

**SHACKLING REFORM STATEWIDE**  
**COURT RULES, POLICIES, ADMINISTRATIVE ORDERS & STATUTES**

ALASKA COURT RULE

Rule 21.5. Use of Restraints on the Juvenile

(a) Restraints such as handcuffs, waist belts, and footcuffs shall not be used on a juvenile during a court proceeding unless they are necessary because the juvenile is otherwise uncontrollable or constitutes a serious and evident danger to self or others, there is reason to believe that the juvenile will try to escape, or there is no less restrictive alternative available to maintain order and safety in the courtroom given available security resources.

(b) If a juvenile appears at a court proceeding in restraints, and if there is an objection to the restraints or if the juvenile is appearing without counsel, the judge must make a finding, based on an individualized assessment of the particular juvenile and the available security resources, whether the restraints are necessary. In subsequent proceedings in the same case, a judge may rely on a finding that was made previously, as long as the circumstances have not materially changed. When ruling on the necessity of restraints, the judge shall consider the following factors:

- (1) any threats that the juvenile has made to cause harm to self or others, or to cause a disturbance;
- (2) any behavior of the juvenile indicating that the juvenile presents a current threat to the juvenile's own safety, or to the safety of other people in the courtroom, or to the orderly course of the proceedings;
- (3) any past escapes or attempts to escape, and the seriousness of the current charge, to the extent it raises a concern that the juvenile has an incentive to attempt to escape;
- (4) the existence of any less restrictive alternative to maintain order and safety in the courtroom, taking into account available security resources; and
- (5) the recommendations of security personnel charged with custody of the juvenile.

DATED: December 11, 2014

EFFECTIVE DATE: April 15, 2015

/s/  
Chief Justice Fabe  
/s/  
Justice Winfree  
/s/  
Justice Stowers  
/s/  
Justice Maassen  
/s/  
Justice Bolger

CONNECTICUT STATUTE

Sec. 3. There shall be a presumption in juvenile proceedings that all mechanical restraints shall be removed from a preadjudicated detained juvenile prior to and throughout the detainee's appearance in court. In juvenile proceedings, in-court use of mechanical restraints on preadjudicated detainees shall be by order of the court and pursuant to Judicial Branch written policy. The Judicial Branch shall keep statistics on the use of mechanical restraints on juveniles during proceedings and, notwithstanding any provision of section 46b-124 of the general statutes, shall provide such statistics to any member of the public upon request, provided any identifying information concerning a juvenile is redacted.

H.B. 7050 § 3, Gen. Assemb., Jan. Sess. (Conn. 2015) (effective Oct. 1, 2015).

FLORIDA COURT RULE

- (b) Use of Restraints on the Child. Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a child during a court proceeding and must be removed prior to the child's appearance before the court unless the court finds both that:
- (1) The use of restraints is necessary due to one of the following factors:
    - (A) Instruments of restraint are necessary to prevent physical harm to the child or another person;
    - (B) The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or
    - (C) There is a founded belief that the child presents a substantial risk of flight from the courtroom; and
  - (2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

Fla. R. Juv. P. § 8.100(b) (2013) (General Provisions for Hearings) (effective Jan. 1, 2010).

INDIANA STATUTE

Chapter 2. Restraining Juveniles in Court, Section 1.

(a) Except as provided in subsection (b), a juvenile shall not be restrained in court unless the court has determined on the record, after considering the recommendation of the sheriff or transport officer, that the juvenile is dangerous or potentially dangerous.

(b) A court may order a juvenile restrained without considering the recommendation of the sheriff or transport officer if the juvenile has caused a physical disruption while in open court.

Ind. Code Ann. § 31-30.5 (Juvenile Law: Preliminary Proceedings) (effective July 1, 2015).

NEBRASKA STATUTE

Section 3.

(1) Restraints shall not be used on a juvenile during a juvenile court proceeding and shall be removed prior to the juvenile's appearance before the juvenile court, unless the juvenile court makes a finding of probable cause that:

(a) The use of restraints is necessary:

(i) To prevent physical harm to the juvenile or another person;

(ii) Because the juvenile:

(A) Has a history of disruptive courtroom behavior that has placed others in potentially harmful situations; or

(B) Presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or

(iii) Because the juvenile presents a substantial risk of flight from the courtroom; and

(b) There is no less restrictive alternative to restraints that will prevent flight or physical harm to the juvenile or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

(2) The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make written findings of fact in support of the order.

(3) For purposes of this section, restraints includes, but is not limited to, handcuffs, chains, irons, straitjackets, and electronic restraint devices.

