

SENATE JUDICIARY COMMITTEE
CONFERENCE TRANSMITTAL FORM

Bill # 321

Date of testimony January 25, 2022

TESTIMONY MUST BE SUBMITTED AT LEAST 24 HOURS IN ADVANCE OF THE HEARING

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Proponent

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NATIONAL JUVENILE JUSTICE NETWORK

January 24, 2022

**National Juvenile Justice Network Testimony in Support of:
SB 321 Prohibiting the use of restraints during hearings under the revised Kansas juvenile justice code and authorizing exceptions if the court holds a hearing and makes certain findings on record.**

Dear Chair Warren and Members of the Judiciary Committee,

On behalf of the National Juvenile Justice Network (NJJN), I am writing to ask the committee to support SB 321 which would prohibit the use of restraints during hearings.

NJJN leads a movement of 60 state-based youth justice reform organizations and alumni of its Youth Justice Leadership Institute in 44 states in DC. Together we work to advocate for policies and practices that treat youth in trouble with the law with dignity and humanity. As states look to improve outcomes for youth, we have seen a growing movement to address harmful restraint and seclusion practices and right size their juvenile justice systems to reflect brain science and public safety data. We firmly believe, SB 321, would align Kansas with best practice for processing youth in juvenile court.

Trussing a child up in chains is degrading and humiliating to children and their families, interferes with their right to effective assistance of counsel and due process protections, and is unnecessary for the protection of the court without an individualized showing that such restraints are needed for a particular youth.

Shackling can cause more than just temporary embarrassment for youth; the shame induced by shackling can be quite profound, because youth are more vulnerable than adults to lasting harm from feeling humiliation and shame.¹ Additionally, many youth in the justice system have experienced physical and sexual abuse, making them even more susceptible to the negative trauma of shackling.²

Given the legacy of discrimination in America, the trauma from shackling is especially damaging to youth of color. Being publicly degraded may be experienced by them as racism and can be very harmful to their development of a positive identity.³ The image of African-American youth

¹ Models for Change Innovation Brief, "Eliminating the Practice of Indiscriminate Shackling of Youth," 1.

² Shoshana Elon, Jasmine Gibbs, Jamie Schickler, and Sammy Warman, "Children in Chains: The Shackling of Georgia's Youth" (Barton Child Law and Policy Center, Emory University School of Law, Fall 2011), 7, at <http://bit.ly/1qrRGay>

³ Elon, et. al., "Children in Chains," 7, at <http://bit.ly/1qrRGay>, citing Affidavit of Dr. Marty Beyer, ¶ 14, <http://bit.ly/1wb4tP3> (last visited September 4, 2014).

being shackled in court has been likened to the “images of slaves on the auction block, not of children presumed to be innocent in court of law.”⁴ Since youth of color are overrepresented at all stages of the juvenile justice system, these youth bear the brunt of indiscriminate shackling policies.⁵

Indiscriminate shackling is likely to create a feeling of injustice in children because they have done nothing to warrant this treatment. Children who feel that they have been treated unfairly by the court are less amenable to treatment and rehabilitation. Rather, shackling creates “an adversarial and hostile environment,” reinforces the youth’s feeling of “badness,” and “fosters a lack of respect for the law and the legal system.”⁶

Moreover, indiscriminate shackling harms a youth’s constitutional rights to due process by weakening their presumption of innocence and their ability to communicate effectively with counsel. Furthermore, routinely shackling youth appearing in court is unnecessary for public safety. Since ending the indiscriminate shackling of youth in Florida in 2009, over 20,000 children have appeared in court, unshackled, with only two minor incidents; there have been no reports of unshackled youth escaping from court or causing serious harm to themselves or others.⁷ Other safeguards are generally in place in juvenile courts to protect the public, such as sheriffs and deputies stationed in the courtroom, obviating the need to shackle all children.⁸

According to the Campaign Against Indiscriminate Juvenile Shackling, As of September 1, 2019, 32 states including the District of Columbia have rules, statutes, or administrative orders prohibiting or limiting the indiscriminate shackling of youth.⁹ This is proof that states can effectively keep the public safe without the use of shackling thus restoring a sense of humanity to youth facing court processes. We encourage Kansas to follow in the footsteps of others, and pass this reform.

⁴ Kim Taylor-Thompson, “Gideon at Fifty – Golden Anniversary or Mid Life Crisis,” Seattle Journal for Social Justice, Vol. 11: Iss. 3, Article 3 (2013) 880-81, <http://bit.ly/1IKrjN6>.

⁵ Juvenile Justice Resource Hub, “Racial-Ethnic Fairness,” accessed August 20, 2014, <http://bit.ly/1dEBvwD>.

⁶ Elon, et. al., “Children in Chains,” 3.

⁷ In the two reported incidents, one child started for the exit of the courtroom and a public defender employee stopped him; in the other, a child struck his father, a registered sex offender. Carlos J. Martinez, “Policy Report – Unchain the Children: Five Years Later in Florida” (Law Offices of the Public Defender, 11th Judicial Circuit of Florida, December 2011), 6, <http://bit.ly/1uGwsVN>.

⁸ Elon, et. al., “Children in Chains,” 11.

⁹ <https://njdc.info/wp-content/uploads/Shackling-Statewide-Bans-2019.pdf>