

1 Amend reengrossed bill, page 13, line 15, after "(1)(c)" insert "and
2 (1)(d)".

3 Page 13, after line 22 insert:

4 "(d) CONCERNING A CHILD WHO IS TEN YEARS OF AGE OR OLDER
5 BUT UNDER THIRTEEN YEARS OF AGE IF THE JUVENILE COURT DETERMINES
6 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD COMMITTED AN
7 OFFENSE LISTED IN SECTION 19-2.5-504, FOR THE PURPOSES OF
8 DETERMINING WHETHER THE PROSECUTION HAS OVERCOME THE
9 REBUTTABLE PRESUMPTION THAT THE CHILD WILL NOT BE PROSECUTED
10 PURSUANT TO SECTION 19-2.5-504, AND THEREAFTER ONLY IF THE
11 JUVENILE COURT DETERMINES THAT THE PROSECUTION HAS REBUTTED THE
12 PRESUMPTION THAT THE CHILD WILL NOT BE PROSECUTED.".

13 Page 17, after line 17 insert:

14 "(c) WHEN A LAW ENFORCEMENT OFFICER HAS CONTACT WITH A
15 CHILD WHO IS TEN YEARS OF AGE OR OLDER BUT UNDER THIRTEEN YEARS
16 OF AGE AND DETERMINES THERE IS PROBABLE CAUSE TO BELIEVE THAT
17 THE CHILD COMMITTED AN OFFENSE LISTED IN SECTION 19-2.5-504, THE
18 LAW ENFORCEMENT OFFICER SHALL PROVIDE A COPY OF THE INFORMATION
19 FORM FOR CHILDREN UNDER THIRTEEN YEARS OF AGE CREATED PURSUANT
20 TO SECTION 24-1.9-102.7 TO THE LOCAL DISTRICT ATTORNEY WITHIN
21 TWENTY-FOUR HOURS.".

22 Reletter succeeding paragraph accordingly.

23 Page 17, line 19, after "(6)(b)" insert "and (6)(c)".

24 Page 18, after line 25 insert:

25 "**SECTION 18.** In Colorado Revised Statutes, **add** 19-2.5-504 as
26 follows:

27 **19-2.5-504. Rebuttable presumption hearing for children ten**
28 **years of age or older but under thirteen years of age.** (1) WHEN THE
29 JUVENILE COURT DETERMINES THERE IS PROBABLE CAUSE TO BELIEVE
30 THAT THE CHILD COMMITTED AN ACT IN VIOLATION OF SECTION 18-3-402,
31 THERE IS A PRESUMPTION THAT THE CHILD SHALL NOT BE PROSECUTED
32 AND INSTEAD SHALL BE REFERRED TO THE LOCAL COLLABORATIVE
33 MANAGEMENT PROGRAM CREATED PURSUANT TO SECTION 24-1.9-102.
34 THIS PRESUMPTION MAY BE REBUTTED BY CLEAR AND CONVINCING
35 EVIDENCE THAT THE CHILD POSES A SUBSTANTIAL RISK TO ANOTHER AND
36 THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM WOULD BE

1 INSUFFICIENT TO PROTECT AGAINST SUCH RISK.

2 (2) THE DISTRICT ATTORNEY MAY FILE A MOTION WITH THE COURT
3 REQUESTING A REBUTTABLE PRESUMPTION HEARING PURSUANT TO THIS
4 SECTION WITHIN FOURTEEN DAYS AFTER THE DISTRICT ATTORNEY
5 RECEIVES THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS
6 OF AGE CREATED PURSUANT TO SECTION 24-1.9-102.7. THE DISTRICT
7 ATTORNEY SHALL CONSULT WITH THE VICTIM OR VICTIM'S DESIGNEE
8 BEFORE THE DISTRICT ATTORNEY FILES A MOTION WITH THE COURT. THE
9 DISTRICT ATTORNEY MAY OVERCOME THE PRESUMPTION DESCRIBED IN
10 SUBSECTION (1) OF THIS SECTION IF THE DISTRICT ATTORNEY SHOWS BY
11 CLEAR AND CONVINCING EVIDENCE THAT PROSECUTION OF THE CHILD IS
12 NECESSARY BECAUSE THE CHILD POSES A SUBSTANTIAL RISK TO ANOTHER
13 AND THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM CREATED
14 PURSUANT TO SECTION 24-1.9-102 WOULD BE INSUFFICIENT TO PROTECT
15 AGAINST SUCH RISK.

16 (3) THE COURT MUST HOLD A HEARING WITHIN SEVEN DAYS AFTER
17 RECEIVING THE DISTRICT ATTORNEY'S MOTION REQUESTING A REBUTTABLE
18 PRESUMPTION HEARING. THE COURT MAY ORDER A CONTINUATION OF THE
19 HEARING FOR UP TO TWENTY-EIGHT ADDITIONAL DAYS AT THE REQUEST
20 OF THE CHILD, OR, IF THERE IS GOOD CAUSE SHOWN, THE COURT MAY
21 EXTEND BEYOND THE TWENTY-EIGHT DAYS.

