

**As Passed by the Senate**

**133rd General Assembly**

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**2019-2020**

**Sub. S. B. No. 18**

**Senators Antonio, Lehner**

**Cosponsors: Senators Eklund, Fedor, Kunze, Maharath, Sykes, Thomas, Yuko, Williams, Roegner, Manning, Blessing, Brenner, Burke, Craig, Dolan, Hackett, Hoagland, Huffman, M., Huffman, S., Johnson, Obhof, O'Brien, Peterson, Rulli, Wilson**

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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, convicted, or 4  
adjudicated criminal offender or delinquent 5  
child at certain points during pregnancy or 6  
postpartum recovery. 7

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

**Section 1.** That section 2921.45 be amended and sections 8  
109.749, 2152.75, and 2901.10 of the Revised Code be enacted to 9  
read as follows: 10

**Sec. 109.749.** The attorney general shall provide training 11  
materials to law enforcement, court, and corrections officials 12  
on the provisions of sections 2152.75 and 2901.10 of the Revised 13  
Code to train employees on proper implementation of the 14  
requirements of those sections. 15

**Sec. 2152.75.** (A) As used in this section: 16

(1) "Charged or adjudicated delinquent child" means any female child to whom both of the following apply: 17  
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(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, or is serving a disposition. 19  
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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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(7) "Emergency circumstance" means a sudden, urgent, unexpected incident or occurrence that requires an immediate reaction and restraint of the charged or adjudicated delinquent child who is pregnant for an emergency situation faced by a law enforcement, court, or corrections official. 39  
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(B) Except as otherwise provided in division (C) of this 44

section, no law enforcement, court, or corrections official, 45  
with knowledge that the female child is pregnant or was 46  
pregnant, shall knowingly restrain or confine a female child who 47  
is a charged or adjudicated delinquent child during any of the 48  
following periods of time: 49

(1) If the child is pregnant, at any time during her 50  
pregnancy; 51

(2) If the child is pregnant, during transport to a 52  
hospital, during labor, or during delivery; 53

(3) If the child was pregnant, during any period of 54  
postpartum recovery up to six weeks after the child's pregnancy. 55

(C) (1) Except as otherwise provided in division (D) of 56  
this section, a law enforcement, court, or corrections official 57  
may restrain or confine a female child who is a charged or 58  
adjudicated delinquent child during a period of time specified 59  
in division (B) of this section if all of the following apply: 60

(a) The official determines that the child presents a 61  
serious threat of physical harm to herself, to the official, to 62  
other law enforcement or court personnel, or to any other 63  
person, presents a serious threat of physical harm to property, 64  
presents a substantial security risk, or presents a substantial 65  
flight risk. 66

(b) (i) Except as provided in division (C) (1) (b) (ii) of 67  
this section, prior to restraining or confining the child, the 68  
official contacts a health care professional who is treating the 69  
child and notifies the professional that the official wishes to 70  
restrain or confine the child and identifies the type of 71  
restraint and the expected duration of its use or communicates 72  
the expected duration of confinement. 73

(ii) The official is not required to contact a health care professional who is treating the child prior to restraining the child in accordance with division (D) of this section if an emergency circumstance exists. The use of restraint in an emergency circumstance shall be in accordance with division (D) of this section. Once the child is restrained, the official shall contact a health care professional who is treating the child and identify the type of restraint and the expected duration of its use. 74  
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(c) Upon being contacted by the official as described in division (C)(1)(b)(i) 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. 83  
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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)(i) 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 professional determines that the specified type of restraint, the use of that type of restraint for the expected duration, or the expected duration of confinement poses a risk of physical harm to the child or to the child's unborn child. 88  
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(D) A law enforcement, court, or corrections official who restrains a female child who is a charged or adjudicated delinquent child during a period of time specified in division (B) of this section under authority of division (C) of this section shall not use any leg, ankle, or waist restraint to restrain the child. 97  
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(E)(1) If a law enforcement, court, or corrections 103

official restrains or confines a female child who is a charged 104  
or adjudicated delinquent child during a period of time 105  
specified in division (B) of this section under authority of 106  
division (C) of this section, the official shall remove the 107  
restraint or cease confinement if, at any time while the 108  
restraint is in use or the child is in confinement, a health 109  
care professional who is treating the child provides a notice to 110  
the official or to the official's employing agency or court 111  
stating that the restraint or confinement poses a risk of 112  
physical harm to the child or to the child's unborn child. 113

