

HOUSE BILL REPORT

HB 1054

As Reported By House Committee On:

Corrections

Title: An act relating to corrections cost reductions by restriction of adult offender privileges.

Brief Description: Restricting offender privileges.

Sponsors: Representatives Padden, Goldsmith, Delvin, Schoesler, Chappell, Robertson, Fuhrman, Campbell and Sheldon.

Brief History:

Committee Activity:

Corrections: 1/18/95, 2/16/95, 2/21/95 [DPS].

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Koster; Radcliff and Schoesler.

Minority Report: Do not pass. Signed by 3 members: Representatives Tokuda, Assistant Ranking Minority Member; Cole and Dickerson.

Staff: Antonio Sanchez (786-7383).

Background:

Extended Family Visitation

All prison inmates are allowed to have visits from members of their family, including overnight visitation with their spouse, except for those under penalty of death, housed in segregation or intensive management, or who are in some way restricted. Family is defined as spouse and/or children, step children, mother, father, foster mother, foster father, sister, brother, grandmother, grandfather, legal guardians, or other relatives. The Department of Corrections (DOC) establishes the terms and conditions for access to and use of the extended family visitation units.

All family visits take place in private extended family visitation units located within the prison facility. A visiting unit consists of a mobile home or similar structure. It is furnished and contains at least one bedroom, a kitchen, bathroom, and living room. Inmates are allowed to have a extended family visitation once every thirty days. Family visitations last from 18 hours to a maximum of 48 hours. The Department of Corrections currently maintains 35 extended family units within 14 prisons. The majority of family visitation units were purchased or are leased using state funds. However, the Inmate Welfare Fund and private donations have also been used to pay for construction and materials to build some units. The total state funds expended on the purchase, construction, or lease of extended family visitation units is approximately \$662,674.55. During 1993 and 1994 approximately 2,477 inmates used the extended family visitation units.

Obscene, Erotic, and Violent Material

Obscene, erotic, and violent materials are available, to an extent, to inmates in the form of video tapes, cable television, network television, audio tapes, and written materials such as magazines and books. The Department of Corrections defines obscene or sexually explicit material as that which appeals to the prurient interest, and contains patently offensive depiction or descriptions of sexual conduct and has no serious literary, artistic, political or scientific value. In addition, each institution further defines, by specific field instructions, the type of erotic or violent materials inmates can have access to. Under this definition many inmates have access to magazines such as Playboy, Playgirl, Penthouse, Hustler, and Easy Rider.

Movies and Videos

In 1994 the Legislature made it against the law to show unrated, X-rated, or NC-17 rated movies in adult correctional facilities. Movies and videos with an industry "R" rating are shown within all DOC facilities providing they do not violate any of the department's policy guidelines. As such, some television and video materials available to inmates contain sexual nudity, sexual activity, or graphic violence. The Department of Corrections considers movies to be excessively violent that contain sexual and/or physical violence which exceed what is proper, normal, or reasonable.

Mail

Inmates are restricted by departmental policy from receiving mail that contains obscene or sexually explicit materials. All materials must be mailed or delivered to the facilities and are inspected by mail room staff. Mail room screening varies from facility to facility based on their interpretation of the obscenity policy.

Prison Cells

Some facilities allow inmates to post pictures depicting frontal nudity in their individual cells, others do not.

Prison Libraries

Six DOC facilities currently have satellite branches of the Washington State Library. Inmates also have access to local library materials and other state library materials through inter-library loan services. Library materials could contain sexual nudity, sexual activity, or violence. Prison libraries are administered by the State Library and their budget is separate from the Department of Corrections. The Department of Corrections library and support services biannual budget is approximately \$923,644. Federal funds are also included in this total.

Case Law on Obscenity and Violence

Regulations restricting prisoner access to materials that are designed to arouse sexual drives or which encourage violence have been upheld against First Amendment challenges. However, prisoners are not without First Amendment rights, and restrictions on the materials they are permitted to receive must affect only those materials which are detrimental to the goals of security, order, and rehabilitation. It is the burden of the state to prove that the obscene or violent materials are detrimental to order and rehabilitation (Aikens v. Jenkins; Carpenter v. State of South Dakota; Procunier v. Martinez).

Cable and Closed-Circuit Television

All Department of Corrections facilities have satellite or cable systems or are planning to install one. Generally the department pays for the installation of the cable or satellite system and the inmates pay for maintenance and monthly programming fees. The cost for installing cable television access at Airway Heights Correctional facility was approximately \$100,000. All facilities allow inmates to have television in their cells and/or living units or both. Inmates pay for their own personal televisions. Some of the facilities are currently using, or are prepared to use, the cable systems for educational programming to defray costs of on-site educational classes.

Summary of Substitute Bill:

Definitions are established for: "Immediate family," "Child," "Excessive violence," "Obscene," and "Sexually Explicit."

