

H. B. No. 8
As Introduced

_____ moved to amend as follows:

In line 1 of the title, delete "section" and insert "sections 2152.75, 2901.10, and" 1
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In line 3 of the title, after "interrogations" insert "and to make changes to the prohibition against the restraint of a pregnant woman or child who is charged or has been convicted of an offense" 3
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In line 4, delete "section" and insert "sections 2152.75, 2901.10, and" 6
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After line 5, insert: 8

"Sec. 2152.75. (A) As used in this section: 9

(1) "Charged or adjudicated delinquent child" means any female child to whom both of the following apply: 10
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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. 12
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(b) The child is, following arrest, transportation, and routine processing and booking, in custody of any law 16
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enforcement, court, or corrections official.	18
(2) "Health care professional" has the same meaning as in section 2108.61 of the Revised Code.	19 20
(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.	21 22 23 24
(4) "Restrain" means to use any shackles, handcuffs, or other physical restraints <u>similar appliance or device that restricts the normal use of a person's arms or legs.</u>	25 26 27
(5) "Confine" means to place in solitary confinement in an enclosed space <u>restrictive housing or in disciplinary isolation for more than twenty-four hours.</u>	28 29 30
(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.	31 32 33 34
(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.	35 36 37 38 39
<u>(8) "Restrictive housing" means housing that separates an inmate from the general population and restricts an inmate to the inmate's cell for at least twenty-two hours per day.</u>	40 41 42
<u>(9) "Disciplinary isolation" means the act of confining an inmate to an individual housing cell that physically separates the inmate from the general inmate population as a penalty,</u>	43 44 45

thereby prohibiting physical contact between the inmate and 46
other inmates. 47

(B) Except as otherwise provided in division (C) of this 48
section, beginning on the date on which a pregnancy is confirmed 49
to law enforcement by a health care professional, no law 50
enforcement, court, or corrections official, with knowledge that 51
the female child is pregnant or was pregnant, shall knowingly 52
restrain or confine a female child who is a charged or 53
adjudicated delinquent child during any of the following periods 54
of time: 55

(1) If the child is pregnant, at any time during her 56
pregnancy; 57

(2) If the child is pregnant, during transport to a 58
hospital, during labor, or during delivery; 59

(3) If the child was pregnant, during any period of 60
postpartum recovery up to six weeks after the child's pregnancy. 61

~~(C) (1) Except as otherwise provided in division (D) of~~ 62
~~this section, a (C) A~~ law enforcement, court, or corrections 63
official may restrain or confine a female child who is a charged 64
or adjudicated delinquent child during a period of time 65
specified in division (B) of this section if ~~all of the~~ 66
~~following apply:~~ 67

~~(a) The~~ official determines that the child presents a 68
serious threat of physical harm to herself, to the official, to 69
other law enforcement or court personnel, or to any other 70
person, presents a serious threat of physical harm to property, 71
presents a substantial security risk, or presents a substantial 72
flight risk. 73

~~(b) (i) Except as provided in division (C) (1) (b) (ii) of this section, 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.~~ 74
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~~(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.~~ 81
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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.~~ 90
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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.~~ 95
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(D) A law enforcement, court, or corrections official who 104
restrains a female child who is a charged or adjudicated 105
delinquent child during a period of time specified in division 106
(B) of this section under authority of division (C) of this 107
section shall not use any leg, ankle, or waist restraint to 108
restrain the child. 109

(E) (1) If a law enforcement, court, or corrections 110
official restrains or confines a female child who is a charged 111
or adjudicated delinquent child during a period of time 112
specified in division (B) of this section under authority of 113
division (C) of this section, the official shall remove the 114
restraint or cease confinement if, at any time while the 115
restraint is in use or the child is in confinement, a health 116
care professional who is treating the child provides a notice to 117
the official or to the official's employing agency or court 118
stating that the restraint or confinement poses a risk of 119
physical harm to the child or to the child's unborn child. 120

