

HB 2515-2
(LC 2988)
1/30/19 (HE/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Jennifer Williamson)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2515**

1 On page 1 of the printed bill, line 2, after “169.077,” insert “169.750,
2 169.770.”.

3 Delete lines 5 through 31 and delete pages 2 through 6 and insert:

4 **“SECTION 1.** ORS 169.076 is amended to read:

5 “169.076. Each local correctional facility shall:

6 “(1) Provide sufficient staff to perform all audio and visual functions in-
7 volving security, control, custody and supervision of all confined detainees
8 and prisoners, with personal inspection at least once each hour. The super-
9 vision may include the use of electronic monitoring equipment when ap-
10 proved by the Department of Corrections and the governing body of the
11 jurisdiction in which the facility is located.

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

13 “(a) Legal confinement authority.

14 “(b) Denial of admission.

15 “(c) Telephone calls.

16 “(d) Admission and release medical procedures.

17 “(e) Medication and prescriptions.

18 “(f) Personal property accountability [*which*] **that** complies with ORS
19 133.455.

20 “(g) Vermin and communicable disease control.

21 “(h) Release process to include authority, identification and return of

1 personal property.

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

3 “(3) Formulate and publish plans to meet emergencies involving escape,
4 riots, assaults, fires, rebellions and other types of emergencies[;], and regu-
5 lations 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
8 policies providing for:

9 “(a) Review of the facility’s medical and dental plans by a licensed phy-
10 sician, physician assistant, naturopathic physician or nurse practitioner.

11 “(b) The security of medication and medical supplies.

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

15 “(d) First aid supplies and staff first aid training.

16 “(6) Prohibit firearms from the security area of the facility except in
17 times of emergency as determined by the administrator of the facility.

18 “(7) Ensure that confined detainees and prisoners:

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

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

24 “(c) Be provided special diets as prescribed by the facility’s designated
25 physician, physician assistant, naturopathic physician or nurse practitioner.

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

28 “(8) Ensure that the facility be clean, and provide each confined detainee
29 or prisoner:

30 “(a) Materials to maintain personal hygiene.

1 “(b) Clean clothing twice weekly.

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

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

4 “(10) Forward, without examination or censorship, each prisoner’s outgo-
5 ing written communications to the Governor, jail administrator, Attorney
6 General, judge, Department of Corrections or the attorney of the prisoner.

7 “(11) Keep the facility safe and secure in accordance with the State of
8 Oregon Structural Specialty Code and Fire and Life Safety Code.

9 “(12) Have and provide each prisoner with written rules for inmate con-
10 duct and disciplinary procedures. If a prisoner cannot read or is unable to
11 understand the written rules, the information shall be conveyed to the pris-
12 oner orally.

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

15 “(14) Safeguard and ensure that the prisoner’s legal rights to access to
16 legal materials are protected.

17 “(15) **In addition to the items listed in subsection (8) of this section,**
18 **provide tampons, sanitary pads and panty liners to all menstruating**
19 **confined detainees and menstruating prisoners at no cost. Facilities**
20 **shall maintain a sufficient supply, which shall be stored, dispensed and**
21 **disposed of in a sanitary manner. The supply of products available**
22 **shall include at least the following:**

23 “(a) **Regular absorbent and super absorbent tampons;**

24 “(b) **Regular absorbent and super absorbent sanitary pads; and**

25 “(c) **Regular absorbent panty liners.**

26 “**SECTION 2.** ORS 169.077 is amended to read:

27 “169.077. Each lockup facility shall:

28 “(1) Maintain 24-hour supervision when persons are confined. The
29 supervision may include the use of electronic monitoring equipment when
30 approved by the Department of Corrections and the governing body of the

1 jurisdiction in which the facility is located.

2 “(2) Make a personal inspection of each person confined at least once
3 each hour.

4 “(3) Prohibit firearms from the security area of the facility except in
5 times of emergency as determined by the administrator of the facility.

6 “(4) Ensure that confined detainees and prisoners will be fed daily at least
7 three nutritionally adequate meals served at regular times, with no more
8 than 14 hours between meals except when routinely absent from the facility
9 for work or other such purposes.

10 “(5) Forward, without examination or censorship, each prisoner’s outgoing
11 written communications to the Governor, jail administrator, Attorney Gen-
12 eral, judge, Department of Corrections or the attorney of the prisoner.

13 “(6) Provide rules of the facility governing correspondence and
14 visitations.

15 “(7) Keep the facility safe and secure in accordance with the State of
16 Oregon Structural Specialty Code and Fire and Life Safety Code.

17 “(8) Formulate and publish plans to meet emergencies involving escape,
18 riots, assaults, fires, rebellions and other types of emergencies[;], and poli-
19 cies and regulations for the operation of the facility.

20 “(9) Ensure that the facility be clean, provide mattresses and blankets
21 that are clean and fire-retardant, and furnish materials to maintain personal
22 hygiene.

23 “(10) Provide for emergency medical and dental health, having written
24 policies providing for review of the facility’s medical and dental plans by a
25 licensed physician, physician assistant, naturopathic physician or nurse
26 practitioner.

27 **“(11) In addition to the items listed in subsection (9) of this section,**
28 **provide tampons, sanitary pads and panty liners to all menstruating**
29 **confined detainees and menstruating prisoners at no cost. Facilities**
30 **shall maintain a sufficient supply, which shall be stored, dispensed and**

1 **disposed of in a sanitary manner. The supply of products available**
2 **shall include at least the following:**

3 **“(a) Regular absorbent and super absorbent tampons;**

4 **“(b) Regular absorbent and super absorbent sanitary pads; and**

5 **“(c) Regular absorbent panty liners.**

6 **“SECTION 3. Section 4 of this 2019 Act is added to and made a part**
7 **of ORS 169.610 to 169.677.**

8 **“SECTION 4. Regional correctional facilities shall provide tampons,**
9 **sanitary pads and panty liners to all menstruating prisoners at no**
10 **cost. Facilities shall maintain a sufficient supply, which shall be**
11 **stored, dispensed and disposed of in a sanitary manner. The supply of**
12 **products available shall include at least the following:**

13 **“(1) Regular absorbent and super absorbent tampons;**

14 **“(2) Regular absorbent and super absorbent sanitary pads; and**

15 **“(3) Regular absorbent panty liners.**

16 **“SECTION 5. ORS 420A.010 is amended to read:**

17 **“420A.010. (1) The Oregon Youth Authority is established. The youth**
18 **authority shall:**

19 **“(a) Supervise the management and administration of youth correction**
20 **facilities, state parole and probation services, community out-of-home place-**
21 **ment for youth offenders committed to its legal custody and other functions**
22 **related to state programs for youth corrections;**

23 **“(b) Provide capital improvements and capital construction necessary for**
24 **the implementation of all youth correction facilities;**

25 **“(c) Carry out dispositions of youth offenders committed to its legal cus-**
26 **tody;**

27 **“(d) Exercise custody and supervision over those youth offenders com-**
28 **mitted to the youth authority by order of the juvenile court and persons**
29 **placed in the physical custody of the youth authority under ORS 137.124 or**
30 **other statute until the time that a lawful release authority authorizes release**

1 or terminates the commitment or placement;

2 “(e) Provide adequate food, clothing, health and medical care, sanitation
3 and security for confined youth offenders and others in youth authority
4 custody;

5 “(f) Provide youth offenders and others in youth authority custody with
6 opportunities for self-improvement and work; [and]

7 “(g) Conduct investigations and prepare reports for release authorities[.];
8 **and**

9 **“(h) In addition to the items listed in paragraph (e) of this sub-**
10 **section, provide tampons, sanitary pads and panty liners to all**
11 **menstruating persons placed in the physical custody of the youth au-**
12 **thority at no cost. Facilities shall maintain a sufficient supply, which**
13 **shall be stored, dispensed and disposed of in a sanitary manner. The**
14 **supply of products available shall include at least the following:**

15 **“(A) Regular absorbent and super absorbent tampons;**

16 **“(B) Regular absorbent and super absorbent sanitary pads; and**

17 **“(C) Regular absorbent panty liners.**

18 “(2) To meet the individual circumstances of each person committed to its
19 custody, the youth authority shall:

20 “(a) Develop a flexible fee-for-service provider system that can respond
21 quickly to each person’s identified and changing circumstances; and

