
ENGROSSED SUBSTITUTE HOUSE BILL 2747

State of Washington

61st Legislature

2010 Regular Session

By House Human Services (originally sponsored by Representatives Darneille, Cody, Williams, Kagi, Pedersen, Nelson, Dickerson, Hasegawa, and Chase)

READ FIRST TIME 02/02/10.

1 AN ACT Relating to the use of restraints on pregnant women or
2 youth; amending RCW 72.09.015 and 13.40.020; reenacting and amending
3 RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new
4 sections to chapter 70.48 RCW; and adding new sections to chapter 13.40
5 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 72.09.015 and 2009 c 521 s 165 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter.

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

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

18 (3) "Community custody" has the same meaning as that provided in

1 RCW 9.94A.030 and also includes community placement and community
2 supervision as defined in RCW 9.94B.020.

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

7 (5) "Correctional facility" means a facility or institution
8 operated directly or by contract by the secretary for the purposes of
9 incarcerating adults in total or partial confinement as defined in RCW
10 9.94A.030.

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

12 ((+6)) (7) "Department" means the department of corrections.

13 ((+7)) (8) "Earned early release" means earned release as
14 authorized by RCW 9.94A.728.

15 ((+8)) (9) "Evidence-based" means a program or practice that has
16 had multiple-site random controlled trials across heterogeneous
17 populations demonstrating that the program or practice is effective in
18 reducing recidivism for the population.

19 ((+9)) (10) "Extended family visit" means an authorized visit
20 between an inmate and a member of his or her immediate family that
21 occurs in a private visiting unit located at the correctional facility
22 where the inmate is confined.

23 ((+10)) (11) "Good conduct" means compliance with department rules
24 and policies.

25 ((+11)) (12) "Good performance" means successful completion of a
26 program required by the department, including an education, work, or
27 other program.

28 ((+12)) (13) "Immediate family" means the inmate's children,
29 stepchildren, grandchildren, great grandchildren, parents, stepparents,
30 grandparents, great grandparents, siblings, and a person legally
31 married to or in a state registered domestic partnership with an
32 inmate. "Immediate family" does not include an inmate adopted by
33 another inmate or the immediate family of the adopted or adopting
34 inmate.

35 ((+13)) (14) "Indigent inmate," "indigent," and "indigency" mean
36 an inmate who has less than a ten-dollar balance of disposable income
37 in his or her institutional account on the day a request is made to
38 utilize funds and during the thirty days previous to the request.

1 (~~(14)~~) (15) "Individual reentry plan" means the plan to prepare
2 an offender for release into the community. It should be developed
3 collaboratively between the department and the offender and based on an
4 assessment of the offender using a standardized and comprehensive tool
5 to identify the offender's risks and needs. The individual reentry
6 plan describes actions that should occur to prepare individual
7 offenders for release from prison or jail, specifies the supervision
8 and services they will experience in the community, and describes an
9 offender's eventual discharge to aftercare upon successful completion
10 of supervision. An individual reentry plan is updated throughout the
11 period of an offender's incarceration and supervision to be relevant to
12 the offender's current needs and risks.

13 (~~(15)~~) (16) "Inmate" means a person committed to the custody of
14 the department, including but not limited to persons residing in a
15 correctional institution or facility and persons released from such
16 facility on furlough, work release, or community custody, and persons
17 received from another state, state agency, county, or federal
18 jurisdiction.

19 (~~(16)~~) (17) "Labor" means the period of time before a birth
20 during which contractions are of sufficient frequency, intensity, and
21 duration to bring about effacement and progressive dilation of the
22 cervix.

23 (18) "Physical restraint" means the use of any bodily force or
24 physical intervention to control an offender or limit an offender's
25 freedom of movement in a way that does not involve a mechanical
26 restraint. "Physical restraint" does not include momentary periods of
27 minimal physical restriction by direct person-to-person contact,
28 without the aid of mechanical restraint, accomplished with limited
29 force and designed to:

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

32 (b) Remove a disruptive offender who is unwilling to leave an area
33 voluntarily; or

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

35 (19) "Postpartum recovery" means (a) the entire period a woman or
36 youth is in the hospital, birthing center, or clinic after giving birth
37 and (b) an additional time period, if any, a treating physician

1 determines is necessary for healing after the woman or youth leaves the
2 hospital, birthing center, or clinic.

