
Community Safety Committee

HB 1137

Brief Description: Establishing uniform policies and procedures within department of corrections facilities relating to disciplinary proceedings and administrative segregation.

Sponsors: Representatives Peterson, Gregerson and Berry.

Brief Summary of Bill

- Establishes parameters for administrative segregation in a Department of Corrections (DOC) facility.
- Establishes preponderance of the evidence as the standard of proof for a DOC disciplinary hearing of an alleged rule violation by an incarcerated person.

Hearing Date: 1/14/25

Staff: Lena Langer (786-7192).

Background:

Restrictive Housing.

The Washington State Department of Corrections (DOC) has an internal policy governing restrictive housing. Restrictive housing is housing for incarcerated persons whose continued presence in the general population would pose a serious threat to employees, themselves, other persons, or to the security of a correctional facility. Restrictive housing includes administrative segregation, prehearing confinement, disciplinary segregation, maximum custody, and close observation.

The DOC has a separate policy governing administrative segregation.

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.

Administrative Segregation.

Under the DOC's policy, the purpose of administrative segregation is to temporarily remove an incarcerated person from the general population until a timely and informed decision can be made about appropriate housing based on behavior. The DOC policy provides that a person may be assigned to administrative segregation when the person:

- poses a significant risk to the safety and security of employees, contract staff, volunteers, or other persons;
- requests protection or is deemed by employees or staff to require protection;
- is pending transfer or in transit to a more secure facility;
- poses a serious escape risk; or
- is pending investigation for behavior that represents a significant threat.

The Superintendent or designee must approve placement on administrative segregation within two business days. An initial informal review of the placement is held within two business days of the initial placement. There is an intermediate review 14 days after the initial review. A final review is completed within 30 days of the initial placement. If the person is on administrative segregation status for more than 30 days, one of the following actions occurs:

- referral to the Headquarters Maximum Custody Review Committee for placement on Maximum custody,
- return to the general population; or
- transfer to a different facility or unit, including an out-of-state facility.

Total Confinement.

Total confinement is confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day. The DOC's written rules of conduct for incarcerated persons specifies prohibited acts and penalties that will be imposed for various degrees of violation. Sanctions include loss of privileges, loss of good conduct time credits, and loss of earned time credits. Per the DOC Statewide Orientation Handbook, the standard of proof for a disciplinary hearing of an alleged violation in total confinement is some evidence.

Partial Confinement.

For certain persons, a term of total confinement may be converted to partial confinement. Partial confinement is confinement up to one year in a facility operated or contracted by the state or other unit of government, or in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement may include work release, home detention, work crew, or electronic monitoring.

During the period of partial confinement, a person may be required to comply with crime-related prohibitions and affirmative conditions imposed by the court or the DOC. If the rules of the partial confinement program are violated, the person may be required to serve the remainder of the term in total confinement. Under DOC rule, the standard for a disciplinary hearing for an alleged violation in partial confinement is preponderance of the evidence.

Summary of Bill:

Administrative Segregation.

Administrative segregation is defined as the temporary removal from the general population of an incarcerated person who is deemed to present a threat to the safety and security of staff, the incarcerated population, or the community, until a timely and informed decision can be made about appropriate housing based on the incarcerated person's circumstance.

Circumstances warranting administrative segregation include:

- escape or attempted escape;
- arson or attempted arson;
- serious assault or attempted serious assault;
- creating or participating in a major disturbance in which assaults occurred or were attempted;
- reliable and specific intelligence that one of these events is likely and imminent unless particular persons are removed from the general population; and
- protective custody.

Medical necessity may justify placing a person temporarily in close observation areas or infirmaries under medical supervision, but does not justify administrative segregation.

Administrative segregation may not exceed 15 days unless a request for exception is reviewed and approved by the DOC Superintendent or designee. Extensions beyond 30 days require authorization by the Deputy Secretary, and extensions beyond 45 days require authorization by the Secretary.

The DOC must notify the Office of the Corrections Ombuds any time a person has remained on administrative segregation for more than 45 consecutive days. An incarcerated person may not lose housing, education, work assignments, or other programming assignments solely due to placement on administrative segregation.

Disciplinary Hearings.

In a disciplinary hearing of an alleged rule violation by an incarcerated person, the standard of proof is preponderance of the evidence. The hearing officer must articulate what evidence supports the officer's finding, and record a summary of the facts and evidence supporting the hearing decision.

Appropriation: None.

Fiscal Note: Requested on January 9, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.