22 “(b) Develop a process for joint state and county review of contracts en-
23 tered into under subsection (6)(b) of this section and paragraph (a) of this
24 subsection based on:

25 “(A) Measurable outcomes, which must include in dominant part the re-
26 duction of future criminal or antisocial conduct and which also must include:

27 “(i) Academic progress;

28 “(ii) Social adjustments;

29 “(iii) Behavioral improvements;

30 “(iv) Rearrests; and

1 “(v) Other measurements as determined by the youth authority;
2 “(B) Performance measurements including:
3 “(i) Fiscal accountability;
4 “(ii) Compliance with state and federal regulations;
5 “(iii) Record keeping, including data collection and management; and
6 “(iv) Reporting; and
7 “(C) Provision of services identified under the reformation plan.

8 “(3) In order to measure performance as required in subsection (2) of this
9 section, the youth authority shall require parties to the contracts to compile,
10 manage and exchange data to the extent of available information systems
11 resources to facilitate the measurement of outcomes including, but not lim-
12 ited to, reduction in future criminal or antisocial conduct.

13 “(4) The youth authority may administer a program of state assistance to
14 counties for the construction and operation of local youth detention facilities
15 or to purchase detention services.

16 “(5) The youth authority shall accept and exercise legal or physical cus-
17 tody of youth offenders and others 12 years of age and over and under 25
18 years of age who are committed to, or placed with, the youth authority pur-
19 suant to:

20 “(a) A juvenile court adjudication and disposition under ORS chapter
21 419C; or

22 “(b) ORS 137.124.

23 “(6)(a) The youth authority shall cooperate with and assist county gov-
24 ernments and juvenile departments in carrying out the principles and pur-
25 poses of the juvenile justice system as provided in ORS 419C.001.

26 “(b) The youth authority is authorized to contract with counties, groups
27 of counties or private providers to administer juvenile corrections programs
28 and services as provided in ORS 420.017, 420.019, 420A.145 and 420A.155 (1)
29 to (4).

30 “(c) The youth authority may provide consultation services related to the

1 juvenile justice system to local or statewide public or private agencies,
2 groups and individuals or may initiate such consultation services. Consulta-
3 tion services include, but are not limited to, conducting studies and surveys,
4 sponsoring or participating in educational programs and providing advice
5 and assistance. Nothing in ORS 419C.001 and 420A.005 to 420A.155 is in-
6 tended to diminish the state's efforts to plan, evaluate and deliver effective
7 human services programs to youth offenders, either in a youth correction
8 facility or on probation or parole. Therefore, the Oregon Youth Authority
9 and the Department of Human Services shall jointly develop and implement
10 needed social and rehabilitative services.

11 “(7) The youth authority is the recipient of all federal funds paid or to
12 be paid to the state to enable the state to provide youth correction programs
13 and services assigned to the Department of Human Services prior to January
14 1, 1996.

15 “(8) The youth authority shall report its progress in implementing the
16 provisions of chapter 422, Oregon Laws 1995, to the Legislative Assembly at
17 each odd-numbered year regular session.

18 “(9) The equal access provisions of ORS 417.270 apply to the youth
19 authority's development and administration of youth correction facilities,
20 programs and services, including the development and implementation of the
21 statewide diversion plan described in ORS 420.017.

22 “(10) The youth authority shall:

23 “(a) Be cognizant of and sensitive to the issue of overrepresentation of
24 minority youth offenders in youth correction facilities;

25 “(b) Endeavor to develop and operate, and require its subcontractors to
26 develop and operate, culturally appropriate programs for youth offenders;
27 and

28 “(c) Keep data reflecting the ethnicity and gender of all youth offenders
29 committed to its care.

30 “(11) The youth authority is a designated agency as defined in ORS

1 181A.010.