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

9 ((+17+)) (21) "Promising practice" means a practice that presents,
10 based on preliminary information, potential for becoming a
11 research-based or consensus-based practice.

12 ((+18+)) (22) "Research-based" means a program or practice that has
13 some research demonstrating effectiveness, but that does not yet meet
14 the standard of evidence-based practices.

15 ((+19+)) (23) "Restraints" means anything used to control the
16 movement of a person's body or limbs and includes:

- 17 (a) Physical restraint; or
- 18 (b) Mechanical restraint including, but not limited to, metal
19 handcuffs, plastic ties, ankle restraints, leather cuffs, other
20 hospital-type restraints, tasers, or batons.

21 (24) "Secretary" means the secretary of corrections or his or her
22 designee.

23 ((+20+)) (25) "Significant expansion" includes any expansion into
24 a new product line or service to the class I business that results from
25 an increase in benefits provided by the department, including a
26 decrease in labor costs, rent, or utility rates (for water, sewer,
27 electricity, and disposal), an increase in work program space, tax
28 advantages, or other overhead costs.

29 ((+21+)) (26) "Superintendent" means the superintendent of a
30 correctional facility under the jurisdiction of the Washington state
31 department of corrections, or his or her designee.

32 ((+22+)) (27) "Transportation" means the conveying, by any means,
33 of an incarcerated pregnant woman or youth from the correctional
34 facility to another location from the moment she leaves the
35 correctional facility to the time of arrival at the other location, and
36 includes the escorting of the pregnant incarcerated woman or youth from
37 the correctional facility to the transport vehicle and from the vehicle
38 to the other location.

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

8 ~~((+23+))~~ (29) "Vocational training" or "vocational education" means
9 "vocational education" as defined in RCW 72.62.020.

10 ~~((+24+))~~ (30) "Washington business" means an in-state manufacturer
11 or service provider subject to chapter 82.04 RCW existing on June 10,
12 2004.

13 ~~((+25+))~~ (31) "Work programs" means all classes of correctional
14 industries jobs authorized under RCW 72.09.100.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW
16 to read as follows:

17 (1)(a) Except in extraordinary circumstances, no restraints of any
18 kind may be used on any pregnant woman or youth incarcerated in a
19 correctional facility during transportation to and from visits to
20 medical providers and court proceedings during the third trimester of
21 her pregnancy, or during postpartum recovery.

22 (b) While the pregnant woman or youth is in labor or in childbirth,
23 no restraints of any kind may be used unless specifically requested by
24 medical personnel.

25 (2) Extraordinary circumstances exist:

26 (a) Where a corrections officer makes an individualized
27 determination, based upon custody level or past behavior of the
28 pregnant woman or youth, that restraints will be necessary to prevent
29 escape or injury to herself, medical or correctional personnel, or
30 others. Under these circumstances, prior authorization must be
31 obtained from medical personnel before the use of restraints is
32 permitted. The authorization must identify the type of restraints that
33 are appropriate to address the risk of escape or injury;

34 (b) Where a corrections officer determines, based upon the current
35 behavior of the pregnant woman or youth, restraints are necessary to
36 prevent escape or injury to herself, medical or correctional personnel,
37 or others.

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

5 (4) Anytime restraints are used on a pregnant woman or youth, the
6 restraints must be the least restrictive available and the most
7 reasonable under the circumstances, but in no case shall leg irons or
8 waist chains be used on any pregnant woman or youth.

9 (5) No correctional personnel shall be present during the pregnant
10 woman's or youth's labor or childbirth while she is being attended to
11 by medical personnel, unless specifically requested by medical
12 personnel. If the employee's presence is requested by medical
13 personnel, the employee should be female if practicable.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09 RCW
15 to read as follows:

16 (1) The secretary shall provide an informational packet about the
17 requirements of this act to all medical staff and nonmedical staff who
18 are involved in the transportation of women and youth who are pregnant,
19 as well as other staff the secretary deems appropriate. The
20 informational packet provided to staff under this section shall be
21 developed as provided in section 10 of this act.

22 (2) The secretary shall cause the requirements of this act to be
23 provided to all women or youth who are pregnant, at the time the
24 department assumes custody of the person in a correctional facility.
25 In addition, the secretary shall cause a notice containing the
26 requirements of this act to be posted in locations in which medical
27 care is provided within the facilities.

