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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: S-2841.2/17 2nd draft

ATTY/TYPIST: KS:akl

BRIEF DESCRIPTION: Concerning the department of corrections.

1 AN ACT Relating to addressing the department of corrections early  
2 release error; amending RCW 72.09.010, 9.94A.480, 9.94A.585, and  
3 49.60.210; adding new sections to chapter 72.09 RCW; adding a new  
4 section to chapter 9.94A RCW; adding a new chapter to Title 43 RCW;  
5 creating new sections; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that serious  
8 allegations arose in 2016 against the department of corrections  
9 regarding the department's early release error. The governor's office  
10 and senate engaged in investigations that resulted in reports with  
11 recommendations to address the matter. The purpose of this act is to  
12 implement the legislative recommendations contained in those reports.  
13 These reforms will assist in strengthening public safety as well as  
14 procedures and practices that lessen the possibility of actions  
15 occurring within the department of corrections that may adversely  
16 impact the health, safety, welfare, and rehabilitation of offenders,  
17 and that will effectively reduce the exposure of the department to  
18 litigation.

19 **PART 1**  
20 **CREATING THE DEPARTMENT OF CORRECTIONS OMBUDS**

1        NEW SECTION.    **Sec. 2.**    Subject to the availability of amounts  
2 appropriated for this specific purpose, the office of the corrections  
3 ombuds is created for the purpose of providing information to  
4 inmates, family members, representatives of inmates, department  
5 employees, and others regarding the rights of inmates; providing  
6 technical assistance to support inmate self-advocacy; identifying  
7 systemic issues and responses for the governor and the legislature to  
8 act upon; reporting to the legislature; and ensuring compliance with  
9 relevant statutes, rules, and policies pertaining to conditions of  
10 correctional facilities, services, and treatment of inmates under the  
11 jurisdiction of the department.

12        NEW SECTION.    **Sec. 3.**    The definitions in this section apply  
13 throughout this chapter unless the context clearly requires  
14 otherwise.

15        (1) "Abuse" means any act or failure to act by a department  
16 employee, subcontractor, or volunteer which was performed, or which  
17 was failed to be performed, knowingly, recklessly, or intentionally,  
18 and which caused, or may have caused, injury or death to an inmate.

19        (2) "Corrections ombuds" or "ombuds" means the corrections  
20 ombuds, staff of the corrections ombuds, and volunteers with the  
21 office of the corrections ombuds.

22        (3) "Council" means the ombuds advisory council established in  
23 section 4(1) of this act.

24        (4) "Department" means the department of corrections.

25        (5) "Inmate" means a person committed to the physical custody of  
26 the department, including persons residing in a correctional  
27 institution or facility and persons received from another state,  
28 another state agency, a county, or the federal government.

29        (6) "Neglect" means a negligent act or omission by any department  
30 employee, subcontractor, or volunteer which caused, or may have  
31 caused, injury or death to an inmate.

32        (7) "Office" means the office of the corrections ombuds.

33        (8) "Organization" means the private nonprofit organization that  
34 operates the office of the corrections ombuds.

35        NEW SECTION.    **Sec. 4.**    (1) Subject to the availability of amounts  
36 appropriated for this specific purpose, no later than August 1, 2017,  
37 the governor shall convene an ombuds advisory council with several  
38 purposes in support of the ombuds function. The council shall

1 participate in a priority setting process for the purpose of  
2 developing priority recommendations to the ombuds, review data  
3 collected by the ombuds, review reports issued by the ombuds prior to  
4 their release, and make recommendations to the ombuds regarding the  
5 accomplishment of its purposes. The council also has authority to  
6 issue its own reports and recommendations. The council must  
7 biannually review the ombuds' performance, including its compliance  
8 with its internal bylaws and other adopted standards of practice,  
9 reporting to the governor and the legislature regarding its findings.  
10 The council must provide the legislature with recommendations  
11 regarding the ombuds budget and changes in the law that would enhance  
12 the effectiveness of the ombuds.

