
SENATE BILL 5120

State of Washington

66th Legislature

2019 Regular Session

By Senators Palumbo, Darneille, Mullet, Nguyen, Hunt, Saldaña, Lias, Carlyle, Frockt, Hasegawa, and Kuderer

Prefiled 01/10/19. Read first time 01/14/19. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to contracting with private correctional
2 facilities for the transfer or placement of offenders; amending RCW
3 72.68.010; reenacting and amending RCW 72.09.050; adding a new
4 section to chapter 72.68 RCW; and repealing RCW 72.68.012.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 72.68
7 RCW to read as follows:

8 (1) Except as provided in subsection (2) of this section, the
9 state, any county government, city government, or county sheriff's
10 department, is prohibited from entering into a contract with a
11 private contractor or private vendor for the provision of services
12 relating to the operation of a correctional facility or the
13 incarceration of persons in the custody of the department of
14 corrections, the department of children, youth, and families, or a
15 county sheriff.

16 (2) This section does not apply to:

17 (a) State work release centers or juvenile residential facilities
18 that provide separate care or special treatment, operated in whole or
19 in part by private contractors; or

20 (b) Contracts for ancillary services including, but not limited
21 to, medical services, educational services, repair and maintenance

1 contracts, or other services not directly related to the ownership,
2 management, or operation of security services in a correctional
3 facility.

4 **Sec. 2.** RCW 72.09.050 and 1999 c 309 s 1902 and 1999 c 309 s 924
5 are each reenacted and amended to read as follows:

6 The secretary shall manage the department of corrections and
7 shall be responsible for the administration of adult correctional
8 programs, including but not limited to the operation of all state
9 correctional institutions or facilities used for the confinement of
10 convicted felons. In addition, the secretary shall have broad powers
11 to enter into agreements with any federal agency, or any other state,
12 or any Washington state agency or local government providing for the
13 operation of any correctional facility or program for persons
14 convicted of felonies or misdemeanors or for juvenile offenders. Such
15 agreements for counties with local law and justice councils shall be
16 required in the local law and justice plan pursuant to RCW 72.09.300.
17 The agreements may provide for joint operation or operation by the
18 department of corrections, alone, for by any of the other
19 governmental entities, alone. ~~((Beginning February 1, 1999, the
20 secretary may expend funds appropriated for the 1997-1999 biennium to
21 enter into agreements with any local government or private
22 organization in any other state, providing for the operation of any
23 correctional facility or program for persons convicted of felonies.
24 Between July 1, 1999, and June 30, 2001, the secretary may expend
25 funds appropriated for the 1999-01 biennium to enter into agreements
26 with any local government or private organization in any other state,
27 providing for the operation of any correctional facility or program
28 for persons convicted of felonies.))~~ The secretary may employ persons
29 to aid in performing the functions and duties of the department. The
30 secretary may delegate any of his or her functions or duties to
31 department employees, including the authority to certify and maintain
32 custody of records and documents on file with the department. The
33 secretary is authorized to promulgate standards for the department of
34 corrections within appropriation levels authorized by the
35 legislature.

36 Pursuant to the authority granted in chapter 34.05 RCW, the
37 secretary shall adopt rules providing for inmate restitution when
38 restitution is determined appropriate as a result of a disciplinary
39 action.

1 **Sec. 3.** RCW 72.68.010 and 2000 c 62 s 2 are each amended to read
2 as follows:

3 (1) Whenever in its judgment the best interests of the state or
4 the welfare of any prisoner confined in any penal institution will be
5 better served by his or her transfer to another institution or to a
6 foreign country of which the prisoner is a citizen or national, the
7 secretary may effect such transfer consistent with applicable federal
8 laws and treaties. The secretary has the authority to transfer
9 offenders between in-state correctional facilities, or to out-of-
10 state (~~to private or~~) governmental institutions, if the secretary
11 determines that transfer is in the best interest of the state or the
12 offender. The determination of what is in the best interest of the
13 state or offender may include but is not limited to considerations of
14 overcrowding, emergency conditions, or hardship to the offender. In
15 determining whether the transfer will impose a hardship on the
16 offender, the secretary shall consider: (a) The location of the
17 offender's family and whether the offender has maintained contact
18 with members of his or her family; (b) whether, if the offender has
19 maintained contact, the contact will be significantly disrupted by
20 the transfer due to the family's inability to maintain the contact as
21 a result of the transfer; and (c) whether the offender is enrolled in
22 a vocational or educational program that cannot reasonably be resumed
23 if the offender is returned to the state.

24 (2) If directed by the governor, the secretary shall, in carrying
25 out this section and RCW 43.06.350, adopt rules under chapter 34.05
26 RCW to effect the transfer of prisoners requesting transfer to
27 foreign countries.

28 NEW SECTION. **Sec. 4.** RCW 72.68.012 (Transfer to private
29 institutions—Intent—Authority) and 2000 c 62 s 1 are each repealed.

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