

Chapter 137-25 WAC
SERIOUS VIOLATIONS—TOTAL AND PARTIAL CONFINEMENT FACILITIES

Last Update: 10/31/23

WAC

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WAC 137-25-010 Application of chapter. The definitions and serious violations described herein apply to incarcerated individuals committed to both total and partial confinement facilities.

[Statutory Authority: RCW 79.01.090. WSR 23-22-112, § 137-25-010, filed 10/31/23, effective 12/1/23. Statutory Authority: RCW 72.01.090, 72.65.100, and 72.09.130. WSR 15-20-011, § 137-25-010, filed 9/24/15, effective 1/8/16. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-25-010, filed 11/28/05 and 12/28/05, effective 5/1/06.]

WAC 137-25-020 Definitions. For the purposes of this chapter, the following terms have the following meanings:

(1) Aggravated assault - An assault resulting in a documented physical injury requiring treatment in a medical facility/treatment center by medical staff including, but not limited to, bandaging, suturing, surgery, etc. An examination conducted by medical staff to determine whether an injury has been sustained shall not be considered treatment.

(2) Assault - A physical attack upon the body of another person. The attack may be made with any instrument including, but not limited to, weapons, body parts, food products, or bodily secretions.

(3) Attempting - Putting forth an effort to commit any violation.

(4) Bodily harm - Physical pain or injury, illness, or impairment of physical condition.

(5) Conspiring - Entering into an agreement with another person(s) to commit a violation.

(6) Facility - A correctional facility as defined in RCW 72.09.015.

(7) Infraction - A term designating the procedures and documents related to incarcerated individual misconduct and the facility disciplinary process.

(8) Incarcerated individual - An inmate as defined in RCW 72.09.015.

(9) Possessing - When an item(s) is found on an incarcerated individual or in an incarcerated individual's assigned area of responsibility.

(10) Sex act - Includes, but is not limited to, any of the following acts: Genital-genital, oral-genital, anal-genital, or oral-anal contact/penetration; genital or anal contact/penetration with an inanimate object; masturbation; sadistic/masochistic abuse; bondage; bestiality; and/or bodily excretory behavior which appears to be sexual in nature.

(11) Sexual assault against a staff member - An incident in which one or more of the following actions is taken or threatened against a staff member without their consent or when they are unable to consent or refuse:

(a) Contact between genitalia (i.e., penis, vagina) or between genitalia and the anus involving penetration, however slight. This does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

(b) Contact between the mouth and the penis, vagina, or anus.

(c) Penetration of the anal or genital opening of the staff member by hand, finger, or other object.

(12) Sexual contact against a staff member - Contact against a staff member without their consent or when the staff member is unable to consent or refuse which includes intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttock of the staff member. This does not include kicking, grabbing, or punching when the intent is to harm or debilitate rather than to sexually exploit.

(13) Sexual harassment against a staff member, visitor, or community member - Any word, action, gesture, or other behavior taken against a staff member, visitor, or community member that is sexual in nature and that would be offensive to a reasonable person.

(14) Staff member - A department of corrections employee, contract staff, or volunteer.

(15) Violation - The act of failing to comply with a rule enumerated in this chapter.

[Statutory Authority: RCW 79.01.090, WSR 23-22-112, § 137-25-020, filed 10/31/23, effective 12/1/23. Statutory Authority: RCW 72.01.090, 72.65.100, and 72.09.130. WSR 15-20-011, § 137-25-020, filed 9/24/15, effective 1/8/16; WSR 13-18-002, § 137-25-020, filed 8/21/13, effective 9/21/13; WSR 09-01-195, § 137-25-020, filed 12/24/08, effective 1/24/09; WSR 06-21-054, § 137-25-020, filed 10/13/06, effective 11/13/06. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-25-020, filed 11/28/05 and 12/28/05, effective 5/1/06.]

