

SSB 6500 - S AMD 84

By Senator Fraser

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

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

6 The definitions in this section apply throughout this chapter.

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

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

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

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

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

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

27 (~~(6)~~) (7) "Department" means the department of corrections.

1 (~~(7)~~) (8) "Earned early release" means earned release as
2 authorized by RCW 9.94A.728.

3 (~~(8)~~) (9) "Evidence-based" means a program or practice that has
4 had multiple-site random controlled trials across heterogeneous
5 populations demonstrating that the program or practice is effective in
6 reducing recidivism for the population.

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

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

13 (~~(11)~~) (12) "Good performance" means successful completion of a
14 program required by the department, including an education, work, or
15 other program.

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

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

27 (~~(14)~~) (15) "Individual reentry plan" means the plan to prepare
28 an offender for release into the community. It should be developed
29 collaboratively between the department and the offender and based on
30 an assessment of the offender using a standardized and comprehensive
31 tool to identify the offender's risks and needs. The individual
32 reentry plan describes actions that should occur to prepare individual
33 offenders for release from prison or jail, specifies the supervision
34 and services they will experience in the community, and describes an

1 offender's eventual discharge to aftercare upon successful completion
2 of supervision. An individual reentry plan is updated throughout the
3 period of an offender's incarceration and supervision to be relevant
4 to the offender's current needs and risks.

5 ~~((+15+))~~ (16) "Inmate" means a person committed to the custody of
6 the department, including but not limited to persons residing in a
7 correctional institution or facility and persons released from such
8 facility on furlough, work release, or community custody, and persons
9 received from another state, state agency, county, or federal
10 jurisdiction.

11 ~~((+16+))~~ (17) "Labor" means the period of time before a birth
12 during which contractions are of sufficient frequency, intensity, and
13 duration to bring about effacement and progressive dilation of the
14 cervix.

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

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

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

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

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

32 (20) "Privilege" means any goods or services, education or work
33 programs, or earned early release days, the receipt of which are
34 directly linked to an inmate's (a) good conduct; and (b) good

1 performance. Privileges do not include any goods or services the
2 department is required to provide under the state or federal
3 Constitution or under state or federal law.

4 ~~((+17+))~~ (21) "Promising practice" means a practice that presents,
5 based on preliminary information, potential for becoming a
6 research-based or consensus-based practice.

7 ~~((+18+))~~ (22) "Research-based" means a program or practice that
8 has some research demonstrating effectiveness, but that does not yet
9 meet the standard of evidence-based practices.

10 ~~((+19+))~~ (23) "Restraints" means anything used to control the
11 movement of a person's body or limbs and includes:

12 (a) Physical restraint; or

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

16 (24) "Secretary" means the secretary of corrections or his or her
17 designee.

18 ~~((+20+))~~ (25) "Significant expansion" includes any expansion into
19 a new product line or service to the class I business that results
20 from an increase in benefits provided by the department, including a
21 decrease in labor costs, rent, or utility rates (for water, sewer,
22 electricity, and disposal), an increase in work program space, tax
23 advantages, or other overhead costs.

24 ~~((+21+))~~ (26) "Superintendent" means the superintendent of a
25 correctional facility under the jurisdiction of the Washington state
26 department of corrections, or his or her designee.

27 ~~((+22+))~~ (27) "Transportation" means the conveying, by any means,
28 of an incarcerated pregnant woman or youth from the correctional
29 facility to another location from the moment she leaves the
30 correctional facility to the time of arrival at the other location,
31 and includes the escorting of the pregnant incarcerated woman or youth
32 from the correctional facility to a transport vehicle and from the
33 vehicle to the other location.

34

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

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

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

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

15
16 NEW SECTION. **Sec. 2.** (1) Except in extraordinary circumstances
17 no restraints of any kind may be used on any pregnant woman or youth
18 incarcerated in a correctional facility during transportation to and
19 from visits to medical providers and court proceedings during the
20 third trimester of her pregnancy, or during postpartum recovery.

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

24 (2) Extraordinary circumstances exist where a corrections officer
25 makes an individualized determination that restraints are necessary to
26 prevent an incarcerated pregnant woman or youth from escaping, or from
27 injuring herself, medical or correctional personnel, or others.
28 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 (3) No correctional personnel shall be present during the pregnant
33 woman's or youth's labor or childbirth, unless specifically requested

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1 by medical personnel. If the employee's presence is requested by
2 medical personnel, the employee should be female, if practicable.

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

7
8 NEW SECTION. **Sec. 3.** (1) The secretary shall provide an
9 informational packet about the requirements of this act to all medical
10 staff and nonmedical staff who are involved in the transportation of
11 women and youth who are pregnant, as well as such other staff as the
12 secretary deems appropriate. The informational packet provided to
13 staff under this section shall be developed as provided in section 13
14 of this act.

