

SHB 1792 - H AMD 94

By Representative Pearson

WITHDRAWN 03/05/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.94A.631 and 1984 c 209 s 11 are each amended to
4 read as follows:

5 (1) If an offender, including an escapee or an absconder, violates
6 any condition or requirement of ((a)) his or her sentence, a community
7 corrections officer may arrest or cause the arrest of the offender
8 without a warrant, pending a determination by the court or a department
9 of corrections hearing officer. A community corrections officer may
10 also arrest an offender for any crime committed in his or her presence.
11 If a community corrections officer arrests or causes the arrest of an
12 offender under this section, the offender shall be confined and
13 detained in the county jail of the county in which the offender was
14 taken into custody, and the sheriff of that county shall receive and
15 keep in the county jail, where room is available, all prisoners
16 delivered to the jail by the community corrections officer, and such
17 offenders shall not be released from custody on bail or personal
18 recognizance, except upon approval of the court or authorized
19 department staff, pursuant to a written order.

20 (2) If there is reasonable cause to believe that an offender,
21 including an escapee or an absconder, has violated a condition or
22 requirement of ((the)) his or her sentence, ((an)) the offender may be
23 required to submit to a search and seizure of the offender's person,
24 residence, automobile, or other personal property. ((A community
25 corrections officer may also arrest an offender for any crime committed
26 in his or her presence. The facts and circumstances of the conduct of
27 the offender shall be reported by the community corrections officer,
28 with recommendations, to the court.

29 ~~If a community corrections officer arrests or causes the arrest of~~
30 ~~an offender under this section, the offender shall be confined and~~

1 ~~detained in the county jail of the county in which the offender was~~
2 ~~taken into custody, and the sheriff of that county shall receive and~~
3 ~~keep in the county jail, where room is available, all prisoners~~
4 ~~delivered to the jail by the community corrections officer, and such~~
5 ~~offenders shall not be released from custody on bail or personal~~
6 ~~recognizance, except upon approval of the court, pursuant to a written~~
7 ~~order.)) For the safety and security of the public and department~~
8 ~~staff, a community corrections officer may search an offender's person,~~
9 ~~residence, automobile, or other personal property of the offender, if~~
10 ~~the community corrections officer, based on the officer's professional~~
11 ~~judgment and discretion, has reasonable cause to believe that the~~
12 ~~offender, including an escapee or an absconder, has violated a~~
13 ~~condition or requirement of his or her sentence.~~

14 (3) For the safety and security of department staff, an offender
15 may be required to submit to pat searches, or other limited security
16 searches, by community corrections officers, correctional officers, and
17 other agency approved staff, without reasonable cause, when in or on
18 department premises, grounds, facilities, or vehicles, or while
19 preparing to enter department premises, grounds, facilities, or
20 vehicles. Pat searches of offenders shall be conducted only by staff
21 who are the same gender as the offender, except in emergency
22 situations.

23 (4) The legislature finds that: (a) Offenders in total confinement
24 may be subjected to random, unannounced inspections without violating
25 the constitutional requirement that all searches be reasonable; (b)
26 offenders on community custody, including escapees and absconders, have
27 the same expectation of privacy as offenders in total confinement; and
28 (c) requiring offenders on community custody, including escapees and
29 absconders, to submit to random, unannounced inspections is therefore
30 reasonable under the United States and Washington state Constitutions.

31 (5) When a court sentences an offender to a term of community
32 custody under RCW 9.94A.505(2)(b), 9.94A.545, 9.94A.650, or 9.94A.715,
33 for a crime committed on or after the effective date of this act, the
34 court shall require the offender, as a condition of community custody,
35 to submit to random, unannounced inspections of his or her person,
36 residence, automobile, or other personal property.

37 (6) An offender may be required to submit to a search of the
38 offender's person, residence, automobile, or other personal property,

1 without reasonable cause to believe that he or she has violated a
2 condition or requirement of his or her sentence, if the search is a
3 condition of the offender's community custody under subsection (5) of
4 this section. For the safety and security of the public and department
5 staff, a community corrections officer may search an offender's person,
6 residence, automobile, or other personal property of the offender,
7 without reasonable cause, if the search is a condition of the
8 offender's community custody under subsection (5) of this section.

9 (7) The facts and circumstances of the conduct of an offender,
10 arrest, or requirement to submit to a search and seizure, or random,
11 unannounced inspection of the offender's person, residence, automobile,
12 or other personal property by a community corrections officer under
13 this section, shall be reported by the community corrections officer,
14 with recommendations, to the court or department of corrections hearing
15 officer."

EFFECT: (1) Reorganizes provisions of the bill.

(2) Includes "escapees" and "absconders" in the category of offenders subject to the terms of search and arrest by Community Corrections Officers.

(3) Permits a Community Corrections Officer (CCO) to search an offender's person, residence, automobile, or other personal property of an offender under supervision if the CCO, based upon his or her professional judgment and discretion, has reasonable cause to believe that the offender has violated a condition or requirement of his or her sentence.

(4) Expands the scope of locations and circumstances under which the Department of Corrections (DOC) staff may conduct pat down searches without reasonable cause to believe that an offender has violated a condition or requirement of his or her sentence. In addition to allowing a pat search when in or on DOC premises or entering or preparing to enter a DOC vehicle, an offender may be searched while preparing to enter DOC premises, grounds, or facilities.

(5) Requires that pat searches of all offenders shall be conducted only by staff who are the same gender as the offender, except in emergency situations.

(6) Adds a legislative finding that offenders under DOC supervision have the same expectation of privacy as offenders in total confinement, and, thus offenders under DOC supervision are subject to random, unannounced searches, and that these searches are reasonable under the United States Constitution and under the Washington state Constitution.

(7) Requires the trial court, when imposing a sentence upon an

offender, to require the offender, as a condition of his or her sentence, to submit to random, unannounced inspections of his or her person, residence, automobile, or other personal property.

(8) Requires an offender to submit to a search of his or her person, residence, automobile, or other personal property without reasonable cause if such requirement is a condition of the offender's sentence.

(9) Requires the CCO to report to the court or DOC hearing officer, with recommendations, the facts and circumstances of the conduct of an offender who is required to submit to a search and seizure or random, unannounced inspection.

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