

HOUSE BILL REPORT

HB 2688

As Reported by House Committee On:
Human Services

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, Goodman, Hasegawa, Appleton, Pedersen and Darneille.

Brief History:

Committee Activity:

Human Services: 1/24/08, 1/31/08 [DPS].

Brief Summary of Substitute Bill

- Prohibits the Department of Corrections from transferring an offender out-of-state if the offender meets certain requirements regarding visitation or other regular engagement with his or her child.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Roberts, Vice Chair; Ahern, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Bailey, Darneille, McCoy and O'Brien.

Staff: Linda Merelle (786-7092).

Background:

Offenders sentenced to confinement do not have the legal right to be housed in a certain prison facility or even in a certain state. The Secretary of the Department of Corrections (Secretary) has the authority to transfer offenders out-of-state to private or governmental institutions if the Secretary determines that it is in the best interest of the state or the offenders. The Secretary may consider overcrowding, emergency conditions, or hardship to the offender.

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.

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 the family; (2) if the offender has maintained contact, whether the contact will be significantly disrupted by the transfer; and (3) whether the offender is enrolled in a vocational or educational program that cannot be reasonably resumed. Offenders do not have a right to a pre-transfer hearing.

Summary of Substitute Bill:

The substitute bill prohibits the Department of Corrections (Department) from transferring an offender to an out-of-state facility if he or she is regularly participating in extended family visits with his or her child, regularly participating in parent-teacher conferences involving his or her child, or if the offender has had at least six contacts in person with his or her child within six months prior to the proposed transfer.

Substitute Bill Compared to Original Bill:

The substitute bill retains the criteria for the prohibition of transfer, except that six contacts with the child within the six months prior to transfer must be in person rather than by telephone. The substitute bill adds the requirement that the Department notify an offender in writing of intent to transfer out-of-state and requires the offender to object in writing and to demonstrate that he or she meets the criteria which would prohibit transfer. The substitute bill allows an offender currently out-of-state to demonstrate that he or she met the criteria prohibiting transfer before he or she was transferred and requires the Department to give such offenders priority when making transfers back to in-state facilities.

The definition of child is modified to correlate more closely to the definition already used by the Department and allows the Department to suspend the implementation of the prohibition on transfer if circumstances are present under which implementation would endanger offenders or staff. The Department must report such circumstances to the appropriate committee chairs and must notify committee chairs when circumstances warranting suspension are resolved.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Thirty-six hundred offenders do not have children, so these offenders can be transferred rather than those who have relationships with their children, and there is no need to break families apart. Family ties are critical to the offender's re-entry back into society.

Children need to have their parents, in particular their fathers, there as a physical presence. The bill should include children with whom the offender has developed a parental relationship, even if there is no legal relationship, and step-children should also be included in the definition of "child." The right support to an offender can change lives. The prisoners who are transferred out-of-state first are the model prisoners, and transferring parents only sends the message that there is no reward for good behavior. Thus the offender is placed in a dilemma to commit some infraction so that he is not transferred, which would affect his ability to see his family, or to behave in a model fashion, only to be more likely considered for transfer out-of-state.

Overcrowding is a result of over-criminalization of certain crimes, particularly drug crimes, and the program that transfers prisoners out-of-state reduces well-behaved incarcerated persons to units of barter. African-American families are on the decline. The Department has used an out-of-state transfer as a punitive measure. The Department should reconsider over-reliance on transfers, and inmates who are participating in programs should be included in the group that are exempt from transfer to an out-of-state facility.

(Opposed) This is a tough issue on families and on the administrators. Family contacts are critical, but we cannot allow overcrowding to endanger prisoners, officers, employees, and the public. Washington currently has 1,200 offenders out of state, and California has sent in excess of 10,000 out-of-state. The Coyote Ridge Corrections Center in Connell, Washington will open and have 2,000 beds, and that will end out-of-state transfers. The Department is already addressing the issues of this bill in its policy and it is difficult to manage offender populations. The Department can find out the number of calls that are made and received, but it cannot determine who a particular person is talking to, whether they are family members or not. More than 80 percent of offenders have family and children and each has an average of two children. This bill will drastically reduce the population that the Department can send out-of-state and it will be very difficult for the Department to implement; the committee is urged not to pass this bill. The Department is already working very hard to keep families together, and the Department requests that the committee not implement the requirement which exempts those who have had six telephone contacts with their children in the previous six months before transfer.

Persons Testifying: (In support) Representative Roberts, prime sponsor; Ronald Ein, Transition Re-Entry Reform Coalition; Ari Kohn and Kimberly Mays, Post-Prison Education Program; Richard and Patricia Stoddard; Nicole Brummitt; Anthony Scott; James Bible, National Association for the Advancement of Colored People; Joy Isakson; Igea Mack; LeRoi Brashears, Washington Association of Churches; Jim Thorpe, Unity House; Dr. Steve Baber, Skyway United Methodist Church; and Carol Estes, Friends Committee on Washington Public Policy.

(Opposed) Ruben Cedeno, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.