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**SUBSTITUTE SENATE BILL 6500**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Fraser, Stevens, Regala, Parlette, Franklin, Pflug, McDermott, Kohl-Welles, Kauffman, Hargrove, Shin, Keiser, and Kline)

READ FIRST TIME 02/05/10.

1       AN ACT Relating to the use of restraints on pregnant women or  
2 youth; amending RCW 72.09.015, 72.05.020, and 13.40.020; reenacting and  
3 amending RCW 70.48.020; adding new sections to chapter 72.09 RCW;  
4 adding new sections to chapter 70.48 RCW; adding new sections to  
5 chapter 72.05 RCW; and adding new sections to chapter 13.40 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 property; or

32        (b) Remove a disruptive offender who is unwilling to leave the area  
33 voluntarily.

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

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

7        ~~((+17+))~~ (21) "Promising practice" means a practice that presents,  
8 based on preliminary information, potential for becoming a  
9 research-based or consensus-based practice.

10        ~~((+18+))~~ (22) "Research-based" means a program or practice that has  
11 some research demonstrating effectiveness, but that does not yet meet  
12 the standard of evidence-based practices.

13        ~~((+19+))~~ (23) "Restraints" means anything used to control the  
14 movement of a person's body or limbs and includes:

15        (a) Physical restraint; or

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

19        (24) "Secretary" means the secretary of corrections or his or her  
20 designee.

21        ~~((+20+))~~ (25) "Significant expansion" includes any expansion into  
22 a new product line or service to the class I business that results from  
23 an increase in benefits provided by the department, including a  
24 decrease in labor costs, rent, or utility rates (for water, sewer,  
25 electricity, and disposal), an increase in work program space, tax  
26 advantages, or other overhead costs.

27        ~~((+21+))~~ (26) "Superintendent" means the superintendent of a  
28 correctional facility under the jurisdiction of the Washington state  
29 department of corrections, or his or her designee.

30        ~~((+22+))~~ (27) "Unfair competition" means any net competitive  
31 advantage that a business may acquire as a result of a correctional  
32 industries contract, including labor costs, rent, tax advantages,  
33 utility rates (water, sewer, electricity, and disposal), and other  
34 overhead costs. To determine net competitive advantage, the  
35 correctional industries board shall review and quantify any expenses  
36 unique to operating a for-profit business inside a prison.

37        ~~((+23+))~~ (28) "Vocational training" or "vocational education" means  
38 "vocational education" as defined in RCW 72.62.020.

1           (~~(+24+)~~) (29) "Washington business" means an in-state manufacturer  
2 or service provider subject to chapter 82.04 RCW existing on June 10,  
3 2004.

4           (~~(+25+)~~) (30) "Work programs" means all classes of correctional  
5 industries jobs authorized under RCW 72.09.100.

6           NEW SECTION.   **Sec. 2.** (1) Except in extraordinary circumstances no  
7 restraints of any kind may be used on any pregnant woman or youth  
8 incarcerated in a correctional facility during transportation to and  
9 from visits to medical providers and court proceedings during the third  
10 trimester of her pregnancy, or during postpartum recovery.

11           While the pregnant woman or youth is in labor or in the process of  
12 delivering her baby no restraints of any kind may be used unless  
13 specifically requested by medical personnel.

14           (2) Extraordinary circumstances exist where a corrections officer  
15 makes an individualized determination that restraints are necessary to  
16 prevent an incarcerated pregnant woman or youth from escaping, or from  
17 injuring herself, medical or correctional personnel, or others.  
18 Anytime restraints are used on a pregnant woman or youth the restraints  
19 must be the least restrictive available and the most reasonable under  
20 the circumstances, but in no case shall leg irons or waist chains be  
21 used on any pregnant woman or youth.

22           (3) If a correctional officer is present during the pregnant  
23 woman's or youth's labor or delivery, the officer should be female if  
24 possible.

