



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4880**

Introduced 2/18/2020, by Rep. Stephanie A. Kifowit

#### 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 17748 KTG 67176 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.

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