2 **“SECTION 6.** ORS 423.020 is amended to read:

3 “423.020. (1) The Department of Corrections is created. The department
4 shall:

5 “(a) Supervise the management and administration of the Department of
6 Corrections institutions, parole and probation services, community cor-
7 rections and other functions related to state programs for corrections;

8 “(b) Carry out legally mandated sanctions for the punishment of persons
9 committed to its jurisdiction by the courts of this state;

10 “(c) Exercise custody over those persons sentenced to a period of incar-
11 ceration until such time as a lawful release authority authorizes their re-
12 lease;

13 “(d) Provide adequate food, clothing, health and medical care, sanitation
14 and security for persons confined;

15 “(e) Provide persons who are motivated, capable and cooperative with
16 opportunities for self-improvement and work;

17 “(f) Conduct investigations and prepare reports for release authorities;
18 [*and*]

19 “(g) Supervise persons sentenced or placed in the community for the pe-
20 riod of time specified and in accordance with conditions of supervision or-
21 dered by the release authority[.]; **and**

22 **“(h) In addition to the items listed in paragraph (d) of this sub-**
23 **section, provide tampons, sanitary pads and panty liners to all**
24 **menstruating persons confined in a department institution at no cost.**
25 **Facilities shall maintain a sufficient supply, which shall be stored,**
26 **dispensed and disposed of in a sanitary manner. The supply of pro-**
27 **ducts available shall include at least the following:**

28 **“(A) Regular absorbent and super absorbent tampons;**

29 **“(B) Regular absorbent and super absorbent sanitary pads; and**

30 **“(C) Regular absorbent panty liners.**

1 “(2) The Department of Corrections may provide consultation services
2 related to the criminal justice system to local or statewide public or private
3 agencies, groups, and individuals, or initiate such consultation services.
4 Consultation services shall include, but not be limited to, conducting studies
5 and surveys, sponsoring or participating in educational programs, and ad-
6 vising and assisting these agencies, groups or individuals. Nothing in chapter
7 320, Oregon Laws 1987, is intended to diminish the state’s efforts to plan,
8 evaluate and deliver effective human services programs to offenders, either
9 in an institution or on probation or parole. Therefore, the Department of
10 Corrections and the Department of Human Services shall continue to jointly
11 develop and implement needed social and rehabilitative services, including
12 services for inmates housed in regional minimum security facilities.

13 “(3) The Department of Corrections shall be the recipient of all federal
14 funds paid or to be paid to the state to enable the state to provide cor-
15 rections programs and services assigned to the Department of Human Ser-
16 vices before June 15, 1987.

17 “(4) Notwithstanding any other provision of law, the department may
18 charge a person confined in a Department of Corrections institution a rea-
19 sonable health care fee for any health care services, medications and equip-
20 ment provided the person during the person’s confinement if the department:

21 “(a) Provides necessary medical care regardless of the person’s ability to
22 pay;

23 “(b) Provides equal treatment to all persons confined in a department in-
24 stitution regardless of a person’s ability to pay;

25 “(c) Establishes a system that notifies the person of the fees and what
26 services are covered; and

27 “(d) Establishes a grievance system that allows a person to challenge the
28 deduction of a fee from the person’s account.

29 “(5) The department may provide ordinary medical, dental, psychiatric,
30 psychological, hygienic or other remedial care and treatment for a person

1 under 18 years of age who is confined in a Department of Corrections insti-
2 tution and, in an emergency in which the safety of the person appears ur-
3 gently to require it, may authorize surgery or other extraordinary care.

4 **“SECTION 7.** ORS 169.750 is amended to read:

5 “169.750. A juvenile detention facility may not:

6 “(1) Impose upon a detained juvenile for purposes of discipline or pun-
7 ishment any infliction of or threat of physical injury or pain, deliberate hu-
8 miliation, physical restraint, withholding of meals, or isolation, or detention
9 under conditions that violate the provisions of subsections (2) to (8) of this
10 section or ORS 169.076 (7) to (11)[, (13) or (14)] **or (13) to (15)** or 169.740;

11 “(2) Use any physical force, other means of physical control or isolation
12 upon a detained juvenile except as reasonably necessary and justified to
13 prevent escape from the facility, physical injury to another person, to protect
14 a detained juvenile from physical self-injury or to prevent destruction of
15 property, or to effectuate the confinement of the juvenile in roomlock or
16 isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and
17 419A.052, and for only so long as it appears that the danger exists. A use of
18 force or other physical means of control may not employ:

19 “(a) The use of restraining devices for a purpose other than to prevent
20 physical injury or escape, or, in any case, for a period in excess of six hours.
21 However, the time during which a detained juvenile is being transported to
22 another facility pursuant to court order shall not be counted within the six
23 hours; or

