

HOUSE BILL NO. 742

INTRODUCED BY L. SMITH, E. KERR-CARPENTER, J. CARLSON, K. SEEKINS-CROWE

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING THE USE OF RESTRAINTS ON A YOUTH IN YOUTH COURT PROCEEDINGS; AND DEFINING "RESTRAINTS"."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Use of restraints on youth -- definition.** (1) (a) A youth under 10 years

of age may not be restrained in a proceeding in youth court under any circumstances.

(b) (i) Except as provided in subsections (2) and (3), restraints may not be used on a youth 10 years of age or older during a proceeding in youth court and must be removed prior to the youth's appearance before the court.

(ii) A youth 10 years of age or older may not be restrained to a wall, the floor, another youth, or to furniture during a court proceeding.

(2) (a) The court may authorize the use of restraints on a youth 10 years of age or older during a court proceeding if the court holds a hearing and makes a finding by clear and convincing evidence that the use of restraints is the least restrictive means available and is necessary:

(i) to prevent physical harm to the youth or another person in the courtroom; or

(ii) because of a well-founded belief that the youth is a substantial flight risk.

(b) If an officer of the court or the county attorney recommends the use of restraints on a youth, the officer or attorney shall provide written notice to the court and the youth's attorney of the specific circumstances that support the recommendation. The notice must be included in the record.

(c) The court shall allow the youth's attorney and the officer of the court or county attorney recommending the use of restraints to be heard before the court makes a ruling on the use of restraints.

(3) (a) If the court orders the use of restraints on a youth 10 years of age or older, the court shall make written findings of fact in support of the order, including specific findings supporting the choice of restraints ordered by the court pursuant to subsection (3)(b).