13 (2) The council initially consists of the following four members:

14 (a) The majority leader and minority leader in the senate shall  
15 appoint one member from each of their respective caucuses of the  
16 senate.

17 (b) The speaker of the house of representatives shall appoint one  
18 member from each of the two largest caucuses of the house of  
19 representatives.

20 (3) The remaining council members consist of the following  
21 members, appointed by the governor, and subject to senate  
22 confirmation:

23 (a) Two former inmates who have successfully reintegrated into  
24 the community and are no longer in the custody of the department;

25 (b) Two family members of current inmates;

26 (c) One expert with significant criminal justice or correctional  
27 experience who is not an employee or contractor with the state of  
28 Washington;

29 (d) A community member with extensive knowledge and experience in  
30 issues related to racial, ethnic, or religious diversity within the  
31 correctional system;

32 (e) A community member with extensive knowledge and experience in  
33 the accommodation needs of individuals with disabilities;

34 (f) Two former department of corrections employees;

35 (g) A current department of corrections chaplain; and

36 (h) A community member with dispute resolution training who has  
37 experience working in the criminal justice or corrections field.

38 (4) The council also includes:

39 (a) The department staff serving as the internal ombuds, if any;

40 (b) A bargaining unit representative; and

1 (c) A representative of the governor's office.

2 (5) After the full membership is attained, the council shall  
3 develop a process for replacing members in case of resignation or  
4 expiration of terms. The council must meet at least once a year.

5 (6) Councilmembers serve a term of two years, except that the  
6 council shall create and implement a system of staggered terms, and  
7 no member other than the department staff serving as the internal  
8 ombuds may serve more than two consecutive terms. The council shall  
9 convene at least quarterly. Councilmembers serve without  
10 compensation, except that funds appropriated for the implementation  
11 of this chapter may be used to reimburse members who are not  
12 employees of Washington state for expenses necessary to the  
13 performance of their duties.

14 NEW SECTION. **Sec. 5.** (1) Subject to the availability of amounts  
15 appropriated for this specific purpose, the department of commerce  
16 shall designate, by a competitive bidding process, the nonprofit  
17 organization that will contract to operate the office of the  
18 corrections ombuds. The contract must last for a period of two years  
19 and may be renewed at the end of the term. The department of commerce  
20 shall select an organization that possesses, directly or through  
21 subcontracts, significant legal expertise, competence with mediation  
22 and alternative dispute resolution, and experience working within  
23 criminal justice and correctional environments. Other relevant  
24 experience may include, but is not limited to, addressing issues  
25 relating to chemical dependency treatment, disability and disability-  
26 related accommodation, respect for racial, ethnic, and religious  
27 diversity, and other civil rights and conditions issues. The selected  
28 organization must have experience and the capacity to communicate  
29 effectively regarding criminal justice issues with policymakers,  
30 stakeholders, and the general public, and must be prepared and able  
31 to provide all program and staff support necessary, directly or  
32 through subcontracts, to carry out all duties of the office.

33 (2) The organization and its subcontractors, if any, are not  
34 state agencies or departments, but instead are private, independent  
35 entities operating under contract with the state.

36 (3) The organization must be an objective and neutral entity that  
37 will impartially investigate complaints.

1 (4) The organization is subject to financial and other audits by  
2 the state auditor's office, and its employees must abide by the  
3 provisions of chapter 42.52 RCW.

