
SENATE BILL 6558

State of Washington

66th Legislature

2020 Regular Session

By Senators Nguyen, Darneille, Dhingra, Hasegawa, Saldaña, and Wilson, C.

Read first time 01/22/20. 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 72.68.040, 72.68.010, and 72.68.001; reenacting and amending RCW
4 72.09.050; adding a new section to chapter 72.68 RCW; creating a new
5 section; and repealing RCW 72.68.012.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the type of
8 institution an individual is incarcerated in can have a direct impact
9 on rates of recidivism. The legislature further finds that
10 incarcerating persons in private correctional entities, which have
11 business models dependent on rates of incarceration, may increase the
12 likelihood of those persons recidivating. The legislature resolves
13 that public safety and financial and humanitarian interests are
14 furthered by decreased rates of recidivism. The legislature intends
15 to eliminate the utilization of private correctional entities by
16 Washington state and to allow utilization of private correctional
17 entities in only the most narrow and rare circumstances, in cases of
18 emergency and when security and safety demand.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.68
20 RCW to read as follows:

1 (1) Except as provided in subsection (2) of this section and RCW
2 72.68.010(2), the secretary is prohibited from utilizing a contract
3 with a private correctional entity for the transfer or placement of
4 offenders.

5 (2) This section does not apply to:

6 (a) State work release centers, juvenile residential facilities,
7 nonprofit community-based alternative juvenile detention facilities,
8 or nonprofit community-based alternative adult detention facilities
9 that provide separate care or special treatment, operated in whole or
10 in part by for-profit contractors;

11 (b) Contracts for ancillary services including, but not limited
12 to, medical services, educational services, repair and maintenance
13 contracts, behavioral health services, or other services not directly
14 related to the ownership, management, or operation of security
15 services in a correctional facility; or

16 (c) Tribal entities.

17 **Sec. 3.** RCW 72.09.050 and 1999 c 309 s 1902 and 1999 c 309 s 924
18 are each reenacted and amended to read as follows:

19 The secretary shall manage the department of corrections and
20 shall be responsible for the administration of adult correctional
21 programs, including, but not limited to, the operation of all state
22 correctional institutions or facilities used for the confinement of
23 convicted felons. In addition, the secretary shall have broad powers
24 to enter into agreements with any federal agency, or any other state,
25 or any Washington state agency or local government providing for the
26 operation of any correctional facility or program for persons
27 convicted of felonies or misdemeanors or for juvenile offenders. Such
28 agreements for counties with local law and justice councils shall be
29 required in the local law and justice plan pursuant to RCW 72.09.300.
30 The agreements may provide for joint operation or operation by the
31 department of corrections, alone, for by any of the other
32 governmental entities, alone. ~~((Beginning February 1, 1999, the~~
33 ~~secretary may expend funds appropriated for the 1997-1999 biennium to~~
34 ~~enter into agreements with any local government or private~~
35 ~~organization in any other state, providing for the operation of any~~
36 ~~correctional facility or program for persons convicted of felonies.~~
37 ~~Between July 1, 1999, and June 30, 2001, the secretary may expend~~
38 ~~funds appropriated for the 1999-01 biennium to enter into agreements~~
39 ~~with any local government or private organization in any other state,~~

1 ~~providing for the operation of any correctional facility or program~~
2 ~~for persons convicted of felonies.))~~ The secretary may employ persons
3 to aid in performing the functions and duties of the department. The
4 secretary may delegate any of his or her functions or duties to
5 department employees, including the authority to certify and maintain
6 custody of records and documents on file with the department. The
7 secretary is authorized to promulgate standards for the department of
8 corrections within appropriation levels authorized by the
9 legislature.

10 Pursuant to the authority granted in chapter 34.05 RCW, the
11 secretary shall adopt rules providing for inmate restitution when
12 restitution is determined appropriate as a result of a disciplinary
13 action.

