

ESHB 2747 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 03/02/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 72.09.015 and 2009 c 521 s 165 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter.

6 (1) "Adult basic education" means education or instruction designed
7 to achieve general competence of skills in reading, writing, and oral
8 communication, including English as a second language and preparation
9 and testing services for obtaining a high school diploma or a general
10 equivalency diploma.

11 (2) "Base level of correctional services" means the minimum level
12 of field services the department of corrections is required by statute
13 to provide for the supervision and monitoring of offenders.

14 (3) "Community custody" has the same meaning as that provided in
15 RCW 9.94A.030 and also includes community placement and community
16 supervision as defined in RCW 9.94B.020.

17 (4) "Contraband" means any object or communication the secretary
18 determines shall not be allowed to be: (a) Brought into; (b) possessed
19 while on the grounds of; or (c) sent from any institution under the
20 control of the secretary.

21 (5) "Correctional facility" means a facility or institution
22 operated directly or by contract by the secretary for the purposes of
23 incarcerating adults in total or partial confinement, as defined in RCW
24 9.94A.030.

25 (6) "County" means a county or combination of counties.

26 ((+6)) (7) "Department" means the department of corrections.

27 ((+7)) (8) "Earned early release" means earned release as
28 authorized by RCW 9.94A.728.

29 ((+8)) (9) "Evidence-based" means a program or practice that has

1 had multiple-site random controlled trials across heterogeneous
2 populations demonstrating that the program or practice is effective in
3 reducing recidivism for the population.

4 ~~((+9))~~ (10) "Extended family visit" means an authorized visit
5 between an inmate and a member of his or her immediate family that
6 occurs in a private visiting unit located at the correctional facility
7 where the inmate is confined.

8 ~~((+10))~~ (11) "Good conduct" means compliance with department rules
9 and policies.

10 ~~((+11))~~ (12) "Good performance" means successful completion of a
11 program required by the department, including an education, work, or
12 other program.

13 ~~((+12))~~ (13) "Immediate family" means the inmate's children,
14 stepchildren, grandchildren, great grandchildren, parents, stepparents,
15 grandparents, great grandparents, siblings, and a person legally
16 married to or in a state registered domestic partnership with an
17 inmate. "Immediate family" does not include an inmate adopted by
18 another inmate or the immediate family of the adopted or adopting
19 inmate.

20 ~~((+13))~~ (14) "Indigent inmate," "indigent," and "indigency" mean
21 an inmate who has less than a ten-dollar balance of disposable income
22 in his or her institutional account on the day a request is made to
23 utilize funds and during the thirty days previous to the request.

24 ~~((+14))~~ (15) "Individual reentry plan" means the plan to prepare
25 an offender for release into the community. It should be developed
26 collaboratively between the department and the offender and based on an
27 assessment of the offender using a standardized and comprehensive tool
28 to identify the offender's risks and needs. The individual reentry
29 plan describes actions that should occur to prepare individual
30 offenders for release from prison or jail, specifies the supervision
31 and services they will experience in the community, and describes an
32 offender's eventual discharge to aftercare upon successful completion
33 of supervision. An individual reentry plan is updated throughout the
34 period of an offender's incarceration and supervision to be relevant to
35 the offender's current needs and risks.

36 ~~((+15))~~ (16) "Inmate" means a person committed to the custody of
37 the department, including but not limited to persons residing in a
38 correctional institution or facility and persons released from such

1 facility on furlough, work release, or community custody, and persons
2 received from another state, state agency, county, or federal
3 jurisdiction.

4 ~~((+16+))~~ (17) "Labor" means the period of time before a birth
5 during which contractions are of sufficient frequency, intensity, and
6 duration to bring about effacement and progressive dilation of the
7 cervix.

8 (18) "Physical restraint" means the use of any bodily force or
9 physical intervention to control an offender or limit an offender's
10 freedom of movement in a way that does not involve a mechanical
11 restraint. Physical restraint does not include momentary periods of
12 minimal physical restriction by direct person-to-person contact,
13 without the aid of mechanical restraint, accomplished with limited
14 force and designed to:

15 (a) Prevent an offender from completing an act that would result in
16 potential bodily harm to self or others or damage property;

17 (b) Remove a disruptive offender who is unwilling to leave the area
18 voluntarily; or

19 (c) Guide an offender from one location to another.

20 (19) "Postpartum recovery" means (a) the entire period a woman or
21 youth is in the hospital, birthing center, or clinic after giving birth
22 and (b) an additional time period, if any, a treating physician
23 determines is necessary for healing after the woman or youth leaves the
24 hospital, birthing center, or clinic.

25 (20) "Privilege" means any goods or services, education or work
26 programs, or earned early release days, the receipt of which are
27 directly linked to an inmate's (a) good conduct; and (b) good
28 performance. Privileges do not include any goods or services the
29 department is required to provide under the state or federal
30 Constitution or under state or federal law.

