
ENGROSSED SUBSTITUTE HOUSE BILL 2576

State of Washington

66th Legislature

2020 Regular Session

By House Public Safety (originally sponsored by Representatives Ortiz-Self, Gregerson, Doglio, Pettigrew, Santos, Peterson, Lekanoff, Ryu, Pollet, Valdez, Thai, Macri, Fitzgibbon, Dolan, Davis, J. Johnson, Walen, Frame, Ormsby, and Riccelli)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to private detention facilities; and creating new
2 sections.

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

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

1 NEW SECTION. **Sec. 2.** (1) The department shall:

2 (a) Evaluate the existing authority of state agencies and local
3 governments to inspect private detention facilities for the purposes
4 of enforcing state and local statutes, codes, rules, and policies on
5 the subject of the health, safety, and welfare of detainees;

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

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

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

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

22 (2) In conducting the study under this section, the department
23 shall consult with: The department of labor and industries; the
24 department of social and health services; the department of children,
25 youth, and families; the department of corrections; the office of the
26 corrections ombuds; the office of the attorney general; county health
27 departments; local governments; and other agencies or entities with
28 relevant experience or expertise.

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

32 (4) For the purposes of this section:

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

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

39 (c) "Private detention facility" means a detention facility that
40 is operated by a private, nongovernmental entity and operating

1 pursuant to a contract or agreement with a federal, state, or local
2 governmental entity.

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

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