4 NEW SECTION. **Sec. 6.** (1) The ombuds shall:

5 (a) Establish priorities for use of the limited resources  
6 appropriated to implement this chapter;

7 (b) Develop policies for responding to records requests from the  
8 public. These policies shall be similar in scope to the requirements  
9 in the public records act except that identifying information about  
10 complainants or witnesses must be protected and nondisclosable unless  
11 the complainant or witness waives confidentiality;

12 (c) Maintain a statewide toll-free telephone number, a collect  
13 telephone number, a web site, and a mailing address for the receipt  
14 of complaints and inquiries;

15 (d) Provide information, as appropriate, to inmates, family  
16 members, representatives of inmates, department employees, and others  
17 regarding the rights of inmates;

18 (e) Provide technical assistance to support inmate participation  
19 in self-advocacy;

20 (f) Monitor department compliance with applicable federal, state,  
21 and local laws, rules, regulations, and policies with a view toward  
22 the appropriate health, safety, welfare, and rehabilitation of  
23 inmates;

24 (g) Monitor and participate in legislative and policy  
25 developments affecting correctional facilities;

26 (h) Establish a statewide uniform reporting system to collect and  
27 analyze data related to complaints regarding the department;

28 (i) Establish procedures to receive, investigate, and resolve  
29 complaints;

30 (j) Submit annually to the council, the governor's office, and  
31 the legislature, by November 1st of each year, a report analyzing the  
32 work of the office, including any recommendations; and

33 (k) Adopt and comply with rules, policies, and procedures  
34 necessary to implement this chapter.

35 (2)(a) The ombuds may initiate and attempt to resolve an  
36 investigation upon his or her own initiative, or upon receipt of a  
37 complaint from an inmate, a family member, a representative of an  
38 inmate, a department employee, or others, regarding:

39 (i) Abuse or neglect;

1 (ii) Department decisions or administrative actions;

2 (iii) Inactions or omissions;

3 (iv) Policies, rules, or procedures; or

4 (v) Alleged violations of law by the department that may  
5 adversely affect the health, safety, welfare, and rights of inmates.

6 (b) Prior to filing a complaint with the ombuds, a person shall  
7 have reasonably pursued resolution of the complaint through the  
8 internal grievance, administrative, or appellate procedures with the  
9 department. However, in no event may an inmate be prevented from  
10 filing a complaint more than ninety business days after filing an  
11 internal grievance, regardless of whether the department has  
12 completed the grievance process. This subsection (2)(b) does not  
13 apply to complaints related to threats of bodily harm including, but  
14 not limited to, sexual or physical assaults or the denial of  
15 necessary medical treatment.

16 (c) The ombuds may decline to investigate any complaint as  
17 provided by the rules adopted under this chapter.

18 (d) If the ombuds does not investigate a complaint, the ombuds  
19 shall notify the complainant of the decision not to investigate and  
20 the reasons for the decision.

21 (e) The ombuds may not investigate any complaints relating to an  
22 inmate's underlying criminal conviction.

23 (f) The ombuds may not investigate a complaint from a department  
24 employee that relates to the employee's employment relationship with  
25 the department.

26 (g) The ombuds may refer complainants and others to appropriate  
27 resources, agencies, or departments.

28 (h) The ombuds may not levy any fees for the submission or  
29 investigation of complaints.

30 (i) At the conclusion of an investigation of a complaint, the  
31 ombuds must render a public decision on the merits of each complaint,  
32 except that the documents supporting the decision are subject to the  
33 confidentiality provisions of section 8 of this act. The ombuds must  
34 communicate the decision to the inmate, if any, and to the  
35 department. The ombuds must state their recommendations and reasoning  
36 if, in the ombuds' opinion, the department or any employee thereof  
37 should:

38 (i) Consider the matter further;

39 (ii) Modify or cancel any action;

40 (iii) Alter a rule, practice, or ruling;

1 (iv) Explain in detail the administrative action in question;

2 (v) Rectify an omission; or

3 (vi) Take any other action.

4 (j) If the ombuds so requests, the department must, within the  
5 time specified, inform the ombuds about any action taken on the  
6 recommendations or the reasons for not complying with the  
7 recommendations.

