

STATE OF MINNESOTA

DISTRICT COURT

COUNTIES OF CARVER  
DAKOTA, GOODHUE,  
LE SUEUR, McLEOD,  
SCOTT AND SIBLEY

FIRST JUDICIAL DISTRICT

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**Chief Judge Order Regarding the Use of Restraints in Juvenile Delinquency Proceedings**

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**WHEREAS** restraints, which are defined as a mechanical or other device that constrains the movement of a person's body or limbs, may not be used on a child appearing before the court in a proceeding under Minn. Stat. ch. 260B except as authorized by Minn. Stat. § 260B.008; and

**WHEREAS** section 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 section 260B.008.

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

1. Requests to restrain a child may be made by the agency with custody of the child or by the prosecutor or defense counsel, must be based on a specific safety or security concern, and must be made to the judge presiding over the hearing at which restraints are requested to be used.
2. Requests may be made by any means including by filing a written request, or by contacting the presiding judge by phone, email, or other means.
3. Upon receipt of a request to use restraints, the presiding judge shall hold a hearing on the use of restraints. The hearing may be held by any means including by ITV or other remote technology.
4. The presiding judge shall hear from the prosecutor, defense attorney, and from the agency making the request, who must state the specific safety or security concern and provide the judge all relevant information regarding the child's behavior history.
5. The presiding judge shall provide the child an opportunity to be heard personally when possible or through counsel.

6. The presiding 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 or another; or
  - (ii) to prevent the child from fleeing in situations in which the child 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 or another, including but not limited to the presence of court personnel, law enforcement officers, or bailiffs.

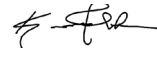
The court must make findings in support of the order, and the findings required by paragraph (1)(i) may be based, among other things, on the child having a history of disruptive courtroom behavior or behavior while in custody for any current or prior offense that has placed others in potentially harmful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

7. If a child appears before the court in restraints that have not been ordered by the court, the presiding judge shall order the restraints removed. If the agency that applied the restraints or the prosecutor or defense counsel 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.
8. 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.
9. If the request to use restraints is based on an in-custody child's refusal to come to court, the court may order the use of restraints and any force reasonably necessary to secure the child's appearance before the court. The order shall be in writing if a written order is requested by the agency with custody of the child.
10. 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: April 1, 2022

BY THE COURT:

Mark,  
Kevin

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Kevin F. Mark  
Chief Judge  
First Judicial District