

FACT SHEET



Youth Shackling in Virginia Courts

Problem: Virginia is one of eleven states that still indiscriminately shackle youth. Young people are routinely shackled as they are transported to and from court proceedings, often through hallways in front of their families. Shackling involves connecting a young person's handcuffed wrists and shackled legs to a one-and-a-half-inch wide belt. The shackles which weigh just under two and a half pounds cause pain and limit mobility.

In 2014, only thirteen states had placed legal limits on shackling young people, through either legislation, court rules or case law. In the years since, shackling youths as a default practice has been banned from courtrooms state after state. Thirty-nine states plus Puerto Rico and Washington D.C. now limit or prohibit the indiscriminate shackling of youth.

Policy Solution: This bill creates a presumption against shackling, forces a judge to make an individualized assessment of the youth and to hear arguments from the child's attorney before shackles can be ordered.

Reasons to end indiscriminate shackling:

The practice undermines the presumption of innocence. According to recent studies, most young people are in court for non-violent offenses. The image of a shackled young person affects the perception of that person. Entering a courtroom in shackles presents an image of a person who has already been found guilty of a crime. According to the Supreme Court case, *Deck vs. Missouri*, "visible shackles give the

impression to any trier of fact that a person is violent, a miscreant, and cannot be trusted. Moreover, other parties in court and members of the public are prejudiced by the sight of a defendant in shackles."

The practice is contrary to the stated purpose of the juvenile justice system. One of the primary goals of the juvenile justice system is rehabilitation. The National Center for Mental

Health and Juvenile Justice opposes shackling young people in court because the policy has a negative impact on normal development and could be traumatizing.

The practice damages the attorney-client relationship. The pain and discomfort of the shackles is a distraction and often makes it difficult for the young person to concentrate on the court proceedings and interact with their attorneys. The shackles also prohibit movement making it difficult to write which negatively impacts attorney-client communication.

Sources: The Gault Center; American Bar Association Resolution 2015; Article from Staunton News Leader "Bucking National trend, Virginia courts continue indiscriminate shackling of juveniles"

This bill is being worked in coalition with Justice Forward and Rise for Youth.