

As Introduced

132nd General Assembly

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H. B. No. 688

Representative Antonio

**Cosponsors: Representatives Boggs, Howse, Kelly, Lepore-Hagan, Miller, Ramos,
Smith, K., Patterson**

A BILL

To amend section 2921.45 and to enact sections 1
2152.75 and 2901.10 of the Revised Code to 2
generally prohibit a law enforcement, court, or 3
corrections official from restraining a pregnant 4
woman or child who is a charged or adjudicated 5
criminal offender or delinquent child at any 6
time during her third trimester of pregnancy or 7
during transport to a hospital, during labor, or 8
during delivery and from restraining such a 9
woman or child who was pregnant during any 10
period of postpartum recovery. 11

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

Section 1. That section 2921.45 be amended and sections 12
2152.75 and 2901.10 of the Revised Code be enacted to read as 13
follows: 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, is subject to juvenile court proceedings for a delinquent act, has been adjudicated a delinquent child for a delinquent act, is serving a disposition imposed for a delinquent act, or is under supervised release imposed as a condition of release from any disposition imposed for a delinquent act. 18
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(b) The child is in custody of any law enforcement, court, or corrections official. 24
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(2) "Health care professional" has the same meaning as in section 2108.61 of the Revised Code. 26
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(3) "Law enforcement, court, or corrections official" means any officer or employee of this state or a political subdivision of this state who has custody or control of any child who is a charged or adjudicated delinquent child. 28
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(4) "Restrain" means to use any shackles, handcuffs, or other physical restraint. 32
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(5) "Unborn child" means a member of the species homo sapiens who is carried in the womb of a child who is a charged or adjudicated delinquent child, during a period that begins with fertilization and continues until live birth occurs. 34
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(B) Except as otherwise provided in division (C) of this section, no law enforcement, court, or corrections official shall restrain a female child who is a charged or adjudicated delinquent child during any of the following periods of time: 38
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(1) If the child is pregnant, at any time during her third trimester of pregnancy; 42
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(2) If the child is pregnant, during transport to a hospital, during labor, or during delivery; 44
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(3) If the child was pregnant, during any period of 46
postpartum recovery after the child's pregnancy. 47

(C) (1) Except as otherwise provided in division (D) of 48
this section, a law enforcement, court, or corrections official 49
may restrain a female child who is a charged or adjudicated 50
delinquent child during a period of time specified in division 51
(B) of this section if all of the following apply: 52

(a) The official determines that the child presents a 53
serious threat of physical harm to herself, to the official, to 54
other law enforcement or court personnel, or to any other 55
person. 56

(b) Prior to restraining the child, the official contacts 57
a health care professional who is treating the child and 58
notifies the professional that the official wishes to restrain 59
the child, and identifies the type of restraint and the expected 60
duration of its use. 61

(c) Upon being contacted by the official as described in 62
division (C) (1) (b) of this section, the health care professional 63
does not object to the use of the specified type of restraint 64
for the expected duration of its use. 65

(2) A health care professional who is contacted by a law 66
enforcement, court, or corrections official as described in 67
division (C) (1) (b) of this section shall not object to the use 68
of the specified type of restraint for the expected duration of 69
its use unless the professional determines that the specified 70
type of restraint, or the use of that type of restraint for the 71
expected duration, poses a risk of physical harm to the child or 72
to the child's unborn child. 73

(D) (1) A law enforcement, court, or corrections official 74

who restrains a female child who is a charged or adjudicated 75
delinquent child during a period of time specified in division 76
(B) of this section under authority of division (C) of this 77
section shall not use any leg, ankle, or waist restraint to 78
restrain the child. 79

(2) If a law enforcement, court, or corrections official 80
restrains a female child who is a charged or adjudicated 81
delinquent child during a period of time specified in division 82
(B) of this section under authority of division (C) of this 83
section, the official shall remove the restraint if, at any time 84
while the restraint is in use, a health care professional who is 85
treating the child provides a notice to the official or to the 86
official's employing agency or court stating that the restraint 87
poses a risk of physical harm to the child or to the child's 88
unborn child. 89

(3) A law enforcement, court, or corrections official 90
shall not restrain a female child who is a charged or 91
adjudicated delinquent child during a period of time specified 92
in division (B) of this section if, prior to the use of the 93
restraint, a health care professional who is treating the child 94
provides a notice to the official or to the official's employing 95
agency or court stating that any restraint of the child during a 96
period of time specified in division (B) of this section poses a 97
risk of physical harm to the child or to the child's unborn 98
child. A notice provided as described in this division applies 99
throughout all periods of time specified in division (B) of this 100
section that occur after the provision of the notice. 101

(E) (1) Whoever violates division (B) of this section is 102
guilty of interfering with civil rights in violation of division 103
(B) of section 2921.45 of the Revised Code. 104

(2) A female child who is restrained in violation of 105
division (B) of this section may commence a civil action under 106
section 2307.60 of the Revised Code against the law enforcement, 107
court, or corrections official who committed the violation, 108
against the official's employing agency or court, or against 109
both the official and the official's employing agency or court. 110
In the action, in addition to the full damages specified in 111
section 2307.60 of the Revised Code, the child may recover 112
punitive damages, the costs of maintaining the action and 113
reasonable attorney's fees, or both punitive damages and the 114
costs of maintaining the action and reasonable attorney's fees. 115

(3) Divisions (E) (1) and (2) of this section do not limit 116
any right of a person to obtain injunctive relief or to recover 117
damages in a civil action under any other statutory or common 118
law of this state or the United States. 119

Sec. 2901.10. (A) As used in this section: 120

(1) "Charged or adjudicated criminal offender" means any 121
woman to whom both of the following apply: 122

