident deposit account as established by the office of financial management pursuant to RCW 43.88.195, and the

secretary shall have authority to disburse money from such person's personal account for the purposes of satisfying a court-ordered legal financial obligation to the court. Legal financial obligation deductions shall be made as stated in RCW 72.09.111(1) and 72.65.050 without exception. Unless specifically granted authority herein, at no time shall the withdrawal of funds for the payment of a legal financial obligation result in reducing the inmate's account to an amount less than the defined level of indigency to be determined by the department.

Further, unless specifically altered herein, court-ordered legal financial obligations shall be paid. [2002 c 126 § 1; 1989 c 252 § 23.]

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

72.11.030 Inmate accounts—Legal financial obligations—Priority—Deductions. (1) Except as otherwise provided herein, all court-ordered legal financial obligations shall take priority over any other statutorily imposed mandatory withdrawals from inmate's accounts.

(2) For those inmates who are on work release pursuant to chapter 72.65 RCW, before any legal financial obligations are withdrawn from the inmate's account, the inmate is entitled to payroll deductions that are required by law, or such payroll deductions as may reasonably be required by the nature of the employment unless any such amount which his or her work release plan specifies should be retained to help meet the inmate's needs, including costs necessary for his or her participation in the work release plan such as travel, meals, clothing, tools, and other incidentals.

(3) Before the payment of any court-ordered legal financial obligation is required, the department is entitled to reimbursement for any expenses advanced for vocational training pursuant to RCW 72.65.020(2), for expenses incident to a work release plan pursuant to RCW 72.65.090, payments for board and room charges for the work release participant, and payments that are necessary for the support of the work release participant's dependents, if any. [1989 c 252 § 24.]

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

72.11.040 Cost of supervision fund. The cost of supervision fund is created in the custody of the state treasurer. All receipts from assessments made under RCW 9.94A.780, 9.94A.74504, and 72.04A.120 shall be deposited into the fund. Expenditures from the fund may be used only to support the collection of legal financial obligations. Only the secretary of the department of corrections or the secretary's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [2011 1st sp.s. c 40 § 13; 2005 c 518 § 943; 2003 1st sp.s. c 25 § 936; 2001 2nd sp.s. c 7 § 919; 2000 2nd sp.s. c 1 § 914; 1999 c 309 § 921; 1989 c 252 § 26.]

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

Additional notes found at www.leg.wa.gov

Chapter 72.16 RCW GREEN HILL SCHOOL

Sections

- 72.16.010 School established.
72.16.020 Purpose of school.

Basic juvenile court act: Chapter 13.04 RCW.

Commitment: Chapter 13.04 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Disturbances at state penal facilities

development of contingency plans—Scope—Local participation: RCW 72.02.150.

reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

Educational programs for residential school residents: RCW 28A.190.030 through 28A.190.060.

Financial responsibility for cost of detention of minor: RCW 13.16.085.

Fugitives of this state: Chapter 10.34 RCW.

Placement of person convicted as an adult for a felony offense committed under the age of eighteen: RCW 72.01.410.

72.16.010 School established. There is established at Chehalis, Lewis county, an institution which shall be known as the Green Hill school. [1959 c 28 § 72.16.010. Prior: 1955 c 230 § 1. (i) 1909 c 97 p 256 § 1; RRS § 4624. (ii) 1907 c 90 § 1; 1890 p 271 § 1; RRS § 10299.]

72.16.020 Purpose of school. The said school shall be for the keeping and training of all boys between the ages of eight and eighteen years who are residents of the state of Washington and who are lawfully committed to said institution. [1959 c 28 § 72.16.020. Prior: (i) 1909 c 97 p 256 § 2; RRS § 4625. (ii) 1890 p 272 § 2; RRS § 10300.]

Chapter 72.19 RCW JUVENILE CORRECTIONAL INSTITUTION IN KING COUNTY

Sections

- 72.19.010 Institution established—Location.
72.19.020 Rules.
72.19.030 Superintendent—Appointment.
72.19.040 Associate superintendents—Appointment—Acting superintendent.
72.19.050 Powers and duties of superintendent.
72.19.060 Male, female, juveniles—Residential housing, separation—Correctional programs, separation, combination.

Disturbances at state penal facilities

development of contingency plans—Scope—Local participation: RCW 72.02.150.

reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

Educational programs for residential school residents: RCW 28A.190.030 through 28A.190.060.

72.19.010 Institution established—Location. There is hereby established under the supervision and control of the secretary of children, youth, and families a correctional institution for the confinement and rehabilitation of juveniles committed by the juvenile courts to the department of children, youth, and families. Such institution shall be situated upon publicly owned lands within King county, under the supervision of the department of natural resources, which

land is located in the vicinity of Echo Lake and more particularly situated in Section 34, Township 24 North, Range 7 East W.M. and that portion of Section 3, Township 23 North, Range 7 East W.M. lying north of U.S. Highway 10, together with necessary access routes thereto, all of which tract is leased by the department of natural resources to the department of children, youth, and families for the establishment and construction of the correctional institution authorized and provided for in this chapter. [2017 3rd sp.s. c 6 § 708; 1979 c 141 § 222; 1963 c 165 § 1; 1961 c 183 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

72.19.020 Rules. The secretary of children, youth, and families may make, amend, and repeal rules for the administration of the juvenile correctional institution established by this chapter in furtherance of the provisions of this chapter and not inconsistent with law. [2017 3rd sp.s. c 6 § 709; 1979 c 141 § 223; 1961 c 183 § 4.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

72.19.030 Superintendent—Appointment. The superintendent of the correctional institution established by this chapter shall be appointed by the secretary of children, youth, and families. [2017 3rd sp.s. c 6 § 710; 1983 1st ex.s. c 41 § 27; 1979 c 141 § 224; 1963 c 165 § 3.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.19.040 Associate superintendents—Appointment—Acting superintendent. The superintendent, subject to the approval of the secretary of children, youth, and families, shall appoint such associate superintendents as shall be deemed necessary. In the event the superintendent shall be absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his or her duties, one of the associate superintendents of such institution shall act as superintendent during such period of absence, illness, or incapacity as may be designated by the secretary of children, youth, and families. [2017 3rd sp.s. c 6 § 711; 2012 c 117 § 461; 1979 c 141 § 225; 1963 c 165 § 4.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

72.19.050 Powers and duties of superintendent. The superintendent shall have the following powers, duties and responsibilities:

(1) Subject to the rules of the department of children, youth, and families, the superintendent shall have the supervision and management of the institution, of the grounds and buildings, the subordinate officers and employees, and of the

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juveniles received at such institution and the custody of such persons until released or transferred as provided by law.

(2) Subject to the rules of the department of children, youth, and families and the office of financial management, appoint all subordinate officers and employees.

(3) The superintendent shall be the custodian of the personal property of all juveniles in the institution and shall make rules governing the accounting and disposition of all moneys received by such juveniles, not inconsistent with the law, and subject to the approval of the secretary of the department of children, youth, and families. [2017 3rd sp.s. c 6 § 712; 1993 c 281 § 65; 1979 c 141 § 226; 1963 c 165 § 5.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.19.060 Male, female, juveniles—Residential housing, separation—Correctional programs, separation, combination. The plans and construction of the juvenile correctional institution established by this chapter shall provide for adequate separation of the residential housing of the male juvenile from the female juvenile. In all other respects, the juvenile correctional programs for both boys and girls may be combined or separated as the secretary of children, youth, and families deems most reasonable and effective to accomplish the reformation, training and rehabilitation of the juvenile offender, realizing all possible economies from the lack of necessity for duplication of facilities. [2017 3rd sp.s. c 6 § 713; 1979 c 141 § 227; 1963 c 165 § 7.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Chapter 72.20 RCW MAPLE LANE SCHOOL

Sections

72.20.001	Definitions.
72.20.010	School established.
72.20.020	Management—Superintendent.
72.20.040	Duties of superintendent.
72.20.050	Parole or discharge—Behavior credits.
72.20.060	Conditional parole—Apprehension on escape or violation of parole.
72.20.065	Intrusion—Enticement away of girls—Interference—Penalty.
72.20.070	Eligibility restricted.
72.20.090	Hiring out—Apprenticeships—Compensation.

Basic juvenile court act: Chapter 13.04 RCW.

Commitment: Chapter 13.04 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Disturbances at state penal facilities development of contingency plans—Scope—Local participation: RCW 72.02.150.

reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

Educational programs for residential school residents: RCW 28A.190.030 through 28A.190.060.

Fiscal responsibility for cost of detention of minor: RCW 13.16.085.

Fugitives of this state: Chapter 10.34 RCW.

Placement of person convicted as an adult for a felony offense committed under the age of eighteen: RCW 72.01.410.

72.20.001 Definitions. As used in this chapter:

"Department" means the department of social and health services; and

"Secretary" means the secretary of social and health services. [1981 c 136 § 98.]

Additional notes found at www.leg.wa.gov

72.20.010 School established. There is established at Grand Mound, Thurston county, an institution which shall be known as the Maple Lane school. [1959 c 28 § 72.20.010. Prior: 1955 c 230 § 2; 1913 c 157 § 1; RRS § 4631.]

72.20.020 Management—Superintendent. The government, control and business management of such school shall be vested in the secretary. The secretary shall, with the approval of the governor, appoint a suitable superintendent of said school, and shall designate the number of subordinate officers and employees to be employed, and fix their respective salaries, and have power, with the like approval, to make and enforce all such rules and regulations for the administration, government and discipline of the school as the secretary may deem just and proper, not inconsistent with this chapter. [1979 c 141 § 228; 1959 c 39 § 1; 1959 c 28 § 72.20.020. Prior: 1913 c 157 § 3; RRS § 4633.]

Appointment of chief executive officers and subordinate employees, general provisions: RCW 72.01.060.

72.20.040 Duties of superintendent. The superintendent, subject to the direction and approval of the secretary shall:

(1) Have general supervision and control of the grounds and buildings of the institution, the subordinate officers and employees, and the inmates thereof, and all matters relating to their government and discipline;

(2) Make such rules, regulations, and orders, not inconsistent with law or with the rules, regulations, or directions of the secretary, as may seem to him or her proper or necessary for the government of such institution and for the employment, discipline, and education of the inmates, except for the program of education provided pursuant to RCW 28A.190.030 through 28A.190.050 which shall be governed by the school district conducting the program;

(3) Exercise such other powers, and perform such other duties as the secretary may prescribe. [2012 c 117 § 462; 1990 c 33 § 593; 1979 ex.s. c 217 § 10; 1979 c 141 § 229; 1959 c 39 § 2; 1959 c 28 § 72.20.040. Prior: 1913 c 157 § 5; RRS § 4635.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

72.20.050 Parole or discharge—Behavior credits. The department, acting with the superintendent, shall, under a system of marks, or otherwise, fix upon a uniform plan by which girls may be paroled or discharged from the school, which system shall be subject to revision from time to time. Each girl shall be credited for personal demeanor, diligence in labor or study and for the results accomplished, and

charged for derelictions, negligence or offense. The standing of each girl shall be made known to her as often as once a month. [1959 c 28 § 72.20.050. Prior: 1913 c 157 § 8; RRS § 4638.]

72.20.060 Conditional parole—Apprehension on escape or violation of parole. Every girl shall be entitled to a trial on parole before reaching the age of twenty years, such parole to continue for at least one year unless violated. The superintendent and resident physician, with the approval of the secretary, shall determine whether such parole has been violated. Any girl committed to the school who shall escape therefrom, or who shall violate a parole, may be apprehended and returned to the school by any officer or citizen on written order or request of the superintendent. [1979 c 141 § 230; 1959 c 28 § 72.20.060. Prior: 1913 c 157 § 9, part; RRS § 4639, part.]

72.20.065 Intrusion—Enticement away of girls—Interference—Penalty. Any person who shall go upon the school grounds except on lawful business, or by consent of the superintendent, or who shall entice any girl away from the school, or who shall in any way interfere with its management or discipline, shall be guilty of a misdemeanor. [1959 c 28 § 72.20.065. Prior: 1913 c 157 § 9, part; RRS § 4639, part.]

72.20.070 Eligibility restricted. No girl shall be received in the Maple Lane school who is not of sound mind, or who is subject to epileptic or other fits, or is not possessed of that degree of bodily health which should render her a fit subject for the discipline of the school. It shall be the duty of the court committing her to cause such girl to be examined by a reputable physician to be appointed by the court, who will certify to the above facts, which certificate shall be forwarded to the school with the commitment. Any girl who may have been committed to the school, not complying with the above requirements, may be returned by the superintendent to the court making the commitment, or to the officer or institution last having her in charge. The department shall arrange for the transportation of all girls to and from the school. [1959 c 28 § 72.20.070. Prior: 1913 c 157 § 10; RRS § 4640.]

72.20.090 Hiring out—Apprenticeships—Compensation. The superintendent shall have power to place any girl under the age of eighteen years at any employment for account of the institution or the girl employed, and receive and hold the whole or any part of her wages for the benefit of the girl less the amount necessary for her board and keep, and may also, with the consent of any girl over fourteen years of age, and the approval of the secretary endorsed thereon, execute indentures of apprenticeship, which shall be binding on all parties thereto. In case any girl so apprenticed shall prove untrustworthy or unsatisfactory, the superintendent may permit her to be returned to the school, and the indenture may thereupon be canceled. If such girl shall have an unsuitable employer, the superintendent may, with the approval of the secretary, take her back to the school, and cancel the indenture of apprenticeship. All indentures so made shall be filed and kept in the school. A system may also be established, providing for compensation to girls for services rendered, and

payments may be made from time to time, not to exceed in the aggregate to any one girl the sum of twenty-five dollars for each year of service. [1979 c 141 § 232; 1959 c 28 § 72.20.090. Prior: 1913 c 157 § 12; RRS § 4642.]

Chapter 72.23 RCW
PUBLIC AND PRIVATE FACILITIES FOR
MENTALLY ILL

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72.23.010 Definitions. The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

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(1) "Court" means the superior court of the state of Washington.

(2) "Department" means the department of social and health services.

(3) "Employee" means an employee as defined in RCW 49.17.020.

(4) "Licensed physician" means an individual permitted to practice as a physician under the laws of the state, or a medical officer, similarly qualified, of the government of the United States while in this state in performance of his or her official duties.

(5) "Mentally ill person" means any person who, pursuant to the definitions contained in RCW 71.05.020, as a result of a mental disorder presents a likelihood of serious harm to others or himself or herself or is gravely disabled.

(6) "Patient" means a person under observation, care, or treatment in a state hospital, or a person found mentally ill by the court, and not discharged from a state hospital, or other facility, to which such person had been ordered hospitalized.

(7) "Resident" means a resident of the state of Washington.

(8) "Secretary" means the secretary of social and health services.

(9) "State hospital" means any hospital, including a child study and treatment center, operated and maintained by the state of Washington for the care of the mentally ill.

(10) "Superintendent" means the superintendent of a state hospital.

(11) "Violence" or "violent act" means any physical assault or attempted physical assault against an employee or patient of a state hospital.

Wherever used in this chapter, the masculine shall include the feminine and the singular shall include the plural. [2000 c 22 § 2; 1981 c 136 § 99; 1974 ex.s. c 145 § 2; 1973 1st ex.s. c 142 § 3; 1959 c 28 § 72.23.010. Prior: 1951 c 139 § 2. Formerly RCW 71.02.010.]

Findings—2000 c 22: See note following RCW 72.23.400.

Additional notes found at www.leg.wa.gov

72.23.020 State hospitals designated. There are hereby permanently located and established the following state hospitals: Western state hospital at Fort Steilacoom, Pierce county; eastern state hospital at Medical Lake, Spokane county; and northern state hospital near Sedro Woolley, Skagit county. [1959 c 28 § 72.23.020. Prior: 1951 c 139 § 6. Formerly RCW 71.02.440.]

72.23.025 Eastern and western state hospitals—Primary diagnosis of mental disorder—Duties—Institutes for the study and treatment of mental disorders established. (1) It is the intent of the legislature to improve the quality of service at state hospitals, eliminate overcrowding, and more specifically define the role of the state hospitals. The legislature intends that eastern and western state hospitals shall become clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. To this end, the legislature intends that funds appropriated for mental health programs, including funds for behavioral health administrative services organizations, managed care organizations contracted with the health care authority, and the state hospitals, be used for persons

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with primary diagnosis of mental disorder. The legislature finds that establishment of institutes for the study and treatment of mental disorders at both eastern state hospital and western state hospital will be instrumental in implementing the legislative intent.

(2)(a) There is established at eastern state hospital and western state hospital, institutes for the study and treatment of mental disorders. The institutes shall be operated by joint operating agreements between state colleges and universities and the department of social and health services. The institutes are intended to conduct training, research, and clinical program development activities that will directly benefit persons with mental illness who are receiving treatment in Washington state by performing the following activities:

(i) Promote recruitment and retention of highly qualified professionals at the state hospitals and community mental health programs;

(ii) Improve clinical care by exploring new, innovative, and scientifically based treatment models for persons presenting particularly difficult and complicated clinical syndromes;

(iii) Provide expanded training opportunities for existing staff at the state hospitals and community mental health programs;

(iv) Promote bilateral understanding of treatment orientation, possibilities, and challenges between state hospital professionals and community mental health professionals.

(b) To accomplish these purposes the institutes may, within funds appropriated for this purpose:

(i) Enter joint operating agreements with state universities or other institutions of higher education to accomplish the placement and training of students and faculty in psychiatry, psychology, social work, occupational therapy, nursing, and other relevant professions at the state hospitals and community mental health programs;

(ii) Design and implement clinical research projects to improve the quality and effectiveness of state hospital services and operations;

(iii) Enter into agreements with community mental health service providers to accomplish the exchange of professional staff between the state hospitals and community mental health service providers;

(iv) Establish a student loan forgiveness and conditional scholarship program to retain qualified professionals at the state hospitals and community mental health providers when the secretary has determined a shortage of such professionals exists.

(c) Notwithstanding any other provisions of law to the contrary, the institutes may enter into agreements with the department or the state hospitals which may involve changes in staffing necessary to implement improved patient care programs contemplated by this section.

(d) The institutes are authorized to seek and accept public or private gifts, grants, contracts, or donations to accomplish their purposes under this section. [2019 c 325 § 5028; 2014 c 225 § 98; 2011 1st sp.s. c 21 § 1; 2006 c 333 § 204; 1998 c 245 § 141; 1992 c 230 § 1; 1989 c 205 § 21.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

Effective date—2011 1st sp.s. c 21: "Except for sections 53 and 60 of this act, this act is necessary for the immediate preservation of the public

peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 1st sp.s. c 21 § 64.]

Finding—Purpose—Intent—Severability—Part headings not law—Effective dates—2006 c 333: See notes following RCW 71.24.016.

Intent—1992 c 230: "It is the intent of this act to:

(1) Focus, restate, and emphasize the legislature's commitment to the mental health reform embodied in chapter 111 [205], Laws of 1989 (SB 5400);

(2) Eliminate, or schedule for repeal, statutes that are no longer relevant to the regulation of the state's mental health program; and

(3) Reaffirm the state's commitment to provide incentives that reduce reliance on inappropriate state hospital or other inpatient care." [1992 c 230 § 3.]

Additional notes found at www.leg.wa.gov

72.23.027 Integrated service delivery—Incentives to discourage inappropriate placement—Specialized care programs. The secretary shall develop a system of more integrated service delivery, including incentives to discourage the inappropriate placement of persons with developmental disabilities, head injury, and substance abuse, at state mental hospitals and encourage their care in community settings. By December 1, 1992, the department shall submit an implementation strategy, including budget proposals, to the appropriate committees of the legislature for this system.

Under the system, state, local, or community agencies may be given financial or other incentives to develop appropriate crisis intervention and community care arrangements.

The secretary may establish specialized care programs for persons described in this section on the grounds of the state hospitals. Such programs may operate according to professional standards that do not conform to existing federal or private hospital accreditation standards. [1992 c 230 § 2.]

Intent—1992 c 230: See note following RCW 72.23.025.

72.23.030 Superintendent—Powers—Direction of clinical care, exception. The superintendent of a state hospital subject to rules of the department, shall have control of the internal government and economy of a state hospital and shall appoint and direct all subordinate officers and employees. If the superintendent is not a psychiatrist, clinical care shall be under the direction of a qualified psychiatrist. [1983 1st ex.s. c 41 § 28; 1969 c 56 § 2; 1959 c 28 § 72.23.030. Prior: 1951 c 139 § 7. Formerly RCW 71.02.510.]

Appointment of chief executive officers: RCW 72.01.060.

Additional notes found at www.leg.wa.gov

72.23.035 Background checks of prospective employees. In consultation with law enforcement personnel, the secretary shall have the power and duty to investigate the conviction record and the protection proceeding record information under chapter 43.43 RCW of each prospective employee of a state hospital. [1989 c 334 § 12.]

72.23.040 Seal of hospital. The superintendent shall provide an official seal upon which shall be inscribed the statutory name of the hospital under his or her charge and the name of the state. He or she shall affix the seal of the hospital to any notice, order of discharge, or other paper required to be given by him or her or issued. [2012 c 117 § 463; 1959 c 28 § 72.23.040. Prior: 1951 c 139 § 8. Formerly RCW 71.02.540.]

72.23.050 Superintendent as witness—Exemptions from military duty. The superintendent shall not be required to attend any court as a witness in a civil or juvenile court proceedings, but parties desiring his or her testimony can take and use his or her deposition; nor shall he or she be required to attend as a witness in any criminal case, unless the court before which his or her testimony shall be desired shall, upon being satisfied of the materiality of his or her testimony require his or her attendance; and, in time of peace, he, she, and all other persons employed at the hospital shall be exempt from performing military duty; and the certificate of the superintendent shall be evidence of such employment. [2012 c 117 § 464; 1979 ex.s. c 135 § 5; 1959 c 28 § 72.23.050. Prior: 1951 c 139 § 9. Formerly RCW 71.02.520.]

Additional notes found at www.leg.wa.gov

72.23.060 Gifts—Record—Use. The superintendent is authorized to accept and receive from any person or organization gifts of money or personal property on behalf of the state hospital under his or her charge, or on behalf of the patients therein. The superintendent is authorized to use such money or personal property for the purposes specified by the donor where such purpose is consistent with law. In the absence of a specified use the superintendent may use such money or personal property for the benefit of the state hospital under his or her charge or for the general benefit of the patients therein. The superintendent shall keep an accurate record of the amount or kind of gift, the date received, and the name and address of the donor. The superintendent may deposit any money received as he or she sees fit upon the giving of adequate security. Any increase resulting from such gift may be used for the same purpose as the original gift. Gratuities received for services rendered by a state hospital staff in their official capacity shall be used for the purposes specified in this section. [2012 c 117 § 465; 1959 c 28 § 72.23.060. Prior: 1951 c 139 § 10. Formerly RCW 71.02.600.]

72.23.080 Voluntary patients—Legal competency—Record. Any person received and detained in a state hospital under chapter 71.34 RCW is deemed a voluntary patient and, except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license, shall not suffer a loss of legal competency by reason of his or her application and admission. Upon the admission of a voluntary patient to a state hospital the superintendent shall immediately forward to the department the record of such patient showing the name, address, sex, date of birth, place of birth, occupation, social security number, date of admission, name of nearest relative, and such other information as the department may from time to time require. [1994 sp.s. c 7 § 442; 1959 c 28 § 72.23.080. Prior: 1951 c 139 § 12; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.040.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

72.23.100 Voluntary patients—Policy—Duration. It shall be the policy of the department to permit liberal use of the foregoing sections for the admission of those cases that

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can be benefited by treatment and returned to normal life and mental condition, in the opinion of the superintendent, within a period of six months. No person shall be carried as a voluntary patient for a period of more than one year. [1973 1st ex.s. c 142 § 5; 1959 c 28 § 72.23.100. Prior: 1951 c 139 § 14; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.060.]

72.23.110 Voluntary patients—Limitation as to number. If it becomes necessary because of inadequate facilities or staff, the department may limit applicants for voluntary admission in accordance with such rules and regulations as it may establish. The department may refuse all applicants for voluntary admission where lack of adequate facilities or staff make such action necessary. [1959 c 28 § 72.23.110. Prior: 1951 c 139 § 15. Formerly RCW 71.02.070.]

72.23.120 Voluntary patients—Charges for hospitalization. Payment of hospitalization charges shall not be a necessary requirement for voluntary admission: PROVIDED, HOWEVER, The department may request payment of hospitalization charges, or any portion thereof, from the patient or relatives of the patient within the following classifications: Spouse, parents, or children. Where the patient or relatives within the above classifications refuse to make the payments requested, the department shall have the right to discharge such patient or initiate proceedings for involuntary hospitalization. The maximum charge shall be the same for voluntary and involuntary hospitalization. [1959 c 28 § 72.23.120. Prior: 1951 c 139 § 16. Formerly RCW 71.02.080.]

72.23.125 Temporary residential observation and evaluation of persons requesting treatment. The department is directed to establish at each state hospital a procedure, including the necessary resources, to provide temporary residential observation and evaluation of persons who request treatment, unless admitted under *RCW 72.23.070. Temporary residential observation and evaluation under this section shall be for a period of not less than twenty-four hours nor more than forty-eight hours and may be provided informally without complying with the admission procedure set forth in *RCW 72.23.070 or the rules and regulations established thereunder.

It is the intent of the legislature that temporary observation and evaluation as described in this section be provided in all cases except where an alternative such as: (1) Delivery to treatment outside the hospital, or (2) no need for treatment is clearly indicated. [1979 ex.s. c 215 § 18.]

*Reviser's note: RCW 72.23.070 was repealed by 1985 c 354 § 34, effective January 1, 1986. Later enactment, see chapter 71.34 RCW.

72.23.130 History of patient. It shall be the duty of the superintendent to ascertain by diligent inquiry and correspondence, the history of each and every patient admitted to his or her hospital. [2012 c 117 § 466; 1959 c 28 § 72.23.130. Prior: 1951 c 139 § 40. Formerly RCW 71.02.530.]

72.23.160 Escape—Apprehension and return. If a patient shall escape from a state hospital the superintendent shall cause immediate search to be made for him or her and

return him or her to said hospital wherever found. Notice of such escape shall be given to the committing court who may issue an order of apprehension and return directed to any peace officer within the state. Notice may be given to any sheriff or peace officer, who, when requested by the superintendent, may apprehend and detain such escapee or return him or her to the state hospital without warrant. [2012 c 117 § 467; 1959 c 28 § 72.23.160. Prior: 1951 c 139 § 43. Formerly RCW 71.02.630.]

