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HOUSE BILL 2747

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Darneille, Cody, Williams, Kagi, Pedersen, Nelson, Dickerson, Hasegawa, and Chase

Read first time 01/13/10. Referred to Committee on Human Services.

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

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

34        ~~((17))~~ (20) "Promising practice" means a practice that presents,  
35 based on preliminary information, potential for becoming a  
36 research-based or consensus-based practice.

37        ~~((18))~~ (21) "Research-based" means a program or practice that has

1 some research demonstrating effectiveness, but that does not yet meet  
2 the standard of evidence-based practices.

3 ~~((+19+))~~ (22) "Restraints" means any:

4 (a) Physical restraint; or

5 (b) Mechanical device

6 used to control the movement of a person's body or limbs.

7 (23) "Secretary" means the secretary of corrections or his or her  
8 designee.

9 ~~((+20+))~~ (24) "Significant expansion" includes any expansion into  
10 a new product line or service to the class I business that results from  
11 an increase in benefits provided by the department, including a  
12 decrease in labor costs, rent, or utility rates (for water, sewer,  
13 electricity, and disposal), an increase in work program space, tax  
14 advantages, or other overhead costs.

15 ~~((+21+))~~ (25) "Superintendent" means the superintendent of a  
16 correctional facility under the jurisdiction of the Washington state  
17 department of corrections, or his or her designee.

18 ~~((+22+))~~ (26) "Unfair competition" means any net competitive  
19 advantage that a business may acquire as a result of a correctional  
20 industries contract, including labor costs, rent, tax advantages,  
21 utility rates (water, sewer, electricity, and disposal), and other  
22 overhead costs. To determine net competitive advantage, the  
23 correctional industries board shall review and quantify any expenses  
24 unique to operating a for-profit business inside a prison.

25 ~~((+23+))~~ (27) "Vocational training" or "vocational education" means  
26 "vocational education" as defined in RCW 72.62.020.

27 ~~((+24+))~~ (28) "Washington business" means an in-state manufacturer  
28 or service provider subject to chapter 82.04 RCW existing on June 10,  
29 2004.

30 ~~((+25+))~~ (29) "Work programs" means all classes of correctional  
31 industries jobs authorized under RCW 72.09.100.

32 NEW SECTION. **Sec. 2.** (1) The person in charge of a correctional  
33 facility shall not permit restraints of any kind on an incarcerated  
34 pregnant woman or youth known to be pregnant, except as provided in  
35 subsection (2) of this section.

36 (2) In extraordinary circumstances, where a corrections officer  
37 makes an individualized determination that restraints are necessary to

1 prevent an incarcerated pregnant woman or youth from escaping, or from  
2 injuring herself, medical or correctional personnel, or others, such  
3 woman or youth may be restrained. The restraints used must be the  
4 least restrictive available and the most reasonable under the  
5 circumstances, but in no case shall leg irons or waist chains be used  
6 on any pregnant woman or youth.

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

11 (b) In each case in which restraints are used, the superintendent  
12 shall make and maintain written findings within ten days of using the  
13 restraint as to the reasons for such use. These findings shall be kept  
14 on file by the correctional facility for at least five years and be  
15 made available for public inspection under chapter 42.56 RCW, except  
16 that no individually identifying information of any incarcerated  
17 pregnant woman or youth shall be made public without the written  
18 authorization of the woman or youth. Disclosure of health care  
19 information, as defined in RCW 70.02.010(7), by any health care  
20 provider or health care facility shall be governed by chapter 70.02  
21 RCW.

22 (3) Under no circumstances may restraints of any kind be used on  
23 any incarcerated pregnant woman or youth who is in labor, who is in the  
24 process of delivering her baby, or who is in postpartum recovery.

25 NEW SECTION. **Sec. 3.** (1) The secretary shall require that all  
26 staff at the correctional facilities who are responsible for carrying  
27 out the requirements of this act be trained in the requirements of this  
28 act. The initial training shall be completed within six months of the  
29 effective date of this section. All staff who are hired after the  
30 initial training, in a correctional facility where women or youth are  
31 or may become pregnant, shall be trained in the requirements of this  
32 act before participating in the transportation of women or youth who  
33 are or may become pregnant.

34 (2) The secretary shall provide notice of the requirements of this  
35 act to the appropriate staff at correctional facilities. Appropriate  
36 staff shall include all medical staff and staff who are involved in the

1 transport of women and youth who are or may become pregnant, as well as  
2 such other staff as the secretary deems appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ((+15)) (16) "Office" means the office of financial management.

1        ~~((16))~~ (17) "Postpartum recovery" means (a) the entire period a  
2 woman or youth is in the hospital, birthing center, or clinic after  
3 giving birth and (b) an additional time period, if any, a treating  
4 physician determines is necessary for healing after the woman or youth  
5 leaves the hospital, birthing center, or clinic.