8 (k) If the ombuds believes, based on the investigation, that  
9 there has been or continues to be a significant inmate health,  
10 safety, welfare, or rehabilitation issue, the ombuds must report the  
11 finding to the governor and the appropriate committees of the  
12 legislature.

13 (l) Before announcing a conclusion or recommendation that  
14 expressly, or by implication, criticizes a person or the department,  
15 the ombuds shall consult with that person or the department. The  
16 ombuds may request to be notified by the department, within a  
17 specified time, of any action taken on any recommendation presented.  
18 The ombuds must notify the inmate, if any, of the actions taken by  
19 the department in response to the ombuds' recommendations.

20 (3) This chapter does not require inmates to file a complaint  
21 with the ombuds in order to exhaust available administrative remedies  
22 for purposes of the prison litigation reform act of 1995, P.L.  
23 104-134.

24 NEW SECTION. **Sec. 7.** (1) The department must permit the ombuds  
25 to enter and inspect, at any reasonable time, any correctional  
26 facility for the purpose of carrying out its duties under this  
27 chapter. The ombuds may inspect, view, photograph, and video record  
28 all areas of the facility that are used by inmates or are accessible  
29 to inmates. Before releasing any photographs or video recordings  
30 taken within a correctional facility, the ombuds must consult with  
31 the department concerning any safety or security issues.

32 (2) The department must allow the ombuds reasonable access to:

33 (a) Inmates, which includes the opportunity to meet and  
34 communicate privately and confidentially with individuals regularly,  
35 both formally and informally, by telephone, mail, and in person; and

36 (b) Department employees, or other persons, who might be  
37 reasonably believed to have knowledge of the incident under  
38 investigation, which includes the opportunity to interview those  
39 individuals.



1 (3) Upon the ombuds' request, the department shall grant the  
2 ombuds the right to access, inspect, and copy all relevant  
3 information, records, or documents in the possession or control of  
4 the department that the ombuds considers necessary in an  
5 investigation of a complaint filed under this chapter, and must  
6 assist the ombuds in obtaining the necessary releases of documents  
7 that are specifically restricted or privileged for use by the ombuds.

8 (4) Following notification from the ombuds with a written demand  
9 for access to agency records, the delegated department staff must  
10 provide the ombuds with access to the requested documentation not  
11 later than twenty business days after the ombuds' written request for  
12 the records.

13 (5) A state or local government agency or entity that has records  
14 that are relevant to a complaint or an investigation conducted by the  
15 ombuds must provide the ombuds with access to such records.

16 (6) The department may not hinder the lawful actions of the  
17 ombuds or employees of the office, or willfully refuse to comply with  
18 lawful demands of the office.

19 (7) The ombuds must work with the department to minimize  
20 disruption to the operations of the department due to ombuds  
21 activities, and must comply with the department's security clearance  
22 processes, provided these processes do not impede the activities  
23 outlined in this chapter.

24 NEW SECTION. **Sec. 8.** (1) Correspondence and communication with  
25 the office is confidential and must be protected as privileged  
26 correspondence in the same manner as legal correspondence or  
27 communication.

28 (2) The office shall establish confidentiality rules and  
29 procedures for all information maintained by the office.

30 (3) The office shall preserve the confidentiality of information  
31 obtained while providing services, including general information,  
32 technical assistance, and investigations, to individuals, including  
33 inmates, family members and representatives of inmates, department  
34 employees, and others. Confidential information may not be disclosed  
35 unless the individual gives informed consent, the disclosure is  
36 impliedly authorized in order to carry out ombuds services, or the  
37 disclosure is authorized by subsection (4) of this section.

38 (4) To the extent the ombuds reasonably believes necessary, the  
39 ombuds:

1 (a) Must reveal information obtained in the course of providing  
2 ombuds services to prevent reasonably certain death or substantial  
3 bodily harm; and

4 (b) May reveal information obtained in the course of providing  
5 ombuds services to prevent the commission of a crime.

