

**101ST GENERAL ASSEMBLY****State of Illinois****2019 and 2020****SB2757**

Introduced 2/4/2020, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

See Index

Amends the Children and Family Services Act. Provides that no youth in care shall be subjected to mechanical restraints during the provision of any transportation services provided or arranged by the Department of Children and Family Services or its contractors. Provides that soft restraints may only be used during transportation of a youth, provided or arranged by the Department, with some limitations. Provides that no restraints shall be authorized for the purpose of punishment or transporter convenience and that the Department shall ensure that a mental health professional rides along with a youth who is transported while soft restraints are used. Requires written approval, prior to the use of soft restraints, from the Department's Chief Deputy Director of Clinical and Child Services, the Department's Guardianship Administrator, and a physician who has a physician-patient relationship with the youth. Requires a copy of the written recommendation for the use of restraints and other documents to be provided to the youth's court-appointed attorney and guardian at least 3 days prior to the use of such restraints. Contains provisions concerning requirements for Department contractors regarding the use of soft restraints; Department data on the use of restraints; and other reporting requirements. Amends the Juvenile Court Act of 1987. Provides that the Department's application to the court for authorization to transport a youth in care using soft restraints must include copies of certain written recommendations and authorizations. Requires the court to consider certain factors before authorizing the use of soft restraints. Amends the Illinois Administrative Procedure Act. Grants emergency rulemaking authority to the Department to implement certain provisions under the amendatory Act. Effective immediately.

LRB101 16952 KTG 68234 b

FISCAL NOTE ACT
MAY APPLY**A BILL FOR**

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by adding Section 5-45.1 as follows:

6 (5 ILCS 100/5-45.1 new)

7 Sec. 5-45.1. Emergency rulemaking; Department of Children
8 and Family Services. To provide for the expeditious and timely
9 implementation of paragraphs (2) and (3) of subsection (c) and
10 subsection (g) of Section 4e of the Children and Family
11 Services Act, emergency rules implementing paragraphs (2) and
12 (3) of subsection (c) and subsection (g) of Section 4e of the
13 Children and Family Services Act, may be adopted in accordance
14 with Section 5-45 by the Department of Children and Family
15 Services. The adoption of emergency rules authorized by Section
16 5-45 and this Section is deemed to be necessary for the public
17 interest, safety, and welfare.

18 This Section is repealed on January 1, 2026.

19 Section 10. The Children and Family Services Act is amended
20 by adding Section 4e as follows:

21 (20 ILCS 505/4e new)

1 Sec. 4e. Mechanical restraints; prohibition during
2 transport.

3 (a) Definitions. As used in this Section:

4 "Mechanical restraints" means any device used to restrict
5 the limbs, head, or body of a youth, but do not include soft
6 restraints. Mechanical restraints do not include child
7 restraint systems as defined in the Child Passenger Protection
8 Act.

9 "Soft restraints" means restraints made of cloth material
10 designed to safely fit around a person's wrists, ankles, or
11 chest. "Soft restraints" do not include child restraint systems
12 as defined in the Child Passenger Protection Act.

13 (b) Prohibition on the use of mechanical restraints during
14 transport. Notwithstanding any other law or rule to the
15 contrary, no youth in care shall be subjected to mechanical
16 restraints during the provision of any transportation services
17 provided or arranged by the Department or its contractual
18 assigns.

19 (c) Soft restraints may only be used during transportation
20 of a youth in care, provided or arranged by the Department, and
21 only as provided in this Section. No restraints shall be
22 authorized for the purpose of punishment or transporter
23 convenience. The Department shall ensure that a mental health
24 professional known to the youth rides along with the youth who
25 is transported while soft restraints are used to ensure the
26 youth's physical and emotional well-being during the

1 transport.

2 (1) The use of soft restraints must be ordered by a
3 psychiatrist who has a physician-patient relationship with
4 the youth or by the court hearing the youth's case in
5 accordance with the Juvenile Court Act of 1987.

6 (2) The Department's Chief Deputy Director of Clinical
7 and Child Services must recommend the use of the soft
8 restraints for transportation in writing and the
9 Department's Chief Deputy Director must approve the
10 recommendation in writing. The written recommendation must
11 include the rationale for the use of the restraints, the
12 length of time the restraints will be used, a description
13 of how the youth's safety and well-being will be monitored
14 while restrained, and an explanation of what less
15 restrictive alternatives were considered and why they were
16 ruled out.

