

2019 DRAFTING REQUEST

Bill

For: David Bowen (608) 266-7671 Drafter: ewheeler
By: Bryce Secondary Drafters:
Date: 3/7/2019 May Contact:

Same as LRB:

Submit via email: YES
Requester's email: Rep.Bowen@legis.wisconsin.gov
Carbon copy (CC) to: Elizabeth.Wheeler@legis.wisconsin.gov
Melinda.Johns@legis.wisconsin.gov
elisabeth.shea@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Limiting use of shackling for minors in court

Instructions:

See attached

Drafting History:

Table with 6 columns: Vers., Drafted, Reviewed, Submitted, Jacketed, Required. It contains three rows of drafting history data.

FE Sent For: not needed

<END>



-2350

Bowen

- Prohibit use of shackling all minors in court, unless judge determines it's necessary based on request by the prosecutor / county's attorney.

INS 4-3

A SECTION 967.13
an individual under 18 years of age
individual under 18 years of age

967.13 Use of restraints on a minor. (1) Except as provided in sub. (2), instruments of restraint such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, or other similar items may not be used on a minor during a court proceeding under this chapter and shall be removed prior to the juvenile being brought into the courtroom to appear before the court.

(2) A court may order a minor to be restrained upon the request of the prosecutor if the court finds all of the following:

(a) That the use of restraints is necessary due to one of the following factors:

1. Instruments of restraint are necessary to prevent physical harm to the minor or another person.

2. The minor has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior.

3. There is a reasonable belief that the minor presents a substantial risk of flight from the courtroom.

(b) That there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the minor or another person, including the presence of court personnel, law enforcement officers, or bailiffs.

(3) The court shall provide the minor's attorney an opportunity to be heard before the court orders the use of restraints under par. (b). The court shall make written findings of fact in support of any order to use restraints under par. (b).

of the individual under 18 years of age
Sub (2)

*an individual under
18 years of age*

sub (v)

(4) If the court orders a minor to be restrained under par. (b), the restraints shall allow the minor limited movement of the hands to read and handle documents and writings necessary to the hearing. *individual*

(5) No minor may be restrained during a court proceeding under this chapter using fixed restraints attached to a wall, floor, or furniture. ✓

individual under 18 years of age

Wheeler, Elizabeth

From: LRB.Legal
Sent: Wednesday, December 11, 2019 4:15 PM
To: Wheeler, Elizabeth
Subject: FW: Draft review: LRB -2350/P1

Hi Elizabeth, Could you please convert to /1 for jacketing per request below? It looks like they would like a companion as well.

Thank you...

Lori Parisi
Senior Program Assistant
State of WI Legislative Reference Bureau
(608)504-5801

*The foolish man seeks happiness in the distance;
the wise grows it under his feet.*
- J. Robert Oppenheimer

From: Rep.Bowen <Rep.Bowen@legis.wisconsin.gov>
Sent: Wednesday, December 11, 2019 3:57 PM
To: LRB.Legal <lrblegal@legis.wisconsin.gov>
Subject: RE: Draft review: LRB -2350/P1

Hello,

I would like this bill jacketed for introduction in the Assembly and Senate. Please send the Senate Jacket to Sen. Talyor's office.

Best,

Bryce Dille
Research Assistant
Office of State Representative David Bowen
AD 10 : (608)237-9382
Bryce.Dille@legis.wisconsin.gov

From: LRB.Legal <lrblegal@legis.wisconsin.gov>
Sent: Tuesday, March 19, 2019 3:13 PM
To: Rep.Bowen <Rep.Bowen@legis.wisconsin.gov>
Subject: Draft review: LRB -2350/P1

Following is the PDF version of draft LRB -2350/P1.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2350/P1
EAW:ahc

in 12/12
due today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to create** 48.299 (2), 938.299 (2) and 967.13 of the statutes; **relating to:**
2 the use of restraints on a child in juvenile or criminal court.

Analysis by the Legislative Reference Bureau

This bill generally prohibits the use of restraints on anyone under the age of 18 when appearing before the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code or before the criminal court. The bill provides that, upon a request of the district attorney, corporation counsel, or other appropriate county official, a court may order the use of restraints on a child if, after a hearing, it issues written findings of fact showing that the use of restraints is necessary under certain conditions. The bill also requires that any restraints used on a child must allow limited movement of the hands and prohibits the use of fixed restraints that are attached to a wall, floor, or furniture.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 48.299 (2) of the statutes is created to read:
4 48.299 (2) (a) Except as provided in par. (b), instruments of restraint such as
5 handcuffs, chains, irons, or straitjackets, cloth and leather restraints, or other
6 similar items may not be used on a child during a court proceeding under this chapter

1 and shall be removed prior to the child being brought into the courtroom to appear
2 before the court.

3 (b) A court may order a child to be restrained during a court proceeding upon
4 request of the district attorney, corporation counsel, or other appropriate official
5 specified under s. 48.09 if the court finds all of the following:

6 1. That the use of restraints is necessary due to one of the following factors:

7 a. Instruments of restraint are necessary to prevent physical harm to the child
8 or another person.