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

30 As used in this chapter the words and phrases in this section shall
31 have the meanings indicated unless the context clearly requires
32 otherwise.

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

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

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

9 (4) "Detention facility" means a facility operated by a governing
10 unit primarily designed, staffed, and used for the temporary housing of
11 adult persons charged with a criminal offense prior to trial or
12 sentencing and for the housing of adult persons for purposes of
13 punishment and correction after sentencing or persons serving terms not
14 to exceed ninety days.

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

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

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

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

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

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

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

1 (~~(11)~~) (12) "Medication" means a drug, legend drug, or controlled
2 substance requiring a prescription or an over-the-counter or
3 nonprescription drug.

4 (~~(12)~~) (13) "Medication assistance" means assistance rendered by
5 nonpractitioner jail personnel to an inmate residing in a jail to
6 facilitate the individual's self-administration of a legend drug or
7 controlled substance or nonprescription medication. "Medication
8 assistance" includes reminding or coaching the individual, handing the
9 medication container to the individual, opening the individual's
10 medication container, using an enabler, or placing the medication in
11 the individual's hand.

12 (~~(13)~~) (14) "Medium urban" means a county or combination of
13 counties which has a city having a population equal to or greater than
14 ten thousand but less than twenty-six thousand based on the 1978
15 projections of the office of financial management.

16 (~~(14)~~) (15) "Nonpractitioner jail personnel" means appropriately
17 trained staff who are authorized to manage, deliver, or administer
18 prescription and nonprescription medication under RCW 70.48.490.

19 (~~(15)~~) (16) "Office" means the office of financial management.

20 (~~(16)~~) (17) "Physical restraint" means the use of any bodily
21 force or physical intervention to control an offender or limit an
22 offender's freedom of movement in a way that does not involve a
23 mechanical restraint. "Physical restraint" does not include momentary
24 periods of minimal physical restriction by direct person-to-person
25 contact, without the aid of mechanical restraint, accomplished with
26 limited force and designed to:

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

29 (b) Remove a disruptive offender who is unwilling to leave an area
30 voluntarily; or

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

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

37 (19) "Practitioner" has the same meaning as provided in RCW
38 69.41.010.

1 (~~(17)~~) (20) "Restraints" means anything used to control the
2 movement of a person's body or limbs and includes:

3 (a) Physical restraint; or

4 (b) Mechanical restraint including, but not limited to, metal
5 handcuffs, plastic ties, ankle restraints, leather cuffs, other
6 hospital-type restraints, tasers, or batons.

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

10 (~~(18)~~) (22) "Special detention facility" means a minimum security
11 facility operated by a governing unit primarily designed, staffed, and
12 used for the housing of special populations of sentenced persons who do
13 not require the level of security normally provided in detention and
14 correctional facilities including, but not necessarily limited to,
15 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

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

23 NEW SECTION. Sec. 5. A new section is added to chapter 70.48 RCW
24 to read as follows:

25 (1)(a) Except in extraordinary circumstances, no restraints of any
26 kind may be used on any pregnant woman or youth incarcerated in a
27 correctional facility or any facility covered by this chapter during
28 transportation to and from visits to medical providers and court
29 proceedings during the third trimester of her pregnancy, or during
30 postpartum recovery.

31 (b) While the pregnant woman or youth is in labor or in childbirth,
32 no restraints of any kind may be used unless specifically requested by
33 medical personnel.

34 (2) Extraordinary circumstances exist:

35 (a) Where a corrections officer makes an individualized
36 determination, based upon custody level or past behavior of the
37 pregnant woman or youth, that restraints will be necessary to prevent

1 escape or injury to herself, medical or correctional personnel, or
2 others. Under these circumstances, prior authorization must be
3 obtained from medical personnel before the use of restraints is
4 permitted. The authorization must identify the type of restraints that
5 are appropriate to address the risk of escape or injury;

6 (b) Where a corrections officer determines, based upon the current
7 behavior of the pregnant woman or youth, restraints are necessary to
8 prevent escape or injury to herself, medical or correctional personnel,
9 or others.

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

14 (4) Anytime restraints are used on a pregnant woman or youth the
15 restraints must be the least restrictive available and the most
16 reasonable under the circumstances, but in no case shall leg irons or
17 waist chains be used on any pregnant woman or youth.

