
HOUSE BILL 1604

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By Representatives Salahuddin, Walen, Peterson, Farivar, Ramel, Gregerson, Parshley, Reed, Ormsby, Kloba, Duerr, and Hill

Read first time 01/27/25. Referred to Committee on Community Safety.

1 AN ACT Relating to providing parameters for conducting searches
2 of transgender and intersex individuals confined in a local jail in
3 compliance with federal law; amending RCW 10.79.100; and adding a new
4 section to chapter 70.48 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.48
7 RCW to read as follows:

8 (1) Local jail administrators shall develop and implement
9 policies and procedures for conducting a search of a transgender or
10 intersex individual confined at the jail that are, at a minimum, in
11 compliance with this section and the federal prison rape elimination
12 act, 34 U.S.C. Sec. 30301 et seq., and its regulations, as they
13 existed on January 1, 2025.

14 (a) A search or physical examination may not be conducted on a
15 transgender or intersex individual confined at the jail for the sole
16 purpose of determining the individual's genital status. If the
17 individual's genital status is unknown, it may be determined during
18 conversations with the individual, by reviewing medical records, or,
19 if necessary, by learning that information as part of a broader
20 medical examination conducted in private by a medical practitioner.

1 (b) A jail shall train security staff in how to conduct cross
2 gender searches, and searches of transgender and intersex
3 individuals, in a professional and respectful manner, and in the
4 least intrusive manner possible, consistent with security needs.

5 (c) Following the requirements of RCW 10.79.100, searches of
6 transgender or intersex individuals at the jail must be one of the
7 following:

8 (i) Searches conducted only by a medical professional;

9 (ii) Searches of adult individuals conducted by female staff
10 only;

11 (iii) Asking the individual to identify the gender of staff with
12 whom the individual would feel most comfortable conducting the
13 search; or

14 (iv) Searches conducted in accordance with the individual's
15 stated gender identity.

16 (d) The jail shall implement policies and procedures that enable
17 individuals confined at the jail to shower, perform bodily functions,
18 and change clothing without nonmedical staff of the opposite gender
19 viewing their breasts, buttocks, or genitalia, except in exigent
20 circumstances or when such viewing is incidental to routine cell
21 checks. Such policies and procedures shall require staff of the
22 opposite gender to announce their presence when entering a housing
23 unit.

24 (e) The inability of a jail to make available female correctional
25 staff who are trained to perform searches of transgender or intersex
26 individuals is not an exigent circumstance justifying a cross gender
27 search.

28 (2) Searches may not be conducted based solely on the gender
29 designation of the facility without considering other factors
30 including but not limited to the gender identity or expression of the
31 individual or the individual's preference regarding the gender of the
32 person conducting the search.

33 (3) Searches may be conducted by an individual of a different
34 gender only when exigent circumstances exist requiring immediate
35 action to respond to a threat to the security or institutional order
36 of a facility.

37 (4) Local jails shall adopt and implement standards that comply
38 with the requirements of this section by September 1, 2025.

39 (5) For the purposes of this section, "gender identity" has the
40 same meaning as defined in RCW 74.09.875.

1 **Sec. 2.** RCW 10.79.100 and 1983 1st ex.s. c 42 s 5 are each
2 amended to read as follows:

3 (1) Persons conducting a strip search shall not touch the person
4 being searched except as reasonably necessary to effectuate the strip
5 search of the person.

6 (2) Any body cavity search must be performed under sanitary
7 conditions and conducted by a physician, registered nurse, or
8 (~~physician's~~) physician assistant, licensed to practice in this
9 state, who is trained in the proper medical process and the potential
10 health problems associated with a body cavity search. No health
11 professional authorized by this subsection to conduct a body cavity
12 search shall be held liable in any civil action if the search is
13 conducted in a manner that meets the standards and requirements of
14 RCW 4.24.290 and 7.70.040.

15 (3) Except as provided in subsection (7) of this section, a strip
16 search or body cavity search, as well as presearch undressing or
17 postsearch dressing, shall occur at a location made private from the
18 observation of persons not physically conducting the search. (~~A
19 strip search or body cavity search shall be performed or observed
20 only by persons of the same sex as the person being searched, except
21 for licensed medical professionals as required by subsection (2) of
22 this section.~~)

23 (4) Except as provided in subsection (5) of this section, no
24 person may be present or observe during the search unless the person
25 is necessary to conduct the search or to ensure the safety of those
26 persons conducting the search.

27 (5) Nothing in this section prohibits a person upon whom a body
28 cavity search is to be performed from having a readily available
29 person of his or her choosing present at the time the search is
30 conducted. However, the person chosen shall not be a person being
31 held in custody by a law enforcement agency.

32 (6) RCW 10.79.080 and this section shall not be interpreted as
33 expanding or diminishing the authority of a law enforcement officer
34 with respect to searches incident to arrest or investigatory stop in
35 public.

36 (7) A strip search of a person housed in a holding, detention, or
37 local correctional facility to search for and seize a weapon may be
38 conducted at other than a private location if there arises a specific
39 threat to institutional security that reasonably requires such a

1 search or if all persons in the facility are being searched for the
2 discovery of weapons or contraband.

3 (8) Except as otherwise provided in this section, in accordance
4 with section 1 of this act, a strip search shall be performed or
5 observed only by persons of the same gender as the person being
6 searched. In the event of a strip search of a transgender, gender
7 nonconforming, or intersex individual, the individual shall be
8 offered the option of:

9 (a) Choosing the gender of the person who will conduct the
10 search;

11 (b) Having the search be conducted by a medical professional;

12 (c) Having the search be conducted by a female staff; or

13 (d) Having the search be conducted in accordance with the
14 individual's stated gender identity.

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

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