

APPENDIX D

MODEL RULES AND JUDICIAL RULES FROM OTHER STATES

MODEL RULE (Campaign Against Indiscriminate Juvenile Shackling)

1. Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, may not be used on a child during a court proceeding and must be removed prior to the child being brought into the courtroom 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 findings of fact in support of the order.

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

ILLINOIS SUPREME COURT RULE 943 (2017)

Use of Restraints on a Minor in Delinquency Proceedings Arising Under the Juvenile Court Act

- (a) Instruments of restraint shall not be used on a minor during a court proceeding unless the court finds, after a hearing, that the use of restraints is necessary for one or more of the following reasons:
 - (1) Instruments of restraint are necessary to prevent physical harm to the minor or another person; or
 - (2) The minor has a history of disruptive 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

- (3) There is a well-founded belief that the minor presents a substantial risk of flight from the courtroom, and there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the minor or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.
- (b) The court must provide the minor's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall enter an order setting forth its findings of fact.
- (c) Any restraints authorized under this rule must be the least restrictive restraints necessary and must allow the minor limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances, should a minor be restrained to another minor, wall, the floor, or furniture while in the courtroom.
- (d) For purposes of this rule:
 - (1) "Instruments of restraint" and "restraints" are handcuffs, leg shackles, leg irons, belly belts, belly chains, or other restraint devices used to restrict a minor's free movement of limbs or appendages, including those made of cloth and leather; and
 - (2) A "minor" is an individual under the jurisdiction of the juvenile court, as provided in Article V of the Illinois Juvenile Court Act.

IOWA RULES OF JUVENILE PROCEDURE 8.41 (2017)

RESTRAINT OF JUVENILES DURING COURT PROCEEDINGS Rule 8.41 Routine use of restraints prohibited.

8.41(1) Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, will not be used on a child during a court proceeding unless the juvenile court upon the recommendation of the juvenile court officer or the county attorney makes a finding on the record that restraints are necessary due to any of the following:

- a. Recent behavior of the child has placed others at risk of substantial physical harm.
- b. Sufficient grounds to believe the child is a substantial flight risk.
- c. Sufficient grounds to show restraints are necessary to prevent physical harm to the child or another person during the court proceeding.
- d. There are no less restrictive alternatives to restraints, including the presence of a security officer. The juvenile court officer is not considered a security officer.

8.41(2) If the juvenile court officer or the county attorney recommends that restraints are necessary, the juvenile court officer or county attorney must provide notice to the court and the child's attorney outlining the circumstances supporting that recommendation prior to the child's appearance in each court proceeding or as soon as practicable. If notice is not given in writing, a record must be made at the court proceeding.

8.41(3) The child's attorney, the juvenile court officer, and the county attorney must have an opportunity to be heard before the court prior to any court proceeding for which any recommendation to restrain the child has been made.

8.41(4) For subsequent court proceedings in the same case, the court may rely on a previous finding if the security circumstances relating to the child have not materially changed.

8.41(5) Any restraint must allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.

8.41(6) Any restraint of children in the courtroom must balance legitimate security needs against the care, protection, and positive mental and physical development of the child while preserving the dignity and decorum of the courtroom and security of the court proceeding and court personnel.

MICHIGAN RULE 3.906

[NEW] Rule 3.906 Use of Restraints on a Juvenile

(A) Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, may not be used on a juvenile during a court proceeding unless the court finds that the use of restraints is necessary due to one of the following factors:

- (1) Instruments of restraint are necessary to prevent physical harm to the juvenile or another person.
- (2) The juvenile 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.
- (3) There is a founded belief that the juvenile presents a substantial risk of flight from the courtroom.

(B) The court's determination that restraints are necessary must be made prior to the juvenile being brought into the courtroom and appearing before the court. 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 state on the record or in writing its findings of fact in support of the order.

(C) Any restraints used on a juvenile in the courtroom shall allow the juvenile limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a juvenile be restrained using fixed restraints to a wall, floor, or furniture.

FLORIDA RULES OF JUVENILE PROCEDURE 8.1000 (2010, AMENDED 2021)

General Provisions for Hearings

Unless otherwise provided, the following provisions apply to all hearings:

- (a) Presence of the Child. The child shall be present unless the court finds that the child's mental or physical condition is such that a court appearance is not in the child's best interests.
- (b) Use of Restraints on the Child. Instruments of restraint, such as handcuffs, chains, irons, straitjackets, cloth and leather restraints, or other similar items, shall not be used on a child during a court proceeding except when ordered by the court prior to the child's appearance in the courtroom in accordance with this rule. Instruments of restraint must be removed prior to the child's appearance unless after an individualized assessment of the child the court finds that:
 - (1) The use of restraints is necessary due to one of the following factors:
 - (A) to prevent physical harm to the child or another person;
 - (B) the child's history of disruptive courtroom behavior that has placed others in potentially harmful situations or that presents a substantial risk of inflicting physical harm or himself or herself or others as evidenced by recent behavior; or
 - (C) 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 a determination that the use of instruments of restraint is necessary, pursuant to subdivision (b)(1), the court shall consider:
 - (A) any past 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 during court;
 - (D) evidence of self-injurious behavior on part of the child; and

- (E) any other factor that is relevant in determining whether the use of instruments of restraint are necessary pursuant to subdivision (b)(1).
- (4) The court shall provide the child's attorney an opportunity to be heard before the court orders the use of restraints. Counsel shall be appointed for this hearing if the child qualifies for such appointment and does not waive counsel in writing as required by rule 8.165.
- (5) If restraints are ordered, the court shall make specific and individualized findings of fact in support of the order and the least restrictive restraints shall be used. Any restraints shall allow the child limited movement of his or her hands to read and handle documents and writings necessary to the hearing.
- (6) Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.

WASHINGTON JUVENILE COURT RULE 1.6 (2014)

(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.

PENNSYLVANIA COURT RULE, 237 Pa. Code § 139 (2013)

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.