14 **Sec. 4.** RCW 72.68.040 and 2012 c 117 s 500 are each amended to
15 read as follows:

16 (1) The secretary may contract with the authorities of the
17 federal government, or the authorities of any state of the United
18 States, private companies in other states, or any county or city in
19 this state providing for the detention in an institution or jail
20 operated by such entity, for prisoners convicted of a felony in the
21 courts of this state and sentenced to a term of imprisonment therefor
22 in a state correctional institution for convicted felons under the
23 jurisdiction of the department. Except as provided in subsection (2)
24 of this section, after the making of a contract under this section,
25 prisoners sentenced to a term of imprisonment in a state correctional
26 institution for convicted felons may be conveyed by the
27 superintendent or his or her assistants to the institution or jail
28 named in the contract. The prisoners shall be delivered to the
29 authorities of the institution or jail, there to be confined until
30 their sentences have expired or they are otherwise discharged by law,
31 paroled, or until they are returned to a state correctional
32 institution for convicted felons for further confinement.

33 (2) A prisoner may not be conveyed to a private correctional
34 entity except under the circumstances identified in RCW 72.68.010(2)
35 or section 2(2) of this act.

36 **Sec. 5.** RCW 72.68.010 and 2000 c 62 s 2 are each amended to read
37 as follows:

1 (1) Whenever in its judgment the best interests of the state or
2 the welfare of any prisoner confined in any penal institution will be
3 better served by his or her transfer to another institution or to a
4 foreign country of which the prisoner is a citizen or national, the
5 secretary may effect such transfer consistent with applicable federal
6 laws and treaties. The secretary has the authority to transfer
7 offenders between in-state correctional facilities or to out-of-state
8 ~~((to private or))~~ governmental institutions, if the secretary
9 determines that transfer is in the best interest of the state or the
10 offender.

11 (2) The secretary has the authority to transfer offenders to an
12 out-of-state private correctional entity only if the governor finds
13 that an emergency exists such that the population of a state
14 correctional facility exceeds its reasonable, maximum capacity
15 resulting in safety and security concerns, the governor has
16 considered all other legal options to address capacity including
17 those pursuant to RCW 9.94A.870, and the secretary determines that
18 transfer is in the best interest of the state or the offender.

19 (3) The determination of what is in the best interest of the
20 state or offender may include, but is not limited to, considerations
21 of overcrowding, emergency conditions, or hardship to the offender.
22 In determining whether the transfer will impose a hardship on the
23 offender, the secretary shall consider: (a) The location of the
24 offender's family and whether the offender has maintained contact
25 with members of his or her family; (b) whether, if the offender has
26 maintained contact, the contact will be significantly disrupted by
27 the transfer due to the family's inability to maintain the contact as
28 a result of the transfer; and (c) whether the offender is enrolled in
29 a vocational or educational program that cannot reasonably be resumed
30 if the offender is returned to the state.

31 ~~((2))~~ (4) If directed by the governor, the secretary shall, in
32 carrying out this section and RCW 43.06.350, adopt rules under
33 chapter 34.05 RCW to effect the transfer of prisoners requesting
34 transfer to foreign countries.

35 **Sec. 6.** RCW 72.68.001 and 1981 c 136 s 114 are each amended to
36 read as follows:

37 ~~((As used in this chapter:))~~ The definitions in this section
38 apply throughout this chapter unless the context clearly requires
39 otherwise.

1 (1) "Department" means the department of corrections(~~(~~and~~)~~).

2 (2) "Private correctional entity" means a for-profit contractor
3 or for-profit vendor who provides services relating to the ownership,
4 management, or administration of security services of a correctional
5 facility for the incarceration of persons.

6 (3) "Secretary" means the secretary of corrections.

7 NEW SECTION. **Sec. 7.** RCW 72.68.012 (Transfer to private
8 institutions—Intent—Authority) and 2000 c 62 s 1 are each repealed.

--- **END** ---