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SEARCH AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses a body cavity search of an arrestee.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the circumstances under which a physical body cavity search of an arrestee is permitted; and
- ▶ establishes requirements for the conduct of a physical body cavity search of an arrestee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

77-7-17.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-7-17.5** is enacted to read:

77-7-17.5. Physical body cavity search -- Limitations -- Requirements.



28 (1) As used in this section:

29 (a) "Arrestee" means an individual who is in the custody of law enforcement for an
30 offense for which the individual has not been convicted.

31 (b) (i) "Body cavity" includes the anus, rectum, vagina, ear canal, nasal passages,
32 esophagus, or stomach.

33 (ii) "Body cavity" does not include the mouth.

34 (c) (i) "Physical body cavity search" means a search of a body cavity of an individual
35 that involves touching the individual with:

36 (A) any part of another individual's body; or

37 (B) an instrument or other item.

38 (ii) "Physical body cavity search" does not include a clothed, pat down search.

39 (2) An individual may not conduct a physical body cavity search of an arrestee unless:

40 (a) jail staff has reasonable suspicion that the arrestee has a weapon, drug, or other
41 contraband concealed in a body cavity of the arrestee;

42 (b) the individual who conducts the physical body cavity search:

43 (i) is a qualified medical professional who:

44 (A) is not employed by a jail;

45 (B) does not have a therapeutic relationship with the arrestee; and

46 (C) if practicable, is the same gender as the arrestee or the same gender that the arrestee
47 identifies as; and

48 (ii) conducts the search:

49 (A) in a professional, sanitary manner;

50 (B) in a facility that is staffed and equipped to respond to potential adverse medical
51 conditions caused by the search;

52 (C) in a private location visible only to the qualified medical professional conducting
53 the search, medical personnel necessary to assist the qualified medical professional, and the
54 minimum number of jail staff or law enforcement necessary, all of whom, if practicable, are the
55 same gender as the arrestee or the same gender that the arrestee identifies as; and

56 (D) with the minimum amount of touching reasonably necessary to complete the
57 search; and

58 (c) the search is authorized by the chief administrator of the jail or a supervisor of the

59 chief administrator.

60 (3) In determining whether to conduct a physical body cavity search, jail staff and the
61 qualified medical professional who conducts the search shall consider the health of the arrestee.

62 (4) Upon the arrestee's request, jail staff shall, if practicable, ensure that at least two
63 individuals, other than the arrestee, are present during a physical body cavity search of the
64 arrestee.

65 (5) Jail staff shall document a physical body cavity search, including:

66 (a) the identity of the arrestee searched;

67 (b) the date, time, and location of the search;

68 (c) the identity of the qualified medical professional who conducts the search and each
69 individual present during the search;

70 (d) a description of the body areas searched and the method of the search;

71 (e) a description of each weapon, drug, or other contraband discovered in the search;

72 (f) a detailed description of the facts that create a reasonable suspicion that the arrestee
73 has a weapon, drug, or other contraband concealed in a body cavity of the arrestee; and

74 (g) the identity of the individual described in Subsection (2)(c) who authorized the
75 search.

76 (6) Before conducting a physical body cavity search, jail staff shall inform the arrestee
77 of the rights of the arrestee described in this section.