
**In the Matter of Amending Wis. Stats. §48.299 and §938.299
Regulating the Use of Restraints on Children in Juvenile Court**

Petition 21-__

For the reasons set forth in the accompanying memorandum, the Petitioners, the Honorable Laura Crivello, the Honorable Ramona A. Gonzalez, the Honorable Everett Mitchell, the Honorable Suzanne C. O'Neill, the Honorable Michael A. Schumacher, and attorneys Eileen A. Hirsch and Diane R. Rondini, respectfully petition the Wisconsin Supreme Court to create a new Wis. Stat. (Rule) §48.299 (2m) and §938.299 (2m) creating a procedure regarding the use of restraints on children, pursuant to its authority under Wis. Stat. §751.12 and Wis. Const. Art. VII, § 3. *See also In re Kading*, 70 Wis. 2d 508, 519-20 235 N.W.2d 409 (1976). The proposed rule would read as follows:

48.299 (2m) of the statutes is created to read:

48.299 (2m) (a) In this subsection, "restraints" means leather, canvas, rubber, Velcro, or plastic restraints; handcuffs, waist belts, or leg chains; a wheel chair; an electric immobilization device; or any other device used to securely limit the movement of a child's body.

(b) Restraints may not be used on a child during a court proceeding and shall be removed prior to the child being brought into the courtroom and appearing before the court unless the court finds all of the following:

1. The use of restraints is necessary due to any of the following factors:
 - a. Restraints are necessary to prevent physical harm to the child or another person.
 - b. The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations, or the child presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior.
 - c. There is a founded belief that the child presents a substantial risk of flight from the courtroom.
2. There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including the presence of court personnel, law enforcement officers, or bailiffs.

(c) The court shall provide the child's counsel an opportunity to be heard before the court orders the use of restraints. If the child's counsel informs the court that the child wishes to be

present, the court may order telephone or videoconference hearing pursuant to sec. 48.299(5). If restraints are ordered, the court shall make findings of fact in support of the order.

(d) Any restraints shall allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances may a child be restrained using restraints that are fixed to a wall, floor, or furniture.

938.299 (2m) of the Wisconsin statutes is created to read as follows:

(2m) Use of Restraints (title). (a) In this subsection, "restraints" means leather, canvas, rubber, Velcro, or plastic restraints; handcuffs, waist belts, or leg chains; a wheel chair; an electric immobilization device; or any other device used to securely limit the movement of a child's body.

(b) Restraints may not be used on a child during a court proceeding and shall be removed prior to the child being brought into the courtroom and appearing before the court unless the court finds all of the following:

1. The use of restraints is necessary due to any of the following factors:
 - a. Restraints are necessary to prevent physical harm to the child or another person.
 - b. The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations, or the child presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior.
 - c. There is a founded belief that the child presents a substantial risk of flight from the courtroom.
2. There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including the presence of court personnel, law enforcement officers, or bailiffs.

(c) The court shall provide the child's counsel an opportunity to be heard before the court orders the use of restraints. If the child's counsel informs the court that the child wishes to be present, the court may order telephone or videoconference hearing pursuant to sec. 938.299(5). If restraints are ordered, the court shall make findings of fact in support of the order.

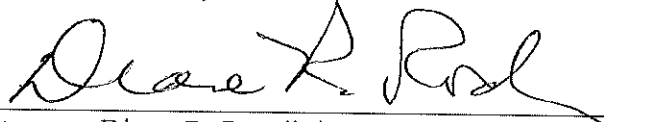
(d) Any restraints shall allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances may a child be restrained using restraints that are fixed to a wall, floor, or furniture.

Respectfully submitted this 13th day of September, 2021.

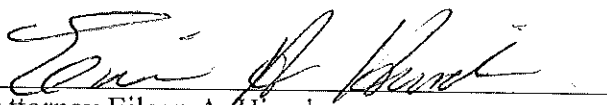
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The Honorable Laura Crivello
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The Honorable Michael A. Schumacher
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