

SHB 2747 - H AMD 1141

By Representative Darneille

ADOPTED 02/13/2010

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

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

5 The definitions in this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) Physical restraint; or

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) Extraordinary circumstances exist:

12 (a) Where a corrections officer makes an individualized
13 determination, based upon custody level or past behavior of the
14 pregnant woman or youth, that restraints will be necessary to prevent
15 escape or injury to herself, medical or correctional personnel, or
16 others. Under these circumstances, prior authorization must be
17 obtained from medical personnel before the use of restraints is
18 permitted. The authorization must identify the type of restraints that
19 are appropriate to address the risk of escape or injury;

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

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

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

32 (5) No correctional personnel shall be present during the pregnant
33 woman's or youth's labor or childbirth while she is being attended to
34 by medical personnel, unless specifically requested by medical
35 personnel. If the employee's presence is requested by medical
36 personnel, the employee should be female if practicable.

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

3 (1) The secretary shall provide an informational packet about the
4 requirements of this act to all medical staff and nonmedical staff who
5 are involved in the transportation of women and youth who are pregnant,
6 as well as other staff the secretary deems appropriate. The
7 informational packet provided to staff under this section shall be
8 developed as provided in section 10 of this act.

9 (2) The secretary shall cause the requirements of this act to be
10 provided to all women or youth who are pregnant, at the time the
11 department assumes custody of the person in a correctional facility.
12 In addition, the secretary shall cause a notice containing the
13 requirements of this act to be posted in locations in which medical
14 care is provided within the facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~((+14+))~~ (15) "Nonpractitioner jail personnel" means appropriately
2 trained staff who are authorized to manage, deliver, or administer
3 prescription and nonprescription medication under RCW 70.48.490.

4 ~~((+15+))~~ (16) "Office" means the office of financial management.

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

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

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

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

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

22 (19) "Practitioner" has the same meaning as provided in RCW
23 69.41.010.

24 ~~((+17+))~~ (20) "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 (21) "Rural" means a county or combination of counties which has a
31 city having a population less than ten thousand based on the 1978
32 projections of the office of financial management.

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

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

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

10 (1)(a) Except in extraordinary circumstances, no restraints of any
11 kind may be used on any pregnant woman or youth incarcerated in a
12 correctional facility or any facility covered by this chapter during
13 transportation to and from visits to medical providers and court
14 proceedings during the third trimester of her pregnancy, or during
15 postpartum recovery.

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

19 (2) Extraordinary circumstances exist:

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

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

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

36 (4) Anytime restraints are used on a pregnant woman or youth the

1 restraints must be the least restrictive available and the most
2 reasonable under the circumstances, but in no case shall leg irons or
3 waist chains be used on any pregnant woman or youth.

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

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

11 (1) The jail administrator or his or her designee or chief law
12 enforcement executive or his or her designee shall provide notice of
13 the requirements of this act to the appropriate staff at correctional
14 or detention facilities. Appropriate staff shall include all medical
15 staff and staff who are involved in the transport of women and youth
16 who are or may become pregnant, as well as such other staff as the
17 sheriff or police chief deems appropriate.

18 (2) The jail administrator or his or her designee or chief law
19 enforcement executive or his or her designee shall cause the
20 requirements of this act to be provided to all women or youth who are
21 or may become pregnant, at the time the county or city assumes custody
22 of the person in a correctional or detention facility. The jail
23 administrator or his or her designee or chief law enforcement executive
24 or his or her designee shall cause a notice containing the requirements
25 of this act to be posted in locations in which medical care is provided
26 within the facilities.

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

29 For the purposes of this chapter:

30 (1) "Community-based rehabilitation" means one or more of the
31 following: Employment; attendance of information classes; literacy
32 classes; counseling, outpatient substance abuse treatment programs,
33 outpatient mental health programs, anger management classes, education
34 or outpatient treatment programs to prevent animal cruelty, or other
35 services; or attendance at school or other educational programs

1 appropriate for the juvenile as determined by the school district.
2 Placement in community-based rehabilitation programs is subject to
3 available funds;

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

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

7 (b) Community restitution not to exceed one hundred fifty hours of
8 community restitution;

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

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

30 (d) Posting of a probation bond;

31 (5) "Confinement" means physical custody by the department of
32 social and health services in a facility operated by or pursuant to a
33 contract with the state, or physical custody in a detention facility
34 operated by or pursuant to a contract with any county. The county may
35 operate or contract with vendors to operate county detention
36 facilities. The department may operate or contract to operate
37 detention facilities for juveniles committed to the department.