18 (5) No correctional personnel shall be present during the pregnant
19 woman's or youth's labor or childbirth while she is being attended to
20 by medical personnel, unless specifically requested by medical
21 personnel. If the employee's presence is requested by medical
22 personnel, the employee should be female if practicable.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.48 RCW
24 to read as follows:

25 (1) The jail administrator or his or her designee or chief law
26 enforcement executive or his or her designee shall provide notice of
27 the requirements of this act to the appropriate staff at correctional
28 or detention facilities. Appropriate staff shall include all medical
29 staff and staff who are involved in the transport of women and youth
30 who are or may become pregnant, as well as such other staff as the
31 sheriff or police chief deems appropriate.

32 (2) The jail administrator or his or her designee or chief law
33 enforcement executive or his or her designee shall cause the
34 requirements of this act to be provided to all women or youth who are
35 or may become pregnant, at the time the county or city assumes custody
36 of the person in a correctional or detention facility. The jail
37 administrator or his or her designee or chief law enforcement executive

1 or his or her designee shall cause a notice containing the requirements
2 of this act to be posted in locations in which medical care is provided
3 within the facilities.

4 **Sec. 7.** RCW 13.40.020 and 2009 c 454 s 2 are each amended to read
5 as follows:

6 For the purposes of this chapter:

7 (1) "Community-based rehabilitation" means one or more of the
8 following: Employment; attendance of information classes; literacy
9 classes; counseling, outpatient substance abuse treatment programs,
10 outpatient mental health programs, anger management classes, education
11 or outpatient treatment programs to prevent animal cruelty, or other
12 services; or attendance at school or other educational programs
13 appropriate for the juvenile as determined by the school district.
14 Placement in community-based rehabilitation programs is subject to
15 available funds;

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

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

19 (b) Community restitution not to exceed one hundred fifty hours of
20 community restitution;

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

26 (4) "Community supervision" means an order of disposition by the
27 court of an adjudicated youth not committed to the department or an
28 order granting a deferred disposition. A community supervision order
29 for a single offense may be for a period of up to two years for a sex
30 offense as defined by RCW 9.94A.030 and up to one year for other
31 offenses. As a mandatory condition of any term of community
32 supervision, the court shall order the juvenile to refrain from
33 committing new offenses. As a mandatory condition of community
34 supervision, the court shall order the juvenile to comply with the
35 mandatory school attendance provisions of chapter 28A.225 RCW and to
36 inform the school of the existence of this requirement. Community

1 supervision is an individualized program comprised of one or more of
2 the following:

- 3 (a) Community-based sanctions;
- 4 (b) Community-based rehabilitation;
- 5 (c) Monitoring and reporting requirements;
- 6 (d) Posting of a probation bond;

7 (5) "Confinement" means physical custody by the department of
8 social and health services in a facility operated by or pursuant to a
9 contract with the state, or physical custody in a detention facility
10 operated by or pursuant to a contract with any county. The county may
11 operate or contract with vendors to operate county detention
12 facilities. The department may operate or contract to operate
13 detention facilities for juveniles committed to the department.
14 Pretrial confinement or confinement of less than thirty-one days
15 imposed as part of a disposition or modification order may be served
16 consecutively or intermittently, in the discretion of the court;

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

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

21 (a) The allegations were found correct by a court. If a respondent
22 is convicted of two or more charges arising out of the same course of
23 conduct, only the highest charge from among these shall count as an
24 offense for the purposes of this chapter; or

25 (b) The criminal complaint was diverted by a prosecutor pursuant to
26 the provisions of this chapter on agreement of the respondent and after
27 an advisement to the respondent that the criminal complaint would be
28 considered as part of the respondent's criminal history. A
29 successfully completed deferred adjudication that was entered before
30 July 1, 1998, or a deferred disposition shall not be considered part of
31 the respondent's criminal history;

32 (8) "Department" means the department of social and health
33 services;

34 (9) "Detention facility" means a county facility, paid for by the
35 county, for the physical confinement of a juvenile alleged to have
36 committed an offense or an adjudicated offender subject to a
37 disposition or modification order. "Detention facility" includes

1 county group homes, inpatient substance abuse programs, juvenile basic
2 training camps, and electronic monitoring;

