

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The purpose of the juvenile justice system is to provide a rehabilitative and not solely punitive approach to juvenile delinquency, and the indiscriminate use of physical restraints on a juvenile undermines the rehabilitative goals of the juvenile justice system;

(b) The National Center for Mental Health and Juvenile Justice has found that the use of physical restraints on a juvenile can be traumatic and psychologically harmful; and

(c) The use of physical restraints, such as handcuffs, chains, irons, or straitjackets, during a court proceeding is particularly problematic in light of the need for the court to focus on rehabilitation and positive interaction with the juvenile.

(2) Therefore, it is the responsibility of the court to determine what least restrictive alternative is used by a law enforcement officer when a juvenile is before the court for a hearing regarding a juvenile delinquency action, consistent with the goals of the "Colorado Children's Code".

SECTION 2. In Colorado Revised Statutes, **add** 19-2-115 as follows:

19-2-115. Use of restraints on a juvenile. (1) **THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT** SHALL DEVELOP, IN CONJUNCTION WITH REPRESENTATIVES FROM THE JUDICIAL DEPARTMENT, LAW ENFORCEMENT

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

6 (2) IN DEVELOPING THE POLICY, EACH JUDICIAL DISTRICT SHALL
7 CONSIDER THE NATIONAL RESEARCH REGARDING THE INDISCRIMINATE
8 AND NON-INDIVIDUALIZED USE OF SHACKLING, THE RELEVANT STATUTORY
9 AND CASE LAW, WHETHER THERE SHOULD BE A PRESUMPTION AGAINST
10 THE SHACKLING OF CERTAIN JUVENILES IN THE COURTROOM BASED ON
11 RESEARCH AND ASSESSMENT, AND THE BEST PRACTICES AND PROCEDURES
12 THAT HAVE BEEN DEVELOPED IN COLORADO JURISDICTIONS AND OTHER
13 STATES. ADDITIONALLY, EACH JUDICIAL DISTRICT SHALL ALSO CONSIDER
14 THE PARTICULARIZED SECURITY NEEDS OF THE LOCAL JURISDICTION
15 RELATING TO THE FACILITY, RECOGNIZING THAT THE APPROPRIATE POLICY
16 REGARDING JUVENILE SHACKLING IN THE COURTROOM MAY NEED TO BE
17 DIFFERENT FOR VARIOUS COURT FACILITIES WITHIN THE JUDICIAL
18 DISTRICT, AVAILABLE SECURITY PERSONNEL, AND OTHER RESOURCES, IN
19 LIGHT OF THE COURT'S ULTIMATE RESPONSIBILITY TO TREAT EACH
20 JUVENILE IN A REHABILITATIVE FASHION CONSISTENT WITH THE GOALS OF
21 THIS TITLE.

22 (3) EACH JUDICIAL DISTRICT SHALL DEVELOP THE REQUIRED
23 SHACKLING POLICY BY JULY 1, 2016, AND THE POLICY SHALL BE ISSUED
24 WITH THE FULL FORCE AND EFFECT OF A COURT ORDER AND SHALL BE
25 AVAILABLE TO THE PUBLIC UPON REQUEST.

26 (4) THE STATE COURT ADMINISTRATOR SHALL REPORT TO THE
27 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE,

1 OR TO ANY SUCCESSOR COMMITTEES, BY JANUARY 31, 2017, REGARDING
2 THE JUVENILE SHACKLING POLICIES DEVELOPED BY EACH JUDICIAL
3 DISTRICT.

4 **SECTION 3. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.