72.23.170 Escape of patient—Penalty for assisting. Any person who procures the escape of any patient of any state hospital for the mentally ill, or institutions for psychopaths to which such patient has been lawfully committed, or who advises, connives at, aids, or assists in such escape or conceals any such escape, is guilty of a class C felony and shall be punished by imprisonment in a state correctional institution for a term of not more than five years or by a fine of not more than five hundred dollars or by both imprisonment and fine. [2003 c 53 § 364; 1959 c 28 § 72.23.170. Prior: 1957 c 225 § 1, part; 1949 c 198 § 20, part; Rem. Supp. 1949 § 6953-20, part. Formerly RCW 71.12.620, part.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

72.23.180 Discharge, parole, death, escape—Notice—Certificate of discharge. Whenever a patient dies, escapes, or is paroled or discharged from a state hospital, the superintendent shall immediately notify the clerk of the court which ordered such patient's hospitalization. A copy of such notice shall be given to the next of kin or next friend of such patient if their names or addresses are known or can, with reasonable diligence, be ascertained. Whenever a patient is discharged the superintendent shall issue such patient a certificate of discharge. Such notice or certificate shall give the date of parole, discharge, or death of said patient, and shall state the reasons for parole or discharge, or the cause of death, and shall be signed by the superintendent. [1959 c 28 § 72.23.180. Prior: 1951 c 139 § 44. Formerly RCW 71.02.640.]

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

72.23.190 Death—Report to coroner. In the event of the sudden or mysterious death of any patient at a state hospital, not on parole or escape therefrom, such fact shall be reported by the superintendent thereof to the coroner of the county in which the death occurs. [1959 c 28 § 72.23.190. Prior: 1951 c 139 § 45. Formerly RCW 71.02.660.]

72.23.200 Persons under eighteen—Confinement in adult wards. No mentally ill person under the age of sixteen years shall be regularly confined in any ward in any state hospital which ward is designed and operated for the care of the mentally ill eighteen years of age or over. No person of the ages of sixteen and seventeen shall be placed in any such ward, when in the opinion of the superintendent such placement would be detrimental to the mental condition of such a person or would impede his or her recovery or treatment. [2012 c 117 § 468; 1971 ex.s. c 292 § 52; 1959 c 28 §

72.23.200. Prior: 1951 c 139 § 46; 1949 c 198 § 17; Rem. Supp. 1949 § 6953-17. Formerly RCW 71.02.550.]

Additional notes found at www.leg.wa.gov

72.23.210 Persons under eighteen—Special wards and attendants. The department may designate one or more wards at one or more state hospitals as may be deemed necessary for the sole care and treatment of persons under eighteen years of age admitted thereto. Nurses and attendants for such ward or wards shall be selected for their special aptitude and sympathy with such young people, and occupational therapy and recreation shall be provided as may be deemed necessary for their particular age requirements and mental improvement. [1971 ex.s. c 292 § 53; 1959 c 28 § 72.23.210. Prior: 1951 c 139 § 47; 1949 c 198 § 18; Rem. Supp. 1949 § 6953-18. Formerly RCW 71.02.560.]

Additional notes found at www.leg.wa.gov

72.23.230 Patient's property—Superintendent as custodian—Management and accounting. The superintendent of a state hospital shall be the custodian without compensation of such personal property of a patient involuntarily hospitalized therein as may come into the superintendent's possession while the patient is under the jurisdiction of the hospital. As such custodian, the superintendent shall have authority to disburse moneys from the patients' funds for the following purposes only and subject to the following limitations:

(1) The superintendent may disburse any of the funds in his or her possession belonging to a patient for such personal needs of that patient as may be deemed necessary by the superintendent; and

(2) Whenever the funds belonging to any one patient exceed the sum of one thousand dollars or a greater sum as established by rules and regulations of the department, the superintendent may apply the excess to reimbursement for state hospitalization and/or outpatient charges of such patient to the extent of a notice and finding of responsibility issued under RCW 43.20B.340; and

(3) When a patient is paroled, the superintendent shall deliver unto the said patient all or such portion of the funds or other property belonging to the patient as the superintendent may deem necessary and proper in the interests of the patient's welfare, and the superintendent may during the parole period deliver to the patient such additional property or funds belonging to the patient as the superintendent may from time to time determine necessary and proper. When a patient is discharged from the jurisdiction of the hospital, the superintendent shall deliver to such patient all funds or other property belonging to the patient, subject to the conditions of subsection (2) of this section.

All funds held by the superintendent as custodian may be deposited in a single fund. Annual reports of receipts and expenditures shall be forwarded to the department, and shall be open to inspection by interested parties: PROVIDED, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the patients of such institution: PROVIDED, FURTHER, That when the personal accounts of patients exceed three hundred dollars, the interest accruing from such excess shall be credited to the personal accounts of

such patients. All such expenditures shall be accounted for by the superintendent.

The appointment of a guardian for the estate of such patient shall terminate the superintendent's authority to pay state hospitalization charges from funds subject to the control of the guardianship upon the superintendent's receipt of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall forward to such guardian any funds subject to the control of the guardianship or other property of the patient remaining in the superintendent's possession, together with a final accounting of receipts and expenditures. [2012 c 117 § 469; 1987 c 75 § 21; 1985 c 245 § 4; 1971 c 82 § 1; 1959 c 60 § 1; 1959 c 28 § 72.23.230. Prior: 1953 c 217 § 2; 1951 c 139 § 49. Formerly RCW 71.02.570.]

Guardianship of estate: Chapters 11.88 and 11.92 RCW.

Additional notes found at www.leg.wa.gov

72.23.240 Patient's property—Delivery to superintendent as acquittance—Defense, indemnity. Upon receipt of a written request signed by the superintendent stating that a designated patient of such hospital is involuntarily hospitalized therein, and that no guardian of his or her estate has been appointed, any person, bank, firm, or corporation having possession of any money, bank accounts, or choses in action owned by such patient, may, if the balance due does not exceed one thousand dollars, deliver the same to the superintendent and mail written notice thereof to such patient at such hospital. The receipt of the superintendent shall be full and complete acquittance for such payment and the person, bank, firm, or corporation making such payment shall not be liable to the patient or his or her legal representatives. All funds so received by the superintendent shall be deposited in such patient's personal account at such hospital and be administered in accordance with this chapter.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, firm, or corporation effecting such delivery, and the state shall indemnify such person, bank, firm, or corporation against any judgment rendered as a result of such proceeding. [2012 c 117 § 470; 1959 c 28 § 72.23.240. Prior: 1953 c 217 § 1. Formerly RCW 71.02.575.]

72.23.250 Funds donated to patients. The superintendent shall also have authority to receive funds for the benefit of individual patients and may disburse such funds according to the instructions of the donor of such funds. [1959 c 28 § 72.23.250. Prior: 1951 c 139 § 50. Formerly RCW 71.02.580.]

72.23.260 Federal patients—Agreements authorized. The department shall have the power, in the name of the state, to enter into contracts with any duly authorized representative of the United States government, providing for the admission to, and the separate or joint observation, maintenance, care, treatment and custody in, state hospitals of persons entitled to or requiring the same, at the expense of the United States, and contracts providing for the separate or joint maintenance, care, treatment or custody of such persons hospitalized in the manner provided by law, and to perform

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such contracts, which contracts shall provide that all payments due the state of Washington from the United States for services rendered under said contracts shall be paid to the department. [1959 c 28 § 72.23.260. Prior: 1951 c 139 § 65. Formerly RCW 71.02.460.]

72.23.280 Nonresidents—Hospitalization. Nonresidents of this state conveyed or coming herein while mentally ill shall not be hospitalized in a state hospital, but this prohibition shall not prevent the hospitalization and temporary care in said hospitals of such persons stricken with mental illness while traveling or temporarily sojourning in this state, or sailors attacked with mental illness upon the high seas and first arriving thereafter in some port within this state. [1959 c 28 § 72.23.280. Prior: 1951 c 139 § 67. Formerly RCW 71.02.470.]

72.23.290 Transfer of patients—Authority of transferee. Whenever it appears to be to the best interests of the patients concerned, the department shall have the authority to transfer such patients among the various state hospitals pursuant to rules and regulations established by said department. The superintendent of a state hospital shall also have authority to transfer patients eligible for treatment to the veterans administration or other United States government agency where such transfer is satisfactory to such agency. Such agency shall possess the same authority over such patients as the superintendent would have possessed had the patient remained in a state hospital. [1959 c 28 § 72.23.290. Prior: 1951 c 139 § 68. Formerly RCW 71.02.480.]

Commitment to veterans' administration or other federal agency: RCW 73.36.165.

72.23.300 Bringing narcotics, intoxicating liquors, weapons, etc., into institution or its grounds prohibited—Penalty. Any person not authorized by law so to do, who brings into any state institution for the care and treatment of mental illness or within the grounds thereof, any opium, morphine, cocaine or other narcotic, or any intoxicating liquor of any kind whatever, except for medicinal or mechanical purposes, or any firearms, weapons, or explosives of any kind is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 365; 1959 c 28 § 72.23.300. Prior: 1949 c 198 § 52; Rem. Supp. 1949 § 6932-52. Formerly RCW 71.12.630.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Uniform controlled substances act: Chapter 69.50 RCW.

72.23.390 Safe patient handling. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(b) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistive devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring, and repositioning health care patients and residents.

(c) "Musculoskeletal disorders" means conditions that involve the nerves, tendons, muscles, and supporting structures of the body.

(2) By February 1, 2007, each hospital must establish a safe patient handling committee either by creating a new committee or assigning the functions of a safe patient handling committee to an existing committee. The purpose of the committee is to design and recommend the process for implementing a safe patient handling program. At least half of the members of the safe patient handling committee shall be frontline nonmanagerial employees who provide direct care to patients unless doing so will adversely affect patient care.

(3) By December 1, 2007, each hospital must establish a safe patient handling program. As part of this program, a hospital must:

(a) Implement a safe patient handling policy for all shifts and units of the hospital. Implementation of the safe patient handling policy may be phased-in with the acquisition of equipment under subsection (4) of this section;

(b) Conduct a patient handling hazard assessment. This assessment should consider such variables as patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas;

(c) Develop a process to identify the appropriate use of the safe patient handling policy based on the patient's physical and medical condition and the availability of lifting equipment or lift teams;

(d) Conduct an annual performance evaluation of the program to determine its effectiveness, with the results of the evaluation reported to the safe patient handling committee. The evaluation shall determine the extent to which implementation of the program has resulted in a reduction in musculoskeletal disorder claims and days of lost work attributable to musculoskeletal disorder caused by patient handling, and include recommendations to increase the program's effectiveness; and

(e) When developing architectural plans for constructing or remodeling a hospital or a unit of a hospital in which patient handling and movement occurs, consider the feasibility of incorporating patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date.

(4) By January 30, 2010, hospitals must complete acquisition of their choice of: (a) One readily available lift per acute care unit on the same floor, unless the safe patient handling committee determines a lift is unnecessary in the unit; (b) one lift for every ten acute care available inpatient beds; or (c) equipment for use by lift teams. Hospitals must train staff on policies, equipment, and devices at least annually.

(5) Nothing in this section precludes lift team members from performing other duties as assigned during their shift.

(6) A hospital shall develop procedures for hospital employees to refuse to perform or be involved in patient handling or movement that the hospital employee believes in good faith will expose a patient or a hospital employee to an unacceptable risk of injury. A hospital employee who in good faith follows the procedure developed by the hospital in accordance with this subsection shall not be the subject of disciplinary action by the hospital for the refusal to perform or be involved in the patient handling or movement. [2006 c 165 § 3.]

Findings—2006 c 165: See note following RCW 70.41.390.

72.23.400 Workplace safety plan. (1) By November 1, 2000, each state hospital shall develop a plan, for implementation by January 1, 2001, to reasonably prevent and protect employees from violence at the state hospital. The plan shall be developed with input from the state hospital's safety committee, which includes representation from management, unions, nursing, psychiatry, and key function staff as appropriate. The plan shall address security considerations related to the following items, as appropriate to the particular state hospital, based upon the hazards identified in the assessment required under subsection (2) of this section:

(a) The physical attributes of the state hospital including access control, egress control, door locks, lighting, and alarm systems;

(b) Staffing, including security staffing;

(c) Personnel policies;

(d) First aid and emergency procedures;

(e) Reporting violent acts, taking appropriate action in response to violent acts, and follow-up procedures after violent acts;

(f) Development of criteria for determining and reporting verbal threats;

(g) Employee education and training; and

(h) Clinical and patient policies and procedures including those related to smoking; activity, leisure, and therapeutic programs; communication between shifts; and restraint and seclusion.

(2) Before the development of the plan required under subsection (1) of this section, each state hospital shall conduct a security and safety assessment to identify existing or potential hazards for violence and determine the appropriate preventive action to be taken. The assessment shall include, but is not limited to analysis of data on violence and worker's compensation claims during at least the preceding year, input from staff and patients such as surveys, and information relevant to subsection (1)(a) through (h) of this section.

(3) In developing the plan required by subsection (1) of this section, the state hospital may consider any guidelines on violence in the workplace or in the state hospital issued by the department of health, the department of social and health services, the department of labor and industries, the federal occupational safety and health administration, medicare, and state hospital accrediting organizations.

(4) The plan must be evaluated, reviewed, and amended as necessary, at least annually. [2000 c 22 § 3.]

Findings—2000 c 22: "The legislature finds that:

(1) Workplace safety is of paramount importance in state hospitals for patients and the staff that treat them;

(2) Based on an analysis of workers' compensation claims, the department of labor and industries reports that state hospital employees face high rates of workplace violence in Washington state;

(3) State hospital violence is often related to the nature of the patients served, people who are both mentally ill and too dangerous for treatment in their home community, and people whose behavior is driven by elements of mental illness including desperation, confusion, delusion, or hallucination;

(4) Patients and employees should be assured a reasonably safe and secure environment in state hospitals;

(5) The state hospitals have undertaken efforts to assure that patients and employees are safe from violence, but additional personnel training and appropriate safeguards may be needed to prevent workplace violence and minimize the risk and dangers affecting people in state hospitals; and

(6) Duplication and redundancy should be avoided so as to maximize resources available for patient care." [2000 c 22 § 1.]

72.23.410 Violence prevention training. By July 1, 2001, and at least annually thereafter, as set forth in the plan developed under RCW 72.23.400, each state hospital shall provide violence prevention training to all its affected employees as determined by the plan. Initial training shall occur prior to assignment to a patient unit, and in addition to his or her ongoing training as determined by the plan. The training may vary by the plan and may include, but is not limited to, classes, videotapes, brochures, verbal training, or other verbal or written training that is determined to be appropriate under the plan. The training shall address the following topics, as appropriate to the particular setting and to the duties and responsibilities of the particular employee being trained, based upon the hazards identified in the assessment required under RCW 72.23.400:

- (1) General safety procedures;
- (2) Personal safety procedures and equipment;
- (3) The violence escalation cycle;
- (4) Violence-predicting factors;
- (5) Obtaining patient history for patients with violent behavior or a history of violent acts;
- (6) Verbal and physical techniques to de-escalate and minimize violent behavior;
- (7) Strategies to avoid physical harm;
- (8) Restraining techniques;
- (9) Documenting and reporting incidents;
- (10) The process whereby employees affected by a violent act may debrief;
- (11) Any resources available to employees for coping with violence;
- (12) The state hospital's workplace violence prevention plan;
- (13) Use of the intershift reporting process to communicate between shifts regarding patients who are agitated; and
- (14) Use of the multidisciplinary treatment process or other methods for clinicians to communicate with staff regarding patient treatment plans and how they can collaborate to prevent violence. [2000 c 22 § 4.]

Findings—2000 c 22: See note following RCW 72.23.400.

72.23.420 Record of violent acts. Beginning no later than July 1, 2000, each state hospital shall keep a record of any violent act against an employee or a patient occurring at the state hospital. Each record shall be kept for at least five years following the act reported during which time it shall be available for inspection by the department of labor and industries upon request. At a minimum, the record shall include:

- (1) Necessary information for the state hospital to comply with the requirements of chapter 49.17 RCW related to employees that may include:
 - (a) A full description of the violent act;
 - (b) When the violent act occurred;
 - (c) Where the violent act occurred;
 - (d) To whom the violent act occurred;
 - (e) Who perpetrated the violent act;
 - (f) The nature of the injury;
 - (g) Weapons used;
 - (h) Number of witnesses; and

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(i) Action taken by the state hospital in response to the violence; and

(2) Necessary information for the state hospital to comply with current and future expectations of the joint commission on hospital accreditation related to violence perpetrated upon patients which may include:

- (a) The nature of the violent act;
- (b) When the violent act occurred;
- (c) To whom it occurred; and
- (d) The nature and severity of any injury. [2000 c 22 § 5.]

Findings—2000 c 22: See note following RCW 72.23.400.

72.23.430 Noncompliance—Citation under chapter 49.17 RCW. Failure of a state hospital to comply with this chapter shall subject the hospital to citation under chapter 49.17 RCW. [2000 c 22 § 6.]

Findings—2000 c 22: See note following RCW 72.23.400.

72.23.440 Technical assistance and training. A state hospital needing assistance to comply with RCW 72.23.400 through 72.23.420 may contact the department of labor and industries for assistance. The state departments of labor and industries, social and health services, and health shall collaborate with representatives of state hospitals to develop technical assistance and training seminars on plan development and implementation, and shall coordinate their assistance to state hospitals. [2000 c 22 § 7.]

Findings—2000 c 22: See note following RCW 72.23.400.

72.23.451 Annual report to the legislature. By September 1st of each year, the department shall report to the house committee on commerce and labor and the senate committee on commerce and trade, or successor committees, on the department's efforts to reduce violence in the state hospitals. [2005 c 187 § 1.]

72.23.460 Provisions applicable to hospitals governed by chapter. The provisions of RCW 70.41.410 and 70.41.420 apply to hospitals governed by this chapter. [2008 c 47 § 4.]

Findings—Intent—2008 c 47: See note following RCW 70.41.410.

72.23.900 Construction—Purpose—1959 c 28. The provisions of this chapter shall be liberally construed so that persons who are in need of care and treatment for mental illness shall receive humane care and treatment and be restored to normal mental condition as rapidly as possible with an avoidance of loss of civil rights where not necessary, and with as little formality as possible, still preserving all rights and all privileges of the person as guaranteed by the Constitution. [1959 c 28 § 72.23.900. Prior: 1951 c 139 § 1.]

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29A.08.520.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

72.23.910 Construction—Effect on laws relating to the criminally insane—"Insane" as used in other statutes. Nothing in this chapter shall be construed as affecting the laws of this state relating to the criminally insane or insane

inmates of penal institutions. Where the term "insane" is used in other statutes of this state its meaning shall be synonymous with mental illness as defined in this chapter. [1959 c 28 § 72.23.910. Prior: 1951 c 139 § 4; 1949 c 198 § 15; Rem. Supp. 1949 § 6953-15. Formerly RCW 71.02.020.]

72.23.920 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 167.]

Chapter 72.25 RCW
NONRESIDENT MENTALLY ILL, SEXUAL
PSYCHOPATHS, AND PSYCHOPATHIC
DELINQUENTS—DEPORTATION,
TRANSPORTATION

Sections

- 72.25.010 Deportation of aliens—Return of residents.
72.25.020 Return of nonresidents—Reciprocity—Expense—Resident of this state defined.
72.25.030 Assistance—Payment of expenses.

Council for children and families: Chapter 43.121 RCW.

72.25.010 Deportation of aliens—Return of residents. It shall be the duty of the secretary of the department of social and health services, in cooperation with the United States bureau of immigration and/or the United States department of the interior, to arrange for the deportation of all alien sexual psychopaths, psychopathic delinquents, or mentally ill persons who are now confined in, or who may hereafter be committed to, any state hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in this state; to transport such alien sexual psychopaths, psychopathic delinquents, or mentally ill persons to such point or points as may be designated by the United States bureau of immigration or by the United States department of the interior; and to give written permission for the return of any resident of Washington now or hereafter confined in a hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in a territory of the United States or in a foreign country. Mentally ill person for the purposes of this section shall be any person defined as mentally ill under RCW 72.23.010, as now or hereafter amended. [1977 ex.s. c 80 § 49; 1965 c 78 § 1; 1959 c 28 § 72.25.010. Prior: 1957 c 29 § 1; 1953 c 232 § 1. Formerly RCW 71.04.270.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Minors—Mental health services, commitment: Chapter 71.34 RCW.

Sexual psychopaths: Chapter 71.06 RCW.

[Title 72 RCW—page 72]

72.25.020 Return of nonresidents—Reciprocity—Expense—Resident of this state defined. The secretary shall also return all nonresident sexual psychopaths, psychopathic delinquents, or mentally ill persons who are now confined in or who may hereafter be committed to a state hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in this state to the states or state in which they may have a legal residence. For the purpose of facilitating the return of such persons the secretary may enter into a reciprocal agreement with any other state for the mutual exchange of sexual psychopaths, psychopathic delinquents, or mentally ill persons now confined in or hereafter committed to any hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in one state whose legal residence is in the other, and he or she may give written permission for the return of any resident of Washington now or hereafter confined in a hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in another state. Such residents may be returned directly to the proper Washington state institution without further court proceedings: PROVIDED, That if the superintendent of such institution is of the opinion that the returned person is not a sexual psychopath, a psychopathic delinquent, or mentally ill person he or she may discharge said patient: PROVIDED FURTHER, That if such superintendent deems such person a sexual psychopath, a psychopathic delinquent, or mentally ill person, he or she shall file an application for commitment within ninety days of arrival at the Washington institution.

A person shall be deemed to be a resident of this state within the meaning of this chapter who has maintained his or her domiciliary residence in this state for a period of one year preceding commitment to a state institution without receiving assistance from any tax supported organization and who has not subsequently acquired a domicile in another state: PROVIDED, That any period of time spent by such person while an inmate of a state hospital or state institution or while on parole, escape, or leave of absence therefrom shall not be counted in determining the time of residence in this or another state.

All expenses incurred in returning sexual psychopaths, psychopathic delinquents, or mentally ill persons from this to another state may be paid by this state, but the expense of returning residents of this state shall be borne by the state making the return. Mentally ill person for the purposes of this section shall be any person defined as mentally ill under RCW 72.23.010, as now or hereafter amended. [2012 c 117 § 471; 1977 ex.s. c 80 § 50; 1965 c 78 § 2; 1959 c 28 § 72.25.020. Prior: 1957 c 29 § 2; 1953 c 232 § 2. Formerly RCW 71.04.280.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

72.25.030 Assistance—Payment of expenses. For the purpose of carrying out the provisions of this chapter the secretary may employ all help necessary in arranging for and transporting such alien and nonresident sexual psychopaths, psychopathic delinquents, or mentally ill persons, and the cost and expense of providing such assistance, and all expenses incurred in effecting the transportation of such alien and nonresident sexual psychopaths, psychopathic delinquents, or mentally ill persons, shall be paid from the funds

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appropriated for that purpose upon vouchers approved by the department. Mentally ill person for the purposes of this section shall be any person defined as mentally ill under RCW 72.23.010, as now or hereafter amended. [1977 ex.s. c 80 § 51; 1965 c 78 § 3; 1959 c 28 § 72.25.030. Prior: 1957 c 29 § 3; 1953 c 232 § 3. Formerly RCW 71.04.290.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.27 RCW

INTERSTATE COMPACT ON MENTAL HEALTH

Sections

72.27.010	Compact enacted.
72.27.020	Secretary is compact administrator—Rules and regulations—Cooperation with other agencies.
72.27.030	Supplementary agreements.
72.27.040	Financial arrangements.
72.27.050	Prerequisites for transfer of person to another party state—Release or return of residents, jurisdiction, laws applicable.
72.27.060	Transmittal of copies of chapter.
72.27.070	Right to deport aliens and return residents of nonparty states preserved.

72.27.010 Compact enacted. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institution-

alization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the med-

ical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a

party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care and treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances: PROVIDED, HOWEVER, That in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordina-

tor of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1965 ex.s. c 26 § 1.]

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Chapter added: "The foregoing provisions of this act are added to chapter 28, Laws of 1959 and to Title 72 RCW, and shall constitute a new chapter therein." [1965 ex.s. c 26 § 8.]

Additional notes found at www.leg.wa.gov

72.27.020 Secretary is compact administrator—Rules and regulations—Cooperation with other agencies. Pursuant to said compact provided in RCW 72.27.010, the secretary of social and health services shall be the compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state thereunder. [1979 c 141 § 233; 1965 ex.s. c 26 § 2.]

72.27.030 Supplementary agreements. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service. [1965 ex.s. c 26 § 3.]

72.27.040 Financial arrangements. The compact administrator, subject to the moneys available therefor, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder. [1965 ex.s. c 26 § 4.]

72.27.050 Prerequisites for transfer of person to another party state—Release or return of residents, jurisdiction, laws applicable. No person shall be transferred to another party state pursuant to this chapter unless the compact administrator first shall have obtained either:

(a) [(1)] The written consent to such transfer by the proposed transferee or by others on his or her behalf, which consent shall be executed in accordance with the requirements of *RCW 72.23.070, and if such person was originally committed involuntarily, such consent also shall be approved by the committing court; or

(b) [(2)] An order of the superior court approving such transfer, which order shall be obtained from the committing court, if such person was committed involuntarily, otherwise from the superior court of the county where such person resided at the time of such commitment; and such order shall be issued only after notice and hearing in the manner provided for the involuntary commitment of mentally ill or mentally deficient persons as the case may be.

The courts of this state shall have concurrent jurisdiction with the appropriate courts of other party states to hear and

determine petitions seeking the release or return of residents of this state who have been transferred from this state under this chapter to the same extent as if such persons were hospitalized in this state; and the laws of this state relating to any release of such persons shall govern the disposition of any such proceeding. [2012 c 117 § 472; 1965 ex.s. c 26 § 5.]

*Reviser's note: RCW 72.23.070 was repealed by 1985 c 354 § 34, effective January 1, 1986. Later enactment, see chapter 71.34 RCW.

72.27.060 Transmittal of copies of chapter. Duly authorized copies of this chapter shall, upon its approval be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments. [1965 ex.s. c 26 § 6.]

72.27.070 Right to deport aliens and return residents of nonparty states preserved. Nothing in this chapter shall affect the right of the secretary of social and health services to deport aliens and return residents of nonparty states as provided in chapter 72.25 RCW. [1979 c 141 § 234; 1965 ex.s. c 26 § 7.]

Chapter 72.29 RCW

MULTI-USE FACILITIES FOR THE MENTALLY OR PHYSICALLY HANDICAPPED OR THE MENTALLY ILL

Sections

72.29.010 Multi-use facility for persons with mental or physical disabilities or mental illness—Harrison Memorial Hospital.

72.29.010 Multi-use facility for persons with mental or physical disabilities or mental illness—Harrison Memorial Hospital. After the acquisition of Harrison Memorial Hospital, the department of social and health services is authorized to enter into contracts for the repair or remodeling of the hospital to the extent they are necessary and reasonable, in order to establish a multi-use facility for persons with mental or physical disabilities or mental illness. The secretary of the department of social and health services is authorized to determine the most feasible and desirable use of the facility and to operate the facility in the manner he or she deems most beneficial to persons with mental or physical disabilities or mental illness, and is authorized, but not limited to programs for outpatient, diagnostic and referral, day care, vocational and educational services to the community which he or she determines are in the best interest of the state. [2010 c 94 § 32; 1977 ex.s. c 80 § 52; 1965 c 11 § 3.]

