
SECOND SUBSTITUTE SENATE BILL 5907

State of Washington

62nd Legislature

2011 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell, and Hargrove; by request of Governor Gregoire)

READ FIRST TIME 04/01/11.

1 AN ACT Relating to prison safety and implementing the policy
2 recommendations resulting from the national institute of corrections
3 review of prison safety; amending RCW 41.80.020; adding new sections to
4 chapter 72.09 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 promote safe state correctional facilities. Following the tragic
8 murder of officer Jayme Biendl, the governor and department of
9 corrections requested the national institute of corrections to review
10 safety procedures at the Monroe reformatory. While the report found
11 the Monroe reformatory is a safe institution, it recommends changes
12 that would enhance safety. The legislature recognizes that operating
13 safe institutions requires ongoing efforts including collective
14 bargaining to address areas where improvements can be made to enhance
15 the safety of state correctional facilities. This act addresses ways
16 to increase safety at state correctional facilities and implements
17 changes recommended in the report of the national institute of
18 corrections.

1 NEW SECTION. **Sec. 2.** (1) The department shall establish a
2 statewide security advisory committee to conduct comprehensive reviews
3 of the department's total confinement security-related policies and
4 procedures.

5 (2) The statewide security advisory committee shall make
6 recommendations to the secretary regarding methods to provide
7 consistent application of the policies and procedures regarding
8 security issues in total confinement correctional facilities.

9 (3) The statewide security advisory committee shall include a
10 balance of institutional staff including, but not limited to, custody
11 staff. At a minimum, the statewide security advisory committee shall
12 include:

13 (a) The director of prisons or his or her designee;

14 (b) A nonsupervisory classified employee and/or sergeant from each
15 local advisory committee of a major facility and one nonsupervisory
16 classified employee and/or sergeant representative from a minimum
17 facility;

18 (c) A senior-ranking security custody staff member from each major
19 correctional facility and a senior-ranking custody staff member from a
20 minimum correctional facility; and

21 (d) A delegate from the union that represents department employees
22 located at correctional facilities.

23 (4) The statewide security advisory committee shall develop
24 guidelines to establish local security advisory committees for each
25 total confinement correctional facility within the department. The
26 chair of each local security advisory committee shall be the captain at
27 a major facility and the lieutenant at a minimum security facility.
28 The local security advisory committee should consist of a wide range of
29 nonsupervisory classified employees and/or sergeants from the facility,
30 such as medical staff, class counselors, program staff, and mental
31 health staff.

32 (5) The department shall report back to the governor and
33 appropriate committees of the legislature by November 1, 2011, and
34 annually thereafter. The report shall include:

35 (a) Recommendations raised by either the statewide or local
36 security advisory committees;

37 (b) Recommendations for improving the ability of nonsupervisory

1 classified employees to provide input on safety concerns including
2 staff allocation, labor and industries mandated safety committees, and
3 the inclusion of safety issues in collective bargaining;

4 (c) Minutes from each meeting of the statewide security advisory
5 committee meetings;

6 (d) Actions taken by the department as a result of recommendations
7 by the statewide security advisory committee; and

8 (e) Recommendations for additional resources or legislation to
9 address security concerns in total confinement correctional facilities.

10 NEW SECTION. **Sec. 3.** (1) The department shall establish
11 multidisciplinary teams at each total confinement correctional facility
12 that will evaluate offenders' placements in inmate job assignments and
13 custody promotions. The teams at each facility shall determine
14 suitable placements based on the offender's risk, behavior, or other
15 factors considered by the team.

16 (2) At a minimum, each team shall have representation from a wide
17 range of nonsupervisory classified employees and/or sergeants from the
18 facility, such as medical staff, class counselors, program staff, and
19 mental health staff.

20 NEW SECTION. **Sec. 4.** (1) The department shall develop training
21 curriculum regarding staff safety issues at total confinement
22 correctional facilities. At a minimum, the training shall address the
23 following issues:

24 (a) Security routines;

25 (b) Physical plant layout;

26 (c) Offender movement and program area coverage; and

27 (d) Situational awareness and de-escalation techniques.

28 (2) The department shall seek the input of both the statewide
29 security and local advisory committees in developing the curriculum.

30 (3) The department shall deliver such training to applicable
31 correctional staff at in-service training by July 1, 2012.

32 NEW SECTION. **Sec. 5.** (1) The department may pilot the use of body
33 alarms and proximity cards within available resources.

34 (2) The department shall hire a consultant to study the feasibility
35 of implementing a statewide system for staff safety, utilizing body

1 alarms and proximity cards for staff within the department's total
2 confinement correctional facilities and report findings and
3 recommendations to the governor and appropriate committees of the
4 legislature by November 1, 2011. At a minimum, the report shall
5 include:

6 (a) Recommendations for the use of body alarms by security level;

7 (b) Recommendations for specific positions that should require the
8 use of body alarms;

9 (c) The information technological and infrastructure requirements
10 needed for body alarms and proximity cards;

11 (d) The training requirements for body alarms;

12 (e) Lessons learned from any pilot project the department may
13 implement in the interim;

14 (f) The estimated cost of the alarms and proximity cards and needed
15 supporting infrastructure, staffing, and training requirements.

