

Juvenile Shackling in Ohio

“As an attorney who represents children in court, there are times when a child must hear difficult news. This becomes heartbreaking when they are shackled because they cannot wipe their own tears.” – Ohio Juvenile Defense Attorney

“It just made my attorney not like me. I felt like he wasn’t even trying to work with me or reduce my time. I felt like everybody was looking at me like I was a monster. I was so worried about how everyone was seeing me in shackles that I couldn’t concentrate because it made me feel like a monster. I felt unfairly treated. I was unable to focus.” – Christian O.

Shackling in the adult system occurs only in rare cases when a judge finds that the defendant is a safety or flight risk at trial. However, in the juvenile system, youth are routinely shackled, even for minor charges.

Experts agree that shackling harms kids – from revisiting trauma to decreasing capacity to participate in proceedings. Some counties in Ohio have taken the lead to end the practice. Montgomery, Wood, and Mahoning counties only shackle youth in the courtroom if there is a finding of risk of harm or flight. It is time for all Ohio judges to end automatic juvenile shackling. Children in every county should experience safety and fairness in our juvenile courts.

Shackling impairs a youth’s ability to pay attention and communicate

Shackles make it difficult for youth to participate in their own defense. Leading mental health professionals tell us that shackled children have a harder time following judges’ instructions, taking notes, recollecting narratives, and even appearing truthful. Youth wearing even handcuffs are less likely to communicate effectively and more likely to come across poorly to judges—not simply because of what the youth look like in shackles, but because the stress associated with restraints diminishes their cognitive and language skills. Restraints also make a youth more likely to act out.

Shackling is traumatic for youth

Experts see a link between trauma and shackles. Shackling often involves a sense of powerlessness, betrayal, fear, humiliation, and pain. The experience of indiscriminate shackling brings up earlier childhood traumas and increases the likelihood that the effects of this trauma will reverberate for years to come. In addition, shackles inhibit a youth’s motivation and ability to develop the capacity for self-regulation.

National organizations are calling to end shackling

The harm of indiscriminate shackling is broadly recognized. The American Bar Association passed a resolution on February 9, 2015 calling for the end of

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indiscriminate juvenile shackling. Other professional organizations supporting shackling reform include the Association of Prosecuting Attorneys, the National Child Traumatic Stress Network, the American Academy of Child and Adolescent Psychiatry, the American Orthopsychiatric Association, the Child Welfare League of America, and the National Center for Mental Health and Juvenile Justice.

Many states have stopped indiscriminately shackling youth

20 states and the District of Columbia have ended the practice of automatically shackling children in court proceedings altogether, and many others are in the process of reform.

North Carolina, Pennsylvania, New Hampshire, Utah, Nebraska and Indiana have restricted the practice by statute. South Carolina's statute passed unanimously last year. Alaska, Florida, New Mexico, and Washington State have curtailed the practice through the rule-making authority of those states' highest courts, and Connecticut, Massachusetts, and Washington, D.C. have done so through either statewide official court policy or administrative order. Courts in Illinois, Idaho, Oregon, North Dakota, and California have issued opinions against indiscriminate juvenile shackling. New York and Vermont have extensively curtailed the practice in transport via statute and regulation, and, in practice, in the courtroom.

In states that have eliminated the practice, there have been NO security problems and NO delays

For example, Miami-Dade County ended indiscriminate shackling in 2006. As of 2014, when more than 25,000 children had gone through the same court unshackled, there had been no escapes or injuries. The story is virtually identical in courthouses throughout the country, including in New York City, Maricopa County, Arizona, Los Angeles, California, and Albuquerque, New Mexico, to name a few.

Jurisdictions that have unshackled youth have not had to hire additional security.

Where the decision to shackle a child is contested, defense attorneys are afforded an opportunity to be heard. These hearings are rare, because in jurisdictions that have limited the shackling of children, they have realized that the practice is unnecessary an overwhelming majority of the time. These hearings typically take less than five minutes, according to courtroom stakeholders across the country.

Perhaps most importantly, there have been no escapes or major incidents in Montgomery, Wood, and Mahoning counties' juvenile courtrooms since those jurisdictions limited shackling.

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CAMPAIGN AGAINST INDISCRIMINATE JUVENILE SHACKLING

Judges say their courtrooms function better without shackling

Courtroom management is easier where indiscriminate shackling has ended, judges report, because they have better rapport with youth and families. As incoming National Council of Juvenile and Family Court Judges president Judge Darlene Byrne says, “A child who comes into my court in shackles immediately knows that he or she is different from other kids. There is a sense of embarrassment, humiliation, and shame ... Shackles place a barrier between the judge and the child. It is simply not in the interest of justice, or in the child’s best interest, to have children shackled.”

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