

**FILED**

OCT 25 2017

**In the Iowa Supreme Court**

CLERK SUPREME COURT

<b>In the Matter of Adoption of New</b>	)	
<b>Iowa Rule of Juvenile Procedure</b>	)	<b>Order</b>
<b>8.41 Prohibiting Routine Use</b>	)	
<b>of Restraints</b>	)	

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The Iowa Supreme Court adopts new Iowa Rule of Juvenile Procedure 8.41 prohibiting the routine use of restraints on juveniles during court proceedings. At least 28 states have now banned or limited the use of restraints on children in juvenile court proceedings. The rule is designed to promote fair and considerate treatment of juveniles while preserving courtroom and public safety according to available resources. New Iowa Rule of Juvenile Procedure 8.41 is provided with this order.

The rule will require decisions regarding the use of restraints to be made in advance of court proceedings, on a case-by-case basis, communicated to counsel and the court, and subject to judicial review prior to the proceeding. The rule is flexible enough to address situations when individual juveniles may pose a risk of flight or a danger to themselves or others. The rule applies only to use of restraints in courtrooms during court proceedings.

The court promulgates rule 8.41 following a February 2016 request from a number of juvenile justice proponents, full consideration of the proposed rule by the court's Advisory Committee on the Rules of Juvenile Procedure, consultation with the Chief Juvenile Court Officers in the state, a 60-day period of public comment, and the court's own consideration of the rule during its Administrative Term. The court appreciates the time and expertise of all involved, including those who submitted well considered public comments.

Iowa Rule of Juvenile Procedure 8.41 as provided with this order will be effective January 1, 2018, subject to Legislative Council review consistent with

the provisions of Iowa Code section 602.4202.

Dated this 25th day of October, 2017.

The Supreme Court of Iowa

By Mark S. Cady  
Mark S. Cady, Chief Justice

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**CHAPTER 8**  
**RULES OF JUVENILE PROCEDURE**

CLERK SUPREME COURT

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**Rules 8.37 to 8.40** Reserved.

**RESTRAINT OF JUVENILES DURING COURT PROCEEDINGS**

**Rule 8.41 Routine use of restraints prohibited.**

**8.41(1)** Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, will not be used on a child during a court proceeding unless the juvenile court upon the recommendation of the juvenile court officer or the county attorney makes a finding on the record that restraints are necessary due to any of the following:

a. Recent behavior of the child has placed others at risk of substantial physical harm.

b. Sufficient grounds to believe the child is a substantial flight risk.

c. Sufficient grounds to show restraints are necessary to prevent physical harm to the child or another person during the court proceeding.

d. There are no less restrictive alternatives to restraints, including the presence of a security officer. The juvenile court officer is not considered a security officer.

**8.41(2)** If the juvenile court officer or the county attorney recommends that restraints are necessary, the juvenile court officer or county attorney must provide notice to the court and the child's attorney outlining the circumstances supporting that recommendation prior to the child's appearance in each court proceeding or as soon as practicable. If notice is not given in writing, a record must be made at the court proceeding.

**8.41(3)** The child's attorney, the juvenile court officer, and the county attorney must have an opportunity to be heard before the court prior to any court proceeding for which any recommendation to restrain the child has been made.

**8.41(4)** For subsequent court proceedings in the same case, the court may rely on a previous finding if the security circumstances relating to the child have not materially changed.

**8.41(5)** Any restraint must allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.

**8.41(6)** Any restraint of children in the courtroom must balance legitimate security needs against the care, protection, and positive mental and physical development of the child while preserving the dignity and decorum of the courtroom and security of the court proceeding and court personnel.