WAC 137-25-025 Adoption or revision of serious violations. (1)

The secretary may adopt and/or revise serious violations.

(2) Before adopting or revising a serious violation, the secretary shall, when applicable, follow the rule-making procedures of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Nothing herein shall be construed as limiting the department of corrections' exclusion from the Administrative Procedure Act under RCW 34.05.030 (1)(c).

[Statutory Authority: RCW 72.01.090, 72.65.100, and 72.09.130. WSR 15-20-011, § 137-25-025, filed 9/24/15, effective 1/8/16.]

WAC 137-25-030 Serious violations. (1)

Any of the following types of behavior may constitute a serious violation. Attempting or conspiring to commit one of the following violations, or aiding and abetting another to commit one of the following violations, shall be considered the same as committing the violation, with the exception of attempting an aggravated assault. Attempting to commit an aggravated assault will be charged as violation:

(a) #633 When against another incarcerated individual;

(b) #704 When against a staff member; or

(c) #711 When against a visitor or community member.

Category A

501 - Committing homicide
502 - Committing aggravated assault against another incarcerated individual
507 - Committing an act that would constitute a felony and that is not otherwise included in these rules
511 - Committing aggravated assault against a visitor or community member
521 - Taking or holding any person hostage
550 - Escaping
601 - Possessing, manufacturing, or introducing an explosive device or any ammunition, or any component thereof
602 - Possessing, manufacturing, or introducing any firearm, weapon, sharpened instrument, knife, or poison, or any component thereof
603 - Possessing, introducing or transferring any unauthorized drug or drug paraphernalia
604 - Committing aggravated assault against a staff member
611 - Committing sexual assault against a staff member
613 - Committing an act of sexual contact against a staff member
635 - Committing sexual assault against another offender, as defined in department policy (i.e., aggravated sexual assault or incarcerated individual on incarcerated individual sexual assault)
637 - Committing sexual abuse against another incarcerated individual, as defined in department policy
650 - Rioting
651 - Inciting others to riot
830 - Escaping from work/training release with voluntary return within 24 hours
831 - While in work/training release, failing to return from an authorized sign out
882 - While in prison, introducing, possessing, or using a cell phone, electronic/wireless communication device, or related equipment without authorization

Category B - Level 1

504 - Engaging in a sex act with another person(s) that is not otherwise included in these rules, except in an approved extended family visit
553 - Setting a fire
560 - Possessing items or materials likely to be used in an escape without authorization
633 - Assaulting another incarcerated individual
704 - Assaulting a staff member
711 - Assaulting a visitor or community member
744 - Making a bomb threat
884 - Urinating, defecating, or placing feces or urine in any location other than a toilet or authorized receptacle
886 - Adulterating any food or drink

892 - Giving, selling, or trading any prescribed medication, or possessing another incarcerated individual's prescribed medication
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Category B - Level 2

505 - Fighting with another incarcerated individual
556 - Refusing to submit to or cooperate in a search when ordered to do so by a staff member
607 - Refusing to submit to a urinalysis and/or failing to provide a urine sample within the allotted time frame when ordered to do so by a staff member
608 - Refusing or failing to submit to a breath alcohol test or other standard sobriety test when ordered to do so by a staff member
609 - Refusing or failing to submit to testing required by policy, statute, or court order, not otherwise included in these rules, when ordered to do so by a staff member
652 - Engaging in or inciting a group demonstration
655 - Making any drug, alcohol, or intoxicating substance, or possessing ingredients, equipment, items, formulas, or instructions that are used in making any drug, alcohol, or intoxicating substance
682 - Engaging in or inciting an organized work stoppage
707 - Introducing or transferring alcohol or any intoxicating substance not otherwise included in these rules
716 - Using an over the counter medication without authorization or failing to take prescribed medication as required when administered under supervision
736 - Possessing, manufacturing, or introducing an unauthorized key or electronic security access device
750 - Committing indecent exposure
752 - Admitting use, or receiving a positive test for use of, an unauthorized drug, alcohol, or other intoxicating substance
778 - Providing a urine specimen that has been diluted, substituted, or altered in any way

