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COMMITTEE ON THE JUDICIARY
APRIL 1, 2011

R. B. No. 1095 - AN ACT LIMITING THE USE OF RESTRAINTS ON A CHILD WHO IS SUBJECT TO A DELINQUENCY PROCEEDING

The Office of the Chief Public Defender supports passage of **Raised Bill 1095, An Act Limiting the Use of Restraints on a Child Who is Subject to a Delinquency Proceeding**. This Bill would prohibit the shackling of a child charged with a delinquency offense during a court proceeding unless a judge determined that the child presented a danger to public safety. This protection would apply to children who had not yet been adjudicated or convicted of a delinquency offense. In most of the juvenile courts across the state, children charged with delinquency offenses are routinely shackled for court appearances. They are almost always required to wear ankle chains and in some cases are subjected to belly chain restraints that require them to wear both ankle shackles and handcuffs that are attached to a belly chain. These are children as young as age 9, often charged with misdemeanors or violations of probation.

These children are chained for court appearances even though there is no indication that they will attempt to run away or be otherwise uncooperative with the court process. Leaving a child in leg irons without finding that he is dangerous, disruptive, or prone to escape is so far removed from the 'best interest of the child' that prejudice is presumed. We would urge this Committee to take a progressive stand on the practice of routine shackling of juvenile defendants and outlaw the practice without waiting for a court to act. It would send troubled children the message that we value them and see them as people full of potential for successful integration into their communities and their homes.

Similar proposals have been before this committee in the past. Opponents have argued that the Judicial Branch already has a policy that presumes that a child should come to court without mechanical restraints. Despite the fact that the Judicial Branch has had such a policy for many years, the vast majority of children continue to come to court in shackles. Judges routinely defer to court marshals, who prefer to see all detained children restrained, and have successfully argued that

judges issue blanket orders that every child, no matter what the charge or individual background, must appear in court in restraints. This proposal would continue the presumption that a child should come to court unrestrained and would require that a judge make an individualized determination of danger each time a child was allowed to be shackled.

Attached to this testimony is a legal memo, outlining the constitutional issues arising from indiscriminate shackling of accused. The trend nationwide is for courts to move towards an individual determination of need before an unadjudicated juvenile can be restrained in the courtroom. In nearby Massachusetts last year, the Chief Juvenile Judge ordered that no child should appear in court in shackles without a court order and there has been litigation in Miami, Florida, Wisconsin and several other jurisdictions over the routine shackling of accused juveniles.

Juvenile Justice in Connecticut has made major strides in the last 5 years. This trend must continue. Unnecessarily placing a child in chains enhances only the assumption that the child is a criminal and must be restrained. Ending indiscriminate shackling will clarify that the courts must recognize that children should be treated in a manner that enhances their ability to reform and rehabilitate. The Office of the Chief Public Defender thanks this Committee for raising this important issue and urges a favorable report on the bill.