

SENATE BILL REPORT

SB 6064

As of February 10, 2020

Title: An act relating to requiring full body scanners at each department of corrections institution.

Brief Description: Requiring full body scanners at each department of corrections institution. **[Revised for 1st Substitute:** Concerning full body scanners and dry cell watches at state correctional institutions.]

Sponsors: Senators Wagoner, Dhingra and Sheldon.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/21/20, 2/05/20 [DPS-WM].

Ways & Means: 2/10/20.

Brief Summary of First Substitute Bill

- Requires Department of Corrections (DOC) to install a full body scanner at Monroe Correctional Complex by July 1, 2021.
- Allows an individual to be placed on dry cell watch for up to 72 hours for the safe recovery of internally concealed contraband.
- Requires DOC to develop an alternative to continuing to place the individual on dry cell watch past 72 hours that is gender-responsive and considers the risk level and history of the individual.
- Requires DOC to issue a biennial report on the effectiveness of the body scanners in detecting contraband.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 6064 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kelsey-anne Fung (786-7479)

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.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Kayla Hammer (786-7305)

Background: According to DOC, one of the greatest risks to operating safe and secure facilities is the introduction and movement of contraband, whether it be weapons, tools used to aid escape attempts, or illegal drugs that disrupt normal operations and cause health and safety concerns. Strip searches allow for greater visual certainty that the individual is not concealing contraband on their person, and are often conducted when incarcerated individuals have had contact with the public, or when the individual returns from working in areas of the facility with access to items such as tools, equipment, and supplies. Strip searches also offer secondary benefits by identifying health and safety concerns such as self-harm behavior, illegal drug use, or signs of fighting or assault. DOC policy requires strip searches to be conducted by two employees of the same gender as the individual being searched, except in limited circumstances.

In 2018, the Legislature provided funding for DOC to install a body scanner at the Washington Corrections Center for Women as a pilot project to reduce strip searches. DOC was required to collect data on its change in practices, benefits or issues with using body scanners, and provide a report to the Legislature.

DOC reported in December 2019, that after installation of the body scanner, they found:

- a reduction in average employee time for searches;
- enhancement of the safety and security of the facility from the increased discovery of contraband concealed in body cavities; and
- other benefits to both employees and inmates from not having to perform strip searches.

With the use of the body scanner to screen individuals, strip searches are only performed if there is a positive or suspicious body scan, the individual is being placed into restricted housing or a mental health unit, or in an emergent situation where the individual cannot be transported to the scanner location safely and securely. DOC reported several issues with using body scan technology instead of strip searches, including that some scans still required additional screening and monitoring, the scanner was permanently installed in one location, and addressing individuals with positive body scans.

Summary of Bill (First Substitute): Subject to the availability of funds, DOC must purchase and install a state-of-the-art full body scanner at Monroe Correctional Complex by July 1, 2021. The scanner must be able to detect contraband under clothes and in body cavities.

DOC must provide appropriate custody and nursing staff levels for each scanner installed at a state correctional facility, and adequate staffing for searches and monitoring if a body scan indicates the presence of contraband. Each DOC staff must completed appropriate radiation safety and body scanner operation training prior to operating the scanner or reviewing a body scan image for the presence of contraband. A DOC employee who operates the scanner may not be the same DOC employee who interprets the scan for presence of contraband.

An individual with a body scan that indicates the presence of contraband may be placed on dry cell watch for up to 72 hours for the purpose of safe recovery of internally concealed contraband. A medical staff must conduct a medical assessment of the individual at least once every eight hours while on dry cell watch. By July 1, 2021, DOC must develop a gender-responsive alternative to continuing to place an individual on dry cell watch past 72 hours. The alternative must consider the risk level and history of the individual.

DOC must seek to minimize inmate exposure to harmful radiation and use recognized best practices when conducting body scans.

Beginning November 1, 2021, DOC must issue an annual report to the Governor and Legislature on the effectiveness of the body scanners in detecting contraband in state correctional facilities. The report must include data on the number of false positives, number and length of time individuals have been placed on dry cell watch, the alternative developed by DOC, and officer and inmate assaults occurring before and after implementation of the body scanner.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):

- Requires, subject to appropriations, DOC to install a body scanner at Monroe Correctional Complex by July 1, 2021.
- Requires DOC staff to complete radiation safety and body scanner operation training prior to operating the scanner or reviewing a body scan image.
- Prohibits DOC staff who operates the scanner from being the same staff who interprets the body scan for contraband.
- Allows a person with a positive scan to be placed on dry cell watch for up to 72 hours.
- Requires a medical check every eight hours while on dry cell watch.
- Requires DOC to develop a gender responsive alternative to continuing to place the individual on dry cell watch after 72 hours that considers the risk level and history of the individual.
- Adds false positives, number and length of time on dry cell watch, and the alternative developed by DOC to the existing annual reporting requirement.
- Defines contraband and dry cell watch.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: Strip search is embarrassing for inmates and embarrassing for staff. Within first two months, found more contraband than found in entire year. There are benefits across

the board. Incarceration is largely punishment but also rehabilitation. If we can not provide a rehabilitative environment, then we are not doing best for inmates. Scanners are effective. DOC has flexibility to install the body scanners where it makes the most sense.

CON: Know of multiple women that had false positives who had to spend multiple days in dry cell watches. It is barbaric and humiliating. Inmates are forced to drink prune juice so inmates will have a bowel movement. Staff is unresponsive to requests to use the restroom. In theory, body scanner is amazing and better than strip search. The issue is not with the scanner but with the dry cell watch policy, and lack of training on how to read the scans and accountability. There are also women who experience retaliatory actions from staff who read the body scans and there should be a safeguard in place by using anonymous readings.

OTHER: Main concern not about the body scanners but about the dry cell watches that follow a positive scan result. Recommending that DOC implement an improved policy, procedure, and training manual before any additional scanners are installed and operated. Body scanners are supposed to be a gender responsive, trauma-informed alternative to invasive strip searches. An unintended consequence is that the dry cell watch is a traumatic experience for the women in the pilot. Need to make sure there is a gender responsive dry cell watch policy. Recommend a limit be placed on the length of time a person can spend in a dry cell or that an alternative be explored passed a certain time frame. Need more detail on the impact of dry cell on incarcerated population, lessons learned from the pilot, and how DOC will improve the body scanner process based on the pilot. Respect for human dignity does not stop at the prison door. Before we look to expand pilot across the state, stop to look at unintended consequences such as false positives and alternatives to extended dry cell watches.

Washington Corrections Center for Women employees in the pilot have also experienced unintended consequences. With the introduction of the body scanner, there has been a huge increase in overtime because of increased staff supervision required for the dry cell watches. These positions have not been backfilled. It will be hard to expand if we do not fund positions to do the work.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator Keith Wagoner, Prime Sponsor.

CON: Antonio Ginatta, Columbia Legal Services; Amy Cate, citizen.

OTHER: Joanna Carns, Office of the Corrections Ombuds; Brenda Wiest, Teamsters 117.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: Scanners are effective and the goal of this bill is to extend the work that has already been done in the pilot at the Washington Corrections Center for Women to a men's facility.

OTHER: Before expanding the program to other facilities it may be best to perfect the current pilot.

Persons Testifying (Ways & Means): PRO: Senator Keith Wagoner, Prime Sponsor.

OTHER: Noreen Light, citizen.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.