

HOUSE BILL NO. 4802

June 26, 2019, Introduced by Reps. Reilly, Steven Johnson, LaFave and Byrd and referred to the Committee on Judiciary.

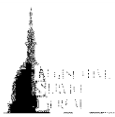
A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
(MCL 710.21 to 712B.41) by adding section 1a to chapter XIIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIIA

Sec. 1a. (1) Instruments of restraint, including, but not limited to, handcuffs, chains, irons, or straitjackets, and cloth and leather restraints, may not be used on a child during a court proceeding except as provided in this section.

(2) A request from detention staff for a child to be placed in



1 any form of restraint in the courtroom must be made in writing to
2 the court for approval by a detention staff member holding a
3 supervisory role. The request must list and explain the factors
4 described in subsection (3) (a) to (f) that were considered in
5 making the request. The court shall conduct a hearing on the matter
6 before the court orders the use of restraints. At a hearing under
7 this section, the prosecution has the burden to establish both of
8 the following by clear and convincing evidence:

9 (a) The use of restraints is necessary due to 1 of the
10 following factors:

11 (i) Instruments of restraint are necessary to prevent physical
12 harm to the child or another person.

13 (ii) The child has a history of disruptive courtroom behavior
14 that has placed others in potentially harmful situations or
15 presents a substantial risk of inflicting physical harm on himself
16 or herself or others as evidenced by recent behavior.

17 (iii) There is a founded belief that the child presents a
18 substantial risk of flight from the courtroom.

19 (b) There is not a less restrictive alternative to restraints
20 that will prevent flight or physical harm to the child or another
21 person, including, but not limited to, the presence of court
22 personnel, law enforcement officers, or bailiffs.

23 (3) In making a determination that instruments of restraint
24 are necessary, the factors that can be considered are 1 or more of
25 the following:

26 (a) Any past escape or attempted escape by the child.

27 (b) Evidence of a present plan of escape by the child.

28 (c) A believable threat by the child to harm others during
29 court.



1 (d) A believable threat by the child to harm himself or
2 herself during court.

3 (e) Evidence of self-injurious behavior on the part of the
4 child.

5 (f) The possibility of a rescue attempt by another offender
6 still at large.

7 (4) If restraints are ordered, the court shall make a written
8 finding of fact in support of the order. If the only risk found is
9 the risk described in subsection (2)(a)(iii), the court may only
10 authorize the use of leg restraints.

11 (5) A restraint must allow the child sufficient movement of
12 the hands to read and handle documents and writings necessary to
13 the hearing. Under no circumstances shall a child be restrained to
14 a stationary object or another person.