9 b. The child has a history of disruptive courtroom behavior that has placed
10 others in potentially harmful situations or the child presents a substantial risk of
11 inflicting physical harm on himself or herself or others as evidenced by recent
12 behavior.

13 c. There is a reasonable belief that the child presents a substantial risk of flight
14 from the courtroom.

15 2. That there are no less restrictive alternatives to restraints that will prevent
16 flight or physical harm to the child or another person, including the presence of court
17 personnel, law enforcement officers, or bailiffs.

18 (c) The court shall provide the child's attorney an opportunity to be heard before
19 the court orders the use of restraints under par. (b). The court shall make written
20 findings of fact in support of any order to use restraints under par. (b).

21 (d) If the court orders a child to be restrained under par. (b), the restraints shall
22 allow the child limited movement of the hands to read and handle documents and
23 writings necessary to the hearing.

24 (e) No child may be restrained during a court proceeding under this chapter
25 using fixed restraints attached to a wall, floor, or furniture.

1 **SECTION 2.** 938.299 (2) of the statutes is created to read:

2 **938.299 (2) USE OF RESTRAINTS ON A JUVENILE.** (a) Except as provided in par. (b),
3 instruments of restraint such as handcuffs, chains, irons, or straitjackets, cloth and
4 leather restraints, or other similar items may not be used on a juvenile during a court
5 proceeding under this chapter and shall be removed prior to the juvenile being
6 brought into the courtroom to appear before the court.

7 (b) A court may order a juvenile to be restrained during a court proceeding upon
8 request of the district attorney, corporation counsel, or other appropriate official
9 specified under s. 938.09 if the court finds all of the following:

10 1. That the use of restraints is necessary due to one of the following factors:

11 a. Instruments of restraint are necessary to prevent physical harm to the
12 juvenile or another person.

13 b. The juvenile has a history of disruptive courtroom behavior that has placed
14 others in potentially harmful situations or the juvenile presents a substantial risk
15 of inflicting physical harm on himself or herself or others as evidenced by recent
16 behavior.

17 c. There is a reasonable belief that the juvenile presents a substantial risk of
18 flight from the courtroom.

19 2. That there are no less restrictive alternatives to restraints that will prevent
20 flight or physical harm to the juvenile or another person, including the presence of
21 court personnel, law enforcement officers, or bailiffs.

22 (c) The court shall provide the juvenile's attorney an opportunity to be heard
23 before the court orders the use of restraints under par. (b). The court shall make
24 written findings of fact in support of any order to use restraints under par. (b).

1 (d) If the court orders a juvenile to be restrained under par. (b), the restraints
2 shall allow the juvenile limited movement of the hands to read and handle
3 documents and writings necessary to the hearing.

4 (e) No juvenile may be restrained during a court proceeding under this chapter
5 using fixed restraints attached to a wall, floor, or furniture.

6 **SECTION 3.** 967.13 of the statutes is created to read:

7 **967.13 Use of restraints on an individual under 18 years of age. (1)**

8 Except as provided in sub. (2), instruments of restraint such as handcuffs, chains,
9 irons, or straitjackets, cloth and leather restraints, or other similar items may not
10 be used on an individual under 18 years of age during a court proceeding under this
11 chapter and shall be removed prior to the individual being brought into the
12 courtroom to appear before the court.

13 (2) A court may order an individual under 18 years of age to be restrained
14 during a court proceeding upon the request of the prosecutor if the court finds all of
15 the following:

16 (a) That the use of restraints is necessary due to one of the following factors:

17 1. Instruments of restraint are necessary to prevent physical harm to the
18 individual or another person.

19 2. The individual has a history of disruptive courtroom behavior that has
20 placed others in potentially harmful situations or the individual presents a
21 substantial risk of inflicting physical harm on himself or herself or others as
22 evidenced by recent behavior.

23 3. There is a reasonable belief that the individual presents a substantial risk
24 of flight from the courtroom.

1 (b) That there are no less restrictive alternatives to restraints that will prevent
2 flight or physical harm to the individual or another person, including the presence
3 of court personnel, law enforcement officers, or bailiffs.

4 (3) The court shall provide the attorney of the individual under 18 years of age
5 an opportunity to be heard before the court orders the use of restraints under sub.
6 (2). The court shall make written findings of fact in support of any order to use
7 restraints under sub. (2).

8 (4) If the court orders an individual under 18 years of age to be restrained under
9 sub. (2), the restraints shall allow the individual limited movement of the hands to
10 read and handle documents and writings necessary to the hearing.

11 (5) No individual under 18 years of age may be restrained during a court
12 proceeding under this chapter using fixed restraints attached to a wall, floor, or
13 furniture.

14 (END)

Barman, Mike

From: LRB.Legal
To: Rep.Bowen
Subject: Draft review: LRB -2350/1
Attachments: 19-2350/1

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Elizabeth Wheeler, Legislative Attorney, at (608) 504-5880, at Elizabeth.Wheeler@legis.wisconsin.gov, or at One East Main Street, Suite 200.

We will jacket this draft for introduction in the Assembly.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.