



Testimony for the House Judiciary Committee

TONI HOLNESS
PUBLIC POLICY COUNSEL

March 24, 2016

HB 1634 Juveniles – Restraint and Searches – Limitations

SUPPORT

The ACLU of Maryland supports HB 1634, which would require DJS to set certain parameters on the use of restraints on children in its residential facilities, with specific limits on the use of restraints on pregnant children during the third trimester, in labor, delivery, or post-partum recovery. The bill would also limit the instances in which the facility may search a child.

The use of restraints can be harmful to children

Many children come into the juvenile justice system having experienced some form of trauma in their lives. In a report, *Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense*, the Justice Policy Institute uncovered estimates showing 75-93% of youth who enter the justice system have experienced some form of trauma. The report also showed that the use of restraints has potentially re-traumatizing effects and may exacerbate the symptoms of mental illness.

Twenty-three other jurisdictions prohibit the automatic use of restraints in juvenile court

As a result of court rulings, legislation, or regulation, children in 23 states and the District of Columbia do not routinely appear in court wearing restraints. These states and the District of Columbia limit restraints to youth who pose a risk of harm or flight in the courtroom. Thousands of courts around the country have successfully eliminated the automatic and routine use of restraints without sacrificing court safety, Maryland should join this movement.

Children deserve due process protections against restraints

The U.S. Supreme Court has ruled that the Constitution prohibits the use of restraints during the penalty and guilt phases of a criminal proceeding, unless the use is justified. *Deck v. Missouri*, 544 U.S. 622 (2005). The Court has also held that youth are entitled to the same procedural safeguards available to adults in court proceedings. *In re Gault*, 387 U.S. 1 (1967). Therefore, the right to appear in court without restraints should apply to Maryland's youth.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 1634.

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 410
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

COLEMAN BAZELON
PRESIDENT

SUSAN GOERING
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL