

As Introduced

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S. B. No. 18

Senators Antonio, Lehner

**Cosponsors: Senators Eklund, Fedor, Kunze, Maharath, Sykes, Thomas, Yuko,
Williams, Roegner**

A BILL

To amend section 2921.45 and to enact sections 1
109.749, 2152.75, and 2901.10 of the Revised 2
Code to prohibit restraining or confining a 3
woman or child who is a charged or adjudicated 4
criminal offender or delinquent child at certain 5
points during pregnancy or postpartum recovery. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2921.45 be amended and sections 7
109.749, 2152.75, and 2901.10 of the Revised Code be enacted to 8
read as follows: 9

Sec. 109.749. The attorney general shall provide training 10
materials to law enforcement, court, and corrections officials 11
on the provisions of sections 2152.75 and 2901.10 of the Revised 12
Code to train employees on proper implementation of the 13
requirements of those sections. 14

Sec. 2152.75. (A) As used in this section: 15

(1) "Charged or adjudicated delinquent child" means any 16
female child to whom both of the following apply: 17

(a) The child is charged with a delinquent act or, with 18
respect to a delinquent act, is subject to juvenile court 19
proceedings, has been adjudicated a delinquent child, is serving 20
a disposition, or is under supervised release imposed as a 21
condition of release from any disposition. 22

(b) The child is in custody of any law enforcement, court, 23
or corrections official. 24

(2) "Health care professional" has the same meaning as in 25
section 2108.61 of the Revised Code. 26

(3) "Law enforcement, court, or corrections official" 27
means any officer or employee of this state or a political 28
subdivision of this state who has custody or control of any 29
child who is a charged or adjudicated delinquent child. 30

(4) "Restrain" means to use any shackles, handcuffs, or 31
other physical restraint. 32

(5) "Confine" means to place in solitary confinement in an 33
enclosed space. 34

(6) "Unborn child" means a member of the species homo 35
sapiens who is carried in the womb of a child who is a charged 36
or adjudicated delinquent child, during a period that begins 37
with fertilization and continues until live birth occurs. 38

(B) Except as otherwise provided in division (C) of this 39
section, no law enforcement, court, or corrections official 40
shall negligently restrain or confine a female child who is a 41
charged or adjudicated delinquent child during any of the 42
following periods of time: 43

(1) If the child is pregnant, at any time during her third 44
trimester of pregnancy; 45

(2) If the child is pregnant, during transport to a 46
hospital, during labor, or during delivery; 47

(3) If the child was pregnant, during any period of 48
postpartum recovery after the child's pregnancy. 49

(C) (1) Except as otherwise provided in division (D) of 50
this section, a law enforcement, court, or corrections official 51
may restrain or confine a female child who is a charged or 52
adjudicated delinquent child during a period of time specified 53
in division (B) of this section if all of the following apply: 54

(a) The official determines that the child presents a 55
serious threat of physical harm to herself, to the official, to 56
other law enforcement or court personnel, or to any other 57
person. 58

(b) Prior to restraining or confining the child, the 59
official contacts a health care professional who is treating the 60
child and notifies the professional that the official wishes to 61
restrain or confine the child and identifies the type of 62
restraint and the expected duration of its use or communicates 63
the expected duration of confinement. 64

(c) Upon being contacted by the official as described in 65
division (C) (1) (b) of this section, the health care professional 66
does not object to the use of the specified type of restraint 67
for the expected duration of its use or does not object to the 68
expected duration of confinement. 69

(2) A health care professional who is contacted by a law 70
enforcement, court, or corrections official as described in 71
division (C) (1) (b) of this section shall not object to the use 72
of the specified type of restraint for the expected duration of 73
its use, or the expected duration of confinement, unless the 74

professional determines that the specified type of restraint, 75
the use of that type of restraint for the expected duration, or 76
the expected duration of confinement poses a risk of physical 77
harm to the child or to the child's unborn child. 78