31 ~~((+17+))~~ (21) "Promising practice" means a practice that presents,
32 based on preliminary information, potential for becoming a
33 research-based or consensus-based practice.

34 ~~((+18+))~~ (22) "Research-based" means a program or practice that has
35 some research demonstrating effectiveness, but that does not yet meet
36 the standard of evidence-based practices.

37 ~~((+19+))~~ (23) "Restraints" means anything used to control the
38 movement of a person's body or limbs and includes:

1 (a) Physical restraint; or

2 (b) Mechanical device including but not limited to: Metal
3 handcuffs, plastic ties, ankle restraints, leather cuffs, other
4 hospital-type restraints, tasers, or batons.

5 (24) "Secretary" means the secretary of corrections or his or her
6 designee.

7 ~~((+20+))~~ (25) "Significant expansion" includes any expansion into
8 a new product line or service to the class I business that results from
9 an increase in benefits provided by the department, including a
10 decrease in labor costs, rent, or utility rates (for water, sewer,
11 electricity, and disposal), an increase in work program space, tax
12 advantages, or other overhead costs.

13 ~~((+21+))~~ (26) "Superintendent" means the superintendent of a
14 correctional facility under the jurisdiction of the Washington state
15 department of corrections, or his or her designee.

16 ~~((+22+))~~ (27) "Transportation" means the conveying, by any means,
17 of an incarcerated pregnant woman or youth from the correctional
18 facility to another location from the moment she leaves the
19 correctional facility to the time of arrival at the other location, and
20 includes the escorting of the pregnant incarcerated woman or youth from
21 the correctional facility to a transport vehicle and from the vehicle
22 to the other location.

23 (28) "Unfair competition" means any net competitive advantage that
24 a business may acquire as a result of a correctional industries
25 contract, including labor costs, rent, tax advantages, utility rates
26 (water, sewer, electricity, and disposal), and other overhead costs.
27 To determine net competitive advantage, the correctional industries
28 board shall review and quantify any expenses unique to operating a for-
29 profit business inside a prison.

30 ~~((+23+))~~ (29) "Vocational training" or "vocational education" means
31 "vocational education" as defined in RCW 72.62.020.

32 ~~((+24+))~~ (30) "Washington business" means an in-state manufacturer
33 or service provider subject to chapter 82.04 RCW existing on June 10,
34 2004.

35 ~~((+25+))~~ (31) "Work programs" means all classes of correctional
36 industries jobs authorized under RCW 72.09.100.

1 NEW SECTION. **Sec. 2.** (1) Except in extraordinary circumstances,
2 no restraints of any kind may be used on any pregnant woman or youth
3 incarcerated in a correctional facility during transportation to and
4 from visits to medical providers and court proceedings during the third
5 trimester of her pregnancy, or during postpartum recovery. For
6 purposes of this section, "extraordinary circumstances" exist where a
7 corrections officer makes an individualized determination that
8 restraints are necessary to prevent an incarcerated pregnant woman or
9 youth from escaping, or from injuring herself, medical or correctional
10 personnel, or others. In the event the corrections officer determines
11 that extraordinary circumstances exist and restraints are used, the
12 corrections officer must fully document in writing the reasons that he
13 or she determined such extraordinary circumstances existed such that
14 restraints were used. As part of this documentation, the corrections
15 officer must also include the kind of restraints used and the reasons
16 those restraints were considered the least restrictive available and
17 the most reasonable under the circumstances.

18 (2) While the pregnant woman or youth is in labor or in childbirth
19 no restraints of any kind may be used. Nothing in this section affects
20 the use of hospital restraints requested for the medical safety of a
21 patient by treating physicians licensed under Title 18 RCW.

22 (3) Anytime restraints are permitted to be used on a pregnant woman
23 or youth, the restraints must be the least restrictive available and
24 the most reasonable under the circumstances, but in no case shall leg
25 irons or waist chains be used on any woman or youth known to be
26 pregnant.

27 (4) No correctional personnel shall be present in the room during
28 the pregnant woman's or youth's labor or childbirth, unless
29 specifically requested by medical personnel. If the employee's
30 presence is requested by medical personnel, the employee should be
31 female, if practicable.

32 (5) If the doctor, nurse, or other health professional treating the
33 pregnant woman or youth requests that restraints not be used, the
34 corrections officer accompanying the pregnant woman or youth shall
35 immediately remove all restraints.

36 NEW SECTION. **Sec. 3.** (1) The secretary shall provide an
37 informational packet about the requirements of this act to all medical

1 staff and nonmedical staff who are involved in the transportation of
2 women and youth who are pregnant, as well as such other staff as the
3 secretary deems appropriate. The informational packet provided to
4 staff under this section shall be developed as provided in section 13
5 of this act.