3 (10) "Diversion unit" means any probation counselor who enters into
4 a diversion agreement with an alleged youthful offender, or any other
5 person, community accountability board, youth court under the
6 supervision of the juvenile court, or other entity except a law
7 enforcement official or entity, with whom the juvenile court
8 administrator has contracted to arrange and supervise such agreements
9 pursuant to RCW 13.40.080, or any person, community accountability
10 board, or other entity specially funded by the legislature to arrange
11 and supervise diversion agreements in accordance with the requirements
12 of this chapter. For purposes of this subsection, "community
13 accountability board" means a board comprised of members of the local
14 community in which the juvenile offender resides. The superior court
15 shall appoint the members. The boards shall consist of at least three
16 and not more than seven members. If possible, the board should include
17 a variety of representatives from the community, such as a law
18 enforcement officer, teacher or school administrator, high school
19 student, parent, and business owner, and should represent the cultural
20 diversity of the local community;

21 (11) "Foster care" means temporary physical care in a foster family
22 home or group care facility as defined in RCW 74.15.020 and licensed by
23 the department, or other legally authorized care;

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

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

31 (14) "Juvenile," "youth," and "child" mean any individual who is
32 under the chronological age of eighteen years and who has not been
33 previously transferred to adult court pursuant to RCW 13.40.110, unless
34 the individual was convicted of a lesser charge or acquitted of the
35 charge for which he or she was previously transferred pursuant to RCW
36 13.40.110 or who is not otherwise under adult court jurisdiction;

37 (15) "Juvenile offender" means any juvenile who has been found by

1 the juvenile court to have committed an offense, including a person
2 eighteen years of age or older over whom jurisdiction has been extended
3 under RCW 13.40.300;

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

7 (17) "Local sanctions" means one or more of the following: (a) 0-
8 30 days of confinement; (b) 0-12 months of community supervision; (c)
9 0-150 hours of community restitution; or (d) \$0-\$500 fine;

10 ((+17)) (18) "Manifest injustice" means a disposition that would
11 either impose an excessive penalty on the juvenile or would impose a
12 serious, and clear danger to society in light of the purposes of this
13 chapter;

14 ((+18)) (19) "Monitoring and reporting requirements" means one or
15 more of the following: Curfews; requirements to remain at home,
16 school, work, or court-ordered treatment programs during specified
17 hours; restrictions from leaving or entering specified geographical
18 areas; requirements to report to the probation officer as directed and
19 to remain under the probation officer's supervision; and other
20 conditions or limitations as the court may require which may not
21 include confinement;

22 ((+19)) (20) "Offense" means an act designated a violation or a
23 crime if committed by an adult under the law of this state, under any
24 ordinance of any city or county of this state, under any federal law,
25 or under the law of another state if the act occurred in that state;

26 ((+20)) (21) "Physical restraint" means the use of any bodily
27 force or physical intervention to control an offender or limit an
28 offender's freedom of movement in a way that does not involve a
29 mechanical restraint. "Physical restraint" does not include momentary
30 periods of minimal physical restriction by direct person-to-person
31 contact, without the aid of mechanical restraint, accomplished with
32 limited force and designed to:

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

35 (b) Remove a disruptive offender who is unwilling to leave an area
36 voluntarily; or

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

1 (22) "Postpartum recovery" means (a) the entire period a woman or
2 youth is in the hospital, birthing center, or clinic after giving birth
3 and (b) an additional time period, if any, a treating physician
4 determines is necessary for healing after the woman or youth leaves the
5 hospital, birthing center, or clinic;

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

13 ~~((+21+))~~ (24) "Respondent" means a juvenile who is alleged or
14 proven to have committed an offense;

15 ~~((+22+))~~ (25) "Restitution" means financial reimbursement by the
16 offender to the victim, and shall be limited to easily ascertainable
17 damages for injury to or loss of property, actual expenses incurred for
18 medical treatment for physical injury to persons, lost wages resulting
19 from physical injury, and costs of the victim's counseling reasonably
20 related to the offense. Restitution shall not include reimbursement
21 for damages for mental anguish, pain and suffering, or other intangible
22 losses. Nothing in this chapter shall limit or replace civil remedies
23 or defenses available to the victim or offender;

24 ~~((+23+))~~ (26) "Restraints" means anything used to control the
25 movement of a person's body or limbs and includes:

26 (a) Physical restraint; or

27 (b) Mechanical restraint including, but not limited to, metal
28 handcuffs, plastic ties, ankle restraints, leather cuffs, other
29 hospital-type restraints, tasers, or batons;

30 (27) "Secretary" means the secretary of the department of social
31 and health services. "Assistant secretary" means the assistant
32 secretary for juvenile rehabilitation for the department;