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

22
23 **Sec. 4.** RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and
24 amended to read as follows:

25 As used in this chapter the words and phrases in this section
26 shall have the meanings indicated unless the context clearly requires
27 otherwise.

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

31 (2) "Correctional facility" means a facility operated by a
32 governing unit primarily designed, staffed, and used for the housing
33 of adult persons serving terms not exceeding one year for the purposes
34

1 of punishment, correction, and rehabilitation following conviction of
2 a criminal offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (19) "Practitioner" has the same meaning as provided in RCW
4 69.41.010.

5 ~~((17))~~ (20) "Restraints" means anything used to control the
6 movement of a person's body or limbs and includes:

7 (a) Physical restraint; or

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

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

14 ~~((18))~~ (22) "Special detention facility" means a minimum
15 security facility operated by a governing unit primarily designed,
16 staffed, and used for the housing of special populations of sentenced
17 persons who do not require the level of security normally provided in
18 detention and correctional facilities including, but not necessarily
19 limited to, persons convicted of offenses under RCW 46.61.502 or
20 46.61.504.

21 (23) "Transportation" means the conveying, by any means, of an
22 incarcerated pregnant woman or youth from the correctional facility or
23 any facility covered by this chapter to another location from the
24 moment she leaves the correctional facility or any facility covered by
25 this chapter to the time of arrival at the other location, and
26 includes the escorting of the pregnant incarcerated woman or youth
27 from the correctional facility or facility covered by this chapter to
28 a transport vehicle and from the vehicle to the other location.

29
30 NEW SECTION. Sec. 5. (1) Except in extraordinary circumstances
31 no restraints of any kind may be used on any pregnant woman or youth
32 incarcerated in a correctional facility or any facility covered by
33 this chapter during transportation to and from visits to medical
34

1 providers and court proceedings during the third trimester of her
2 pregnancy, or during postpartum recovery.

3 While the pregnant woman or youth is in labor or in childbirth no
4 restraints of any kind may be used unless specifically requested by
5 medical personnel.

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

16 (3) No employee of an institution or facility covered by this
17 chapter shall be present during the pregnant woman's or youth's labor
18 or childbirth, unless specifically requested by medical personnel. If
19 the employee's presence is requested by medical personnel, the
20 employee should be female, if practicable.

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

25
26 NEW SECTION. **Sec. 6.** (1) The jail administrator or his or her
27 designee or chief law enforcement executive or his or her designee
28 shall provide notice of the requirements of this act to the
29 appropriate staff at a correctional facility or a facility covered by
30 this chapter. Appropriate staff shall include all medical staff and
31 staff who are involved in the transportation of pregnant woman and
32 youth as well as such other staff deemed appropriate.

33 (2) The jail administrator or his or her designee or chief law
34 enforcement executive or his or her designee shall cause the

1 requirements of this act to be provided to all woman and youth of
2 child bearing age at intake. In addition, the jail administrator or
3 his or her designee or chief law enforcement executive or his or her
4 designee shall cause a notice containing the requirements of this act
5 to be posted in locations in which medical care is provided within the
6 facilities.

7

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

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

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

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

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

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

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

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

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

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

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

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

9 (a) Physical restraint; or

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

13 (8) "Service provider" means the entity that operates a community
14 facility.

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

22
23 NEW SECTION. Sec. 8. (1) Except in extraordinary circumstances
24 no restraints of any kind may be used on any pregnant youth in an
25 institution or a community facility covered by this chapter during
26 transportation to and from visits to medical providers and court
27 proceedings during the third trimester of her pregnancy, or during
28 postpartum recovery.

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

32 (2) Extraordinary circumstances exist where an employee of the
33 institution or community facility makes an individualized
34 determination that restraints are necessary to prevent a pregnant

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

6 (3) No employee of the institution or community facility shall be
7 present during the pregnant woman's or youth's labor or childbirth,
8 unless specifically requested by medical personnel. If the employee's
9 presence is requested by medical personnel, the employee should be
10 female, if practicable.

11 (4) If the doctor, nurse, or other health professional treating
12 the pregnant youth requests that restraints not be used, the employee
13 accompanying the pregnant youth shall immediately remove all
14 restraints.

15
16 NEW SECTION. **Sec. 9.** (1) The secretary shall provide an
17 informational packet about the requirements of this act to all medical
18 staff and nonmedical staff of the institution or community facility
19 who are involved in the transportation of youth who are pregnant, as
20 well as such other staff as the secretary deems appropriate. The
21 informational packet provided to staff under this section shall be
22 developed as provided in section 13 of this act.

23 (2) The secretary shall cause the requirements of this act to be
24 provided to all youth who are pregnant, at the time the secretary
25 assumes custody of the person. In addition, the secretary shall cause
26 a notice containing the requirements of this act to be posted in
27 conspicuous locations in the institutions or community facilities,
28 including but not limited to the locations in which medical care is
29 provided within the facilities.

