

# HOUSE BILL REPORT

## ESSB 6761

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**As Passed House:**

March 2, 2000

**Title:** An act relating to agreements for the operation of correctional facilities and programs in any other state.

**Brief Description:** Authorizing agreements for the operation of correctional facilities and programs in any other state.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove; by request of Department of Corrections).

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 2/22/00 [DP].

**Floor Activity:**

Passed House: 3/2/00, 98-0.

**Brief Summary of Engrossed Substitute Bill**

- Authorizes the Department of Corrections (DOC) to transfer offenders out-of-state to private or governmental institutions.
- Requires the Department of Corrections (DOC) to consider the victim as well as the offender's family prior to the transfer of any particular offender.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

**Staff:** Yvonne Walker (786-7841).

**Background:**

Since March of 1999, the DOC has transferred approximately 284 offenders from six facilities statewide to the Crowley County Correctional Facility, a private 1,200 bed medium security facility located near Pueblo, Colorado. Although, this is a temporary move until the Stafford Creek Corrections Center in Grays Harbor is completed in mid-2000, this was done in order to accommodate the increase in the offender population that the state could not accommodate. Other alternatives such as a review of other in-state bed space in county jails and federal detention facilities were explored; however, those agencies are experiencing similar population growth, and were unable to provide housing for state prisoners.

Beginning back on February 1, 1999, the secretary of the DOC was authorized to expend funds appropriated for the 1997-1999 biennium to enter into agreements with any local government or private organization in any other state, providing for the operation of any correctional facility or program for persons convicted of felonies. Between July 1, 1999, and June 30, 2001, the secretary was also authorized to expend funds appropriated for the 1999-01 biennium to enter into agreements with any local government or private organization in any other state, providing for the operation of any correctional facility or programs for persons convicted of felonies.

The secretary of the DOC has the power to enter into agreements with any federal agency, or any other state, or any Washington state agency or local government providing for the operation of any correctional facility or program for persons convicted of felonies or misdemeanors or for juvenile offenders.

In addition, whenever the judgment is in the best interest of the state or when the welfare of any prisoner confined in any penal institution will be better served by his or her transfer to another institution or to a foreign country of which the prisoner is a citizen or national, the secretary may transfer the inmate consistent with applicable federal laws and treaties.

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### **Summary of Bill:**

The secretary of the DOC is authorized to transfer offenders out-of-state to private or governmental institutions, if the secretary 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 may include, but is not limited to, considerations of overcrowding, emergency conditions, or hardship to the offender.

In addition, in determining whether the transfer will impose a hardship on the offender, the secretary 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 any family contact will be significantly disrupted by the transfer; and (3)

whether the offender is enrolled in a vocational or educational program that cannot reasonably be resumed if the offender is returned to the state.

The secretary must, prior to the transfer of any offender, review the records of victims registered with the department. If any registered victim of the offender resides in the state or is within close proximity to the institution (as defined by the DOC) to which the offender is to be transferred, the secretary must notify the victim prior to the transfer and consider the victim's concerns about the transfer. Any victim notified, must also be notified of the return of the offender to a facility in Washington prior to the return.

The secretary may contract with the authorities of the federal government, the authorities of any state in the United States, private companies in other states, or any county or city in Washington providing for the detention of inmates in an institution or jail.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** This bill is being proposed simply as a clarification of the authority that was given to the DOC in its budget last year. There has been challenges and lawsuits regarding the language added last year and as a result, the Attorney General's Office suggested that the current language should be clarified.

In addition, the changes to the bill that requires the DOC to notify victims regarding an offender's change in location is supported.

**Testimony Against:** None.

**Testified:** Joe Lehman, Secretary of Department of Corrections.