S T A T E O F N E W Y O R K

7879

2015-2016 Regular Sessions

I N A S S E M B L Y

May 28, 2015

Introduced by M. of A. GANTT -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to use of restraints on children appearing before the family court

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The family court act is amended by adding a new section 162-a to read as follows:

S 162-A. USE OF RESTRAINTS ON CHILDREN IN COURTROOMS. (A) USE OF RESTRAINTS. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B) OF THIS SECTION, RESTRAINTS ON CHILDREN UNDER THE AGE OF TWENTY-ONE, INCLUDING, BUT NOT LIMITED TO, HANDCUFFS, CHAINS, SHACKLES, IRONS OR STRAITJACKETS, ARE PROHIBITED IN THE COURTROOM.

(B) EXCEPTION. PERMISSIBLE PHYSICAL RESTRAINT CONSISTING OF HANDCUFFS OR FOOTCUFFS THAT SHALL NOT BE JOINED TO EACH OTHER MAY BE USED IN THE COURTROOM DURING A PROCEEDING BEFORE THE COURT ONLY IF THE COURT DETERMINES ON THE RECORD, AFTER PROVIDING THE CHILD WITH AN OPPORTUNITY TO BE HEARD, WHY SUCH RESTRAINT IS THE LEAST RESTRICTIVE ALTERNATIVE NECESSARY TO PREVENT:

(1) PHYSICAL INJURY TO THE CHILD OR ANOTHER PERSON BY THE CHILD;

(2) PHYSICALLY DISRUPTIVE COURTROOM BEHAVIOR BY THE CHILD, AS EVIDENCED BY A RECENT HISTORY OF BEHAVIOR THAT PRESENTED A SUBSTANTIAL RISK OF PHYSICAL HARM TO THE CHILD OR ANOTHER PERSON, WHERE SUCH BEHAVIOR INDICATES A SUBSTANTIAL LIKELIHOOD OF CURRENT PHYSICALLY DISRUPTIVE COURTROOM BEHAVIOR BY THE CHILD; OR

(3) FLIGHT FROM THE COURTROOM BY THE CHILD, AS EVIDENCED BY A RECENT HISTORY OF ABSCONDING FROM THE COURT.

S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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