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

29           NEW SECTION.   **Sec. 3.** (1) The secretary shall provide an  
30 informational packet about the requirements of this act to all medical  
31 staff and nonmedical staff who are involved in the transport of women  
32 and youth who are pregnant, as well as such other staff as the  
33 secretary deems appropriate. The informational packet provided to  
34 staff under this section shall be developed as provided in section 13  
35 of this act.

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

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

10 As used in this chapter the words and phrases in this section shall  
11 have the meanings indicated unless the context clearly requires  
12 otherwise.

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

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

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

24 (4) "Detention 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 housing of adult persons for purposes of  
28 punishment and correction after sentencing or persons serving terms not  
29 to exceed ninety days.

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

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

35 (7) "Health care" means preventive, diagnostic, and rehabilitative  
36 services provided by licensed health care professionals and/or

1 facilities; such care to include providing prescription drugs where  
2 indicated.

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

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

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

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

17 ((+11)) (12) "Medication" means a drug, legend drug, or controlled  
18 substance requiring a prescription or an over-the-counter or  
19 nonprescription drug.

20 ((+12)) (13) "Medication assistance" means assistance rendered by  
21 nonpractitioner jail personnel to an inmate residing in a jail to  
22 facilitate the individual's self-administration of a legend drug or  
23 controlled substance or nonprescription medication. "Medication  
24 assistance" includes reminding or coaching the individual, handing the  
25 medication container to the individual, opening the individual's  
26 medication container, using an enabler, or placing the medication in  
27 the individual's hand.

28 ((+13)) (14) "Medium urban" means a county or combination of  
29 counties which has a city having a population equal to or greater than  
30 ten thousand but less than twenty-six thousand based on the 1978  
31 projections of the office of financial management.

32 ((+14)) (15) "Nonpractitioner jail personnel" means appropriately  
33 trained staff who are authorized to manage, deliver, or administer  
34 prescription and nonprescription medication under RCW 70.48.490.

35 ((+15)) (16) "Office" means the office of financial management.

36 ((+16)) (17) "Physical restraint" means the use of any bodily  
37 force or physical intervention to control an offender or limit an  
38 offender's freedom of movement in a way that does not involve a

1 mechanical restraint. Physical restraint does not include momentary  
2 periods of minimal physical restriction by direct person-to-person  
3 contact, without the aid of mechanical restraint, accomplished with  
4 limited force and designed to:

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

7 (b) Remove a disruptive offender who is unwilling to leave the area  
8 voluntarily.

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

14 (19) "Practitioner" has the same meaning as provided in RCW  
15 69.41.010.

16 ~~((+17))~~ (20) "Restraints" means anything used to control the  
17 movement of a person's body or limbs and includes:

18 (a) Physical restraint; or

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

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

25 ~~((+18))~~ (22) "Special detention facility" means a minimum security  
26 facility operated by a governing unit primarily designed, staffed, and  
27 used for the housing of special populations of sentenced persons who do  
28 not require the level of security normally provided in detention and  
29 correctional facilities including, but not necessarily limited to,  
30 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

31 NEW SECTION. Sec. 5. (1) Except in extraordinary circumstances no  
32 restraints of any kind may be used on any pregnant woman or youth  
33 incarcerated in a correctional facility or any facility covered by this  
34 chapter during transportation to and from visits to medical providers  
35 and court proceedings during the third trimester of her pregnancy, or  
36 during postpartum recovery.



1 While the pregnant woman or youth is in labor or in the process of  
2 delivering her baby no restraints of any kind may be used unless  
3 specifically requested by medical personnel.

4 (2) Extraordinary circumstances exist where an employee of an  
5 institution or facility covered by this chapter makes an individualized  
6 determination that restraints are necessary to prevent an incarcerated  
7 pregnant woman or youth from escaping, or from injuring herself,  
8 medical personnel or an employee at an institution or facility covered  
9 by this chapter, or others. Anytime restraints are used on a pregnant  
10 woman or youth the restraints must be the least restrictive available  
11 and the most reasonable under the circumstances, but in no case shall  
12 leg irons or waist chains be used on any pregnant woman or youth.

13 (3) If an employee of an institution or facility covered by this  
14 chapter is present during the pregnant woman's or youth's labor or  
15 delivery, the employee should be female if possible.