LB 482, SLIP COPY, signed April 29, 2015

Goes into effect July, 2015

NEVADA STATUTE

Sec. 3.5. Chapter 62D of NRS is hereby amended by adding thereto a new section to read as follows:

1. An instrument of restraint may be used on a child during a court proceeding only if the restraint is necessary to prevent the child from:

- (a) Inflicting physical harm on himself or herself or another person; or
- (b) Escaping from the courtroom.

2. Whenever practical, the judge shall provide the:

- (a) Child and his or her attorney an opportunity to be heard regarding the use of an instrument of restraint before the judge orders the use of an instrument of restraint.
- (b) Prosecuting attorney an opportunity to be heard regarding whether the use of an instrument of restraint is necessary pursuant to subsection 1.

3. In making a determination pursuant to subsection 2 as to whether an instrument of restraint is necessary pursuant to subsection 1, the court shall consider the following factors:

- (a) Any previous escapes or attempted escapes by the child.
- (b) Evidence of a present plan of escape by the child.
- (c) A credible threat by the child to harm himself or herself or another person.
- (d) A history of self-destructive tendencies by the child.
- (e) Any credible threat of an attempt to escape by a person not in custody.
- (f) Whether the child is subject to a proceeding:
  - (1) That is not in the jurisdiction of the juvenile court pursuant to subsection 3 of NRS 62B.330; or
  - (2) For transfer or certification for criminal proceedings as an adult pursuant to NRS 62B.335, 62B.390 or 62B.400.
- (g) Any other factor that is relevant in determining whether the use of an instrument of restraint on the child is necessary pursuant to subsection 1.

4. The determination of the judge pursuant to subsection 2 must contain specific findings of fact and conclusions of law supporting the determination.

5. If an instrument of restraint is used on a child, the restraint must allow the child limited movement of his or her hands to hold any document or writing necessary to participate in the proceeding.

6. As used in this section, “instrument of restraint” includes, without limitation, handcuffs, chains, irons and straightjackets.

AB 8, Slip Copy, effective October 1, 2015.

NEW HAMPSHIRE STATUTE

At any hearing under RSA 169-B [delinquency proceedings], RSA 169-C [child protection proceedings], or RSA 169-D [children in need of services proceedings], the judge may subject a child to mechanical restraint in the courtroom only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the child's escape, or provide for the safety of the courtroom. Whenever practical, the judge shall provide the child and the child's attorney an opportunity to be heard to contest the use of mechanical restraint before the judge orders its use. If mechanical restraint is ordered, the judge shall make written findings of fact in support of the order.

N.H. Rev. Stat. § 126-U:13, Restriction of the Use of Mechanical Restraint in Courtrooms.  
(Effective Sept. 1, 2010).

NEW MEXICO COURT RULE

A. Purpose. This rule is intended to balance legitimate security needs in court facilities with the purpose of the Children’s Code to provide care, protection, and wholesome mental and physical development of children subject to children’s court proceedings and to preserve the dignity, decorum, and safety of judicial proceedings involving children.

B. Use of Physical Restraints in the Courtroom; Reasonable Grounds Required. Children shall not be brought before the court wearing any physical restraint devices except as ordered by the court during or prior to the hearing, based on particularized security needs relating to the facility, available security personnel and other resources, individualized determinations in a particular case, or other reasonable grounds supporting a need for physical restraints. In proceedings before a jury, every reasonable effort must be made to avoid the jury’s observation of the child in physical restraints.

C. Challenge to the Use of Restraints. Before or after any child is ordered restrained, the court shall permit any party to be heard on the issue of whether reasonable grounds exist for use of physical restraints in a particular situation or as to a particular child.

N.M. Children’s Ct. R. 10-223A (2013) (Physical restraints in the courtroom) (effective Apr. 9, 2012).

NEW YORK REGULATION

(a) Physical restraints. Permissible physical restraints, consisting solely of handcuffs and footcuffs, shall be used only in cases where a child is uncontrollable and constitutes a serious and evident danger to himself or others. They shall be removed as soon as the child is controllable. Use of physical restraints shall be prohibited beyond one-half hour unless a child is being transported by vehicle and physical restraint is necessary for public safety. If restraints are placed on a child's hands and feet, the hand and foot restraints are not to be joined, as for example, in hog tying. When in restraints, a child may not be attached to any furniture or fixture in a room nor to any object in a vehicle.

(1) The division shall prohibit the utilization of foot manacles.

(2) Physical restraints may be utilized beyond one-half hour only in the case of vehicular transportation where such utilization of physical restraints is necessary for public safety.

