

**SENATE . . . . . No. 790**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Sonia Chang-Diaz***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act codifying juvenile court best practices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/24/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/25/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>1/26/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/27/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/27/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/27/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/2/2017</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>2/3/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/3/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>

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By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 790) of Sonia Chang-Diaz, Chris Walsh, Jose F. Tosado, Jason M. Lewis and other members of the General Court for legislation to codify juvenile court best practices. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act codifying juvenile court best practices.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 119 of the General Laws, as appearing in the 2014 Official Edition,  
2 is hereby amended by inserting at the end thereof the following new section:-

3 Section 95. (a) For purposes of this section, the following terms shall have the following  
4 meanings:

5 “Juveniles” – Persons appearing before the juvenile court under the age of eighteen in  
6 delinquency, children requiring assistance cases, and care and protection cases, and under the age  
7 of twenty-one in youthful offender cases.

8 “Restraints” – Devices that limit voluntary physical movement of an individual, including  
9 leg irons and shackles approved by the trial court security department.

10 (b) There shall be a presumption that restraints shall be removed from juveniles while  
11 appearing in a courtroom before a justice of the Juvenile Court.

12 (c) Restraints may not be used on juveniles during court proceedings and must be  
13 removed prior to the appearance of juveniles before the court at any stage of any proceedings,  
14 unless the justice presiding in the courtroom issues an order and makes specific findings on the  
15 record that restraints are necessary because there is reason to believe that a juvenile may try to  
16 escape, or that a juvenile may pose a threat to his or her own safety, or to the safety of other  
17 people in the courtroom, or restraints are reasonably necessary to maintain order in the  
18 courtroom.

19 (d) The justice presiding in the courtroom shall consider one or more of the following  
20 factors prior to issuance of any order and findings:

21 1) The seriousness of the present charge (supporting a concern that the juvenile has an  
22 incentive to attempt to escape);

23 2) The prior offense history of the juvenile;

24 3) Any past disruptive courtroom behavior by the juvenile;

25 4) Any past behavior by the juvenile that presented a threat to his or her own safety, or  
26 the safety of other people;

27 5) Any present behavior that the juveniles represents a current threat to his or her own  
28 safety, or the safety of other people in the courtroom;

29 6) Any past escapes, or attempted escapes;

30 7) Risk of flight from the courtroom;

31 8) Any threats of harm to others, or threats to cause a disturbance; and

32           9) Security situation in the courtroom and courthouse, including risk of gang violence, or  
33 attempted revenge by others.

34           (e) The court officer charged with custody of a juvenile shall report any security concerns  
35 with said juvenile to the justice presiding in the courtroom. The justice presiding in the  
36 courtroom may attach significance to the report and recommendation of the court officer charged  
37 with custody of the juvenile, but shall not cede responsibility for determining the use of restraints  
38 in the courtroom to the court officer. The justice presiding in the courtroom may receive  
39 information from the court officer charged with custody of the juvenile, a probation officer, or  
40 any source which the court determines in its discretion to be credible on the issue of courtroom  
41 or courthouse security.

42           The decision to use restrains shall be the sole determination of the juvenile court justice  
43 who is presiding in the courtroom at the time that a juvenile appears before the court. No juvenile  
44 court justice shall impose a blanket policy to maintain restraints on all juveniles, or a specific  
45 category of juveniles, who appear before the court.

46           SECTION 2. Chapter 120 of the General Laws, as appearing in the 2014 Official Edition,  
47 is hereby amended by inserting after section 10 the following section:-

48           Section 10B. No person under 18 years of age and committed to the department of youth  
49 services shall be placed in involuntary room confinement as a consequence for noncompliance,  
50 punishment or harassment or in retaliation for any conduct.