

Enrolled
House Bill 2515

Sponsored by Representatives DOHERTY, PILUSO; Representatives BARKER, HAYDEN, MCLANE, NERON, POST, POWER, PRUSAK, SALINAS, SANCHEZ, SCHOUTEN, SMITH WARNER, SOLLMAN, WILLIAMSON, Senator GELSER (Presession filed.)

CHAPTER

AN ACT

Relating to correctional facilities; creating new provisions; and amending ORS 169.076, 169.077, 169.750, 169.770 and 420A.100.

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

SECTION 1. ORS 169.076 is amended to read:

169.076. Each local correctional facility shall:

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

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

(a) Legal confinement authority.

(b) Denial of admission.

(c) Telephone calls.

(d) Admission and release medical procedures.

(e) Medication and prescriptions.

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

(g) Vermin and communicable disease control.

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

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

(3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies[;], and regulations for the operation of the facility.

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

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

(a) Review of the facility's medical and dental plans by a licensed physician, physician assistant, naturopathic physician or nurse practitioner.

(b) The security of medication and medical supplies.

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

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

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

- (7) Ensure that confined detainees and prisoners:
- (a) Will be fed daily at least three meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other purposes.
 - (b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered dietitian or the Oregon Health Authority.
 - (c) Be provided special diets as prescribed by the facility's designated physician, physician assistant, naturopathic physician or nurse practitioner.
 - (d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions, as defined by the authority under ORS 624.041.
- (8) Ensure that the facility be clean, and provide each confined detainee or prisoner:
- (a) Materials to maintain personal hygiene.
 - (b) Clean clothing twice weekly.
 - (c) Mattresses and blankets that are clean and fire-retardant.
 - (9) Require each prisoner to shower at least twice weekly.
- (10) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.
- (11) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.
- (12) Have and provide each prisoner with written rules for inmate conduct and disciplinary procedures. If a prisoner cannot read or is unable to understand the written rules, the information shall be conveyed to the prisoner orally.
- (13) Not restrict the free exercise of religion unless failure to impose the restriction will cause a threat to facility or order.
- (14) Safeguard and ensure that the prisoner's legal rights to access to legal materials are protected.
- (15) In addition to the items listed in subsection (8) of this section, make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all confined detainees and prisoners for use in connection with vaginal discharge. Facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:**
- (a) Regular absorbent and super absorbent tampons;**
 - (b) Regular absorbent and super absorbent sanitary pads;**
 - (c) Postpartum pads; and**
 - (d) Regular absorbent panty liners.**

SECTION 2. ORS 169.077 is amended to read:

169.077. Each lockup facility shall:

- (1) Maintain 24-hour supervision when persons are confined. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the jurisdiction in which the facility is located.
- (2) Make a personal inspection of each person confined at least once each hour.
- (3) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.
- (4) Ensure that confined detainees and prisoners will be fed daily at least three nutritionally adequate meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other such purposes.
- (5) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.
- (6) Provide rules of the facility governing correspondence and visitations.
- (7) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

(8) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies[;], and policies and regulations for the operation of the facility.

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

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

(11) In addition to the items listed in subsection (9) of this section, make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all confined detainees and prisoners for use in connection with vaginal discharge. Facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:

- (a) Regular absorbent and super absorbent tampons;**
- (b) Regular absorbent and super absorbent sanitary pads;**
- (c) Postpartum pads; and**
- (d) Regular absorbent panty liners.**

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

SECTION 4. Regional correctional facilities shall make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all prisoners for use in connection with vaginal discharge. Facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:

- (1) Regular absorbent and super absorbent tampons;**
- (2) Regular absorbent and super absorbent sanitary pads;**
- (3) Postpartum pads; and**
- (4) Regular absorbent panty liners.**

SECTION 5. ORS 420A.100 is amended to read:

420A.100. (1) The Oregon Youth Authority may establish and operate youth correction facilities. If the youth authority establishes youth correction facilities, the youth authority shall site the facilities in accordance with applicable state and local laws.

(2) Youth correction facilities must be used for the confinement of youth offenders and others placed in the custody of the youth authority and for the development of those persons into productive members of society.

(3) Youth correction facilities shall make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all persons confined in a youth correction facility for use in connection with vaginal discharge. Youth correction facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:

- (a) Regular absorbent and super absorbent tampons;**
- (b) Regular absorbent and super absorbent sanitary pads;**
- (c) Postpartum pads; and**
- (d) Regular absorbent panty liners.**

SECTION 6. Section 7 of this 2019 Act is added to and made a part of ORS 423.010 to 423.070.

SECTION 7. The Department of Corrections institutions shall make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all persons confined in a Department of Corrections institution for use in connection with vaginal discharge. The Department of Corrections shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:

- (1) Regular absorbent and super absorbent tampons;**
- (2) Regular absorbent and super absorbent sanitary pads;**
- (3) Postpartum pads; and**
- (4) Regular absorbent panty liners.**

SECTION 8. ORS 169.750 is amended to read:

169.750. A juvenile detention facility may not:

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

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

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

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

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

(4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such examination and then only by a physician licensed under ORS chapter 677, naturopathic physician licensed under ORS chapter 685, physician assistant licensed under ORS 677.505 to 677.525 or nurse licensed under ORS chapter 678;

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

(b) Nonmedical personnel shall receive training for administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician, physician assistant, naturopathic physician or nurse and the official responsible for the facility. All personnel shall be responsible for administering the dosage medications according to orders and for recording the administrations of the dosage in a manner and on a form approved by the responsible physician, physician assistant, naturopathic physician or nurse practitioner; and

(c) Notwithstanding any other provision of law, medication may not be administered unless a physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse licensed under ORS chapter 678 is either physically on the premises or readily available by telephone and within 30 minutes travel time of the patient;

(6) Administer to any detained juvenile any medication or medical procedure for purposes of experimentation;

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

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

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

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

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

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

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

SECTION 9. ORS 169.770 is amended to read:

169.770. Notwithstanding the procedures set out in ORS 169.080 and 419A.061, the juvenile court in which venue lies pursuant to 419B.100 or 419C.005 shall, upon motion of any party or on its own motion, and after prompt hearing, release any juvenile detained in a facility which violates ORS 169.076 (7) to (11), (13) or (14) **or (13) to (15)**, 169.740 or 169.750, unless the court finds that such violation is not likely to reoccur. The court may comply with the release provisions of this section by transferring a detained juvenile to an available juvenile detention facility which it finds complies with ORS 169.076 (7) to (11), (13) or (14) **or (13) to (15)**, 169.740 and 169.750, or by placing the juvenile in shelter care, or by releasing the juvenile to the custody of a responsible adult under terms and conditions specified by the court, or by releasing the juvenile on personal recognizance under terms and conditions specified by the court. The appeal of a final order under this section does not suspend the jurisdiction of the juvenile court while the appeal is pending. No subsequent order of the juvenile court shall moot the appeal.

SECTION 10. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Corrections by section 1 (1), chapter __, Oregon Laws 2019 (Enrolled Senate Bill 5504), for the biennium beginning July 1, 2019, for operations and health services, is increased by \$102,108 to pay for sanitary supplies for adults in custody.

Passed by House June 10, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 17, 2019

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State