(2) A law enforcement, court, or corrections official 114  
shall not restrain or confine a female child who is a charged or 115  
adjudicated delinquent child during a period of time specified 116  
in division (B) of this section if, prior to the use of the 117  
restraint or confinement, a health care professional who is 118  
treating the child provides a notice to the official or to the 119  
official's employing agency or court stating that any restraint 120  
or confinement of the child during a period of time specified in 121  
division (B) of this section poses a risk of physical harm to 122  
the child or to the child's unborn child. A notice provided as 123  
described in this division applies throughout all periods of 124  
time specified in division (B) of this section that occur after 125  
the provision of the notice. 126

(F) (1) Whoever violates division (B) of this section is 127  
guilty of interfering with civil rights in violation of division 128  
(B) of section 2921.45 of the Revised Code. 129

(2) A female child who is restrained or confined in 130  
violation of division (B) of this section may commence a civil 131  
action under section 2307.60 of the Revised Code against the law 132  
enforcement, court, or corrections official who committed the 133

violation, against the official's employing agency or court, or 134  
against both the official and the official's employing agency or 135  
court. In the action, in addition to the full damages specified 136  
in section 2307.60 of the Revised Code, the child may recover 137  
punitive damages, the costs of maintaining the action and 138  
reasonable attorney's fees, or both punitive damages and the 139  
costs of maintaining the action and reasonable attorney's fees. 140

(3) Divisions (F) (1) and (2) of this section do not limit 141  
any right of a person to obtain injunctive relief or to recover 142  
damages in a civil action under any other statutory or common 143  
law of this state or the United States. 144

**Sec. 2901.10.** (A) As used in this section: 145

(1) "Charged or convicted criminal offender" means any 146  
woman to whom both of the following apply: 147

(a) The woman is charged with a crime or, with respect to 148  
a crime, is being tried, has been convicted of or pleaded 149  
guilty, or is serving a sentence. 150

(b) The woman is in custody of any law enforcement, court, 151  
or corrections official. 152

(2) "Health care professional" has the same meaning as in 153  
section 2108.61 of the Revised Code. 154

(3) "Law enforcement, court, or corrections official" 155  
means any officer or employee of this state or a political 156  
subdivision of this state who has custody or control of any 157  
woman who is a charged or convicted criminal offender. 158

(4) "Restrain" means to use any shackles, handcuffs, or 159  
other physical restraint. 160

(5) "Confine" means to place in solitary confinement in an 161

enclosed space. 162

(6) "Unborn child" means a member of the species homo 163  
sapiens who is carried in the womb of a woman who is a charged 164  
or convicted criminal offender, during a period that begins with 165  
fertilization and continues until live birth occurs. 166

(7) "Emergency circumstance" means a sudden, urgent, 167  
unexpected incident or occurrence that requires an immediate 168  
reaction and restraint of the charged or convicted criminal 169  
offender who is pregnant for an emergency situation faced by a 170  
law enforcement, court, or corrections official. 171

(B) Except as otherwise provided in division (C) of this 172  
section, no law enforcement, court, or corrections official, 173  
with knowledge that the woman is pregnant or was pregnant, shall 174  
knowingly restrain or confine a woman who is a charged or 175  
convicted criminal offender during any of the following periods 176  
of time: 177

(1) If the woman is pregnant, at any time during her 178  
pregnancy; 179

(2) If the woman is pregnant, during transport to a 180  
hospital, during labor, or during delivery; 181

(3) If the woman was pregnant, during any period of 182  
postpartum recovery up to six weeks after the woman's pregnancy. 183

(C) (1) Except as otherwise provided in division (D) of 184  
this section, a law enforcement, court, or corrections official 185  
may restrain or confine a woman who is a charged or convicted 186  
criminal offender during a period of time specified in division 187  
(B) of this section if all of the following apply: 188

(a) The official determines that the woman presents a 189

serious threat of physical harm to herself, to the official, to 190  
other law enforcement or court personnel, or to any other 191  
person, presents a serious threat of physical harm to property, 192  
presents a substantial security risk, or presents a substantial 193  
flight risk. 194

(b) (i) Except as otherwise provided in division (C) (1) (b) 195  
(ii) of this section, prior to restraining or confining the 196  
woman, the official contacts a health care professional who is 197  
treating the woman and notifies the professional that the 198  
official wishes to restrain or confine the woman and identifies 199  
the type of restraint and the expected duration of its use or 200  
communicates the expected duration of confinement. 201