Purpose—2010 c 94: See note following RCW 44.04.280.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Declaration of purpose—2010 c 94; 1965 c 11: "The state facilities to provide community services to persons with mental or physical disabilities or mental illness are inadequate to meet the present demand. Great savings to the taxpayers can be achieved while helping to meet these worthwhile needs. It is therefore the purpose of this act to provide for acquisition or lease of Harrison Memorial Hospital property and facilities and the operation thereof as a multi-use facility for persons with mental or physical disabilities or mental illness." [2010 c 94 § 33; 1965 c 11 § 1.]

Department created—Powers and duties transferred to: RCW 43.20A.030.

Use of Harrison Memorial Hospital property for services for persons with developmental disabilities: RCW 71A.20.040.

Chapter 72.36 RCW SOLDIERS' AND VETERANS' HOMES AND VETERANS' CEMETERY

Sections

72.36.010	Establishment of soldiers' home—Long-term leases.
72.36.020	Appointment of administrator for state veterans' home—Licensed nursing home administrator.
72.36.030	Admission—Applicants must apply for federal and state benefits.
72.36.035	Definitions.
72.36.037	Resident rights.
72.36.040	Colony established—Who may be admitted.
72.36.045	State veterans' homes—Maintenance defined.
72.36.050	Regulations of home applicable—Rations, medical attendance, clothing.
72.36.055	Domiciliary and nursing care.
72.36.060	Federal funds.
72.36.070	Washington veterans' home.
72.36.075	Eastern Washington veterans' home.
72.36.077	Eastern Washington veterans' home—Funding—Intent.
72.36.081	Walla Walla veterans' home.
72.36.090	Hobby promotion.
72.36.100	Purchase of equipment, materials for therapy, hobbies.
72.36.110	Burial of deceased member or deceased spouse or domestic partner.
72.36.115	Eastern Washington state veterans' cemetery.
72.36.120	Deposit of veteran income—Expenditures and revenue control.
72.36.140	Medicaid qualifying operations.
72.36.145	Reduction in allowable income—Certification of qualifying operations.
72.36.150	Resident council—Generally—Rules.
72.36.160	Personal needs allowance.
72.36.1601	Findings.
72.36.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Charitable organizations—Application for registration or renewal—Contents—Fee: RCW 19.09.075.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Employment of dental hygienist without supervision of dentist authorized in state institutions: RCW 18.29.056.

72.36.010 Establishment of soldiers' home—Long-term leases. (1) There is established at Orting, Pierce county, an institution which shall be known as the Washington soldiers' home.

(2) The department is authorized to work with public or private entities on projects to make the best use of the soldiers' home property and facilities. These projects may include, but are not limited to, the renovation and long-term lease of the Garfield barracks building on the soldiers' home campus.

(3) All long-term leases of the soldiers' home property shall be subject to the requirements of RCW 43.82.010, except that such leases may run for up to seventy-five years. [2010 c 75 § 1; 1959 c 28 § 72.36.010. Prior: 1901 c 167 § 1; 1890 p 269 § 1; RRS § 10727.]

72.36.020 Appointment of administrator for state veterans' home—Licensed nursing home administrator. The director of the department of veterans affairs shall appoint an administrator for each state veterans' home. The administrator shall exercise management and control of the institution in accordance with either policies or procedures promulgated by the director of the department of veterans affairs, or both, and rules of the department. In accordance with chapter 18.52 RCW, the individual appointed as admin-

istrator for a state veterans' home shall be a licensed nursing home administrator and the agency shall provide preference to honorably discharged veterans in accordance with RCW 73.16.010. [2018 c 45 § 3; 2014 c 184 § 2; 1993 sp.s. c 3 § 4; 1977 c 31 § 2; 1959 c 28 § 72.36.020. Prior: 1890 p 271 § 7; RRS § 10728.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Chief executive officers, general provisions: RCW 72.01.060.

Additional notes found at www.leg.wa.gov

72.36.030 Admission—Applicants must apply for federal and state benefits. All of the following persons who have been actual bona fide residents of this state at the time of their application may be admitted to a state veterans' home under rules as may be adopted by the director of the department, unless sufficient facilities and resources are not available to accommodate these people:

(1)(a) All honorably discharged veterans of a branch of the armed forces of the United States or merchant marines; (b) members of the state militia disabled while in the line of duty; (c) Filipino World War II veterans who swore an oath to American authority and who participated in military engagements with American soldiers; (d) the spouses or the domestic partners of these veterans, merchant marines, and members of the state militia; and (e) parents any of whose children died while serving in the armed forces. However, it is required that the spouse was married to and living with the veteran, or that the domestic partner was in a domestic partnership and living with the veteran, three years prior to the date of application for admittance, or, if married to or in a domestic partnership with him or her since that date, was also a resident of a state veterans' home in this state or entitled to admission thereto;

(2) The spouses or domestic partners of: (a) All honorably discharged veterans of the United States armed forces; (b) merchant marines; and (c) members of the state militia who were disabled while in the line of duty and who were residents of a state veterans' home in this state or were entitled to admission to one of this state's state veteran homes at the time of death. However, the included spouse or included domestic partner shall not have been married since the death of his or her spouse or domestic partner to a person who is not a resident of one of this state's state veterans' homes or entitled to admission to one of this state's state veterans' homes; and

(3) All applicants for admission to a state veterans' home shall apply for all federal and state benefits for which they may be eligible, including medical assistance under chapter 74.09 RCW. [2014 c 184 § 3; 2008 c 6 § 503; 1998 c 322 § 49; 1993 sp.s. c 3 § 5; 1977 ex.s. c 186 § 1; 1975 c 13 § 1; 1959 c 28 § 72.36.030. Prior: 1915 c 106 § 1; 1911 c 124 § 1; 1905 c 152 § 1; 1901 c 167 § 2; 1890 p 270 § 2; RRS § 10729.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.035 Definitions. For purposes of this chapter, unless the context clearly indicates otherwise:

(1) "Actual bona fide residents of this state" means persons who have a domicile in the state of Washington immedi-

ately prior to application for admission to a state veterans' home.

(2) "Department" means the Washington state department of veterans affairs.

(3) "Domicile" means a person's true, fixed, and permanent home and place of habitation, and shall be the place where the person intends to remain, and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(4) "State veterans' homes" means the Washington soldiers' home and colony in Orting, the Washington veterans' home in Retsil, the eastern Washington veterans' home, and the Walla Walla veterans' home.

(5) "Veteran" has the same meaning established in RCW 41.04.007. [2014 c 184 § 4; 2002 c 292 § 5; 2001 2nd sp.s. c 4 § 2; 1993 sp.s. c 3 § 6; 1991 c 240 § 2; 1977 ex.s. c 186 § 11.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.037 Resident rights. Chapter 70.129 RCW applies to this chapter and persons regulated under this chapter. [1994 c 214 § 23.]

Additional notes found at www.leg.wa.gov

72.36.040 Colony established—Who may be admitted. There is hereby established what shall be known as the "Colony of the State Soldiers' Home." All of the following persons who reside within the limits of Orting school district and have been actual bona fide residents of this state at the time of their application and who have personal property of less than one thousand five hundred dollars and/or a monthly income insufficient to meet their needs outside of residence in such colony and soldiers' home as determined by standards of the department of veterans affairs, may be admitted to membership in said colony under such rules and regulations as may be adopted by the department.

(1) All honorably discharged veterans who have served in the armed forces of the United States during wartime, members of the state militia disabled while in the line of duty, and their respective spouses or domestic partners with whom they have lived for three years prior to application for membership in said colony. Also, the spouse or domestic partner of any such veteran or disabled member of the state militia is eligible for membership in said colony, if such spouse or such domestic partner is the surviving spouse or surviving domestic partner of a veteran who was a member of a soldiers' home or colony in this state or entitled to admission thereto at the time of death: PROVIDED, That such veterans and members of the state militia shall, while they are members of said colony, be living with their said spouses or said domestic partners.

(2) The spouses or domestic partners of all veterans who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death, and the spouses or domestic partners of all veterans who would have been entitled to admission to a soldiers' home or colony in this state at the time of death but for the fact that they were not indigent and unable to support themselves and families, which spouses or domestic partners have since the death of their said spouses or domestic partners become indigent and

unable to earn a support for themselves: PROVIDED, That such spouses or such domestic partners are not less than fifty years of age and have not been married or in a domestic partnership since the decease of their said spouses or said domestic partners to any person not a member of a soldiers' home or colony in this state or entitled to admission thereto. Any resident of said colony may be admitted to the state soldiers' home for temporary care when requiring treatment. [2008 c 6 § 504; 1977 ex.s. c 186 § 2. Prior: 1973 1st ex.s. c 154 § 102; 1973 c 101 § 1; 1959 c 235 § 1; 1959 c 28 § 72.36.040; prior: 1947 c 190 § 1; 1925 ex.s. c 74 § 1; 1915 c 106 § 2; Rem. Supp. 1947 § 10730.]

Additional notes found at www.leg.wa.gov

72.36.045 State veterans' homes—Maintenance defined. In the maintenance of the state veterans' homes by the state through the department of veterans affairs, such maintenance shall include, but not be limited to, the provision of members' room and board, medical and dental care, physical and occupational therapy, and recreational activities, with the necessary implementing transportation, equipment, and personnel therefor. [2001 2nd sp.s. c 4 § 3; 1977 ex.s. c 186 § 10.]

Additional notes found at www.leg.wa.gov

72.36.050 Regulations of home applicable—Rations, medical attendance, clothing. The members of the colony established in RCW 72.36.040 as now or hereafter amended shall, to all intents and purposes, be members of the state soldiers' home and subject to all the rules and regulations thereof, except the requirements of fatigue duty, and each member shall, in accordance with rules and regulations adopted by the director, be supplied with medical attendance and supplies from the home dispensary, rations, and clothing for a member and his or her spouse or domestic partner, or for a spouse or domestic partner admitted under RCW 72.36.040 as now or hereafter amended. The value of the supplies, rations, and clothing furnished such persons shall be determined by the director of veterans affairs and be included in the biennial budget. [2008 c 6 § 505; 1979 c 65 § 1; 1973 1st ex.s. c 154 § 103; 1967 c 112 § 1; 1959 c 28 § 72.36.050. Prior: 1947 c 190 § 2; 1939 c 161 § 1; 1927 c 276 § 1; 1925 ex.s. c 74 § 1; 1915 c 106 § 3; Rem. Supp. 1947 § 10731.]

Additional notes found at www.leg.wa.gov

72.36.055 Domiciliary and nursing care. The state veterans' homes may provide both domiciliary and nursing care. The level of domiciliary members shall remain consistent with the facilities available to accommodate those members: PROVIDED, That nothing in this section shall preclude the department from moving residents between nursing and domiciliary care in order to better utilize facilities and maintain the appropriate care for the members. [2014 c 184 § 5; 2001 2nd sp.s. c 4 § 4; 1977 ex.s. c 186 § 6.]

Additional notes found at www.leg.wa.gov

72.36.060 Federal funds. The state treasurer is authorized to receive any and all moneys appropriated or paid by the United States under the act of congress entitled "An Act to provide aid to state or territorial homes for disabled soldiers and sailors of the United States," approved August 27,

1888, or under any other act or acts of congress for the benefit of such homes. Such moneys shall be deposited in the general fund and shall be expended for the maintenance of the state veterans' homes. [2001 2nd sp.s. c 4 § 5; 1977 ex.s. c 186 § 3; 1959 c 28 § 72.36.060. Prior: 1897 c 67 § 1; RRS § 10735.]

Additional notes found at www.leg.wa.gov

72.36.070 Washington veterans' home. There shall be established and maintained in this state a branch of the state soldiers' home, under the name of the "Washington veterans' home," which branch shall be a home for honorably discharged veterans who have served the United States government in any of its wars, members of the state militia disabled while in the line of duty, and who are bona fide citizens of the state, the spouses or domestic partners of such veterans, and the parents any of whose children died while serving in the armed forces. [2014 c 184 § 6; 2008 c 6 § 506; 1977 ex.s. c 186 § 4; 1959 c 28 § 72.36.070. Prior: 1907 c 156 § 1; RRS § 10733.]

Additional notes found at www.leg.wa.gov

72.36.075 Eastern Washington veterans' home. There shall be established and maintained in this state a branch of the state soldiers' home, under the name of the "eastern Washington veterans' home," which branch shall be a home for veterans, their spouses, and the parents any of whose children died while serving in the armed forces who meet admission requirements contained in RCW 72.36.030. [2014 c 184 § 7; 2001 2nd sp.s. c 4 § 6.]

72.36.077 Eastern Washington veterans' home—Funding—Intent. The department of veterans affairs indicates that it may acquire and staff an existing one-hundred-bed skilled nursing facility in Spokane and reopen it as an eastern Washington veterans' home by using a combination of funding sources. Funding sources include federal per diem payments, contributions from residents' incomes, and federal and state medicaid payments. In authorizing the establishment of an eastern Washington veterans' home, it is the intent of the legislature that the state general fund shall not provide support in future biennia for the eastern Washington veterans' home except for amounts required to pay the state share of medicaid costs. [2001 2nd sp.s. c 4 § 1.]

72.36.081 Walla Walla veterans' home. The "Walla Walla veterans' home" is established and maintained in this state as a branch of the state soldiers' home, and is a home for veterans, their spouses, or parents any of whose children died while serving in the armed forces, who meet admission requirements contained in RCW 72.36.030. [2014 c 184 § 1.]

72.36.090 Hobby promotion. The administrators of the state veterans' homes are hereby authorized to:

- (1) Institute programs of hobby promotion designed to improve the general welfare and mental condition of the persons under their supervision;
- (2) Provide for the financing of these programs by grants from funds in the administrator's custody through operation of canteens and exchanges at such institutions;
- (3) Limit the hobbies sponsored to projects which will, in their judgment, be self-liquidating or self-sustaining.

[2018 c 45 § 4; 2001 2nd sp.s. c 4 § 8; 1977 ex.s. c 186 § 9; 1959 c 28 § 72.36.090. Prior: 1949 c 114 § 1; Rem. Supp. 1949 § 10736-1.]

Additional notes found at www.leg.wa.gov

72.36.100 Purchase of equipment, materials for therapy, hobbies. The administrator of each institution referred to in RCW 72.36.090 may purchase, from the appropriation to the institution, for operations, equipment or materials designed to initiate the programs authorized by RCW 72.36.090. [2018 c 45 § 5; 1959 c 28 § 72.36.100. Prior: 1949 c 114 § 2; Rem. Supp. 1949 § 10736-2.]

72.36.110 Burial of deceased member or deceased spouse or domestic partner. The administrator of the Washington veterans' home and the administrator of the Washington soldiers' home and colony are hereby authorized to provide for the burial of deceased members in the cemeteries provided at the Washington veterans' home and Washington soldiers' home: PROVIDED, That this section shall not be construed to prevent any relative from assuming jurisdiction of such deceased persons: PROVIDED FURTHER, That the administrator of the Washington soldiers' home and colony is hereby authorized to provide for the burial of spouses or domestic partners of members of the colony of the Washington soldiers' home. [2018 c 45 § 6; 2008 c 6 § 507; 1959 c 120 § 1; 1959 c 28 § 72.36.110. Prior: 1955 c 247 § 7.]

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Additional notes found at www.leg.wa.gov

72.36.115 Eastern Washington state veterans' cemetery. (1) The department shall establish and maintain in this state an eastern Washington state veterans' cemetery.

(2) All honorably discharged veterans and their spouses or state registered domestic partners who meet eligibility requirements under 38 C.F.R. Sec. 38.620 are eligible for interment in the eastern Washington state veterans' cemetery.

(3) The department shall collect all federal veterans' burial benefits and other available state or county resources.

(4) The department shall adopt rules defining the services available, eligibility, fees, and the general operations associated with the eastern Washington state veterans' cemetery. [2017 c 185 § 8; 2009 c 521 § 169; 2007 c 43 § 2.]

Finding—2007 c 43: "The legislature recognizes the unique sacrifices made by veterans and their family members. The legislature recognizes further that while all veterans are entitled to interment at the Tahoma national cemetery, veterans and families living in eastern Washington desire a veterans' cemetery location closer to their homes. The legislature requested and received the department of veterans affairs feasibility study and business plan outlining the need and feasibility and now intends to establish a state veterans' cemetery to honor veterans in their final resting place." [2007 c 43 § 1.]

72.36.120 Deposit of veteran income—Expenditures and revenue control. All income of residents of a state veterans' home, other than the personal needs allowance and income from therapeutic employment, shall be deposited in the state general fund—local and be available to apply against the cost of care provided by the state veterans' homes. The resident council created under RCW 72.36.150 may make recommendations on expenditures under this section.

(2021 Ed.)

All expenditures and revenue control shall be subject to chapter 43.88 RCW. [1993 sp.s. c 3 § 7; 1977 ex.s. c 186 § 7.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.140 Medicaid qualifying operations. Qualifying operations at state veterans' homes operated by the department of veterans affairs, may be provided under the state's medicaid reimbursement system as administered by the department of social and health services.

The department of veterans affairs may contract with the department of social and health services under the authority of RCW 74.09.120 but shall be exempt from *RCW 74.46.660(6), and the provisions of **RCW 74.46.420 through 74.46.590 shall not apply to the medicaid rate-setting and reimbursement systems. The nursing care operations at the state veterans' homes shall be subject to inspection by the department of social and health services. This includes every part of the state veterans' home's premises, an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs, methods of supply, and any other records the department of social and health services deems relevant. [1993 sp.s. c 3 § 2.]

Reviser's note: *(1) RCW 74.46.660 was repealed by 2010 1st sp.s. c 34 § 21.

** (2) RCW 74.46.420 through 74.46.590 were repealed by 1995 1st sp.s. c 18 § 98, effective June 30, 1998.

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.145 Reduction in allowable income—Certification of qualifying operations. No reduction in the allowable income provided for in current department rules may take effect until the effective date of certification of qualifying operations at state veterans' homes for participation in the state's medicaid reimbursement system. [1993 sp.s. c 3 § 10.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.150 Resident council—Generally—Rules. The department of veterans affairs shall provide by rule for the annual election of a resident council for each state veterans' home. The council shall annually elect a chair from among its members, who shall call and preside at council meetings. The resident council shall serve in an advisory capacity to the director of the department of veterans affairs and to the administrator in all matters related to policy and operational decisions affecting resident care and life in the home.

By October 31, 1993, the department shall adopt rules that provide for specific duties and procedures of the resident council which create an appropriate and effective relationship between residents and the administration. These rules shall be adopted after consultation with the resident councils and the state long-term care ombuds, and shall include, but not be limited to the following:

- (1) Provision of staff technical assistance to the councils;
- (2) Provision of an active role for residents in developing choices regarding activities, foods, living arrangements, personal care, and other aspects of resident life;
- (3) A procedure for resolving resident grievances; and

(4) The role of the councils in assuring that resident rights are observed.

The development of these rules should include consultation with all residents through the use of both questionnaires and group discussions.

The resident council for each state veterans' home shall annually review the proposed expenditures from the benefit fund that shall contain all private donations to the home, all bequeaths, and gifts. Disbursements from each benefit fund shall be for the benefit and welfare of the residents of the state veterans' homes. Disbursements from the benefits funds shall be on the authorization of the administrator or the administrator's authorized representative after approval has been received from the home's resident council.

The administrator or the administrator's designated representative shall meet with the resident council at least monthly. The director of the department of veterans affairs shall meet with each resident council at least three times each year. [2018 c 45 § 7; 1993 sp.s. c 3 § 3.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.160 Personal needs allowance. The legislature finds that to meet the objectives of RCW 72.36.1601, the personal needs allowance for all nursing care residents of the state veterans' homes shall be an amount approved by the federal health care financing authority, but not less than ninety dollars or more than one hundred sixty dollars per month during periods of residency. For all domiciliary residents, the personal needs allowance shall be one hundred sixty dollars per month, or a higher amount defined in rules adopted by the department. [1993 sp.s. c 3 § 9.]

Findings—1993 sp.s. c 3: See RCW 72.36.1601.

Additional notes found at www.leg.wa.gov

72.36.1601 Findings. The legislature finds that continued operation of state veterans' homes is necessary to meet the needs of eligible veterans for shelter, personal and nursing care, and related services; that certain residents of veterans' homes or services provided to them may be eligible for participation in the state's medicaid reimbursement system; and that authorizing medicaid participation is appropriate to address the homes' long-term funding needs. The legislature also finds that it is important to maintain the dignity and self-respect of residents of veterans' homes, by providing for continued resident involvement in the homes' operation, and through retention of current law guaranteeing a minimum amount of allowable personal income necessary to meet the greater costs for these residents of transportation, communication, and participation in family and community activities that are vitally important to their maintenance and rehabilitation. [1993 sp.s. c 3 § 1.]

Additional notes found at www.leg.wa.gov

72.36.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic part-

nerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 168.]

Chapter 72.40 RCW

STATE SCHOOLS FOR BLIND, DEAF, SENSORY HANDICAPPED

Sections

72.40.010	Schools established—Purpose—Direction.
72.40.015	Center for deaf and hard of hearing youth—Functions.
72.40.019	Center for deaf and hard of hearing youth—Appointment of director—Qualifications.
72.40.0191	Center for deaf and hard of hearing youth—Director's powers and duties.
72.40.020	State school for the blind—Appointment of superintendent—Qualifications.
72.40.022	Superintendent of the state school for the blind—Powers and duties.
72.40.024	Superintendents and director—Additional powers and duties.
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72.40.031	School year—School term—Legal holidays—Use of schools.
72.40.040	Who may be admitted.
72.40.050	Admission of nonresidents.
72.40.060	Duty of school districts.
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72.40.080	Duty of parents.
72.40.090	Weekend transportation—Expense.
72.40.100	Penalty.
72.40.110	Employees' hours of labor.
72.40.120	Center for deaf and hard of hearing youth—School for the blind—Appropriations.
72.40.200	Safety of students and protection from child abuse and neglect.
72.40.210	Reports to parents—Requirement.
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72.40.230	Staff orientation and training.
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72.40.270	Protection from sexual victimization—Policy.
72.40.280	Monitoring of residential program by department of social and health services—Recommendations—Comprehensive child health and safety reviews—Access to records and documents—Safety standards.
72.40.290	Center for deaf and hard of hearing youth account.
72.40.300	School for the blind account.

Children with disabilities, parental responsibility, commitment: Chapter 26.40 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Employment of dental hygienist without supervision of dentist authorized in state institutions: RCW 18.29.056.

Teachers' qualifications at state schools for the deaf and blind: RCW 72.40.028.

72.40.010 Schools established—Purpose—Direction.

There are established at Vancouver, Clark county, a school which shall be known as the state school for the blind, and a separate school which shall be known as the *state school for the deaf. The primary purpose of the state school for the blind and the *state school for the deaf is to educate and train hearing and visually impaired children.

The school for the blind shall be under the direction of the superintendent with the advice of the board of trustees. The *school for the deaf shall be under the direction of the director of the center or the director's designee and the board of trustees. [2009 c 381 § 3; 2002 c 209 § 1; 1985 c 378 § 11; 1959 c 28 § 72.40.010. Prior: 1913 c 10 § 1; 1886 p 136 § 1; RRS § 4645.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.015 Center for deaf and hard of hearing youth—Functions. (1) The Washington center for deaf and hard of hearing youth is established to provide statewide leadership for the coordination and delivery of educational services to children who are deaf or hard of hearing. The activities of the center shall be under the authority of the director and the board of trustees. The superintendent and board of trustees of the *state school for the deaf shall be the director and board of trustees of the center.

(2) The center's primary functions are:

(a) Managing and directing the supervision of the *state school for the deaf;

(b) Providing statewide leadership and support for the coordination of regionally delivered educational services in the full range of communication modalities, for children who are deaf or hard of hearing; and

(c) Collaborating with appropriate public and private partners for the training and professional development of educators serving children who are deaf or hard of hearing. [2019 c 266 § 1; 2009 c 381 § 2.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—2009 c 381: "The legislature finds that the education of children who are deaf presents unique challenges because deafness is a low-incidence disability significantly impacting the child's ability to access communication at home, at school, and in the community. The legislature further finds that over the past fifty years, there have been numerous advances in technology as well as a growing awareness about the importance of delivering services to children in a variety of communication modalities to support their early and continued access to communication. The legislature intends to enhance the coordination of regionally delivered educational services and supports for children who are deaf or hard of hearing and to promote the development of communication-rich learning environments for these children." [2009 c 381 § 1.]

Additional notes found at www.leg.wa.gov

72.40.019 Center for deaf and hard of hearing youth—Appointment of director—Qualifications. The governor shall appoint a director for the Washington center for deaf and hard of hearing youth. The director shall have a master's or higher degree from an accredited college or university in school administration or deaf education, five or more years of experience teaching or providing habilitative services to deaf

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or hard of hearing students, and three or more years administrative or supervisory experience in programs for deaf or hard of hearing students. [2019 c 266 § 2; 2009 c 381 § 4; 1985 c 378 § 14.]

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.0191 Center for deaf and hard of hearing youth—Director's powers and duties. In addition to any other powers and duties prescribed by law, the director of the Washington center for deaf and hard of hearing youth:

(1) Shall be responsible for the supervision and management of the center, including the *state school for the deaf, and the property of various kinds. The director may designate an individual to oversee the day-to-day operation and supervision of students at the school;

(2) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law;

(3) Shall provide technical assistance and support as appropriate to local and regional efforts to build critical mass and communication-rich networking opportunities for children who are deaf or hard of hearing and their families;

(4) Shall establish the course of study including vocational training, with the assistance of the faculty and the approval of the board of trustees;

(5) Shall, as approved by the board of trustees, control and authorize the use of the facilities for night school, summer school, public meetings, applied research and training for the instruction of students who are deaf or hard of hearing, outreach and support to families of children who are deaf or hard of hearing, or other purposes consistent with the purposes of the center;

(6) Shall purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of the center;

(7) Shall prepare, submit to the board of trustees for approval, and administer the budget consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable;

(8) Shall provide technical assistance and support to educational service districts for the regional delivery of a full range of educational services to students who are deaf or hard of hearing, including but not limited to services relying on American Sign Language, auditory oral education, total communication, and signed exact English;

(9) As requested by educational service districts, shall recruit, employ, and deploy itinerant teachers to provide in-district services to children who are deaf or hard of hearing;

(10) May establish criteria, in addition to state certification, for the teachers at the school and employees of the center;

(11) May establish, with the approval of the board of trustees, new facilities as needs demand;

(12) May adopt rules, under chapter 34.05 RCW, as approved by the board of trustees and as deemed necessary for the governance, management, and operation of the center;

(13) May adopt rules, as approved by the board of trustees, for pedestrian and vehicular traffic on property owned, operated, and maintained by the center;

(14) Except as otherwise provided by law, may enter into contracts as the director deems essential to the purpose of the center;

(15) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the center; sell, lease, or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof;

(16) May adopt rules, as approved by the board of trustees, providing for the transferability of employees between the center and the school for the blind consistent with collective bargaining agreements in effect; and

(17) May adopt rules under chapter 34.05 RCW, as approved by the board of trustees, and perform all other acts not forbidden by law as the director deems necessary or appropriate to the administration of the center. [2019 c 266 § 3; 2009 c 381 § 5.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

72.40.020 State school for the blind—Appointment of superintendent—Qualifications. The governor shall appoint a superintendent for the state school for the blind. The superintendent shall have a master's degree from an accredited college or university in school administration or blind education, five years of experience teaching blind students in the classroom, and three years administrative or supervisory experience in programs for blind students. [1985 c 378 § 13; 1979 c 141 § 247; 1959 c 28 § 72.40.020. Prior: 1909 c 97 p 258 § 5; RRS § 4649.]