6 (2) The secretary shall cause the requirements of this act to be
7 provided to all women or youth who are pregnant, at the time the
8 department assumes custody of the person. In addition, the secretary
9 shall cause a notice containing the requirements of this act to be
10 posted in conspicuous locations in the correctional facilities,
11 including but not limited to the locations in which medical care is
12 provided within the facilities.

13 **Sec. 4.** RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and
14 amended to read as follows:

15 As used in this chapter the words and phrases in this section shall
16 have the meanings indicated unless the context clearly requires
17 otherwise.

18 (1) "Administration" means the direct application of a drug whether
19 by ingestion or inhalation, to the body of an inmate by a practitioner
20 or nonpractitioner jail personnel.

21 (2) "Correctional facility" means a facility operated by a
22 governing unit primarily designed, staffed, and used for the housing of
23 adult persons serving terms not exceeding one year for the purposes of
24 punishment, correction, and rehabilitation following conviction of a
25 criminal offense.

26 (3) "Deliver" or "delivery" means the actual, constructive, or
27 attempted transfer from one person to another of medication whether or
28 not there is an agency relationship.

29 (4) "Detention facility" means a facility operated by a governing
30 unit primarily designed, staffed, and used for the temporary housing of
31 adult persons charged with a criminal offense prior to trial or
32 sentencing and for the housing of adult persons for purposes of
33 punishment and correction after sentencing or persons serving terms not
34 to exceed ninety days.

35 (5) "Drug" and "legend drug" have the same meanings as provided in
36 RCW 69.41.010.

1 (6) "Governing unit" means the city and/or county or any
2 combinations of cities and/or counties responsible for the operation,
3 supervision, and maintenance of a jail.

4 (7) "Health care" means preventive, diagnostic, and rehabilitative
5 services provided by licensed health care professionals and/or
6 facilities; such care to include providing prescription drugs where
7 indicated.

8 (8) "Holding facility" means a facility operated by a governing
9 unit primarily designed, staffed, and used for the temporary housing of
10 adult persons charged with a criminal offense prior to trial or
11 sentencing and for the temporary housing of such persons during or
12 after trial and/or sentencing, but in no instance shall the housing
13 exceed thirty days.

14 (9) "Jail" means any holding, detention, special detention, or
15 correctional facility as defined in this section.

16 (10) "Labor" means the period of time before a birth during which
17 contractions are of sufficient frequency, intensity, and duration to
18 bring about effacement and progressive dilation of the cervix.

19 (11) "Major urban" means a county or combination of counties which
20 has a city having a population greater than twenty-six thousand based
21 on the 1978 projections of the office of financial management.

22 ~~((11))~~ (12) "Medication" means a drug, legend drug, or controlled
23 substance requiring a prescription or an over-the-counter or
24 nonprescription drug.

25 ~~((12))~~ (13) "Medication assistance" means assistance rendered by
26 nonpractitioner jail personnel to an inmate residing in a jail to
27 facilitate the individual's self-administration of a legend drug or
28 controlled substance or nonprescription medication. "Medication
29 assistance" includes reminding or coaching the individual, handing the
30 medication container to the individual, opening the individual's
31 medication container, using an enabler, or placing the medication in
32 the individual's hand.

33 ~~((13))~~ (14) "Medium urban" means a county or combination of
34 counties which has a city having a population equal to or greater than
35 ten thousand but less than twenty-six thousand based on the 1978
36 projections of the office of financial management.

37 ~~((14))~~ (15) "Nonpractitioner jail personnel" means appropriately

1 trained staff who are authorized to manage, deliver, or administer
2 prescription and nonprescription medication under RCW 70.48.490.

3 ~~((+15+))~~ (16) "Office" means the office of financial management.

4 ~~((+16+))~~ (17) "Physical restraint" means the use of any bodily
5 force or physical intervention to control an offender or limit an
6 offender's freedom of movement in a way that does not involve a
7 mechanical restraint. Physical restraint does not include momentary
8 periods of minimal physical restriction by direct person-to-person
9 contact, without the aid of mechanical restraint, accomplished with
10 limited force and designed to:

11 (a) Prevent an offender from completing an act that would result in
12 potential bodily harm to self or others or damage property;

13 (b) Remove a disruptive offender who is unwilling to leave the area
14 voluntarily; or

15 (c) Guide an offender from one location to another.

16 (18) "Postpartum recovery" means (a) the entire period a woman or
17 youth is in the hospital, birthing center, or clinic after giving birth
18 and (b) an additional time period, if any, a treating physician
19 determines is necessary for healing after the woman or youth leaves the
20 hospital, birthing center, or clinic.

21 (19) "Practitioner" has the same meaning as provided in RCW
22 69.41.010.

