

# Senate Bill 47

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits use of certain restraints on pregnant inmates and inmates in postpartum recovery. Authorizes exceptions based on written findings identifying extraordinary circumstances.

Allows prisoner to file suit to prohibit unlawful use of restraints or to recover damages resulting from use of unlawful restraints.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the use of restraints on inmates; creating new provisions; amending ORS 169.076; and  
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1)(a) A corrections officer may not use restraints on a prisoner the cor-**  
6 **rections officer knows is pregnant, or during the prisoner's postpartum recovery, unless the**  
7 **superintendent of the correctional facility in which the prisoner is confined determines that:**

8 (A) **The prisoner presents an extraordinary flight risk; or**

9 (B) **An extraordinary medical or security circumstance requires that restraints be used**  
10 **to ensure the safety and security of the prisoner or any other person.**

11 (b) **When a corrections officer uses restraints on a prisoner the corrections officer knows**  
12 **is pregnant, or during the prisoner's postpartum recovery, the restraints must be applied in**  
13 **the least restrictive manner necessary.**

14 (2) **Notwithstanding subsection (1) of this section:**

15 (a) **A corrections officer may not use leg or waist restraints on a prisoner the corrections**  
16 **officer knows is pregnant, or during the prisoner's postpartum recovery.**

17 (b) **A corrections officer may not use restraints on a prisoner during labor or childbirth.**

18 (c) **At the request of a doctor, nurse or other health care professional engaged in pro-**  
19 **viding medical care to the prisoner, a corrections officer shall immediately remove any re-**  
20 **straints used on a prisoner.**

21 (3) **When a prisoner is admitted to a medical facility or a birthing center for labor or**  
22 **childbirth, a corrections officer may not remain present in the room in which medical care**  
23 **is provided to the prisoner, unless specifically requested by a doctor, nurse or other health**  
24 **care professional. When a doctor, nurse or other health care professional requests that a**  
25 **corrections officer remain present in the room in which the prisoner is experiencing labor**  
26 **or child birth, the superintendent shall ensure that the corrections officer is a woman, when**  
27 **practicable.**

28 (4) **No later than 10 days after a superintendent of a correctional facility makes the de-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 termination described in subsection (1) of this section, the superintendent shall make written  
 2 findings identifying the extraordinary circumstances requiring the use of restraints. The  
 3 written findings shall be retained at the correctional facility for a period of at least five years  
 4 and are subject to public inspection under ORS 192.410 to 192.505, except that the prisoner's  
 5 individually identifiable information may not be disclosed without the prisoner's written  
 6 consent.

7 (5) A prisoner may bring an action to restrain a violation of this section or to recover  
 8 damages caused by a violation of this section.

9 (6) As used in this section:

10 (a) "Correctional facility" means a local correctional facility, a lockup or a temporary  
 11 hold, as those terms are defined in ORS 169.005, a Department of Corrections institution as  
 12 defined in ORS 421.005, a youth correction facility as defined in ORS 162.135 or any other  
 13 place used for the confinement of persons:

14 (A) Charged with, convicted of or found to have committed an act that if committed by  
 15 an adult would constitute a crime; or

16 (B) Detained under the immigration laws of the United States.

17 (b) "Labor" means the period of time before birth during which contractions are of suf-  
 18 ficient frequency, intensity and duration to bring about effacement and progressive dilation  
 19 of the cervix.

20 (c) "Postpartum recovery" means the period of time a person is in a hospital or infirmary  
 21 following the birth of a child and any additional period of time identified by the person's  
 22 physician.

23 (d) "Prisoner" means a person detained in a correctional facility.

24 (e) "Restraints" means flex cuffs, soft restraints, hard metal handcuffs, a black box,  
 25 chubb cuffs, leg irons, belly chains, a security or tether chain, a convex shield or any other  
 26 physical restraint or mechanical device used to control the movement of a person's body or  
 27 limbs.

28 (f) "Superintendent" means the official responsible for the operation of a correctional  
 29 facility or the official's designee.

30 **SECTION 2.** ORS 169.076 is amended to read:

31 169.076. Each local correctional facility shall:

32 (1) Provide sufficient staff to perform all audio and visual functions involving security, control,  
 33 custody and supervision of all confined detainees and prisoners, with personal inspection at least  
 34 once each hour. The supervision may include the use of electronic monitoring equipment when ap-  
 35 proved by the Department of Corrections and the governing body of the area in which the facility  
 36 is located.

37 (2) Have a comprehensive written policy with respect to:

38 (a) Legal confinement authority.

39 (b) Denial of admission.

40 (c) Telephone calls.

41 (d) Admission and release medical procedures.

42 (e) Medication and prescriptions.

43 (f) Personal property accountability which complies with ORS 133.455.

44 (g) Vermin and communicable disease control.

45 (h) Release process to include authority, identification and return of personal property.

1 (i) Rules of the facility governing correspondence and visitations.

2 (j) **The restraint of prisoners and detainees who are pregnant or in postpartum recovery,**  
 3 **as defined in section 1 of this 2013 Act.**

4 (3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, re-  
 5 bellions and other types of emergencies; and regulations for the operation of the facility.

6 (4) Not administer any physical punishment to any prisoner at any time.

7 (5) Provide for emergency medical and dental health, having written policies providing for:

8 (a) Licensed physician or nurse practitioner review of the facility's medical and dental plans.

9 (b) The security of medication and medical supplies.

10 (c) A medical and dental record system to include request for medical and dental attention,  
 11 treatment prescribed, prescriptions, special diets and other services provided.

12 (d) First aid supplies and staff first aid training.

13 (6) Prohibit firearms from the security area of the facility except in times of emergency as de-  
 14 termined by the administrator of the facility.

15 (7) Insure that confined detainees and prisoners:

16 (a) Will be fed daily at least three meals served at regular times, with no more than 14 hours  
 17 between meals except when routinely absent from the facility for work or other purposes.

18 (b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered  
 19 dietitian or the Oregon Health Authority.

20 (c) Be provided special diets as prescribed by the designated facility physician or nurse practi-  
 21 tioner.

22 (d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions,  
 23 as defined by the authority under ORS 624.041.

24 (8) Insure that the facility be clean, and provide each confined detainee or prisoner:

25 (a) Materials to maintain personal hygiene.

26 (b) Clean clothing twice weekly.

27 (c) Mattresses and blankets that are clean and fire-retardant.

28 (9) Require each prisoner to shower at least twice weekly.

29 (10) Forward, without examination or censorship, each prisoner's outgoing written communi-  
 30 cations to the Governor, jail administrator, Attorney General, judge, Department of Corrections or  
 31 the attorney of the prisoner.

32 (11) Keep the facility safe and secure in accordance with the State of Oregon Structural Spe-  
 33 cialty Code and Fire and Life Safety Code.

34 (12) Have and provide each prisoner with written rules for inmate conduct and disciplinary  
 35 procedures. If a prisoner cannot read or is unable to understand the written rules, the information  
 36 shall be conveyed to the prisoner orally.

37 (13) Not restrict the free exercise of religion unless failure to impose the restriction will cause  
 38 a threat to facility or order.

39 (14) Safeguard and insure that the prisoner's legal rights to access to legal materials are pro-  
 40 tected.

41 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**  
 42 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
 43 **on its passage.**