6 (5) If the ombuds receives personally identifying information  
7 about individual corrections staff during the course of an  
8 investigation that the ombuds determines is unrelated or unnecessary  
9 to the subject of the investigation or recommendation for action, the  
10 ombuds will not further disclose such information. If the ombuds  
11 determines that such disclosure is necessary to an investigation or  
12 recommendation, the ombuds will contact the staff member as well as  
13 the bargaining unit representative before any disclosure.

14 NEW SECTION. **Sec. 9.** (1) A civil action may not be brought  
15 against any employee of the office for good faith performance of  
16 responsibilities under this chapter.

17 (2) No discriminatory, disciplinary, or retaliatory action may be  
18 taken against a department employee, subcontractor, or volunteer, an  
19 inmate, or a family member or representative of an inmate for any  
20 communication made, or information given or disclosed, to aid the  
21 office in carrying out its responsibilities, unless the communication  
22 or information is made, given, or disclosed maliciously or without  
23 good faith.

24 (3) This section is not intended to infringe on the rights of an  
25 employer to supervise, discipline, or terminate an employee for other  
26 reasons.

27 **PART 2**

28 **DEPARTMENT OF CORRECTIONS**

29 **Sec. 10.** RCW 72.09.010 and 1995 1st sp.s. c 19 s 2 are each  
30 amended to read as follows:

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

34 (1) The ~~((system should))~~ highest duty of the department and the  
35 secretary is to ensure the public safety. The system should be  
36 designed and managed to provide the maximum feasible safety for the

1 persons and property of the general public, the staff, and the  
2 inmates.

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

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

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

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

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

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

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

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

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

30 (6) The system should provide for prudent management of  
31 resources. The avoidance of unnecessary or inefficient public  
32 expenditures on the part of offenders and the department is  
33 essential. Offenders must be accountable to the department, and the  
34 department to the public and the legislature. The human and fiscal  
35 resources of the community are limited. The management and use of  
36 these resources can be enhanced by wise investment, productive  
37 programs, the reduction of duplication and waste, and the joining  
38 together of all involved parties in a common endeavor. Since most  
39 offenders return to the community, it is wise for the state and the

1 communities to make an investment in effective rehabilitation  
2 programs for offenders and the wise use of resources.

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

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

10 (9) The system should meet those national standards which the  
11 state determines to be appropriate.

12 NEW SECTION. **Sec. 11.** A new section is added to chapter 72.09  
13 RCW to read as follows:

14 To ensure public safety and the administration of justice, if the  
15 department has actual knowledge or reason to believe that a computer  
16 calculation error is or has caused an error in the calculation of the  
17 release date for any prisoner, the department shall immediately  
18 manually calculate the release date of that prisoner as well as the  
19 release dates of any similarly sentenced prisoners.

20 NEW SECTION. **Sec. 12.** A new section is added to chapter 72.09  
21 RCW to read as follows:

22 On December 1st of each year, and in compliance with RCW  
23 43.01.036, the department must submit a report to the governor and  
24 relevant policy and fiscal committees of the legislature that details  
25 any information technology backlog at the department along with  
26 specific requirements and plans to address such backlog.

27 **PART 3**  
28 **JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

29 NEW SECTION. **Sec. 13.** (1) Pursuant to chapter 43.09 RCW, the  
30 joint legislative audit and review committee must conduct a  
31 performance audit of the information technology and records related  
32 units at the department of corrections, including:

33 (a) The administrative structure of the units, including whether  
34 the units should be restructured to respond efficiently to changes in  
35 sentencing laws and other emergent issues;

1 (b) The sufficiency of staffing levels and expertise at each of  
2 the units; and

3 (c) An evaluation of the advance corrections project's impact on  
4 workload and staff resources at each of the units.

5 (2) The joint legislative audit and review committee shall report  
6 its findings to the governor and relevant policy and fiscal  
7 committees of the legislature by December 1, 2018.

