

HOUSE BILL REPORT

HB 1019

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to constraining the department of corrections' authority to transfer offenders out of state.

Brief Description: Constraining the department of corrections' authority to transfer offenders out of state.

Sponsors: Representatives Roberts, Walsh, Kagi, Green, Darneille, Hasegawa, Goodman, Hurst, Ladenburg, Appleton and Dickerson.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/12/11, 2/4/11 [DPS].

Brief Summary of Substitute Bill

- Prohibits the Department of Corrections (DOC) from transferring offenders out-of-state under certain circumstances.
- Requires the DOC to inform all offenders of its intent to transfer the offenders to an out-of-state facility no less than 14 days prior to the proposed transfers.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Yvonne Walker (786-7841).

Background:

Transfer of Offenders Out-of-State.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Corrections (DOC) may contract with authorities of the federal government and authorities of other states, private companies in other states, or any county or city in Washington providing for the detention and incarceration of prisoners convicted of a felony in Washington.

The DOC may transfer offenders out-of-state to private or governmental institutions if the DOC determines that the transfer is in the best interest of the state or the offender. The determination of what is in the best interest of the state or offender include, but is not limited to, considerations of overcrowding, emergency conditions, or hardship to the offender.

In determining whether the transfer will impose a hardship on an offender, the Secretary of the DOC must consider: (1) the location of the offender's family and whether the offender has maintained contact with members of his or her family; (2) whether, if the offender has maintained contact, 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 (3) whether the offender is enrolled in a vocational or education program that cannot be reasonably resumed if the offender is returned to the state.

Prior to the transfer of any offender to an out-of-state institution, the DOC must, prior to the transfer, review the records of victims registered with the DOC. If a registered victim resides: (1) in a state to which the offender is to be transferred; or (2) in close proximity to the institution to which the offender is to be transferred, then the DOC must notify the victim prior to the transfer and consider the victim's concerns about the transfer. The victim must also be notified of the return of the offender to a facility in Washington prior to the return.

The DOC is responsible for transporting prisoners: (1) to and between state correctional facilities; and (2) between local institutions and state correctional facilities.

Summary of Substitute Bill:

Transfer of Offenders Out-of-State.

The DOC must inform all offenders in writing of its intent to transfer the offenders to an out-of-state facility no less than 14 days prior to the proposed transfers.

Unless it is determined that the safety of an offender or staff would be endangered, the DOC is prohibited from transferring an offender out-of-state if the offender, within five days of being notified of possibly being transferred out-of-state, requests in writing to remain in an in-state facility and demonstrates that he or she:

- is regularly participating in extended family visitations with his or her child;
- is regularly participating in parent-teacher conferences involving his or her child; or
- has had at least six, in-person contacts with his or her child within the six months prior to the proposed transfer.

The mandates for the DOC under the act do not pertain to those instances where offenders have to be moved for safety and security reasons under the Interstate Corrections Compact.

Substitute Bill Compared to Original Bill:

A provision is eliminated that required the DOC to prepare a report to the Legislature if the agency transferred an offender out-of-state (regardless of whether the offender had requested, in writing, to stay in Washington) because they felt retaining the offender in state would endanger the safety of the offender or staff. A new section is added that specifies this act (constraining the DOCs' ability to transfer offenders out-of-state) does not pertain to those offenders that have to be moved for safety and security reasons under the Interstate Corrections Compact.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The House of Representatives passed this bill approximately four years ago and then it died over in the Senate. Since that time the DOC and several task forces have worked on the issue of reuniting incarcerated parents and their children. In addition, other changes have taken place within the DOC system such as having the computers of the DOC and the Department of Social and Health Services' be able to communicate with each other. Maintaining the relationships between offenders and their children have provided positive outcomes for both the offenders and the families.

(Neutral) There is value between the parental/child connection, and families certainly play a role into re-entry for offenders. However, much of what is in the bill is the current practice and a matter of routine for the DOC. A bill may not be needed since the issues addressed in the bill are part of the DOCs' current internal policy. Parental contact is encouraged within the DOC facilities as it has been shown that incarcerated parents that maintain a connection with their families seem to have lower levels of infractions.

(Opposed) None.

Persons Testifying: (In support) Representative Roberts, prime sponsor.

(Neutral) Dan Pacholke and Joenne McGerr, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.