6        (18) "Practitioner" has the same meaning as provided in RCW  
7 69.41.010.

8        ~~((17))~~ (19) "Restraints" means any:  
9 (a) Physical restraint; or  
10 (b) Mechanical device  
11 used to control the movement of a person's body or limbs.

12        (20) "Rural" means a county or combination of counties which has a  
13 city having a population less than ten thousand based on the 1978  
14 projections of the office of financial management.

15        ~~((18))~~ (21) "Special detention facility" means a minimum security  
16 facility operated by a governing unit primarily designed, staffed, and  
17 used for the housing of special populations of sentenced persons who do  
18 not require the level of security normally provided in detention and  
19 correctional facilities including, but not necessarily limited to,  
20 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

21        NEW SECTION. Sec. 5. (1) The person in charge of a correctional  
22 institution or any facility covered by this chapter shall not permit  
23 the use of restraints of any kind on an incarcerated pregnant woman or  
24 youth known to be pregnant, except as provided in subsection (2) of  
25 this section.

26        (2) In extraordinary circumstances, where an employee of an  
27 institution or facility covered by this chapter makes an individualized  
28 determination that restraints are necessary to prevent an incarcerated  
29 pregnant woman or youth from escaping, or from injuring herself,  
30 medical personnel or an employee at an institution or facility covered  
31 by this chapter, or others, such woman or youth may be restrained. The  
32 restraints used must be the least restrictive available and the most  
33 reasonable under the circumstances, but in no case shall leg irons or  
34 waist chains be used on any pregnant woman or youth.

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



1 employee accompanying the pregnant woman or youth shall immediately  
2 remove all restraints.

3 (b) In each case in which restraints are used, the sheriff or  
4 police chief shall make and maintain written findings within ten days  
5 of using the restraint as to the reasons for such use. These findings  
6 shall be kept on file by the institution or facility for at least five  
7 years and be made available for public inspection under chapter 42.56  
8 RCW, except that no individually identifying information of any  
9 incarcerated pregnant woman or youth shall be made public without the  
10 written authorization of the woman or youth. Disclosure of health care  
11 information, as defined in RCW 70.02.010(7), by any health care  
12 provider or health care facility shall be governed by chapter 70.02  
13 RCW.

14 (3) Under no circumstances may restraints of any kind be used on  
15 any pregnant woman or youth covered by this section who is in labor,  
16 who is in the process of delivering her baby, or who is in postpartum  
17 recovery.

18 NEW SECTION. **Sec. 6.** (1) The sheriff or police chief shall  
19 require that all staff at the institutions or facilities who are  
20 responsible for carrying out the requirements of this act be trained in  
21 the requirements of this act. The initial training shall be completed  
22 within six months of the effective date of this section. All staff who  
23 are hired after the initial training, in an institution or facility  
24 where women or youth are or may become pregnant, shall be trained in  
25 the requirements of this act before participating in the transportation  
26 of women or youth who are or may become pregnant.

27 (2) The sheriff or police chief shall provide notice of the  
28 requirements of this act to the appropriate staff at institutions or  
29 facilities. Appropriate staff shall include all medical staff and  
30 staff who are involved in the transport of women and youth who are or  
31 may become pregnant, as well as such other staff as the sheriff or  
32 police chief deems appropriate.

33 (3) The sheriff or police chief shall cause the requirements of  
34 this act to be provided to all women or youth who are or may become  
35 pregnant, at the time the county or city assumes custody of the person.  
36 In addition, the sheriff or police chief shall cause a notice  
37 containing the requirements of this act to be posted in conspicuous

1 locations in the institutions or facilities, including but not limited  
2 to the locations in which medical care is provided within the  
3 facilities.

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

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

7 (1) "Community facility" means a group care facility operated for  
8 the care of juveniles committed to the department under RCW 13.40.185.  
9 A county detention facility that houses juveniles committed to the  
10 department under RCW 13.40.185 pursuant to a contract with the  
11 department is not a community facility.

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

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

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

20 (5) "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 (6) "Restraints" means any:

26 (a) Physical restraint; or

27 (b) Mechanical device

28 used to control the movement of a person's body or limbs.

29 (7) "Service provider" means the entity that operates a community  
30 facility.

31 NEW SECTION. **Sec. 8.** (1) The person in charge of an institution  
32 or community facility shall not permit restraints of any kind on youth  
33 known to be pregnant, except as provided in subsection (2) of this  
34 section.

35 (2) In extraordinary circumstances, where an employee of an  
36 institution or community facility makes an individualized determination

1 that restraints are necessary to prevent a pregnant youth from  
2 escaping, or from injuring herself, medical or institution personnel,  
3 or others, such youth may be restrained. The restraints used must be  
4 the least restrictive available and the most reasonable under the  
5 circumstances, but in no case shall leg irons or waist chains be used  
6 on any pregnant youth.