23 ~~((+17+))~~ (20) "Restraints" means anything used to control the
24 movement of a person's body or limbs and includes:

25 (a) Physical restraint; or

26 (b) Mechanical device including but not limited to: Metal
27 handcuffs, plastic ties, ankle restraints, leather cuffs, other
28 hospital-type restraints, tasers, or batons.

29 (21) "Rural" means a county or combination of counties which has a
30 city having a population less than ten thousand based on the 1978
31 projections of the office of financial management.

32 ~~((+18+))~~ (22) "Special detention facility" means a minimum security
33 facility operated by a governing unit primarily designed, staffed, and
34 used for the housing of special populations of sentenced persons who do
35 not require the level of security normally provided in detention and
36 correctional facilities including, but not necessarily limited to,
37 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

1 (23) "Transportation" means the conveying, by any means, of an
2 incarcerated pregnant woman or youth from the correctional facility or
3 any facility covered by this chapter to another location from the
4 moment she leaves the correctional facility or any facility covered by
5 this chapter to the time of arrival at the other location, and includes
6 the escorting of the pregnant incarcerated woman or youth from the
7 correctional facility or facility covered by this chapter to a
8 transport vehicle and from the vehicle to the other location.

9 NEW SECTION. Sec. 5. (1) Except in extraordinary circumstances no
10 restraints of any kind may be used on any pregnant woman or youth
11 incarcerated in a correctional facility or any facility covered by this
12 chapter during transportation to and from visits to medical providers
13 and court proceedings during the third trimester of her pregnancy, or
14 during postpartum recovery. For purposes of this section,
15 "extraordinary circumstances" exist where a corrections officer or
16 employee of the correctional facility or any facility covered by this
17 chapter makes an individualized determination that restraints are
18 necessary to prevent an incarcerated pregnant woman or youth from
19 escaping, or from injuring herself, medical or correctional personnel,
20 or others. In the event the corrections officer or employee of the
21 correctional facility or any facility covered by this chapter
22 determines that extraordinary circumstances exist and restraints are
23 used, the corrections officer or employee must fully document in
24 writing the reasons that he or she determined such extraordinary
25 circumstances existed such that restraints were used. As part of this
26 documentation, the corrections officer or employee must also include
27 the kind of restraints used and the reasons those restraints were
28 considered the least restrictive available and the most reasonable
29 under the circumstances.

30 (2) While the pregnant woman or youth is in labor or in childbirth
31 no restraints of any kind may be used. Nothing in this section affects
32 the use of hospital restraints requested for the medical safety of a
33 patient by treating physicians licensed under Title 18 RCW.

34 (3) Anytime restraints are permitted to be used on a pregnant woman
35 or youth, the restraints must be the least restrictive available and
36 the most reasonable under the circumstances, but in no case shall leg

1 irons or waist chains be used on any woman or youth known to be
2 pregnant.

3 (4) No correctional personnel or employee of the correctional
4 facility or any facility covered by this chapter shall be present in
5 the room during the pregnant woman's or youth's labor or childbirth,
6 unless specifically requested by medical personnel. If the employee's
7 presence is requested by medical personnel, the employee should be
8 female, if practicable.

9 (5) If the doctor, nurse, or other health professional treating the
10 pregnant woman or youth requests that restraints not be used, the
11 corrections officer or employee accompanying the pregnant woman or
12 youth shall immediately remove all restraints.

13 NEW SECTION. **Sec. 6.** (1) The jail administrator or his or her
14 designee or chief law enforcement executive or his or her designee
15 shall provide notice of the requirements of this act to the appropriate
16 staff at a correctional facility or a facility covered by this chapter.
17 Appropriate staff shall include all medical staff and staff who are
18 involved in the transportation of pregnant women and youth as well as
19 such other staff deemed appropriate.

20 (2) The jail administrator or his or her designee or chief law
21 enforcement executive or his or her designee shall cause the
22 requirements of this act to be provided to all women and youth of child
23 bearing age at intake. In addition, the jail administrator or his or
24 her designee or chief law enforcement executive or his or her designee
25 shall cause a notice containing the requirements of this act to be
26 posted in locations in which medical care is provided within the
27 facilities.

28 **Sec. 7.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read
29 as follows:

30 As used in this chapter, unless the context requires otherwise:

31 (1) "Community facility" means a group care facility operated for
32 the care of juveniles committed to the department under RCW 13.40.185.
33 A county detention facility that houses juveniles committed to the
34 department under RCW 13.40.185 pursuant to a contract with the
35 department is not a community facility.

1 (2) "Department" means the department of social and health
2 services.

3 (3) "Juvenile" means a person under the age of twenty-one who has
4 been sentenced to a term of confinement under the supervision of the
5 department under RCW 13.40.185.

6 (4) "Labor" means the period of time before a birth during which
7 contractions are of sufficient frequency, intensity, and duration to
8 bring about effacement and progressive dilation of the cervix.

