

2018 Regular Session

SENATE BILL NO. 103

BY SENATOR MORRELL

CHILDREN'S CODE. Provides for use of restraints in juvenile court proceedings. (8/1/18)

1 AN ACT

2 To amend and reenact Children's Code Art. 408, relative to juvenile court proceedings; to
3 prohibit the use of restraints on a child except under certain circumstances; to
4 provide for exceptions; to provide for a procedure to determine if restraints are
5 necessary; to provide for notice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Art. 408 is hereby amended and reenacted to read as
8 follows:

9 Art. 408. Duty of court to control proceedings; use of restraints

10 A. The court shall require that the proceedings be conducted with dignity and
11 in an orderly and expeditious manner, and shall control the proceedings so that
12 justice is done. The court may exclude any person whose conduct is disruptive if the
13 person fails promptly to heed the court's admonition to refrain from such conduct.

14 B. Except in delinquency proceedings as provided in this Paragraph,
15 restraints shall not be used on a child during any juvenile court proceeding.

16 (1) The court may permit a child to be restrained in the courtroom only
17 upon an individualized determination that the child presents a particularized

1 risk of physical harm to himself or another or presents a particularized
 2 substantial risk of flight from the courtroom and there are no less restrictive
 3 alternatives to prevent flight or physical harm. The fact that a child is detained
 4 is insufficient to warrant a finding that the use of restraints is necessary.

5 (2) If it is alleged that the use of restraints is necessary, the district
 6 attorney or law enforcement shall inform the judge and the attorney for the
 7 child prior to the delinquency proceeding. The attorney for the child shall be
 8 given an opportunity to be heard and object on the record. If the use of
 9 restraints is ordered, the judge shall state the reasons for such order on the
 10 record.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley E. Menou.

DIGEST

SB 103 Engrossed

2018 Regular Session

Morrell

Present law requires juvenile courts to ensure all proceedings are conducted with dignity and in an orderly fashion. Present law further authorizes juvenile courts to exclude any person whose conduct is disruptive if that person fails to heed the court's order to refrain from such conduct.

Proposed law retains present law.

Proposed law prohibits the use of restraints on a child in any juvenile court proceeding except in delinquency proceedings under certain circumstances.

Proposed law allows a juvenile court to permit a child to be restrained in a delinquency hearing if the child presents a risk of physical harm or flight and there are no less restrictive alternatives.

Proposed law provides that the fact that a child is detained is not sufficient to warrant the use of restraints.

Proposed law provides that if it is alleged that the use of restraints is necessary, the district attorney or law enforcement must inform the judge and attorney for the child before the proceeding, and the child's attorney must be given the opportunity to speak and object on the record.

Proposed law provides that if the use of restraints is ordered, the judge must state the reasons for the order on the record.

Effective August 1, 2018.

(Amends Ch.C. Art. 408)