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

11 (b) In each case in which restraints are used, the secretary shall  
12 make and maintain written findings within ten days of using the  
13 restraint as to the reasons for such use. These findings shall be kept  
14 on file by the institution for at least five years and be made  
15 available for public inspection under chapter 42.56 RCW, except that no  
16 individually identifying information of any youth shall be made public  
17 without the written authorization of the youth. Disclosure of health  
18 care information, as defined in RCW 70.02.010(7), by any health care  
19 provider or health care facility shall be governed by chapter 70.02  
20 RCW.

21 (3) Under no circumstances may restraints of any kind be used on  
22 any pregnant youth who is in the custody of the secretary when the  
23 youth is in labor, is in the process of delivering her baby, or is in  
24 postpartum recovery.

25 NEW SECTION. **Sec. 9.** (1) The secretary shall require that all  
26 staff at the institutions and community facilities who are responsible  
27 for carrying out the requirements of this act be trained in the  
28 requirements of this act. The initial training shall be completed  
29 within six months of the effective date of this section. All staff who  
30 are hired after the initial training, in an institution or community  
31 facility where women or youth are or may become pregnant, shall be  
32 trained in the requirements of this act before participating in the  
33 transportation of youth who are or may become pregnant.

34 (2) The secretary shall provide notice of the requirements of this  
35 act to the appropriate staff at institutions and community facilities.  
36 Appropriate staff shall include all medical staff and staff who are

1 involved in the transport of youth who are or may become pregnant, as  
2 well as such other staff as the secretary deems appropriate.

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

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

12 For the purposes of this chapter:

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

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

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

25 (b) Community restitution not to exceed one hundred fifty hours of  
26 community restitution;

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

32 (4) "Community supervision" means an order of disposition by the  
33 court of an adjudicated youth not committed to the department or an  
34 order granting a deferred disposition. A community supervision order  
35 for a single offense may be for a period of up to two years for a sex  
36 offense as defined by RCW 9.94A.030 and up to one year for other  
37 offenses. As a mandatory condition of any term of community

1 supervision, the court shall order the juvenile to refrain from  
2 committing new offenses. As a mandatory condition of community  
3 supervision, the court shall order the juvenile to comply with the  
4 mandatory school attendance provisions of chapter 28A.225 RCW and to  
5 inform the school of the existence of this requirement. Community  
6 supervision is an individualized program comprised of one or more of  
7 the following:

8 (a) Community-based sanctions;

9 (b) Community-based rehabilitation;

10 (c) Monitoring and reporting requirements;

11 (d) Posting of a probation bond;

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

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

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

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

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

37 (8) "Department" means the department of social and health  
38 services;

1 (9) "Detention facility" means a county facility, paid for by the  
2 county, for the physical confinement of a juvenile alleged to have  
3 committed an offense or an adjudicated offender subject to a  
4 disposition or modification order. "Detention facility" includes  
5 county group homes, inpatient substance abuse programs, juvenile basic  
6 training camps, and electronic monitoring;

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

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

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

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

35 (14) "Juvenile," "youth," and "child" mean any individual who is  
36 under the chronological age of eighteen years and who has not been  
37 previously transferred to adult court pursuant to RCW 13.40.110, unless

1 the individual was convicted of a lesser charge or acquitted of the  
2 charge for which he or she was previously transferred pursuant to RCW  
3 13.40.110 or who is not otherwise under adult court jurisdiction;

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

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

11 (17) "Local sanctions" means one or more of the following: (a) 0-  
12 30 days of confinement; (b) 0-12 months of community supervision; (c)  
13 0-150 hours of community restitution; or (d) \$0-\$500 fine;

14 ((+17+)) (18) "Manifest injustice" means a disposition that would  
15 either impose an excessive penalty on the juvenile or would impose a  
16 serious, and clear danger to society in light of the purposes of this  
17 chapter;

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

26 ((+19+)) (20) "Offense" means an act designated a violation or a  
27 crime if committed by an adult under the law of this state, under any  
28 ordinance of any city or county of this state, under any federal law,  
29 or under the law of another state if the act occurred in that state;

30 ((+20+)) (21) "Postpartum recovery" means (a) the entire period a  
31 woman or youth is in the hospital, birthing center, or clinic after  
32 giving birth and (b) an additional time period, if any, a treating  
33 physician determines is necessary for healing after the woman or youth  
34 leaves the hospital, birthing center, or clinic;

35 (22) "Probation bond" means a bond, posted with sufficient security  
36 by a surety justified and approved by the court, to secure the  
37 offender's appearance at required court proceedings and compliance with  
38 court-ordered community supervision or conditions of release ordered

1 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
2 cash or posting of other collateral in lieu of a bond if approved by  
3 the court;