9 (5) "Physical restraint" means the use of any bodily force or
10 physical intervention to control an offender or limit a juvenile
11 offender's freedom of movement in a way that does not involve a
12 mechanical restraint. Physical restraint does not include momentary
13 periods of minimal physical restriction by direct person-to-person
14 contact, without the aid of mechanical restraint, accomplished with
15 limited force and designed to:

16 (a) Prevent a juvenile offender from completing an act that would
17 result in potential bodily harm to self or others or damage property;

18 (b) Remove a disruptive juvenile offender who is unwilling to leave
19 the area voluntarily; or

20 (c) Guide a juvenile offender from one location to another.

21 (6) "Postpartum recovery" means (a) the entire period a youth is in
22 the hospital, birthing center, or clinic after giving birth and (b) an
23 additional time period, if any, a treating physician determines is
24 necessary for healing after the youth leaves the hospital, birthing
25 center, or clinic.

26 (7) "Restraints" means anything used to control the movement of a
27 person's body or limbs and includes:

28 (a) Physical restraint; or

29 (b) Mechanical device including but not limited to: Metal
30 handcuffs, plastic ties, ankle restraints, leather cuffs, other
31 hospital-type restraints, tasers, or batons.

32 (8) "Service provider" means the entity that operates a community
33 facility.

34 (9) "Transportation" means the conveying, by any means, of an
35 incarcerated pregnant woman or youth from the institution or community
36 facility to another location from the moment she leaves the institution
37 or community facility to the time of arrival at the other location, and

1 includes the escorting of the pregnant incarcerated woman or youth from
2 the institution or community facility to a transport vehicle and from
3 the vehicle to the other location.

4 NEW SECTION. Sec. 8. (1) Except in extraordinary circumstances no
5 restraints of any kind may be used on any pregnant youth in an
6 institution or a community facility covered by this chapter during
7 transportation to and from visits to medical providers and court
8 proceedings during the third trimester of her pregnancy, or during
9 postpartum recovery. For purposes of this section, "extraordinary
10 circumstances" exist where an employee of an institution or community
11 facility covered by this chapter makes an individualized determination
12 that restraints are necessary to prevent an incarcerated pregnant youth
13 from escaping, or from injuring herself, medical or correctional
14 personnel, or others. In the event an employee of an institution or
15 community facility covered by this chapter determines that
16 extraordinary circumstances exist and restraints are used, the
17 corrections officer or employee must fully document in writing the
18 reasons that he or she determined such extraordinary circumstances
19 existed such that restraints were used. As part of this documentation,
20 the employee of an institution or community facility covered by this
21 chapter must also include the kind of restraints used and the reasons
22 those restraints were considered the least restrictive available and
23 the most reasonable under the circumstances.

24 (2) While the pregnant youth is in labor or in childbirth no
25 restraints of any kind may be used. Nothing in this section affects
26 the use of hospital restraints requested for the medical safety of a
27 patient by treating physicians licensed under Title 18 RCW.

28 (3) Anytime restraints are permitted to be used on a pregnant
29 youth, the restraints must be the least restrictive available and the
30 most reasonable under the circumstances, but in no case shall leg irons
31 or waist chains be used on any youth known to be pregnant.

32 (4) No employee of the institution or community facility shall be
33 present in the room during the pregnant youth's labor or childbirth,
34 unless specifically requested by medical personnel. If the employee's
35 presence is requested by medical personnel, the employee should be
36 female, if practicable.

1 (5) If the doctor, nurse, or other health professional treating the
2 pregnant youth requests that restraints not be used, the employee
3 accompanying the pregnant youth shall immediately remove all
4 restraints.

5 NEW SECTION. **Sec. 9.** (1) The secretary shall provide an
6 informational packet about the requirements of this act to all medical
7 staff and nonmedical staff of the institution or community facility who
8 are involved in the transportation of youth who are pregnant, as well
9 as such other staff as the secretary deems appropriate. The
10 informational packet provided to staff under this section shall be
11 developed as provided in section 13 of this act.

12 (2) The secretary shall cause the requirements of this act to be
13 provided to all youth who are pregnant, at the time the secretary
14 assumes custody of the person. In addition, the secretary shall cause
15 a notice containing the requirements of this act to be posted in
16 conspicuous locations in the institutions or community facilities,
17 including but not limited to the locations in which medical care is
18 provided within the facilities.

