

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
JUVENILE DIVISION
FOURTH JUDICIAL DISTRICT

In re: Minn. Stat. § 260B.008

**STANDING ORDER REGARDING
THE USE OF RESTRAINTS IN
JUVENILE COURT
PROCEEDINGS**

WHEREAS, the Fourth Judicial District (“District”) has had a policy since 2015 restricting the use of restraints on individuals appearing in-custody except when there is a particularized need for restraints and there is approval by the Judge presiding over the matter; and

WHEREAS, prior to 2015, the Juvenile Division had a long-standing practice of allowing restraints of individuals appearing on Juvenile Court matters only in extremely limited circumstances; and

WHEREAS, in 2015, the Juvenile Division, by then Presiding Judge Margaret Daly, issued a memorandum following implementation of the District-wide policy, clarifying that in-custody youth and adults appearing on Juvenile Court matters may not be restrained unless permission from the judicial officer presiding over the matter is obtained in advance, and only upon a particularized showing of specific safety or security concerns; and

WHEREAS, Minn. Stat. § 260B.008, effective April 15, 2022, restricts the use of restraints on a child appearing before the court in a delinquency proceeding except as authorized by Minn. Stat. § 260B.008; and

WHEREAS, Minn. Stat. § 260B.008 directs that by April 1, 2022, each judicial district shall develop a protocol to address how to implement and comply with this section; and

WHEREAS, this Court has consulted with law enforcement agencies, prosecutors, public defenders within the district, and other entities deemed necessary as required by Minn. Stat. § 260B.008; and

WHEREAS, although Minn. Stat. § 260B.008 only applies to the use of restraints on children, this order establishes a protocol for the use of restraints on both children and adults appearing in Juvenile Court proceedings.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. In-custody children and adults appearing on Juvenile Court matters in the Fourth Judicial District shall not be restrained unless permission from the judicial officer presiding over the matter is obtained in advance, and only upon a particularized showing of specific safety or security concerns as further described in this Order.

2. Requests to restrain a child or adult may be made by the agency with custody of the individual or by the prosecutor or another party to the case, must be based on a particularized showing of specific safety or security concern, and must be made to the judge presiding over the hearing at which restraints are requested to be used.
3. Requests may be made by any means, including by filing a written request, or by contacting the judge presiding over the matter by phone, email, or other means.
4. Upon receipt of a request to use restraints, the judge who received the request shall hold a hearing on the use of restraints. The hearing may be held by any means including by ITV or other remote technology.
5. The judge shall hear from the prosecutor and/or from the agency or person making the request, who must state with particularity the specific safety or security concern(s) and provide the judge all relevant and credible information regarding the child or adult's conduct that supports the request to restrain the individual.
6. The judge shall provide the child or adult an opportunity to be heard in person when possible or through counsel.
7. The judge may order the use of restraints only upon a finding that:
 - (1) The use of restraints is necessary:
 - (i) to prevent physical harm to the child/adult or another; or
 - (ii) to prevent the child/adult from fleeing in situations in which the child/adult presents a substantial risk of flight from the courtroom; and
 - (2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child/adult or another, including but not limited to the presence of court personnel, law enforcement officers, or bailiffs.

The court must make findings in support of the order, and the findings required by paragraph (1)(i) may be based, among other things, on the child/adult having a history of disruptive courtroom behavior or behavior while in custody for any current or prior offense that has placed others in potentially harmful situations, or presenting a substantial risk of inflicting physical harm on the child/adult or others as evidenced by past behavior. The court may consider the physical structure of the courthouse in assessing the applicability of the above factors to the individual child/adult. The court may specify the nature and types of restraints that are and are not authorized to be used.

8. If a child or adult appears before the court in restraints that have not been ordered by the court, the judge presiding over the hearing shall order the restraints removed. If the agency that applied the restraints or the prosecutor requests that the restraints remain, the court must immediately hold the hearing regarding the request to use restraints and proceed as required by this Order.

9. This Order only applies to the use of restraints during court appearances, whether in person or by electronic means, and does not apply to the use of restraints by law enforcement agencies at other times including during transport between the place of detention and the courthouse.
10. If the request to use restraints is based on an individual's refusal to come to court, the court may order the use of restraints and any force reasonably necessary to secure the individual's appearance before the court. The order shall be in writing if a written order is requested by the agency with custody of the individual.
11. If a security threat arises during a court appearance, law enforcement may take any reasonable steps they deem necessary to secure the courtroom and protect their own safety and the safety of others, without obtaining prior approval of the presiding judge.

Dated: _____

Mark Kappelhoff
Presiding Judge
Hennepin County Juvenile Court

Dated: _____

Toddrick Barnette
Chief Judge
Hennepin County Juvenile Court