

HOUSE No. 875

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 relative to best practices in the juvenile court.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>

HOUSE No. 875

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 875) of Kay Khan and others relative to the use of restraints and best practices in juvenile court proceedings. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to best practices in the juvenile court.

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
11 juveniles while appearing in a courtroom before a justice of the Juvenile Court.

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

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

- 21 1) The seriousness of the present charge (supporting a concern that the juvenile has
22 an 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,
26 or the safety of other people;
- 27 5) Any present behavior that the juveniles represents a current threat to his or her
28 own 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
33 violence, or attempted revenge by others.

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