16 (4) If the doctor, nurse, or other health professional treating the  
17 pregnant woman or youth requests that restraints not be used, the  
18 employee accompanying the pregnant woman or youth shall immediately  
19 remove all restraints.

20 NEW SECTION. **Sec. 6.** (1) The governing unit shall provide an  
21 informational packet about the requirements of this act to all medical  
22 staff and nonmedical staff who are involved in the transport of women  
23 and youth who are pregnant, as well as such other staff as the  
24 governing unit deems appropriate. The informational packet provided to  
25 staff under this section shall be developed as provided in section 13  
26 of this act.

27 (2) The governing unit shall cause the requirements of this act to  
28 be provided to all women or youth who are pregnant, at the time the  
29 county or city assumes custody of the person. In addition, the  
30 governing unit shall cause a notice containing the requirements of this  
31 act to be posted in conspicuous locations in the institutions or  
32 facilities, including but not limited to the locations in which medical  
33 care is provided within the facilities.

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

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

1 (1) "Community facility" means a group care facility operated for  
2 the care of juveniles committed to the department under RCW 13.40.185.  
3 A county detention facility that houses juveniles committed to the  
4 department under RCW 13.40.185 pursuant to a contract with the  
5 department is not a community facility.

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

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

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

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

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

24 (b) Remove a disruptive juvenile offender who is unwilling to leave  
25 the area voluntarily.

26 (6) "Postpartum recovery" means (a) the entire period a youth is in  
27 the hospital, birthing center, or clinic after giving birth and (b) an  
28 additional time period, if any, a treating physician determines is  
29 necessary for healing after the youth leaves the hospital, birthing  
30 center, or clinic.

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

33 (a) Physical restraint; or

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

37 (8) "Service provider" means the entity that operates a community  
38 facility.

1           NEW SECTION.   **Sec. 8.** (1) Except in extraordinary circumstances no  
2 restraints of any kind may be used on any pregnant youth in an  
3 institution or a community facility covered by this chapter during  
4 transportation to and from visits to medical providers and court  
5 proceedings during the third trimester of her pregnancy, or during  
6 postpartum recovery.

7           (b) While the pregnant youth is in labor or in the process of  
8 delivering her baby no restraints of any kind may be used unless  
9 specifically requested by medical personnel.

10           (2) Extraordinary circumstances exist where an employee of the  
11 institution or community facility makes an individualized determination  
12 that restraints are necessary to prevent a pregnant youth from  
13 escaping, or from injuring herself, medical or institution personnel,  
14 or others. Anytime restraints are used on a pregnant 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 youth.

18           (3) If an employee of the institution or community facility must be  
19 present during the pregnant youth's labor or delivery, that employee  
20 should be female, if possible.

21           (4) If the doctor, nurse, or other health professional treating the  
22 pregnant youth requests that restraints not be used, the employee  
23 accompanying the pregnant youth shall immediately remove all  
24 restraints.

25           NEW SECTION.   **Sec. 9.** (1) The secretary shall provide an  
26 informational packet about the requirements of this act to all medical  
27 staff and nonmedical staff who are involved in the transport of youth  
28 who are pregnant, as well as such other staff as the secretary deems  
29 appropriate. The informational packet provided to staff under this  
30 section shall be developed as provided in section 13 of this act.

31           (2) The secretary shall cause the requirements of this act to be  
32 provided to all youth who are pregnant, at the time the secretary  
33 assumes custody of the person. In addition, the secretary shall cause  
34 a notice containing the requirements of this act to be posted in  
35 conspicuous locations in the institutions or community facilities,  
36 including but not limited to the locations in which medical care is  
37 provided within the facilities.

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

3       For the purposes of this chapter:

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

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

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

16       (b) Community restitution not to exceed one hundred fifty hours of  
17 community restitution;

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

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

36       (a) Community-based sanctions;

37       (b) Community-based rehabilitation;

38       (c) Monitoring and reporting requirements;

1 (d) Posting of a probation bond;

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

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

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

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

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

27 (8) "Department" means the department of social and health  
28 services;

29 (9) "Detention facility" means a county facility, paid for by the  
30 county, for the physical confinement of a juvenile alleged to have  
31 committed an offense or an adjudicated offender subject to a  
32 disposition or modification order. "Detention facility" includes  
33 county group homes, inpatient substance abuse programs, juvenile basic  
34 training camps, and electronic monitoring;

35 (10) "Diversion unit" means any probation counselor who enters into  
36 a diversion agreement with an alleged youthful offender, or any other  
37 person, community accountability board, youth court under the  
38 supervision of the juvenile court, or other entity except a law

1 enforcement official or entity, with whom the juvenile court  
2 administrator has contracted to arrange and supervise such agreements  
3 pursuant to RCW 13.40.080, or any person, community accountability  
4 board, or other entity specially funded by the legislature to arrange  
5 and supervise diversion agreements in accordance with the requirements  
6 of this chapter. For purposes of this subsection, "community  
7 accountability board" means a board comprised of members of the local  
8 community in which the juvenile offender resides. The superior court  
9 shall appoint the members. The boards shall consist of at least three  
10 and not more than seven members. If possible, the board should include  
11 a variety of representatives from the community, such as a law  
12 enforcement officer, teacher or school administrator, high school  
13 student, parent, and business owner, and should represent the cultural  
14 diversity of the local community;

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

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

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

25 (14) "Juvenile," "youth," and "child" mean any individual who is  
26 under the chronological age of eighteen years and who has not been  
27 previously transferred to adult court pursuant to RCW 13.40.110, unless  
28 the individual was convicted of a lesser charge or acquitted of the  
29 charge for which he or she was previously transferred pursuant to RCW  
30 13.40.110 or who is not otherwise under adult court jurisdiction;

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

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

1        (17) "Local sanctions" means one or more of the following: (a) 0-  
2 30 days of confinement; (b) 0-12 months of community supervision; (c)  
3 0-150 hours of community restitution; or (d) \$0-\$500 fine;

4        ~~((+17))~~ (18) "Manifest injustice" means a disposition that would  
5 either impose an excessive penalty on the juvenile or would impose a  
6 serious, and clear danger to society in light of the purposes of this  
7 chapter;

8        ~~((+18))~~ (19) "Monitoring and reporting requirements" means one or  
9 more of the following: Curfews; requirements to remain at home,  
10 school, work, or court-ordered treatment programs during specified  
11 hours; restrictions from leaving or entering specified geographical  
12 areas; requirements to report to the probation officer as directed and  
13 to remain under the probation officer's supervision; and other  
14 conditions or limitations as the court may require which may not  
15 include confinement;

16        ~~((+19))~~ (20) "Offense" means an act designated a violation or a  
17 crime if committed by an adult under the law of this state, under any  
18 ordinance of any city or county of this state, under any federal law,  
19 or under the law of another state if the act occurred in that state;

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

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

30        (b) Remove a disruptive juvenile offender who is unwilling to leave  
31 the area voluntarily.

32        (22) "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 youth leaves the  
36 hospital, birthing center, or clinic;

37        (23) "Probation bond" means a bond, posted with sufficient security  
38 by a surety justified and approved by the court, to secure the

1 offender's appearance at required court proceedings and compliance with  
2 court-ordered community supervision or conditions of release ordered  
3 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
4 cash or posting of other collateral in lieu of a bond if approved by  
5 the court;

6 ~~((+21+))~~ (24) "Respondent" means a juvenile who is alleged or  
7 proven to have committed an offense;

8 ~~((+22+))~~ (25) "Restitution" means financial reimbursement by the  
9 offender to the victim, and shall be limited to easily ascertainable  
10 damages for injury to or loss of property, actual expenses incurred for  
11 medical treatment for physical injury to persons, lost wages resulting  
12 from physical injury, and costs of the victim's counseling reasonably  
13 related to the offense. Restitution shall not include reimbursement  
14 for damages for mental anguish, pain and suffering, or other intangible  
15 losses. Nothing in this chapter shall limit or replace civil remedies  
16 or defenses available to the victim or offender;

