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**SUBSTITUTE SENATE BILL 5404**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Carrell, Hargrove, Pearson, and Darneille; by request of Department of Social and Health Services)

READ FIRST TIME 02/15/13.

1           AN ACT Relating to introduction of contraband into or possession of  
2   contraband in a secure facility; amending RCW 9A.76.140, 9A.76.150, and  
3   9A.76.160; reenacting and amending RCW 9A.76.010; and prescribing  
4   penalties.

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

6           **Sec. 1.** RCW 9A.76.010 and 2009 c 549 s 1003 are each reenacted and  
7   amended to read as follows:

8           The following definitions are applicable in this chapter unless the  
9   context otherwise requires:

10          (1) "Contraband" means any article or thing which a person confined  
11   in a detention facility or a secure facility under chapter 71.09 RCW is  
12   prohibited from obtaining or possessing by statute, rule, regulation,  
13   or order of a court;

14          (2) "Custody" means restraint pursuant to a lawful arrest or an  
15   order of a court, or any period of service on a work crew: PROVIDED,  
16   That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and  
17   74.13.031 and chapter 13.32A RCW shall not be deemed custody for  
18   purposes of this chapter;

1 (3) "Detention facility" means any place used for the confinement  
2 of a person (a) arrested for, charged with or convicted of an offense,  
3 or (b) charged with being or adjudicated to be a juvenile offender as  
4 defined in RCW 13.40.020 as now existing or hereafter amended, or (c)  
5 held for extradition or as a material witness, or (d) otherwise  
6 confined pursuant to an order of a court, except an order under chapter  
7 13.34 RCW or chapter 13.32A RCW, or (e) in any work release, furlough,  
8 or other such facility or program;

9 (4) "Uncontrollable circumstances" means an act of nature such as  
10 a flood, earthquake, or fire, or a medical condition that requires  
11 immediate hospitalization or treatment, or an act of a human being such  
12 as an automobile accident or threats of death, forcible sexual attack,  
13 or substantial bodily injury in the immediate future for which there is  
14 no time for a complaint to the authorities and no time or opportunity  
15 to resort to the courts.

16 **Sec. 2.** RCW 9A.76.140 and 2011 c 336 s 404 are each amended to  
17 read as follows:

18 (1) A person is guilty of introducing contraband in the first  
19 degree if he or she knowingly provides any deadly weapon to any person  
20 confined in a detention facility or secure facility under chapter 71.09  
21 RCW.

22 (2) Introducing contraband in the first degree is a class B felony.

23 **Sec. 3.** RCW 9A.76.150 and 2011 c 336 s 405 are each amended to  
24 read as follows:

25 (1) A person is guilty of introducing contraband in the second  
26 degree if he or she knowingly and unlawfully provides contraband to any  
27 person confined in a detention facility or secure facility under  
28 chapter 71.09 RCW with the intent that such contraband be of assistance  
29 in an escape or in the commission of a crime.

30 (2) Introducing contraband in the second degree is a class C  
31 felony.

32 **Sec. 4.** RCW 9A.76.160 and 2011 c 336 s 406 are each amended to  
33 read as follows:

34 (1) A person is guilty of introducing contraband in the third

1 degree if he or she knowingly and unlawfully provides contraband to any  
2 person confined in a detention facility or secure facility under  
3 chapter 71.09 RCW.

4 (2)(a) This section does not apply to an attorney representing a  
5 client confined in a secure facility under chapter 71.09 RCW for the  
6 purposes of bringing discovery or other legal materials to assist the  
7 client in the civil commitment process under chapter 71.09 RCW:  
8 PROVIDED, That:

9 (i) The attorney must be present when the materials are being  
10 reviewed or handled by the client; and

11 (ii) The attorney must take the materials and any and all copies of  
12 the materials when leaving the secure facility.

13 (b) The department of social and health services must adopt rules  
14 establishing guidelines for attorneys to follow when bringing legal  
15 materials into secure facilities. The rules may not interfere with  
16 attorney-client privilege.

17 (3) Introducing contraband in the third degree is a misdemeanor.

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