



February 5, 2020

**To:** Chairman Howard and Members of the Health and Human Services Committee  
**From:** Juliet Summers, policy coordinator for child welfare & juvenile justice  
**Re:** **LB 1145 to require the Department of Health and Human Services to develop and implement policies regarding use of mechanical restraints and transportation of juveniles**

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We all benefit from a juvenile justice system structured to ensure youth receive meaningful rehabilitative services and can grow into healthy adults. Youth in our juvenile justice system, even those who end up committed to our Youth Rehabilitation and Treatment Centers, are still that – youth. They are not hardened criminals; their futures are not set in stone. And every policy choice we make, every small decision in how we structure what their treatment and care look like, adds up to determine what our system tells them about who they are, where they belong, and what they deserve in life. Our state’s youth are still developing, and even the “toughest” among them need the right therapeutic response at the right time to meet their needs and overcome challenges. To this end, Voices for Children broadly supports having an articulated policy for the use of mechanical restraints and shackling, but we are testifying neutrally today because we want to strongly encourage the Legislature to put greater prescriptive parameters into statute about where and when youth in *state-run treatment centers* may or may not be shackled and chained like prisoners.

To be frank, based on recent history we are concerned with how an unspecified policy “regarding” use of restraints might develop, without legislative input into what that policy ought to include. This summer, members of this Committee saw first-hand the treatment girls were receiving, and how “room confinement” was being used at Geneva. Last spring, in the wake of a number of successful escapes, the administration at Kearney began using round-the-clock shackling of boys who were considered a “flight risk”. It is still unclear how that designation was applied or whether youth had an opportunity to protest it through a grievance process. Regardless, to quote our Inspector General of Child Welfare’s 2018-2019 room confinement report:

The use of physical, mechanical, and chemical restraints is permitted by designated staff at the youth facilities when deemed appropriate under YRTC policies, however this practice could be understood as a contradiction to a March 2017 YRTC Administrative Memo which states: Juveniles are not subjected to corporal or unusual punishment, humiliation, disease, property damage, mental or personal abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping. Shackling is permitted in the YRTCs. However, research indicates that shackling is traumatic to both juveniles and facility staff; witnessing shackling may induce secondary trauma in both populations.<sup>1</sup>

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<sup>1</sup> Office of the Nebraska Inspector General for Child Welfare. *2018-2019 Juvenile Room Confinement Report*. Released November 2019. Pp 10-11 (citations excerpted). Available at [http://oig.legislature.ne.gov/?page\\_id=380](http://oig.legislature.ne.gov/?page_id=380)

We have also heard cautionary tales from other states, where after juvenile room confinement was legislatively or administratively eliminated, instead of accessing technical assistance to build up strengths-based, preventive behavioral systems to keep youth engaged, some facilities turned to all-day shackling or mechanical restraint of young inmates in chained desks.<sup>2</sup>

In light of what has already happened here in Nebraska, and what has happened elsewhere, Voices for Children would strongly encourage this Committee and the Legislature to advance LB 1145, but in doing so, to adopt more prescriptive language based on best practices for youth treatment facilities governing when youth may or may not be shackled, such as:

- 24-hour or round-the-clock shackling shall not be used
- shackling shall not be used for administrative purposes, e.g. in the case of staff shortages
- shackling shall not be used to avoid statutory limitations on use of room confinement
- shackling shall not be used during medical emergencies, including labor and delivery

Thank you again to Chairwoman Howard and all the members of this Committee for all the time and work you have dedicated to watching out for your state's vulnerable youth this year, and the efforts you have made to put forward this set of recommendations. I would be happy to answer any questions.

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<sup>2</sup> See, e.g. Joaquin Sapien for ProPublica. *On Rikers Island, a Move Toward Reform Causes Trouble*. August 1, 2017. Available at <https://www.cityandstateny.com/articles/policy/criminal-justice/rikers-island-reform-causes-trouble.html>