Category B - Level 3

503 - Extorting or blackmailing, or demanding or receiving anything of value in return for protection against others or under threat of informing
506 - Threatening another with bodily harm or with any offense against any person or property
509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area
525 - Violating conditions of a furlough
549 - Providing false or misleading information during any stage of an investigation of sexual misconduct, as defined in department policy
558 - Interfering with staff members, medical personnel, firefighters, or law enforcement personnel in the performance of their duties
600 - Tampering with, damaging, blocking, or interfering with any locking, monitoring, or security device

605 - Impersonating or assuming the identity of any other person
653 - Causing an inaccurate count or interfering with count by means of unauthorized absence, hiding, concealing oneself, or other form of deception or distraction
654 - Counterfeiting or forging, or altering, falsifying, or reproducing any document, article of identification, money, or security or other official paper without authorization
660 - Possessing money, stamps, or other negotiable instruments without authorization, the total value of which is five dollars or more
709 - Out-of-bounds: Being in another incarcerated individual's cell or being in a restricted or out of bounds area of the facility with one or more incarcerated individuals without authorization
738 - Possessing clothing or assigned equipment of a staff member
739 - Possessing, transferring, or soliciting any person's identification information, including current staff members or their immediate family members, when not voluntarily given. Identification information includes Social Security numbers, home addresses, telephone numbers, driver's license numbers, medical, personnel, financial, or real estate information, bank or credit card numbers, or other like information not authorized by the superintendent
745 - Refusing a transfer to another facility
746 - Engaging in or inciting an organized hunger strike
762 - Noncompliance with the DOSA program. Note: <i>This violation must be initiated by authorized staff and heard by a community corrections hearing officer in accordance with chapter 137-24 WAC</i>
777 - Causing injury to another person by resisting orders, assisted movement, or physical efforts to restrain
813 - Being in the community without authorization, or being in an unauthorized location in the community
814 - While in work/training release, violating an imposed special condition
879 - Operating or being in a motor vehicle without permission or in an unauthorized manner or location
889 - Using facility phones, information technology resources/systems, or related equipment without authorization

Category C - Level 1

508 - Spitting or throwing objects, materials, or substances in the direction of another person(s)
557 - Refusing to participate in an available work, training, education, or other mandatory programming assignment
563 - Making a false fire alarm or tampering with, damaging, blocking, or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other firefighting equipment or devices
610 - While in prison, receiving or possessing prescribed medication without authorization

620 - Receiving or possessing contraband during participation in off-grounds or outer perimeter activity or work detail
659 - Committing sexual harassment against another incarcerated individual, as defined in department policy
661 - Committing sexual harassment against a staff member, visitor, or community member
663 - Using physical force, intimidation, or coercion against any person
702 - Possessing, manufacturing, or introducing an unauthorized tool
708 - Organizing or participating in an unauthorized group activity or meeting
717 - Causing a threat of injury to another person by resisting orders, assisted movement, or physical efforts to restrain
720 - Flooding a cell or other area of the facility
724 - Refusing a cell or housing assignment
734 - Participating or engaging in the activities of any unauthorized club, organization, gang, or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang, or security threat group
810 - Failing to seek/maintain employment or training or maintain oneself financially, or being terminated from a work, training, education, or other programming assignment for negative or substandard performance
893 - Damaging, altering, or destroying any item that results in the concealment of contraband or demonstrates the ability to conceal contraband
896 - Harassing, using abusive language, or engaging in other offensive behavior directed to or in the presence of another person(s) or group(s) based upon race, creed, color, age, sex, national origin, religion, sexual orientation, marital status or status as a state registered domestic partner, disability, veteran's status, or genetic information
899 - Failing to obtain prior written authorization from the sentencing court, contrary to RCW 9.94A.645, prior to commencing or engaging in any civil action against any victim or family of the victim of any serious violent crime the offender committed