30
31 **Sec. 10.** RCW 13.40.020 and 2009 c 454 s 2 are each amended to
32 read as follows:

33 For the purposes of this chapter:

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

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

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

13 (b) Community restitution not to exceed one hundred fifty hours of
14 community restitution;

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

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

33 (a) Community-based sanctions;

34 (b) Community-based rehabilitation;

1 (c) Monitoring and reporting requirements;

2 (d) Posting of a probation bond;

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

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

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

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

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

29 (8) "Department" means the department of social and health
30 services;

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

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

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

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

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

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

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

1 the charge for which he or she was previously transferred pursuant to
2 RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

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

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

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

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

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

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

29 ~~((20))~~ (21) "Physical restraint" means the use of any bodily
30 force or physical intervention to control a juvenile offender or limit
31 a juvenile offender's freedom of movement in a way that does not
32 involve a mechanical restraint. Physical restraint does not include
33 momentary periods of minimal physical restriction by direct person-to-
34 person contact, without the aid of mechanical restraint, accomplished

1 with limited force and designed to:

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

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

6 (c) Guide the juvenile offender from one location to another.

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

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

19 ~~((+21))~~ (24) "Respondent" means a juvenile who is alleged or
20 proven to have committed an offense;

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

31 ~~((+23))~~ (26) "Restraints" means anything used to control the
32 movement of a person's body or limbs and includes:

33 (a) Physical restraint; or

34 (b) Mechanical device including but not limited to: Metal

1 handcuffs, plastic ties, ankle restraints, leather cuffs, other
2 hospital-type restraints, tasers, or batons;

3 (27) "Secretary" means the secretary of the department of social
4 and health services. "Assistant secretary" means the assistant
5 secretary for juvenile rehabilitation for the department;

6 ~~((+24))~~ (28) "Services" means services which provide alternatives
7 to incarceration for those juveniles who have pleaded or been
8 adjudicated guilty of an offense or have signed a diversion agreement
9 pursuant to this chapter;

10 ~~((+25))~~ (29) "Sex offense" means an offense defined as a sex
11 offense in RCW 9.94A.030;

12 ~~((+26))~~ (30) "Sexual motivation" means that one of the purposes
13 for which the respondent committed the offense was for the purpose of
14 his or her sexual gratification;

15 ~~((+27))~~ (31) "Surety" means an entity licensed under state
16 insurance laws or by the state department of licensing, to write
17 corporate, property, or probation bonds within the state, and
18 justified and approved by the superior court of the county having
19 jurisdiction of the case;

20 ~~((+28))~~ (32) Transportation" means the conveying, by any means,
21 of an incarcerated pregnant youth from the institution or detention
22 facility to another location from the moment she leaves the
23 institution or detention facility to the time of arrival at the other
24 location, and includes the escorting of the pregnant incarcerated
25 woman or youth from the institution or detention facility to a
26 transport vehicle and from the vehicle to the other location.

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

30 ~~((+29))~~ (34) "Violent offense" means a violent offense as defined
31 in RCW 9.94A.030;

32 ~~((+30))~~ (35) "Youth court" means a diversion unit under the
33 supervision of the juvenile court.

34

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

6 While the pregnant youth is in labor or in childbirth no
7 restraints of any kind may be used unless specifically requested by
8 medical personnel.

9 (2) Extraordinary circumstances exist where an employee at the
10 facility makes an individualized determination that restraints are
11 necessary to prevent an incarcerated pregnant youth from escaping, or
12 from injuring herself, medical or facility personnel, or others.
13 Anytime restraints are used on a pregnant youth the restraints must be
14 the least restrictive available and the most reasonable under the
15 circumstances, but in no case shall leg irons or waist chains be used
16 on any pregnant youth.

17 (3) No employee of the institution or detention facility shall be
18 present during the pregnant youth's labor or childbirth, unless
19 specifically requested by medical personnel. If the employee's
20 presence is requested by medical personnel, the employee should be
21 female, if practicable.

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

26
27 NEW SECTION. **Sec. 12.** (1) The director of the juvenile detention
28 facility shall provide an informational packet about the requirements
29 of this act to all medical staff and nonmedical staff who are involved
30 in the transportation of youth who are pregnant, as well as such other
31 staff as appropriate. The informational packet provided to staff
32 under this section shall be developed as provided in section 13 of
33 this act.

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

8

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

15

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

18

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

21

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

24

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

27

28 EFFECT: Adds a definition of "transportation." Provides that no
29 institution or facility personnel will be present during delivery or
30 childbirth unless requested by medical personnel. For jails, any woman
31 or youth of child bearing age must be given information about the
32 requirements of this act. Jails must conspicuously post the
33 requirements of this act in the areas where medical care is given. The
34 terms "delivering her baby" is changed to "childbirth". In the
definition of "physical restraint" an exception is made to allow a
correctional officer or employee to guide the pregnant woman or youth
from one location to another.

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EFFECT:

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