Additional notes found at www.leg.wa.gov

72.40.022 Superintendent of the state school for the blind—Powers and duties. In addition to any other powers and duties prescribed by law, the superintendent of the state school for the blind:

(1) Shall have full control of the school and the property of various kinds.

(2) May establish criteria, in addition to state certification, for teachers at the school.

(3) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law.

(4) Shall establish the course of study including vocational training, with the assistance of the faculty and the advice of the board of trustees.

(5) May establish new facilities as needs demand.

(6) May adopt rules, under chapter 34.05 RCW, as deemed necessary for the government, management, and operation of the housing facilities.

(7) Shall control the use of the facilities and authorize the use of the facilities for night school, summer school, public meetings, or other purposes consistent with the purposes of the school.

(8) May adopt rules for pedestrian and vehicular traffic on property owned, operated, and maintained by the school.

(9) Shall purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of the school.

(10) Except as otherwise provided by law, may enter into contracts as the superintendent deems essential to the purpose of the school.

(11) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the school; sell, lease or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof.

(12) May, except as otherwise provided by law, enter into contracts the superintendent deems essential for the operation of the school.

(13) May adopt rules providing for the transferability of employees between the *school for the deaf and the school for the blind consistent with collective bargaining agreements in effect.

(14) Shall prepare and administer the school's budget consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable.

(15) May adopt rules under chapter 34.05 RCW and perform all other acts not forbidden by law as the superintendent deems necessary or appropriate to the administration of the school. [2002 c 209 § 2; 1993 c 147 § 1; 1985 c 378 § 15.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Additional notes found at www.leg.wa.gov

72.40.024 Superintendents and director—Additional powers and duties. In addition to the powers and duties under RCW 72.40.022 and 72.40.0191, the superintendent of the school for the blind and the director of the Washington center for deaf and hard of hearing youth, or the director's designee, shall:

(1) Monitor the location and educational placement of each student reported to the superintendent and the director, or the director's designee, by the educational service district superintendents;

(2) Provide information about educational programs, instructional techniques, materials, equipment, and resources available to students with visual or auditory impairments to the parent or guardian, educational service district superintendent, and the superintendent of the school district where the student resides; and

(3) Serve as a consultant to the office of the superintendent of public instruction, provide instructional leadership, and assist school districts in improving their instructional programs for students with visual or hearing impairments. [2019 c 266 § 4; 2009 c 381 § 6; 2002 c 209 § 4; 1993 c 147 § 2; 1985 c 378 § 17.]

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.028 Teachers' qualifications—Salaries—Provisional certification. All teachers employed by the Washington center for deaf and hard of hearing youth and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the Washington professional educator standards board or the office of the state superintendent of public instruction. The superintendent and the director, by rule, may adopt additional educational standards for their respective facilities. Salaries of all certificated employees shall be based on the statewide average salary set forth in RCW 28A.150.410, adjusted by the regionalization factor that applies to the school district in which the program or facility is located. The superintendent and the director may provide for provisional certification for teachers in their respective facilities including certification for emergency, temporary, substitute, or provisional duty. [2019 c 266 § 5; 2018 c 266 § 405; 2009 c 381 § 7; 2006 c 263 § 829; 1985 c 378 § 18.]

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Additional notes found at www.leg.wa.gov

72.40.031 School year—School term—Legal holidays—Use of schools. The school year for the state school for the blind and the *state school for the deaf shall commence on the first day of July of each year and shall terminate on the 30th day of June of the succeeding year. The regular school term shall be for a period of nine months and shall commence as near as reasonably practical at the time of the commencement of regular terms in other public schools, with the equivalent number of days as are now required by law, and the regulations of the superintendent of public instruction as now or hereafter amended, during the school year in other public schools. The school and the center shall observe all legal holidays, in the same manner as other agencies of state government, and will not be in session on such days and such other days as may be approved by the superintendent or the director. During the period when the schools are not in session during the regular school term, schools may be operated, subject to the approval of the superintendent or the director or the director's designee, for the instruction of students or for such other reasons which are in furtherance of the objects and purposes of the respective facilities. [2009 c 381 § 12; 1985 c 378 § 16; 1979 c 141 § 248; 1970 ex.s. c 50 § 6.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The

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"Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.040 Who may be admitted. (1) The schools shall be free to residents of the state between the ages of three and twenty-one years, who are blind/visually impaired or deaf/hearing impaired, or with other disabilities where a vision or hearing disability is the major need for services.

(2) The schools may provide nonresidential services to children ages birth through three who meet the eligibility criteria in this section, subject to available funding.

(3) Each school shall admit and retain students on a space available basis according to criteria developed and published by each school superintendent in consultation with each board of trustees and school faculty: PROVIDED, That students over the age of twenty-one years, who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training.

(4) The admission and retention criteria developed and published by each school superintendent shall contain a provision allowing the schools to refuse to admit or retain a student who is an adjudicated sex offender except that the schools shall not admit or retain a student who is an adjudicated level III sex offender as provided in RCW 13.40.217(3). [2000 c 125 § 8; 1993 c 147 § 3; 1985 c 378 § 19; 1984 c 160 § 4; 1977 ex.s. c 80 § 68; 1969 c 39 § 1; 1959 c 28 § 72.40.040. Prior: 1955 c 260 § 1; 1909 c 97 p 258 § 3; 1903 c 140 § 1; 1897 c 118 § 229; 1886 p 136 § 2; RRS § 4647.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

72.40.050 Admission of nonresidents. (1) The superintendents may admit to their respective schools visually or hearing impaired children from other states as appropriate, but the parents or guardians of such children or other state will be required to pay annually or quarterly in advance a sufficient amount to cover the cost of maintaining and educating such children as set by the applicable superintendent.

(2) The admission and retention criteria developed and published by each school superintendent shall contain a provision allowing the schools to refuse to admit or retain a nonresident student who is an adjudicated sex offender, or the equivalent under the laws of the state in which the student resides, except that the schools shall not admit or retain a nonresident student who is an adjudicated level III sex offender or the equivalent under the laws of the state in which the student resides. [2000 c 125 § 9; 1985 c 378 § 20; 1979 c 141 § 249; 1959 c 28 § 72.40.050. Prior: 1909 c 97 p 258 § 4; 1897 c 118 § 251; 1886 p 141 § 32; RRS § 4648.]

Additional notes found at www.leg.wa.gov

72.40.060 Duty of school districts. It shall be the duty of all school districts in the state, to report to their respective

educational service districts the names of all visually or hearing impaired youth residing within their respective school districts who are between the ages of three and twenty-one years. [1985 c 378 § 21; 1975 1st ex.s. c 275 § 151; 1969 ex.s. c 176 § 97; 1959 c 28 § 72.40.060. Prior: 1909 c 97 p 258 § 6; 1897 c 118 § 252; 1890 p 497 § 1; RRS § 4650.]

Superintendent's duties: RCW 28A.400.030.

Additional notes found at www.leg.wa.gov

72.40.070 Duty of educational service districts. It shall be the duty of each educational service district to make a full and specific report of visually impaired or deaf or hard of hearing youth to the superintendent of the school for the blind or the director of the Washington center for deaf and hard of hearing youth, or the director's designee, as the case may be and the superintendent of public instruction, annually. The superintendent of public instruction shall report about the deaf or hard of hearing or visually impaired youth to the school for the blind and the Washington center for deaf and hard of hearing youth, as the case may be, annually. [2019 c 266 § 6; 2009 c 381 § 18; 1985 c 378 § 22; 1979 c 141 § 250; 1975 1st ex.s. c 275 § 152; 1969 ex.s. c 176 § 98; 1959 c 28 § 72.40.070. Prior: 1909 c 97 p 259 § 7; 1897 c 118 § 253; 1890 p 497 § 2; RRS § 4651.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Educational service districts—Superintendents—Boards: Chapter 28A.310 RCW.

Additional notes found at www.leg.wa.gov

72.40.080 Duty of parents. It shall be the duty of the parents or the guardians of all such visually or hearing impaired youth to send them each year to the proper school. Full and due consideration shall be given to the parent's or guardian's preference as to which program the child should attend. The educational service district superintendent shall take all action necessary to enforce this section. [1993 c 147 § 4; 1985 c 378 § 23; 1975 1st ex.s. c 275 § 153; 1969 ex.s. c 176 § 99; 1959 c 28 § 72.40.080. Prior: 1909 c 97 p 259 § 8; 1897 c 118 § 254; 1890 p 498 § 3; RRS § 4652.]

Children with disabilities, parental responsibility, commitment: Chapter 26.40 RCW.

Additional notes found at www.leg.wa.gov

72.40.090 Weekend transportation—Expense. Notwithstanding any other provision of law, the state school for the blind and the *school for the deaf may arrange and provide for weekend transportation to and from schools. This transportation shall be at no cost to students and parents, as allowed within the appropriations allocated to the schools. [1993 c 147 § 5; 1985 c 378 § 24; 1975 c 51 § 1; 1959 c 28 § 72.40.090. Prior: 1909 c 97 p 259 § 9; 1899 c 142 § 28; 1899 c 81 § 2; 1897 c 118 § 255; RRS § 4653.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Additional notes found at www.leg.wa.gov

72.40.100 Penalty. Any parent, guardian, or educational service district superintendent who, without proper

cause, fails to carry into effect the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any district or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars. [1987 c 202 § 229; 1985 c 378 § 25; 1975 1st ex.s. c 275 § 154; 1969 ex.s. c 176 § 100; 1959 c 28 § 72.40.100. Prior: 1909 c 97 p 259 § 10; 1897 c 118 § 256; 1890 p 498 § 5; RRS § 4654.]

Intent—1987 c 202: See note following RCW 2.04.190.

Additional notes found at www.leg.wa.gov

72.40.110 Employees' hours of labor. Employees' hours of labor shall follow all state merit rules as they pertain to various work classifications and current collective bargaining agreements. [1993 c 147 § 6; 1985 c 378 § 12.]

Additional notes found at www.leg.wa.gov

72.40.120 Center for deaf and hard of hearing youth—School for the blind—Appropriations. Any appropriation for the Washington center for deaf and hard of hearing youth or the school for the blind shall be made directly to the center or the school for the blind. [2019 c 266 § 7; 2009 c 381 § 8; 1991 c 65 § 1.]

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.200 Safety of students and protection from child abuse and neglect. The Washington center for deaf and hard of hearing youth and the state school for the blind shall promote the personal safety of students and protect the children who attend from child abuse and neglect as defined in RCW 26.44.020. [2019 c 266 § 8; 2009 c 381 § 9; 2000 c 125 § 1.]

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.210 Reports to parents—Requirement. The director of the Washington center for deaf and hard of hearing youth and the superintendent of the state school for the blind or their designees shall immediately report to the persons indicated the following events:

- (1) To the child's parent, custodian, or guardian:
 - (a) The death of the child;
 - (b) Hospitalization of a child in attendance or residence at the facility;
 - (c) Allegations of child abuse or neglect in which the parent's child in attendance or residence at the facility is the alleged victim;
 - (d) Allegations of physical or sexual abuse in which the parent's child in attendance or residence at the facility is the alleged perpetrator;
 - (e) Life-threatening illness;
 - (f) The attendance at the facility of any child who is a registered sex offender under RCW 9A.44.130 as permitted by RCW 4.24.550.

(2) Notification to the parent shall be made by the means most likely to be received by the parent. If initial notification is made by telephone, such notification shall be followed by notification in writing within forty-eight hours after the initial verbal contact is made. [2019 c 266 § 9; 2009 c 381 § 10; 2000 c 125 § 2.]

Findings—Intent—Transfer of powers, duties, and property—Construction of statutory references—2009 c 381: See notes following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.220 Behavior management policies, procedures, and techniques. (1) The director of the Washington center for deaf and hard of hearing youth, or the director's designee, and the superintendent of the state school for the blind shall maintain in writing and implement behavior management policies and procedures that accomplish the following:

- (a) Support the child's appropriate social behavior, self-control, and the rights of others;
- (b) Foster dignity and self-respect for the child;
- (c) Reflect the ages and developmental levels of children in care.

(2) The *state school for the deaf and the state school for the blind shall use proactive, positive behavior support techniques to manage potential child behavior problems. These techniques shall include but not be limited to:

- (a) Organization of the physical environment and staffing patterns to reduce factors leading to behavior incidents;
- (b) Intervention before behavior becomes disruptive, in the least invasive and least restrictive manner available;
- (c) Emphasis on verbal de-escalation to calm the upset child;
- (d) Redirection strategies to present the child with alternative resolution choices. [2019 c 266 § 10; 2009 c 381 § 19; 2000 c 125 § 3.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.230 Staff orientation and training. (1) The *state school for the deaf and the state school for the blind shall ensure that all staff, within two months of beginning employment, complete a minimum of fifteen hours of job orientation which shall include, but is not limited to, presentation of the standard operating procedures manual for each school, describing all policies and procedures specific to the school.

(2) The *state school for the deaf and the state school for the blind shall ensure that all new staff receive thirty-two hours of job specific training within ninety days of employment which shall include, but is not limited to, promoting and protecting student personal safety. All staff shall receive thirty-two hours of ongoing training in these areas every two years. [2000 c 125 § 4.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the

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Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Additional notes found at www.leg.wa.gov

72.40.240 Residential staffing requirement. The residential program at the *state school for the deaf and the state school for the blind shall employ residential staff in sufficient numbers to ensure the physical and emotional needs of the residents are met. Residential staff shall be on duty in sufficient numbers to ensure the safety of the children residing there.

For purposes of this section, "residential staff" means staff in charge of supervising the day-to-day living situation of the children in the residential portion of the schools. [2000 c 125 § 5.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Additional notes found at www.leg.wa.gov

72.40.250 Protection from child abuse and neglect—Supervision of employees and volunteers—Procedures. In addition to the powers and duties under RCW 72.40.022 and 72.40.024, the director of the Washington center for deaf and hard of hearing youth, or the director's designee, and the superintendent of the state school for the blind shall:

(1) Develop written procedures for the supervision of employees and volunteers who have the potential for contact with students. Such procedures shall be designed to prevent child abuse and neglect by providing for adequate supervision of such employees and volunteers, taking into consideration such factors as the student population served, architectural factors, and the size of the facility. Such procedures shall include, but need not be limited to, the following:

- (a) Staffing patterns and the rationale for such;
- (b) Responsibilities of supervisors;
- (c) The method by which staff and volunteers are made aware of the identity of all supervisors, including designated on-site supervisors;
- (d) Provision of written supervisory guidelines to employees and volunteers;
- (e) Periodic supervisory conferences for employees and volunteers; and
- (f) Written performance evaluations of staff to be conducted by supervisors in a manner consistent with applicable provisions of the civil service law.

(2) Develop written procedures for the protection of students when there is reason to believe an incident has occurred which would render a minor student an abused or neglected child within the meaning of RCW 26.44.020. Such procedures shall include, but need not be limited to, the following:

- (a) Investigation. Immediately upon notification that a report of child abuse or neglect has been made to the department of social and health services or a law enforcement agency, the superintendent or the director, or the director's designee, shall:

(i) Preserve any potential evidence through such actions as securing the area where suspected abuse or neglect occurred;

(ii) Obtain proper and prompt medical evaluation and treatment, as needed, with documentation of any evidence of abuse or neglect; and

(iii) Provide necessary assistance to the department of social and health services and local law enforcement in their investigations;

(b) Safety. Upon notification that a report of suspected child abuse or neglect has been made to the department of social and health services or a law enforcement agency, the superintendent or the director or his or her designee, with consideration for causing as little disruption as possible to the daily routines of the students, shall evaluate the situation and immediately take appropriate action to assure the health and safety of the students involved in the report and of any other students similarly situated, and take such additional action as is necessary to prevent future acts of abuse or neglect. Such action may include:

(i) Consistent with federal and state law:

(A) Removing the alleged perpetrator from the school;

(B) Increasing the degree of supervision of the alleged perpetrator; and

(C) Initiating appropriate disciplinary action against the alleged perpetrator;

(ii) Provision of increased training and increased supervision to volunteers and staff pertinent to the prevention and remediation of abuse and neglect;

(iii) Temporary removal of the students from a program and reassignment of the students within the school, as an emergency measure, if it is determined that there is a risk to the health or safety of such students in remaining in that program. Whenever a student is removed, pursuant to this subsection (2)(b)(iii), from a special education program or service specified in his or her individualized education program, the action shall be reviewed in an individualized education program meeting; and

(iv) Provision of counseling to the students involved in the report or any other students, as appropriate;

(c) Corrective action plans. Upon receipt of the results of an investigation by the department of social and health services pursuant to a report of suspected child abuse or neglect, the superintendent or the director, or the director's designee, after consideration of any recommendations by the department of social and health services for preventive and remedial action, shall implement a written plan of action designed to assure the continued health and safety of students and to provide for the prevention of future acts of abuse or neglect. [2019 c 266 § 11; 2009 c 381 § 20; 2000 c 125 § 6.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.40.260 Protection from child abuse and neglect—Student instruction. In consideration of the needs and circumstances of the program, the *state school for the deaf and the state school for the blind shall provide instruction to all students in techniques and procedures which will enable the students to protect themselves from abuse and neglect. Such instruction shall be described in a written plan to be submit-

ted to the board of trustees for review and approval, and shall be:

(1) Appropriate for the age, individual needs, and particular circumstances of students, including the existence of mental, physical, emotional, or sensory disabilities;

(2) Provided at different times throughout the year in a manner which will ensure that all students receive such instruction; and

(3) Provided by individuals who possess appropriate knowledge and training, documentation of which shall be maintained by the school. [2000 c 125 § 7.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Additional notes found at www.leg.wa.gov

72.40.270 Protection from sexual victimization—Policy. (1) The schools shall implement a policy for the children who reside at the schools protecting those who are vulnerable to sexual victimization by other children who are sexually aggressive and residing at the schools. The policy shall include, at a minimum, the following elements:

(a) Development and use of an assessment process for identifying children, within thirty days of beginning residence at the schools, who present a moderate or high risk of sexually aggressive behavior for the purposes of this section. The assessment process need not require that every child who is adjudicated or convicted of a sex offense as defined in RCW 9.94A.030 be determined to be sexually aggressive, nor shall a sex offense adjudication or conviction be required in order to determine a child is sexually aggressive. Instead, the assessment process shall consider the individual circumstances of the child, including his or her age, physical size, sexual abuse history, mental and emotional condition, and other factors relevant to sexual aggressiveness. The definition of "sexually aggressive youth" in RCW 74.13.075 does not apply to this section to the extent that it conflicts with this section;

(b) Development and use of an assessment process for identifying children, within thirty days of beginning residence at the schools, who may be vulnerable to victimization by children identified under (a) of this subsection as presenting a moderate or high risk of sexually aggressive behavior. The assessment process shall consider the individual circumstances of the child, including his or her age, physical size, sexual abuse history, mental and emotional condition, and other factors relevant to vulnerability;

(c) Development and use of placement criteria to avoid assigning children who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as children assessed as vulnerable to sexual victimization, except that they may be assigned to the same multiple-person sleeping quarters if those sleeping quarters are regularly monitored by visual surveillance equipment or staff checks;

(d) Development and use of procedures for minimizing, within available funds, unsupervised contact in the residential facilities of the schools between children presenting moderate to high risk of sexually aggressive behavior and children assessed as vulnerable to sexual victimization. The pro-

cedures shall include taking reasonable steps to prohibit any child residing at the schools who present a moderate to high risk of sexually aggressive behavior from entering any sleeping quarters other than the one to which they are assigned, unless accompanied by an authorized adult.

(2) For the purposes of this section, the following terms have the following meanings:

(a) "Sleeping quarters" means the bedrooms or other rooms within a residential facility where children are assigned to sleep.

(b) "Unsupervised contact" means contact occurring outside the sight or hearing of a responsible adult for more than a reasonable period of time under the circumstances. [2000 c 125 § 10.]

Additional notes found at www.leg.wa.gov

72.40.280 Monitoring of residential program by department of social and health services—Recommendations—Comprehensive child health and safety reviews—Access to records and documents—Safety standards. (1) The department of social and health services must periodically monitor the residential program at the *state school for the deaf, including but not limited to examining the residential-related policies and procedures as well as the residential facilities. The department of social and health services must make recommendations to the director and the board of trustees of the center or its successor board on health and safety improvements related to child safety and well-being. The department of social and health services must conduct the monitoring reviews at least annually. The director or the director's designee may from time to time request technical assistance from the department of social and health services.

(2) The department of social and health services must conduct a comprehensive child health and safety review, as defined in rule, of the residential program at the *state school for the deaf every three years.

(3) The *state school for the deaf must provide the department of social and health services' staff with full and complete access to all records and documents that the department staff may request to carry out the requirements of this section. The department of social and health services must have full and complete access to all students and staff of the *state school for the deaf to conduct interviews to carry out the requirements of this section.

(4) For the purposes of this section, the department of social and health services must use the safety standards established in this chapter when conducting the reviews. [2009 c 381 § 21; 2002 c 208 § 2.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

72.40.290 Center for deaf and hard of hearing youth account. The center for deaf and hard of hearing youth account is created in the custody of the state treasurer. All receipts from contracts, grants, gifts, conveyances, devises, and bequests of real or personal property, or payments received from RCW 72.40.0191 (14) and (15) and 72.40.050

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must be deposited into the account. Expenditures from the account may be used only for duties related to RCW 72.40.0191 (14) and (15) and 72.40.050. Only the director of the center for deaf and hard of hearing youth or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2019 c 266 § 12; 2012 c 114 § 1.]

72.40.300 School for the blind account. The school for the blind account is created in the custody of the state treasurer. All receipts from contracts, grants, gifts, conveyances, devises, and bequests of real or personal property, or payments received from RCW 72.40.022 (10) and (11) and 72.40.050 must be deposited into the account. Expenditures from the account may be used only for duties related to RCW 72.40.022 (10) and (11) and 72.40.050. Only the superintendent of the school for the blind or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2012 c 114 § 2.]

Chapter 72.41 RCW

BOARD OF TRUSTEES—SCHOOL FOR THE BLIND

Sections

72.41.010	Intention—Purpose.
72.41.015	"Superintendent" defined.
72.41.020	Board of trustees—Membership—Terms—Vacancies—Officers—Rules and regulations.
72.41.025	Membership, effect of creation of new congressional districts or boundaries.
72.41.030	Bylaws—Rules and regulations—Officers.
72.41.040	Powers and duties.
72.41.060	Travel expenses.
72.41.070	Meetings.

72.41.010 Intention—Purpose. It is the intention of the legislature in creating a board of trustees for the state school for the blind to perform the duties set forth in this chapter, that the board of trustees perform needed advisory services to the legislature and to the superintendent of the Washington state school for the blind, in the development of programs for the visually impaired, and in the operation of the Washington state school for the blind. [1985 c 378 § 28; 1973 c 118 § 1.]

Additional notes found at www.leg.wa.gov

72.41.015 "Superintendent" defined. Unless the context clearly requires otherwise, as used in this chapter "superintendent" means superintendent of the state school for the blind. [1985 c 378 § 27.]

Additional notes found at www.leg.wa.gov

72.41.020 Board of trustees—Membership—Terms—Vacancies—Officers—Rules and regulations. There is hereby created a board of trustees for the state school for the blind to be composed of a resident from each of the state's congressional districts now or hereafter existing. Trustees with voting privileges shall be appointed by the governor with the consent of the senate. A representative of the parent-teachers association of the Washington state school

for the blind, a representative of the Washington council of the blind, a representative of the national federation of the blind of Washington, one representative designated by the teacher association of the Washington state school for the blind, and a representative of the classified staff designated by his or her exclusive bargaining representative shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

Trustees shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No voting trustee may be an employee of the state school for the blind, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, a school district or educational service district administrator, appointed after July 1, 1986, or an elected officer or member of the legislative authority or any municipal corporation.

The board of trustees shall organize itself by electing a chair from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. A majority of the voting members of the board in office shall constitute a quorum, but a lesser number may convene from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the blind shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board. [2012 c 117 § 473; 1993 c 147 § 7; 1985 c 378 § 29; 1982 1st ex.s. c 30 § 13; 1973 c 118 § 2.]

Additional notes found at www.leg.wa.gov

72.41.025 Membership, effect of creation of new congressional districts or boundaries. The terms of office of trustees on the board for the state school for the blind who are appointed from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional districts. In such an event, each trustee may continue to serve in office for the balance of the term for which he or she was appointed: PROVIDED, That the trustee continues to reside within the boundaries of the congressional district as they existed at the time of his or her appointment. Vacancies which occur in a trustee position during the balance of any such term shall be filled pursuant to RCW 72.41.020, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was appointed as they existed at the time of his or her election. At the completion of such term, and thereafter, a successor shall be appointed from the congressional district which corresponds in number with the congressional district from

which the incumbent was appointed. [1982 1st ex.s. c 30 § 14.]

72.41.030 Bylaws—Rules and regulations—Officers. Within thirty days of their appointment or July 1, 1973, whichever is sooner, the board of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chair and a vice chair, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. [2012 c 117 § 474; 1973 c 118 § 3.]

72.41.040 Powers and duties. The board of trustees of the state school for the blind:

(1) Shall monitor and inspect all existing facilities of the state school for the blind, and report its findings to the superintendent;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the superintendent;

(3) Shall submit a list of three qualified candidates for superintendent to the governor and shall advise the superintendent about the criteria and policy to be used in the selection of members of the faculty and such other administrative officers and other employees, who shall with the exception of the superintendent all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. All employees and personnel classified under chapter 41.06 RCW shall continue, after July 1, 1986, to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law;

(4) Shall submit an evaluation of the superintendent to the governor by July 1 of each odd-numbered year and may recommend to the governor that the superintendent be removed for misfeasance, malfeasance, or wilful neglect of duty;

(5) May recommend to the superintendent the establishment of new facilities as needs demand;

(6) May recommend to the superintendent rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

(7) May make recommendations to the superintendent concerning classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the blind;

(8) May make recommendations to the superintendent for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the blind;

(9) Shall recommend to the superintendent, with the assistance of the faculty, the course of study including vocational training in the school for the blind, in accordance with other applicable provisions of law and rules and regulations;

(10) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate;

(11) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the blind;

(12) Shall perform any other duties and responsibilities prescribed by the superintendent. [1985 c 378 § 30; 1973 c 118 § 4.]

Additional notes found at www.leg.wa.gov

72.41.060 Travel expenses. Each member of the board of trustees shall receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and such payments shall be a proper charge to any funds appropriated or allocated for the support of the state school for the blind. [1975-'76 2nd ex.s. c 34 § 167; 1973 c 118 § 6.]

