

Senate Bill 846

Sponsored by Senators GELSER, FREDERICK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits use of physical restraints in juvenile court proceedings on youth, youth offender or young person with exceptions.

Prohibits use of physical restraints in transport of youth, youth offender, young person, ward or child in custody of Department of Human Services with exceptions.

A BILL FOR AN ACT

1
2 Relating to restraint of youth in custodial circumstances.

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

4 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**
5 **chapter 419A.**

6 **SECTION 2. During any juvenile court proceeding under this chapter and ORS chapters**
7 **419B and 419C regarding a youth, youth offender or young person:**

8 (1) Instruments of physical restraint, such as handcuffs, chains, irons, straitjackets,
9 cloth restraints, leather restraints, plastic restraints and other similar items, may not be
10 used during the juvenile court proceeding and must be removed prior to the youth, youth
11 offender or young person being brought into the courtroom unless the court finds that the
12 use of restraints is necessary due to an immediate and serious risk of dangerous or disrup-
13 tive behavior and there are no less restrictive alternatives that will alleviate the immediate
14 and serious risk of dangerous or disruptive behavior.

15 (2) In determining whether an immediate and serious risk of dangerous or disruptive
16 behavior exists, the court may consider:

17 (a) Whether the youth, youth offender or young person has a history of dangerous or
18 disruptive behavior that has placed the youth, youth offender or young person or others in
19 potentially harmful situations as evidenced by recent behavior;

20 (b) Whether the youth, youth offender or young person presents a substantial risk of
21 inflicting physical harm on himself or others; and

22 (c) Whether the youth, youth offender or young person presents a substantial risk of
23 flight from the courtroom or courtroom premises.

24 (3) In determining whether a less restrictive alternative will alleviate the immediate and
25 serious risk of dangerous or disruptive behavior, the court may consider the presence of
26 court personnel, law enforcement officers, juvenile department staff or counselors, or
27 bailiffs.

28 (4) When the use of restraints is requested by a law enforcement agency, the juvenile
29 department or other party to the juvenile court proceeding, the request must be made in
30 writing and presented to the court and other parties prior to the youth, youth offender or

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 young person's appearance in the courtroom for the juvenile court proceeding. The request
2 must describe discrete, recent, concrete and observable examples of behaviors or risk factors
3 that justify the use of restraints.

4 (5) The court shall provide the attorney for the youth, youth offender or young person
5 an opportunity to be heard prior to ordering the use of restraints. If restraints are ordered,
6 the court shall make written findings of fact in support of the order.

7 (6) Any restraints used must allow the youth, youth offender or young person limited
8 movement of the hands to read and handle documents and writings necessary to the juvenile
9 court proceeding. Under no circumstances should a youth, youth offender or young person
10 be restrained to a stationary object or another person.

11 (7) Restraints may not be used as punishment, for convenience or as a substitute for
12 staff supervision.

13 **SECTION 3.** During the transportation of a youth, youth offender, young person, ward
14 or child in the legal custody of the Department of Human Services:

15 (1) Instruments of physical restraint, such as handcuffs, chains, irons, straitjackets,
16 cloth restraints, leather restraints, plastic restraints and other similar items, may not be
17 used unless:

18 (a) The transportation is secure transportation to a detention facility, youth correction
19 facility, secure hospital, secure intensive community inpatient facility or other secure facil-
20 ity; or

21 (b) Restraints are necessary due to an immediate and serious risk of dangerous or dis-
22 ruptive behavior and there are no less restrictive alternatives that will alleviate the imme-
23 diate and serious risk of dangerous or disruptive behavior.

24 (2) Prior to the use of restraints during transportation, a transportation safety plan, in-
25 cluding documentation of the need for restraints, must be created. The transportation safety
26 plan must address intervention strategies designed to modify behavior without the use of
27 restraints and recommend the least restrictive effective alternative.

28 (3) Only staff who have been adequately trained in restraint device usage may use and
29 apply restraints during transportation.

30 (4) Restraints during transportation may not be used as punishment, for convenience or
31 as a substitute for staff supervision.

32 (5) This section applies to all circumstances of transport of a ward or child in the custody
33 of the Department of Human Services, including but not limited to transport between
34 placements with child-caring agencies, foster homes, shelter homes, treatment and residen-
35 tial facilities or any other type of placement destination for a ward or child in the custody
36 of the Department of Human Services.

37 (6) As used in this section:

38 (a) "Detention facility" has the meaning given that term in ORS 419A.004.

39 (b) "Youth correction facility" has the meaning given that term in ORS 420.005.

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