



RULE MAKING ORDER
(RCW 34.05.360)

CR-103 (07/10/97)

Agency: Washington State Department of Corrections

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of Adoption:
February 11, 2000

(2) Purpose:
To establish rules for visiting correctional facilities

(3) Citation of Rules Affected by this order:
Repealed: 0
Amended: 0
Suspended: 0

(4) Statutory authority for adoption: RCW 72.01.090
Other Authority:

PERMANENT RULE ONLY (including EXPEDITED ADOPTION)

Adopted under notice filed as WSR _____ on _____ (date).
Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: These rules readopt the substantive provisions of chapter 275-80 WAC, which was repealed by the Department of Social and Health Services (DSHS). Chapter 275-80 WAC was adopted when the Department of Corrections was the Adult Corrections Division of the DSHS. The agency previously adopted emergency rules. While the agency has been actively taking steps to adopt rules on a permanent basis, the steps have not yet been completed. Immediate adoption remains necessary since rules on this subject are essential to ensure safety and security within correctional facilities. The agency filed its notice of intent to adopt permanent rules governing visitation of correctional facilities.

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption of effectiveness of rule?

- Yes No If Yes, explain:

(6) Effective date of rule:

- | | |
|---|---|
| Permanent Rules | Emergency Rules |
| <input type="checkbox"/> 31 days after filing | <input checked="" type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____* | <input type="checkbox"/> Later (specify) |

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

NAME (TYPE OR PRINT)

Joseph D. Lehman

SIGNATURE

TITLE

Secretary

DATE

2/11/00

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

FEB 11 2000

TIME: 10:51 AM
WSR: 00-05-044 PM

**Note: if any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New _____	Amended _____	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____
Recently enacted state statutes:	New _____	Amended _____	Repealed _____

*(current calendar year)

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted on the agency's own initiative:

New 27 Amended _____ Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making:	New _____	Amended _____	Repealed _____
Pilot rule making:	New _____	Amended _____	Repealed _____
Other alternative rule making:	New _____	Amended _____	Repealed _____

Chapter 137-125

CORRECTIONAL INSTITUTIONS – VISITS

NEW SECTION 4

WAC 137-125-005 Definitions. (1) "Contraband" consists of illegal items, and other items not specifically defined as illegal as specified in regulations adopted by the superintendent of an institution and approved by the secretary, which an offender in a correctional institution may not have in his/her possession;

(2) A "group visit" is a visit to the institution for educational or informational purposes or for the purpose of attending or participating in institutional activities;

(3) "Illegal items" are those items defined by RCW 9.94.040 as illegal when in the possession of an offender in a correctional institution, such as weapons, controlled substances, and alcoholic beverages;

(4) "Immediate family" consists of parents, stepparents, parent surrogates, legal guardians, spouses, brothers, sisters, half or stepbrothers or sisters, children, stepchildren, and dependents who might not be in direct lineal relationship;

(5) "News media" refers to representatives of the press, radio, and television;

(6) A "personal visit" is a visit to an individual offender in a correctional institution by a friend or relative, or by a person visiting in a professional capacity such as a clergyman, attorney, or law enforcement official; members of the indeterminate review board shall not be considered visitors under this rule;

(7) "Real suspicion" is a subjective suspicion supported by objective, articulatable facts, which would reasonably lead an experienced prudent correctional institution staff member to believe that a crime is imminent, is occurring or has occurred.

NEW SECTION 7

WAC 137-125-010 Visits--Purpose. Personal visits are intended to maintain ties between the offender and his/her family and the community so as to facilitate his/her successful return to the community. Group visits and media visits are intended to establish closer contact and better understanding between the public and the correctional system.

NEW SECTION 7

WAC 137-125-015 Visits--Registration. Upon arrival at the institution, all visitors must register and upon request provide formal identification.

NEW SECTION 8

WAC 137-125-040 Personal visits--General. Personal visits will be regulated according to the following criteria:

(1) Offenders shall have a maximum choice of visitors consistent with the security of the institution;

(2) Restrictions on the number of visitors allowed an offender at any one time, and the restrictions on the frequency and duration of visits, shall be no more stringent than necessary in view of practical limitations of the institution, such as staff and space;

(3) Visiting shall not be denied, terminated, or restricted as a sanction for infractions of other rules of the institution unrelated to visiting;

(4) Visitors and offenders shall be treated courteously and every reasonable effort made to ensure that visits are comfortable and pleasant.

