

HB0156S01 compared with HB0156

~~{deleted text}~~ shows text that was in HB0156 but was deleted in HB0156S01.

Inserted text shows text that was not in HB0156 but was inserted into HB0156S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Kim F. Coleman proposes the following substitute bill:

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}~~ requires correctional facilities to implement certain search ~~{of an arrestee}~~ policies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{describes the circumstances under which}~~ requires correctional facilities to create and adhere to a ~~{physical}~~ policy regarding body cavity ~~{search of an arrestee is permitted; and~~
- ▶ ~~establishes requirements for the conduct of a physical body cavity search of an arrestee}~~ searches; and
- ▶ dictates certain requirements to be included in the policy.

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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}~~ policy -- Requirements.

(1) As used in this section:

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

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

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

(c) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

~~(f)~~(d) (i) "Physical body cavity search" means a search of a body cavity of an individual that involves touching the individual with:

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

(B) an instrument or other item.

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

(2) ~~{An individual may not conduct a physical}~~ Each state correctional facility shall create and implement a policy specifying rules and procedures to be followed by the correctional facility when a body cavity search ~~{of an arrestee unless:~~

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

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

~~(i) is a qualified medical professional who:~~

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- ~~—— (A) is not employed by a jail;~~
- ~~—— (B) does not have a therapeutic relationship with the arrestee; and~~
- ~~—— (C) if practicable, is the same gender as the arrestee or the same gender that the arrestee identifies as; and~~
- ~~—— (ii) conducts the search:~~
 - ~~—— (A) in a professional, sanitary manner;~~
 - ~~—— (B) in a facility that is staffed and equipped to respond to potential adverse medical conditions caused by the search;~~
 - ~~—— (C) in a private location visible only to the qualified medical professional conducting the search, medical personnel necessary to assist the qualified medical professional, and the minimum number of jail staff or law enforcement necessary, all of whom, if practicable, are the same gender as the arrestee or the same gender that the arrestee identifies as; and~~
 - ~~—— (D) with the minimum amount of touching reasonably necessary to complete the search; and~~
- ~~—— (c) the search is authorized by the chief administrator of the jail or a supervisor of the chief administrator;~~
- ~~—— (3) In determining whether to conduct a physical body cavity search, jail staff and the qualified medical professional who conducts the search shall consider the health of the arrestee;~~
- ~~—— (4) Upon the arrestee's request, jail staff shall, if practicable, ensure that at least two individuals, other than the arrestee, are present during a physical} is performed on an arrestee within the correctional facility's jurisdiction.~~
- ~~—— (3) The correctional facility's body cavity search ~~{of the arrestee.~~~~
- ~~—— (5) Jail staff shall document a physical} policy shall:~~
- ~~—— (a) state with specificity the circumstances under which a body cavity search may be performed on an arrestee;~~
- ~~—— (b) designate who may authorize the performance of a body cavity search;~~
- ~~—— (c) designate specific jail staff or medical personnel who may perform a body cavity search;~~
- ~~—— (d) require any non-medically trained jail staff who may perform a body cavity search to be trained on safe practices for conducting a body cavity search;~~
- ~~—— (e) require documentation of each body cavity search performed at the correctional~~

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facility, including:

- ~~(a)~~ (i) the identity of the arrestee searched;
 - ~~(b)~~ (ii) the date, time, and location of the search;
 - ~~(c)~~ (iii) the identity of the ~~qualified medical professional who conducts the search and each~~ individual ~~present during~~ performing the search;
 - ~~(d)~~ (iv) the identity of the individual authorizing the search;
 - ~~(e)~~ (v) a description of the body areas searched and the ~~method of the search;~~
 - ~~(e)~~ a description of each weapon, drug, or other contraband discovered in the search;
 - ~~(f)~~ a detailed description of the facts that create a reasonable suspicion that the arrestee has a weapon, drug, or other contraband concealed in a body cavity of the arrestee; and
 - ~~(g)~~ the identity of the individual described in Subsection (2)(c) who authorized the search.
 - ~~(6)~~ Before conducting a physical; procedures followed in performing search; and
 - ~~(vi)~~ the circumstances necessitating the body cavity search ~~;~~ jail staff shall inform the arrestee of the rights; and
 - ~~(f)~~ designate rules and procedures to be followed, by authorized staff, when performing a body cavity search that account for the health and privacy interests of the arrestee ~~described in this section.~~
- t, including:
- ~~(i)~~ the location where a body cavity search must be performed;
 - ~~(ii)~~ the gender requirements of the individuals who perform or observe the search in relation to the gender of the arrestee being searched; and
 - ~~(iii)~~ methods to ensure the body cavity search is conducted with the minimal amount of touching necessary to effectuate the purposes of the search.
- (4) A correctional facility's body cavity search policy is a public record.