

SHB 2576 - H AMD 1511

By Representative Ortiz-Self

ADOPTED 02/17/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. Sec. 1. The legislature finds that all people
4 confined in prisons and detention facilities in Washington deserve
5 basic health care, nutrition, and safety, regardless of whether those
6 people are confined in publicly or privately operated facilities. As
7 held in *United States v. California*, 921 F.3d 865, 886 (9th Cir.
8 2019), the state possesses "the general authority to ensure the health
9 and welfare of inmates and detainees in facilities within its
10 borders." While public facilities are directly accountable to public
11 institutions, private facilities lack this oversight structure.
12 Private detention facilities ought to be subject to existing statutes,
13 codes, rules, and policies governing safety, health, and welfare, yet
14 little is known as to what inspections or enforcement has occurred
15 across state and local governments. To that end, the legislature
16 intends to evaluate current state and local authority and practices
17 regarding the enforcement of existing requirements applicable to
18 private detention facilities operating within the state.

19
20 NEW SECTION. Sec. 2. (1) The department shall:
21 (a) Evaluate the existing authority of state agencies and local
22 governments to inspect private detention facilities for the purposes
23 of enforcing state and local statutes, codes, rules, and policies on
24 the subject of the health, safety, and welfare of detainees;

25 (b) Evaluate current practices for evaluating whether private
26 detention facilities are in compliance with state and local statutes,
27 codes, rules, and policies;

1 (c) Determine whether any private detention facility has been
2 subject to an inspection or enforcement action taken by a state agency
3 or local government in the previous five years, and if so, the
4 frequency, nature, and outcomes of those inspections or enforcement
5 actions;

6 (d) Determine whether any state agency or local government has
7 been denied access to a private detention facility in the previous
8 five years, and if so, the frequency and nature of those denials and
9 the outcome of any applicable enforcement action; and

10 (e) Make recommendations as to any changes to statutes, rules, or
11 policies necessary to conduct effective inspections and enforcement in
12 private detention facilities for the purpose of ensuring the health,
13 safety, and welfare of detainees.

14 (2) In conducting the study under this section, the department
15 shall consult with: The department of labor and industries; the
16 department of social and health services; the department of children,
17 youth, and families; the department of corrections; the office of the
18 corrections ombuds; the office of the attorney general; county health
19 departments; local governments; and other agencies or entities with
20 relevant experience or expertise.

21 (3) The department shall submit a final report with findings and
22 recommendations to the governor and appropriate committees of the
23 legislature by December 1, 2020.

24 (4) For the purposes of this section:

25 (a) "Department" means the department of health.

26 (b) "Detention facility" means any facility in which persons are
27 incarcerated or otherwise involuntarily confined for purposes
28 including prior to trial or sentencing, fulfilling the terms of a
29 sentence imposed by a court, or for other judicial or administrative
30 processes or proceedings.

31 (c) "Private detention facility" means a detention facility that
32 is operated by a private, nongovernmental entity and operating
33 pursuant to a contract or agreement with a federal, state, or local
34 governmental entity.

1 (d) "Operate" includes owning, leasing, managing, or controlling
2 some or all of the functions of a detention facility, regardless of
3 the underlying ownership of the facility or land upon which the
4 facility is located."

5

6 Correct the title.

7

EFFECT:

- Removes the provisions in the underlying bill, including restrictions on operating or utilizing contracts with private detention facilities and changes to the Department of Corrections' authority to transfer inmates to out-of-state detention facilities. Instead, requires the Department of Health (DOH) to conduct a study.
- Specifies that the DOH must: Evaluate the existing authority of state agencies and local governments to inspect private detention facilities for the purposes of enforcing state and local statutes, codes, rules, and policies on the subject of the health, safety, and welfare of detainees; evaluate current practices for evaluating whether private detention facilities are in compliance with state and local statutes, codes, rules, and policies; determine whether any private detention facility has been subject to an inspection or enforcement action taken by a state agency or local government in the previous five years, and if so, the frequency, nature, and outcomes of those inspections or enforcement actions; determine whether any state agency or local government has been denied access to a private detention facility in the previous five years, and if so, the frequency and nature of those denials and the outcome of any applicable enforcement action; and make recommendations as to any changes to statutes, rules, or policies necessary to conduct effective inspections and enforcement in private detention facilities for the purpose of ensuring the health, safety, and welfare of detainees.
- Requires the DOH to consult with specified entities in conducting the study. Requires the DOH to submit a final report with findings and recommendations to the Governor and Legislature by December 1, 2020.
- Modifies the intent section and reorganizes definitions and other provisions to account for other changes made in the striking amendment.

--- END ---