16 (3) The consultant shall seek the input of both the statewide and
17 local security advisory committees in preparing his or her report.

18 NEW SECTION. **Sec. 6.** (1) The department shall hire a consultant
19 to study the deployment of video monitoring cameras within the
20 department to make recommendations regarding statewide standards for
21 the positioning and use of video monitoring cameras in total
22 confinement correctional facilities and report findings and
23 recommendations to the governor and appropriate committees of the
24 legislature by November 1, 2011. At a minimum, the report shall
25 include:

26 (a) Recommendations for the use of video monitoring cameras by
27 security level;

28 (b) Recommendations for specific locations within a total
29 confinement correctional facility which would benefit from the use of
30 video monitoring cameras;

31 (c) The information technological and infrastructure requirements
32 needed for effective use of video monitoring cameras;

33 (d) Recommendations for how video monitoring cameras would best be
34 deployed in current total confinement correctional facilities;

35 (e) Recommendations about how video monitoring cameras should be
36 incorporated into future prison construction to insure consistency in
37 camera use system-wide;

1 (f) The estimated cost of the video monitoring cameras, supporting
2 infrastructure needed, and staffing required by the total confinement
3 correctional facility.

4 (2) The consultant shall seek the input of both the statewide and
5 local security advisory committees in preparing his or her report.

6 NEW SECTION. **Sec. 7.** (1) The department shall develop a
7 comprehensive plan for the use of oleoresin capsicum aerosol products,
8 commonly referred to as pepper spray, as a security measure available
9 for staff at total confinement correctional facilities.

10 (2) The department may initiate a pilot project, within available
11 funds, to expand the deployment of oleoresin capsicum aerosol products
12 within total confinement correctional facilities.

13 (3) The department's plan for the deployment of oleoresin capsicum
14 aerosol products to staff shall include findings, if any, from the
15 pilot project, recommendations regarding which facility's use should be
16 limited to, what the training requirements should be, the estimated
17 costs, and an implementation schedule.

18 (4) The department shall seek the input of both the statewide and
19 local security advisory committees in developing its plan.

20 (5) The department shall report its plan, including costs, to the
21 governor and appropriate committees of the legislature by November 1,
22 2011.

23 **Sec. 8.** RCW 41.80.020 and 2010 c 283 s 16 are each amended to read
24 as follows:

25 (1) Except as otherwise provided in this chapter, the matters
26 subject to bargaining include wages, hours, and other terms and
27 conditions of employment, and the negotiation of any question arising
28 under a collective bargaining agreement.

29 (2) The employer is not required to bargain over matters pertaining
30 to:

31 (a) Health care benefits or other employee insurance benefits,
32 except as required in subsection (3) of this section;

33 (b) Any retirement system or retirement benefit; or

34 (c) Rules of the director of personnel or the Washington personnel
35 resources board adopted under section 203, chapter 354, Laws of 2002.

1 (3) Matters subject to bargaining include the number of names to be
2 certified for vacancies, promotional preferences, and the dollar amount
3 expended on behalf of each employee for health care benefits. However,
4 except as provided otherwise in this subsection for institutions of
5 higher education, negotiations regarding the number of names to be
6 certified for vacancies, promotional preferences, and the dollar amount
7 expended on behalf of each employee for health care benefits shall be
8 conducted between the employer and one coalition of all the exclusive
9 bargaining representatives subject to this chapter. The exclusive
10 bargaining representatives for employees that are subject to chapter
11 47.64 RCW shall bargain the dollar amount expended on behalf of each
12 employee for health care benefits with the employer as part of the
13 coalition under this subsection. Any such provision agreed to by the
14 employer and the coalition shall be included in all master collective
15 bargaining agreements negotiated by the parties. For institutions of
16 higher education, promotional preferences and the number of names to be
17 certified for vacancies shall be bargained under the provisions of RCW
18 41.80.010(4).

19 (4) For employees of the department of corrections, matters subject
20 to bargaining also include issues of employee safety as relating to
21 equipment, policy, and protocol.

22 (5) The employer and the exclusive bargaining representative shall
23 not agree to any proposal that would prevent the implementation of
24 approved affirmative action plans or that would be inconsistent with
25 the comparable worth agreement that provided the basis for the salary
26 changes implemented beginning with the 1983-1985 biennium to achieve
27 comparable worth.

28 ((+5)) (6) The employer and the exclusive bargaining
29 representative shall not bargain over matters pertaining to management
30 rights established in RCW 41.80.040.

31 ((+6)) (7) Except as otherwise provided in this chapter, if a
32 conflict exists between an executive order, administrative rule, or
33 agency policy relating to wages, hours, and terms and conditions of
34 employment and a collective bargaining agreement negotiated under this
35 chapter, the collective bargaining agreement shall prevail. A
36 provision of a collective bargaining agreement that conflicts with the
37 terms of a statute is invalid and unenforceable.

1 (~~(7)~~) (8) This section does not prohibit bargaining that affects
2 contracts authorized by RCW 41.06.142.

3 NEW SECTION. **Sec. 9.** Sections 2 through 7 of this act are each
4 added to chapter 72.09 RCW.

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