

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], 1/13/20, 1/23/20 [DP2S].

Brief Summary of Second 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 second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 10 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Omeara Harrington (786-7136).

Background:

Criminal Offenses Related to Introduction of Contraband.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 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 Second 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, or a 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 the PRA for gang databases is expanded to include the Department of Corrections' Security Threat Group database.

Second 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. A technical correction is made to update an underlying section of law that was amended by 2019 legislation.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second 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) This is important legislation dealing with prison safety, both with respect to addressing the delivery of substances into prisons that do not belong, and also adding a needed PRA exemption for information contained in the Department of Corrections Security Threat Group database.

Contraband within the prisons continues to be an issue. The DOC has piloted a body scanner at the Washington Corrections Center for Women, and just during that pilot there was a 500 percent increase from previous years in the discovery of contraband. Contraband gets into the facilities through multiple avenues. With respect to the gang database, numerous local and federal agencies will not share information with the DOC because they know our laws allow disclosure. The DOC relies heavily on information provided by various sources, including those currently and formerly incarcerated. These people are at times hesitant to provide information. This bill provides protection against the DOC having to disclose information that will reveal that a person has been working with investigators. Redaction is insufficient, and some incarcerated groups require members to self-disclose in order to prove they have not been sharing information with the DOC.

(Opposed) The provisions regarding contraband are okay, but there are issues with the PRA exemption for the DOC database. Government functions best when it is in the light of day, and transparency helps the DOC to be better and safer. There should be some degree of public scrutiny, and a balance should be struck between protecting the safety of the public and the safety of those within the institution. If people who are incarcerated had access to the information being kept on them, then excluding the database from public disclosure would be less of a concern. Labels can be applied arbitrarily and are not easily removed. Individuals have to seek information about themselves through public disclosure requests. While not wanting to publicly broadcast this information is understandable, it is concerning that a person may not be able to access information about their own file that affects things like eligibility for jobs, housing, and educational opportunities within the institution. What would truly promote safety within the prisons is putting a body camera on each officer.

(Other) The PRA exemption is fine as written and still allows newspapers to continue to do their work in terms of knowing why prisoners are in prison and accessing conviction information, police records, and agency disciplinary records.

Corrections officers and inmates are affected by hypocrisy. Sex offender and woman and child abuser inmates calculate with fellow inmates and correctional officers to abuse the hated. Gaslighting harassment is a form of mental abuse; accompanying this is a jailhouse Facebook giving a face to the hated. This opens the door for man's capacity for evil, and gives a face to the evil so they know who to hurt and harass. This is a safety issue. There has to be a way to combat this in this bill, perhaps by requiring institutions to remove pictures from the system upon request, with ramifications for not doing so.

The additional penalties for contraband are fine, but there are concerns about the PRA expansion. This expansion seems fairly innocuous, but the existing exemption is robust. The comment that the DOC cannot receive communications from the federal government because they are likely to disclose is reminiscent of a program in which a city was given surveillance equipment by the federal government and told to lie to judges. If the federal government starts sharing information with DOC, there would be a metafile about the prisoner that the prisoner could not see. When big brother is watching you, you should be able to watch back.

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

(Opposed) Zachary Kinneman, What's Next Washington; and Noreen Light.

(Other) Rowland Thompson, Allied Daily Newspapers of Washington; Timothy Petrozzi; and Arthur West.

Persons Signed In To Testify But Not Testifying: None.