24 “(b) Isolation for a period in excess of six hours;

25 “(3) Use roomlock except for the discipline and punishment of a detained
26 juvenile for violation of a rule of conduct or behavior of the facility as
27 provided for in ORS 169.076 (12) or for conduct that constitutes a crime un-
28 der the laws of this state or that would justify physical force, control or
29 isolation under subsection (2) of this section;

30 “(4) Cause to be made an internal examination of a detained juvenile’s

1 anus or vagina, except upon probable cause that contraband, as defined in
2 ORS 162.135 (1), will be found upon such examination and then only by a
3 physician licensed under ORS chapter 677, naturopathic physician licensed
4 under ORS chapter 685, physician assistant licensed under ORS 677.505 to
5 677.525 or nurse licensed under ORS chapter 678;

6 “(5)(a) Administer to any detained juvenile medication, except upon the
7 informed consent of the juvenile or in the case of an imminent threat to the
8 life of the juvenile or where the juvenile has a contagious or communicable
9 disease that poses an imminent threat to the health of other persons in the
10 facility. However, prescription medication may not be administered except
11 upon a written prescription or written order by a physician licensed under
12 ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525,
13 nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic phy-
14 sician licensed under ORS chapter 685 or dentist licensed under ORS chapter
15 679, and administered by a person authorized under ORS chapter 677, 678 or
16 679 to administer medication. Facility staff not otherwise authorized by law
17 to administer medications may administer noninjectable medications in ac-
18 cordance with rules adopted by the Oregon State Board of Nursing pursuant
19 to ORS 678.150 (8);

20 “(b) Nonmedical personnel shall receive training for administering
21 medications, including recognition of and response to drug reactions and
22 unanticipated side effects, from the responsible physician, physician assist-
23 ant, naturopathic physician or nurse and the official responsible for the fa-
24 cility. All personnel shall be responsible for administering the dosage
25 medications according to orders and for recording the administrations of the
26 dosage in a manner and on a form approved by the responsible physician,
27 physician assistant, naturopathic physician or nurse practitioner; and

28 “(c) Notwithstanding any other provision of law, medication may not be
29 administered unless a physician, physician assistant licensed under ORS
30 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685

1 or nurse licensed under ORS chapter 678 is either physically on the premises
2 or readily available by telephone and within 30 minutes travel time of the
3 patient;

4 “(6) Administer to any detained juvenile any medication or medical pro-
5 cedure for purposes of experimentation;

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

10 “(a) Advising the juvenile in writing of the alleged offensive conduct or
11 behavior;

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

14 “(c) Providing the juvenile the opportunity to produce witnesses and evi-
15 dence and to cross-examine witnesses;

16 “(d) Providing the detained juvenile the opportunity to testify, at the sole
17 option of the juvenile; and

18 “(e) A finding that the alleged conduct or behavior was proven by a pre-
19 ponderance of the evidence and that it violated a rule of conduct or behavior
20 of the facility as provided for in ORS 169.076 (12) or constituted a crime
21 under the laws of this state; and

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

25 **“SECTION 8.** ORS 169.770 is amended to read:

26 “169.770. Notwithstanding the procedures set out in ORS 169.080 and
27 419A.061, the juvenile court in which venue lies pursuant to 419B.100 or
28 419C.005 shall, upon motion of any party or on its own motion, and after
29 prompt hearing, release any juvenile detained in a facility which violates
30 ORS 169.076 (7) to (11)[, (13) or (14)] **or (13) to (15)**, 169.740 or 169.750, unless

1 the court finds that such violation is not likely to reoccur. The court may
2 comply with the release provisions of this section by transferring a detained
3 juvenile to an available juvenile detention facility which it finds complies
4 with ORS 169.076 (7) to (11)[, (13) or (14)] **or (13) to (15)**, 169.740 and 169.750,
5 or by placing the juvenile in shelter care, or by releasing the juvenile to the
6 custody of a responsible adult under terms and conditions specified by the
7 court, or by releasing the juvenile on personal recognizance under terms and
8 conditions specified by the court. The appeal of a final order under this
9 section does not suspend the jurisdiction of the juvenile court while the ap-
10 peal is pending. No subsequent order of the juvenile court shall moot the
11 appeal.”.

12