(ii) The official is not required to contact a health care 202  
professional who is treating the woman prior to restraining the 203  
woman in accordance with division (D) of this section if an 204  
emergency circumstance exists. The use of restraint in an 205  
emergency circumstance shall be in accordance with division (D) 206  
of this section. Once the woman is restrained, the official 207  
shall contact a health care professional who is treating the 208  
woman and identify the type of restraint and the expected 209  
duration of its use. 210

(c) Upon being contacted by the official as described in 211  
division (C) (1) (b) (i) of this section, the health care 212  
professional does not object to the use of the specified type of 213  
restraint for the expected duration of its use or does not 214  
object to the expected duration of confinement. 215

(2) A health care professional who is contacted by a law 216  
enforcement, court, or corrections official as described in 217  
division (C) (1) (b) (i) of this section shall not object to the 218  
use of the specified type of restraint for the expected duration 219

of its use, or the expected duration of confinement, unless the 220  
professional determines that the specified type of restraint, 221  
the use of that type of restraint for the expected duration, or 222  
the expected duration of confinement poses a risk of physical 223  
harm to the woman or to the woman's unborn child. 224

(D) A law enforcement, court, or corrections official who 225  
restrains a woman who is a charged or convicted criminal 226  
offender during a period of time specified in division (B) of 227  
this section under authority of division (C) of this section 228  
shall not use any leg, ankle, or waist restraint to restrain the 229  
woman. 230

(E) (1) If a law enforcement, court, or corrections 231  
official restrains or confines a woman who is a charged or 232  
convicted criminal offender during a period of time specified in 233  
division (B) of this section under authority of division (C) of 234  
this section, the official shall remove the restraint or cease 235  
confinement if, at any time while the restraint is in use or the 236  
woman is in confinement, a health care professional who is 237  
treating the woman provides a notice to the official or to the 238  
official's employing agency or court stating that the restraint 239  
or confinement poses a risk of physical harm to the woman or to 240  
the woman's unborn child. 241

(2) A law enforcement, court, or corrections official 242  
shall not restrain or confine a woman who is a charged or 243  
convicted criminal offender during a period of time specified in 244  
division (B) of this section if, prior to the use of the 245  
restraint or confinement, a health care professional who is 246  
treating the woman provides a notice to the official or to the 247  
official's employing agency or court stating that any restraint 248  
or confinement of the woman during a period of time specified in 249

division (B) of this section poses a risk of physical harm to 250  
the woman or to the woman's unborn child. A notice provided as 251  
described in this division applies throughout all periods of 252  
time specified in division (B) of this section that occur after 253  
the provision of the notice. 254

(F) (1) Whoever violates division (B) of this section is 255  
guilty of interfering with civil rights in violation of division 256  
(B) of section 2921.45 of the Revised Code. 257

(2) A woman who is restrained or confined in violation of 258  
division (B) of this section may commence a civil action under 259  
section 2307.60 of the Revised Code against the law enforcement, 260  
court, or corrections official who committed the violation, 261  
against the official's employing agency or court, or against 262  
both the official and the official's employing agency or court. 263  
In the action, in addition to the full damages specified in 264  
section 2307.60 of the Revised Code, the woman may recover 265  
punitive damages, the costs of maintaining the action and 266  
reasonable attorney's fees, or both punitive damages and the 267  
costs of maintaining the action and reasonable attorney's fees. 268

(3) Divisions (F) (1) and (2) of this section do not limit 269  
any right of a person to obtain injunctive relief or to recover 270  
damages in a civil action under any other statutory or common 271  
law of this state or the United States. 272

**Sec. 2921.45.** (A) No public servant, under color of ~~his~~ 273  
the public servant's office, employment, or authority, shall 274  
knowingly deprive, or conspire or attempt to deprive any person 275  
of a constitutional or statutory right. 276

(B) No law enforcement, court, or corrections official 277  
shall violate division (B) of section 2152.75 or section 2901.10 278

<u>of the Revised Code.</u>	279
<u>(C)</u> Whoever violates this section is guilty of interfering	280
with civil rights, a misdemeanor of the first degree.	281
<b>Section 2.</b> That existing section 2921.45 of the Revised	282
Code is hereby repealed.	283