Additional notes found at www.leg.wa.gov

72.41.070 Meetings. The board of trustees shall meet at least quarterly. [1993 c 147 § 8; 1973 c 118 § 7.]

Chapter 72.42 RCW

BOARD OF TRUSTEES—CENTER FOR DEAF AND HARD OF HEARING YOUTH

(Formerly: Board of trustees—School for the deaf)

Sections

72.42.010	Intention—Purpose.
72.42.015	"Director" defined.
72.42.016	Additional definitions.
72.42.021	Board of trustees—Membership—Terms—Effect of new or revised boundaries for congressional districts—Vacancies.
72.42.031	Bylaws—Rules—Officers—Quorum.
72.42.041	Powers and duties.
72.42.060	Travel expenses.
72.42.070	Meetings.

72.42.010 Intention—Purpose. It is the intention of the legislature, in creating a board of trustees for the Washington center for deaf and hard of hearing youth to perform the duties set forth in this chapter, that the board of trustees perform needed oversight services to the governor and the legislature of the center in the development of programs for the hard of hearing, and in the operation of the center, including the *school for the deaf. [2019 c 266 § 28; 2009 c 381 § 13; 2002 c 209 § 5; 1985 c 378 § 31; 1972 ex.s. c 96 § 1.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.42.015 "Director" defined. Unless the context clearly requires otherwise as used in this chapter "director" means the director of the Washington center for deaf and hard of hearing youth. [2019 c 266 § 29; 2009 c 381 § 14; 1985 c 378 § 32.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.42.016 Additional definitions. Unless the context clearly requires otherwise, as used in this chapter:

(1) "Center" means the Washington center for deaf and hard of hearing youth serving local school districts across the state; and

(2) "School" means the Washington state residential *school for the deaf located in Vancouver, Washington. [2019 c 266 § 30; 2009 c 381 § 15; 2002 c 209 § 6.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 § 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 § 1.

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.42.021 Board of trustees—Membership—Terms—Effect of new or revised boundaries for congressional districts—Vacancies. (1) The governance of the center and the school shall be vested in a board of trustees. The board shall consist of nine members appointed by the governor, with the consent of the senate. The board shall be composed of a resident from each of the state's congressional districts and may include:

(a) One member who is deaf or hard of hearing;

(b) Two members who are experienced educational professionals;

(c) One member who is experienced in providing residential services to youth; and

(d) One member who is the parent of a child who is deaf or hard of hearing and who is receiving or has received educational services related to deafness or hearing impairment from a public educational institution.

(2) No voting trustee may be an employee of the school or the center, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution or an elected officer or member of the legislative authority of any municipal corporation. No more than two voting trustees may be school district or educational service district administrators appointed after July 1, 1986.

(3) Trustees shall be appointed by the governor to serve a term of five years, except that any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term. Of the initial members, three must be appointed for two-year terms, three must be appointed for three-year terms, and the remainder must be appointed for five-year terms.

(4) The board shall not be deemed unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. In such an event, each trustee may continue to serve in office for the balance of the term for which he or she was appointed so long as the trustee continues to reside within the boundaries of the congressional district as they existed at the time of his or her appointment. Vacancies which occur in a trustee position during the balance of any term shall be filled pursuant to subsection (3) of this section by a successor who resides within the boundaries

of the congressional district from which the member whose office was vacated was appointed as they existed at the time of his or her appointment. At the completion of such term, and thereafter, a successor shall be appointed from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed. [2009 c 381 § 16; 2002 c 209 § 7.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.42.031 Bylaws—Rules—Officers—Quorum. (1) The board of trustees shall organize, adopt bylaws for its own governance, and adopt rules not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chair and a vice chair, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified.

(2) A majority of the voting members of the board in office constitutes a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed by its bylaws, rules, or regulations. [2012 c 117 § 475; 2002 c 209 § 9.]

Additional notes found at www.leg.wa.gov

72.42.041 Powers and duties. The board of trustees of the center:

(1) Shall adopt rules and regulations for its own governance;

(2) Shall direct the development of, approve, and monitor the enforcement of policies, rules, and regulations pertaining to the school and the center, including but not limited to:

(a) The use of classrooms and other facilities for summer or night schools or for public meetings and any other uses consistent with the mission of the center;

(b) Pedestrian and vehicular traffic on property owned, operated, or maintained by the center;

(c) Governance, management, and operation of the residential facilities;

(d) Transferability of employees between the center and the school for the blind consistent with collective bargaining agreements in effect; and

(e) Compliance with state and federal education civil rights laws at the school;

(3) Shall develop a process for recommending candidates for the position of director and upon a vacancy shall submit a list of three qualified candidates for director to the governor;

(4) Shall submit an evaluation of the director to the governor by July 1st of each odd-numbered year that includes a recommendation regarding the retention of the director;

(5) May recommend to the governor at any time that the director be removed for conduct deemed by the board to be detrimental to the interests of the center;

(6) Shall prepare and submit by July 1st of each even-numbered year a report to the governor and the appropriate committees of the legislature which contains a detailed summary of the center's progress on performance objectives and the center's work, facility conditions, and revenues and costs of the center for the previous year and which contains those

recommendations it deems necessary and advisable for the governor and the legislature to act on;

(7) Shall approve the center's budget and all funding requests, both operating and capital, submitted to the governor;

(8) Shall direct and approve the development and implementation of comprehensive programs of education, training, and as needed residential living, such that students served by the school receive a challenging and quality education in a safe school environment;

(9) Shall direct, monitor, and approve the implementation of a comprehensive continuous quality improvement system for the center;

(10) Shall monitor and inspect all existing facilities of the center and report its findings in its biennial report to the governor and appropriate committees of the legislature; and

(11) May grant to every student of the school, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate. [2009 c 381 § 17; 2002 c 209 § 8.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.42.060 Travel expenses. Each member of the board of trustees shall receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and such payments shall be a proper charge to any funds appropriated or allocated for the support of the Washington center for deaf and hard of hearing youth. [2019 c 266 § 31; 2009 c 381 § 22; 1975-'76 2nd ex.s. c 34 § 168; 1972 ex.s. c 96 § 6.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

Additional notes found at www.leg.wa.gov

72.42.070 Meetings. The board of trustees shall meet at least quarterly but may meet more frequently at such times as the board by resolution determines or the bylaws of the board prescribe. [2002 c 209 § 10; 1993 c 147 § 10; 1972 ex.s. c 96 § 7.]

Additional notes found at www.leg.wa.gov

Chapter 72.49 RCW

NARCOTIC OR DANGEROUS DRUGS— TREATMENT AND REHABILITATION

Sections

72.49.010	Purpose.
72.49.020	Treatment and rehabilitation programs authorized—Rules and regulations.

72.49.010 Purpose. The purpose of this chapter is to provide additional programs for the treatment and rehabilitation of persons suffering from narcotic and dangerous drug abuse. [1969 ex.s. c 123 § 1.]

Additional notes found at www.leg.wa.gov

72.49.020 Treatment and rehabilitation programs authorized—Rules and regulations. There may be established at an institution, or portion thereof, to be designated by the secretary of the department of social and health services, programs for treatment and rehabilitation of persons in need

of medical care and treatment due to narcotic abuse or dangerous drug abuse. Such programs may include facilities for both residential and outpatient treatment. The secretary of the department of social and health services shall promulgate rules and regulations governing the voluntary admission, treatment, and release of such patients, and all other matters incident to the proper administration of this section. [1975-'76 2nd ex.s. c 103 § 2; 1969 ex.s. c 123 § 2.]

Additional notes found at www.leg.wa.gov

Chapter 72.60 RCW CORRECTIONAL INDUSTRIES

Sections

72.60.100	Civil rights of inmates not restored—Other laws inapplicable.
72.60.102	Industrial insurance—Application to certain inmates.
72.60.110	Employment of inmates according to needs of state.
72.60.160	State agencies and subdivisions may purchase goods—Purchasing preference required of certain institutions.
72.60.220	List of goods to be supplied to all departments, institutions, agencies.
72.60.235	Implementation plan for prison industries.

Correctional industries administered by department of corrections: RCW 72.09.070 through 72.09.120.

72.60.100 Civil rights of inmates not restored—Other laws inapplicable. Nothing in this chapter is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated for work in correctional industries shall be considered as an employee or to be employed by the state or the department, nor shall any such inmate, except those provided for in RCW 72.60.102 and 72.64.065, come within any of the provisions of the workers' compensation act, or be entitled to any benefits thereunder whether on behalf of himself, herself, or of any other person. [2012 c 117 § 476; 1989 c 185 § 10; 1987 c 185 § 38; 1981 c 136 § 101; 1972 ex.s. c 40 § 1; 1959 c 28 § 72.60.100. Prior: 1955 c 314 § 10. Formerly RCW 43.95.090.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Restoration of civil rights: Chapter 9.96 RCW.

Additional notes found at www.leg.wa.gov

72.60.102 Industrial insurance—Application to certain inmates. From and after July 1, 1973, any inmate employed in classes I, II, and IV of correctional industries as defined in RCW 72.09.100 is eligible for industrial insurance benefits as provided by Title 51 RCW. However, eligibility for benefits for either the inmate or the inmate's dependents or beneficiaries for temporary disability or permanent total disability as provided in RCW 51.32.090 or 51.32.060, respectively, shall not take effect until the inmate is released pursuant to an order of parole by the indeterminate sentence review board, or discharged from custody upon expiration of the sentence, or discharged from custody by order of a court of appropriate jurisdiction. Nothing in this section shall be construed to confer eligibility for any industrial insurance benefits to any inmate who is employed in class III or V of correctional industries as defined in RCW 72.09.100. [1989 c 185 § 11; 1983 1st ex.s. c 52 § 7; 1981 c 136 § 102; 1979 ex.s. c 160 § 3; 1972 ex.s. c 40 § 2.]

Additional notes found at www.leg.wa.gov

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72.60.110 Employment of inmates according to needs of state. The department is hereby authorized and empowered to cause the inmates in the state institutions of this state to be employed in the rendering of such services and in the production and manufacture of such articles, materials, and supplies as are now, or may hereafter be, needed by the state, or any political subdivision thereof, or that may be needed by any public institution of the state or of any political subdivision thereof. [1959 c 28 § 72.60.110. Prior: 1955 c 314 § 11. Formerly RCW 43.95.100.]

72.60.160 State agencies and subdivisions may purchase goods—Purchasing preference required of certain institutions. All articles, materials, and supplies herein authorized to be produced or manufactured in correctional institutions may be purchased from the institution producing or manufacturing the same by any state agency or political subdivision of the state, and the secretary shall require those institutions under his or her direction to give preference to the purchasing of their needs of such articles as are so produced. [2012 c 117 § 477; 1981 c 136 § 103; 1979 c 141 § 260; 1959 c 28 § 72.60.160. Prior: 1955 c 314 § 16. Formerly RCW 43.95.150.]

Additional notes found at www.leg.wa.gov

72.60.220 List of goods to be supplied to all departments, institutions, agencies. The department may cause to be prepared annually, at such times as it may determine, lists containing the descriptions of all articles and supplies manufactured and produced in state correctional institutions; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington. [1981 c 136 § 105; 1959 c 28 § 72.60.220. Prior: 1957 c 30 § 6. Formerly RCW 43.95.210.]

Additional notes found at www.leg.wa.gov

72.60.235 Implementation plan for prison industries. (1) The department of corrections shall develop, in accordance with RCW 72.09.010, a site-specific implementation plan for prison industries space at Clallam Bay corrections center, McNeil Island corrections center, and the one thousand twenty-four bed medium security prison as appropriated for and authorized by the legislature.

(2) Each implementation plan shall include, but not be limited to, sufficient space and design elements that try to achieve a target of twenty-five percent of the total inmates in class I employment programs and twenty-five percent of the total inmates in class II employment programs or as much of the target as possible without jeopardizing the efficient and necessary day-to-day operation of the prison. The implementation plan shall also include educational opportunities and employment, wage, and other incentives. The department shall include in the implementation plans an incentive program based on wages, and the opportunity to contribute all or a portion of their wages towards an array of incentives. The funds recovered from the sale, lease, or rental of incentives should be considered as a possible source of revenue to cover the capitalized cost of the additional space necessary to accommodate the increased class I and class II industries programs.

(3) The incentive program shall be developed so that inmates can earn higher wages based on performance and production. Only those inmates employed in class I and class II jobs may participate in the incentive program. The department shall develop special program criteria for inmates with physical or mental disabilities so that they can participate in the incentive program.

(4) The department shall propose rules specifying that inmate wages, other than the amount an inmate owes for taxes, legal financial obligations, and to the victim restitution fund, shall be returned to the department to pay for the cost of prison operations, including room and board.

(5) The plan shall identify actual or potential legal or operational obstacles, or both, in implementing the components of the plan as specified in this section, and recommend strategies to remove the obstacles.

(6) The department shall submit the plan to the appropriate committees of the legislature and to the governor by October 1, 1991. [2020 c 274 § 56; 1991 c 256 § 2.]

Finding—1991 c 256: "The legislature finds that the rehabilitation process may be enhanced by participation in training, education, and employment-related incentive programs and may be a consideration in reducing time in confinement." [1991 c 256 § 1.]

Additional notes found at www.leg.wa.gov

Chapter 72.62 RCW

VOCATIONAL EDUCATION PROGRAMS

Sections

72.62.010	Purpose.
72.62.020	"Vocational education" defined.
72.62.030	Sale of products—Recovery of costs.
72.62.040	Crediting of proceeds of sales.
72.62.050	Trade advisory and apprenticeship committees.

72.62.010 Purpose. The legislature declares that programs of vocational education are essential to the habilitation and rehabilitation of residents of state correctional institutions and facilities. It is the purpose of this chapter to provide for greater reality and relevance in the vocational education programs within the correctional institutions of the state. [1972 ex.s. c 7 § 1.]

72.62.020 "Vocational education" defined. When used in this chapter, unless the context otherwise requires:

The term "vocational education" means a planned series of learning experiences, the specific objective of which is to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but shall not mean programs the primary characteristic of which is repetitive work for the purpose of production, including the correctional industries program. Nothing in this section shall be construed to prohibit the department of corrections from identifying and establishing trade advisory or apprenticeship committees to advise them on correctional industries work programs. [2011 1st sp.s. c 21 § 39; 1989 c 185 § 12; 1972 ex.s. c 7 § 2.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

72.62.030 Sale of products—Recovery of costs. Products goods, wares, articles, or merchandise manufactured or produced by residents of state correctional institutions or facilities within or in conjunction with vocational education programs for the training, habilitation, and rehabilitation of inmates may be sold on the open market. When services are performed by residents within or in conjunction with such vocational education programs, the cost of materials used and the value of depreciation of equipment used may be recovered. [1983 c 255 § 6; 1972 ex.s. c 7 § 3.]

72.62.040 Crediting of proceeds of sales. The secretary of the department of social and health services or the secretary of corrections, as the case may be, shall credit the proceeds derived from the sale of such products, goods, wares, articles, or merchandise manufactured or produced by inmates of state correctional institutions within or in conjunction with vocational education programs to the institution where manufactured or produced to be deposited in a revolving fund to be expended for the purchase of supplies, materials and equipment for use in vocational education. [1981 c 136 § 107; 1972 ex.s. c 7 § 4.]

Additional notes found at www.leg.wa.gov

72.62.050 Trade advisory and apprenticeship committees. Labor-management trade advisory and apprenticeship committees shall be constituted by the department for each vocation taught within the vocational education programs in the state correctional system. [1972 ex.s. c 7 § 5.]

Chapter 72.63 RCW

PRISON WORK PROGRAMS—FISH AND GAME

Sections

72.63.010	Legislative finding.
72.63.020	Prison work programs for fish and game projects.
72.63.030	Department of fish and wildlife to provide professional assistance—Identification of projects—Loan of facilities and property—Resources to be provided.
72.63.040	Available funds to support costs of implementation.

72.63.010 Legislative finding. The legislature finds and declares that the establishment of prison work programs that allow prisoners to undertake food fish, shellfish, and game fish rearing projects and game bird and game animal improvement, restoration, and protection projects is needed to reduce idleness, promote the growth of prison industries, and provide prisoners with skills necessary for their successful reentry into society. [1985 c 286 § 1.]

72.63.020 Prison work programs for fish and game projects. The departments of corrections and fish and wildlife shall establish at or near appropriate state institutions, as defined in RCW 72.65.010, prison work programs that use prisoners to undertake state food fish, shellfish, and game fish rearing projects and state game bird and game animal improvement, restoration, and protection projects and that meet the requirements of RCW 72.09.100.

The department of corrections shall seek to identify a group of prisoners at each appropriate state institution, as defined by RCW 72.65.010, that are interested in participating in prison work programs established by this chapter.

If the department of corrections is unable to identify a group of prisoners to participate in work programs authorized by this chapter, it may enter into an agreement with the department of fish and wildlife for the purpose of designing projects for any institution. Costs under this section shall be borne by the department of corrections.

The departments of corrections and fish and wildlife shall use prisoners, where appropriate, to perform work in state projects that may include the following types:

(1) Food fish, shellfish, and game fish rearing projects, including but not limited to egg planting, egg boxes, juvenile planting, pen rearing, pond rearing, raceway rearing, and egg taking;

(2) Game bird and game animal projects, including but not limited to habitat improvement and restoration, replanting and transplanting, nest box installation, pen rearing, game protection, and supplemental feeding; PROVIDED, That no project shall be established at the department of fish and wildlife's south Tacoma game farm;

(3) Manufacturing of equipment for use in fish and game volunteer cooperative projects permitted by the department of fish and wildlife, or for use in prison work programs with fish and game; and

(4) Maintenance, repair, restoration, and redevelopment of facilities operated by the department of fish and wildlife. [1994 c 264 § 43; 1988 c 36 § 29; 1985 c 286 § 2.]

72.63.030 Department of fish and wildlife to provide professional assistance—Identification of projects—Loan of facilities and property—Resources to be provided. (1) The department of fish and wildlife shall provide professional assistance from biologists, fish culturists, pathologists, engineers, habitat managers, and other departmental staff to assist the development and productivity of prison work programs under RCW 72.63.020, upon agreement with the department of corrections.

(2) The department of fish and wildlife shall identify and describe potential and pilot projects that are compatible with the goals of the various departments involved and that are particularly suitable for prison work programs.

(3) The department of fish and wildlife may make available surplus hatchery rearing space, net pens, egg boxes, portable rearing containers, incubators, and any other departmental facilities or property that are available for loan to the department of corrections to carry out prison work programs under RCW 72.63.020.

(4) The department of fish and wildlife shall provide live fish eggs, bird eggs, juvenile fish, game animals, or other appropriate seed stock, juveniles, or brood stock of acceptable disease history and genetic composition for the prison work projects at no cost to the department of corrections, to the extent that such resources are available. Fish food, bird food, or animal food may be provided by the department of fish and wildlife to the extent that funding is available.

(5) The department of natural resources shall assist in the implementation of the program where project sites are located on public beaches or state owned aquatic lands. [1994 c 264 § 44; 1988 c 36 § 30; 1985 c 286 § 3.]

72.63.040 Available funds to support costs of implementation. The costs of implementation of the projects pre-

scribed by this chapter shall be supported to the extent that funds are available under the provisions of chapter 77.100 RCW, and from correctional industries funds. [2003 c 39 § 31; 1989 c 185 § 13; 1985 c 286 § 4.]

Chapter 72.64 RCW

LABOR AND EMPLOYMENT OF PRISONERS

Sections

72.64.001	Definitions.
72.64.010	Useful employment of prisoners—Contract system barred.
72.64.020	Rules and regulations.
72.64.030	Prisoners required to work—Private benefit of enforcement officer prohibited.
72.64.040	Crediting of earnings—Payment.
72.64.050	Branch institutions—Work camps for certain purposes.
72.64.060	Labor camps authorized—Type of work permitted—Contracts.
72.64.065	Industrial insurance—Application to certain inmates—Payment of premiums and assessments.
72.64.070	Industrial insurance—Eligibility for employment—Procedure—Return.
72.64.080	Industrial insurance—Duties of employing agency—Costs—Supervision.
72.64.090	Industrial insurance—Department's jurisdiction.
72.64.100	Regional jail camps—Authorized—Purposes—Rules.
72.64.110	Contracts to furnish county prisoners confinement, care, and employment—Reimbursement by county—Sheriff's order—Return of prisoner.
72.64.150	Interstate forest fire suppression compact.
72.64.160	Inmate forest fire suppression crews—Classification—Gratuity/wage.
72.64.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Contract system barred: State Constitution Art. 2 § 29.

Correctional industries: Chapter 72.60 RCW.

Labor prescribed by the indeterminate sentence review board: RCW 9.95.090.

72.64.001 Definitions. As used in this chapter: "Department" means the department of corrections; and "Secretary" means the secretary of corrections. [1981 c 136 § 108.]

Additional notes found at www.leg.wa.gov

72.64.010 Useful employment of prisoners—Contract system barred. The secretary shall have the power and it shall be his or her duty to provide for the useful employment of prisoners in the adult correctional institutions: PROVIDED, That no prisoners shall be employed in what is known as the contract system of labor. [2012 c 117 § 478; 1979 c 141 § 265; 1959 c 28 § 72.64.010. Prior: 1943 c 175 § 1; Rem. Supp. 1943 § 10279-1. Formerly RCW 72.08.220.]

72.64.020 Rules and regulations. The secretary shall make the necessary rules and regulations governing the employment of prisoners, the conduct of all such operations, and the disposal of the products thereof, under such restrictions as provided by law. [1979 c 141 § 266; 1959 c 28 § 72.64.020. Prior: 1943 c 175 § 2; Rem. Supp. 1943 § 10279-2. Formerly RCW 72.08.230.]

72.64.030 Prisoners required to work—Private benefit of enforcement officer prohibited. Every prisoner in a state correctional facility shall be required to work in such manner as may be prescribed by the secretary, other than for the private financial benefit of any enforcement officer.

[1992 c 7 § 54; 1979 c 141 § 267; 1961 c 171 § 1; 1959 c 28 § 72.64.030. Prior: 1927 c 305 § 1; RRS § 10223-1.]

72.64.040 Crediting of earnings—Payment. Where a prisoner is employed at any occupation for which pay is allowed or permitted, or at any gainful occupation from which the state derives an income, the department shall credit the prisoner with the total amount of his or her earnings.

The amount of earnings credited but unpaid to a prisoner may be paid to the prisoner's spouse, children, mother, father, brother, or sister as the inmate may direct upon approval of the superintendent. Upon release, parole, or discharge, all unpaid earnings of the prisoner shall be paid to him or her. [2012 c 117 § 479; 1973 1st ex.s. c 154 § 105; 1959 c 28 § 72.64.040. Prior: 1957 c 19 § 1; 1927 c 305 § 3; RRS § 10223-3. Formerly RCW 72.08.250.]

Additional notes found at www.leg.wa.gov

72.64.050 Branch institutions—Work camps for certain purposes. The secretary shall also have the power to establish temporary branch institutions for state correctional facilities in the form of camps for the employment of prisoners therein in farming, reforestation, wood-cutting, land clearing, processing of foods in state canneries, forest fire-fighting, forest fire suppression and prevention, stream clearance, watershed improvement, development of parks and recreational areas, and other work to conserve the natural resources and protect and improve the public domain and construction of water supply facilities to state institutions. [1992 c 7 § 55; 1979 c 141 § 268; 1961 c 171 § 2; 1959 c 28 § 72.64.050. Prior: 1943 c 175 § 3; Rem. Supp. 1943 § 10279-3. Formerly RCW 72.08.240.]

Leaves of absence for inmates: RCW 72.01.365 through 72.01.380.

72.64.060 Labor camps authorized—Type of work permitted—Contracts. Any department, division, bureau, commission, or other agency of the state of Washington or any agency of any political subdivision thereof or the federal government may use, or cause to be used, prisoners confined in state penal or correctional institutions to perform work necessary and proper, to be done by them at camps to be established pursuant to the authority granted by RCW 72.64.060 through 72.64.090: PROVIDED, That such prisoners shall not be authorized to perform work on any public road, other than access roads to forestry lands. The secretary may enter into contracts for the purposes of RCW 72.64.060 through 72.64.090. [1979 c 141 § 269; 1961 c 171 § 3; 1959 c 28 § 72.64.060. Prior: 1955 c 128 § 1. Formerly RCW 43.28.500.]

72.64.065 Industrial insurance—Application to certain inmates—Payment of premiums and assessments. From and after July 1, 1973, any inmate working in a department of natural resources adult honor camp established and operated pursuant to RCW 72.64.050, 72.64.060, and 72.64.100 shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions herein provided.

No inmate as herein described, until released upon an order of parole by the state indeterminate sentence review board, or discharged from custody upon expiration of sen-

tence, or discharged from custody by order of a court of appropriate jurisdiction, or his or her dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter enacted, or to the benefits of chapter 51.36 RCW relating to medical aid.

Any and all premiums or assessments as may arise under this section pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid by the state department of natural resources. [2012 c 117 § 480; 1972 ex.s. c 40 § 3.]

Additional notes found at www.leg.wa.gov

72.64.070 Industrial insurance—Eligibility for employment—Procedure—Return. The department shall determine which prisoners shall be eligible for employment under RCW 72.64.060, and shall establish and modify lists of prisoners eligible for such employment, upon the requisition of an agency mentioned in RCW 72.64.060. The secretary may send to the place, and at the time designated, the number of prisoners requisitioned, or such number thereof as have been determined to be eligible for such employment and are available. No prisoner shall be eligible or shall be released for such employment until his or her eligibility therefor has been determined by the department.

The secretary may return to prison any prisoner transferred to camp pursuant to this section, when the need for such prisoner's labor has ceased or when the prisoner is guilty of any violation of the rules and regulations of the prison or camp. [2012 c 117 § 481; 1979 c 141 § 270; 1959 c 28 § 72.64.070. Prior: 1955 c 128 § 2. Formerly RCW 43.28.510.]

72.64.080 Industrial insurance—Duties of employing agency—Costs—Supervision. The agency providing for prisoners under RCW 72.64.060 through 72.64.090 shall designate and supervise all work done under the provisions thereof. The agency shall provide, erect and maintain any necessary camps, except that where no funds are available to the agency, the department may provide, erect and maintain the necessary camps. The secretary shall supervise and manage the necessary camps and commissaries. [1979 c 141 § 271; 1959 c 28 § 72.64.080. Prior: 1955 c 128 § 3. Formerly RCW 43.28.520.]

72.64.090 Industrial insurance—Department's jurisdiction. The department shall have full jurisdiction at all times over the discipline and control of the prisoners performing work under RCW 72.64.060 through 72.64.090. [1959 c 28 § 72.64.090. Prior: 1955 c 128 § 4. Formerly RCW 43.28.530.]

72.64.100 Regional jail camps—Authorized—Purposes—Rules. The secretary is authorized to establish and operate regional jail camps for the confinement, treatment, and care of persons sentenced to jail terms in excess of thirty days, including persons so imprisoned as a condition of probation. The secretary shall make rules and regulations governing the eligibility for commitment or transfer to such camps and rules and regulations for the government of such camps. Subject to the rules and regulations of the secretary, and if there is in effect a contract entered into pursuant to

RCW 72.64.110, a county prisoner may be committed to a regional jail camp in lieu of commitment to a county jail or other county detention facility. [1979 c 141 § 272; 1961 c 171 § 4.]