8 **PART 4**

9 **SENTENCING REFORM**

10 NEW SECTION. **Sec. 14.** A new section is added to chapter 9.94A  
11 RCW to read as follows:

12 In consultation with the administrative office of the courts,  
13 superior court judges' association, Washington association of  
14 prosecuting attorneys, Washington association of criminal defense  
15 lawyers, Washington public defender association, and Washington  
16 association of county clerks, the department shall develop a  
17 mandatory sentencing elements worksheet. The worksheet shall be used  
18 to identify and record the elements of the court's order that are  
19 required by the department to calculate an offender's confinement  
20 term, and community custody term when ordered. The Washington  
21 administrative office of the courts must include the mandatory  
22 sentencing elements worksheet in a specific section within its felony  
23 judgment and sentence forms.

24 **Sec. 15.** RCW 9.94A.480 and 2011 1st sp.s. c 40 s 27 are each  
25 amended to read as follows:

26 (1) A current, newly created or reworked judgment and sentence  
27 document for each felony sentencing shall record any and all  
28 recommended sentencing agreements or plea agreements and the  
29 sentences for any and all felony crimes kept as public records under  
30 RCW 9.94A.475 shall contain the clearly printed name and legal  
31 signature of the sentencing judge. The judgment and sentence document  
32 as defined in this section shall also provide additional space for  
33 the sentencing judge's reasons for going either above or below the  
34 presumptive sentence range for any and all felony crimes covered as  
35 public records under RCW 9.94A.475. In addition, each felony judgment  
36 and sentence document must contain in a specific section the  
37 mandatory sentencing elements worksheet developed by the department

1 of corrections in section 14 of this act. Both the sentencing judge  
2 and the prosecuting attorney's office shall each retain or receive a  
3 completed copy of each sentencing document as defined in this section  
4 for their own records.

5 (2) The caseload forecast council shall be sent a completed copy  
6 of the judgment and sentence document upon conviction for each felony  
7 sentencing under subsection (1) of this section.

8 (3) If any completed judgment and sentence document as defined in  
9 subsection (1) of this section is not sent to the caseload forecast  
10 council as required in subsection (2) of this section, the caseload  
11 forecast council shall have the authority and shall undertake  
12 reasonable and necessary steps to assure that all past, current, and  
13 future sentencing documents as defined in subsection (1) of this  
14 section are received by the caseload forecast council.

15 **Sec. 16.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to  
16 read as follows:

17 (1) A sentence within the standard sentence range, under RCW  
18 9.94A.510 or 9.94A.517, for an offense shall not be appealed. For  
19 purposes of this section, a sentence imposed on a first-time offender  
20 under RCW 9.94A.650 shall also be deemed to be within the standard  
21 sentence range for the offense and shall not be appealed.

22 (2) A sentence outside the standard sentence range for the  
23 offense is subject to appeal by the defendant or the state. The  
24 appeal shall be to the court of appeals in accordance with rules  
25 adopted by the supreme court.

26 (3) Pending review of the sentence, the sentencing court or the  
27 court of appeals may order the defendant confined or placed on  
28 conditional release, including bond.

29 (4) To reverse a sentence which is outside the standard sentence  
30 range, the reviewing court must find: (a) Either that the reasons  
31 supplied by the sentencing court are not supported by the record  
32 which was before the judge or that those reasons do not justify a  
33 sentence outside the standard sentence range for that offense; or (b)  
34 that the sentence imposed was clearly excessive or clearly too  
35 lenient.

36 (5) A review under this section shall be made solely upon the  
37 record that was before the sentencing court. Written briefs shall not  
38 be required and the review and decision shall be made in an expedited  
39 manner according to rules adopted by the supreme court.

1 (6) The court of appeals shall issue a written opinion in support  
2 of its decision whenever the judgment of the sentencing court is  
3 reversed and may issue written opinions in any other case where the  
4 court believes that a written opinion would provide guidance to  
5 sentencing courts and others in implementing this chapter and in  
6 developing a common law of sentencing within the state.