Family Visits

Family visits for inmates are allowed only for the purpose of promoting functional and cohesive family relationships. The following restrictions are placed on family visitations:

- No family visits until the inmate has served at least six months.
- No family visits with spouse if the inmate is married while in prison.
- Family visits are limited to 24 hours.
- To be eligible for a family visit inmates must work an eight hour day and a 40 hour work week if they have a GED certificate or high school degree. If the inmate does not have a GED certificate or high school diploma they are required to go to classes to attain a GED certificate. The department of corrections is required to make sufficient work and education programs consistent with the mandate, however, if work or education programs are not available and the inmate wants to participate, they will not be denied privileges.
- The time period between family visits is increased from 30 days to 60 days.
- No family visits for offenders, in maximum custody, on death row, or if they are housed in disciplinary or administrative segregation.
- If an inmate wants to participate in family visits they must be free of serious infractions for one year.
- Inmates cannot have a family visit if they are a danger to him or her self, have a prior criminal history of child or spousal abuse, or have a dangerous mental health problem.
- The Department of Corrections is allowed to exclude inmates from family visits by crime type.
- Criteria is established for excluding immediate family members not eligible to participate because of behavior or criminal history.
- Inmates must have 10 random urine analysis (UA) tests for six months after the family visit. If an inmate is found positive for drug use they will not be eligible for family visits for the remainder of his or her term.
- Inmates are required to pay for all the construction, maintenance, and operational costs of the family visitation program.

2) Obscene, Erotic, and Violent Material

All obscene, erotic, sexually explicit, and excessively violent films, video tapes, magazines, books, or computer software are prohibited from Department of Corrections facilities. Mail must be screened for obscene materials. The Department of Corrections is given the authority to determine the materials that are prohibited and must monitor compliance.

3) Cable and Closed-Circuit TV

New prison construction and facilities that are expanded must have plans indicating how cable television will be used to enhance inmate basic education and vocational training.

- Personal televisions are not allowed for inmates unless the inmate is working or is in an education program.
- Inmates are not allowed personal televisions for the first two months in prison.
- Inmates must pay for all the construction, maintenance, and fees associated with personal television such as cable construction, and monthly cable fees.
- No restrictions are placed on closed circuit security.

4) Weight Lifting

Weight lifting is only allowed for inmates who participate in weight lifting teams sanctioned to compete in the sport. Each prison is allowed up to three inmate teams of thirty five inmates each .

- Inmates on the weight lifting teams must be participating in work or education program to be eligible for the weight lifting team.
- Any inmate found guilty of assaulting a corrections officer or inmate is not eligible to be on the weight lifting team.
- Inmates must pay all the costs associated with the weight lifting program including a portion of the department of corrections training staff salaries.
- The Department of Corrections is required to provide inmates with recreational options that minimize ability to substantially increase muscle mass.
- Only members of the inmate weight lifting team can purchase dietary supplements that increase muscle mass.

Substitute Bill Compared to Original Bill:

Extended Family Visitation

The requirement for the Department of Corrections to eliminate all extended family visitation facilities from current prisons and ban them in prison facilities planned for future construction is removed. And the requirement that the Department of Corrections establish a family visitation site in each prison facility that is able to accommodate monitored non-overnight family visitation is also eliminated and replaced with restrictions for eligibility for family visits.

Obscene, Erotic, and Violent Material

The definitions for obscene, erotic or excessively violent materials are refined and clarified. Computer software is added to the materials that must be considered. Libraries are not specifically noted.

Cable and Closed-Circuit Television

The prohibition of all current and future state corrections facilities from having cable television or closed-circuit television is eliminated and replaced with the allowance that cable or closed-circuit television can be used in correctional facilities if the facilities indicate how the television will be used for educational purposes.

Allocation of Savings

All references to allocation of savings are eliminated.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Strong measures to eliminate inmate privileges, like conjugal visits, weight lifting, and televisions, need to be enacted. Obscene, erotic and excessively violent materials should have no place in our prison system. Inmate privilege programs cost the state tax payers money.

Testimony Against: Family visits in prison help hold the family together and provide the inmate with a reason for not returning to prison once they get out. Television is an important tool for corrections because it provides inmates with something to do with idle time. Television is used for educational purposes.

Testified: Representative Mike Padden (prime sponsor); Danielle Bersch (con); Julia Holder (con); Nancy Post (con); Cheryl Richardson (con); Michael Truax, Detention Ministries (con); Leonard Shaw (con); Clay Anderson (con); Pablo Stanfield, Religious Society of Friends (con); Tom Rolfs, Department of Corrections; Tana Wood, Washington State Penitentiary; Nancy Post (con); Olivia Bockman (con); Cheryl Richardson (con); Nanelle Berry (con); and Dana Parsons (con).