

HOUSE BILL REPORT

2SSB 5695

As Passed House - Amended:

March 2, 2022

Title: An act relating to a body scanner pilot program at the department of corrections.

Brief Description: Concerning a body scanner pilot program at the department of corrections.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Wagoner, Brown, Gildon, Kuderer, Lovick, Mullet, Wellman and Wilson, C.).

Brief History:

Committee Activity:

Public Safety: 2/18/22, 2/22/22 [DPA];

Appropriations: 2/24/22, 2/28/22 [DPA(APP w/o PS)].

Floor Activity:

Passed House: 3/2/22, 96-0.

Brief Summary of Second Substitute Bill (As Amended by House)

- Requires the Department of Corrections to establish a comprehensive body scanner program at the Washington Corrections Center for Women and at a state correctional facility serving male incarcerated individuals as part of an expanded pilot program to create drug-free prisons.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis, Graham, Griffey, Hackney, Orwall, Ramos, Simmons, Thai and Young.

Staff: Kelly Leonard (786-7147).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Public Safety. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Staff: Yvonne Walker (786-7841).

Background:

Contraband.

"Contraband" refers to any article or thing which a person confined in a correctional facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court. Introducing contraband into a correctional facility is a criminal offense. The degree or classification of the offense depends on the type of contraband.

Searches.

The Department of Corrections (DOC) conducts multiple types, levels, and varying frequency of searches of correctional facilities and persons designed to ensure safety and security systems are intact and operational, verify the health and welfare of all persons, and prevent and deter the introduction and movement of contraband. This includes, for example, metal detector searches, pat searches, or canine searches of incarcerated persons, visitors, and employees. In addition, strip searches of incarcerated persons are required in certain circumstances.

Strip searches allow for greater visual certainty that the incarcerated person is not concealing contraband, and are often conducted when persons have had contact with the public or when persons are returning from work. Current policies require strip searches to be conducted by two employees of the same gender as the person being searched, except in limited circumstances. If an incarcerated person is suspected of having swallowed or internally concealed contraband or foreign objects, the incarcerated person may be placed in a secure room or cell to facilitate the safe recovery of those items, also commonly referred to as dry cell watch. This is meant to ensure the person's safety and health and to safeguard facility security. The DOC policy specifies conditions of confinement for individuals placed on dry cell watch.

Body Scanner Pilot Project.

In the 2017-19 supplemental operating budget, the state appropriated funding for the DOC to install a body scanner at the Washington Corrections Center for Women (WCCW) as a

pilot project to reduce strip searches. The DOC was required to collect data on its change in practices, and assess benefits or issues with using the body scanner. The DOC submitted a report to the Legislature in December 2019.

Summary of Amended Bill:

Body Scanner Pilot Project.

The DOC must establish a comprehensive body scanner program at the WCCW and at a state correctional facility serving male incarcerated individuals as part of an expanded pilot program to create drug-free state correctional facilities. The body scanner must be capable of detecting the presence of contraband contained under clothing and within body cavities, and must meet applicable federal and state radiation and safety standards.

Operational Policies and Staffing. The DOC must develop policies and procedures for using the body scanner to conduct security screenings for employees, contractors, visitors, volunteers, incarcerated individuals, and other persons entering the secure perimeter of the correctional facility. Alternative search methods must be used for persons who are minors, individuals who are health compromised, individuals with disabilities, individuals who may be pregnant, and individuals who may meet the maximum allowable monthly or annual radiation dosage limit specified by the Department of Health (DOH).

The DOC must provide appropriate radiation safety and body scanner operation training to all staff who will administer body scans. Only staff who have completed all related trainings may be permitted to operate the body scanner and review body scans. The DOC must develop policies, in consultation and collaboration with the DOH, on scanner use and screening procedures, including frequency and radiation exposure limits, to minimize harmful radiation exposure. The DOC must develop a method to track and maintain records on the frequency of body scans conducted on any individual in order to comply with any maximum allowable monthly and annual radiation dosage limits.

The DOC must provide appropriate custody and nursing staff levels for body scanners, including adequate staffing for subsequent searches and dry cell watches occurring when a body scan indicates the presence of contraband.

Substance Use Disorder Treatment. An incarcerated individual with a body scan indicating the presence of substance-related contraband must undergo, if appropriate, a comprehensive assessment for substance use disorder and receive relevant substance use disorder treatment services, including medication-assisted treatment. The DOC must prioritize substance use disorder treatment services for incarcerated individuals with cognitive, behavioral, and physiological symptoms indicating the incarcerated individual is experiencing a substance use disorder. The DOC must distinguish between incarcerated individuals who have symptoms indicating a substance use disorder and incarcerated individuals who transport substances for other individuals and do not have symptoms indicating a substance use disorder.

Employees. A DOC employee, contractor, visitor, or volunteer with a body scan indicating the presence of contraband must be disciplined in accordance with DOC policies.

Reporting. By December 1 of each year, the DOC must submit a report to the Governor and the Legislature on:

- the number and types of individuals, including visitors, employees, contractors, and volunteers, with positive body scans in the prior year and the disciplinary action taken;
- the types of contraband detected by the body scanner;
- the number of confiscated substances in the prior five years;
- the number of incarcerated individuals with positive body scans for substance-related contraband in the prior year who were assessed for substance use disorder and received substance use disorder treatment services while incarcerated; and
- the number and length of time incarcerated individuals with positive body scans were placed on dry cell watch in the prior year.

Expiration. The pilot program expires June 30, 2024.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Public Safety):

(In support) Recent studies suggest that more than 38 percent of persons entering state correctional facilities have a substance use disorder; however, most of these persons are not given treatment. The pilot program provides a unique opportunity to reduce the presence of contraband in state correctional facilities, while also increasing treatment opportunities for persons with substance use disorder. After the pilot program is complete, there will hopefully be a better understanding of how to improve treatment services in state correctional facilities and improve reentry programs.

The body scanner pilot program should and will apply to everyone entering correctional facilities, not just incarcerated persons. The DOC will be consulting with the DOH to ensure the process is safe and effective for everyone.

The pilot program expands upon previous efforts to reduce the need for strip searches in state correctional facilities. Strip searches can be invasive and demeaning.

(Opposed) None.

(Other) It is important to reduce the reliance on strip searches and to promote drug-free prisons. The bill should be amended to ensure that the DOC purchases sufficient body scanners for the Washington Corrections Center for Women and the selected men's facility, particularly to reduce the use of strip searches at both the visitors' area as well as receiving area. The bill should also include the purchase of scanners and addition of search alternatives at the Mission Creek Corrections Center for Women.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Public Safety): (In support) Senator Manka Dhingra, prime sponsor.

(Other) Laurie Dawson.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Public Safety): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.