

SENATE BILL REPORT

SB 5047

As Passed Senate, March 6, 2001

Title: An act relating to the authority of the department of corrections to detain, search, or remove persons who enter correctional facilities or institutional grounds.

Brief Description: Authorizing the department of corrections to detain, search, or remove persons who enter correctional facilities or institutional grounds.

Sponsors: Senators Long, Costa, Hargrove and Carlson; by request of Department of Corrections.

Brief History:

Committee Activity: Human Services & Corrections: 1/17/01 [DP].

Passed Senate: 3/6/01, 45-1.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Carlson, Franklin, Hewitt, Kastama, Kohl-Welles, Long and Stevens.

Staff: Fara Daun (786-7459)

Background: Although some Department of Corrections (DOC) employees are limited authority peace officers, under current law these employees have no authority to detain a person suspected of carrying on illegal activity on the grounds of a DOC facility. This includes persons attempting to bring drugs or other contraband into a DOC facility.

Summary of Bill: Department of Corrections employees who are limited authority peace officers may detain, search, or remove persons who enter or remain in a DOC facility without permission if there is probable cause to believe that the person has committed, or is committing a crime or is possessing contraband within the facility or institutional grounds.

If a person is detained, the department must immediately notify a local law enforcement agency with jurisdiction over the location. The person may be searched, any contraband may be confiscated, and the person may be detained for a reasonable time until the person and any contraband can be transferred to a local law enforcement officer.

A DOC employee who is a limited authority Washington peace officer may use necessary force to protect the persons and properties located within the facility or on institutional grounds.

Appropriation: None.

Fiscal Note: Requested on January 11, 2001.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Department of Corrections (DOC) presently does not have the ability to search or detain a person who there is probable cause to believe is committing a crime or introducing contraband into a facility. They can only search visitors by consent. This includes, for example, a husband or boyfriend who assaults a female inmate.

In effect, DOC has less authority over non-inmates than a security guard in a department store. Because there is potential for problems, DOC will implement clear policies and effective training to properly carry out the provisions of the bill. This bill will allow DOC to preserve an adequate and constitutional chain of custody on illegal contraband that will permit local law enforcement to pursue charges.

This will not cause harassment because DOC uses a combination of methods to assess whether a person is carrying contraband, including confidential informants, surveillance, suspicious behavior, and the visitor's statements. When the person suspected of introducing contraband is an employee, they verify accusations by polygraph and conduct surveillance, often with law enforcement assistance.

Testimony Against: None.

Testified: Lynn Delano, DOC (pro); Larry Erickson, Washington Association of Sheriffs and Police Chiefs (pro).