

2018 Regular Session

HOUSE BILL NO. 187

BY REPRESENTATIVE MARINO

(On Recommendation of the Louisiana State Law Institute)

JUVENILES: Provides relative to the use of restraints on juveniles during court proceedings

1 AN ACT

2 To amend and reenact Children's Code Article 408, relative to juvenile court proceedings;
3 to provide for the use of restraints upon a determination of necessity; to provide the
4 procedure for such a determination; to provide notice; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

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

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

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.(1) Restraints shall not be used upon a child during any juvenile court
15 proceeding except in a delinquency proceeding as specifically provided in this
16 Paragraph.

17 (2) A court may permit a child to be restrained in the courtroom only upon
18 the court's individualized determination that the use of restraints is necessary because
19 the child presents a particularized risk of physical harm to himself or another or
20 presents a particularized substantial risk of flight from the courtroom, and that there

1 are no less restrictive alternative measures to prevent flight or physical harm. The
2 fact that the child is detained is insufficient to warrant a finding that the use of
3 restraints is necessary.

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

9 (4) In accordance with Paragraph A of this Article, a court may authorize the
10 use of restraints when the conduct of the child during a hearing presents an imminent
11 threat, risk of flight, or physical harm.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 187 Reengrossed

2018 Regular Session

Marino

Abstract: Provides for the use of restraints in juvenile court proceedings upon a court determination of necessity.

Present law authorizes courts to control proceedings to ensure judicial efficiency.

Proposed law retains present law and further provides that children shall not be restrained in court proceedings, but in delinquency proceedings, a court may permit restraints upon a particularized determination of necessity.

Proposed law provides that if it is alleged that it is necessary to restrain a child, the child's attorney shall have the opportunity to object on the record, and if restraints are ordered, the court shall state the reasons therefor. Further authorizes the court to authorize the use of restraints when the conduct of the child during the hearing presents an imminent threat, risk of flight, or physical harm.

(Amends Ch.C. Art. 408)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Add court authorization for the use of restraints when the conduct of a child during a hearing presents a risk of flight or physical harm.

The House Floor Amendments to the engrossed bill:

1. Add court authorization for the use of restraints when the conduct of a child during a hearing presents an imminent threat.