

# SENATE BILL REPORT

## E2SSB 5120

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As Passed Senate, March 6, 2019

**Title:** An act relating to contracting with for-profit correctional facilities for the transfer or placement of offenders.

**Brief Description:** Contracting with for-profit correctional facilities for the transfer or placement of offenders.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Palumbo, Darneille, Mullet, Nguyen, Hunt, Saldaña, Lias, Carlyle, Frockt, Hasegawa and Kuderer).

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 1/24/19, 2/07/19 [DPS-WM, w/oRec].

Ways & Means: 2/26/19, 2/27/19 [DP2S, DNP, w/oRec].

**Floor Activity:**

Passed Senate: 3/06/19, 30-18.

**Brief Summary of Engrossed Second Substitute Bill**

- Prohibits the state, any county government, city government, or county sheriff's department from contracting with a private entity for the operation of a correctional facility or the incarceration of persons in the custody of the Department of Corrections, the Department of Children, Youth, and Families, any county government, city government, or a county sheriff's department.
- Exempts state work release centers or juvenile residential facilities that provide separate care or special treatment, operated in whole or in part by private contractors, or contracts for ancillary services.

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**SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION**

**Majority Report:** That Substitute Senate Bill No. 5120 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Cleveland and Wilson, C..

**Minority Report:** That it be referred without recommendation.

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*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.*

Signed by Senators Walsh, Ranking Member; O'Ban and Zeiger.

**Staff:** Keri Waterland (786-7490)

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**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** That Second Substitute Senate Bill No. 5120 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Van De Wege and Wagoner.

**Minority Report:** Do not pass.

Signed by Senators Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Schoesler, Warnick and Wilson, L..

**Minority Report:** That it be referred without recommendation.

Signed by Senator Braun, Ranking Member.

**Staff:** Travis Sugarman (786-7446)

**Background:** Under existing statute, the secretary of the Department of Corrections (DOC) has the authority to transfer offenders out-of-state to private or governmental institutions.

**Summary of Engrossed Second Substitute Bill:** The state, any county or city governments, or county sheriff's department may not enter into a contract with a private contractor or vendor for the operation of correctional facility or for the incarceration of persons in the custody of DOC, the Department of Children, Youth, and Families, or a county sheriff. Work release and certain services or programs are exempt.

The secretary of DOC has the authority to transfer offenders between in-state correctional facilities, or out-of-state governmental institutions, and to a private contractor or vendor under if certain criteria and gubernatorial decisions and declarations are made.

**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 Original Bill (Human Services, Reentry & Rehabilitation):** *The committee recommended a different version of the bill than what was heard.* PRO: State workers are the best people to do this work, and housing offenders in this state is what is best for offenders and their families. This bill takes a stand against private prisons. Our tax dollars should not be going to the for profit prisons. Private prisons have a poor history of food and treatment. Studies of violence in private prisons versus public

prisons show that private prisons are more violent. Private prisons are about making a profit and about locking people up. Sending people out of state is not a good idea either, but it is better if it is not to a private prison.

CON: We have no interest in building another prison, but many facilities are at or exceeding capacity and funding. Since 1988 we have maintained contracts, but we do not contract with private prisons currently. This bill creates a safety risk to staff and offenders. If natural disaster occurs, we need places to send people.

OTHER: No objection to the bill itself, but we believe that there can be more specificity in the language as to what is and what is not prohibited. We want to make sure that we know exactly what those rules are.

**Persons Testifying (Human Services, Reentry & Rehabilitation):** PRO: Senator Guy Palumbo, Prime Sponsor; Brenda Weist, Teamsters Local 117.

CON: Rob Herzog, DOC.

OTHER: James McMahan, Washington Association Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation):** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: DOC may be opposed at this time, but we are working with them to get to yes.

CON: We have concerns with the current version of the bill and have been working with the sponsor to come up with language that we believe will resolve the issues. We still need the ability to have a contingency contract in place with a private contractor in the event of extreme overcrowding, infrastructure failure, or natural disaster.

OTHER: We do not have any concerns with the goals of the bill, but do need additional clarity about what is allowed or prohibited with regards to what local jails are allowed and not allowed to do.

**Persons Testifying (Ways & Means):** PRO: Senator Guy Palumbo, Prime Sponsor.

CON: Rob Herzog, DOC.

OTHER: James McMahan, Washington Association of Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.