19 **Sec. 10.** RCW 13.40.020 and 2009 c 454 s 2 are each amended to read
20 as follows:

21 For the purposes of this chapter:

22 (1) "Community-based rehabilitation" means one or more of the
23 following: Employment; attendance of information classes; literacy
24 classes; counseling, outpatient substance abuse treatment programs,
25 outpatient mental health programs, anger management classes, education
26 or outpatient treatment programs to prevent animal cruelty, or other
27 services; or attendance at school or other educational programs
28 appropriate for the juvenile as determined by the school district.
29 Placement in community-based rehabilitation programs is subject to
30 available funds;

31 (2) "Community-based sanctions" may include one or more of the
32 following:

33 (a) A fine, not to exceed five hundred dollars;

34 (b) Community restitution not to exceed one hundred fifty hours of
35 community restitution;

1 (3) "Community restitution" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender as punishment for committing an offense. Community
4 restitution may be performed through public or private organizations or
5 through work crews;

6 (4) "Community supervision" means an order of disposition by the
7 court of an adjudicated youth not committed to the department or an
8 order granting a deferred disposition. A community supervision order
9 for a single offense may be for a period of up to two years for a sex
10 offense as defined by RCW 9.94A.030 and up to one year for other
11 offenses. As a mandatory condition of any term of community
12 supervision, the court shall order the juvenile to refrain from
13 committing new offenses. As a mandatory condition of community
14 supervision, the court shall order the juvenile to comply with the
15 mandatory school attendance provisions of chapter 28A.225 RCW and to
16 inform the school of the existence of this requirement. Community
17 supervision is an individualized program comprised of one or more of
18 the following:

- 19 (a) Community-based sanctions;
- 20 (b) Community-based rehabilitation;
- 21 (c) Monitoring and reporting requirements;
- 22 (d) Posting of a probation bond;

23 (5) "Confinement" means physical custody by the department of
24 social and health services in a facility operated by or pursuant to a
25 contract with the state, or physical custody in a detention facility
26 operated by or pursuant to a contract with any county. The county may
27 operate or contract with vendors to operate county detention
28 facilities. The department may operate or contract to operate
29 detention facilities for juveniles committed to the department.
30 Pretrial confinement or confinement of less than thirty-one days
31 imposed as part of a disposition or modification order may be served
32 consecutively or intermittently, in the discretion of the court;

33 (6) "Court," when used without further qualification, means the
34 juvenile court judge(s) or commissioner(s);

35 (7) "Criminal history" includes all criminal complaints against the
36 respondent for which, prior to the commission of a current offense:

- 37 (a) The allegations were found correct by a court. If a respondent

1 is convicted of two or more charges arising out of the same course of
2 conduct, only the highest charge from among these shall count as an
3 offense for the purposes of this chapter; or

4 (b) The criminal complaint was diverted by a prosecutor pursuant to
5 the provisions of this chapter on agreement of the respondent and after
6 an advisement to the respondent that the criminal complaint would be
7 considered as part of the respondent's criminal history. A
8 successfully completed deferred adjudication that was entered before
9 July 1, 1998, or a deferred disposition shall not be considered part of
10 the respondent's criminal history;

11 (8) "Department" means the department of social and health
12 services;

13 (9) "Detention facility" means a county facility, paid for by the
14 county, for the physical confinement of a juvenile alleged to have
15 committed an offense or an adjudicated offender subject to a
16 disposition or modification order. "Detention facility" includes
17 county group homes, inpatient substance abuse programs, juvenile basic
18 training camps, and electronic monitoring;

19 (10) "Diversion unit" means any probation counselor who enters into
20 a diversion agreement with an alleged youthful offender, or any other
21 person, community accountability board, youth court under the
22 supervision of the juvenile court, or other entity except a law
23 enforcement official or entity, with whom the juvenile court
24 administrator has contracted to arrange and supervise such agreements
25 pursuant to RCW 13.40.080, or any person, community accountability
26 board, or other entity specially funded by the legislature to arrange
27 and supervise diversion agreements in accordance with the requirements
28 of this chapter. For purposes of this subsection, "community
29 accountability board" means a board comprised of members of the local
30 community in which the juvenile offender resides. The superior court
31 shall appoint the members. The boards shall consist of at least three
32 and not more than seven members. If possible, the board should include
33 a variety of representatives from the community, such as a law
34 enforcement officer, teacher or school administrator, high school
35 student, parent, and business owner, and should represent the cultural
36 diversity of the local community;

37 (11) "Foster care" means temporary physical care in a foster family

1 home or group care facility as defined in RCW 74.15.020 and licensed by
2 the department, or other legally authorized care;

3 (12) "Institution" means a juvenile facility established pursuant
4 to chapters 72.05 and 72.16 through 72.20 RCW;

5 (13) "Intensive supervision program" means a parole program that
6 requires intensive supervision and monitoring, offers an array of
7 individualized treatment and transitional services, and emphasizes
8 community involvement and support in order to reduce the likelihood a
9 juvenile offender will commit further offenses;

10 (14) "Juvenile," "youth," and "child" mean any individual who is
11 under the chronological age of eighteen years and who has not been
12 previously transferred to adult court pursuant to RCW 13.40.110, unless
13 the individual was convicted of a lesser charge or acquitted of the
14 charge for which he or she was previously transferred pursuant to RCW
15 13.40.110 or who is not otherwise under adult court jurisdiction;

