

SENATE BILL REPORT

SB 5490

As of February 4, 2025

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: Senators Dhingra, Chapman, Hasegawa, Lovick, Nobles, Orwall, Slatter, Stanford, Trudeau, Valdez and Wilson, C..

Brief History:

Committee Activity: Human Services: 2/04/25.

Brief Summary of Bill

- Requires local jail administrators to implement policies 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

Staff: Will Trondsen (786-7552)

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

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- 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 Prison Rape Elimination Act 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:

- the individual choosing the gender of the person who will conduct the search;
- searches conducted only by a medical professional;
- searches of adult individuals conducted by female staff only; 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.

Physician's assistant is changed to physician assistant.

Local jails must adopt and implement standards that comply by September 1, 2025.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on September 1, 2025.