(a) The woman is charged with a crime, is being tried for 123
a crime, has been convicted of or pleaded guilty to a crime, is 124
servng a sentence imposed for a crime, or is under supervised 125
release imposed as a condition of release from any sentence 126
imposed for a crime. 127

(b) The woman is in custody of any law enforcement, court, 128
or corrections official. 129

(2) "Health care professional" has the same meaning as in 130
section 2108.61 of the Revised Code. 131

(3) "Law enforcement, court, or corrections official" 132
means any officer or employee of this state or a political 133

subdivision of this state who has custody or control of any 134
woman who is a charged or convicted criminal offender. 135

(4) "Restrain" means to use any shackles, handcuffs, or 136
other physical restraint. 137

(5) "Unborn child" means a member of the species homo 138
sapiens who is carried in the womb of a woman who is a charged 139
or adjudicated criminal offender, during a period that begins 140
with fertilization and continues until live birth occurs. 141

(B) Except as otherwise provided in division (C) of this 142
section, no law enforcement, court, or corrections official 143
shall restrain a woman who is a charged or convicted criminal 144
offender during any of the following periods of time: 145

(1) If the woman is pregnant, at any time during her third 146
trimester of pregnancy; 147

(2) If the woman is pregnant, during transport to a 148
hospital, during labor, or during delivery; 149

(3) If the woman was pregnant, during any period of 150
postpartum recovery after the woman's pregnancy. 151

(C)(1) Except as otherwise provided in division (D) of 152
this section, a law enforcement, court, or corrections official 153
may restrain a woman who is a charged or convicted criminal 154
offender during a period of time specified in division (B) of 155
this section if all of the following apply: 156

(a) The official determines that the woman presents a 157
serious threat of physical harm to herself, to the official, to 158
other law enforcement or court personnel, or to any other 159
person. 160

(b) Prior to restraining the woman, the official contacts 161

a health care professional who is treating the woman and 162
notifies the professional that the official wishes to restrain 163
the woman, and identifies the type of restraint and the expected 164
duration of its use. 165

(c) Upon being contacted by the official as described in 166
division (C) (1) (b) of this section, the health care professional 167
does not object to the use of the specified type of restraint 168
for the expected duration of its use. 169

(2) A health care professional who is contacted by a law 170
enforcement, court, or corrections official as described in 171
division (C) (1) (b) of this section shall not object to the use 172
of the specified type of restraint for the expected duration of 173
its use unless the professional determines that the specified 174
type of restraint, or the use of that type of restraint for the 175
expected duration, poses a risk of physical harm to the woman or 176
to the woman's unborn child. 177

(D) (1) A law enforcement, court, or corrections official 178
who restrains a woman who is a charged or convicted criminal 179
offender during a period of time specified in division (B) of 180
this section under authority of division (C) of this section 181
shall not use any leg, ankle, or waist restraint to restrain the 182
woman. 183

(2) If a law enforcement, court, or corrections official 184
restrains a woman who is a charged or convicted criminal 185
offender during a period of time specified in division (B) of 186
this section under authority of division (C) of this section, 187
the official shall remove the restraint if, at any time while 188
the restraint is in use, a health care professional who is 189
treating the woman provides a notice to the official or to the 190
official's employing agency or court stating that the restraint 191

poses a risk of physical harm to the woman or to the woman's 192
unborn child. 193

(3) A law enforcement, court, or corrections official 194
shall not restrain a woman who is a charged or convicted 195
criminal offender during a period of time specified in division 196
(B) of this section if, prior to the use of the restraint, a 197
health care professional who is treating the woman provides a 198
notice to the official or to the official's employing agency or 199
court stating that any restraint of the woman during a period of 200
time specified in division (B) of this section poses a risk of 201
physical harm to the woman or to the woman's unborn child. A 202
notice provided as described in this division applies throughout 203
all periods of time specified in division (B) of this section 204
that occur after the provision of the notice. 205

(E) (1) Whoever violates division (B) of this section is 206
guilty of interfering with civil rights in violation of division 207
(B) of section 2921.45 of the Revised Code. 208

(2) A woman who is restrained in violation of division (B) 209
of this section may commence a civil action under section 210
2307.60 of the Revised Code against the law enforcement, court, 211
or corrections official who committed the violation, against the 212
official's employing agency or court, or against both the 213
official and the official's employing agency or court. In the 214
action, in addition to the full damages specified in section 215
2307.60 of the Revised Code, the woman may recover punitive 216
damages, the costs of maintaining the action and reasonable 217
attorney's fees, or both punitive damages and the costs of 218
maintaining the action and reasonable attorney's fees. 219

(3) Divisions (E) (1) and (2) of this section do not limit 220
any right of a person to obtain injunctive relief or to recover 221

damages in a civil action under any other statutory or common 222
law of this state or the United States. 223

Sec. 2921.45. (A) No public servant, under color of ~~his~~ 224
the public servant's office, employment, or authority, shall 225
knowingly deprive, or conspire or attempt to deprive any person 226
of a constitutional or statutory right. 227

(B) (1) As used in division (B) (2) of this section, "law 228
enforcement, court, or corrections official" has the same 229
meaning as in section 2152.75 of the Revised Code with respect 230
to conduct of a type described in division (B) of that section 231
and has the same meaning as in section 2901.10 of the Revised 232
Code with respect to conduct of a type described in division (B) 233
of that section. 234

(2) No law enforcement, court, or corrections official 235
shall violate division (B) of section 2152.75 or section 2901.10 236
of the Revised Code. 237

(C) Whoever violates this section is guilty of interfering 238
with civil rights, a misdemeanor of the first degree. 239

Section 2. That existing section 2921.45 of the Revised 240
Code is hereby repealed. 241