

# STATE OF NEW YORK

1398

2023-2024 Regular Sessions

## IN ASSEMBLY

January 17, 2023

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Correction

AN ACT to establish a commission on post-secondary correctional education; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds that  
2 the availability of post-secondary correctional education has the poten-  
3 tial to reduce recidivism, increase employment opportunities for incar-  
4 cerated individual upon release and have a positive impact on prison  
5 safety and security. The legislature further finds that there is  
6 currently a lack of available post-secondary educational opportunities  
7 for incarcerated individuals in the New York state prison system.

8 Studies have consistently found that the higher the level of education  
9 attained, the more likely a former incarcerated individual will be to  
10 obtain gainful and stable employment, and the less likely he or she will  
11 be to engage in future criminal activity. However, in 1994, federal  
12 tuition assistance, in the form of Pell Grants, for individuals incar-  
13 cerated in federal and state correctional facilities was terminated with  
14 the enactment of the Violent Crime Control and Law Enforcement Act.  
15 Then, in 1995, New York prohibited incarcerated individuals from access-  
16 ing state funds through the Tuition Assistance Program (TAP) for post-  
17 secondary correctional education. According to a report published by  
18 the Correctional Association of New York in January, 2009, entitled  
19 "Education From the Inside, Out: The Multiple Benefits of College  
20 Programs in Prison," only four out of seventy post-secondary correction-  
21 al education programs continued to operate in New York following the  
22 termination of TAP availability for incarcerated individuals.

23 According to the Correctional Association of New York report, statis-  
24 tical evidence from several highly regarded studies demonstrates that

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 college programming in prison is a highly effective tool in reducing  
2 recidivism. For example, the report cites a 1991 study released by New  
3 York's department of correctional services that found incarcerated indi-  
4 viduals who earned a degree while incarcerated had a 26.4 percent reci-  
5 divism rate whereas 44.6 percent of participants who did not earn a  
6 degree were returned to custody. The report cites another influential  
7 study, published in 2004, "Post-Secondary Correctional Education and  
8 Recidivism: A Meta-Analysis of Research Conducted 1990-1999," that found  
9 incarcerated individuals who participated in post-secondary correctional  
10 education programs recidivated 22 percent of the time and those who did  
11 not participate had a recidivism rate of 41 percent. Further, the New  
12 York state commission on sentencing reform recently reported that post-  
13 secondary correctional education programs have been shown to reduce  
14 recidivism by up to 40% and the commission recommended that more post-  
15 secondary educational opportunities be made available to incarcerated  
16 individuals.

17 The Correctional Association of New York report also asserts that  
18 in-prison college programs are a cost-effective method of improving  
19 public safety. The report states that "the cost differences in education  
20 versus incarceration in New York, plus the short- and long-term benefits  
21 of a better educated population, makes investment in higher education  
22 for incarcerated individuals and people in the community smart fiscal  
23 policy." The report cites one cost-benefit analysis that found the cost  
24 to a state per crime prevented by offering education to incarcerated  
25 individuals is about \$1,600 while the cost per crime prevented by  
26 extending prison sentences is \$2,800. In other words, according to the  
27 study, a \$1 million investment in incarceration will prevent about 350  
28 crimes, while that same investment in education will prevent more than  
29 600 crimes meaning that correctional education may be almost twice as  
30 cost-effective as incarceration.

31 In addition, research suggests that post-secondary programs in prison  
32 can provide incarcerated individuals with an incentive for good behavior  
33 and greatly enhance an incarcerated individual's problem-solving skills  
34 thereby reducing tension and violent interactions between incarcerated  
35 individuals and staff and among incarcerated individuals. Reportedly,  
36 incarcerated individuals who attend post-secondary educational classes  
37 are among the best-behaved of the incarcerated individual population  
38 because there is a strong incentive to avoid conduct that could result  
39 in discipline and a loss of credit for the college program.

40 Despite the potential benefits of post-secondary correctional educa-  
41 tion programs, only a relatively small number of programs currently  
42 operate in the New York state prisons funded mostly through private  
43 sources, federal grants for youth offenders or through small legislative  
44 initiative grants.

