

## **BILL ANALYSIS**

H.B. 488  
By: Wu  
Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Reports indicate that the use of mechanical or physical restraints on children in juvenile court has become a widespread practice and that children as young as 10 years of age are often brought to court in such restraints, and it has been argued that such use is often unnecessary and may put the child at numerous disadvantages. Additionally, there are concerns that requiring a child to wear the child's correctional uniform to court could lead to bias that violates the presumption of innocence. H.B. 488 seeks to address these issues by restricting the use of restraints in juvenile court and ensuring, subject to certain conditions, that a child is permitted to wear clothing other than a correctional uniform during a judicial proceeding.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 488 amends the Family Code to prohibit the use of a mechanical or physical restraint on a child during a judicial proceeding and to require the removal of any restraint before the child's appearance before the court unless the court finds that:

- the use of the restraint is necessary to prevent physical injury to the child or another or because the child presents a substantial risk of flight from the courtroom or has a history of disruptive courtroom behavior that has placed others in potentially harmful situations; and
- the restraint used is the least restrictive restraint effective to prevent the child's escape or physical injury to the child or another.

H.B. 488 requires the court to provide the child's attorney an opportunity to be heard before ordering the use of a mechanical or physical restraint and, if ordered, to make findings of fact in support of the order.

H.B. 488 requires a court to permit a child during a judicial proceeding to wear clothing other than a uniform provided by a detention or correctional facility if the child's attorney requests the court's permission for the child to wear other clothing and the child's attorney or family member provides the child with appropriate clothing. The bill authorizes the court to deny such a request only if it finds that granting the request would present a substantial risk of the child's flight from the courtroom or a safety risk to the child or another.

**EFFECTIVE DATE**

September 1, 2021.