7 (7) The department may petition for a review of a sentence  
8 committing an offender to the custody or jurisdiction of the  
9 department. The review shall be limited to errors of law or to  
10 address a missing, incomplete, or illegible mandatory sentencing  
11 elements section required pursuant to RCW 9.94A.480(1). Such petition  
12 shall be filed with the court of appeals no later than ninety days  
13 after the department has actual knowledge of terms of the sentence.  
14 The petition shall include a certification by the department that all  
15 reasonable efforts to resolve the dispute at the superior court level  
16 have been exhausted.

17 NEW SECTION. **Sec. 17.** (1) Subject to the availability of  
18 amounts appropriated for this specific purpose, the sentencing  
19 guidelines commission shall contract for the services of one or more  
20 external consultants to evaluate the state's sentencing laws and  
21 practices. The consultant must have demonstrated experience in  
22 conducting significant research studies and demonstrated successful  
23 experience in evaluating sentencing systems or practices. The  
24 evaluation must include:

25 (a) Recommendations for changing and improving sentencing laws  
26 and practices to:

27 (i) Reduce complexity and implementation challenges;

28 (ii) Reduce unwarranted disparity;

29 (iii) Increase postconviction review;

30 (iv) Reduce costs to taxpayers;

31 (v) Promote fairness and equity;

32 (vi) Reduce unintended and unnecessary impacts on the community;

33 and

34 (vii) Achieve the intended purposes of sentencing as set forth in  
35 RCW 9.94A.010;

36 (b) Recommendations for:

37 (i) A phased prospective and retroactive implementation of any  
38 proposed changes; and

1 (ii) Establishing an ongoing review of sentencing laws and  
2 practices; and

3 (c) An assessment of:

4 (i) Sentence lengths among different categories of offenders;

5 (ii) Whether those sentences conform to current research  
6 literature on the relationship between sentence lengths and  
7 recidivism;

8 (iii) Sentencing changes adopted by the legislature since 1981,  
9 including frequency, nature, and impact;

10 (iv) Disparity in sentencing laws between similarly situated  
11 offenders, including the rationale for such disparities;

12 (v) The impact of the elimination of the parole system; and

13 (vi) The state's sentencing laws and practices as compared to  
14 other states and other sentencing models.

15 (2) The consultant shall work cooperatively with the sentencing  
16 guidelines commission members to obtain any additional  
17 recommendations or input consistent with the purposes of this  
18 section. Recommendations from the sentencing guidelines commission  
19 shall be included in the consultant's final report.

20 (3) The consultant shall complete its evaluation and submit a  
21 report to the commission, the joint legislative task force on  
22 criminal sentencing under section 18 of this act, the appropriate  
23 committees of the legislature, and the governor by September 1, 2018.  
24 The contract for services must include a requirement for three  
25 briefings before the legislature to take place during the 2018  
26 interim and 2019 regular legislative session, including for the joint  
27 legislative task force on sentencing, the house of representatives,  
28 and the senate.

29 (4) This section expires July 1, 2019.

30 NEW SECTION. **Sec. 18.** (1) A joint legislative task force to  
31 simplify criminal sentencing is established.

32 (2) The task force is composed of members as provided in this  
33 subsection.

34 (a) The president of the senate shall appoint one member from  
35 each of the two largest caucuses of the senate.

36 (b) The speaker of the house of representatives shall appoint one  
37 member from each of the two largest caucuses of the house of  
38 representatives.