17 (3) The Department of Children and Family Services
18 Guardianship Administrator must approve the use of soft
19 restraints in writing.

20 (4) A physician who has a physician-patient
21 relationship with the youth must approve in writing the use
22 of restraints for the specified transport. If the youth has
23 a medical condition that will be impacted by the use of
24 soft restraints during transport, the physician must set
25 forth a plan to monitor the youth's health during the
26 transport.

1 (5) The use of soft restraints may only be ordered,
2 recommended, and approved based on the youth's clinical
3 needs and after consideration of less restrictive
4 alternatives.

5 (6) At least 3 business days prior to the use of the
6 restraints, the Department must provide the youth's
7 court-appointed attorney and guardian ad litem with a copy
8 of the recommendation described in paragraph (2), the
9 physician's approval and plan, if applicable, described in
10 paragraph (4), and the psychiatrist's order described in
11 paragraph (1), if applicable.

12 (d) The use of soft restraints in accordance with this
13 Section constitutes a significant event and requires a report
14 by the Department as defined in paragraph (14.2) of Section 1-3
15 of the Juvenile Court Act of 1987.

16 (e) Restraints used in accordance with this Section may
17 only be utilized by contractors with written procedures
18 approved by the Department regarding the use of soft restraints
19 on youth in care. The Department shall ensure that each
20 contractor authorized to use soft restraints to transport youth
21 in care has an appropriate plan in place to train staff and to
22 ensure that restraints are applied only by staff trained in the
23 proper use of the particular type of restraints being used, to
24 verify authorization to use restraints, and to monitor the
25 safety and well-being of youth during transport, including
26 ensuring the youth has access to restrooms, food, water, and

1 the ability to periodically walk and stretch, and to ensure
2 that the medical plan described in paragraph (4) of subsection
3 (c), if applicable, is followed. All transporters shall keep a
4 monitoring log documenting the youth's well-being during
5 transport.

6 (f) Annually beginning December 1, 2020, the Department
7 shall post on its website data regarding the number of
8 restraints authorized in accordance with this Section,
9 including information regarding the age of the youth, the
10 length of time of the restraint, and the type of placement the
11 youth was being transported from and to.

12 (g) The Department shall adopt rules, and may adopt
13 emergency rules, setting forth the process criteria for the
14 Department's Chief Deputy Director of Clinical and Child
15 Services written recommendation for the use of the soft
16 restraints for transportation and the Department's Chief
17 Deputy Director and Guardianship Administrator's written
18 approval.

19 (h) Any time soft restraints are used in accordance with
20 this Section without the authorization of the court, the
21 Department shall file within 10 days a report with the court
22 hearing the youth's case in accordance with the Juvenile Court
23 Act of 1987 and such report shall describe the circumstances
24 and include the monitoring report prepared by the transporter.

25 Section 15. The Juvenile Court Act of 1987 is amended by

1 adding Section 1-4.2 as follows:

2 (705 ILCS 405/1-4.2 new)

3 Sec. 1-4.2. Use of mechanical restraints on youth in care
4 during transport.

5 (a) Notwithstanding any other law or rule to the contrary,
6 no youth in care, as defined in Section 4d of the Children and
7 Family Services Act, shall be subjected to mechanical
8 restraints during the provision of any transportation services
9 provided or arranged by the Department, except as provided in
10 Section 4e of the Children and Family Services Act.

11 (b) The Department's application to the court for
12 authorization to transport a youth in care using soft
13 restraints must include copies of the written recommendations
14 and authorizations described in paragraphs (2), (3), and (4) of
15 subsection (c) of Section 4e of the Children and Family
16 Services Act. No restraints shall be authorized for the purpose
17 of punishment or transporter convenience. In considering
18 whether to authorize the use of soft restraints for purposes of
19 transporting a youth in care, the court shall consider the
20 youth's best interest and the following additional factors: (i)
21 the reason for the use of restraints; (ii) the type of
22 placement the youth is being transported from and to; (iii) the
23 anticipated length of travel; (iv) the clinical needs of the
24 youth, including any medical or emotional needs; (v) any
25 available less restrictive alternatives; and (vi) any other

1 factor the court deems relevant.

2 (c) Upon motion by any party, the court may prohibit the
3 use of soft restraints during transport of a youth in care
4 based on the factors listed in subsection (b).

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 100/5-45.1 new

4 20 ILCS 505/4e new

5 705 ILCS 405/1-4.2 new