22 (4) AT A REBUTTABLE PRESUMPTION HEARING, THE CHILD SHALL
23 BE REPRESENTED BY COUNSEL. IF THE CHILD HAS NOT RETAINED THE
24 CHILD'S OWN COUNSEL, THE COURT SHALL APPOINT THE OFFICE OF THE
25 STATE PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT, THE OFFICE OF
26 ALTERNATE DEFENSE COUNSEL TO REPRESENT THE CHILD. THIS
27 APPOINTMENT CONTINUES IF THE COURT APPOINTS THE OFFICE OF THE
28 STATE PUBLIC DEFENDER OR THE OFFICE OF ALTERNATE DEFENSE COUNSEL
29 PURSUANT TO SECTION 19-2.5-605 (2)(a) UNLESS:

30 (a) THE CHILD RETAINS THE CHILD'S OWN COUNSEL; OR
31 (b) THE CHILD MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY
32 WAIVER OF THE RIGHT TO COUNSEL, AS DESCRIBED IN SECTION 19-2.5-605
33 (2)(c).

34 (5) AT THE REBUTTABLE PRESUMPTION HEARING, THE COURT
35 SHALL PROVIDE THE DISTRICT ATTORNEY AND CHILD AN OPPORTUNITY TO
36 PRESENT THE COURT WITH INFORMATION PERTINENT TO THE REBUTTABLE
37 PRESUMPTION. INFORMATION OFFERED TO THE COURT PURSUANT TO THIS
38 SECTION MAY BE PROVIDED TO THE COURT WITHOUT REGARD TO WHETHER
39 IT WOULD OTHERWISE BE ADMISSIBLE UNDER THE RULES OF EVIDENCE IF
40 IT IS RELEVANT AND RELIABLE. THE CHILD SHALL NOT SUBPOENA A VICTIM
41 OR VICTIMS IN THE CASE.

42 (6) AFTER THE REBUTTABLE PRESUMPTION HEARING, IF THE COURT
43 DETERMINES THAT THE PROSECUTION HAS REBUTTED THE PRESUMPTION

1 THAT THE CHILD WILL NOT BE PROSECUTED BY CLEAR AND CONVINCING
2 EVIDENCE THAT THE CHILD POSES A SUBSTANTIAL RISK TO ANOTHER, AND
3 THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM CREATED PURSUANT
4 TO SECTION 24-1.9-102 WOULD BE INSUFFICIENT TO PROTECT AGAINST
5 SUCH RISK, THE CHILD MAY BE PROSECUTED PURSUANT TO SECTION
6 19-2.5-103 (1)(d). IF THE COURT DETERMINES THAT THE PROSECUTION
7 HAS NOT MET THIS BURDEN, PROSECUTION MUST NOT PROCEED, AND THE
8 CHILD SHALL BE REFERRED TO THE LOCAL COLLABORATIVE MANAGEMENT
9 PROGRAM. THE COURT SHALL BASE ITS DETERMINATION ON WHETHER THE
10 PRESUMPTION HAS BEEN PROPERLY REBUTTED BASED ON THE SPECIFIC
11 FACTS AND CIRCUMSTANCES APPLICABLE TO THE JUVENILE.

12 (7) FOR CHILDREN TEN YEARS OF AGE OR OLDER BUT UNDER
13 THIRTEEN YEARS OF AGE WHO ALLEGEDLY ENGAGED IN AN OFFENSE
14 DESCRIBED IN SUBSECTION (1) OF THIS SECTION, IF THE DISTRICT
15 ATTORNEY DOES NOT FILE A MOTION FOR A REBUTTABLE PRESUMPTION
16 HEARING WITHIN FOURTEEN DAYS AFTER THE DISTRICT ATTORNEY
17 RECEIVES THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS
18 OF AGE CREATED PURSUANT TO SECTION 24-1.9-102.7, THE DISTRICT
19 ATTORNEY SHALL REFER THE CHILD TO THE LOCAL COLLABORATIVE
20 MANAGEMENT PROGRAM CREATED PURSUANT TO SECTION 24-1.9-102 BY
21 FORWARDING THE INITIAL FORM FOR CHILDREN UNDER THIRTEEN YEARS
22 OF AGE TO THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM. AFTER
23 THE FOURTEEN-DAY PERIOD HAS PASSED, THE CHILD SHALL NOT BE
24 SUBSEQUENTLY PROSECUTED FOR THE INCIDENT DESCRIBED ON THE FORM
25 FOR CHILDREN UNDER THIRTEEN YEARS OF AGE.

26 Rerumber succeeding sections accordingly.

27 Page 52, line 8, strike "Sections 23, 24, 26, and 34" and substitute
28 "Sections 24, 25, 27, and 35".

29 Page 52, line 9, strike "28" and substitute "29".

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