16 (15) "Juvenile offender" means any juvenile who has been found by
17 the juvenile court to have committed an offense, including a person
18 eighteen years of age or older over whom jurisdiction has been extended
19 under RCW 13.40.300;

20 (16) "Labor" means the period of time before a birth during which
21 contractions are of sufficient frequency, intensity, and duration to
22 bring about effacement and progressive dilation of the cervix;

23 (17) "Local sanctions" means one or more of the following: (a) 0-
24 30 days of confinement; (b) 0-12 months of community supervision; (c)
25 0-150 hours of community restitution; or (d) \$0-\$500 fine;

26 ((+17)) (18) "Manifest injustice" means a disposition that would
27 either impose an excessive penalty on the juvenile or would impose a
28 serious, and clear danger to society in light of the purposes of this
29 chapter;

30 ((+18)) (19) "Monitoring and reporting requirements" means one or
31 more of the following: Curfews; requirements to remain at home,
32 school, work, or court-ordered treatment programs during specified
33 hours; restrictions from leaving or entering specified geographical
34 areas; requirements to report to the probation officer as directed and
35 to remain under the probation officer's supervision; and other
36 conditions or limitations as the court may require which may not
37 include confinement;

1 ~~((+19+))~~ (20) "Offense" means an act designated a violation or a
2 crime if committed by an adult under the law of this state, under any
3 ordinance of any city or county of this state, under any federal law,
4 or under the law of another state if the act occurred in that state;

5 ~~((+20+))~~ (21) "Physical restraint" means the use of any bodily
6 force or physical intervention to control a juvenile offender or limit
7 a juvenile offender's freedom of movement in a way that does not
8 involve a mechanical restraint. Physical restraint does not include
9 momentary periods of minimal physical restriction by direct person-to-
10 person contact, without the aid of mechanical restraint, accomplished
11 with limited force and designed to:

12 (a) Prevent a juvenile offender from completing an act that would
13 result in potential bodily harm to self or others or damage property;

14 (b) Remove a disruptive juvenile offender who is unwilling to leave
15 the area voluntarily; or

16 (c) Guide a juvenile offender from one location to another.

17 (22) "Postpartum recovery" means (a) the entire period a woman or
18 youth is in the hospital, birthing center, or clinic after giving birth
19 and (b) an additional time period, if any, a treating physician
20 determines is necessary for healing after the youth leaves the
21 hospital, birthing center, or clinic;

22 (23) "Probation bond" means a bond, posted with sufficient security
23 by a surety justified and approved by the court, to secure the
24 offender's appearance at required court proceedings and compliance with
25 court-ordered community supervision or conditions of release ordered
26 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
27 cash or posting of other collateral in lieu of a bond if approved by
28 the court;

29 ~~((+21+))~~ (24) "Respondent" means a juvenile who is alleged or
30 proven to have committed an offense;

31 ~~((+22+))~~ (25) "Restitution" means financial reimbursement by the
32 offender to the victim, and shall be limited to easily ascertainable
33 damages for injury to or loss of property, actual expenses incurred for
34 medical treatment for physical injury to persons, lost wages resulting
35 from physical injury, and costs of the victim's counseling reasonably
36 related to the offense. Restitution shall not include reimbursement
37 for damages for mental anguish, pain and suffering, or other intangible

1 losses. Nothing in this chapter shall limit or replace civil remedies
2 or defenses available to the victim or offender;

3 ~~((+23))~~ (26) "Restraints" means anything used to control the
4 movement of a person's body or limbs and includes:

5 (a) Physical restraint; or

6 (b) Mechanical device including but not limited to: Metal
7 handcuffs, plastic ties, ankle restraints, leather cuffs, other
8 hospital-type restraints, tasers, or batons;

9 (27) "Secretary" means the secretary of the department of social
10 and health services. "Assistant secretary" means the assistant
11 secretary for juvenile rehabilitation for the department;

12 ~~((+24))~~ (28) "Services" means services which provide alternatives
13 to incarceration for those juveniles who have pleaded or been
14 adjudicated guilty of an offense or have signed a diversion agreement
15 pursuant to this chapter;

16 ~~((+25))~~ (29) "Sex offense" means an offense defined as a sex
17 offense in RCW 9.94A.030;

18 ~~((+26))~~ (30) "Sexual motivation" means that one of the purposes
19 for which the respondent committed the offense was for the purpose of
20 his or her sexual gratification;

21 ~~((+27))~~ (31) "Surety" means an entity licensed under state
22 insurance laws or by the state department of licensing, to write
23 corporate, property, or probation bonds within the state, and justified
24 and approved by the superior court of the county having jurisdiction of
25 the case;

26 ~~((+28))~~ (32) "Transportation" means the conveying, by any means,
27 of an incarcerated pregnant youth from the institution or detention
28 facility to another location from the moment she leaves the institution
29 or detention facility to the time of arrival at the other location, and
30 includes the escorting of the pregnant incarcerated youth from the
31 institution or detention facility to a transport vehicle and from the
32 vehicle to the other location.

