

ASSEMBLY, No. 4593

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 25, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Requires correctional police officer consent to conducting strip or body cavity search of transgender inmate.

CURRENT VERSION OF TEXT

As introduced.

WITHDRAWN



A4593 VAINIERI HUTTLE

2

1 AN ACT concerning certain strip or body cavity searches in State
2 correctional facilities and amending P.L.2019, c.409.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 1 of P.L.2019, c.409 (C.30:1B-46) is amended to
8 read as follows:

9 1. The Commissioner of Corrections shall establish a policy to
10 limit cross gender searches and surveillance in State correctional
11 facilities. The policy shall:

12 a. require a strip or body cavity search of an inmate to be
13 conducted by an officer of the same gender who is specially trained
14 to conduct these searches;

15 b. authorize an exception to the requirements in subsection a.
16 of this section only in cases of an emergency or other extraordinary
17 or unforeseen circumstances;

18 c. require a non-security employee to conduct the search if a
19 facility does not have sufficient correctional police officers of the
20 same gender as the inmate population;

21 d. require the strip or body cavity search to conform with
22 hygienic procedures and professional practices;

23 e. prohibit correctional police officers from viewing inmates of
24 the opposite gender who are nude or performing bodily functions
25 except in an emergency or other extraordinary or unforeseen
26 circumstances;

27 f. require a facility to install privacy panels in shower and
28 toilet areas when possible;

29 g. require a verbal announcement to be made when correctional
30 police officers or other employees of the opposite gender are in an
31 area of the facility;

32 h. when necessary to determine a transgender inmate's genital
33 status, require the examination of the inmate to be conducted in a
34 private setting by a medical practitioner;

35 i. prohibit a correctional police officer or non-security
36 employee from conducting a strip search on an inmate solely for the
37 purpose of determining the inmate's biological sex or gender;

38 j. prohibit lesbian, gay, bisexual, transgender, and questioning
39 (LGBTQ) inmates from being subject to a more invasive strip or
40 body cavity search than non-LGBTQ inmates; in the event an
41 additional search is necessary, require the correctional police officer
42 or non-security employee to obtain supervisor approval;

43 k. require that a transgender inmate be permitted to indicate a
44 preference for the gender of the correctional police officer or non-
45 security employee who will perform the strip or body cavity search

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 on the inmate and require that the request is to be honored unless
2 exigent circumstances require an immediate strip or body cavity
3 search by available personnel, as determined by a supervisor; a
4 search pursuant to this subsection shall be conducted by a
5 correctional police officer or non-security employee who consents
6 to participating in the search; disciplinary charges shall not be
7 brought against an officer or employee who refuses to participate in
8 the search;

9 1. require a transgender inmate who chooses to have a cross
10 gender search conducted pursuant to subsection k. of this section to
11 sign a cross gender search preference form; and

12 m. include any other restrictions deemed appropriate by the
13 commissioner.

14 (cf: P.L.2019, c.409, s.1)

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16 2. This act shall take effect on the first day of the fourth month
17 next following enactment.

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STATEMENT

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22 This bill requires that a correctional police officer or non-
23 security employee of the Department of Corrections provide
24 consent before conducting a strip or body cavity search of a
25 transgender inmate. The bill further provides that disciplinary
26 charges may not be brought against an officer or employee who
27 refuses to participate in the search.

28 Recently enacted P.L.2019, c.409 requires the Commissioner of
29 Corrections to establish a policy to limit cross gender searches and
30 surveillance in State correctional facilities. The new law requires
31 that transgender inmates be permitted to indicate a preference for
32 the gender of the correctional police officer or non-security
33 employee who will perform a strip or body cavity search on the
34 inmate. This request is to be honored unless exigent circumstances
35 require an immediate strip or body cavity search by available
36 personnel.

37 According to the sponsor, a correctional police officer or non-
38 security officer who is opposed to conducting a search of a
39 transgender inmate in a State correctional facility based on religious
40 reasons or personal beliefs would be able to refuse to conduct the
41 search without fear of reprisal by the Department of Corrections.