45 § 2. A temporary state commission, to be known as the New York state  
46 commission on post-secondary correctional education, hereinafter  
47 referred to as the commission, is hereby created to examine, evaluate,  
48 and make recommendations concerning the availability, effectiveness and  
49 need for expansion of post-secondary education in the New York state  
50 prison system. The issues to be considered by the commission shall  
51 include, but not be limited to, the following:

52 a. the benefits of post-secondary correctional education in improving  
53 public safety by reducing recidivism;

54 b. the impact of post-secondary correctional education on an incarcer-  
55 ated individual's employment opportunities upon release from prison;

1 c. the impact of post-secondary correctional education on an incarcer-  
2 ated individuals reintegration into society upon release from prison;

3 d. the cost savings, if any, associated with reduced recidivism and  
4 the successful reintegration of released incarcerated individual who  
5 have participated in post-secondary correctional education;

6 e. the impact of post-secondary correctional education on prison safe-  
7 ty and security;

8 f. the need, if any, to expand post-secondary correctional educational  
9 programs in the New York state prison system and the costs associated  
10 with such an expansion; and

11 g. recommendations for funding options, including but not limited to  
12 the Tuition Assistance Program, to increase the availability of post-  
13 secondary correctional education in the New York state prison system.

14 § 3. The commission shall consist of fifteen members, to be appointed  
15 as follows: four members shall be appointed by the governor and shall  
16 include the commissioner of the department of correctional services, and  
17 one member each from the division of parole, the division of criminal  
18 justice services and the New York state higher education services corpo-  
19 ration; six members, with three appointments by the temporary president  
20 of the senate and three by the speaker of the assembly, shall be repre-  
21 sentatives of private providers of post-secondary education services in  
22 New York state prisons, criminal justice advocates, and academic profes-  
23 sionals; one member shall be appointed by the minority leader of the  
24 senate; and one member shall be appointed by the minority leader of the  
25 assembly. The remaining members shall be the chancellor, or his or her  
26 designee, of the city university of New York, the chancellor, or his or  
27 her designee, of the state university of New York and the commissioner  
28 of the state department of education. The commission shall be co-chaired  
29 by the commissioner of the state department of correctional services and  
30 the commissioner of the state department of education. The vice-chair-  
31 person of the commission shall be a representative of one of the private  
32 providers of post-secondary education services as appointed by the  
33 chairpersons. Vacancies in the membership of the commission shall be  
34 filled in the manner provided for original appointments.

35 § 4. The members of the commission shall receive no compensation for  
36 their services, but shall be allowed their actual and necessary expenses  
37 incurred in the performance of their duties hereunder. To the maximum  
38 extent feasible, the commission shall be entitled to request and receive  
39 and shall utilize and be provided with such facilities, resources, and  
40 data of any court, department, division, board, bureau, commission, or  
41 agency of the state or any political subdivision thereof as it deems  
42 necessary or desirable to carry out properly its powers and duties here-  
43 under.

44 § 5. For the accomplishment of its purposes, the commission shall be  
45 authorized and empowered to undertake any studies, inquiries, surveys or  
46 analyses it may deem relevant in cooperation with or by agreement with  
47 any other public or private agency. The commission shall meet and hold  
48 public hearings or private meetings within or without the state, and  
49 shall have all the powers of a legislative committee pursuant to the  
50 legislative law.

51 § 6. The commission shall make a report of its findings, including any  
52 recommendations for legislative action as it may deem necessary and  
53 appropriate, to the governor, the temporary president of the senate, the  
54 speaker of the assembly, the chairperson of the senate committee on  
55 crime victims, crime and correction and the chairperson of the assembly

1 committee on correction no later than one year after the effective date  
2 of this act.  
3 § 7. This act shall take effect immediately and shall expire and be  
4 deemed repealed one year after such effective date; provided that the  
5 appointment of members to the New York state commission on post-second-  
6 dary correctional education shall be completed within sixty days of such  
7 effective date.