

SENATE BILL REPORT

SB 6558

As of January 30, 2020

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

Brief Description: Contracting with private correctional facilities for the transfer or placement of offenders.

Sponsors: Senators Nguyen, Darneille, Dhingra, Hasegawa, Saldaña and Wilson, C.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/29/20.

Brief Summary of Bill

- Prohibits the Department of Corrections (DOC) from utilizing a contract with a private correctional entity for the transfer or placement of offenders, with certain exceptions.
- Allows transfers only if the Governor finds an emergency exists over facility capacity, in which DOC is authorized to transfer offenders to an out-of-state private correctional entity.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kelsey-anne Fung (786-7479)

Background: The secretary of DOC is authorized to transfer offenders out of state to private or governmental institutions upon determining the transfer is in the best interest of the state or the offender. If the Governor finds 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.

Summary of Bill: Except as provided, the DOC secretary is prohibited from using a contract with a private correctional entity for transferring or placing an offender. A private

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.

correctional entity includes any 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 incarcerating prisoners.

The prohibition on contracting with private correctional entities does not apply to:

- 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.

The DOC secretary's authority to transfer offenders to an out of state private institution is removed. The secretary may transfer an offender to an out-of-state private correctional entity only when the Governor finds an emergency exists in which 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; and the secretary has determined the transfer is in the best interest of the state or the offender.

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: PRO: We should not profit off of prisoners.

OTHER: Strongly supportive of bill but have concerns with the emergency exception. There are private prisons that exist and can alleviate capacity constraints, but privatization comes with a price, such as less transparency and poor medical care. Legislature should ask whether DOC has done everything to develop contingency plans that do not involve private prisons, and if DOC does have to contract with private prisons, DOC should make sure the private prisons are subject to the same transparency requirements as DOC facilities, and subject to Public Records Act and oversight by the Office of the Corrections Ombuds. Private prisons should not get to benefit from the fear of capacity emergency.

Persons Testifying: PRO: Senator Joe Nguyen, Prime Sponsor.

OTHER: Antonio Ginatta, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying: No one.