72.64.110 Contracts to furnish county prisoners confinement, care, and employment—Reimbursement by county—Sheriff's order—Return of prisoner. (1) The secretary may enter into a contract with any county of the state, upon the request of the sheriff thereof, wherein the secretary agrees to furnish confinement, care, treatment, and employment of county prisoners. The county shall reimburse the state for the cost of such services. Each county shall pay to the state treasurer the amounts found to be due.

(2) The secretary shall accept such county prisoner if he or she believes that the prisoner can be materially benefited by such confinement, care, treatment, and employment, and if adequate facilities to provide such care are available. No such person shall be transported to any facility under the jurisdiction of the secretary until the secretary has notified the referring court of the place to which said person is to be transmitted and the time at which he or she can be received.

(3) The sheriff of the county in which such an order is made placing a misdemeanor in a jail camp pursuant to this chapter, or any other peace officer designated by the court, shall execute an order placing such county prisoner in the jail camp or returning him or her therefrom to the court.

(4) The secretary may return to the committing authority, or to confinement according to his or her sentence, any person committed or transferred to a regional jail camp pursuant to this chapter when there is no suitable employment or when such person is guilty of any violation of rules and regulations of the regional jail camp. [2012 c 117 § 482; 1980 c 17 § 1. Prior: 1979 c 147 § 1; 1979 c 141 § 273; 1961 c 171 § 5.]

72.64.150 Interstate forest fire suppression compact. The Interstate Forest Fire Suppression Compact as set forth in this section is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

INTERSTATE FOREST FIRE SUPPRESSION COMPACT

ARTICLE I—Purpose

The purpose of this compact is to provide for the development and execution of programs to facilitate the use of offenders in the forest fire suppression efforts of the party states for the ultimate protection of life, property, and natural resources in the party states. The purpose of this compact is also to, in emergent situations, allow a sending state to cross state lines with an inmate when, due to weather or road conditions, it is necessary to cross state lines to facilitate the transport of an inmate.

ARTICLE II—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "Sending state" means a state party to this compact from which a fire suppression unit is traveling.

(b) "Receiving state" means a state party to this compact to which a fire suppression unit is traveling.

(c) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(d) "Institution" means any prison, reformatory, honor camp, or other correctional facility, except facilities for persons suffering from mental illness or persons with disabilities, in which inmates may lawfully be confined.

(e) "Fire suppression unit" means a group of inmates selected by the sending states, corrections personnel, and any other persons deemed necessary for the transportation, supervision, care, security, and discipline of inmates to be used in forest fire suppression efforts in the receiving state.

(f) "Forest fire" means any fire burning in any land designated by a party state or federal land management agencies as forestland.

ARTICLE III—Contracts

Each party state may make one or more contracts with any one or more of the other party states for the assistance of one or more fire suppression units in forest fire suppression efforts. Any such contract shall provide for matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of the sending and receiving state.

The terms and provisions of this compact shall be part of any contract entered into by the authority of, or pursuant to, this compact. Nothing in any such contract may be inconsistent with this compact.

ARTICLE IV—Procedures and Rights

(a) Each party state shall appoint a liaison for the coordination and deployment of the fire suppression units of each party state.

(b) Whenever the duly constituted judicial or administrative authorities in a state party to this compact that has entered into a contract pursuant to this compact decides that the assistance of a fire suppression unit of a party state is required for forest fire suppression efforts, such authorities may request the assistance of one or more fire suppression units of any state party to this compact through an appointed liaison.

(c) Inmates who are members of a fire suppression unit shall at all times be subject to the jurisdiction of the sending state, and at all times shall be under the ultimate custody of corrections officers duly accredited by the sending state.

(d) The receiving state shall make adequate arrangements for the confinement of inmates who are members of a fire suppression unit of a sending state in the event corrections officers duly accredited by the sending state make a discretionary determination that an inmate requires institutional confinement.

(e) Cooperative efforts shall be made by corrections officers and personnel of the receiving state located at a fire camp with the corrections officers and other personnel of the sending state in the establishment and maintenance of fire suppression unit base camps.

(f) All inmates who are members of a fire suppression unit of a sending state shall be cared for and treated equally with such similar inmates of the receiving state.

(g) Further, in emergent situations a sending state shall be granted authority and all the protections of this compact to cross state lines with an inmate when, due to weather or road conditions, it is necessary to facilitate the transport of an inmate.

ARTICLE V—Acts Not Reviewable in Receiving State; Extradition

(a) If while located within the territory of a receiving state there occurs against the inmate within such state any criminal charge or if the inmate is suspected of committing within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate member of a fire suppression unit of the sending state who is deemed to have escaped by a duly accredited corrections officer of a sending state shall be under the jurisdiction of both the sending state and the receiving state. Nothing contained in this compact shall be construed to prevent or affect the activities of officers and guards of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI—Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states from among the states of Idaho, Oregon, and Washington.

ARTICLE VII—Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it has enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states.

ARTICLE VIII—Other Arrangements Unaffected

Nothing contained in this compact may be construed to abrogate or impair any agreement that a party state may have with a nonparty state for the confinement, rehabilitation, or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE IX—Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states

and in full force and effect as to the state affected as to all severable matters. [2020 c 274 § 57; 1991 c 131 § 1.]

Additional notes found at www.leg.wa.gov

72.64.160 Inmate forest fire suppression crews—Classification—Gratuity/wage. (1) For the purposes of RCW 72.64.150, inmate forest fire suppression crews may be considered a class I free venture industry, as defined in RCW 72.09.100, when fighting fires on federal lands.

(2) For the purposes of RCW 72.64.050, inmate forest fire suppression and support crews when fighting fires must receive a gratuity no less than the minimum wage per hour paid in the locality in which the industry is located. [2021 c 298 § 9; 1991 c 131 § 2.]

Short title—2021 c 298: See note following RCW 76.04.505.

Additional notes found at www.leg.wa.gov

72.64.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 170.]

**Chapter 72.65 RCW
WORK RELEASE PROGRAM**

Sections

72.65.010	Definitions.
72.65.020	Places of confinement—Extension of limits authorized, conditions—Application of section.
72.65.030	Application of prisoner to participate in program, contents—Application of section.
72.65.040	Approval or denial of application—Adoption of work release plan—Terms and conditions—Revocation—Reapplication—Application of section.
72.65.050	Disposition of earnings.
72.65.060	Earnings not subject to legal process.
72.65.080	Contracts with authorities for payment of expenses for housing participants—Procurement of housing facilities.
72.65.090	Transportation, clothing, supplies for participants.
72.65.100	Powers and duties of secretary—Rules and regulations—Cooperation of other state agencies directed.
72.65.110	Earnings to be deposited in personal funds—Disbursements.
72.65.120	Participants not considered agents or employees of the state—Contracting with persons, companies, etc., for labor of participants prohibited—Employee benefits and privileges extended to.
72.65.130	Authority of board of prison terms and paroles not impaired.
72.65.200	Participation in work release plan or program must be authorized by sentence or RCW 9.94A.728.
72.65.210	Inmate participation eligibility standards—Department to conduct overall review of work release program.
72.65.220	Facility siting process.
72.65.900	Effective date—1967 c 17.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

72.65.010 Definitions. As used in this chapter, the following terms shall have the following meanings:

(1) "Department" shall mean the department of corrections.

(2) "Secretary" shall mean the secretary of corrections.

(3) "State correctional institutions" shall mean and include all state adult correctional facilities established pursuant to law under the jurisdiction of the department for the treatment of convicted felons sentenced to a term of confinement.

(4) "Prisoner" shall mean a person either male or female, convicted of a felony and sentenced by the superior court to a term of confinement and treatment in a state correctional institution under the jurisdiction of the department.

(5) "Superintendent" shall mean the superintendent of a state correctional institution, camp or other facility now or hereafter established under the jurisdiction of the department pursuant to law. [1992 c 7 § 56; 1985 c 350 § 4; 1981 c 136 § 110; 1979 c 141 § 274; 1967 c 17 § 1.]

Administrative departments and agencies—General provisions: RCW 43.17.010, 43.17.020.

Additional notes found at www.leg.wa.gov

72.65.020 Places of confinement—Extension of limits authorized, conditions—Application of section. (1) The secretary is authorized to extend the limits of the place of confinement and treatment within the state of any prisoner convicted of a felony, sentenced to a term of confinement and treatment by the superior court, and serving such sentence in a state correctional institution under the jurisdiction of the department, by authorizing a work release plan for such prisoner, permitting him or her, under prescribed conditions, to do any of the following:

(a) Work at paid employment;

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

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

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

(2) This section applies only to persons sentenced for crimes that were committed before July 1, 1984. [2012 c 117 § 483; 1984 c 209 § 28; 1979 ex.s. c 160 § 1; 1979 c 141 § 275; 1967 c 17 § 2.]

*Reviser's note: RCW 70.48.050 was repealed by 1987 c 462 § 23, effective January 1, 1988.

Additional notes found at www.leg.wa.gov

72.65.030 Application of prisoner to participate in program, contents—Application of section. (1) Any prisoner serving a sentence in a state correctional institution may make application to participate in the work release program to the superintendent of the institution in which he or she is confined.

Such application shall set forth the name and address of his or her proposed employer or employers or shall specify the vocational training program, if any, in which he or she is enrolled. It shall include a statement to be executed by such prisoner that if his or her application be approved he or she agrees to abide faithfully by all terms and conditions of the particular work release plan adopted for him or her. It shall further set forth such additional information as the department or the secretary shall require.

(2) This section applies only to persons sentenced for crimes that were committed before July 1, 1984. [2012 c 117 § 484; 1984 c 209 § 29; 1979 c 141 § 276; 1967 c 17 § 3.]

Additional notes found at www.leg.wa.gov

72.65.040 Approval or denial of application—Adoption of work release plan—Terms and conditions—Revocation—Reapplication—Application of section. (1) The superintendent of the state correctional institution in which a prisoner who has made application to participate in the work release program is confined, after careful study of the prisoner's conduct, attitude, and behavior within the institutions under the jurisdiction of the department, his or her criminal history and all other pertinent case history material, shall determine whether or not there is reasonable cause to believe that the prisoner will honor his or her trust as a work release participant.

After having made such determination, the superintendent, in his or her discretion, may deny the prisoner's application, or recommend to the secretary, or such officer of the department as the secretary may designate, that the prisoner be permitted to participate in the work release program. The secretary or his or her designee, may approve, reject, modify, or defer action on such recommendation. In the event of approval, the secretary or his or her designee, shall adopt a work release plan for the prisoner, which shall constitute an extension of the limits of confinement and treatment of the prisoner when released pursuant thereto, and which shall include such terms and conditions as may be deemed necessary and proper under the particular circumstances. The plan shall be signed by the prisoner under oath that he or she will faithfully abide by all terms and conditions thereof. Further, as a condition, the plan shall specify where such prisoner shall be confined when not released for the purpose of the work release plan. At any time after approval has been granted to any prisoner to participate in the work release program, such approval may be revoked, and if the prisoner has been released on a work release plan, he or she may be returned to a state correctional institution, or the plan may be modified, in the sole discretion of the secretary or his or her designee. Any prisoner who has been initially rejected either by the superintendent or the secretary or his or her designee, may reapply for permission to participate in a work release program after a period of time has elapsed from the date of such rejection. This period of time shall be determined by the secretary or his or her designee, according to the individual circumstances in each case.

(2) This section applies only to persons sentenced for crimes that were committed before July 1, 1984. [2012 c 117 § 485; 1984 c 209 § 30; 1979 c 141 § 277; 1967 c 17 § 4.]

Additional notes found at www.leg.wa.gov

72.65.050 Disposition of earnings. A prisoner employed under a work release plan shall surrender to the secretary, or to the superintendent of such state correctional institution as shall be designated by the secretary in the plan, his or her total earnings, less payroll deductions required by law, or such payroll deductions as may reasonably be required by the nature of the employment and less such amount which his or her work release plan specifies he or she should retain to help meet his or her personal needs, including costs necessary for his or her participation in the work release plan such as expenses for travel, meals, clothing, tools and other incidentals. The secretary, or the superintendent of the state correctional institution designated in the work release plan shall deduct from such earnings, and make payments from such work release participant's earnings in the following order of priority:

(1) Reimbursement to the department for any expenses advanced for vocational training pursuant to RCW 72.65.020(2), or for expenses incident to a work release plan pursuant to RCW 72.65.090.

(2) Payment of board and room charges for the work release participant: PROVIDED, That if the participant is housed at a state correctional institution, the average daily per capita cost for the operation of such correctional institution, excluding capital outlay expenditures, shall be paid from the work release participant's earnings to the general fund of the state treasury: PROVIDED FURTHER, That if such work release participant is housed in another facility pursuant to agreement, then the charges agreed to between the department and the appropriate authorities of such facility shall be paid from the participant's earnings to such appropriate authorities.

(3) Payments for the necessary support of the work release participant's dependents, if any.

(4) Ten percent for payment of legal financial obligations for all work release participants who have legal financial obligations owing in any Washington state superior court.

(5) Payments to creditors of the work release participant, which may be made at his or her discretion and request, upon proper proof of personal indebtedness.

(6) Payments to the work release participant himself or herself upon parole or discharge, or for deposit in his or her personal account if returned to a state correctional institution for confinement and treatment. [2002 c 126 § 3; 1979 c 141 § 278; 1967 c 17 § 5.]

72.65.060 Earnings not subject to legal process. The earnings of a work release participant shall not be subject to garnishment, attachment, or execution while such earnings are either in the possession of the employer or any state officer authorized to hold such funds, except for payment of a court-ordered legal financial obligation as that term is defined in RCW 72.11.010. [1989 c 252 § 21; 1967 c 17 § 6.]

Purpose—Prospective application—Effective dates—Severability—1989 c 252: See notes following RCW 9.94A.030.

[Title 72 RCW—page 98]

72.65.080 Contracts with authorities for payment of expenses for housing participants—Procurement of housing facilities. The secretary may enter into contracts with the appropriate authorities for the payment of the cost of feeding and lodging and other expenses of housing work release participants. Such contracts may include any other terms and conditions as may be appropriate for the implementation of the work release program. In addition the secretary is authorized to acquire, by lease or contract, appropriate facilities for the housing of work release participants and providing for their subsistence and supervision. Such work release participants placed in leased or contracted facilities shall be required to reimburse the department the per capita cost of subsistence and lodging in accordance with the provisions and in the priority established by RCW 72.65.050(2). The location of such facilities shall be subject to the zoning laws of the city or county in which they may be situated. [1982 1st ex.s. c 48 § 18; 1981 c 136 § 111; 1979 c 141 § 279; 1969 c 109 § 1; 1967 c 17 § 8.]

Additional notes found at www.leg.wa.gov

72.65.090 Transportation, clothing, supplies for participants. The department may provide transportation for work release participants to the designated places of housing under the work release plan, and may supply suitable clothing and such other equipment, supplies and other necessities as may be reasonably needed for the implementation of the plans adopted for such participation from the community services revolving fund as established in RCW 9.95.360: PROVIDED, That costs and expenditures incurred for this purpose may be deducted by the department from the earnings of the participants and deposited in the community services revolving fund. [1986 c 125 § 6; 1967 c 17 § 9.]

72.65.100 Powers and duties of secretary—Rules and regulations—Cooperation of other state agencies directed. The secretary is authorized to make rules and regulations for the administration of the provisions of this chapter to administer the work release program. In addition, the department shall:

(1) Supervise and consult with work release participants;

(2) Locate available employment or vocational training opportunities for qualified work release participants;

(3) Effect placement of work release participants under the program;

(4) Collect, account for and make disbursement from earnings of work release participants under the provisions of this chapter, including accounting for all inmate debt in the community services revolving fund. RCW 9.95.370 applies to inmates assigned to work/training release facilities who receive assistance as provided in RCW 9.95.310, 9.95.320, 72.65.050, and 72.65.090;

(5) Promote public understanding and acceptance of the work release program.

All state agencies shall cooperate with the department in the administration of the work release program as provided by this chapter. [1986 c 125 § 7; 1981 c 136 § 112; 1979 c 141 § 280; 1967 c 17 § 10.]

Additional notes found at www.leg.wa.gov

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72.65.110 Earnings to be deposited in personal funds—Disbursements. All earnings of work release participants shall be deposited by the secretary, or the superintendent of a state correctional institution designated by the secretary in the work release plan, in personal funds. All disbursements from such funds shall be made only in accordance with the work release plans of such participants and in accordance with the provisions of this chapter. [1979 c 141 § 281; 1967 c 17 § 11.]

72.65.120 Participants not considered agents or employees of the state—Contracting with persons, companies, etc., for labor of participants prohibited—Employee benefits and privileges extended to. All participants who become engaged in employment or training under the work release program shall not be considered as agents, employees or involuntary servants of state and the department is prohibited from entering into a contract with any person, co-partnership, company or corporation for the labor of any participant under its jurisdiction: PROVIDED, That such work release participants shall be entitled to all benefits and privileges in their employment under the provisions of this chapter to the same extent as other employees of their employer, except that such work release participants shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged on expiration of their maximum sentences. [1967 c 17 § 12.]

72.65.130 Authority of board of prison terms and paroles not impaired. This chapter shall not be construed as affecting the authority of the *board of prison terms and paroles pursuant to the provisions of chapter 9.95 RCW over any person who has been approved for participation in the work release program. [1971 ex.s. c 58 § 1; 1967 c 17 § 13.]

*Reviser's note: The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

Additional notes found at www.leg.wa.gov

72.65.200 Participation in work release plan or program must be authorized by sentence or RCW 9.94A.728. The secretary may permit a prisoner to participate in any work release plan or program but only if the participation is authorized pursuant to the prisoner's sentence or pursuant to RCW 9.94A.728. This section shall become effective July 1, 1984. [1981 c 137 § 35.]

72.65.210 Inmate participation eligibility standards—Department to conduct overall review of work release program. (1) The department shall establish, by rule, inmate eligibility standards for participation in the work release program.

(2) The department shall:

- (a) Conduct an annual examination of each work release facility and its security procedures;
- (b) Investigate and set standards for the inmate supervision policies of each work release facility;
- (c) Establish physical standards for future work release structures to ensure the safety of inmates, employees, and the surrounding communities;

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(d) Evaluate its recordkeeping of serious infractions to determine if infractions are properly and consistently assessed against inmates eligible for work release;

(e) The department shall establish a written treatment plan best suited to the inmate's needs, cost, and the relationship of community placement and community corrections officers to a system of case management;

(f) Adopt a policy to encourage businesses employing work release inmates to contact the appropriate work release facility whenever an inmate is absent from his or her work schedule. The department of corrections shall provide each employer with written information and instructions on who should be called if a work release employee is absent from work or leaves the jobsite without authorization; and

(g) Develop a siting policy, in conjunction with cities, counties, community groups, and the *department of community, trade, and economic development for the establishment of additional work release facilities. Such policy shall include at least the following elements: (i) Guidelines for appropriate site selection of work-release facilities; (ii) notification requirements to local government and community groups of intent to site a work release facility; and (iii) guidelines for effective community relations by the work release program operator.

The department shall comply with the requirements of this section by July 1, 1990. [1998 c 245 § 142; 1995 c 399 § 203; 1989 c 89 § 1.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

72.65.220 Facility siting process. (1) The department or a private or public entity under contract with the department may establish or relocate for the operation of a work release or other community-based facility only after public notifications and local public meetings have been completed consistent with this section.

(2) The department and other state agencies responsible for siting department-owned, operated, or contracted facilities shall establish a process for early and continuous public participation in establishing or relocating work release or other community-based facilities. This process shall include public meetings in the local communities affected, opportunities for written and oral comments, and wide dissemination of proposals and alternatives, including at least the following:

(a) When the department or a private or public entity under contract with the department has selected three or fewer sites for final consideration of a department-owned, operated, or contracted work release or other community-based facility, the department or contracting organization shall make public notification and conduct public hearings in the local communities of the final three or fewer proposed sites. An additional public hearing after public notification shall also be conducted in the local community selected as the final proposed site.

(b) Notifications required under this section shall be provided to the following:

(i) All newspapers of general circulation in the local area and all local radio stations, television stations, and cable networks;

(ii) Appropriate school districts, private schools, kindergartens, city and county libraries, and all other local govern-

ment offices within a one-half mile radius of the proposed site or sites;

(iii) The local chamber of commerce, local economic development agencies, and any other local organizations that request such notification from the department; and

(iv) In writing to all residents and/or property owners within a one-half mile radius of the proposed site or sites.

(3) When the department contracts for the operation of a work release or other community-based facility that is not owned or operated by the department, the department shall require as part of its contract that the contracting entity comply with all the public notification and public hearing requirements as provided in this section for each located and relocated work release or other community-based facility. [1997 c 348 § 1; 1994 c 271 § 1001.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Additional notes found at www.leg.wa.gov

72.65.900 Effective date—1967 c 17. This act shall become effective on July 1, 1967. [1967 c 17 § 14.]

Chapter 72.66 RCW FURLOUGHS FOR PRISONERS

Sections

72.66.010	Definitions.
72.66.012	Granting of furloughs authorized.
72.66.014	Ineligibility.
72.66.016	Minimum time served requirement.
72.66.018	Grounds for granting furlough.
72.66.022	Application—Contents.
72.66.024	Sponsor.
72.66.026	Furlough terms and conditions.
72.66.028	Furlough order—Contents.
72.66.032	Furlough identification card.
72.66.034	Applicant's personality and conduct—Examination.
72.66.036	Furlough duration—Extension.
72.66.038	Furlough infractions—Reporting—Regaining custody.
72.66.042	Emergency furlough—Waiver of certain requirements.
72.66.044	Application proceeding not deemed adjudicative proceeding.
72.66.050	Revocation or modification of furlough plan—Reapplication.
72.66.070	Transportation, clothing and funds for furloughed prisoners.
72.66.080	Powers and duties of secretary—Certain agreements—Rules and regulations.
72.66.090	Violation or revocation of furlough—Authority of secretary to issue arrest warrants—Enforcement of warrants by law enforcement officers—Authority of probation and parole officer to suspend furlough.
72.66.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Reviser's note: Throughout this chapter "this act" has been changed to "this chapter." "This act" [1971 ex.s. c 58] consists of this chapter and the 1971 amendment to RCW 72.65.130.

Leaves of absence for inmates: RCW 72.01.365 through 72.01.380.

72.66.010 Definitions. As used in this chapter the following words shall have the following meanings:

- (1) "Department" means the department of corrections.
- (2) "Emergency furlough" means a specially expedited furlough granted to a resident to enable him or her to meet an emergency situation, such as the death or critical illness of a member of his or her family.
- (3) "Furlough" means an authorized leave of absence for an eligible resident, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or corrections official while on such leave.

(4) "Resident" means a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(5) "Secretary" means the secretary of corrections, or his or her designee or designees. [2012 c 117 § 486; 1981 c 136 § 113; 1973 c 20 § 2; 1971 ex.s. c 58 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

72.66.012 Granting of furloughs authorized. The secretary may grant a furlough but only if not precluded from doing so under RCW 72.66.014, 72.66.016, 72.66.018, 72.66.024, 72.66.034, or 72.66.036. [1973 c 20 § 3.]

72.66.014 Ineligibility. A resident may apply for a furlough if he or she is not precluded from doing so under this section. A resident shall be ineligible to apply for a furlough if:

- (1) He or she is not classified by the secretary as eligible for or on minimum security status; or
- (2) His or her minimum term of imprisonment has not been set; or
- (3) He or she has a valid detainer pending and the agency holding the detainer has not provided written approval for him or her to be placed on a furlough-eligible status. Such written approval may include either specific approval for a particular resident or general approval for a class or group of residents. [2012 c 117 § 487; 1973 c 20 § 4.]

72.66.016 Minimum time served requirement. (1) A furlough shall not be granted to a resident if the furlough would commence prior to the time the resident has served the minimum amounts of time provided under this section:

- (a) If his or her minimum term of imprisonment is longer than twelve months, he or she shall have served at least six months of the term;
- (b) If his or her minimum term of imprisonment is less than twelve months, he or she shall have served at least ninety days and shall have no longer than six months left to serve on his or her minimum term;
- (c) If he or she is serving a mandatory minimum term of confinement, he or she shall have served all but the last six months of such term.

(2) A person convicted and sentenced for a violent offense as defined in RCW 9.94A.030 is not eligible for furlough until the person has served at least one-half of the minimum term. [2011 1st sp.s. c 40 § 35; 1983 c 255 § 8; 1973 c 20 § 5.]

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

72.66.018 Grounds for granting furlough. A furlough may only be granted to enable the resident:

- (1) To meet an emergency situation, such as death or critical illness of a member of his or her family;
- (2) To obtain medical care not available in a facility maintained by the department;
- (3) To seek employment or training opportunities, but only when:

(a) There are scheduled specific work interviews to take place during the furlough;

(b) The resident has been approved for work or training release but his or her work or training placement has not occurred or been concluded; or

(c) When necessary for the resident to prepare a parole plan for a parole meeting scheduled to take place within one hundred and twenty days of the commencement of the furlough;

(4) To make residential plans for parole which require his or her personal appearance in the community;

(5) To care for business affairs in person when the inability to do so could deplete the assets or resources of the resident so seriously as to affect his or her family or his or her future economic security;

(6) To visit his or her family for the purpose of strengthening or preserving relationships, exercising parental responsibilities, or preventing family division or disintegration; or

(7) For any other purpose deemed to be consistent with plans for rehabilitation of the resident. [2012 c 117 § 488; 1973 c 20 § 6.]

72.66.022 Application—Contents. Each resident applying for a furlough shall include in his or her application for the furlough:

(1) A furlough plan which shall specify in detail the purpose of the furlough and how it is to be achieved, the address at which the applicant would reside, the names of all persons residing at such address[,] and their relationships to the applicant;

(2) A statement from the applicant's proposed sponsor that he or she agrees to undertake the responsibilities provided in RCW 72.66.024; and

(3) Such other information as the secretary shall require in order to protect the public or further the rehabilitation of the applicant. [2012 c 117 § 489; 1973 c 20 § 7.]

72.66.024 Sponsor. No furlough shall be granted unless the applicant for the furlough has procured a person to act as his or her sponsor. No person shall qualify as a sponsor unless he or she satisfies the secretary that he or she knows the applicant's furlough plan, is familiar with the furlough conditions prescribed pursuant to RCW 72.66.026, and submits a statement that he or she agrees to:

(1) See to it that the furloughed person is provided with appropriate living quarters for the duration of the furlough;

(2) Notify the secretary immediately if the furloughed person does not appear as scheduled, departs from the furlough plan at any time, becomes involved in serious difficulty during the furlough, or experiences problems that affect his or her ability to function appropriately;

(3) Assist the furloughed person in other appropriate ways, such as discussing problems and providing transportation to job interviews; and

(4) Take reasonable measures to assist the resident to return from furlough. [2012 c 117 § 491; 2012 c 117 § 490; 1973 c 20 § 8.]