17 ~~((+23+))~~ (26) "Restraints" means anything used to control the  
18 movement of a person's body or limbs and includes:

- 19 (a) Physical restraint; or
- 20 (b) Mechanical device including but not limited to: Metal  
21 handcuffs, plastic ties, ankle restraints, leather cuffs, other  
22 hospital-type restraints, tasers, or batons;

23 (27) "Secretary" means the secretary of the department of social  
24 and health services. "Assistant secretary" means the assistant  
25 secretary for juvenile rehabilitation for the department;

26 ~~((+24+))~~ (28) "Services" means services which provide alternatives  
27 to incarceration for those juveniles who have pleaded or been  
28 adjudicated guilty of an offense or have signed a diversion agreement  
29 pursuant to this chapter;

30 ~~((+25+))~~ (29) "Sex offense" means an offense defined as a sex  
31 offense in RCW 9.94A.030;

32 ~~((+26+))~~ (30) "Sexual motivation" means that one of the purposes  
33 for which the respondent committed the offense was for the purpose of  
34 his or her sexual gratification;

35 ~~((+27+))~~ (31) "Surety" means an entity licensed under state  
36 insurance laws or by the state department of licensing, to write  
37 corporate, property, or probation bonds within the state, and justified



1 and approved by the superior court of the county having jurisdiction of  
2 the case;

3 ~~((+28+))~~ (32) "Violation" means an act or omission, which if  
4 committed by an adult, must be proven beyond a reasonable doubt, and is  
5 punishable by sanctions which do not include incarceration;

6 ~~((+29+))~~ (33) "Violent offense" means a violent offense as defined  
7 in RCW 9.94A.030;

8 ~~((+30+))~~ (34) "Youth court" means a diversion unit under the  
9 supervision of the juvenile court.

10 NEW SECTION. **Sec. 11.** (1) Except in extraordinary circumstances  
11 no restraints of any kind may be used on a pregnant youth incarcerated  
12 in a detention facility during transportation to and from visits to  
13 medical providers and court proceedings during the third trimester of  
14 her pregnancy, or during postpartum recovery.

15 While the pregnant youth is in labor or in the process of  
16 delivering her baby no restraints of any kind may be used unless  
17 specifically requested by medical personnel.

18 (2) Extraordinary circumstances exist where an employee at the  
19 facility makes an individualized determination that restraints are  
20 necessary to prevent an incarcerated pregnant youth from escaping, or  
21 from injuring herself, medical or facility personnel, or others.  
22 Anytime restraints are used on a pregnant youth the restraints must be  
23 the least restrictive available and the most reasonable under the  
24 circumstances, but in no case shall leg irons or waist chains be used  
25 on any pregnant youth.

26 (3) If an employee of the institution or community facility must be  
27 present during the pregnant youth's labor or delivery, that employee  
28 should be female, if possible.

29 (4) If the doctor, nurse, or other health professional treating the  
30 pregnant youth requests that restraints not be used, the detention  
31 facility employee accompanying the pregnant youth shall immediately  
32 remove all restraints.

33 NEW SECTION. **Sec. 12.** (1) The director of the juvenile detention  
34 facility shall provide an informational packet about the requirements  
35 of this act to all medical staff and nonmedical staff who are involved

1 in the transport of youth who are pregnant, as well as such other staff  
2 as appropriate. The informational packet provided to staff under this  
3 section shall be developed as provided in section 13 of this act.

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

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

17 NEW SECTION. **Sec. 14.** Sections 2 and 3 of this act are each added  
18 to chapter 72.09 RCW.

19 NEW SECTION. **Sec. 15.** Sections 5, 6, and 13 of this act are each  
20 added to chapter 70.48 RCW.

21 NEW SECTION. **Sec. 16.** Sections 8 and 9 of this act are each added  
22 to chapter 72.05 RCW.

23 NEW SECTION. **Sec. 17.** Sections 11 and 12 of this act are each  
24 added to chapter 13.40 RCW.

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