33 ~~((+24+))~~ (28) "Services" means services which provide alternatives
34 to incarceration for those juveniles who have pleaded or been
35 adjudicated guilty of an offense or have signed a diversion agreement
36 pursuant to this chapter;

37 ~~((+25+))~~ (29) "Sex offense" means an offense defined as a sex
38 offense in RCW 9.94A.030;

1 (~~(+26+)~~) (30) "Sexual motivation" means that one of the purposes
2 for which the respondent committed the offense was for the purpose of
3 his or her sexual gratification;

4 (~~(+27+)~~) (31) "Surety" means an entity licensed under state
5 insurance laws or by the state department of licensing, to write
6 corporate, property, or probation bonds within the state, and justified
7 and approved by the superior court of the county having jurisdiction of
8 the case;

9 (~~(+28+)~~) (32) "Transportation" means the conveying, by any means,
10 of an incarcerated pregnant woman or youth from the correctional
11 facility to another location from the moment she leaves the
12 correctional facility to the time of arrival at the other location, and
13 includes the escorting of the pregnant incarcerated woman or youth from
14 the correctional facility to the transport vehicle and from the vehicle
15 to the other location.

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

19 (~~(+29+)~~) (34) "Violent offense" means a violent offense as defined
20 in RCW 9.94A.030;

21 (~~(+30+)~~) (35) "Youth court" means a diversion unit under the
22 supervision of the juvenile court.

23 NEW SECTION. Sec. 8. A new section is added to chapter 13.40 RCW
24 to read as follows:

25 (1)(a) Except in extraordinary circumstances, no restraints of any
26 kind may be used on any pregnant youth incarcerated in an institution
27 or detention facility during transportation to and from visits to
28 medical providers and court proceedings during the third trimester of
29 her pregnancy, or during postpartum recovery.

30 (b) While the pregnant youth is in labor or in childbirth, no
31 restraints of any kind may be used unless specifically requested by
32 medical personnel.

33 (2) Extraordinary circumstances exist:

34 (a) Where a corrections officer makes an individualized
35 determination, based upon custody level or past behavior of the
36 pregnant youth, that restraints will be necessary to prevent escape or
37 injury to herself, medical or correctional personnel, or others. Under

1 these circumstances, prior authorization must be obtained from medical
2 personnel before the use of restraints is permitted. The authorization
3 must identify the type of restraints that are appropriate to address
4 the risk of escape or injury;

5 (b) Where a corrections officer determines, based upon the current
6 behavior of the youth, restraints are necessary to prevent escape or
7 injury to herself, medical or correctional personnel, or others.

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

12 (4) Anytime restraints are used on a youth the restraints must be
13 the least restrictive available and the most reasonable under the
14 circumstances, but in no case shall leg irons or waist chains be used
15 on any pregnant youth.

16 (5) No correctional personnel shall be present during the pregnant
17 youth's labor or childbirth while she is being attended to by medical
18 personnel, unless specifically requested by medical personnel. If the
19 employee's presence is requested by medical personnel, the employee
20 should be female if practicable.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.40 RCW
22 to read as follows:

23 (1) The secretary shall:

24 (a) Provide an informational packet about the requirements of this
25 act to all medical staff and nonmedical staff who are involved in the
26 transportation of youth who are pregnant, as well as other staff as
27 appropriate. The informational packet provided to staff under this
28 section shall be developed as provided in section 10 of this act; and

29 (b) Cause the requirements of this act to be provided to all youth
30 who are or may become pregnant at the time the department assumes
31 custody of the person in the institution. In addition, the secretary
32 shall cause a notice containing the requirements of this act to be
33 posted in locations in which medical care is provided within the
34 institutions.

35 (2) The legislative authority shall:

36 (a) Provide notice of the requirements of this act to the
37 appropriate staff at detention facilities. Appropriate staff shall

1 include all medical staff and staff who are involved in the transport
2 of youth who are or may become pregnant, as well as such other staff as
3 appropriate; and

4 (b) Cause the requirements of this act to be provided to all youth
5 who are or may become pregnant, at the time the detention facility
6 assumes custody of the person. In addition, the legislative authority
7 shall cause a notice containing the requirements of this act to be
8 posted in locations in which medical care is provided within the
9 facilities.

10 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.48 RCW
11 to read as follows:

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

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