72.66.026 Furlough terms and conditions. The terms and conditions prescribed under this section shall apply to

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each furlough, and each resident granted a furlough shall agree to abide by them.

(1) The furloughed person shall abide by the terms of his or her furlough plan.

(2) Upon arrival at the destination indicated in his or her furlough plan, the furloughed person shall, when so required, report to a state probation and parole officer in accordance with instructions given by the secretary prior to release on furlough. He or she shall report as frequently as may be required by the state probation and parole officer.

(3) The furloughed person shall abide by all local, state, and federal laws.

(4) With approval of the state probation and parole officer designated by the secretary, the furloughed person may accept temporary employment during a period of furlough.

(5) The furloughed person shall not leave the state at any time while on furlough.

(6) Other limitations on movement within the state may be imposed as a condition of furlough.

(7) The furloughed person shall not, in any public place, drink intoxicating beverages or be in an intoxicated condition. A furloughed person shall not enter any tavern, bar, or cocktail lounge.

(8) A furloughed person who drives a motor vehicle shall:

(a) Have a valid Washington driver's license in his or her possession;

(b) Have the owner's written permission to drive any vehicle not his or her own or his or her spouse's;

(c) Have at least minimum personal injury and property damage liability coverage on the vehicle he or she is driving; and

(d) Observe all traffic laws.

(9) Each furloughed person shall carry with him or her at all times while on furlough a copy of his or her furlough order prescribed pursuant to RCW 72.66.028 and a copy of the identification card issued to him or her pursuant to RCW 72.66.032.

(10) The furloughed person shall comply with any other terms or conditions which the secretary may prescribe. [2012 c 117 § 492; 1973 c 20 § 9.]

72.66.028 Furlough order—Contents. Whenever the secretary grants a furlough, he or she shall do so by a special order which order shall contain each condition and term of furlough prescribed pursuant to RCW 72.66.026 and each additional condition and term which the secretary may prescribe as being appropriate for the particular person to be furloughed. [2012 c 117 § 493; 1973 c 20 § 10.]

72.66.032 Furlough identification card. The secretary shall issue a furlough identification card to each resident granted a furlough. The card shall contain the name of the resident and shall disclose the fact that he or she has been granted a furlough and the time period covered by the furlough. [2012 c 117 § 494; 1973 c 20 § 11.]

72.66.034 Applicant's personality and conduct—Examination. Prior to the granting of any furlough, the secretary shall examine the applicant's personality and past conduct and determine whether or not he or she represents a sat-

isfatory risk for furlough. The secretary shall not grant a furlough to any person whom he or she believes represents an unsatisfactory risk. [2012 c 117 § 495; 1973 c 20 § 12.]

72.66.036 Furlough duration—Extension. (1) The furlough or furloughs granted to any one resident, excluding furloughs for medical care, may not exceed thirty consecutive days or a total of sixty days during a calendar year.

(2) Absent unusual circumstances, each first furlough and each second furlough granted to a resident shall not exceed a period of five days and each emergency furlough shall not exceed forty-eight hours plus travel time.

(3) A furlough may be extended within the maximum time periods prescribed under this section. [1983 c 255 § 7; 1973 c 20 § 13.]

72.66.038 Furlough infractions—Reporting—Regaining custody. Any employee of the department having knowledge of a furlough infraction shall report the facts to the secretary. Upon verification, the secretary shall cause the custody of the furloughed person to be regained, and for this purpose may cause a warrant to be issued. [1973 c 20 § 14.]

72.66.042 Emergency furlough—Waiver of certain requirements. In the event of an emergency furlough, the secretary may waive all or any portion of RCW 72.66.014(2), 72.66.016, 72.66.022, 72.66.024, and 72.66.026. [1973 c 20 § 15.]

72.66.044 Application proceeding not deemed adjudicative proceeding. Any proceeding involving an application for a furlough shall not be deemed an adjudicative proceeding under the provisions of chapter 34.05 RCW, the Administrative Procedure Act. [1989 c 175 § 144; 1973 c 20 § 16.]

Additional notes found at www.leg.wa.gov

72.66.050 Revocation or modification of furlough plan—Reapplication. At any time after approval has been granted for a furlough to any prisoner, such approval or order of furlough may be revoked, and if the prisoner has been released on an order of furlough, he or she may be returned to a state correctional institution, or the plan may be modified, in the discretion of the secretary. Any prisoner whose furlough application is rejected may reapply for a furlough after such period of time has elapsed as shall be determined at the time of rejection by the superintendent or secretary, whichever person initially rejected the application for furlough, such time period being subject to modification. [2012 c 117 § 496; 1971 ex.s. c 58 § 6.]

72.66.070 Transportation, clothing and funds for furloughed prisoners. The department may provide or arrange for transportation for furloughed prisoners to the designated place of residence within the state and may, in addition, supply funds not to exceed forty dollars and suitable clothing, such clothing to be returned to the institution on the expiration of furlough. [1971 ex.s. c 58 § 8.]

72.66.080 Powers and duties of secretary—Certain agreements—Rules and regulations. The secretary may

enter into agreements with any agency of the state, a county, a municipal corporation or any person, corporation or association for the purpose of implementing furlough plans, and, in addition, may make such rules and regulations in furtherance of this chapter as he or she may deem necessary. [2012 c 117 § 497; 1971 ex.s. c 58 § 9.]

72.66.090 Violation or revocation of furlough—Authority of secretary to issue arrest warrants—Enforcement of warrants by law enforcement officers—Authority of probation and parole officer to suspend furlough. The secretary may issue warrants for the arrest of any prisoner granted a furlough, at the time of the revocation of such furlough, or upon the failure of the prisoner to report as designated in the order of furlough. Such arrest warrants shall authorize any law enforcement, probation and parole or peace officer of this state, or any other state where such prisoner may be located, to arrest such prisoner and to place him or her in physical custody pending his or her return to confinement in a state correctional institution. Any state probation and parole officer, if he or she has reasonable cause to believe that a person granted a furlough has violated a condition of his or her furlough, may suspend such person's furlough and arrest or cause the arrest and detention in physical custody of the furloughed prisoner, pending the determination of the secretary whether the furlough should be revoked. The probation and parole officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending such furlough. Upon the basis of the report and such other information as the secretary may obtain, he or she may revoke, reinstate, or modify the conditions of furlough, which shall be by written order of the secretary. If the furlough is revoked, the secretary shall issue a warrant for the arrest of the furloughed prisoner and his or her return to a state correctional institution. [2012 c 117 § 498; 1971 ex.s. c 58 § 10.]

72.66.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 171.]

Chapter 72.68 RCW

TRANSFER, REMOVAL, TRANSPORTATION— DETENTION CONTRACTS

Sections

72.68.001	Definitions.
72.68.010	Transfer of incarcerated individuals.
72.68.015	Transfer of incarcerated individuals—Vocational or educational programs.

72.68.020	Transportation of prisoners.
72.68.031	Transfer or removal of person in correctional institution to institution for mentally ill.
72.68.032	Transfer or removal of person in institution for mentally ill to other institution.
72.68.035	Transfer or removal of committed or confined persons—State institution or facility for the care of the mentally ill, defined.
72.68.037	Transfer or removal of committed or confined persons—Record—Notice.
72.68.040	Contracts for detention of felons convicted in this state.
72.68.045	Transfer to out-of-state institution—Notice to victims.
72.68.050	Contracts with other governmental units for detention of felons convicted in this state—Notice of transfer of prisoner.
72.68.060	Contracts with other governmental units for detention of felons convicted in this state—Procedure when transferred prisoner's presence required in judicial proceedings.
72.68.070	Contracts with other governmental units for detention of felons convicted in this state—Procedure regarding prisoner when contract expires.
72.68.075	Contracts with other states or territories for care, confinement or rehabilitation of female prisoners.
72.68.080	Federal prisoners, or from other state—Authority to receive.
72.68.090	Federal prisoners, or from other state—Per diem rate for keep.
72.68.100	Federal prisoners, or from other state—Space must be available.
72.68.110	Contracts with private correctional entities prohibited—Exceptions.

Correctional employees: RCW 9.94.050.

Placement of person convicted as an adult for a felony offense committed under the age of eighteen: RCW 72.01.410.

Western interstate corrections compact: Chapter 72.70 RCW.

72.68.001 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Private correctional entity" means a for-profit contractor or for-profit vendor who provides services relating to the ownership, management, or administration of security services of a correctional facility for the incarceration of persons.

(3) "Secretary" means the secretary of corrections. [2020 c 318 § 6; 1981 c 136 § 114.]

Findings—Intent—Construction—Effective date—2020 c 318: See notes following RCW 72.68.110.

Additional notes found at www.leg.wa.gov

72.68.010 Transfer of incarcerated individuals. (1) Whenever in its judgment the best interests of the state or the welfare of any incarcerated individual confined in any penal institution will be better served by his or her transfer to another institution or to a foreign country of which the incarcerated individual is a citizen or national, the secretary may effect such transfer consistent with applicable federal laws and treaties. The secretary has the authority to transfer incarcerated individuals between in-state correctional facilities or to out-of-state governmental institutions if the secretary determines that transfer is in the best interest of the state or the incarcerated individual. The determination of what is in the best interest of the state or incarcerated individual may include but is not limited to considerations of overcrowding, emergency conditions, or hardship to the incarcerated individual. In determining whether the transfer will impose a hardship on the incarcerated individual, the secretary shall consider: (a) The location of the incarcerated individual's family and whether the incarcerated individual has maintained contact with members of his or her family; (b) whether, if the incarcerated individual has maintained con-

tact, the contact will be significantly disrupted by the transfer due to the family's inability to maintain the contact as a result of the transfer; and (c) whether the incarcerated individual is enrolled in a vocational or educational program that cannot reasonably be resumed or completed if the incarcerated individual is transferred to another correctional institution or returned to the state.

(2)(a) The secretary has the authority to transfer incarcerated individuals to an out-of-state private correctional entity only if:

(i) The governor finds that an emergency exists such that the population of a state correctional facility exceeds its reasonable, maximum capacity, resulting in safety and security concerns;

(ii) The governor has considered all other legal options to address capacity, including those pursuant to RCW 9.94A.870;

(iii) The secretary determines that transfer is in the best interest of the state or the incarcerated individual; and

(iv) The contract with the out-of-state private correctional entity includes requirements for access to public records to the same extent as if the facility were operated by the department, incarcerated individual access to the office of the corrections ombuds, and inspections and visits without notice.

(b) Should any of these requirements in this subsection not be met, the contract with the private correctional entity shall be terminated.

(3) If directed by the governor, the secretary shall, in carrying out this section and RCW 43.06.350, adopt rules under chapter 34.05 RCW to effect the transfer of incarcerated individuals requesting transfer to foreign countries. [2021 c 200 § 7; 2020 c 318 § 4; 2000 c 62 § 2; 1983 c 255 § 10; 1979 c 141 § 282; 1959 c 28 § 72.68.010. Prior: 1955 c 245 § 2; 1935 c 114 § 5; RRS § 10249-5. Formerly RCW 9.95.180.]

Findings—Intent—Construction—Effective date—2020 c 318: See notes following RCW 72.68.110.

Additional notes found at www.leg.wa.gov

72.68.015 Transfer of incarcerated individuals—Vocational or educational programs. (1) In determining whether to transfer an incarcerated individual to a different facility in the state, the department shall consider whether the incarcerated individual is enrolled in a vocational or educational program, including those operated by approved outside providers, which cannot be continued at the receiving facility. The department shall work with the incarcerated individual's case manager, counselor, education navigator, or other appropriate person to attempt to meet the needs of the department and the incarcerated individual regarding transfer.

(2) Nothing in this section creates a vested right in programming, education, or other services. [2021 c 200 § 6.]

72.68.020 Transportation of prisoners. (1) The secretary shall transport prisoners under supervision:

(a) To and between state correctional facilities under the jurisdiction of the secretary;

(b) From a county, city, or municipal jail to an institution mentioned in (a) of this subsection and to a county, city, or municipal jail from an institution mentioned in (a) of this subsection.

(2) The secretary may employ necessary persons for such purpose. [1992 c 7 § 57; 1979 c 141 § 283; 1959 c 28 § 72.68.020. Prior: 1955 c 245 § 1. Formerly RCW 9.95.181.]

Correctional employees: RCW 9.94.050.

72.68.031 Transfer or removal of person in correctional institution to institution for mentally ill. When, in the judgment of the secretary, the welfare of any person committed to or confined in any state correctional institution or facility necessitates that such person be transferred or moved for observation, diagnosis, or treatment to any state institution or facility for the care of the mentally ill, the secretary, with the consent of the secretary of social and health services, is authorized to order and effect such move or transfer: PROVIDED, That the sentence of such person shall continue to run as if he or she remained confined in a correctional institution or facility, and that such person shall not continue so detained or confined beyond the maximum term to which he or she was sentenced: PROVIDED, FURTHER, That the secretary and the indeterminate sentence review board shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined at such institution or facility for the care of the mentally ill, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in the state correctional institutions or facilities. [2012 c 117 § 499; 1981 c 136 § 115; 1972 ex.s. c 59 § 1.]

Additional notes found at www.leg.wa.gov

72.68.032 Transfer or removal of person in institution for mentally ill to other institution. When, in the judgment of the secretary of the department of social and health services, the welfare of any person committed to or confined in any state institution or facility for the care of the mentally ill necessitates that such person be transferred or moved for observation, diagnosis, or treatment, or for different security status while being observed, diagnosed or treated to any other state institution or facility for the care of the mentally ill, the secretary of social and health services is authorized to order and effect such move or transfer. [1981 c 136 § 116; 1972 ex.s. c 59 § 2.]

Additional notes found at www.leg.wa.gov

72.68.035 Transfer or removal of committed or confined persons—State institution or facility for the care of the mentally ill, defined. As used in RCW 72.68.031 and 72.68.032, the phrase "state institution or facility for the care of the mentally ill" shall mean any hospital, institution or facility operated and maintained by the state of Washington which has as its principal purpose the care of the mentally ill, whether such hospital, institution or facility is physically located within or outside the geographical or structural confines of a state correctional institution or facility: PROVIDED, That whether a state institution or facility for the care of the mentally ill be physically located within or outside the geographical or structural confines of a state correctional institution or facility, it shall be administered separately from the state correctional institution or facility, and in conformity with its principal purpose. [1972 ex.s. c 59 § 3.]

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72.68.037 Transfer or removal of committed or confined persons—Record—Notice. Whenever a move or transfer is made pursuant to RCW 72.68.031 or 72.68.032, a record shall be made and the relatives, attorney, if any, and guardian, if any, of the person moved shall be notified of the move or transfer. [1972 ex.s. c 59 § 4.]

72.68.040 Contracts for detention of felons convicted in this state. (1) The secretary may contract with the authorities of the federal government, or the authorities of any state of the United States, or any county or city in this state providing for the detention in an institution or jail operated by such entity, for prisoners convicted of a felony in the courts of this state and sentenced to a term of imprisonment therefor in a state correctional institution for convicted felons under the jurisdiction of the department. Except as provided in subsection (2) of this section, after the making of a contract under this section, prisoners sentenced to a term of imprisonment in a state correctional institution for convicted felons may be conveyed by the superintendent or his or her assistants to the institution or jail named in the contract. The prisoners shall be delivered to the authorities of the institution or jail, there to be confined until their sentences have expired or they are otherwise discharged by law, paroled, or until they are returned to a state correctional institution for convicted felons for further confinement.

(2) A prisoner may not be conveyed to a private correctional entity except under the circumstances identified in RCW 72.68.010(2) or 72.68.110(2). [2020 c 318 § 3; 2012 c 117 § 500; 2000 c 62 § 3; 1981 c 136 § 117; 1979 c 141 § 284; 1967 c 60 § 1; 1959 c 47 § 1; 1959 c 28 § 72.68.040. Prior: 1957 c 27 § 1. Formerly RCW 9.95.184.]

Findings—Intent—Construction—Effective date—2020 c 318: See notes following RCW 72.68.110.

Additional notes found at www.leg.wa.gov

72.68.045 Transfer to out-of-state institution—Notice to victims. (1) If the secretary transfers any offender to an institution in another state after March 22, 2000, the secretary shall, prior to the transfer, review the records of victims registered with the department. If any registered victim of the offender resides: (a) In the state to which the offender is to be transferred; or (b) in close proximity to the institution to which the offender is to be transferred, the secretary shall notify the victim prior to the transfer and consider the victim's concerns about the transfer.

(2) Any victim notified under subsection (1) of this section shall also be notified of the return of the offender to a facility in Washington, prior to the return.

(3) The secretary shall develop a written policy to define "close proximity" for purposes of this section. [2000 c 62 § 4.]

Additional notes found at www.leg.wa.gov

72.68.050 Contracts with other governmental units for detention of felons convicted in this state—Notice of transfer of prisoner. Whenever a prisoner who is serving a sentence imposed by a court of this state is transferred from a state correctional institution for convicted felons under RCW 72.68.040 through 72.68.070, the superintendent shall send to the clerk of the court pursuant to whose order or judgment

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the prisoner was committed to a state correctional institution for convicted felons a notice of transfer, disclosing the name of the prisoner transferred and giving the name and location of the institution to which the prisoner was transferred. The superintendent shall keep a copy of all notices of transfer on file as a public record open to inspection; and the clerk of the court shall file with the judgment roll in the appropriate case a copy of each notice of transfer which he or she receives from the superintendent. [2012 c 117 § 501; 1967 c 60 § 2; 1959 c 47 § 2; 1959 c 28 § 72.68.050. Prior: 1957 c 27 § 2. Formerly RCW 9.95.185.]

72.68.060 Contracts with other governmental units for detention of felons convicted in this state—Procedure when transferred prisoner's presence required in judicial proceedings. Should the presence of any prisoner confined, under authority of RCW 72.68.040 through 72.68.070, in an institution of another state or the federal government or in a county or city jail, be required in any judicial proceeding of this state, the superintendent of a state correctional institution for convicted felons or his or her assistants shall, upon being so directed by the secretary, or upon the written order of any court of competent jurisdiction, or of a judge thereof, procure such prisoner, bring him or her to the place directed in such order and hold him or her in custody subject to the further order and direction of the secretary, or of the court or of a judge thereof, until he or she is lawfully discharged from such custody. The superintendent or his or her assistants may, by direction of the secretary or of the court, or a judge thereof, deliver such prisoner into the custody of the sheriff of the county in which he or she was convicted, or may, by like order, return such prisoner to a state correctional institution for convicted felons or the institution from which he or she was taken. [2012 c 117 § 502; 1979 c 141 § 285; 1967 c 60 § 3; 1959 c 47 § 3; 1959 c 28 § 72.68.060. Prior: 1957 c 27 § 3. Formerly RCW 9.95.186.]

72.68.070 Contracts with other governmental units for detention of felons convicted in this state—Procedure regarding prisoner when contract expires. Upon the expiration of any contract entered into under RCW 72.68.040 through 72.68.070, all prisoners of this state confined in such institution or jail shall be returned by the superintendent or his or her assistants to a state correctional institution for convicted felons of this state, or delivered to such other institution as the secretary has contracted with under RCW 72.68.040 through 72.68.070. [2012 c 117 § 503; 1979 c 141 § 286; 1967 c 60 § 4; 1959 c 47 § 4; 1959 c 28 § 72.68.070. Prior: 1957 c 27 § 4. Formerly RCW 9.95.187.]

72.68.075 Contracts with other states or territories for care, confinement or rehabilitation of female prisoners. The secretary is hereby authorized to contract for the care, confinement and rehabilitation of female prisoners of other states or territories of the United States, as more specifically provided in the Western Interstate Corrections Compact, as contained in chapter 72.70 RCW as now or hereafter amended. [1979 c 141 § 287; 1967 ex.s. c 122 § 12.]

72.68.080 Federal prisoners, or from other state—Authority to receive. All persons sentenced to prison by the

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authority of the United States or of any state or territory of the United States may be received by the department and imprisoned in a state correctional institution as defined in RCW 72.65.010 in accordance with the sentence of the court by which they were tried. The prisoners so confined shall be subject in all respects to discipline and treatment as though committed under the laws of this state. [1983 c 255 § 11; 1967 ex.s. c 122 § 10; 1959 c 28 § 72.68.080. Prior: 1951 c 135 § 1. Formerly RCW 72.08.350.]

72.68.090 Federal prisoners, or from other state—Per diem rate for keep. The secretary is authorized to enter into contracts with the proper officers or agencies of the United States and of other states and territories of the United States relative to the per diem rate to be paid the state of Washington for the conditions of the keep of each prisoner. [1979 c 141 § 288; 1959 c 28 § 72.68.090. Prior: 1951 c 135 § 2. Formerly RCW 72.08.360.]

72.68.100 Federal prisoners, or from other state—Space must be available. The secretary shall not enter into any contract for the care or commitment of any prisoner of the federal government or any other state unless there is vacant space and unused facilities in state correctional facilities. [1992 c 7 § 58; 1979 c 141 § 289; 1967 ex.s. c 122 § 11; 1959 c 28 § 72.68.100. Prior: 1951 c 135 § 3. Formerly RCW 72.08.370.]

72.68.110 Contracts with private correctional entities prohibited—Exceptions. (1) Except as provided in subsection (2) of this section and RCW 72.68.010(2), the secretary is prohibited from utilizing a contract with a private correctional entity for the transfer or placement of offenders.

(2) This section does not apply to:

(a) State work release centers, juvenile residential facilities, nonprofit community-based alternative juvenile detention facilities, or nonprofit community-based alternative adult detention facilities that provide separate care or special treatment, operated in whole or in part by for-profit contractors;

(b) Contracts for ancillary services including, but not limited to, medical services, educational services, repair and maintenance contracts, behavioral health services, or other services not directly related to the ownership, management, or operation of security services in a correctional facility; or

(c) Tribal entities. [2020 c 318 § 2.]

Findings—Intent—2020 c 318: "(1) The legislature finds that all people confined in prisons in Washington deserve basic health care, nutrition, and safety. As held in *United States v. California*, 921 F.3d 865, 886 (9th Cir. 2019), states possess "the general authority to ensure the health and welfare of inmates and detainees in facilities within its borders."

(2) The legislature finds that profit motives lead private prisons to cut operational costs, including the provision of food, health care, and rehabilitative services, because their primary fiduciary duty is to maximize shareholder profits. The legislature finds that this is in stark contrast to the interests of the state to ensure the health, safety, and welfare of Washingtonians.

(3) The legislature finds that people confined in for-profit prisons have experienced abuses and have been confined in dangerous and unsanitary conditions. Safety risks and abuses in private prisons at the local, state, and federal level have been consistently and repeatedly documented. The United States department of justice office of the inspector general found in 2016 that privately operated prisons "incurred more safety and security incidents per capita than comparable BOP (federal bureau of prisons) institutions." The office of inspector general additionally found that privately operated prisons

had "higher rates of inmate-on-inmate and inmate-on-staff assaults, as well as higher rates of staff uses of force."

(4) The legislature finds that private prison operators have cut costs by reducing essential security and health care staffing. The sentencing project, a national research and advocacy organization, found in 2012 that private prison staff earn an average of five thousand dollars less than staff at publicly run facilities and receive almost sixty hours less training. The office of inspector general also found that people confined in private facilities often failed to receive necessary medical care and that one private prison went without a full-time physician for eight months.

(5) The legislature finds that private prisons are less accountable for what happens inside those facilities than state-run facilities, as they are not subject to the freedom of information act under 5 U.S.C. Sec. 552 or the Washington public records act under chapter 42.56 RCW.

(6) The legislature finds that at least twenty-two other states have stopped confining people in private for-profit facilities.

(7) Therefore, it is the intent of the legislature to prohibit the use of private prisons in Washington state." [2020 c 318 § 1.]

Construction—2020 c 318: "This act shall be construed liberally for the accomplishment of the purposes thereof." [2020 c 318 § 8.]

Effective date—2020 c 318: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 2, 2020]." [2020 c 318 § 9.]

Chapter 72.70 RCW

WESTERN INTERSTATE CORRECTIONS COMPACT

Sections

72.70.010	Compact enacted—Provisions.
72.70.020	Secretary authorized to receive or transfer inmates pursuant to contract.
72.70.030	Responsibilities of courts, departments, agencies and officers.
72.70.040	Hearings.
72.70.050	Secretary may enter into contracts.
72.70.060	Secretary may provide clothing, etc., to inmate released in another state.
72.70.900	Severability—Liberal construction—1959 c 287.

Compacts for out-of-state supervision of parolees or probationers: RCW 9.95.270.

Interstate compact on juveniles: Chapter 13.24 RCW.

72.70.010 Compact enacted—Provisions. The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I—Purpose and Policy

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

ARTICLE II—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, or, subject to the limitation contained in Article VII, Guam.

(b) "Sending state" means a state party to this compact in which conviction was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(e) "Institution" means any prison, reformatory or other correctional facility except facilities for persons suffering from mental illness or persons with disabilities in which inmates may lawfully be confined.

ARTICLE III—Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentage of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV—Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order

to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the

sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V—Acts Not Reviewable In Receiving State; Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI—Federal Aid

Any state party to this compact may accept federal aid for use in connection with an institution or program, the use of which is or may be affected by this compact or any contract pursuant thereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision; provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII—Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of Congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

ARTICLE VIII—Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX—Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X—Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [2020 c 274 § 58; 1977 ex.s. c 80 § 69; 1959 c 287 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

72.70.020 Secretary authorized to receive or transfer inmates pursuant to contract. The secretary of corrections is authorized to receive or transfer an inmate as defined in Article II(d) of the Western Interstate Corrections Compact to any institution as defined in Article II(e) of the Western Interstate Corrections Compact within this state or without this state, if this state has entered into a contract or contracts for the confinement of inmates in such institutions pursuant to Article III of the Western Interstate Corrections Compact. [1981 c 136 § 118; 1979 c 141 § 290; 1959 c 287 § 2.]

Additional notes found at www.leg.wa.gov

72.70.030 Responsibilities of courts, departments, agencies and officers. The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission of such reports as are required by the compact. [1959 c 287 § 3.]

72.70.040 Hearings. The secretary and members of the *board of prison terms and paroles are hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to Article IV(f) of the Western Interstate Corrections Compact. Additionally, the secretary and members of the *board of prison terms and paroles may hold out-of-state hearings in connection with the case of any inmate of this state confined in an institution of another state party to the Western Interstate Corrections Compact. [1979 c 141 § 291; 1959 c 287 § 4.]

***Reviser's note:** The "board of prison terms and paroles" was redesignated the "indeterminate sentence review board" by 1986 c 224, effective July 1, 1986.

72.70.050 Secretary may enter into contracts. The secretary of corrections is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to Article III thereof. No such contract shall be of any force or effect until approved by the attorney general. [1981 c 136 § 119; 1979 c 141 § 292; 1959 c 287 § 5.]