1 (c) The president of the senate and the speaker of the house of  
2 representatives jointly shall appoint members representing the:

3 (i) Washington association of sheriffs and police chiefs;

4 (ii) Washington state patrol;

5 (iii) Caseload forecast council;

6 (iv) Washington association of prosecuting attorneys;

7 (v) Washington association of criminal defense attorneys or the  
8 Washington defender association;

9 (vi) Washington state association of counties;

10 (vii) Office of the attorney general;

11 (viii) American civil liberties union of Washington;

12 (ix) Sentencing guidelines commission;

13 (x) Department of corrections;

14 (xi) Superior court judges' association; and

15 (xii) Administrative office for the courts.

16 (3) The task force shall review sentencing laws after  
17 consideration of the study under section 17 of this act and the  
18 consultant's recommendations. The task force shall develop  
19 recommendations to reduce sentencing implementation complexities and  
20 errors, improve the effectiveness of the sentencing system, and  
21 promote public safety. The task force must consider recommendations  
22 that:

23 (a) Reduce sentencing complexity while reducing punishment;

24 (b) Reduce sentencing complexity while increasing punishment; and

25 (c) Reduce sentencing complexity and do not either reduce or  
26 increase punishment under existing law.

27 (4) The legislative membership shall convene the initial meeting  
28 of the task force no later than September 2018.

29 (5) The task force shall submit a report, which may include  
30 findings, recommendations, and proposed legislation, to the  
31 appropriate committees of the legislature by December 1, 2019.

32 (6) Staff support for the task force must be provided by the  
33 senate committee services and the house office of program research.

34 (7) Legislative members of the task force are reimbursed for  
35 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
36 members are not entitled to be reimbursed for travel expenses if they  
37 are elected officials or are participating on behalf of an employer,  
38 governmental entity, or other organization. Any reimbursement for  
39 other nonlegislative members is subject to chapter 43.03 RCW.

1 (8) The expenses of the task force shall be paid jointly by the  
2 senate and the house of representatives. Task force expenditures are  
3 subject to approval by the senate facilities and operations committee  
4 and the house executive rules committee, or their successor  
5 committees.

6 (9) This section expires July 1, 2020.

7 **PART 5**  
8 **GENERAL PROVISIONS**

9 **Sec. 19.** RCW 49.60.210 and 2011 1st sp.s. c 42 s 25 are each  
10 amended to read as follows:

11 (1) It is an unfair practice for any employer, employment agency,  
12 labor union, or other person to discharge, expel, or otherwise  
13 discriminate against any person because he or she has opposed any  
14 practices forbidden by this chapter, or because he or she has filed a  
15 charge, testified, or assisted in any proceeding under this chapter.

16 (2)(a) It is an unfair practice for a government agency or  
17 government manager or supervisor to retaliate against a whistleblower  
18 as defined in chapter 42.40 RCW.

19 (b) A settlement of any cause of action brought by an employee  
20 under this subsection may not contain a provision prohibiting the  
21 employee from future work in state government unless the government  
22 agency has a significant ongoing concern for the public health,  
23 safety, or welfare as a result of the person's future employment.

24 (3) It is an unfair practice for any employer, employment agency,  
25 labor union, government agency, government manager, or government  
26 supervisor to discharge, expel, discriminate, or otherwise retaliate  
27 against an individual assisting with an office of fraud and  
28 accountability investigation under RCW 74.04.012, unless the  
29 individual has willfully disregarded the truth in providing  
30 information to the office.

31 NEW SECTION. **Sec. 20.** In the contract for the next regularly  
32 scheduled performance audit under RCW 42.40.110 following the  
33 effective date of this section, the office of financial management  
34 must require the audit to review the ability of department of  
35 corrections employees to use the state employee whistleblower  
36 program. The audit must include findings and recommendations,

1 including possible changes to improve the effectiveness of the  
2 whistleblower program.

3 NEW SECTION. **Sec. 21.** Sections 14, 15, and 16 of this act apply  
4 to sentences imposed on or after July 1, 2018.

5 NEW SECTION. **Sec. 22.** Sections 2 through 9 of this act  
6 constitute a new chapter in Title 43 RCW.

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