

# FINAL BILL REPORT

## 2SSB 5695

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#### Synopsis as Enacted

**Brief Description:** Concerning a body scanner pilot program at the department of corrections.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Wagoner, Brown, Gildon, Kuderer, Lovick, Mullet, Wellman and Wilson, C.).

**Senate Committee on Human Services, Reentry & Rehabilitation**

**Senate Committee on Ways & Means**

**House Committee on Public Safety**

**House Committee on Appropriations**

**Background:** Pilot Program Report. According to the Department of Corrections (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 an individual is not concealing contraband, and are often conducted when incarcerated individuals have had contact with the public or when an individual returns from work. Strip searches also aid in 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 the body scanner, and provide a report to the Legislature. DOC reported a reduction in average employee time for searches, enhancement of the safety and security of the facility, and other benefits to both employees and inmates from not having to perform strip searches. With the use of the body scanner, 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 emergent situations where the individual cannot be transported to the scanner location safely and securely. DOC reported several issues with using body scan technology,

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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.

Dry Cell Watch. DOC has established policies for placing an incarcerated individual in a secure room or cell for the safe recovery of suspected swallowed or internally concealed contraband or foreign objects to ensure the individual's safety and health and to safeguard facility security. Per DOC policy, initial placement on dry cell watch must be concluded within 72 hours or after three consecutive normal bowel movements, whichever occurs first. A 24-hour extension may be authorized up to three times after initial placement under certain circumstances. DOC policy specifies conditions of confinement for individuals placed on dry cell watch, such as lighting, ventilation, room temperature, meals, undergarments and coveralls, access to personal hygiene items, and shower and mail access, unless there are safety or security concerns.

There is a schedule specified in DOC policy for health services to conduct physical assessments, monitor vital signs, and document behavioral observations for individuals placed on dry cell watch. Assessments are conducted at least every hour on the first day, every 2 hours on the second day, every 3 hours on the third day, and every 4 hours on the fourth and subsequent days.

Substance Use Disorder. During incarceration in a state facility, individuals sentenced under the prison-based drug offender sentencing alternative must undergo a comprehensive substance use disorder assessment and receive, within available resources, treatment services appropriate for the person. The substance use disorder treatment services must be licensed by the Department of Health (DOH).

DOC has established policies and guidelines for the clinical management of individuals with a substance use disorder. Individuals arriving at a reception diagnostic center may be administered an authorized substance use disorder screening instrument, within available resources, to determine the need for an assessment. Those individuals with initial screening results indicating the probability of a substance use disorder may be assessed using the substance use disorder assessment. An assessment indicating a substance use disorder is required for admission into DOH certified substance use disorder treatment provided by DOC.

Searches of Visitors. DOC employees who are limited authority peace officers may use reasonable force to detain, search, or remove any person who enters or remains on facility grounds without permission, appears to have committed or is attempting to commit a crime on facility grounds, or is found in possession of contraband. DOC must immediately notify the appropriate local law enforcement agency, and DOC may detain the person for a reasonable time to search the person and confiscate any contraband.

DOC also has policies requiring searches of contract staff, volunteers, vendors and their

agents, and other visitors on facility grounds. Searches are conducted as needed to enhance security and safety for personnel, inmates, and the public by minimizing the introduction of contraband into DOC facilities. Types of searches include electronic metal detectors, container search, pat search, canine search, and locker search.

Searches of Inmates and Facilities. DOC has policies and guidelines governing searches of areas within the secure perimeter of facilities, cells and living areas, common areas and recreation yards, and general areas of the facility accessible by the public. There are policies on routine and random searches of inmates, which can include canine search, pat searches, strip searches, and body cavity searches. DOC employees are subject to drug and alcohol-free workplace policies.

State Radiation Control Agency. DOH is designated as the state radiation control agency with sole responsibility for the administration of regulatory, licensing, and radiation control laws. DOH's Office of Radiation Protection protects and improves the health of people in the state by ensuring exposure to radiation is as low as reasonably achievable. DOH also has rules on radiation protection standards and dosage limits on a person's exposure to radiation.

**Summary:** DOC must establish a comprehensive body scanner program at the Washington Corrections Center for Women and a male state correctional facility as part of an expanded pilot program to create drug-free prisons. The scanner must be capable of detecting contraband contained under clothing and within body cavities, and must meet applicable federal and state radiation and safety standards.

DOC must develop policies and procedures necessary to establish a comprehensive body scanner program that must be used to conduct security screenings for employees, contractors, visitors, volunteers, incarcerated individuals, and other persons entering the secure perimeter of the participating correctional facility. Alternative search methods must be used for minors, individuals who are health compromised, individuals with disabilities, individuals who may be pregnant, and individuals who may meet the maximum allowable monthly or annual radiation dosage limit specified by DOH.

DOC must provide appropriate custody and nursing staff levels for the body scanners. Staffing must be adequate to provide for subsequent searches and dry cell watches if a body scan indicates the presence of contraband. Dry cell watch means the placement of an incarcerated person in a secure room or cell for the safe recovery of internally concealed contraband. An incarcerated individual with a body scan indicating the presence of substance-related contraband must undergo, if appropriate, a comprehensive substance use disorder assessment and receive relevant substance use disorder treatment services, including medication-assisted treatment. DOC must prioritize substance use disorder treatment services for incarcerated individuals with cognitive, behavioral, and physiological symptoms indicating the incarcerated individual is experiencing a substance use disorder. DOC must distinguish between incarcerated individuals who have symptoms indicating a

substance use disorder and incarcerated individuals who transport substances for other individuals and do not have symptoms indicating a substance use disorder. A DOC employee, contractor, visitor, or volunteer with a body scan indicating the presence of contraband must be disciplined in accordance with DOC policies.

DOC must provide appropriate radiation safety and scanner operation training to all staff who will administer the body scan. Only staff who have completed all related trainings may operate the body scanner and review body scans. DOC must develop policies, in consultation and collaboration with DOH, on scanner use and screening procedures, including frequency and radiation exposure limits, to minimize harmful radiation exposure while safely and effectively using the body scanners to create drug-free prisons. DOC must develop a method to track and maintain records on the frequency of body scans conducted on any individual subject to the comprehensive body scanner program to comply with any maximum allowable monthly and annual radiation dose limits that may be set by DOH.

The DOC secretary is required to adopt any rules and policies necessary to implement the bill.

DOC must submit an annual report by December 1st to the Governor and Legislature on:

- the number and types of individuals, including visitors, employees, contractors, and volunteers, with positive body scans in the prior year and the disciplinary action taken;
- the types of contraband detected by the body scanner;
- the number of confiscated substances in the prior five years;
- the number of incarcerated individuals with positive body scans for substance-related contraband in the prior year who were assessed for and received substance use disorder treatment services while incarcerated; and
- the number and length of time incarcerated individuals with positive body scans were placed on dry cell watch in the prior year.

The pilot program expires June 30, 2024.

**Votes on Final Passage:**

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

**Effective:** June 9, 2022