SENATE BILL REPORT
ESHB 1604

As Passed Senate, March 3, 2026

Title: An act relating to providing parameters for conducting searches of transgender and intersex individuals confined in a local jail in compliance with federal law.

Brief Description: Providing parameters for conducting searches of transgender and intersex individuals confined in a local jail in compliance with federal law.

Sponsors: House Committee on Community Safety (originally sponsored by Representatives Salahuddin, Walen, Peterson, Farivar, Ramel, Gregerson, Parshley, Reed, Ormsby, Kloba, Duerr and Hill).

Brief History: Passed House: 2/4/26, 56-39.
Committee Activity: Human Services: 2/24/26 [DP, DNP].
Floor Activity: Passed Senate: 3/3/26, 30-19.

Brief Summary of Bill

- Requires local jail administrators to implement polices and procedures for conducting a search of a transgender or intersex person confined at the jail that are in compliance with the Federal Prison Rape Elimination Act as they existed on January 1, 2025.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass.
Signed by Senators Wilson, C., Chair; Frame, Vice Chair; Orwall.

Minority Report: Do not pass.
Signed by Senators Christian, Ranking Member; Warnick.

Staff: Will Trondsen (786-7552)

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.

Background: In 2003, Congress passed the Prison Rape Elimination Act (PREA), to address sexual abuse in a detention or custody setting. PREA applies nationwide to federal and state prisons, jails, police lockups, community confinement facilities, and youth detention facilities.

State law permits the strip search of a person in custody under specific conditions. Those conditions include:

- the search is conducted without any touching of the person except as reasonably necessary to effectuate the strip search;
- any body cavity search must be conducted by a physician, registered nurse, or physician assistant, licensed to practice in this state;
- the search is in a location made private from the observation of persons not physically conducting the search; and
- the person searched may permit another person to observe the search; however, the observer cannot be currently held in custody by a law enforcement agency.

State law defines gender identity to mean a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

Summary of Bill: Local jail administrators are required to develop and implement policies and procedures for conducting a search of a transgender or intersex individual confined at the jail that are at a minimum in compliance with the Federal PREA as they existed on January 1, 2025.

A search or physical examination may not be conducted on a transgender or intersex individual confined at the jail for the sole purpose of determining the person's genital status. If unknown, it may be determined through conversations with the individual, by reviewing medical records, or if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Training must be available for jail and security staff in how to conduct cross gender searches, and searches of transgender or intersex individuals in a professional and respectful manner and in the least intrusive manner possible consistent with security needs.

Strip searches for individuals that are transgender, gender nonconforming, or intersex, must be conducted in one of the following manners:

- searches conducted only by a medical professional;
- searches of adult individuals conducted by female staff only;
- asking the individual to identify the gender of staff with whom the individual would feel most comfortable conducting the search; or
- searches conducted in accordance with the individual's stated gender identity.

Local jails must implement policies and procedures that enable individuals confined at the jail to shower, perform bodily functions, and change clothing without nonmedical staff of

the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff of the opposite gender must announce their presence when entering a housing unit.

The inability of a jail to make available female correctional staff who are trained to perform searches of transgender or intersex individuals is not an exigent circumstance justifying a cross gender search. Searches by an individual of a different gender are allowed only when an exigent circumstance exists requiring immediate action to respond to a threat to the security or institutional order of a facility.

The existing definition of gender identity applies to this act.

Local jails must adopt and implement standards that comply by September 1, 2026.

Washington State statutory standards for strip searches are modified to be performed or observed only by persons of the same gender as the person being searched. In the event of a strip search of a transgender, gender nonconforming, or intersex individual, the individual shall be offered the option of:

- choosing the gender of the person who will conduct the search;
- having the search be conducted by a medical professional;
- having the search be conducted by a female staff; or
- having the search be conducted in accordance with the individual's stated gender identity.

Strip searches may be conducted by an individual of a different gender only when exigent circumstances exist requiring immediate action to respond to a threat to the security or institutional order of the facility.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: No one.

Persons Signed In To Testify But Not Testifying: No one.