

**RCW 72.68.010 Transfer of incarcerated individuals. (1)**

Whenever in its judgment the best interests of the state or the welfare of any incarcerated individual 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 incarcerated individual is a citizen or national, the secretary may effect such transfer consistent with applicable federal laws and treaties. The secretary has the authority to transfer incarcerated individuals between in-state correctional facilities or to out-of-state governmental institutions if the secretary determines that transfer is in the best interest of the state or the incarcerated individual. The determination of what is in the best interest of the state or incarcerated individual may include but is not limited to considerations of overcrowding, emergency conditions, or hardship to the incarcerated individual. In determining whether the transfer will impose a hardship on the incarcerated individual, the secretary shall consider: (a) The location of the incarcerated individual's family and whether the incarcerated individual has maintained contact with members of his or her family; (b) whether, if the incarcerated individual 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 (c) whether the incarcerated individual is enrolled in a vocational or educational program that cannot reasonably be resumed or completed if the incarcerated individual is transferred to another correctional institution or returned to the state.

(2) (a) The secretary has the authority to transfer incarcerated individuals to an out-of-state private correctional entity only if:

(i) The governor finds that an emergency exists such that the population of a state correctional facility exceeds its reasonable, maximum capacity, resulting in safety and security concerns;

(ii) The governor has considered all other legal options to address capacity, including those pursuant to RCW 9.94A.870;

(iii) The secretary determines that transfer is in the best interest of the state or the incarcerated individual; and

(iv) The contract with the out-of-state private correctional entity includes requirements for access to public records to the same extent as if the facility were operated by the department, incarcerated individual access to the office of the corrections ombuds, and inspections and visits without notice.

(b) Should any of these requirements in this subsection not be met, the contract with the private correctional entity shall be terminated.

(3) If directed by the governor, the secretary shall, in carrying out this section and RCW 43.06.350, adopt rules under chapter 34.05 RCW to effect the transfer of incarcerated individuals requesting transfer to foreign countries. [2021 c 200 § 7; 2020 c 318 § 4; 2000 c 62 § 2; 1983 c 255 § 10; 1979 c 141 § 282; 1959 c 28 § 72.68.010. Prior: 1955 c 245 § 2; 1935 c 114 § 5; RRS § 10249-5. Formerly RCW 9.95.180.]

**Findings—Intent—Construction—Effective date—2020 c 318:** See notes following RCW 72.68.110.

**Effective date—2000 c 62:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions,  
and takes effect immediately [March 22, 2000]." [2000 c 62 § 5.]