N.Y. Comp. Codes R. & Regs. tit. 9, § 168.3(a) (2013) (Use of physical and medical restraints).

(Applies to "State Schools and Centers")

NORTH CAROLINA STATUTE

At any hearing authorized or required by this Subchapter, the judge may subject a juvenile to physical restraint in the courtroom only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the juvenile's escape, or provide for the safety of the courtroom. Whenever practical, the judge shall provide the juvenile and the juvenile's attorney an opportunity to be heard to contest the use of restraints before the judge orders the use of restraints. If restraints are ordered, the judge shall make findings of fact in support of the order.

N.C. Gen. Stat. § 7B-2402.1 (2013) (Restraint of Juveniles in the Courtroom) (effective Oct. 1, 2007).

OHIO COURT RULE

Each court or division of a court shall adopt a local rule governing the use of physical restraints on children appearing in court proceedings before the court or division. The local rule shall do all of the following:

(A) Create a presumption that physical restraint shall not be utilized unless the judge or magistrate before whom the child is appearing makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because of either of the following:

(1) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom;

(2) There is a significant risk the child will flee the courtroom.

(B) Require the judge or magistrate to permit any party, as defined in Juv. R. 2(Y), to be heard on the issue of whether the use of physical restraint is necessary for that particular child at that particular proceeding;

(C) If physical restraint is found necessary by the judge or magistrate, require the restraint be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

Ohio R. Juv. P. 5.01 (2016) (Local Child Restraint rule) (effective July 1, 2016).

PENNSYLVANIA COURT RULE

Restraints shall be removed prior to the commencement of a proceeding unless the court determines on the record, after providing the juvenile an opportunity to be heard, that they are necessary to prevent:

- 1) physical harm to the juvenile or another person;
- 2) disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or
- 3) the juvenile, evidenced by an escape history or other relevant factors, from fleeing the courtroom.

237 Pa. Code § 139 (2013) (Use of restraints on the juvenile) (effective June 1, 2011).

PENNSYLVANIA STATUTE

(a) Use of restraints.--Except as provided for in subsection (b), restraints such as handcuffs, chains, shackles, irons or straitjackets shall be removed prior to the commencement of a court proceeding.

(b) Exception.--Restraints may be used during a court proceeding if the court determines on the record, after providing the child with an opportunity to be heard, that they are necessary:

- (1) to prevent physical harm to the child or another person;
- (2) to prevent disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or
- (3) to prevent the child, evidenced by an escape history or other relevant factors, from fleeing the courtroom.

42 Pa.C.S.A. § 6336.2 (effective July 30, 2012).

SOUTH CAROLINA STATUTE

(A) If a juvenile appears before the court wearing instruments of restraint, such as handcuffs, chains, irons, or straightjackets, the court in any proceeding may not continue with the juvenile required to wear instruments of restraint unless the court first finds that:

(1) the use of restraints is necessary due to one of the following factors:

(a) the juvenile poses a threat of serious harm to himself or others;

(b) the juvenile has a demonstrable recent record of disruptive courtroom behavior that has placed others in potentially harmful situations; or

(c) there is reason to believe the juvenile is a flight risk; and

(2) there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the juvenile or another person, including, but not limited to, court personnel, law enforcement officers, or bailiffs.

(B) The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order.

S.C. Code Ann. § 63-19-1435 (2014).

TENNESSEE COURT RULE

- (a) Children appearing in juvenile court may be restrained if the court determines that:
  - (1) The behavior of the child represents a threat to his or her safety or the safety of other people in the courtroom; or
  - (2) The behavior of the child presents a substantial risk of flight from the courtroom; and
  - (3) There are no less restrictive alternatives to restraints that will prevent flight or risk of harm to the child or another person in the courtroom.
- (b) Any party may request to be heard as to whether or not restraints are necessary, and upon request, a judge shall make findings on the record regarding the decision to restrain the child.

Tenn. R. Juv. P. 204 (2016) (Use of Restraints on Children in the Courtroom) (effective July 1, 2016).

WASHINGTON COURT RULE

JuCR Rule 1.6 Physical Restraints in the Courtroom

(a) Use of Restraints on Juvenile Respondents. Juveniles shall not be brought before the court wearing any physical restraint devices except when ordered by the court during or prior to the hearing. Instruments of restraint, such as handcuffs, ankle chains, waist chains, strait jackets, electric-shock producing devices, gags, spit masks and all other devices which restrain an individual's freedom of movement shall not be used on a respondent during a court proceeding and must be removed prior to the respondent's appearance before the court unless the court finds both that:

(1) The use of restraints is necessary due to one of the following factors:

(A) Present behavior of the respondent represents a current threat to his or her own safety, or the safety of other people in the courtroom;

(B) Recent disruptive courtroom behavior of the respondent has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm to himself or herself or others; or

(C) Present behavior of the respondent presents a substantial risk of flight from the courtroom; and

(2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the respondent or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

(b) Challenge to the use of restraints. Before or after any juvenile is ordered restrained, the court shall permit any party to be heard on the issue of whether the use of physical restraints is necessary in a particular situation or as to a particular child.

