

# HOUSE BILL REPORT

## ESSB 6442

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to the private detainment of individuals.

**Brief Description:** Concerning the private detainment of individuals.

**Sponsors:** Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Saldaña, Wilson, C., Salomon, McCoy, Wellman, Stanford, Hasegawa, Kuderer, Pedersen, Nguyen, Frockt and Das).

**Brief History:**

**Committee Activity:**

Public Safety: 2/25/20, 2/27/20 [DPA].

**Brief Summary of Engrossed Substitute Bill  
(As Amended by Committee)**

- Prohibits the Department of Corrections from utilizing a contract with a private for-profit correctional entity for the transfer or placement of offenders, except for emergency situations meeting certain requirements and conditions.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham.

**Staff:** Kelly Leonard (786-7147).

**Background:**

Adult criminal sentences exceeding one year are served in state correctional facilities. The Department of Corrections (DOC) manages all state-operated correctional facilities and

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supervises certain adult DOC offenders who live in the community. The DOC is authorized to transfer offenders out of state to private or governmental institutions upon determining that the transfer is in the best interest of the state or the offender.

If the Governor finds that an emergency exists in which the population of a state correctional facility exceeds its reasonable maximum capacity, the Governor may take certain measures to mitigate the emergency. Such measures include calling the Sentencing Guidelines Commission into an emergency meeting to evaluate the standard ranges and other standards, or calling the Clemency and Pardons Board into an emergency meeting to make recommendations for the Governor's use of commutation and pardon powers.

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### **Summary of Amended Bill:**

The general authority of the DOC to transfer offenders to private institutions is removed. The DOC is generally prohibited from utilizing a contract with a private correctional entity for the transfer or placement of offenders, unless an emergency applies. "Private correctional entity" means a for-profit contractor or for-profit vendor who provides services relating to the ownership, management, or administration of security services of a correctional facility for the incarceration of persons.

The DOC may transfer offenders to an out-of-state private correctional entity only if:

- 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;
- the Governor has considered all other legal options to address capacity;
- the DOC determines that transfer is in the best interest of the state or the offender;
- and
- 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 DOC, inmate access to the Office of the Corrections Ombuds, and inspections and visits without notice.

The prohibition on contracting with private correctional entities does not apply to specified categories, including: state work-release centers, juvenile residential facilities, nonprofit community-based alternative juvenile detention facilities, or nonprofit community-based alternative adult detention facilities that provide separate care or special treatment, operated in whole or in part by for-profit contractors; contracts for ancillary services, such as medical and educational services, repair and maintenance contracts, behavioral health services, or other services not directly related to the ownership, management, or operation of security services in a correctional entity; or tribal entities.

### **Amended Bill Compared to Engrossed Substitute Bill:**

The requirement that a catastrophic incident must have caused the emergency and capacity issues in order for the DOC to transfer offenders to a private correctional entity is removed.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 21, 2020.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) The state should abolish all private detention facilities in the state. Private detention facilities lack transparency and accountability. Advocates prefer the broader applicability in the original version of the bill. However, this bill is an incremental step in the right direction. The DOC currently has broad authority to transfer prisoners to out-of-state private prisons. This bill establishes crucial restrictions on transfers to private prisons, including access to public records and site inspections.

Persons in prisons and detention facilities deserve basic health care and safety from violence. This bill ensures that all incarcerated Washingtonians receive equal and fair treatment while serving their state criminal sentences.

(Opposed) None.

**Persons Testifying:** Hannah Woerner, Columbia Legal Services; and Leslie Cushman, Latino Civic Alliance.

**Persons Signed In To Testify But Not Testifying:** None.