

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1364

By: Goodwin

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 15, which relates to use of  
9 restraints prior to conviction; establishing  
10 procedures and guidelines when use of restraints  
11 deemed necessary by the court; and providing an  
12 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 15, is  
15 amended to read as follows:

16 Section 15. A. No person can be compelled in a criminal action  
17 to be witness against himself; nor can a person charged with a  
18 public offense be subjected before conviction to any more restraint  
19 than is necessary for his detention to answer the charge, and in no  
20 event shall he be tried before a jury while in chains or shackles.

21 B. The right to be free from restraints during proceedings in a  
22 courtroom may be waived if the defendant engages in misconduct that  
23 is so disruptive and disrespectful that the proceedings cannot  
24 continue. Before ordering that a defendant be restrained by a shock

1 sleeve, shackles or any other form of physical restraint, the court  
2 shall make a specific finding on the record that the defendant has  
3 engaged in disruptive or aggressive behavior in connection with the  
4 proceedings or has made an express or implied threat to disrupt the  
5 proceedings or endanger public safety during the proceedings. The  
6 court shall further specify that the facts support the conclusion  
7 and demonstrate that restraint of the defendant during the  
8 proceedings is necessary to prevent disruptive or threatening  
9 behavior by the defendant. The defendant shall be afforded an  
10 opportunity to be heard in opposition to the order to wear  
11 restraints and may present evidence supporting such opposition. If  
12 facts supporting the decision by the court to use restraints include  
13 material protected by attorney-client confidentiality, disclosure of  
14 which to the state would violate the defendant's right to  
15 confidentiality, attorney-client privilege, or the privilege against  
16 self-incrimination, the court shall conduct the proceedings ex  
17 parte, memorialize the facts justifying the restraint and preserve  
18 the sealed record for appellate review.

19 SECTION 2. This act shall become effective November 1, 2017.

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21 56-1-5867 GRS 01/18/17  
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