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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

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 17
female child to whom both of the following apply: 18

(a) The child is charged with a delinquent act or, with 19
respect to a delinquent act, is subject to juvenile court 20
proceedings, has been adjudicated a delinquent child, or is 21
serving a 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

(7) "Emergency circumstance" means a sudden, urgent, 39
unexpected incident or occurrence that requires an immediate 40
reaction and restraint of the charged or adjudicated delinquent 41
child who is pregnant for an emergency situation faced by a law 42
enforcement, court, or corrections official. 43

(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 75 76 77 78 79 80 81 82

(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 84 85 86 87

(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 89 90 91 92 93 94 95 96

(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 98 99 100 101 102

(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

of the Revised Code. 279

(C) Whoever violates this section is guilty of interfering 280
with civil rights, a misdemeanor of the first degree. 281

Section 2. That existing section 2921.45 of the Revised 282
Code is hereby repealed. 283