

# FINAL BILL REPORT

## SHB 2195

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Synopsis as Enacted

**Brief Description:** Authorizing the department of corrections to intercept, record, and divulge electronically monitored inmate conversations.

**Sponsors:** By House Committee on Corrections (originally sponsored by Representatives Blanton, Quall, Sheldon and Costa; by request of Department of Corrections).

**House Committee on Corrections**  
**Senate Committee on Human Services & Corrections**

**Background:** The Washington State Privacy Act. The Privacy Act generally prohibits any individual or entity from intercepting or recording any private communication or conversation without first obtaining the consent of all participants. Several exceptions to the prohibition are specified, including one granted to the Department of Corrections (DOC).

Exception Allowing DOC to Intercept Inmate Telephone Conversations. Under this exception, the DOC is allowed to intercept, record, and divulge any telephone call that an inmate makes. The department was directed to provide written notification to all inmates before the monitoring system was activated.

The Privacy Act also specifies a number of procedures and conditions that the DOC must follow in implementing the system and using the intercepted information. These include a procedure to inform the recipient of a call that the conversation with the inmate is being recorded. Requirements are also specified for accessing, divulging, and storing recordings. Conversations between inmates and attorneys are not allowed to be intercepted.

Penalties and Sanctions for Violation of Act. Those who violate the provisions of the Privacy Act are guilty of a gross misdemeanor and can be held civilly liable for damages and litigation costs. Information obtained in violation of the Privacy Act is generally inadmissible in any civil or criminal case.

**Summary:** The exception granted to the DOC under the Privacy Act is broadened to include other inmate conversations in addition to telephone conversations. The DOC is authorized to intercept, record, and divulge monitored conversations in inmate cells, living units, rooms, dormitories, and common spaces where inmates may be present.

Conditions governing access to and disclosure of recorded telephone conversations also apply to non-telephonic conversations. In addition, non-telephonic as well as telephonic conversations between inmates and attorneys must not be intercepted. The DOC's policies and procedures implementing the expanded monitoring policy must recognize the privileged nature of a confession made to a member of the clergy.

The provisions authorizing and placing conditions on the expanded monitoring policy go into effect August 1, 1996.

The DOC is required to notify all inmates, residents, and personnel of the expanded monitoring policy. Written notification to current inmates, residents, and personnel must be given by May 1, 1996. The DOC must also post a conspicuous notice by July 1, 1996, to inform visitors of the monitoring policy. An emergency clause is included to enable these deadlines to be met.

An existing statute is repealed that is nearly identical to the statute being amended in this bill.

A subsection related to a past deadline for notification of inmates regarding telephonic monitoring is removed.

**Votes on Final Passage:**

House	91	3	
Senate	48	0	(Senate amended)
House	89	1	(House concurred)

**Effective:** March 28, 1996  
August 1, 1996 (Sections 1 & 3)