



Western Australia

Prisons Amendment Act 2020

As at 21 May 2020

No. 20 of 2020

Published on www.legislation.wa.gov.au

Prisons Amendment Act 2020

Contents

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Section 3 amended	2
5.	Section 6 amended	3
6.	Section 10 amended	3
7.	Section 15E amended	3
8.	Section 15F amended	3
9.	Section 15J amended	3
10.	Section 15Q amended	4
11.	Section 15ZB amended	4
12.	Sections 46A and 46B inserted	4
	46A. Inspection of medical records and mandatory taking of blood or other body sample where prison officer may have been exposed to infectious disease	4
	46B. Review of s 46A	5
13.	Section 49 amended	6
14.	Section 50 amended	6
15.	Section 52 amended	7
16.	Section 58 amended	7
17.	Section 60 amended	8
18.	Section 60A amended	8
19.	Section 70 amended	8
20.	Section 79 amended	8
21.	Section 101 amended	8
22.	Section 110G amended	9
23.	Section 110 amended	9



Western Australia

Prisons Amendment Act 2020

No. 20 of 2020

An Act to amend the *Prisons Act 1981*.

[Assented to 21 May 2020]

The Parliament of Western Australia enacts as follows:

1. Short title

This is the *Prisons Amendment Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act amends the *Prisons Act 1981*.

4. Section 3 amended

- (1) In section 3(1) insert in alphabetical order:

bodily fluid includes semen, blood and saliva;

infectious disease means any of the following —

- (a) Human Immunodeficiency Virus (HIV) infection;
- (b) Hepatitis B;
- (c) Hepatitis C;
- (d) any other prescribed disease capable of being transmitted by the transfer of bodily fluid;

transfer of bodily fluid means the transfer of bodily fluid from one person into the anus, vagina, mucous membrane or broken skin of another person;

- (2) In section 3(1) in the definition of *medical practitioner* paragraph (a) delete “a person”.

5. Section 6 amended

Delete section 6(6).

6. Section 10 amended

In section 10(1) delete the Penalty and insert:

Penalty for this subsection: a fine of \$3 000.

7. Section 15E amended

In section 15E(5) delete the Penalty and insert:

Penalty for this subsection: a fine of \$30 000.

8. Section 15F amended

In section 15F(2) delete the Penalty and insert:

Penalty for this subsection: a fine of \$30 000.

9. Section 15J amended

In section 15J(2) delete the Table and insert:

Table

s. 31(2)	s. 32(1)(b)
s. 47(1) and (2)	s. 71(1) and (2)
s. 73(1)(a)	s. 74(3)
s. 75(1) and (2)	s. 76(1) and (2)
s. 77(1) and (2)	s. 80(1) and (2)

10. Section 15Q amended

- (1) In section 15Q(2) delete the Penalty and insert:

Penalty for this subsection: imprisonment for 3 years.

- (2) In section 15Q(4) delete the Penalty and insert:

Penalty for this subsection: imprisonment for 3 years.

11. Section 15ZB amended

- (1) In section 15ZB(1) delete the Penalty and insert:

Penalty for this subsection: a fine of \$80 000.

- (2) In section 15ZB(2) delete the Penalty and insert:

Penalty for this subsection: a fine of \$8 000.

12. Sections 46A and 46B inserted

After section 46 insert:

46A. Inspection of medical records and mandatory taking of blood or other body sample where prison officer may have been exposed to infectious disease

- (1) Subsections (2) and (3) apply if the chief executive officer suspects on reasonable grounds that there has been a transfer of bodily fluid from a prisoner to a prison officer.

- (2) The chief executive officer may —
 - (a) inspect the prisoner’s medical records to find out whether the prisoner has an infectious disease; and
 - (b) require the prisoner to submit themselves for the purpose of having a blood or other body sample taken to test the sample for the presence of an infectious disease.
- (3) The chief executive officer may authorise the use of such force as is reasonably necessary in the circumstances to take the sample.
- (4) Regulations may —
 - (a) regulate the taking of samples and the treatment of samples taken; and
 - (b) authorise and regulate the disclosure to the prison officer of the prisoner’s medical records and the results of any test or analysis done on the sample taken; and
 - (c) authorise and regulate the further disclosure and use of the information disclosed to the prison officer under paragraph (b); and
 - (d) otherwise authorise and regulate the recording, disclosure and use of the results of any test or analysis done on the sample taken.

46B. Review of s 46A

- (1) The Inspector of Custodial Services must review compliance with, and the operation and effectiveness of, section 46A, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which the *Prisons Amendment Act 2020* section 12 comes into operation.

s. 13

- (2) The Inspector of Custodial Services must furnish a copy of the report to the Minister as soon as practicable after it is prepared.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after the Minister receives it, but not later than 12 months after the 5th anniversary.

13. Section 49 amended

- (1) In section 49(2) delete the Penalty and insert:

Penalty for this subsection: a fine of \$6 000.

- (2) In section 49(6) delete the Penalty and insert:

Penalty for this subsection: imprisonment for 12 months and a fine of \$6 000.

14. Section 50 amended

- (1) In section 50(1) delete the Penalty and insert:

Penalty for this subsection: imprisonment for 18 months and a fine of \$12 000.

- (2) In section 50(2) delete the Penalty and insert:

Penalty for this subsection: imprisonment for 18 months and a fine of \$12 000.

- (3) In section 50(3) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
12 months and a fine of \$6 000.

- (4) In section 50(4) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
18 months and a fine of \$12 000.

15. Section 52 amended

- (1) In section 52(1) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
18 months and a fine of \$9 000.

- (2) In section 52(3) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
12 months and a fine of \$6 000.

- (3) In section 52(4) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
12 months and a fine of \$6 000.

16. Section 58 amended

In section 58 delete “22(a)” and insert:

22(1)(a)

17. Section 60 amended

In section 60(4) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
18 months and a fine of \$9 000.

18. Section 60A amended

In section 60A(2) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
12 months and a fine of \$12 000.

19. Section 70 amended

In section 70(i) delete “body” and insert:

blood or other body

20. Section 79 amended

In section 79(1)(a)(ii) delete “\$300;” and insert:

\$3 000;

21. Section 101 amended

In section 101(7) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
12 months and a fine of \$6 000.

22. Section 110G amended

In section 110G(2) delete the Penalty and insert:

Penalty for this subsection: imprisonment for
12 months and a fine of \$6 000.

23. Section 110 amended

(1) In section 110(1)(k) and (ka) delete “section 46,” and insert:

sections 46 and 46A,

(2) After section 110(3) insert:

(4) The regulations may provide for offences against the regulations and prescribe penalties for those offences not exceeding a fine of \$9 000.



© State of Western Australia 2020.

This work is licensed under a Creative Commons Attribution 4.0 International Licence (CC BY 4.0). To view relevant information and for a link to a copy of the licence, visit legislation.wa.gov.au.

Attribute work as: © State of Western Australia 2020.