(D) A law enforcement, court, or corrections official who 79
restrains a female child who is a charged or adjudicated 80
delinquent child during a period of time specified in division 81
(B) of this section under authority of division (C) of this 82
section shall not use any leg, ankle, or waist restraint to 83
restrain the child. 84

(E) (1) If a law enforcement, court, or corrections 85
official restrains or confines a female child who is a charged 86
or adjudicated delinquent child during a period of time 87
specified in division (B) of this section under authority of 88
division (C) of this section, the official shall remove the 89
restraint or cease confinement if, at any time while the 90
restraint is in use or the child is in confinement, a health 91
care professional who is treating the child provides a notice to 92
the official or to the official's employing agency or court 93
stating that the restraint or confinement poses a risk of 94
physical harm to the child or to the child's unborn child. 95

(2) A law enforcement, court, or corrections official 96
shall not restrain or confine a female child who is a charged or 97
adjudicated delinquent child during a period of time specified 98
in division (B) of this section if, prior to the use of the 99
restraint or confinement, a health care professional who is 100
treating the child provides a notice to the official or to the 101
official's employing agency or court stating that any restraint 102
or confinement of the child during a period of time specified in 103
division (B) of this section poses a risk of physical harm to 104

the child or to the child's unborn child. A notice provided as 105
described in this division applies throughout all periods of 106
time specified in division (B) of this section that occur after 107
the provision of the notice. 108

(F)(1) Whoever violates division (B) of this section is 109
guilty of interfering with civil rights in violation of division 110
(B) of section 2921.45 of the Revised Code. 111

(2) A female child who is restrained or confined in 112
violation of division (B) of this section may commence a civil 113
action under section 2307.60 of the Revised Code against the law 114
enforcement, court, or corrections official who committed the 115
violation, against the official's employing agency or court, or 116
against both the official and the official's employing agency or 117
court. In the action, in addition to the full damages specified 118
in section 2307.60 of the Revised Code, the child may recover 119
punitive damages, the costs of maintaining the action and 120
reasonable attorney's fees, or both punitive damages and the 121
costs of maintaining the action and reasonable attorney's fees. 122

(3) Divisions (F)(1) and (2) of this section do not limit 123
any right of a person to obtain injunctive relief or to recover 124
damages in a civil action under any other statutory or common 125
law of this state or the United States. 126

Sec. 2901.10. (A) As used in this section: 127

(1) "Charged or adjudicated criminal offender" means any 128
woman to whom both of the following apply: 129

(a) The woman is charged with a crime or, with respect to 130
a crime, is being tried, has been convicted of or pleaded 131
guilty, is serving a sentence, or is under supervised release 132
imposed as a condition of release from any sentence. 133

(b) The woman is in custody of any law enforcement, court, 134
or corrections official. 135

(2) "Health care professional" has the same meaning as in 136
section 2108.61 of the Revised Code. 137

(3) "Law enforcement, court, or corrections official" 138
means any officer or employee of this state or a political 139
subdivision of this state who has custody or control of any 140
woman who is a charged or convicted criminal offender. 141

(4) "Restrain" means to use any shackles, handcuffs, or 142
other physical restraint. 143

(5) "Confine" means to place in solitary confinement in an 144
enclosed space. 145

(6) "Unborn child" means a member of the species homo 146
sapiens who is carried in the womb of a woman who is a charged 147
or adjudicated criminal offender, during a period that begins 148
with fertilization and continues until live birth occurs. 149

(B) Except as otherwise provided in division (C) of this 150
section, no law enforcement, court, or corrections official 151
shall negligently restrain or confine a woman who is a charged 152
or convicted criminal offender during any of the following 153
periods of time: 154

(1) If the woman is pregnant, at any time during her third 155
trimester of pregnancy; 156

(2) If the woman is pregnant, during transport to a 157
hospital, during labor, or during delivery; 158

(3) If the woman was pregnant, during any period of 159
postpartum recovery after the woman's pregnancy. 160

(C) (1) Except as otherwise provided in division (D) of 161
this section, a law enforcement, court, or corrections official 162
may restrain or confine a woman who is a charged or convicted 163
criminal offender during a period of time specified in division 164
(B) of this section if all of the following apply: 165