Category C - Level 2

552 - Causing an innocent person to be penalized or proceeded against by providing false information
554 - Damaging, altering, or destroying any item that is not the incarcerated individual's personal property, the value of which is ten dollars or more
710 - Acquiring an unauthorized tattoo/piercing/scar, tattooing/piercing/scarring another, or possessing tattoo/piercing/scarring paraphernalia
718 - Using the mail, telephone, or electronic communications in violation of any law, court order, or previous written warning, direction, and/or documented disciplinary action

726 - Telephoning, sending written or electronic communication, or otherwise initiating communication with a minor without the approval of that minor's parent or guardian
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Category C - Level 3

606 - Possessing, introducing, or transferring any tobacco, tobacco products, matches, or tobacco paraphernalia

657 - Being found guilty of four or more general violations arising out of separate incidents within a 90-day period
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658 - Failing to comply with any administrative or posthearing sanction imposed for committing any violation
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812 - Failing to report/turn in all earnings
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Category D

517 - Committing an act that would constitute a misdemeanor and that is not otherwise included in these rules

551 - Providing false information to the hearing officer or in a disciplinary appeal
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555 - Stealing property, possessing stolen property, or possessing another offender's property
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559 - Gambling or possessing gambling paraphernalia

656 - Giving, receiving, or offering any person a bribe or anything of value for an unauthorized favor or service

662 - Soliciting goods or services for which the provider would expect payment, when the incarcerated individual knows or should know that they lack sufficient funds to cover the cost

706 - Giving false information when proposing a release plan
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714 - Giving, selling, purchasing, borrowing, lending, trading, or accepting money or anything of value except through approved channels, the value of which is ten dollars or more

725 - Telephoning or sending written or electronic communication to any incarcerated individual in a correctional facility, or partial confinement directly or indirectly, without prior written approval of the superintendent/community corrections supervisor/designee

728 - Possessing any sexually explicit material(s), as defined in DOC Policy 450.100
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740 - Committing fraud or embezzlement, or obtaining goods, services, money, or anything of value under false pretense
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741 - Stealing food, the value of which is ten dollars or more
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742 - Establishing a pattern of creating false emergencies by feigning illness or injury
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755 - Misusing or wasting issued supplies, goods, services, or property, the replacement value of which is ten dollars or more
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811 - Entering into an unauthorized contract
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861 - Performing or taking part in an unauthorized marriage

890 - Failing to follow a medical directive and/or documented medical recommendations, resulting in injury
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(2) If contraband or another violation is discovered in an incarcerated individual's assigned area of responsibility, such as within the confines or contents of a cell, the contraband or other violation shall be constructively attributed (i.e., cell tagged) to all incarcerated individuals assigned responsibility for that area.

[Statutory Authority: RCW 79.01.090. WSR 23-22-112, § 137-25-030, filed 10/31/23, effective 12/1/23. Statutory Authority: RCW 72.01.090 and 72.65.100. WSR 19-24-045, § 137-25-030, filed 11/26/19, effective 12/13/19. Statutory Authority: RCW 72.01.090, 72.65.100, and 72.09.130. WSR 15-20-011, § 137-25-030, filed 9/24/15, effective 1/8/16. WSR 14-12-095, § 137-25-030, filed 6/4/14, effective 7/1/14. Statutory Authority: RCW 72.09.130, 72.01.090, and 72.65.100. WSR 11-17-119, § 137-25-030, filed 8/23/11, effective 9/23/11; WSR 09-01-195, § 137-25-030, filed 12/24/08, effective 1/24/09; WSR 06-21-054, § 137-25-030, filed 10/13/06, effective 11/13/06. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-25-030, filed 11/28/05 and 12/28/05, effective 5/1/06.]