

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0532.02 Michael Dohr x4347

HOUSE BILL 15-1091

HOUSE SPONSORSHIP

Lontine, Salazar, Buckner, Kagan, McCann, Rosenthal, Singer

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 each judicial district to develop and implement a policy regarding juvenile shackling by December 31, 2015. The policy must be developed with input from the judicial department, law enforcement agencies, public defenders' offices, and district attorneys' offices and must consider research, legal precedent, and recognized best practices regarding shackling juveniles. The state court administrator

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.

shall report to the house and senate judiciary committees, or to any successor committees, by January 31, 2016, regarding the policies developed by each judicial district.

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 has found 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 rehabilitation 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
21 follows:

22 **19-2-115. Use of restraints on a juvenile.** (1) EACH JUDICIAL
23 DISTRICT SHALL DEVELOP, IN CONJUNCTION WITH REPRESENTATIVES FROM
24 THE JUDICIAL DEPARTMENT, LAW ENFORCEMENT AGENCIES, PUBLIC

1 DEFENDERS' OFFICES, DISTRICT ATTORNEYS' OFFICES, AND ANY OTHER
2 AGENCIES DETERMINED NECESSARY BY THE CHIEF JUDGE, AN APPROPRIATE
3 AND EVIDENCE-BASED POLICY REGARDING JUVENILE SHACKLING IN THE
4 COURTROOM THAT ADDRESSES THE NEEDS OF THE JUVENILE AND
5 PROTECTS PUBLIC SAFETY.

6 (2) IN DEVELOPING THE POLICY, EACH JUDICIAL DISTRICT SHALL
7 CONSIDER THE NATIONAL RESEARCH REGARDING THE INDISCRIMINATE AND
8 NON-INDIVIDUALIZED USE OF SHACKLING, THE RELEVANT STATUTORY AND
9 CASE LAW, A PRESUMPTION AGAINST THE SHACKLING OF JUVENILES WHILE
10 IN THE COURTROOM, AND THE BEST PRACTICES AND PROCEDURES THAT
11 HAVE BEEN DEVELOPED IN COLORADO JURISDICTIONS AND OTHER STATES.
12 ADDITIONALLY, EACH JUDICIAL DISTRICT SHALL ALSO CONSIDER THE
13 PARTICULARIZED SECURITY NEEDS OF THE LOCAL JURISDICTION RELATING
14 TO THE FACILITY, AVAILABLE SECURITY PERSONNEL, AND OTHER
15 RESOURCES, BUT THOSE NEEDS SHALL NOT PREEMPT THE COURT'S
16 ULTIMATE RESPONSIBILITY TO TREAT EACH JUVENILE IN A REHABILITATIVE
17 FASHION CONSISTENT WITH THE GOALS OF THIS TITLE.

18 (3) EACH JUDICIAL DISTRICT SHALL DEVELOP THE REQUIRED
19 SHACKLING POLICY BY DECEMBER 31, 2015, AND THE POLICY SHALL BE
20 ISSUED WITH THE FULL FORCE AND EFFECT OF A COURT ORDER AND SHALL
21 BE AVAILABLE TO THE PUBLIC UPON REQUEST.

22 (4) THE STATE COURT ADMINISTRATOR SHALL REPORT TO THE
23 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE,
24 OR TO ANY SUCCESSOR COMMITTEES, BY JANUARY 31, 2016, REGARDING
25 THE JUVENILE SHACKLING POLICIES DEVELOPED BY EACH JUDICIAL
26 DISTRICT.

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.