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HOUSE BILL 1019

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State of Washington

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By Representatives Roberts, Walsh, Kagi, Green, Darneille, Hasegawa, Goodman, Hurst, Ladenburg, Appleton, and Dickerson

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1 AN ACT Relating to constraining the department of corrections'  
2 authority to transfer offenders out of state; and amending RCW  
3 72.68.010.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 72.68.010 and 2000 c 62 s 2 are each amended to read  
6 as follows:

7 (1) Except as provided in subsection (4) of this section, whenever  
8 in its judgment the best interests of the state or the welfare of any  
9 prisoner confined in any penal institution will be better served by his  
10 or her transfer to another institution or to a foreign country of which  
11 the prisoner is a citizen or national, the secretary may effect such  
12 transfer consistent with applicable federal laws and treaties. The  
13 secretary has the authority to transfer offenders out-of-state to  
14 private or governmental institutions if the secretary determines that  
15 transfer is in the best interest of the state or the offender. The  
16 determination of what is in the best interest of the state or offender  
17 may include but is not limited to considerations of overcrowding,  
18 emergency conditions, or hardship to the offender. In determining  
19 whether the transfer will impose a hardship on the offender, the

1 secretary shall consider: (a) The location of the offender's family  
2 and whether the offender has maintained contact with members of his or  
3 her family; (b) whether, if the offender has maintained contact, the  
4 contact will be significantly disrupted by the transfer due to the  
5 family's inability to maintain the contact as a result of the transfer;  
6 and (c) whether the offender is enrolled in a vocational or educational  
7 program that cannot reasonably be resumed if the offender is returned  
8 to the state.

9 (2) Subsection (4) of this section does not apply if the secretary  
10 determines that its implementation endangers the safety of any offender  
11 or staff. If circumstances arise that preclude full implementation of  
12 subsection (4) of this section, the secretary shall make a report to  
13 the appropriate committee chair, which shall document such  
14 circumstances. Upon determination that the circumstances requiring  
15 suspension of subsection (4) of this section are resolved, the  
16 secretary shall notify the appropriate committee chairs.

17 (3) The department must inform an offender in writing of the intent  
18 to transfer the offender out-of-state no less than fourteen days prior  
19 to the proposed date of transfer.

20 (4) The secretary may not transfer an offender out-of-state if the  
21 offender, within five days of being notified of the department's intent  
22 to transfer the offender out-of-state, requests in writing to remain in  
23 an in-state facility and demonstrates that he or she:

24 (a) Is regularly participating in extended family visitations with  
25 his or her child;

26 (b) Is regularly participating in parent-teacher conferences  
27 involving his or her child; or

28 (c) Has had at least six contacts in person with his or her child  
29 within the six months prior to the proposed transfer.

30 (5) If directed by the governor, the secretary shall, in carrying  
31 out this section and RCW 43.06.350, adopt rules under chapter 34.05 RCW  
32 to effect the transfer of prisoners requesting transfer to foreign  
33 countries.

34 (6) For the purposes of this section:

35 (a) "Child" means a person under the age of eighteen who is the  
36 natural or adopted child of the offender or the stepchild of either the  
37 offender or his or her spouse with legal custody and has been

1 authorized to visit the offender. Children who are victims of the  
2 offender's sexual offense, physical abuse, or other mistreatment are  
3 excluded.

4 (b) "Regularly participating" means participating on a consistent,  
5 ongoing basis with the anticipation of continuing participation in the  
6 future. "Regularly participating" does not include infrequent or  
7 occasional participation, unless the opportunities for participation  
8 are themselves infrequent or occasional.

9 (7) When the department transfers offenders from an out-of-state  
10 facility to an in-state facility, the department must give priority to  
11 offenders who, prior to their transfer to the out-of-state facility,  
12 met at least one of the requirements of subsection (4) of this section  
13 and who request, in writing, a transfer to an in-state facility.

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