

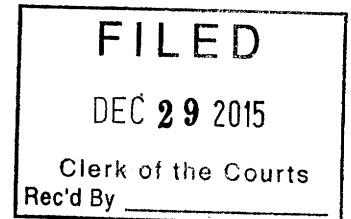
IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

IN RE AMENDMENTS TO THE TENNESSEE  
RULES OF JUVENILE PROCEDURE

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No. ADM2015-01631

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**ORDER**

The Court adopts the attached amendment effective July 1, 2016, subject to approval by resolutions of the General Assembly. The rule amended is as follows:

RULE 204 USE OF RESTRAINTS ON CHILDREN IN  
THE COURTROOM.

By separate order filed this date, the Court adopted a comprehensive revision of the Rules of Juvenile Procedure, subject to approval by resolutions of the General Assembly. In that comprehensive revision, Rule 204 is shown as “[Reserved].” If approved by the General Assembly, the Rule 204 (“Use of Restraints On Children In the Courtroom”) set out in the appendix to this order shall replace the version of Rule 204 (“[Reserved]”) contained in the comprehensive revision.

IT IS SO ORDERED.

FOR THE COURT:



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SHARON G. LEE  
CHIEF JUSTICE

**APPENDIX**

**AMENDED TENN. R. JUV. P. 204**

## **RULE 204. USE OF RESTRAINTS ON CHILDREN IN THE COURTROOM**

- (a) Children appearing in juvenile court may be restrained if the court determines that:
- (1) The behavior of the child represents a threat to his or her safety or the safety of other people in the courtroom; or
  - (2) The behavior of the child presents a substantial risk of flight from the courtroom; and
  - (3) There are no less restrictive alternatives to restraints that will prevent flight or risk of harm to the child or another person in the courtroom.
- (b) Any party may request to be heard as to whether or not restraints are necessary, and upon request, a judge shall make findings on the record regarding the decision to restrain the child.

### **Advisory Commission Comments.**

The general statutory requirement is to “remove the taint of criminality” from children appearing in our juvenile courts.

It is not anticipated by this Commission that juvenile courts will be required to engage in an extensive fact-finding hearing prior to ruling that restraints on a particular child are appropriate. It is further understood that Tennessee juvenile courtrooms vary greatly in structure, availability of security personnel and their ability to handle security concerns. A few of the factors the court may wish to consider prior to ruling restraints are appropriate are:

- 1) The seriousness of the charges;
- 2) The delinquency history of the child;
- 3) Any past disruptive courtroom behavior by the child;
- 4) Any past escape attempts by the child;
- 5) Any security risks at a particular time in a courtroom due to structure and/or low staffing levels of security personnel.

The Commission is seeking to promote an individual determination by the court as to whether a child should be restrained in the courtroom. The focus of this rule should be balancing between the child’s best interest and the safety of the courtroom. This rule only addresses children within the courtroom. It does not address transportation to and from the courthouse and to and from the courtroom.

A large number of children in delinquency proceedings have suffered neglect or abuse, and/or have physical or mental disabilities. Restraints on these children are particularly inappropriate in most circumstances.

Communication between a child and an adult attorney is often difficult, and restraints compound that problem. Children disengage from communication with their attorneys even more than adult defendants because “juveniles have limited understanding of the criminal justice system and the roles of the institutional actors within it.” *Graham v. Florida*, 560 U.S. 48, 51 (2010).