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**SUBSTITUTE SENATE BILL 5256**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senators Darneille, Rolfes, and Chase)

AN ACT Relating to clarifying standards for strip searching juveniles; and amending RCW 10.79.130, 10.79.140, and 10.79.120.

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

**Sec.**  RCW 10.79.130 and 1986 c 88 s 2 are each amended to read as follows:

(1) No person to whom this section is made applicable by RCW 10.79.120 may be strip searched without a warrant unless:

(a) There is a reasonable suspicion to believe that a strip search is necessary to discover weapons, criminal evidence, contraband, or other thing concealed on the body of the person to be searched, that constitutes a threat to the security of a holding, detention, or local correctional facility;

(b) There is probable cause to believe that a strip search is necessary to discover other criminal evidence concealed on the body of the person to be searched, but not constituting a threat to facility security; or

(c) There is a reasonable suspicion to believe that a strip search is necessary to discover a health condition requiring immediate medical attention.

(2) For the purposes of subsection (1) of this section, a reasonable suspicion is deemed to be present when the person to be searched is an adult and has been arrested for:

(a) A violent offense as defined in RCW 9.94A.030 or any successor statute;

(b) An offense involving escape, burglary, or the use of a deadly weapon; or

(c) An offense involving possession of a drug or controlled substance under chapter 69.41, 69.50, or 69.52 RCW or any successor statute.

(3) When the person to be searched is a juvenile, reasonable suspicion requires an individualized determination, and reasonable efforts must be used to use other less-intrusive means as described in RCW 10.79.140(2).

**Sec.**  RCW 10.79.140 and 1986 c 88 s 3 are each amended to read as follows:

(1) A person to whom this section is made applicable by RCW 10.79.120 who has not been arrested for an offense within one of the categories specified in RCW 10.79.130(2) may nevertheless be strip searched, but only upon an individualized determination of reasonable suspicion or probable cause as provided in this section.

(2) With the exception of those situations in which reasonable suspicion is deemed to be present under RCW 10.79.130(2), no strip search may be conducted without the specific prior written approval of the jail unit supervisor on duty. Before any strip search is conducted, reasonable efforts must be made to use other less-intrusive means, such as pat-down, electronic metal detector, or clothing searches, to determine whether a weapon, criminal evidence, contraband, or other thing is concealed on the body, or whether a health condition requiring immediate medical attention is present. The determination of whether reasonable suspicion or probable cause exists to conduct a strip search shall be made only after such less-intrusive means have been used and shall be based on a consideration of all information and circumstances known to the officer authorizing the strip search, including but not limited to the following factors:

(a) The nature of the offense for which the person to be searched was arrested;

(b) The prior criminal record of the person to be searched; ((~~and~~))

(c) Physically violent behavior of the person to be searched, during or after the arrest; and

(d) For a juvenile, a record of the juvenile's past behavior in the facility.

**Sec.**  RCW 10.79.120 and 1986 c 88 s 1 are each amended to read as follows:

RCW 10.79.130 through 10.79.160 apply to any person in custody at a holding, detention, or local correctional facility, other than a person committed to incarceration by order of a court, regardless of whether an arrest warrant or other court order was issued before the person was arrested or otherwise taken into custody unless the court issuing the warrant has determined that the person shall not be released on personal recognizance, bail, or bond. The reasonable suspicion requirements for juveniles provided in RCW 10.79.130 and 10.79.140 apply to juveniles incarcerated by order of a court for noncriminal offenses. RCW 10.79.130 through 10.79.160 do not apply to a person held for post-conviction incarceration for a criminal offense. The definitions and remedies provided by RCW 10.79.070 and 10.79.110 apply to RCW 10.79.130 through 10.79.160.

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