

# House Bill 2706

Sponsored by Representative FREDERICK; Representative LIVELY (Presession filed.)

## 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 juvenile detention facility from imposing isolation upon detained juvenile except under specified circumstances. Limits period of time isolation may be imposed. Requires hearing before hearing board before expiration of 12 consecutive hours of isolation.

## A BILL FOR AN ACT

1  
2 Relating to isolation of juvenile detainees in juvenile detention facilities; amending ORS 169.730 and  
3 169.750.

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

5 **SECTION 1.** ORS 169.730 is amended to read:

6 169.730. As used in ORS 169.740 to 169.760:

7 (1) "Isolation" means confinement of a juvenile in any room which lacks [*toilet facilities,*] furni-  
8 ture, reading and recreation materials or access to light and air comparable to that in other rooms  
9 used for the detention of juveniles.

10 (2) "Roomlock" means confinement of a juvenile in any sleeping room, other than an isolation  
11 room, except during regular sleeping periods; except that, in the case of facilities serving counties  
12 with a population less than 70,000, based on the 1980 census, "roomlock" does not include confining  
13 a juvenile in a sleeping room when all detained juveniles of the same sex are similarly confined due  
14 solely to the limitations of physical facilities or staff.

15 **SECTION 2.** ORS 169.750, as amended by section 31, chapter 45, Oregon Laws 2014, is amended  
16 to read:

17 169.750. A juvenile detention facility may not:

18 (1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of  
19 or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals,  
20 [*or*] isolation[,] or detention under conditions that violate the provisions of subsections (2) to [(8)]  
21 **(9)** of this section or ORS 169.076 (7) to (11), (13) or (14) or 169.740[;].

22 (2) Use any physical force[,] **or** other means of physical control [*or isolation*] upon a detained  
23 juvenile except as reasonably necessary and justified to prevent escape from the facility, **to prevent**  
24 physical injury to another person, to protect a detained juvenile from physical self-injury or to pre-  
25 vent destruction of property, or to effectuate the confinement of the juvenile in roomlock or iso-  
26 lation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so  
27 long as it appears that the danger exists. A use of force or other physical means of control may not  
28 employ[:]

29 [(a)] the use of restraining devices for a purpose other than to prevent physical injury or escape,  
30 or, in any case, for a period in excess of six hours. However, the time during which a detained ju-  
31 venile is being transported to another facility pursuant to court order shall not be counted within

**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 the six hours[; *or*].

2 [(b) *Isolation for a period in excess of six hours;*]

3 (3) Use roomlock except for the discipline and punishment of a detained juvenile for violation  
4 of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct  
5 that constitutes a crime under the laws of this state or that would justify physical force, **physical**  
6 control or isolation under [subsection (2)] **subsection (2) or (9)** of this section[;].

7 (4) Cause to be made an internal examination of a detained juvenile’s anus or vagina, except  
8 upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such exam-  
9 ination and then only by a physician licensed under ORS chapter 677, physician assistant licensed  
10 under ORS 677.505 to 677.525 or nurse licensed under ORS chapter 678[;].

11 (5)(a) Administer to any detained juvenile medication, except upon the informed consent of the  
12 juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has  
13 a contagious or communicable disease that poses an imminent threat to the health of other persons  
14 in the facility. However, prescription medication may not be administered except upon a written  
15 prescription or written order by a physician licensed under ORS chapter 677, physician assistant  
16 licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390 or  
17 dentist licensed under ORS chapter 679, and administered by a person authorized under ORS chapter  
18 677, 678 or 679 to administer medication. Facility staff not otherwise authorized by law to administer  
19 medications may administer noninjectable medications in accordance with rules adopted by the  
20 Oregon State Board of Nursing pursuant to ORS 678.150 (8)[;].

21 (b) Nonmedical personnel shall receive training for administering medications, including recog-  
22 nition of and response to drug reactions and unanticipated side effects, from the responsible physi-  
23 cian, physician assistant or nurse and the official responsible for the facility. All personnel shall be  
24 responsible for administering the dosage medications according to orders and for recording the ad-  
25 ministrations of the dosage in a manner and on a form approved by the responsible physician, phy-  
26 sician assistant or nurse practitioner[; *and*].

27 (c) Notwithstanding any other provision of law, medication may not be administered unless a  
28 physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse licensed under ORS  
29 chapter 678 is either physically on the premises or readily available by telephone and within 30  
30 minutes travel time of the patient[;].

31 (6) Administer to any detained juvenile any medication or medical procedure for purposes of  
32 experimentation[;].

33 (7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess  
34 of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for  
35 more than one day, except after:

36 (a) Advising the juvenile in writing of the alleged offensive conduct or behavior;

37 (b) Providing the juvenile the opportunity to a hearing before a staff member who was not a  
38 witness to the alleged offensive conduct or behavior;

39 (c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-  
40 examine witnesses;

41 (d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile;  
42 and

43 (e) A finding that the alleged conduct or behavior was proven by a preponderance of the evi-  
44 dence and that it violated a rule of conduct or behavior of the facility as provided for in ORS  
45 169.076 (12) or constituted a crime under the laws of this state[; *and*].

1 (8) Detain juveniles with emotional disturbances, mental retardation or physical disabilities on  
2 the same charges and circumstances for which other juveniles would have been released or provided  
3 with another alternative.

4 **(9)(a) Use isolation except when the detained juvenile is a danger to self or others, or the**  
5 **detained juvenile poses an immediate threat to safety, security and order in the facility, or**  
6 **to prevent escape from the facility, or when there is the imminent danger of significant**  
7 **property destruction.**

8 **(b) When imposed, isolation must:**

9 **(A) Be the least restrictive intervention to address the situation and shall be viewed as**  
10 **an exceptional or extreme practice;**

11 **(B) Be limited to 60 consecutive hours or less, or 60 hours in one calendar week;**

12 **(C) Be terminated when the behavior of the detained juvenile no longer meets the re-**  
13 **quirements described in paragraph (a) of this subsection and can be returned to a less re-**  
14 **strictive setting; and**

15 **(D) Before the expiration of 12 consecutive hours of isolation, be the subject of a hearing**  
16 **before a hearing board composed of detained juveniles and staff who are affected by the im-**  
17 **mediate situation for the purpose of determining the continued need for isolation.**

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