(2) A law enforcement, court, or corrections official 121
shall not restrain or confine a female child who is a charged or 122
adjudicated delinquent child during a period of time specified 123
in division (B) of this section if, prior to the use of the 124
restraint or confinement, a health care professional who is 125
treating the child provides a notice to the official or to the 126
official's employing agency or court stating that any restraint 127
or confinement of the child during a period of time specified in 128
division (B) of this section poses a risk of physical harm to 129
the child or to the child's unborn child. A notice provided as 130
described in this division applies throughout all periods of 131
time specified in division (B) of this section that occur after 132
the provision of the notice. 133

(F) (1) Whoever violates division (B) of this section is 134
guilty of interfering with civil rights in violation of division 135
(B) of section 2921.45 of the Revised Code. 136

(2) A female child who is restrained or confined in 137
violation of division (B) of this section may commence a civil 138
action under section 2307.60 of the Revised Code against the law 139
enforcement, court, or corrections official who committed the 140
violation, against the official's employing agency or court, or 141
against both the official and the official's employing agency or 142
court. In the action, in addition to the full damages specified 143
in section 2307.60 of the Revised Code, the child may recover 144
punitive damages, the costs of maintaining the action and 145
reasonable attorney's fees, or both punitive damages and the 146
costs of maintaining the action and reasonable attorney's fees. 147

(3) Divisions (F) (1) and (2) of this section do not limit 148
any right of a person to obtain injunctive relief or to recover 149
damages in a civil action under any other statutory or common 150
law of this state or the United States. 151

Sec. 2901.10. (A) As used in this section: 152

(1) "Charged or convicted criminal offender" means any 153
woman to whom both of the following apply: 154

(a) The woman is charged with a crime or, with respect to 155
a crime, is being tried, has been convicted of or pleaded 156
guilty, or is serving a sentence. 157

(b) The woman is, following arrest, transportation, and 158
routine processing and booking, in custody of any law 159
enforcement, court, or corrections official. 160

(2) "Health care professional" has the same meaning as in 161

section 2108.61 of the Revised Code.	162
(3) "Law enforcement, court, or corrections official"	163
means any officer or employee of this state or a political	164
subdivision of this state who has custody or control of any	165
woman who is a charged or convicted criminal offender.	166
(4) "Restrain" means to use any shackles, handcuffs, or	167
other physical restraints <u>similar appliance or device that</u>	168
<u>restricts the normal use of a person's arms or legs.</u>	169
(5) "Confine" means to place in solitary confinement in an	170
enclosed space <u>restrictive housing or in disciplinary isolation</u>	171
<u>for more than twenty-four hours.</u>	172
(6) "Unborn child" means a member of the species homo	173
sapiens who is carried in the womb of a woman who is a charged	174
or convicted criminal offender, during a period that begins with	175
fertilization and continues until live birth occurs.	176
(7) "Emergency circumstance" means a sudden, urgent,	177
unexpected incident or occurrence that requires an immediate	178
reaction and restraint of the charged or convicted criminal	179
offender who is pregnant for an emergency situation faced by a	180
law enforcement, court, or corrections official.	181
<u>(8) "Restrictive housing" means housing that separates an</u>	182
<u>inmate from the general population and restricts an inmate to</u>	183
<u>the inmate's cell for at least twenty-two hours per day.</u>	184
<u>(9) "Disciplinary isolation" means the act of confining an</u>	185
<u>inmate to an individual housing cell that physically separates</u>	186
<u>the inmate from the general inmate population as a penalty,</u>	187
<u>thereby prohibiting physical contact between the inmate and</u>	188
<u>other inmates.</u>	189

(B) Except as otherwise provided in division (C) of this section, beginning on the date on which a pregnancy is confirmed to law enforcement by a healthcare professional, no law enforcement, court, or corrections official, with knowledge that the woman is pregnant or was pregnant, shall knowingly restrain or confine a woman who is a charged or convicted criminal offender during any of the following periods of time:

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

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

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

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

~~(a) The official determines that the woman presents a serious threat of physical harm to herself, to the official, to other law enforcement or court personnel, or to any other person, presents a serious threat of physical harm to property, presents a substantial security risk, or presents a substantial flight risk.~~