NEW SECTION 9

WAC 137-125-042 Personal visits--Who may not visit. The offender may not receive visits from:

(1) Persons not included on his/her visiting list for approved visitors as provided for in WAC 137-125-044 unless an exception has been granted in accordance with WAC 137-125-140;

(2) Persons associated with him/her in the commission of the offense for which he/she was incarcerated;

(3) Parolees and probationers under active supervision unless they are members of his/her immediate family or are participating as volunteers or employees of the department in some other approved capacity in institutional programs or activities;

(4) Persons under age 18 except with the consent of the parent or guardian. If under age 16, the visitor must be accompanied during the entire visit by a parent or guardian or any other approved visitor;

(5) Persons under 18 years of age may not participate as a member of a group visiting within the security perimeter of the institution;

(6) Persons who are members of the immediate family or close friends of an offender in the institution shall declare this fact and may enter beyond the security perimeter as part of a group only with the express permission of the superintendent.

NEW SECTIONS 5

WAC 137-125-044 Personal visits--Approved visitor lists. At the time of admittance, the offender shall be provided a copy of the personal visiting regulations and shall complete an application for each individual whom he/she wishes placed on his/her visiting list. The superintendent shall review each application for completeness, and, as appropriate, promptly and tentatively approve visits for the immediate family. The superintendent shall mail a visitor's questionnaire (see WAC 137-125-195 (1)) to each prospective adult visitor, or to the parents or guardians of each prospective visitor under 18 years of age. Upon return and review of the questionnaire, the superintendent shall decide if the individual is to be placed on the offender's permanent visiting list, and shall notify both the offender and the prospective visitor of his/her decision. Denial of visiting rights must not be made on the basis of race, religion, sex, or national origin. If a person is denied placement on the offender's permanent visiting list, the superintendent shall inform the offender in writing of the reasons therefore.

NEW SECTIONS 5

WAC 137-125-046 Personal visits--Alterations to visiting list. (1) An offender may add names to his/her visiting list in accordance with limitations in WAC 137-125-042;

(2) The superintendent may delete a name from the list upon a finding of violation of visiting rules or serious abuse of visiting on the part of a visitor or offender, in which case he/she shall notify the visitor and the offender in writing stating the reasons for terminating the visiting rights.

NEW SECTION SF

WAC 137-125-048 Personal visits--Transfer of offender. When an offender is transferred to another correctional institution his/her approved visiting list shall be forwarded to and accepted by the receiving institution as previously approved. It shall be the responsibility of the offender to notify his/her visitors of such transfer.

NEW SECTION SF

WAC 137-125-052 Personal visits--Visiting days and hours. The superintendent of the institution shall establish and regulate visiting days and hours subject to the approval of the secretary. Each visitor shall be given a copy of the institution's rules concerning visits upon arrival at the institution for the first time, or by mail prior to that time.

NEW SECTION SF

WAC 137-125-054 Personal visits--Hospitalized offender. An offender who is a patient in the institution hospital may receive visitors subject to such limitations as are imposed by the attending physician. Such visits shall be supervised by an employee of the institution and visitors under the age of 18 must be accompanied by a responsible adult.

NEW SECTION SF

WAC 137-125-060 Professional visits. (1) In addition to the list of approved visitors, the offender may receive personal visits from persons visiting him/her in a professional capacity. No interview may take place without the offender's agreement except under subpoena;

(2) The superintendent may require advanced appointment for professional interviews unless it appears the circumstances do not permit delay;

(3) Appropriate space shall be made available for professional interviews so as to provide privacy consistent with the security needs of the institution;

(4) Upon entering the institution, any official or professional visitor shall be advised, verbally, that if information is exchanged which affects the safety or well-being of any offender, this information must be also communicated to the superintendent unless such communication would violate the confidentiality of a professional relationship.

NEW SECTION SF

WAC 137-125-070 Group visit--General. Each institution shall provide for reasonable access to the institution by groups of concerned citizens and for the participation by appropriate groups in activities of the offenders. The full range of institutional activities shall be shown and full public access, under supervision, shall be permitted to institutional facilities and practices. Areas to which public access is not feasible for reasons of security or privacy of offenders should be presented on film.

