

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 18**

**Senators Antonio, Lehner**

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

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**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 respect to a delinquent act, is subject to juvenile court proceedings, has been adjudicated a delinquent child, is serving a disposition, or is under supervised release imposed as a condition of release from any disposition. 18  
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(b) The child is in custody of any law enforcement, court, or corrections official. 23  
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(2) "Health care professional" has the same meaning as in section 2108.61 of the Revised Code. 25  
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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. 27  
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(4) "Restrain" means to use any shackles, handcuffs, or other physical restraint. 31  
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(5) "Confine" means to place in solitary confinement in an enclosed space. 33  
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(6) "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. 35  
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(B) Except as otherwise provided in division (C) of this section, no law enforcement, court, or corrections official shall negligently restrain or confine a female child who is a charged or adjudicated delinquent child during any of the following periods of time: 39  
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(1) If the child is pregnant, at any time during her third trimester of pregnancy; 44  
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(2) If the child is pregnant, during transport to a hospital, during labor, or during delivery; 46  
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(3) If the child was pregnant, during any period of postpartum recovery after the child's pregnancy. 48  
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(C) (1) Except as otherwise provided in division (D) of this section, a law enforcement, court, or corrections official may restrain or confine a female child who is a charged or adjudicated delinquent child during a period of time specified in division (B) of this section if all of the following apply: 50  
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(a) The official determines that the child presents a serious threat of physical harm to herself, to the official, to other law enforcement or court personnel, or to any other person. 55  
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(b) Prior to restraining or confining the child, the official contacts a health care professional who is treating the child and notifies the professional that the official wishes to restrain or confine the child and identifies the type of restraint and the expected duration of its use or communicates the expected duration of confinement. 59  
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(c) Upon being contacted by the official as described in division (C) (1) (b) of this section, the health care professional does not object to the use of the specified type of restraint for the expected duration of its use or does not object to the expected duration of confinement. 65  
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(2) A health care professional who is contacted by a law enforcement, court, or corrections official as described in division (C) (1) (b) of this section shall not object to the use of the specified type of restraint for the expected duration of its use, or the expected duration of confinement, unless the 70  
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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

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| <u>(b) The woman is in custody of any law enforcement, court,</u>     | 134 |
| <u>or corrections official.</u>                                       | 135 |
| <u>(2) "Health care professional" has the same meaning as in</u>      | 136 |
| <u>section 2108.61 of the Revised Code.</u>                           | 137 |
| <u>(3) "Law enforcement, court, or corrections official"</u>          | 138 |
| <u>means any officer or employee of this state or a political</u>     | 139 |
| <u>subdivision of this state who has custody or control of any</u>    | 140 |
| <u>woman who is a charged or convicted criminal offender.</u>         | 141 |
| <u>(4) "Restrain" means to use any shackles, handcuffs, or</u>        | 142 |
| <u>other physical restraint.</u>                                      | 143 |
| <u>(5) "Confine" means to place in solitary confinement in an</u>     | 144 |
| <u>enclosed space.</u>  | 145 |
| <u>(6) "Unborn child" means a member of the species homo</u>          | 146 |
| <u>sapiens who is carried in the womb of a woman who is a charged</u> | 147 |
| <u>or adjudicated criminal offender, during a period that begins</u>  | 148 |
| <u>with fertilization and continues until live birth occurs.</u>      | 149 |
| <u>(B) Except as otherwise provided in division (C) of this</u>       | 150 |
| <u>section, no law enforcement, court, or corrections official</u>    | 151 |
| <u>shall negligently restrain or confine a woman who is a charged</u> | 152 |
| <u>or convicted criminal offender during any of the following</u>     | 153 |
| <u>periods of time:</u>   | 154 |
| <u>(1) If the woman is pregnant, at any time during her third</u>     | 155 |
| <u>trimester of pregnancy;</u>  | 156 |
| <u>(2) If the woman is pregnant, during transport to a</u>            | 157 |
| <u>hospital, during labor, or during delivery;</u>                    | 158 |
| <u>(3) If the woman was pregnant, during any period of</u>            | 159 |
| <u>postpartum recovery after the woman's pregnancy.</u>               | 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