



Ohio Judicial Conference

The Voice of Ohio Judges

October 29, 2019

The Honorable Nickie Antonio
Ohio Senate
1 Capital Square, Ground Floor
Columbus, OH 43215

The Honorable Peggy Lehner
Ohio Senate
1 Capital Square, 2nd Floor
Columbus, OH 43215

Re: Senate Bill 18 Request for Amendments

Dear Senator Antonio & Senator Lehner:

Our Juvenile Law & Procedure has reviewed and discussed Substitute Senate Bill 18. We have two practical concerns with the bill that we would like addressed. We would like the bill to require actual knowledge of the pregnancy by court personnel, corrections officials, and law enforcement officers before they face liability for a first degree misdemeanor-level offense and civil liability. We also believe the postpartum period should be defined in statute. We would like to work with you on crafting amendments to address these concerns.

Actual Knowledge of Pregnancy

The bill prohibits court personnel, law enforcement officers, and corrections officials from “knowingly restrain[ing] or confin[ing]” a female during pregnancy or “during any period of postpartum recovery.” We interpret these provisions to require knowledge of the *confinement or restraint*, not of the pregnancy. Whoever violates the bill’s prohibition on restraining or confining faces a misdemeanor of the first degree for interfering with civil rights and both individual and employer liability for civil and punitive damages.

The Substitute Bill prohibits confinement and restraint throughout the entire pregnancy, not just the third trimester. It will be difficult if not impossible for court personnel, law enforcement officers, and corrections officials to be aware of many pregnancies without actual knowledge. We suggest amending R.C. 2152.75(B) and R.C. 2901.10(B) to require actual knowledge of the pregnancy as follows:

(B) Except as otherwise provided in division (C) of this section, no law enforcement, court, or corrections official with knowledge the female child/woman is pregnant or was pregnant shall

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knowingly restrain or confine a female child/woman who is a charged or adjudicated delinquent child/convicted criminal offender during any of the following periods of time:

...

Defining the Postpartum Period

In last week's Senate Judiciary hearing, concerns were raised about the lack of definition for the postpartum period described in R.C. 2152.75(B)(3) and R.C. 2901.10(B)(3). We do not have a specific recommendation for the length of a postpartum period – that is a medical consideration. We would like to see a defined length of time for those who are required to follow this statute. We suggest specifying your intended timeframe for the "postpartum period" in these two sections as follows:

If the child/woman was pregnant, during any period of postpartum recovery up to XX days after the child's/woman's pregnancy.

If you have any questions, please do not hesitate to contact me or our Juvenile Law and Procedure Committee liaison Shawn Welch by phone at (614) 387-9765 or by email at shawn.welch@sc.ohio.gov.

Thank you.

Sincerely,



Paul E. Pfeifer
Executive Director

CC: Honorable John Eklund, Senate Judiciary Chair