4 ~~((+21))~~ (23) "Respondent" means a juvenile who is alleged or  
5 proven to have committed an offense;

6 ~~((+22))~~ (24) "Restitution" means financial reimbursement by the  
7 offender to the victim, and shall be limited to easily ascertainable  
8 damages for injury to or loss of property, actual expenses incurred for  
9 medical treatment for physical injury to persons, lost wages resulting  
10 from physical injury, and costs of the victim's counseling reasonably  
11 related to the offense. Restitution shall not include reimbursement  
12 for damages for mental anguish, pain and suffering, or other intangible  
13 losses. Nothing in this chapter shall limit or replace civil remedies  
14 or defenses available to the victim or offender;

15 ~~((+23))~~ (25) "Restraints" means any:

16 (a) Physical restraint; or

17 (b) Mechanical device

18 used to control the movement of a person's body or limbs;

19 (26) "Secretary" means the secretary of the department of social  
20 and health services. "Assistant secretary" means the assistant  
21 secretary for juvenile rehabilitation for the department;

22 ~~((+24))~~ (27) "Services" means services which provide alternatives  
23 to incarceration for those juveniles who have pleaded or been  
24 adjudicated guilty of an offense or have signed a diversion agreement  
25 pursuant to this chapter;

26 ~~((+25))~~ (28) "Sex offense" means an offense defined as a sex  
27 offense in RCW 9.94A.030;

28 ~~((+26))~~ (29) "Sexual motivation" means that one of the purposes  
29 for which the respondent committed the offense was for the purpose of  
30 his or her sexual gratification;

31 ~~((+27))~~ (30) "Surety" means an entity licensed under state  
32 insurance laws or by the state department of licensing, to write  
33 corporate, property, or probation bonds within the state, and justified  
34 and approved by the superior court of the county having jurisdiction of  
35 the case;

36 ~~((+28))~~ (31) "Violation" means an act or omission, which if  
37 committed by an adult, must be proven beyond a reasonable doubt, and is  
38 punishable by sanctions which do not include incarceration;



1           (~~(+29+)~~) (32) "Violent offense" means a violent offense as defined  
2 in RCW 9.94A.030;

3           (~~(+30+)~~) (33) "Youth court" means a diversion unit under the  
4 supervision of the juvenile court.

5           NEW SECTION.   **Sec. 11.**   (1) The person in charge of a detention  
6 facility shall not permit restraints of any kind on a youth known to be  
7 pregnant, except as provided in subsection (2) of this section.

8           (2) In extraordinary circumstances, where an employee at the  
9 facility makes an individualized determination that restraints are  
10 necessary to prevent an incarcerated pregnant youth from escaping, or  
11 from injuring herself, medical or facility personnel, or others, such  
12 woman or youth may be restrained. The restraints used must be the  
13 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           (a) If the doctor, nurse, or other health professional treating the  
17 pregnant youth requests that restraints not be used, the detention  
18 facility employee accompanying the pregnant youth shall immediately  
19 remove all restraints.

20           (b) In each case in which restraints are used, the facility  
21 administrator shall make and maintain written findings within ten days  
22 of using the restraint as to the reasons for such use. These findings  
23 shall be kept on file by the facility for at least five years and be  
24 made available for public inspection under chapter 42.56 RCW, except  
25 that no individually identifying information of any pregnant youth  
26 shall be made public without the written authorization of the youth.  
27 Disclosure of health care information, as defined in RCW 70.02.010(7),  
28 by any health care provider or health care facility shall be governed  
29 by chapter 70.02 RCW.

30           (3) Under no circumstances may restraints of any kind be used on  
31 any youth who is in the custody of the facility who is in labor, who is  
32 in the process of delivering her baby, or who is in postpartum  
33 recovery.

34           NEW SECTION.   **Sec. 12.**   (1) The county legislative authority shall  
35 require that all staff at the facilities who are responsible for  
36 carrying out the requirements of this act be trained in the

1 requirements of this act. The initial training shall be completed  
2 within six months of the effective date of this section. All staff who  
3 are hired after the initial training, in a correctional facility where  
4 youth are or may become pregnant, shall be trained in the requirements  
5 of this act before participating in the transportation of youth who are  
6 or may become pregnant.

7 (2) The legislative authority shall provide notice of the  
8 requirements of this act to the appropriate staff at detention  
9 facilities. Appropriate staff shall include all medical staff and  
10 staff who are involved in the transport of youth who are or may become  
11 pregnant, as well as such other staff as appropriate.

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

19 NEW SECTION. **Sec. 13.** The Washington association of sheriffs and  
20 police chiefs shall develop, and offer on a periodic basis, the  
21 training for county and city jail and juvenile detention facility staff  
22 required in sections 6 and 12 of this act.

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

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

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

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

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