

Honorable Jenifer J. Ashford

10th Judicial District, Kansas
150 W. Santa Fe
Olathe, Kansas 66061

Chairperson Kellie Warren and Members of the Senate Committee on Judiciary:

Thank you for the opportunity to present my written support of SB321 prohibiting the use of restraints under the Revised Kansas Juvenile Justice Code and authorizing exceptions if the court holds a hearing and makes certain findings on the record. I am a District Magistrate Judge in the 10th Judicial District, Olathe, Kansas. My assigned dockets consist of juvenile offender and child in need of care cases. I also serve as the detention judge three days a week reviewing the custody status of youth housed at the Johnson County Juvenile Detention Center.

In my experience, most juveniles who appear before the court do not require shackling. In Johnson County, the presumption is for the youth to appear without restraints unless staff at the juvenile detention center feel that based on the charge or the juvenile's recent behavior warrant physical restraints at which time a request is made to the Court for ruling much like the legislation before you today.

Nationally, a report from the National Conference of State Legislatures indicates that in 32 states and the District of Columbia laws, court decisions or rules prohibit the use of unnecessary restraints in juvenile proceedings. Kansas falls in the minority having no laws, court decisions or rules prohibiting or restricting the use of physical restraints in juvenile proceedings. The proposed legislation brings Kansas into the majority of states by adopting a law prohibiting unnecessary restraints in juvenile proceedings.

The National Juvenile Defender Center explores the use of shackling involving youth found "[t]he practice of restraining youth who pose no safety threat unnecessarily humiliates, stigmatizes, and traumatizes young people. Shackling youth is inconsistent with rehabilitative goals of the juvenile just system, offends due process, and negatively affects a child's physical and mental condition."

The National Juvenile Justice Network notes shackling of youth can cause physical and psychological harm to children. Shackling disproportionately impact youth of color. Shackling is inconsistent with the rehabilitative goals of the juvenile justice system.

In 2015, the American Academy of Child and Adolescent Psychiatry released the statement that “the mandatory or routine shackling of juveniles in courtroom settings should be prohibited, and that shackling should only be used in cases in which an individualized determination has been made that such restrictive procedures are necessary to ensure and maintain safety.” The proposed legislation acknowledges this recommendation, protects the mental health of our youth, reduces the disproportionate impact on youth of color while allowing the Courts to use restraints when appropriate safety concerns exist.

We need to remember the goal of the Juvenile Justice Code. K.S.A. 38-2301 says “[t]he primary goals of the juvenile justice code are to promote public safety, hold juvenile offenders accountable for their behaviors and improve their ability to live more productive and responsibly in the community.” The proposed legislation furthers this goal harmonizing the need to permit restraints when public safety concerns exist but recognizing that in most juvenile cases, physical restraints are not necessary and negatively impact our youth.

Thank you for your consideration.

Sincerely,
Jenifer J. Ashford
District Magistrate Judge