

HOUSE BILL REPORT

HB 1871

As Reported by House Committee On:
Public Safety

Title: An act relating to prison safety.

Brief Description: Concerning prison safety.

Sponsors: Representatives Klippert, Goodman and Appleton; by request of Department of Corrections.

Brief History:

Committee Activity:

Public Safety: 2/14/19, 2/19/19 [DPS].

Brief Summary of Substitute Bill

- Expands the crime of Possession of Contraband on the Premises of a State Correctional Institution in the second degree to include delivery to a prisoner, or possession with the intent to deliver to a prisoner, any alcohol, intoxicant, cell phone, or other electronic telecommunications device.
- Expands the existing exemption in the Public Records Act for gang databases to include the Department of Corrections' Security Threat Group database.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Omeara Harrington (786-7136).

Background:

Criminal Offenses Related to Introduction of Contraband.

A person is guilty of Introducing Contraband if he or she knowingly and unlawfully provides contraband to any person confined in any detention facility or secure facility for sexually

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violent predators. A first-degree offense is a class B felony and is committed when a person knowingly provides any deadly weapon to a confined person. A person commits a second-degree offense, a class C felony, if he or she knowingly and unlawfully provides contraband to a confined person with the intent that it be of assistance in an escape or in the commission of a crime. In other circumstances, Introducing Contraband is a gross misdemeanor.

In addition to the general Introducing Contraband offenses, a person, other than a person serving a sentence in a penal institution of this state, is guilty of Possession of Contraband on the Premises of a State Correctional Institution if he or she knowingly has certain prohibited items in his or her possession in the buildings of, or on adjacent grounds under the control of, a state correctional institution. A first-degree offense is a class B felony and is committed when the prohibited item is a deadly weapon. A second-degree offense is a class C felony and is committed when the prohibited item is a narcotic drug or controlled substance.

Public Records.

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless an exemption applies. The stated policy of the PRA favors disclosure and requires narrow application of the statutory exemptions. Certain investigative, law enforcement, and crime victim information is exempt from public inspection and copying under the PRA. Included in these exemptions is information contained in a local or regionally maintained gang database, as well as the statewide gang database.

Summary of Substitute Bill:

Possession of Contraband on the Premises of a State Correctional Institution.

The crime of Possession of Contraband on the Premises of a State Correctional Institution in the second degree is expanded. In addition to existing grounds, a person may be convicted of the offense if he or she delivers to a prisoner, or possesses with the intent to deliver to a prisoner, any alcohol, intoxicant, cell phone, or other form of an electronic telecommunications device.

In addition, the offense may be committed by a person other than a prisoner in a state correctional institution, rather than a person other than a person serving a sentence in a penal institution of this state.

Public Records.

The existing exemption from public inspection and copying under the PRA for gang databases is expanded to include the Department of Corrections' Security Threat Group database.

Substitute Bill Compared to Original Bill:

The list of contraband items for which the delivery or intended delivery to a prisoner constitutes an offense of Possession of Contraband on the Premises of a State Correctional

Institution in the second degree is modified to remove the exception for marijuana. Any intoxicant, including marijuana, qualifies under the offense.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 20, 2019.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) During a tour of the Washington State Penitentiary in Walla Walla, contraband was cited as a problem that the facility is facing. There is a desire for prisons to be safe for those they house and also those who work in these facilities. Contraband makes facilities less safe. People can be in prison and still run a gang, be a pimp, or conduct other criminal business. This is accomplished, in part, by the use of cell phones. There are a variety of methods of introduction of contraband, including through mail, visitors, and occasionally through staff. It is also thrown over fences and hidden for offsite crews. The major facilities conduct random searches of staff, and all items go through an x-ray machine. Under current law, only narcotics and controlled substances are covered as contraband. This bill adds alcohol, intoxicants, cell phones, and other telecommunications devices.

The expansion of the public records exemption for gang databases to include the Department of Corrections (DOC) gang database is necessary. The DOC investigative systems have real-time information that is shared around the state. Currently, this system is not exempt from the PRA. Often the information contained in local databases was provided by the DOC. The information is protected under the local databases, but not in the DOC database. Other agencies know that the DOC does not have the same protections as are afforded elsewhere, and as a result they hesitate to provide information.

(Opposed) None.

Persons Testifying: Representative Klippert, prime sponsor; and Robert Herzog, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.