

2018 Regular Session

HOUSE BILL NO. 187

BY REPRESENTATIVE MARINO

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Children's Code Article 408, relative to juvenile court proceedings;
3 to provide for the use of restraints upon a determination of necessity; to provide the
4 procedure for such a determination; to provide notice; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Article 408 is hereby amended and reenacted to read as
8 follows:

9 Art. 408. Duty of court to control proceedings; use of restraints on a child

10 A. The court shall require that the proceedings be conducted with dignity and
11 in an orderly and expeditious manner, and shall control the proceedings so that
12 justice is done. The court may exclude any person whose conduct is disruptive if the
13 person fails promptly to heed the court's admonition to refrain from such conduct.

14 B.(1) Restraints shall not be used upon a child during any juvenile court
15 proceeding except in a delinquency proceeding as specifically provided in this
16 Paragraph.

17 (2) A court may permit a child to be restrained in the courtroom only upon
18 the court's individualized determination that the use of restraints is necessary because
19 the child presents a particularized risk of physical harm to himself or another or
20 presents a particularized substantial risk of flight from the courtroom, and that there
21 are no less restrictive alternative measures to prevent flight or physical harm. The

1 fact that the child is detained is insufficient to warrant a finding that the use of
2 restraints is necessary.

3 (3) If it is alleged that the use of restraints upon a child is necessary, the
4 district attorney or law enforcement shall inform the judge and the attorney for the
5 child prior to the proceeding. The attorney for the child shall be given an
6 opportunity to be heard and object on the record. If the use of restraints is ordered,
7 the judge shall state on the record the reasons therefor.

8 (4) In accordance with Paragraph A of this Article, a court may authorize the
9 use of restraints when the conduct of the child during a hearing presents an imminent
10 threat, risk of flight, or physical harm.

11 (5) This Paragraph does not apply when the child is in a detention center,
12 when the child is in transport from a detention center to the courthouse, or when the
13 child is held in the courthouse outside of the room where the juvenile delinquency
14 proceeding will occur.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____