1 Pretrial confinement or confinement of less than thirty-one days
2 imposed as part of a disposition or modification order may be served
3 consecutively or intermittently, in the discretion of the court;

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

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

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

12 (b) The criminal complaint was diverted by a prosecutor pursuant to
13 the provisions of this chapter on agreement of the respondent and after
14 an advisement to the respondent that the criminal complaint would be
15 considered as part of the respondent's criminal history. A
16 successfully completed deferred adjudication that was entered before
17 July 1, 1998, or a deferred disposition shall not be considered part of
18 the respondent's criminal history;

19 (8) "Department" means the department of social and health
20 services;

21 (9) "Detention facility" means a county facility, paid for by the
22 county, for the physical confinement of a juvenile alleged to have
23 committed an offense or an adjudicated offender subject to a
24 disposition or modification order. "Detention facility" includes
25 county group homes, inpatient substance abuse programs, juvenile basic
26 training camps, and electronic monitoring;

27 (10) "Diversion unit" means any probation counselor who enters into
28 a diversion agreement with an alleged youthful offender, or any other
29 person, community accountability board, youth court under the
30 supervision of the juvenile court, or other entity except a law
31 enforcement official or entity, with whom the juvenile court
32 administrator has contracted to arrange and supervise such agreements
33 pursuant to RCW 13.40.080, or any person, community accountability
34 board, or other entity specially funded by the legislature to arrange
35 and supervise diversion agreements in accordance with the requirements
36 of this chapter. For purposes of this subsection, "community
37 accountability board" means a board comprised of members of the local
38 community in which the juvenile offender resides. The superior court

1 shall appoint the members. The boards shall consist of at least three
2 and not more than seven members. If possible, the board should include
3 a variety of representatives from the community, such as a law
4 enforcement officer, teacher or school administrator, high school
5 student, parent, and business owner, and should represent the cultural
6 diversity of the local community;

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

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

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

17 (14) "Juvenile," "youth," and "child" mean any individual who is
18 under the chronological age of eighteen years and who has not been
19 previously transferred to adult court pursuant to RCW 13.40.110, unless
20 the individual was convicted of a lesser charge or acquitted of the
21 charge for which he or she was previously transferred pursuant to RCW
22 13.40.110 or who is not otherwise under adult court jurisdiction;

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

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

30 (17) "Local sanctions" means one or more of the following: (a) 0-
31 30 days of confinement; (b) 0-12 months of community supervision; (c)
32 0-150 hours of community restitution; or (d) \$0-\$500 fine;

33 ((+17)) (18) "Manifest injustice" means a disposition that would
34 either impose an excessive penalty on the juvenile or would impose a
35 serious, and clear danger to society in light of the purposes of this
36 chapter;

37 ((+18)) (19) "Monitoring and reporting requirements" means one or
38 more of the following: Curfews; requirements to remain at home,

1 school, work, or court-ordered treatment programs during specified
2 hours; restrictions from leaving or entering specified geographical
3 areas; requirements to report to the probation officer as directed and
4 to remain under the probation officer's supervision; and other
5 conditions or limitations as the court may require which may not
6 include confinement;

7 ~~((+19))~~ (20) "Offense" means an act designated a violation or a
8 crime if committed by an adult under the law of this state, under any
9 ordinance of any city or county of this state, under any federal law,
10 or under the law of another state if the act occurred in that state;

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

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

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

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

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

35 ~~((+21))~~ (24) "Respondent" means a juvenile who is alleged or
36 proven to have committed an offense;

37 ~~((+22))~~ (25) "Restitution" means financial reimbursement by the
38 offender to the victim, and shall be limited to easily ascertainable

