

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 16-0959.01 Michael Dohr x4347

HOUSE BILL 16-1331

HOUSE SPONSORSHIP

Lontine, Arndt, Fields, Kagan, McCann, Pabon, Tyler

SENATE SPONSORSHIP

Merrifield,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF RESTRAINTS ON A JUVENILE DURING A COURT**
102 **PROCEEDING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires restraints on a juvenile to be removed prior to any court proceeding, except when the court determines the restraints are necessary:

- ! To prevent physical harm to the juvenile or another person;
- ! To prevent disruptive courtroom behavior by the juvenile, evidenced by a history of behavior that created potentially

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 7, 2016

HOUSE
Amended 2nd Reading
April 6, 2016

harmful situations or presented substantial risk of physical harm; or

! To prevent the juvenile, from fleeing the courtroom, when evidenced by an escape history or other relevant factors.

The prosecution, sheriff, or any other detention or pretrial personnel may request that an individual juvenile be restrained in the courtroom. The court shall provide the juvenile's attorney an opportunity to be heard before the court allows the use of restraints on a juvenile. The court may conduct a hearing on the use of restraints without the juvenile being present.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The purpose of the juvenile justice system is to provide a
5 rehabilitative and not solely punitive approach to juvenile delinquency,
6 and the indiscriminate use of physical restraints on a juvenile undermines
7 the rehabilitative goals of the juvenile justice system;

8 (b) The national center for mental health and juvenile justice
9 suggests that the use of physical restraints on a juvenile can be traumatic
10 and psychologically harmful; and

11 (c) The use of physical restraints, such as handcuffs, chains, irons,
12 or straitjackets, during a court proceeding is particularly problematic in
13 light of the need for the court to focus on the rehabilitation of and positive
14 interaction with the juvenile.

15 (2) Therefore, it is the responsibility of the court to determine
16 what least restrictive alternative is used by a law enforcement officer
17 when a juvenile is before the court for a hearing regarding a juvenile
18 delinquency action, consistent with the goals of the "Colorado Children's
19 Code".

20 **SECTION 2.** In Colorado Revised Statutes, **add** 19-2-115 as

1 follows:

2 **19-2-115. Use of restraints on a juvenile.** (1) EXCEPT AS
3 PROVIDED FOR IN SUBSECTION (2) OR (3) OF THIS SECTION, RESTRAINTS ON
4 A JUVENILE, SUCH AS HANDCUFFS, CHAINS, SHACKLES, IRONS, OR A
5 STRAIGHT JACKET, MUST BE REMOVED PRIOR TO THE START OF A COURT
6 PROCEEDING.

7 (2) RESTRAINTS SHALL BE USED IF THE JUVENILE IS BEING HELD
8 FOR A CLASS 1 FELONY, CLASS 2 FELONY, OR ESCAPE OR ATTEMPTED
9 ESCAPE, UNLESS THE COURT DETERMINES ON THE RECORD THAT
10 RESTRAINTS ARE UNNECESSARY AFTER CONSIDERING THE CRITERIA SET
11 FORTH IN SUBSECTION (3) OF THIS SECTION;

12 (3) RESTRAINTS MAY BE USED DURING A COURT PROCEEDING IF
13 THE COURT DETERMINES ON THE RECORD PRIOR TO THAT HEARING THAT
14 RESTRAINTS ARE NECESSARY:

15 (a) TO PREVENT PHYSICAL HARM TO THE JUVENILE OR ANOTHER
16 PERSON;

17 (b) TO PREVENT DISRUPTIVE COURTROOM BEHAVIOR BY THE
18 JUVENILE, EVIDENCED BY A HISTORY OF BEHAVIOR THAT HAS PLACED
19 OTHERS IN POTENTIALLY HARMFUL SITUATIONS OR OTHER RECENT
20 BEHAVIOR IN WHICH THE JUVENILE PRESENTS A SUBSTANTIAL RISK OF
21 INFLECTING PHYSICAL HARM TO HIMSELF OR HERSELF OR OTHERS; OR

22 (c) TO PREVENT THE JUVENILE FROM FLEEING THE COURTROOM,
23 WHEN EVIDENCED BY AN ESCAPE HISTORY OR OTHER RELEVANT FACTORS.

24 (4)(a) THE PROSECUTION, THE SHERIFF, OR ANY OTHER DETENTION
25 OR PRETRIAL PERSONNEL MAY REQUEST, ORALLY OR IN WRITING, THAT AN
26 INDIVIDUAL JUVENILE BE RESTRAINED IN THE COURTROOM BASED UPON
27 THE CRITERIA SET FORTH IN SUBSECTION (3) OF THIS SECTION.

1 (b) THE COURT SHALL PROVIDE THE JUVENILE'S ATTORNEY A FAIR
2 OPPORTUNITY TO BE HEARD BEFORE THE COURT ALLOWS THE USE OF
3 RESTRAINTS ON A JUVENILE. THE COURT MAY CONDUCT A HEARING ON THE
4 USE OF RESTRAINTS WITHOUT THE PRESENCE OF THE JUVENILE.

5 (5) ANY RESTRAINTS MUST ALLOW A JUVENILE LIMITED
6 MOVEMENT OF THE HANDS TO READ AND HANDLE DOCUMENTS AND
7 WRITINGS NECESSARY TO THE HEARING. UNDER NO CIRCUMSTANCES
8 SHOULD A JUVENILE BE RESTRAINED USING FIXED RESTRAINTS TO A WALL,
9 FLOOR, OR FURNITURE.

10 **SECTION 3. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.