

# HOUSE BILL REPORT

## HB 1026

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**As Passed House:**

February 13, 2001

**Title:** An act relating to the authority of the department of corrections to detain, search, or remove persons who enter correctional facilities or institutional grounds.

**Brief Description:** Authorizing the department of corrections to detain, search, or remove persons who enter correctional facilities or institutional grounds.

**Sponsors:** Representatives O'Brien, Lovick, Hurst, Ballasiotes, Ahern and Kagi; by request of Department of Corrections.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 1/26/01, 1/31/01 [DP].

**Floor Activity:**

Passed House: 2/13/01, 95-0.

**Brief Summary of Bill**

- Authorizes certain employees of the Department of Corrections under some circumstances to use reasonable force to detain, search, or remove a person.
- Authorizes certain employees of the Department of Corrections to use necessary force in the protection of persons and properties located within the confines of the correctional facility or on institutional grounds.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

**Staff:** Katy Freeman (786-7386).

**Background:**

A limited authority Washington peace officer is any full-time, fully compensated officer

of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. The Department of Corrections (DOC) is a limited authority Washington law enforcement agency. Thus, some employees of the department are limited authority Washington peace officers.

Any employee of the DOC, while supervising and transporting prisoners, or while apprehending escaped prisoners, has the authority to detain prisoners. However, employees of the DOC have no authority to detain a non-prisoner.

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**Summary of Bill:**

Employees of the DOC who are limited authority Washington peace officers are authorized to use reasonable force to detain, search, or remove a person: (1) who enters or remains without permission within a correctional facility or on institutional grounds; or (2) when they have probable cause to believe that the person has committed or is attempting to commit a crime or possess contraband within a correctional facility or on institutional grounds.

The DOC is authorized to detain the person for a reasonable time to search the person and confiscate any contraband. The DOC may then detain the person until custody of the person and any illegal contraband can be transferred to a law enforcement officer.

When a person is detained, the DOC is required to immediately notify a local law enforcement agency that has jurisdiction over the correctional facility or the institutional grounds of detainment.

Additionally, employees of the DOC who are limited authority Washington peace officers may use necessary force to protect persons and properties located within the confines of the correctional facility or on institutional grounds.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The bill would allow the Department of Corrections (DOC) to detain, search, and remove persons who enter or remain without permission in a prison facility or on institutional grounds.

The bill would also authorize the DOC to detain, search, and remove persons who are

committing or attempting to commit a crime while in a prison facility or on institutional grounds. If, for example, a visitor assaults an inmate, the department could temporarily detain the prison visitor, immediately notify law enforcement, and have law enforcement arrest them for assault. Currently, the DOC may only terminate the visit, ask the visitor to leave, and notify law enforcement.

Additionally, the bill would authorize the DOC to detain, search, and remove persons who they suspect are attempting to introduce contraband into a prison facility or on institutional grounds. Any contraband found would immediately be transferred to law enforcement. Currently, it is difficult for the DOC because if persons enter the facility with contraband, they may not legally detain them. DOC may only ask the visitor to leave and notify law enforcement. Furthermore, if they search the visitor, it may be an illegal search and, depending on the circumstances, the evidence may not be admissible in court.

**Testimony Against:** None.

**Testified:** (In support) Lynne De Lano, Department of Corrections; and Larry Erickson, Washington Association of Sheriffs and Police Chiefs.