

SB 846 A STAFF MEASURE SUMMARY

Carrier: Rep. Williamson

House Committee On Judiciary

Action Date: 05/04/17

Action: Do Pass the A-Eng bill.

Vote: 11-0-0-0

Yeas: 11 - Barker, Gorsek, Greenlick, Lininger, Olson, Post, Sanchez, Sprenger, Stark, Vial, Williamson

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Prohibits use of physical restraints on youth in juvenile court proceedings. Prohibits use of physical restraints when transporting youth in legal custody of Department of Human Services or Oregon Health Authority. Provides exception to physical restraint prohibition.

ISSUES DISCUSSED:

- *State v. Millican*, 138 Or. App. 142 (1995), extended the right to appear without shackles in court to juveniles
- Exceptions to the prohibition against shackling
- Psychological effect of shackling on juveniles

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Senate Bill 846-A prohibits the use of physical restraints on youth in juvenile court proceedings. It requires removal of restraints before a youth is brought into the courtroom. If restraints cannot be removed prior to entering the courtroom, the restraints must be removed prior to the proceeding. SB 846-A allows restraints when the court finds them necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives. It specifies the factors the court must consider and the findings it must make in order to allow physical restraints. SB 846-A also provides a procedure for a law enforcement agency, juvenile department or other party to the proceeding to request the use of restraints. It specifies that the use of restraints may not be for punishment, convenience or as a substitute for staff supervision.

SB 846-A prohibits the use of restraints during transportation of youth who are in the legal custody of the Department of Human Services (DHS), the Oregon Health Authority (OHA) or their agents, unless it is a secure transportation or restraints are necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives. SB 846-A requires that DHS and OHA develop a transportation safety plan before using restraints. Finally, it specifies that restraints may not be used for punishment, convenience or as a substitute for staff supervision.