**South Carolina General Assembly**

120th Session, 2013-2014

**A186, R209, S440**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Fair, Hutto and Jackson

Document Path: l:\council\bills\nbd\11144ac13.docx

Companion/Similar bill(s): 509, 520, 3855

Introduced in the Senate on February 27, 2013

Introduced in the House on March 4, 2014

Last Amended on May 20, 2014

Passed by the General Assembly on May 28, 2014

Governor's Action: June 2, 2014, Signed

Summary: Use of restraints on juvenile defendants

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/27/2013 Senate Introduced and read first time ([Senate Journal‑page 10](file:///H%3A%5CSJ%20Archive%5C2013%5C02-27-13.docx))

 2/27/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 10](file:///H%3A%5CSJ%20Archive%5C2013%5C02-27-13.docx))

 2/6/2014 Senate Recalled from Committee on **Judiciary** ([Senate Journal‑page 5](file:///H%3A%5CSJ%20Archive%5C2014%5C02-06-14.docx))

 2/7/2014 Senate Committed to Committee on **Corrections and Penology** ([Senate Journal‑page 5](file:///H%3A%5CSJ%20Archive%5C2014%5C02-07-14.docx))

 2/25/2014 Senate Polled out of committee **Corrections and Penology** ([Senate Journal‑page 12](file:///H%3A%5CSJ%20Archive%5C2014%5C02-25-14.docx))

 2/25/2014 Senate Committee report: Favorable **Corrections and Penology** ([Senate Journal‑page 12](file:///H%3A%5CSJ%20Archive%5C2014%5C02-25-14.docx))

 2/26/2014 Senate Read second time ([Senate Journal‑page 33](file:///H%3A%5CSJ%20Archive%5C2014%5C02-26-14.docx))

 2/26/2014 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 33](file:///H%3A%5CSJ%20Archive%5C2014%5C02-26-14.docx))

 2/27/2014 Senate Read third time and sent to House ([Senate Journal‑page 26](file:///H%3A%5CSJ%20Archive%5C2014%5C02-27-14.docx))

 3/4/2014 House Introduced and read first time ([House Journal‑page 7](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/4/2014 House Referred to Committee on **Judiciary** ([House Journal‑page 7](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 5/14/2014 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 3](file:///H%3A%5CHJ%20Archive%5C2014%5C05-14-14.docx))

 5/20/2014 House Amended ([House Journal‑page 36](file:///H%3A%5CHJ%20Archive%5C2014%5C05-20-14.docx))

 5/20/2014 House Read second time ([House Journal‑page 36](file:///H%3A%5CHJ%20Archive%5C2014%5C05-20-14.docx))

 5/20/2014 House Roll call Yeas‑103 Nays‑0 ([House Journal‑page 37](file:///H%3A%5CHJ%20Archive%5C2014%5C05-20-14.docx))

 5/21/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 7](file:///H%3A%5CHJ%20Archive%5C2014%5C05-21-14.docx))

 5/28/2014 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 100](file:///H%3A%5CSJ%20Archive%5C2014%5C05-28-14.docx))

 5/28/2014 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 100](file:///H%3A%5CSJ%20Archive%5C2014%5C05-28-14.docx))

 5/29/2014 Ratified R 209

 6/2/2014 Signed By Governor

 6/6/2014 Effective date 06/02/14

 6/10/2014 Act No. 186

**VERSIONS OF THIS BILL**

[2/27/2013](file:///p%3A%5Cpprever%5C2013-14%5C440_20130227.docx)

[2/25/2014](file:///p%3A%5Cpprever%5C2013-14%5C440_20140225.docx)

[5/14/2014](file:///p%3A%5Cpprever%5C2013-14%5C440_20140514.docx)

[5/20/2014](file:///p%3A%5Cpprever%5C2013-14%5C440_20140520.docx)

(A186, R209, S440)

**AN ACT 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 THE JUVENILE FROM HARMING HIMSELF OR OTHERS 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; AND BY ADDING SECTION 24‑13‑425 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO KNOWINGLY, WITHOUT AUTHORITY, TO REMOVE, DESTROY, OR CIRCUMVENT THE OPERATION OF AN ELECTRONIC MONITORING DEVICE USED FOR DETENTION, A CONDITION OF BOND, PRETRIAL RELEASE, PROBATION, OR PAROLE OR TO REQUEST ANOTHER PERSON TO REMOVE, DESTROY, OR CIRCUMVENT THE OPERATION OF SUCH DEVICES AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS.**

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

**Use of restraints on juveniles in court**

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.”

**Unlawful to remove electronic monitoring devices used on defendants, penalty for violation**

SECTION 2. Article 5, Chapter 13, Title 24 of the 1976 Code is amended by adding:

 “Section 24‑13‑425. (A) For the purposes of this section:

 (1) ‘Electronic monitoring device’ includes any device ordered by a court or pursuant to any statute that is utilized to track the location of a person.

 (2) ‘Person’ includes any public or private agency or entity providing electronic monitoring services.

 (B) It is unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purpose of monitoring a person who is:

 (1) complying with the Home Detention Act as set forth in Article 15, Title 24;

 (2) wearing an electronic monitoring device as a condition of bond or pretrial release;

 (3) wearing an electronic monitoring device as a condition of probation, parole, or community supervision; or

 (4) wearing an electronic monitoring device as required by any other provision of law.

 (C) It shall be unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purposes described in subsection (B).

 (D) Any person who violates the provisions of this section shall be guilty of the misdemeanor offense of tampering with the operation of an electronic monitoring device and shall be imprisoned for not more than three years, or fined up to three thousand dollars, or both.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

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