

Model Statute / Court Rule

Use of Restraints on the Child.

1. 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 being brought into and appearing before the court unless the court finds that:

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

- (i) Instruments of restraint are necessary to prevent physical harm to the child or another person;
- (ii) 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
- (iii) There is a founded belief that the child presents a substantial risk of flight from the courtroom; and

(B) 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.

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. Any restraints shall allow the parolee limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a parolee be restrained using fixed restraints to a wall, floor or furniture.

Model Statute / Court Rule – Detention Staff

Use of Restraints on the Child.

There is a presumption that no instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may be used on a child during a court proceeding. When used in transport, they must be removed prior to the child being brought into and appearing 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.
- (3) In making the determination that instruments of restraint are necessary, the factors that can be considered are:
 - (A) any past escapes or attempted escapes by the child;
 - (B) evidence of a present plan of escape by the child;
 - (C) any believable threats by the child to harm others during court;
 - (D) any believable threats by the child to harm him or herself during court;
 - (E) evidence of self-injurious behavior on the part of the child;
 - (F) the possibility of rescue attempts by other offenders still at large;
- (4) Where detention staff asks for a child to be placed in any form of restraints in the courtroom, such a request must be made in writing to the court for approval by a staff member holding a supervisory role. The request must name and explain the factors ((3)(A)-(F)) that were considered in making the request. 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.
- (5) If the only risk found is (1)(C), the court may only authorize the use of leg restraints.
- (6) Any restraints shall allow the parolee limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a parolee be restrained using fixed restraints to a wall, floor or furniture.