~~(b) (i) Except as otherwise provided in division (C) (1) (b) (ii) of this section, prior to restraining or confining the woman, the official contacts a health care professional who is treating the woman and notifies the professional that the official wishes to restrain or confine the woman and identifies~~

~~the type of restraint and the expected duration of its use or
communicates the expected duration of confinement.~~ 219
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~~(ii) The official is not required to contact a health care
professional who is treating the woman prior to restraining the
woman 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 woman is restrained, the official
shall contact a health care professional who is treating the
woman and identify the type of restraint and the expected
duration of its use.~~ 221
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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.~~ 230
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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 woman or to the woman's unborn child.~~ 235
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~~(D) A law enforcement, court, or corrections official who
restrains a woman who is a charged or convicted criminal
offender 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~~ 244
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woman.	249
(E) (1) If a law enforcement, court, or corrections official restrains or confines a woman who is a charged or convicted criminal offender during a period of time specified in division (B) of this section under authority of division (C) of this section, the official shall remove the restraint or cease confinement if, at any time while the restraint is in use or the woman is in confinement, a health care professional who is treating the woman provides a notice to the official or to the official's employing agency or court stating that the restraint or confinement poses a risk of physical harm to the woman or to the woman's unborn child.	250 251 252 253 254 255 256 257 258 259 260
(2) A law enforcement, court, or corrections official shall not restrain or confine a woman who is a charged or convicted criminal offender during a period of time specified in division (B) of this section if, prior to the use of the restraint or confinement, a health care professional who is treating the woman provides a notice to the official or to the official's employing agency or court stating that any restraint or confinement of the woman during a period of time specified in division (B) of this section poses a risk of physical harm to the woman or to the woman's unborn child. A notice provided as described in this division applies throughout all periods of time specified in division (B) of this section that occur after the provision of the notice.	261 262 263 264 265 266 267 268 269 270 271 272 273
(F) (1) Whoever violates division (B) of this section is guilty of interfering with civil rights in violation of division (B) of section 2921.45 of the Revised Code.	274 275 276
(2) A woman who is restrained or confined in violation of division (B) of this section may commence a civil action under	277 278

section 2307.60 of the Revised Code against the law enforcement, 279
court, or corrections official who committed the violation, 280
against the official's employing agency or court, or against 281
both the official and the official's employing agency or court. 282
In the action, in addition to the full damages specified in 283
section 2307.60 of the Revised Code, the woman may recover 284
punitive damages, the costs of maintaining the action and 285
reasonable attorney's fees, or both punitive damages and the 286
costs of maintaining the action and reasonable attorney's fees. 287

(3) Divisions (F) (1) and (2) of this section do not limit 288
any right of a person to obtain injunctive relief or to recover 289
damages in a civil action under any other statutory or common 290
law of this state or the United States." 291

In line 125, delete "section" and insert "sections 2152.75, 2901.10, 292
and" 293

In line 126, delete "is" and insert "are" 294

The motion was _____ agreed to.

SYNOPSIS 295

Shackling pregnant inmates 296

R.C. 2152.75 and 2901.10 297

1. Modifies existing prohibitions against the restraint of 298
charged or convicted criminal offenders who are pregnant to 299
specify that the prohibition: 300

(a) Does not apply to a charged or convicted criminal 301

offender until after arrest, transportation, and routine	302
processing and booking;	303
(b) Applies to the use of shackles, handcuffs, or other	304
similar appliances or devices (instead of "other similar	305
physical restraints");	306
(c) Applies to the placement of a person in restrictive	307
housing or disciplinary isolation for 24 hours, rather than to	308
placement in solitary confinement in an enclosed space; and	309
(d) Applies beginning on the date on which pregnancy is	310
confirmed to law enforcement by a health care professional and	311
the law enforcement, court, or corrections official has	312
knowledge that the person is pregnant or was pregnant, rather	313
than applying based on knowledge of the pregnancy whether or not	314
the pregnancy was confirmed.	315
2. Removes the provisions related to the law enforcement,	316
court, or corrections official notifying a health care	317
professional that the official wishes to restrain or confine the	318
child and identifying the type of restraint and the expected	319
duration of its use or communicating the expected duration of	320
confinement.	321