

**TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY
IN SUPPORT OF RAISED BILL NO. 1095
AN ACT LIMITING THE USE OF RESTRAINTS ON A CHILD WHO IS SUBJECT TO A
DELINQUENCY PROCEEDING**

April 1, 2011

This testimony is submitted on behalf of the Center for Children's Advocacy, a private, non-profit legal organization based at the University of Connecticut School of Law. The Center provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy.

Raised Bill No. 1095 prohibits the automatic shackling of all youth under age sixteen and requires a judge to determine that restraints are necessary to ensure public safety before such a youth is shackled. Shackling will still be possible in those cases where a child poses a threat to himself or others. However, the law would ensure that this detrimental and often traumatizing practice would not be implemented unless absolutely necessary.

Proponents of shackling often cite two reasons for the practice: court security and its deterrent effect. However, both lines of reasoning are seriously flawed. For instance, cities such as Miami have reduced their use of shackling without increased incidence of escape or injury to the alleged delinquent or others.¹ Regarding the deterrence argument, there is no data or evidence to support it.² In fact, it is the well-known opinion of the medical and psychological professions that deterrence does not work the same way for teens and adults. In its recent decision regarding the death penalty and juveniles, the United States Supreme Court cited the lack of evidence of deterrent effects on juveniles as one reason to strike down the death penalty when applied to juveniles.³

On the other hand, the arguments against shackling are numerous.

- By shackling a child before the disposition phase of the case - the common practice in Connecticut - we are punishing children without a showing of guilt, a practice that is antithetical to the principles of the United States justice system.
- Shackling exerts a powerful psychological effect; putting chains on young defendants not only makes them look like criminals but also makes them more likely to think of themselves in that way.
- Shackling can also cause a child's physical, mental or emotional health to be significantly impaired and may further traumatize children who have been previously victimized by physical and sexual abuse, and can trigger a flashback where restraint was a part of the abuse.
- Shackling is particularly degrading and dehumanizing to the significant number of alleged delinquents who are mentally ill, retarded, or disabled in other ways.

¹ Carlos Martinez, *Why Are Children in Florida Treated as Enemy Combatants?*, CORNERSTONE, May-Aug., 2007, pp. 10.

² *Id.* at 11.

³ *Id.*

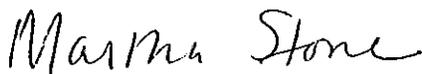
- Shackling undermines the rehabilitation focus of juvenile court. There is nothing therapeutic about the practice.

Many states have passed laws or have instituted policies similar to Raised Bill No. 1095. Massachusetts amended its Court Officer Policy and Procedure Manual in March 2010 to create “a presumption that restraints will be removed from juveniles...unless there is an order and specific finding by a Juvenile Court justice that restraints are necessary...”⁴ In December 2009, the Supreme Court of Florida amended the Florida Rules of Juvenile Procedure such that “restraints...may not be used during juvenile court appearances unless the court finds that the use of restraints is necessary, based on enumerated factors, and there are no less restrictive alternatives to restraint”.⁵ The court found that the “indiscriminate use” of shackling juveniles is “repugnant, degrading, humiliating, and contrary to the stated purposes of the juvenile justice system”.⁶ Further, the court clearly stated that the use of restraints “may violate the children’s due process rights”.⁷ California, Illinois, New Mexico, New York, North Dakota, North Carolina, Oregon, Vermont, and Wisconsin also prohibit the blanket shackling of juveniles as a result of state court decisions or statutes similar to Raised Bill No. 1095.⁸

We appreciate the intent behind the December 2010 policy promulgated by the Court Support Services Division. Rule 8.308 “Juvenile Residential Services Transportation of Juveniles” Section 12(A) clearly states “to the extent possible, and consistent with safety and security needs, juveniles will be presented in court without the use of mechanical restraints.” The policy further elucidates the levels of the behavior motivation program, which correspond with the appropriate level of restraint for the juvenile. However, despite these efforts, this policy is being implemented inconsistently. We urge you to pass Raised Bill No. 1095 in order to ensure juveniles are no longer restrained unnecessarily and without just cause.

By passing Raised Bill No. 1095, Connecticut can implement important safeguards to this harmful practice and return juvenile courts to their rehabilitative focus. For this and the other foregoing reasons cited, we urge you to pass Raised Bill No. 1095. Thank you for your time and consideration.

Respectfully submitted,



Martha Stone, J.D.
Executive Director
Center for Children’s Advocacy



Kathryn Meyer, J.D.
Equal Justice Works Fellow
Center for Children’s Advocacy

⁴ Trial Court of the Commonwealth Court Officer Policy and Procedures Manual, Chapter 4, Courtroom Procedures, Section VI, Juvenile Court Sessions, Use of Restraints in the Juvenile Court Department. General Provisions for Hearings, Rule 8.100 (b).

⁵ In Re: Amendments to the Florida Rules of Juvenile Procedures, SC09-141, 7 (2009).

⁶ *Id.* at 9.

⁷ *Id.*

⁸ See, e.g., *Tiffany A. v. The Superior Court of Los Angeles County*, 150 Cal. App. 4th 1344, 1362 (2007) (ruling that “absent an individualized need”, shackles were not to be used).