

RULE 20. ~~TITLE AND CITATION~~ USE OF RESTRAINTS IN COURTROOM

1 These rules are titled, "North Dakota Rules of Juvenile Procedure," and may
2 be cited as "N.D.R.Juv.P."

3 (a) Definition. "Restraint" means an instrument of physical restraint,
4 including handcuffs, chains, irons and straight jackets.

5 (b) In General. Restraints must be removed prior to a courtroom proceeding
6 unless a party or the detention, transport or juvenile court office staff request a
7 finding by the court that the child poses an immediate and serious risk of
8 dangerous or disruptive behavior or of escape or flight.

9 (c) Evidence. The party requesting the use of restraints in the courtroom
10 must provide the court and the parties with facts to support a finding requiring use
11 of restraints. The child must be given an opportunity to be heard regarding the use
12 of restraints.

13 (d) Restraint Factors. Factors that may be considered by the court in
14 reviewing a request for the child to remain in restraints during a courtroom
15 proceeding include:

16 (1) the child's record;

17 (2) the child's temperament;

18 (3) the desperateness of the child's situation;

19 (4) the security situation at the courtroom and courthouse, including special
20 security needs or escape risks;

21 (5) the child's physical condition; and

22 (6) whether there is an alternate means of providing security that would be
23 less prejudicial to the child.

24 (e) Findings Required. If the court orders the use of restraints, the court
25 must make case-specific findings of fact on the record in support of the order.

26 EXPLANATORY NOTE

27 Rule 20 was adopted effective March 1, 2017.

28 SOURCES: Joint Procedure Committee Minutes of September 24-25, 2015,
29 pages 24-25.