NEW SECTION SF

WAC 137-125-072 Group visit--Arrangements. (1) Groups wishing to visit an institution shall request permission from the superintendent in advance and schedule the visit at a time convenient to the institution. The spokesman for the group shall notify the

superintendent of the approximate size of the group, the purpose of the visit, and the desired duration of the visit;

(2) An athletic team may with the approval of the superintendent arrange for a visit in order to compete with an offender team;

(3) The superintendent shall specify the sections of the institution to which the visiting group may have access and the duration of their visit.

NEW SECTION SP

WAC 137-125-076 Group visit--Conduct. (1) Group members shall conduct themselves in a dignified and orderly manner;

(2) Group members shall be permitted to converse with offenders they encounter during a visit;

(3) Cameras shall not be taken into the institution or photographs taken without special authorization of the superintendent;

(4) The group shall stay together unless the staff member in charge authorizes sub-groups.

NEW SECTION SP

WAC 137-125-078 Group visit--Privacy of offenders. Offenders shall be afforded privacy during groups visits and shall be given advance notice that visiting groups are expected.

NEW SECTION SP

WAC 137-125-090 News media visits--General. The superintendent shall honor requests by representatives of news media for admittance to the institution. Such representatives shall be treated courteously and shall be afforded reasonable access to all areas of the institution. The right of privacy of offenders shall be protected. The superintendent shall insure that representatives of news media are informed of these rules and of their responsibilities.

NEW SECTION SP

WAC 137-125-095 News media visits--Limitations. (1) Representatives of news media shall be advised on entering the institution that if they receive information which directly affects the safety of any offender or staff member, or indicates that a crime has been or will be committed, this information shall be communicated to the superintendent or an assistant, unless such communication would violate the confidentiality of a professional relationship;

(2) No interview with an offender may take place without his/her consent;

(3) When photographs are to be taken offenders must be notified and given the opportunity to withdraw from the scene;

(4) If the name or photographs of an offender are to be used, written consent of the offender must be secured.

NEW SECTION §

WAC 137-125-100 Exchange of material or items. (1) A visitor may not bring contraband into an institution and may give an offender, or receive from an offender, only such items or materials as have been inspected and approved by the officer in charge;

(2) If an offender is on his/her way to or from a visit and he/she is found to have contraband in his/her possession, his/her visits may be suspended, if after a disciplinary hearing, it is determined the contraband was obtained during the visit.

NEW SECTION §

WAC 1137-125-105 Search of visitors. (1) To prevent possible delivery of weapons, controlled substances, or contraband to offenders, all visitors are subject to a frisk search and inspection of any purses, packages, briefcases, or similar containers which are brought behind the security walls of the institution or into the visiting area;

(2) If the frisk search, or independent evidence, establishes a real suspicion that smuggling of contraband or criminal activity is imminent, there may be a search of the visitor's person;

(3) Female visitors shall only be searched by female staff members;

(4) When persons visiting in a professional capacity have a need for purses, packages, briefcases, or similar containers, such material may be admitted but is subject to search;

(5) Representatives of the news media may bring into the institution equipment essential to the purpose of their visit.

NEW SECTION §

WAC 137-125-110 Notice of search. (1) Signs shall be posted at the entrances to the grounds of the institution and at the entrance to the visiting area giving notice that persons proceeding beyond these points may be subject to search.

(2) If the institution intends to search a visitor, verbal notice of this intent and the consequences of refusing search shall be given before search procedures may be initiated.

NEW SECTION §

WAC 137-125-115 Refusal to be searched. A visitor has the option of refusing to be searched but may then be removed from the institution and denied visiting rights or entrance to the institution for a period not to exceed 90 days. If a visitor refuses to be searched on more than one instance, their visiting rights may be denied permanently. Restoration of visiting rights denied for refusal to be searched must be authorized by the superintendent or his/her designee.

NEW SECTION §

WAC 137-125-120 Search and discovery of illegal items. If as a result of the search, illegal items are discovered, the superintendent shall report the matter to the local law enforcement officers for further action. The evidence and the suspect shall remain in the room in which the search took place and witnesses will be asked to remain until the arrival of the law enforcement officers. Institutional staff shall exercise all reasonable caution in not questioning the visitor.