Additional notes found at www.leg.wa.gov

72.70.060 Secretary may provide clothing, etc., to inmate released in another state. If any agreement between this state and any other state party to the Western Interstate Corrections Compact enables the release of an inmate of this state confined in an institution of another state to be released in such other state in accordance with Article IV(g) of this compact, then the secretary is authorized to provide clothing, transportation and funds to such inmate in accordance with the provisions of chapter 72.02 RCW. [1983 c 3 § 186; 1979 c 141 § 293; 1959 c 287 § 6.]

72.70.900 Severability—Liberal construction—1959 c 287. The provisions of this act shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitu-

tionality of this act and the applicability thereof to any other state, agency, person or circumstance shall, with respect to all severable matters, not be affected thereby. It is the legislative intent that the provisions of this act be reasonably and liberally construed. [1959 c 287 § 7.]

Chapter 72.72 RCW
CRIMINAL BEHAVIOR OF RESIDENTS OF
INSTITUTIONS

Sections

72.72.010	Legislative intent.
72.72.020	Definitions.
72.72.030	Institutional impact account—Reimbursement to political subdivisions—Limitations.
72.72.040	Reimbursement—Rules.
72.72.050	Disturbances at state penal facilities—Reimbursement to cities and counties for certain expenses incurred—Funding.
72.72.060	Disturbances at state penal facilities—Reimbursement to cities and counties for physical injury benefit costs—Limitations.

72.72.010 Legislative intent. The legislature finds that political subdivisions in which state institutions are located incur a disproportionate share of the criminal justice costs due to criminal behavior of the residents of such institutions. To redress this inequity, it shall be the policy of the state of Washington to reimburse political subdivisions which have incurred such costs. [1979 ex.s. c 108 § 1.]

72.72.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Political subdivisions" means counties, cities, and towns.

(2) "Institution" means any state institution for the confinement of adult offenders committed pursuant to chapters 10.64, 10.77, and 71.06 RCW or juvenile offenders committed pursuant to chapter 13.40 RCW. [1983 c 279 § 1; 1981 c 136 § 120; 1979 ex.s. c 108 § 2.]

Additional notes found at www.leg.wa.gov

72.72.030 Institutional impact account—Reimbursement to political subdivisions—Limitations. (1) There is hereby created, in the state treasury, an institutional impact account. The secretary of children, youth, and families may reimburse political subdivisions for criminal justice costs incurred directly as a result of crimes committed by offenders residing in an institution as defined herein under the jurisdiction of the secretary of children, youth, and families. Such reimbursement shall be made to the extent funds are available from the institutional impact account. Reimbursements shall be limited to law enforcement, prosecutorial, judicial, and jail facilities costs which are documented to be strictly related to the criminal activities of the offender.

(2) The secretary of corrections may reimburse political subdivisions for criminal justice costs incurred directly as a result of crimes committed by offenders residing in an institution as defined herein under the jurisdiction of the secretary of corrections. Such reimbursement shall be made to the extent funds are available from the institutional impact account. Reimbursements shall be limited to law enforcement, prosecutorial, judicial, and jail facilities costs which are documented to be strictly related to the criminal activities

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of the offender. [2017 3rd sp.s. c 6 § 714; 1991 sp.s. c 13 § 10; 1985 c 57 § 71; 1983 c 279 § 2; 1979 ex.s. c 108 § 3.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

72.72.040 Reimbursement—Rules. (1) The secretary of children, youth, and families and the secretary of corrections shall each promulgate rules pursuant to chapter 34.05 RCW regarding the reimbursement process for their respective agencies.

(2) Reimbursement shall not be made if otherwise provided pursuant to other provisions of state law. [2017 3rd sp.s. c 6 § 715; 1983 c 279 § 3; 1979 ex.s. c 108 § 4.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

72.72.050 Disturbances at state penal facilities—Reimbursement to cities and counties for certain expenses incurred—Funding. The state shall reimburse cities and counties for their expenses incurred directly as a result of their providing personnel and material pursuant to a contingency plan adopted under RCW 72.02.150. Reimbursement to cities and counties shall be expended solely from the institutional impact account within funds available in that account. If the costs of reimbursements to cities and counties exceed available funds, the secretary of corrections shall request the legislature to appropriate sufficient funds to enable the secretary of corrections to make full reimbursement. [1983 c 279 § 4; 1982 c 49 § 3.]

72.72.060 Disturbances at state penal facilities—Reimbursement to cities and counties for physical injury benefit costs—Limitations. The state shall reimburse cities and counties for their costs incurred under chapter 41.26 RCW if the costs are the direct result of physical injuries sustained in the implementation of a contingency plan adopted under RCW 72.02.150 and if reimbursement is not precluded by the following provisions: If the secretary of corrections identifies in the contingency plan the prison walls or other perimeter of the secured area, then reimbursement will not be made unless the injuries occur within the walls or other perimeter of the secured area. If the secretary of corrections does not identify prison walls or other perimeter of the secured area, then reimbursement shall not be made unless the injuries result from providing assistance, requested by the secretary of corrections or the secretary's designee, which is beyond the description of the assistance contained in the contingency plan. In no case shall reimbursement be made when the injuries result from conduct which either is not requested by the secretary of corrections or the secretary's designee, or is in violation of orders by superiors of the local law enforcement agency. [1983 c 279 § 5; 1982 c 49 § 4.]

Chapter 72.74 RCW

INTERSTATE CORRECTIONS COMPACT

Sections

72.74.010	Short title.
72.74.020	Authority to execute, terms of compact.
72.74.030	Authority to receive or transfer inmates.
72.74.040	Enforcement.
72.74.050	Hearings.
72.74.060	Contracts for implementation.
72.74.070	Clothing, transportation, and funds for state inmates released in other states.

72.74.010 Short title. This chapter shall be known and may be cited as the Interstate Corrections Compact. [1983 c 255 § 12.]

72.74.020 Authority to execute, terms of compact. The secretary of the department of corrections is hereby authorized and requested to execute, on behalf of the state of Washington, with any other state or states legally joining therein a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

(1) The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, and with the federal government, thereby serving the best interest of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment, and rehabilitation of offenders with the most economical use of human and material resources.

(2) As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed, under sentence to, or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in subsection (2)(d) of this section may lawfully be confined.

(3)(a) Each party state may make one or more contracts with any one or more of the other party states, or with the federal government, for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(i) Its duration;

(ii) Payments to be made to the receiving state or to the federal government, by the sending state for inmate maintenance,

extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

(iii) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

(iv) Delivery and retaking of inmates;

(v) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.

(4)(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to subsection (3)(a) of this section, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state, provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of subsection (3)(a) of this section.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact, including a conduct record of each inmate, and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of

any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record, together with any recommendations of the hearing officials, shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parents, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

(5)(a) Any decision of the sending state in respect to any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and

agencies of any jurisdiction directed toward the apprehension and return of an escapee.

(6) Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto; and any inmate in a receiving state pursuant to this compact may participate in any such federally-aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

(7) This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

(8) This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

(9) Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

(10) The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1983 c 255 § 13.]

72.74.030 Authority to receive or transfer inmates.

The secretary of corrections is authorized to receive or transfer an inmate as defined in the Interstate Corrections Compact to any institution as defined in the Interstate Corrections Compact within this state or without this state, if this state has entered into a contract or contracts for the confinement of inmates in such institutions pursuant to subsection (3) of the Interstate Corrections Compact. [1983 c 255 § 14.]

72.74.040 Enforcement. The courts, departments, agencies, and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the

effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission of such reports as are required by the compact. [1983 c 255 § 15.]

72.74.050 Hearings. The secretary is authorized and directed to hold such hearings as may be requested by any other party state pursuant to subsection (4)(f) of the Interstate Corrections Compact. Additionally, the secretary may hold out-of-state hearings in connection with the case of any inmate of this state confined in an institution of another state party to the Interstate Corrections Compact. [1983 c 255 § 16.]

72.74.060 Contracts for implementation. The secretary of corrections is empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Interstate Corrections Compact pursuant to subsection (3) of the compact. No such contract shall be of any force or effect until approved by the attorney general. [1983 c 255 § 17.]

72.74.070 Clothing, transportation, and funds for state inmates released in other states. If any agreement between this state and any other state party to the Interstate Corrections Compact enables an inmate of this state confined in an institution of another state to be released in such other state in accordance with subsection (4)(g) of this compact, then the secretary is authorized to provide clothing, transportation, and funds to such inmate in accordance with RCW 72.02.100. [1983 c 255 § 18.]

Chapter 72.76 RCW

INTRASTATE CORRECTIONS COMPACT

Sections

72.76.005	Intent.
72.76.010	Compact enacted—Provisions.
72.76.020	Costs and accounting of offender days.
72.76.030	Contracts authorized for implementation of participation— Application of chapter.
72.76.040	Fiscal management.
72.76.900	Short title.

72.76.005 Intent. It is the intent of the legislature to enable and encourage a cooperative relationship between the department of corrections and the counties of the state of Washington, and to provide adequate facilities and programs for the confinement, care, treatment, and employment of offenders through the exchange or transfer of offenders. [1989 c 177 § 2.]

72.76.010 Compact enacted—Provisions. The Washington intrastate corrections compact is enacted and entered into on behalf of this state by the department with any and all counties of this state legally joining in a form substantially as follows:

WASHINGTON INTRASTATE CORRECTIONS COMPACT

A compact is entered into by and among the contracting counties and the department of corrections, signatories

hereto, for the purpose of maximizing the use of existing resources and to provide adequate facilities and programs for the confinement, care, treatment, and employment of offenders.

The contracting counties and the department do solemnly agree that:

(1) As used in this compact, unless the context clearly requires otherwise:

(a) "Department" means the Washington state department of corrections.

(b) "Secretary" means the secretary of the department of corrections or designee.

(c) "Compact jurisdiction" means the department of corrections or any county of the state of Washington which has executed this compact.

(d) "Sending jurisdiction" means a county party to this agreement or the department of corrections to whom the courts have committed custody of the offender.

(e) "Receiving jurisdiction" means the department of corrections or a county party to this agreement to which an offender is sent for confinement.

(f) "Offender" means a person who has been charged with and/or convicted of an offense established by applicable statute or ordinance.

(g) "Convicted felony offender" means a person who has been convicted of a felony established by state law and is eighteen years of age or older, or who is less than eighteen years of age, but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110 or has been tried in a criminal court pursuant to *RCW 13.04.030(1)(e)(iv).

(h) An "offender day" includes the first day an offender is delivered to the receiving jurisdiction, but ends at midnight of the day immediately preceding the day of the offender's release or return to the custody of the sending jurisdiction.

(i) "Facility" means any state correctional institution, camp, or other unit established or authorized by law under the jurisdiction of the department of corrections; any jail, holding, detention, special detention, or correctional facility operated by the county for the housing of adult offenders; or any contract facility, operated on behalf of either the county or the state for the housing of adult offenders.

(j) "Extraordinary medical expense" means any medical expense beyond that which is normally provided by contract or other health care providers at the facility of the receiving jurisdiction.

(k) "Compact" means the Washington intrastate corrections compact.

(2)(a) Any county may make one or more contracts with one or more counties, the department, or both for the exchange or transfer of offenders pursuant to this compact. Appropriate action by ordinance, resolution, or otherwise in accordance with the law of the governing bodies of the participating counties shall be necessary before the contract may take effect. The secretary is authorized and requested to execute the contracts on behalf of the department. Any such contract shall provide for:

(i) Its duration;

(ii) Payments to be made to the receiving jurisdiction by the sending jurisdiction for offender maintenance, extraordinary medical and dental expenses, and any participation in or

receipt by offenders of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance;

(iii) Participation in programs of offender employment, if any; the disposition or crediting of any payments received by offenders on their accounts; and the crediting of proceeds from or the disposal of any products resulting from the employment;

(iv) Delivery and retaking of offenders;

(v) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving jurisdictions.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant to the contract. Nothing in any contract may be inconsistent with the compact.

(3)(a) Whenever the duly constituted authorities of any compact jurisdiction decide that confinement in, or transfer of an offender to a facility of another compact jurisdiction is necessary or desirable in order to provide adequate housing and care or an appropriate program of rehabilitation or treatment, the officials may direct that the confinement be within a facility of the other compact jurisdiction, the receiving jurisdiction to act in that regard solely as agent for the sending jurisdiction.

(b) The receiving jurisdiction shall be responsible for the supervision of all offenders which it accepts into its custody.

(c) The receiving jurisdiction shall be responsible to establish screening criteria for offenders it will accept for transfer. The sending jurisdiction shall be responsible for ensuring that all transferred offenders meet the screening criteria of the receiving jurisdiction.

(d) The sending jurisdiction shall notify the sentencing courts of the name, charges, cause numbers, date, and place of transfer of any offender, prior to the transfer, on a form to be provided by the department. A copy of this form shall accompany the offender at the time of transfer.

(e) The receiving jurisdiction shall be responsible for providing an orientation to each offender who is transferred. The orientation shall be provided to offenders upon arrival and shall address the following conditions at the facility of the receiving jurisdiction:

(i) Requirements to work;

(ii) Facility rules and disciplinary procedures;

(iii) Medical care availability; and

(iv) Visiting.

(f) Delivery and retaking of inmates shall be the responsibility of the sending jurisdiction. The sending jurisdiction shall deliver offenders to the facility of the receiving jurisdiction where the offender will be housed, at the dates and times specified by the receiving jurisdiction. The receiving jurisdiction retains the right to refuse or return any offender. The sending jurisdiction shall be responsible to retake any transferred offender who does not meet the screening criteria of the receiving jurisdiction, or who is refused by the receiving jurisdiction. If the receiving jurisdiction has notified the sending jurisdiction to retake an offender, but the sending jurisdiction does not do so within a seven-day period, the receiving jurisdiction may return the offender to the sending jurisdiction at the expense of the sending jurisdiction.

(g) Offenders confined in a facility under the terms of this compact shall at all times be subject to the jurisdiction of the sending jurisdiction and may at any time be removed from the facility for transfer to another facility within the sending jurisdiction, for transfer to another facility in which the sending jurisdiction may have a contractual or other right to confine offenders, for release or discharge, or for any other purpose permitted by the laws of the state of Washington.

(h) Unless otherwise agreed, the sending jurisdiction shall provide at least one set of the offender's personal clothing at the time of transfer. The sending jurisdiction shall be responsible for searching the clothing to ensure that it is free of contraband. The receiving jurisdiction shall be responsible for providing work clothing and equipment appropriate to the offender's assignment.

(i) The sending jurisdiction shall remain responsible for the storage of the offender's personal property, unless prior arrangements are made with the receiving jurisdiction. The receiving jurisdiction shall provide a list of allowable items which may be transferred with the offender.

(j) Copies or summaries of records relating to medical needs, behavior, and classification of the offender shall be transferred by the sending jurisdiction to the receiving jurisdiction at the time of transfer. At a minimum, such records shall include:

(i) A copy of the commitment order or orders legally authorizing the confinement of the offender;

(ii) A copy of the form for the notification of the sentencing courts required by subsection (3)(d) of this section;

(iii) A brief summary of any known criminal history, medical needs, behavioral problems, and other information which may be relevant to the classification of the offender; and

(iv) A standard identification card which includes the fingerprints and at least one photograph of the offender.

Disclosure of public records shall be the responsibility of the sending jurisdiction, except for those documents generated by the receiving jurisdiction.

(k) The receiving jurisdiction shall be responsible for providing regular medical care, including prescription medication, but extraordinary medical expenses shall be the responsibility of the sending jurisdiction. The costs of extraordinary medical care incurred by the receiving jurisdiction for transferred offenders shall be reimbursed by the sending jurisdiction. The receiving jurisdiction shall notify the sending jurisdiction as far in advance as practicable prior to incurring such costs. In the event emergency medical care is needed, the sending jurisdiction shall be advised as soon as practicable after the offender is treated. Offenders who are required by the medical authority of the sending jurisdiction to take prescription medication at the time of the transfer shall have at least a three-day supply of the medication transferred to the receiving jurisdiction with the offender, and at the expense of the sending jurisdiction. Costs of prescription medication incurred after the use of the supply shall be borne by the receiving jurisdiction.

(l) Convicted offenders transferred under this agreement may be required by the receiving jurisdiction to work. Transferred offenders participating in programs of offender employment shall receive the same reimbursement, if any, as other offenders performing similar work. The receiving juris-

diction shall be responsible for the disposition or crediting of any payments received by offenders, and for crediting the proceeds from or disposal of any products resulting from the employment. Other programs normally provided to offenders by the receiving jurisdiction such as education, mental health, or substance abuse treatment shall also be available to transferred offenders, provided that usual program screening criteria are met. No special or additional programs will be provided except by mutual agreement of the sending and receiving jurisdiction, with additional expenses, if any, to be borne by the sending jurisdiction.

(m) The receiving jurisdiction shall notify offenders upon arrival of the rules of the jurisdiction and the specific rules of the facility. Offenders will be required to follow all rules of the receiving jurisdiction. Disciplinary detention, if necessary, shall be provided at the discretion of the receiving jurisdiction. The receiving jurisdiction may require the sending jurisdiction to retake any offender found guilty of a serious infraction; similarly, the receiving jurisdiction may require the sending jurisdiction to retake any offender whose behavior requires segregated or protective housing.

(n) Good-time calculations and notification of each offender's release date shall be the responsibility of the sending jurisdiction. The sending jurisdiction shall provide the receiving jurisdiction with a formal notice of the date upon which each offender is to be released from custody. If the receiving jurisdiction finds an offender guilty of a violation of its disciplinary rules, it shall notify the sending jurisdiction of the date and nature of the violation. If the sending jurisdiction resets the release date according to its good-time policies, it shall provide the receiving jurisdiction with notice of the new release date.

(o) The sending jurisdiction shall retake the offender at the receiving jurisdiction's facility on or before his or her release date, unless the sending and receiving jurisdictions shall agree upon release in some other place. The sending jurisdiction shall bear the transportation costs of the return.

(p) Each receiving jurisdiction shall provide monthly reports to each sending jurisdiction on the number of offenders of that sending jurisdiction in its facilities pursuant to this compact.

(q) Each party jurisdiction shall notify the others of its coordinator who is responsible for administering the jurisdiction's responsibilities under the compact. The coordinators shall arrange for alternate contact persons in the event of an extended absence of the coordinator.

(r) Upon reasonable notice, representatives of any party to this compact shall be allowed to visit any facility in which another party has agreed to house its offenders, for the purpose of inspecting the facilities and visiting its offenders that may be confined in the institution.

(4) This compact shall enter into force and become effective and binding upon the participating parties when it has been executed by two or more parties. Upon request, each party county shall provide any other compact jurisdiction with a copy of a duly enacted resolution or ordinance authorizing entry into this compact.

(5) A party participating may withdraw from the compact by formal resolution and by written notice to all other parties then participating. The withdrawal shall become effective, as it pertains to the party wishing to withdraw,

thirty days after written notice to the other parties. However, such withdrawal shall not relieve the withdrawing party from its obligations assumed prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing participant shall notify the other parties to retake the offenders it has housed in its facilities and shall remove to its facilities, at its own expense, offenders it has confined under the provisions of this compact.

(6) Legal costs relating to defending actions brought by an offender challenging his or her transfer to another jurisdiction under this compact shall be borne by the sending jurisdiction. Legal costs relating to defending actions arising from events which occur while the offender is in the custody of a receiving jurisdiction shall be borne by the receiving jurisdiction.

(7) The receiving jurisdiction shall not be responsible to provide legal services to offenders placed under this agreement. Requests for legal services shall be referred to the sending jurisdiction.

(8) The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution or laws of the state of Washington or is held invalid, the validity of the remainder of this compact and its applicability to any county or the department shall not be affected.

(9) Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a county or the department may have with each other or with a nonparty county for the confinement, rehabilitation, or treatment of offenders. [1994 sp.s. c 7 § 539; 1989 c 177 § 3.]

**Reviser's note:* RCW 13.04.030 was amended by 1997 c 341 § 3, changing subsection (1)(e)(iv) to subsection (1)(e)(v).

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

72.76.020 Costs and accounting of offender days. (1)

The costs per offender day to the sending jurisdiction for the custody of offenders transferred according to the terms of this agreement shall be at the rate set by the state of Washington, office of financial management under RCW 70.48.440, unless the parties agree to another rate in a particular transfer. The costs may not include extraordinary medical costs, which shall be billed separately. Except in the case of prisoner exchanges, as described in subsection (2) of this section, the sending jurisdiction shall be billed on a monthly basis by the receiving jurisdiction. Payment shall be made within thirty days of receipt of the invoice.

(2) When two parties to this agreement transfer offenders to each other, there shall be an accounting of the number of "offender days." If the number is exactly equal, no payment is necessary for the affected period. The payment by the jurisdiction with the higher net number of offender days may be reduced by the amount otherwise due for the number of offender days its offenders were held by the receiving jurisdiction. Billing and reimbursement shall remain on the monthly schedule, and shall be supported by the forms and procedures provided by applicable regulations. The accounting of offender days exchanged may be reconciled on a

monthly basis, but shall be at least quarterly. [1989 c 177 § 4.]

72.76.030 Contracts authorized for implementation of participation—Application of chapter. The secretary is empowered to enter into contracts on behalf of this state on the terms and conditions as may be appropriate to implement the participation of the department in the Washington intrastate corrections compact under RCW 72.76.010(2). Nothing in this chapter is intended to create any right or entitlement in any offender transferred or housed under the authority granted in this chapter. The failure of the department or the county to comply with any provision of this chapter as to any particular offender or transfer shall not invalidate the transfer nor give rise to any right for such offender. [1989 c 177 § 5.]

72.76.040 Fiscal management. Notwithstanding any other provisions of law, payments received by the department pursuant to contracts entered into under the authority of this chapter shall be treated as nonappropriated funds and shall be exempt from the allotment controls established under chapter 43.88 RCW. The secretary may use such funds, in addition to appropriated funds, to provide institutional and community corrections programs. The secretary may, in his or her discretion and in lieu of direct fiscal payment, offset the obligation of any sending jurisdiction against any obligation the department may have to the sending jurisdiction. Outstanding obligations of the sending jurisdiction may be carried forward across state fiscal periods by the department as a credit against future obligations of the department to the sending jurisdiction. [1989 c 177 § 6.]

72.76.900 Short title. This chapter shall be known and may be cited as the Washington Intrastate Corrections Compact. [1989 c 177 § 1.]

Chapter 72.78 RCW

COMMUNITY TRANSITION COORDINATION NETWORKS

Sections

72.78.005	Findings—2007 c 483.
72.78.010	Definitions.
72.78.040	Pilot program limitations—Individual reentry plan liability limited.
72.78.070	Funding entitlement, obligation to maintain network not created.

72.78.005 Findings—2007 c 483. The people of the state of Washington expect to live in safe communities in which the threat of crime is minimized. Attempting to keep communities safe by building more prisons and paying the costs of incarceration has proven to be expensive to taxpayers. Incarceration is a necessary consequence for some offenders, however, the vast majority of those offenders will eventually return to their communities. Many of these former offenders will not have had the opportunity to address the deficiencies that may have contributed to their criminal behavior. Persons who do not have basic literacy and job skills, or who are ill-equipped to make the behavioral changes necessary to successfully function in the community, have a high risk of reoffense. Recidivism represents serious

costs to victims, both financial and nonmonetary in nature, and also burdens state and local governments with those offenders who recycle through the criminal justice system.

The legislature believes that recidivism can be reduced and a substantial cost savings can be realized by utilizing evidence-based, research-based, and promising programs to address offender deficits, developing and better coordinating the reentry efforts of state and local governments and local communities. Research shows that if quality assurances are adhered to, implementing an optimal portfolio of evidence-based programming options for offenders who are willing to take advantage of such programs can have a notable impact on recidivism.

While the legislature recognizes that recidivism cannot be eliminated and that a significant number of offenders are unwilling or unable to work to develop the tools necessary to successfully reintegrate into society, the interests of the public overall are better served by better preparing offenders while incarcerated, and continuing those efforts for those recently released from prison or jail, for successful, productive, and healthy transitions to their communities. Educational, employment, and treatment opportunities should be designed to address individual deficits and ideally give offenders the ability to function in society. In order to foster reintegration, chapter 483, Laws of 2007 recognizes the importance of a strong partnership between the department of corrections, local governments, law enforcement, social service providers, and interested members of communities across our state. [2007 c 483 § 1.]

72.78.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) A "community transition coordination network" is a system of coordination that facilitates partnerships between supervision and service providers. It is anticipated that an offender who is released to the community will be able to utilize a community transition coordination network to be connected directly to the supervision and/or services needed for successful reentry.

(2) "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.

(3) An "individual reentry plan" means the plan to prepare an offender for release into the community. A reentry plan is developed collaboratively between the supervising authority and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offenders' risks and needs. An individual reentry plan describes actions that should occur to prepare individual offenders for release from jail or prison and specifies the supervision and/or services he or she will experience in the community, taking into account no contact provisions of the judgment and sentence. An individual reentry plan should be updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(4) "Local community policing and supervision programs" include probation, work release, jails, and other pro-

grams operated by local police, courts, or local correctional agencies.

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

(6) "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.

(7) "Supervising authority" means the agency or entity that has the responsibility for supervising an offender. [2007 c 483 § 101.]

72.78.040 Pilot program limitations—Individual reentry plan liability limited. (1) Nothing in *RCW 72.78.030 is intended to shift the supervising responsibility or sanctioning authority from one government entity to another or give a community transition coordination network oversight responsibility for those activities or allow imposition of civil liability where none existed previously.

(2) An individual reentry plan may not be used as the basis of liability against local government entities, or its officers or employees. [2007 c 483 § 104.]

*Reviser's note: RCW 72.78.030 expired June 30, 2013.

Intent—2007 c 483: See note following RCW 72.09.270.

72.78.070 Funding entitlement, obligation to maintain network not created. Nothing in chapter 483, Laws of 2007 creates an entitlement for a county or group of counties to receive funding under the program created in *RCW 72.78.030, nor an obligation for a county or group of counties to maintain a community transition coordination network established pursuant to *RCW 72.78.030 upon expiration of state funding. [2007 c 483 § 107.]

*Reviser's note: RCW 72.78.030 expired June 30, 2013.

Chapter 72.98 RCW CONSTRUCTION

Sections

72.98.010	Continuation of existing law.
72.98.020	Title, chapter, section headings not part of law.
72.98.030	Invalidity of part of title not to affect remainder.
72.98.040	Repeals and saving.
72.98.050	Bonding acts exempted.
72.98.060	Emergency—1959 c 28.

72.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1959 c 28 § 72.98.010.]

72.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1959 c 28 § 72.98.020.]

72.98.030 Invalidation of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of

the title, or the application of the provision to other persons or circumstances is not affected. [1959 c 28 § 72.98.030.]

72.98.040 Repeals and saving. See 1959 c 28 s 72.98.040.

72.98.050 Bonding acts exempted. This act shall not repeal nor otherwise affect the provisions of the institutional bonding acts (chapter 230, Laws of 1949 and chapters 298 and 299, Laws of 1957). [1959 c 28 § 72.98.050.]

72.98.060 Emergency—1959 c 28. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately, with the exception of RCW 72.01.280 the effective date of which section is July 1, 1959. [1959 c 28 § 72.98.060.]