[Adopted effective September 1, 2014.]

WASHINGTON, D.C. ADMINISTRATIVE ORDER

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
ADMINISTRATIVE ORDER 16-09

Individual Determinations for the Use of Restraints on Respondents

WHEREAS, pursuant to D.C. Code § 16-2301.02, the purpose of the delinquency system is to deal with the problem of juvenile delinquency while treating children as children in all phases of their involvement, to place a premium on their rehabilitation, and to provide for the safety of the public;

WHEREAS, the decision of whether to restrain respondents during juvenile court proceedings impacts courtroom security, personnel resources, and judicial administration;

WHEREAS, the vast majority of jurisdictions have abandoned the indiscriminate use of restraints in juvenile cases through changes to court rules, amendments to institutional policies, or through statutory reform;

WHEREAS, no court rule, institutional policy or statute in the District of Columbia addresses the use of restraints on respondents during juvenile court proceedings; and it is most appropriate that decisions on the use of restraints depend on individual determinations; and

WHEREAS, the term “restraints” means any device used to control or bind the movement of a person’s body or limbs.

NOW, THEREFORE, it is by the Court,

ORDERED, that the Family Court will make an individualized determination on the use of restraints at all hearings for cases brought under Title 16, Chapter 23, of the D.C. Code, in which a person is transported from a secure facility in restraints. It is further,

ORDERED, that respondents will remain in restraints while they are transported in the courthouse. It is further,

ORDERED, that respondents will remain in restraints when they enter the courtroom before the Family Court makes an individualized determination on the use of restraints. It is further,

ORDERED, that the Family Court will raise the issue before every hearing in which restraints may be involved and will provide respondents with an opportunity to contest the use of restraints when making an individualized determination. It is further,

**CAMPAIGN AGAINST INDISCRIMINATE JUVENILE SHACKLING**

ORDERED, that counsel may waive the appearance of a respondent who does not wish to enter the courtroom in restraints until after an individualized determination has been made. It is further,

ORDERED, that the Family Court may receive information relevant to the determination of the use of restraints from the agency, or agencies, charged with supervision or custody of the child. It is further,

ORDERED, that the Family Court will make an independent and individualized determination on the use of restraints. It is further,

ORDERED, that the Family Court will order the removal of restraints, unless the Family Court finds that there is reason to believe that the use of restraints is necessary for the safety of the respondent or others, or to prevent flight. It is further,

ORDERED, that when the use of restraints is ordered, the Family Court will make written findings of fact in support of the order. It is further,

ORDERED, that this Administrative Order shall take effect on June 1, 2016. SO ORDERED.

BY THE COURT: DATE: May 31, 2016

\_\_\_\_\_/s/\_\_\_\_

Lee F. Satterfield

Chief Judge

Copies to:

Judges

Magistrate Judges

Executive Officer of the Court

Clerk of the Court

Division Directors

Defender Services Branch Chief

Council of the District of Columbia, Chairman of the Committee on the Judiciary Council of the District of Columbia, Chairman of the Committee on Education Attorney General of the District of Columbia

Director of the Public Defender Service

Director of the Department of Youth Rehabilitation Services

United States Marshals

District of Columbia Bar

Daily Washington Law Reporter

Library

VERMONT TRANSPORTATION STATUTE

- (a) The Commissioner for Children and Families shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a child subject to this chapter in a manner that:
  - (1) reasonably avoids physical and psychological trauma;
  - (2) respects the privacy of the child; and
  - (3) represents the least restrictive means necessary for the safety of the child.
  
- (b) The Commissioner for Children and Families shall have the authority to select the person or persons who may transport a child under the Commissioner's care and custody.
  
- (c) The Commissioner shall assure supervisory review of every decision to transport a child using mechanical restraints. When transportation with restraints for a particular child is approved, the reasons for the approval shall be documented in writing.
  
- (d) It is the policy of the State of Vermont that mechanical restraints are not routinely used on children subject to this chapter unless circumstances dictate that such methods are necessary.

33 Vt. Stat. Ann. § 5123 (effective May 21, 2009) Transportation of a child