POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE

February 25, 2014

**S. 440**

Introduced by Senators Fair, Hutto and Jackson

S. Printed 2/25/14--S.

Read the first time February 27, 2013.

**THE COMMITTEE ON CORRECTIONS AND PENOLOGY**

To whom was referred a Bill (S. 440) to amend the Code of Laws of South Carolina, 1976, by adding Section 63‑19‑1435 so as to provide that the use of restraints on juveniles appearing in court, etc., respectfully

**REPORT:**

Has polled the Bill out majority favorable.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑19‑1435 SO AS TO PROVIDE THAT THE USE OF RESTRAINTS ON JUVENILES APPEARING IN COURT ARE PROHIBITED UNLESS THE RESTRAINTS ARE NECESSARY TO PREVENT HARM OR IF THE JUVENILE IS A FLIGHT RISK AND THERE ARE NO LESS RESTRICTIVE ALTERNATIVES AVAILABLE; TO GIVE A JUVENILE’S ATTORNEY THE RIGHT TO BE HEARD BEFORE THE COURT ORDERS THE USE OF RESTRAINTS; AND IF RESTRAINTS ARE ORDERED, TO REQUIRE THE COURT TO MAKE FINDINGS OF FACT IN SUPPORT OF THE ORDER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 13, Chapter 19, Title 63 of the 1976 Code is amended by adding:

“Section 63‑19‑1435. (A) If a juvenile appears before the court wearing instruments of restraint, such as handcuffs, chains, irons, or straightjackets, the court in any proceeding may not continue with the juvenile required to wear instruments of restraint unless the court first finds that:

(1) the use of restraints is necessary due to one of the following factors:

(a) the juvenile poses a threat of serious harm to himself or others;

(b) the juvenile has a demonstrable recent record of disruptive courtroom behavior that has placed others in potentially harmful situations; or

(c) there is reason to believe the juvenile is a flight risk; and

(2) there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the juvenile or another person, including, but not limited to, court personnel, law enforcement officers, or bailiffs.

(B) The court shall provide the juvenile’s attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order.”

SECTION 2. This act takes effect upon approval by the Governor.

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