(a) The official determines that the woman presents a 166
serious threat of physical harm to herself, to the official, to 167
other law enforcement or court personnel, or to any other 168
person. 169

(b) Prior to restraining or confining the woman, the 170
official contacts a health care professional who is treating the 171
woman and notifies the professional that the official wishes to 172
restrain or confine the woman and identifies the type of 173
restraint and the expected duration of its use or communicates 174
the expected duration of confinement. 175

(c) Upon being contacted by the official as described in 176
division (C) (1) (b) of this section, the health care professional 177
does not object to the use of the specified type of restraint 178
for the expected duration of its use or does not object to the 179
expected duration of confinement. 180

(2) A health care professional who is contacted by a law 181
enforcement, court, or corrections official as described in 182
division (C) (1) (b) of this section shall not object to the use 183
of the specified type of restraint for the expected duration of 184
its use, or the expected duration of confinement, unless the 185
professional determines that the specified type of restraint, 186
the use of that type of restraint for the expected duration, or 187
the expected duration of confinement poses a risk of physical 188
harm to the woman or to the woman's unborn child. 189

(D) A law enforcement, court, or corrections official who 190
restrains a woman who is a charged or convicted criminal 191
offender during a period of time specified in division (B) of 192
this section under authority of division (C) of this section 193
shall not use any leg, ankle, or waist restraint to restrain the 194
woman. 195

(E) (1) If a law enforcement, court, or corrections 196
official restrains or confines a woman who is a charged or 197
convicted criminal offender during a period of time specified in 198
division (B) of this section under authority of division (C) of 199
this section, the official shall remove the restraint or cease 200
confinement if, at any time while the restraint is in use or the 201
woman is in confinement, a health care professional who is 202
treating the woman provides a notice to the official or to the 203
official's employing agency or court stating that the restraint 204
or confinement poses a risk of physical harm to the woman or to 205
the woman's unborn child. 206

(2) A law enforcement, court, or corrections official 207
shall not restrain or confine a woman who is a charged or 208
convicted criminal offender during a period of time specified in 209
division (B) of this section if, prior to the use of the 210
restraint or confinement, a health care professional who is 211
treating the woman provides a notice to the official or to the 212
official's employing agency or court stating that any restraint 213
or confinement of the woman during a period of time specified in 214
division (B) of this section poses a risk of physical harm to 215
the woman or to the woman's unborn child. A notice provided as 216
described in this division applies throughout all periods of 217
time specified in division (B) of this section that occur after 218
the provision of the notice. 219

(F) (1) Whoever violates division (B) of this section is 220
guilty of interfering with civil rights in violation of division 221
(B) of section 2921.45 of the Revised Code. 222

(2) A woman who is restrained or confined in violation of 223
division (B) of this section may commence a civil action under 224
section 2307.60 of the Revised Code against the law enforcement, 225
court, or corrections official who committed the violation, 226
against the official's employing agency or court, or against 227
both the official and the official's employing agency or court. 228
In the action, in addition to the full damages specified in 229
section 2307.60 of the Revised Code, the woman may recover 230
punitive damages, the costs of maintaining the action and 231
reasonable attorney's fees, or both punitive damages and the 232
costs of maintaining the action and reasonable attorney's fees. 233

(3) Divisions (F) (1) and (2) of this section do not limit 234
any right of a person to obtain injunctive relief or to recover 235
damages in a civil action under any other statutory or common 236
law of this state or the United States. 237

Sec. 2921.45. (A) No public servant, under color of his 238
the public servant's office, employment, or authority, shall 239
knowingly deprive, or conspire or attempt to deprive any person 240
of a constitutional or statutory right. 241

(B) No law enforcement, court, or corrections official 242
shall violate division (B) of section 2152.75 or section 2901.10 243
of the Revised Code. 244

(C) Whoever violates this section is guilty of interfering 245
with civil rights, a misdemeanor of the first degree. 246

Section 2. That existing section 2921.45 of the Revised 247
Code is hereby repealed. 248