

SENATE BILL REPORT

ESSB 6063

As Passed Senate, February 17, 2020

Title: An act relating to improving department of corrections health care administration.

Brief Description: Improving department of corrections health care administration.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Wagoner, Kuderer and Padden).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/21/20, 1/30/20 [DPS].

Floor Activity:

Passed Senate: 2/17/20, 48-0.

Brief Summary of Engrossed First Substitute Bill

- Requires a candidate for a prison medical director position to meet the minimum job qualifications established by the Department of Corrections (DOC) to be considered for the position.
- Requires DOC to consult with the Health Care Authority to develop and implement uniform standards across all DOC facilities for determining when a patient's current health status requires a referral for consultation or treatment outside DOC.
- Specifies that the standards must be based on the health care community standard of care.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 6063 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kelsey-anne Fung (786-7479)

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.

Background: Medical Transfers. DOC provides medically necessary health and mental health care to incarcerated individuals in correctional facilities. This includes major and minor facilities, but does not include work releases. The Washington State DOC Health Plan defines which services are medically necessary and describes which services are available. To be covered by the health plan, the services must be medically necessary, necessary for the health and safety of the incarcerated community for public health reasons, or required by law, regulation, or department policy. The services must be ordered by a department health care practitioner, authorized according to department policies and procedures, and delivered in the most cost-effective manner and location consistent with safe, appropriate care. According to DOC, if a facility, such as a minimum facility, is unable to provide any of the services, an incarcerated individual may be transferred to another facility to assure access to medically necessary services. Emergent and acute care beyond local capability is provided at community hospitals.

DOC has an internal policy governing the intersystem and intrasystem transfer of offenders for health reasons. The policy requires the facility health authority or facility medical director to determine if the offender's condition requires an emergency or non-emergency transfer to another facility. Transfer decisions are based on whether required medical or dental treatment is beyond the scope of the current facility's resources, availability of required services or treatment prescribed or identified by the responsible practitioner, availability of required living accommodations, and medical indications that transfer would worsen the condition. There are separate transfer procedures for non-emergent and emergent transfers. Transfers for mental health reasons are governed by another policy.

Emergency Care. According to the DOC Health Plan, a patient may be transferred to a community clinic or emergency room for care if the level of service required cannot be adequately provided in the facility's health care unit. If medically necessary, a patient may be transported by ambulance, including air ambulance, to expedite transfer to the most appropriate care setting.

Off-site Care. Off-site specialty care must be delivered by a provider contracted with DOC unless:

- the needed service is not available with a contracted provider in a timely manner and an emergency exists; or
- the specific service and location have been authorized by the care review committee or other authorizing mechanism described in the Washington DOC Health Plan.

If it is necessary to use an off-site specialty provider who is not contracted with DOC, the DOC health services contract specialist must be notified by the provider or facility medical director as soon as possible to attempt to contract for the anticipated service.

Prison Medical Director: According to DOC Health Services Division, to qualify as the facility medical director for the Stafford Creek Corrections Center, the successful candidate must have:

- a valid license to practice medicine and surgery in the state, or the ability to obtain a valid license prior to employment;
- completed an approved residency program;
- board certification or be board eligible;

- strong interpersonal skills and experience in directing medical operations; and
- exceptional written and oral communication skills, capable of communicating with correctional administrators, staff, health care professionals, patient advocates, and other laypersons.

To qualify as the facility medical director for the Monroe Correctional Complex, the successful candidate must have:

- an unencumbered license to practice medicine in the state, or the ability to obtain one prior to employment;
- a current Drug Enforcement Agency registration;
- completed an approved residency program;
- board certification or be board eligible in a primary care specialty;
- strong interpersonal skills and experience in directing medical operations;
- exceptional communication skills with the ability to provide education in a manner that enhances one to learn about their disease or chronic condition; and
- the ability to communicate orally and in writing with correctional administrators, staff, health care professionals, patient advocates, and other laypersons.

Summary of Engrossed First Substitute Bill: In accordance with best practices, DOC must establish minimum job qualifications for the position of prison medical director. A candidate must meet the job qualifications to be considered for the position. The qualifications must be reviewed every five years, or more frequently as determined by DOC. By December 1, 2020, DOC must report to the Legislature on the established job qualifications and status of implementation throughout DOC's correctional facilities.

DOC must consult with the Health Care Authority to develop and implement uniform standards across all DOC facilities for determining when a patient's current health status requires a referral for consultation or treatment outside DOC. The standards must be based on the health care community standard of care to ensure medical referrals for consultation or treatment are timely and promote optimal patient outcomes.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Most frequent complaint from inmates is about medical care in prisons. Office of the Corrections Ombuds report also highlighted systemic issues with medical care in prisons. DOC standard of care is not the same as those in the community. Have offender health plan and internal guidance to govern own medical care, however, individual providers are largely left to determine for themselves what constitutes medically necessary care. With aging population, conditions often go unmonitored or untreated. Those who do access care only receive care after repeated requests or extended delays. Some are denied care recommended by specialists

with little reasoning provided. Community standard for medical care is higher than the standard of care provided in DOC. With a population of over 18,000 inmates, there needs to be more standards for to identify how DOC provides medical care to inmates. Ultimately, taxpayers pay the costs for medical care; they pay for it while the individual is incarcerated or pay for it when the individual returns to the community with untreated medical conditions. This bill ensures people get care when they need it.

Persons Testifying: PRO: Senator Keith Wagoner, Prime Sponsor; Rachael Seevers, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying: No one.