H-0788.1

HOUSE BILL 1604

State of Washington 69th Legislature 2025 Regular Session

By Representatives Salahuddin and Walen

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

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

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

(1) Local jail administrators shall 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 this section and the federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq., and its regulations, as they existed on January 1, 2025.

(a) 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 individual's genital status. If the individual's genital status is unknown, it may be determined during 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.

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

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

(i) Searches conducted only by a medical professional;

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

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

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

(d) The jail shall 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. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a housing unit.

(e) 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.

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

(3) 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 a facility.

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

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

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

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

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

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

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

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

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

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

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

(8) Except as otherwise provided in this section, in accordance with section 1 of this act, a strip search shall 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:

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

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

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

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

(9) 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 a facility.

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