1 damages for injury to or loss of property, actual expenses incurred for
2 medical treatment for physical injury to persons, lost wages resulting
3 from physical injury, and costs of the victim's counseling reasonably
4 related to the offense. Restitution shall not include reimbursement
5 for damages for mental anguish, pain and suffering, or other intangible
6 losses. Nothing in this chapter shall limit or replace civil remedies
7 or defenses available to the victim or offender;

8 ~~((+23+))~~ (26) "Restraints" means anything used to control the
9 movement of a person's body or limbs and includes:

10 (a) Physical restraint; or

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

14 (27) "Secretary" means the secretary of the department of social
15 and health services. "Assistant secretary" means the assistant
16 secretary for juvenile rehabilitation for the department;

17 ~~((+24+))~~ (28) "Services" means services which provide alternatives
18 to incarceration for those juveniles who have pleaded or been
19 adjudicated guilty of an offense or have signed a diversion agreement
20 pursuant to this chapter;

21 ~~((+25+))~~ (29) "Sex offense" means an offense defined as a sex
22 offense in RCW 9.94A.030;

23 ~~((+26+))~~ (30) "Sexual motivation" means that one of the purposes
24 for which the respondent committed the offense was for the purpose of
25 his or her sexual gratification;

26 ~~((+27+))~~ (31) "Surety" means an entity licensed under state
27 insurance laws or by the state department of licensing, to write
28 corporate, property, or probation bonds within the state, and justified
29 and approved by the superior court of the county having jurisdiction of
30 the case;

31 ~~((+28+))~~ (32) "Transportation" means the conveying, by any means,
32 of an incarcerated pregnant woman or youth from the correctional
33 facility to another location from the moment she leaves the
34 correctional facility to the time of arrival at the other location, and
35 includes the escorting of the pregnant incarcerated woman or youth from
36 the correctional facility to the transport vehicle and from the vehicle
37 to the other location.

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

4 ~~((+29+))~~ (34) "Violent offense" means a violent offense as defined
5 in RCW 9.94A.030;

6 ~~((+30+))~~ (35) "Youth court" means a diversion unit under the
7 supervision of the juvenile court.

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

10 (1)(a) Except in extraordinary circumstances, no restraints of any
11 kind may be used on any pregnant youth incarcerated in an institution
12 or 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 (b) While the pregnant youth is in labor or in childbirth, no
16 restraints of any kind may be used unless specifically requested by
17 medical personnel.

18 (2) Extraordinary circumstances exist:

19 (a) Where a corrections officer makes an individualized
20 determination, based upon custody level or past behavior of the
21 pregnant youth, that restraints will be necessary to prevent escape or
22 injury to herself, medical or correctional personnel, or others. Under
23 these circumstances, prior authorization must be obtained from medical
24 personnel before the use of restraints is permitted. The authorization
25 must identify the type of restraints that are appropriate to address
26 the risk of escape or injury;

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

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

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

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

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

8 (1) The secretary shall:

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

14 (b) Cause the requirements of this act to be provided to all youth
15 who are or may become pregnant at the time the department assumes
16 custody of the person in the institution. In addition, the secretary
17 shall cause a notice containing the requirements of this act to be
18 posted in locations in which medical care is provided within the
19 institutions.

20 (2) The legislative authority shall:

21 (a) Provide notice of the requirements of this act to the
22 appropriate staff at detention facilities. Appropriate staff shall
23 include all medical staff and staff who are involved in the transport
24 of youth who are or may become pregnant, as well as such other staff as
25 appropriate; and

26 (b) Cause the requirements of this act to be provided to all youth
27 who are or may become pregnant, at the time the detention facility
28 assumes custody of the person. In addition, the legislative authority
29 shall cause a notice containing the requirements of this act to be
30 posted in locations in which medical care is provided within the
31 facilities.

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

34 The Washington association of sheriffs and police chiefs, the
35 department of corrections, the department of social and health
36 services, the juvenile rehabilitation administration, and the criminal

1 justice training commission shall jointly develop an informational
2 packet on the requirements of this act. The packet shall be ready for
3 distribution no later than September 1, 2010."

4 Correct the title.

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