Contents

[Summary 2](#_Toc499195360)

[Proposed Authorized Uses 3](#_Toc499195361)

The Ministry of Children and Youth Services (“the ministry”) is seeking public input on proposed regulations authorizing select uses of mechanical restraints under the *Child, Youth and Family Services Act, 2017* (CYFSA).

# Summary

The CYFSA adds a new restriction in Part II (Children’s and Young Persons’ Rights) that prohibits service providers and foster parents from using mechanical restraints on children and young persons except as Part VI (Youth Justice), Part VII (Extraordinary Measures), and the regulations authorize.

The CYFSA also adds a new definition of mechanical restraints: “mechanical restraints means a device, material or equipment that reduces the ability of a person to move freely, and includes handcuffs, flex cuffs, leg irons, restraining belts, belly chains and linking chains”.

The current *Child and Family Services Act, 1990* does not define mechanical restraints or impose restrictions on mechanical restraint use.

The proposed regulations outlined in this document will authorize select uses of mechanical restraints for all service providers and foster parents. The ministry is also proposing regulatory provisions specific to the use of mechanical restraints in secure treatment programs, and places of secure custody or places of secure temporary detention, which are posted separately.

The regulations proposed in this document are intended to authorize uses of mechanical restraints that promote and/or protect a child or young person’s health.

The ministry is seeking public input on the proposed regulations that would authorize select uses of mechanical restraints under the CYFSA. The proposed regulations have been informed by input that the ministry has received from partners, service providers and other stakeholders.

# Proposed Authorized Uses

The ministry is proposing to develop regulations authorizing select uses of mechanical restraints for all service providers and foster parents, in addition to the authorized uses in secure treatment programs and youth justice secure facilities.

1. Authorized uses

Service providers and foster parents are authorized to use mechanical restraints on children and young persons under the following conditions:

* The mechanical restraint is used for protective purposes, worn by the child or young person most of the time or at points in time to prevent or decrease personal injury or self-injurious behaviour, such as a safety harness or vest used in a motor vehicle for children or young persons who require more support than is provided by a regular seat belt, or
* The mechanical restraint is used for therapeutic purposes, such as a deep pressure device to assist the child or young person with sensory processing, or
* The mechanical restraint helps the child or young person position or improve balance or stability, such as a wheelchair positioning harness or lap belt, or
* The mechanical restraint aids in the medical treatment of the child or young person, such as straps to prevent the removal of an intravenous tube.

1. Rules governing use

Consent

The service provider or foster parent shall obtain consent from the child or young person to use the mechanical restraint. Where the child or young person does not have the capacity to provide their consent, the service provider or foster parent will obtain consent from the child or young person’s parent, legal guardian or substitute decision maker, as the case may be, on behalf of the child or young person.

Plan detailing appropriate use of the mechanical restraint

The service provider shall develop an individualized plan for the child or young person, made in writing, that sets out parameters for the use of the mechanical restraint, including, but not limited to:

* Purpose of use,
* The title or positions of persons who have the authority to use the mechanical restraint on the child or young person or release the child or young person from the mechanical restraint, and the training required by those persons,
* How the child or young person’s condition will be monitored and assessed when using the mechanical restraint, and
* Other alternative, less restrictive measures that are to be considered and/or implemented before the use of the mechanical restraint.

The child or young person and their parent, legal guardian and/or foster parent (with appropriate consent of the child or young person as may be required by the CYFSA or other legislation) will be involved in the development of this plan.

The plan will take into account the child or young person’s needs as set out in paragraph 3 of subsection 1 (2) of the CYFSA, which states: “Services to children and young persons should be provided in a manner that,

1. respects a child’s or young person’s need for continuity of care and for stable relationships within a family and cultural environment,
2. takes into account physical, emotional, spiritual, mental and developmental needs and differences among children and young persons,
3. takes into account a child’s or young person’s race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression,
4. takes into account a child’s or young person’s cultural and linguistic needs,
5. provides early assessment, planning and decision-making to achieve permanent plans for children and young persons in accordance with their best interests, and

vi. includes the participation of a child or young person, the child’s or young person’s parents and relatives and the members of the child’s or young person’s extended family and community, where appropriate.”

This plan will be regularly monitored, re-evaluated, and updated taking into account observations and/or concerns expressed by the child or young person and/or their parent, legal guardian, and/or foster parent.

Service provider policy

Service providers shall develop and maintain written policies regarding the use of mechanical restraints in accordance with the CYFSA and this regulation, including, but not limited to:

* The title or positions of persons who have the authority to use a mechanical restraint on a child or young person or release a child or young person from a mechanical restraint, and the training required by those persons,
* Alternative, less restrictive measures that are to be considered and/or implemented before the use of the mechanical restraint, and
* Protocols that must be followed in monitoring and assessing a child or young person’s condition when using the mechanical restraint.

Monthly and annual reviews

The service provider shall ensure that on a monthly and annual basis, a review of mechanical restraint use is undertaken, including:

* Whether the mechanical restraints were used in accordance with the CYFSA, this regulation, and the child or young person’s plan.
* Whether any changes or improvements to the child or young person’s plan, or the service provider’s policy or policies, may be required based on the findings of the review.
* Persons who provide direct care to the child or young person using the mechanical restraint will be involved in the monthly and annual review process.
* The service provider shall keep a written record of:
  + The date or dates on which the reviews were held,
  + The names of the persons who participated in the review, and
  + Any changes or improvements that were implemented as a result of the review.

1. Applicability of Regulations if a Service Provider does not Use Mechanical Restraints

If a service provider does not use mechanical restraints, these requirements do not apply, but the service provider’s policy must clearly indicate that mechanical restraints are not permitted to be used with respect to any child or young person who receives a service provided by the service provider, as well as the rationale for the no-restraint policy.