



THE NEW ORC 2901.10 AND ORC 2152.75

***Restraint or confinement of a pregnant
woman or female juvenile who is a charged
or convicted criminal offender***



Introduction

- This new law was passed at the end of 2020. It was included in another piece of legislation regarding the sealing of records and expungements, and intervention in lieu of convictions.
- The law takes effect April 12, 2021. There are legislative modifications in the works, but unless those are approved, you need to follow this law.
- If you do not follow this law, the consequences can include civil liability and criminal liability for you and your employer. YES, there is no qualified immunity with regard to this new law. In fact, there is standalone civil liability and criminal liability specifically stated.

The New Law

“No officer with knowledge that the woman is pregnant or was pregnant, shall knowingly restrain or confine a woman who is a charged or convicted criminal offender.” – You have to accept the woman’s statement about being pregnant or having been pregnant. The law does not require additional evidence of pregnancy or postpartum.

Definitions

- Restrain: use of shackles, handcuffs or other physical restraint
- Confine: solitary confinement in an enclosed space. Most analysts agree that this is true solitary confinement as you might expect in a corrections setting.

Who It Applies To

- This law’s procedures apply whenever you are dealing with a pregnant woman or pregnant juvenile; a postpartum woman up to six weeks after childbirth; and a postpartum juvenile.
- Any law enforcement officer, court officer or corrections official must follow this law when he or she has custody or control over a woman who is a charged or convicted criminal offender.

Restraint Process

If an officer wants to restrain a pregnant or postpartum woman (juvenile), the following must occur:

1. The officer must find that the woman (juvenile) poses a serious threat to person or property, is a substantial flight risk or is a serious security risk.
2. Then, BEFORE a pregnant or postpartum woman can be restrained or confined, the officer must contact the health care provider who is treating the woman. This contact must notify the provider of the officer’s intent to restrain or confine, in what manner, and for how long.
3. If there is no objection from the provider, the woman may be restrained or confined for the least amount of time possible.

Step 1: Threat Assessment

- You can rely on your collective knowledge and history regarding this particular offender. Do you know her to be violent? A flight or security risk?
- You can rely on her criminal history to help you make this determination.
- Think: Why are you there? Are you there about a report of a violent incident? Were you made aware of possible weapons involved?

Step 2: Health Care Provider Notification

- The statute requires notification. You can do this by talking to a live person who answers the phone at the medical office, sending a fax or leaving a voicemail for the on-call number.
- You need to tell the health care provider what you want to do, what kind of restraint and why?

Step 3: Health Care Provider Objection

- The health care provider then may object.
- If the provider objects, you may not restrain or confine the woman (juvenile). Absent an objection, you may proceed.

Restraint Conditions

- You may NEVER use leg, waist or ankle restraints on a pregnant or postpartum woman (juvenile).
 - If you are going to use handcuffs, the hands should ALWAYS be cuffed in the front.
-

Emergency Exceptions

- There is an emergency exception that applies ONLY to restraints. There is NEVER an emergency exception in the case of confinement.
- Emergency circumstance (exception) is defined as: a sudden, urgent and unexpected occurrence that necessitates an immediate response and an officer's use of restraints.

Emergency Exception Restraint Process

In these circumstances (which are unlikely to happen frequently), an officer may restrain a pregnant or postpartum woman (juvenile):

- Once the restraint is achieved, the health care provider must be notified immediately.
 - Restraints must be used for the shortest duration to eliminate the sudden and urgent occurrence.
 - If a health care provider objects, the restraints must immediately be removed. If the objection comes later, you must remove any restraints.
-

Helpful Tips

- Avoid restraints and confinement when possible when dealing with postpartum or pregnant women (juveniles).
- Continue to use de-escalation techniques.
- Remember to always document everything. Should you face civil or criminal liability under this statute, documentation can be crucial.
 - Why did you use restraints?
 - What historical knowledge of the subject did you have?
 - What kind of crime or occurrence necessitated your decision to use restraints?
 - What time did the restraint/confinement begin? What time did you notify the health care provider? By what means and where did you make the notification? What time did the restraints/confinement end? With what frequency did you re-evaluate the need to constrain her? When were you notified that the provider objected to the use of restraints or confinement?
- Remember, legislative modifications are under consideration, so be on the lookout for potential updates.

Information provided by Melissa A. Schiffel, Delaware County Prosecutor

NOTE: These training materials are meant as a resource for our law enforcement community. We encourage law enforcement agencies to seek guidance from their legal counsel as they develop policy and handle specific questions relevant to this law.