NEW SECTION 5

WAC 137-125-125 Denial of visits. The superintendent may deny entrance to visitors if:

- (1) The superintendent has prior knowledge leading him to a real suspicion that a visitor is attempting to smuggle in or out of the institution illegal or contraband items. If there is real suspicion substantially ahead of the arrival time of the visitor the superintendent should contact local law enforcement officers and allow them to handle any search procedures;
- (2) There is a disturbance within the institution;
- (3) There is clear and present, or imminent danger to the health and safety of any visitor, offender, or staff member;
- (4) he/she has real suspicion to believe that criminal conduct will ensue if entrance is allowed;
- (5) Visiting rights have been seriously abused by the offender;
- (6) There is real suspicion to believe the visitor has attempted to bring contraband into the institution;
- (7) Visitors fail to abide by the pertinent rules in this chapter.

NEW SECTION 5

WAC 137-125-130 Suspension of visiting rights--Duration. Visiting rights may be suspended for a single visitor or all visitors of a single offender depending on the seriousness of a visiting infraction. The visiting rights of an offender charged with violation of visiting rules may be suspended only after a finding of guilt pursuant to a regular disciplinary hearing and such rights may be abridged for a maximum duration of 90 days after which visiting rights shall be restored unless there remains a clear and present, or imminent danger to the health and safety of any visitor, offender, or staff member.

NEW SECTION 5

WAC 137-125-135 Appeal of denial of visiting rights. (1) A visitor may appeal the suspension, disapproval, or termination of his/her visiting rights to the superintendent of the institution. If still dissatisfied he/she may appeal by letter to the administrator of adult corrections. The letter should state the reason why the visitor should be permitted to visit and the circumstances surrounding the denial or termination.

(2) A group or a representative of the news media denied entrance to the institution or required to leave, may appeal to the secretary or his/her designee. The appeal should state the reasons the group or the representative believes he/she should be permitted to visit and the circumstances surrounding the denial or termination.

NEW SECTION 5

WAC 137-125-140 Exceptions. The superintendent may grant exceptions to normal visiting procedures in unusual circumstances to meet the special needs of an offender.

NEW SECTION 5

WAC 137-125-195 Appendices. (1) The text and format of the visitor's questionnaire referred to in WAC 137-125-044 are:

Read carefully:

Offender.....Number.....has asked that you be placed on his (her) visiting list. If you wish to visit the above named offender, please answer all questions listed below and return this form to sending institution within fifteen days of the date of mailing. Please return before(Month)/..... (Day) /.....(Year)/

All questions must be answered. Any omission or falsification will be considered sufficient reason for your exclusion as a visitor. If you are under 16 years of age, you may visit only by special permission of the Superintendent, and only if accompanied, during the entire visit, by a parent or person who is also an approved visitor. If you are between 16 and 18 years of age, you must have the signature of your parent or guardian.

Name.....Age.....
(first) (middle) (last)

Address.....
(number) (street) (city) (state) (zip)

Relationship to offender: (Mother, wife, friend, attorney, etc.)

.....

Number of years and months you have known offender.....

Have you been involved in illegal or criminal activity with the above-named offender?

Are you now under active supervision of probation or parole?

Yes No

"A visitor has the option of refusing to be searched. However, a refusal to be searched may result in denial of admittance to or removal from the institution and a denial of all future visiting rights for a period of up to ninety days. A second refusal to be searched may result in a denial of visiting privileges for up to six months at which time the restoration of visiting rights will be reconsidered by the institution."

I am hereby advised of the authority provided to the institution by Adult Corrections Division Policy #75-1 that can require any person entering an adult correctional institution subject to:

(A) A personal search and vehicle search whenever there is mere suspicion that a crime is being committed;

(B) Strip search whenever there is a "real suspicion" that a crime has occurred; or

(C) Probe and orifice search conducted by qualified medical personnel when there is evidence to support "clear indication" of criminal action.

Signature

Signature of parent or guardian (if applicable)

Date.....(Month)/.....(Day)/.....(Year)/

comments:.....

DO NOT WRITE BELOW THIS LINE

Approved Superintendent's Signature

Denied (If denied, give reason(s))

Copy to OffenderOffender's Signature