33 (33) "Violation" means an act or omission, which if committed by an
34 adult, must be proven beyond a reasonable doubt, and is punishable by
35 sanctions which do not include incarceration;

36 ~~((+29))~~ (34) "Violent offense" means a violent offense as defined
37 in RCW 9.94A.030;

1 (~~(+30+)~~) (35) "Youth court" means a diversion unit under the
2 supervision of the juvenile court.

3 NEW SECTION. **Sec. 11.** (1) Except in extraordinary circumstances,
4 no restraints of any kind may be used on any pregnant youth in an
5 institution or detention facility covered by this chapter during
6 transportation to and from visits to medical providers and court
7 proceedings during the third trimester of her pregnancy, or during
8 postpartum recovery. For purposes of this section, "extraordinary
9 circumstances" exist where an employee at an institution or detention
10 facility makes an individualized determination that restraints are
11 necessary to prevent an incarcerated pregnant youth from escaping, or
12 from injuring herself, medical or correctional personnel, or others.
13 In the event the employee of the institution or detention facility
14 determines that extraordinary circumstances exist and restraints are
15 used, the employee of the institution or detention facility must fully
16 document in writing the reasons that he or she determined such
17 extraordinary circumstances existed such that restraints were used. As
18 part of this documentation, the employee of the institution or
19 detention facility must also include the kind of restraints used and
20 the reasons those restraints were considered the least restrictive
21 available and the most reasonable under the circumstances.

22 (2) While the pregnant youth is in labor or in childbirth no
23 restraints of any kind may be used. Nothing in this section affects
24 the use of hospital restraints requested for the medical safety of a
25 patient by treating physicians licensed under Title 18 RCW.

26 (3) Anytime restraints are permitted to be used on a pregnant
27 youth, the restraints must be the least restrictive available and the
28 most reasonable under the circumstances, but in no case shall leg irons
29 or waist chains be used on any youth known to be pregnant.

30 (4) No employee of the institution or detention facility shall be
31 present in the room during the pregnant youth's labor or childbirth,
32 unless specifically requested by medical personnel. If the employee's
33 presence is requested by medical personnel, the employee should be
34 female, if practicable.

35 (5) If the doctor, nurse, or other health professional treating the
36 pregnant youth requests that restraints not be used, the employee of

1 the institution or detention facility accompanying the pregnant youth
2 shall immediately remove all restraints.

3 NEW SECTION. **Sec. 12.** (1) The director of the juvenile detention
4 facility shall provide an informational packet about the requirements
5 of this act to all medical staff and nonmedical staff who are involved
6 in the transportation of youth who are pregnant, as well as such other
7 staff as appropriate. The informational packet provided to staff under
8 this section shall be developed as provided in section 13 of this act.

9 (2) The director shall cause the requirements of this act to be
10 provided to all youth who are pregnant, at the time the facility
11 assumes custody of the person. In addition, the facility shall cause
12 a notice containing the requirements of this act to be posted in
13 conspicuous locations in the detention facilities, including but not
14 limited to the locations in which medical care is provided within the
15 facilities.

16 NEW SECTION. **Sec. 13.** The Washington association of sheriffs and
17 police chiefs, the department of corrections, the department of social
18 and health services, juvenile rehabilitation administration, and the
19 criminal justice training commission shall jointly develop an
20 informational packet on the requirements of this act. The packet shall
21 be ready for distribution no later than September 1, 2010.

22 NEW SECTION. **Sec. 14.** No civil liability may be imposed by any
23 court on the county or its jail officers or employees under sections 5
24 and 6 of this act except upon proof of gross negligence.

25 NEW SECTION. **Sec. 15.** Sections 2 and 3 of this act are each added
26 to chapter 72.09 RCW.

27 NEW SECTION. **Sec. 16.** Sections 5, 6, and 13 of this act are each
28 added to chapter 70.48 RCW.

29 NEW SECTION. **Sec. 17.** Sections 8 and 9 of this act are each added
30 to chapter 72.05 RCW.

1 NEW SECTION. **Sec. 18.** Sections 11 and 12 of this act are each
2 added to chapter 13.40 RCW."

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By Committee on Human Services & Corrections

ADOPTED 03/02/2010

3 On page 1, line 2 of the title, after "youth;" strike the remainder
4 of the title and insert "amending RCW 72.09.015, 72.05.020, and
5 13.40.020; reenacting and amending RCW 70.48.020; adding new sections
6 to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; adding
7 new sections to chapter 72.05 RCW; adding new sections to chapter 13.40
8 RCW; and creating a new section."

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