



**Report to the
Colorado General Assembly**

**Juvenile Defense Attorney
Interim Committee**

Prepared by

*The Colorado Legislative Council
Research Publication No. 629
December 2013*

Juvenile Defense Attorney Interim Committee

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December 2013

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ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
E-mail: lcs.ga@state.co.us

303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2013

To Members of the Sixty-ninth General Assembly:

Submitted herewith is the final report of the Juvenile Defense Attorney Interim Committee. This committee was created pursuant to House Joint Resolution 13-1019. The purpose of this committee is to examine and make recommendations on current laws, procedures, and practices for the appointment of counsel, advisement of rights, and waivers of counsel for children in juvenile delinquency court.

At its meeting on November 14, 2013, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2014 session was approved.

Sincerely,

/s/ Senator Lucia Guzman
Chairman

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This report is also available on line at:

<http://www.colorado.gov/lcs/Juvenile>

Committee Charge

Pursuant to House Joint Resolution 13-1019, the Juvenile Defense Attorney Interim Committee was charged with studying and addressing the following topics:

- current laws, procedures, and practices for the appointment of counsel, advisement of rights, and waivers of counsel for children in juvenile delinquency court;
- the role of defense counsel as distinct from the role of a guardian ad litem and the scope of the right to counsel;
- current laws, procedures, and guidelines for the determination of whether a child is indigent for the purposes of providing court-appointed counsel;
- methods for improving professionalism in the practice of juvenile defense;
- the impact of inadequate access to counsel on minority, immigrant, and disabled children and children with mental health needs;
- funding attorneys to represent indigent children and the most efficient way to provide counsel to juveniles in delinquency proceedings; and
- the scope of public access to juvenile delinquency records, the laws and procedures for expunging juvenile adjudications, and the laws and procedures for petitioning for removal from the juvenile sex offender registry.

The committee was required to meet at least four times and permitted to meet up to six times during the 2013 interim. It was also allowed to form subcommittees as needed, resulting in the convening of a subcommittee to address the topic of records expungement.

The chair and vice-chair of the committee were authorized to jointly select up to ten persons to serve as nonvoting members of the committee within certain designated categories. These persons were required to have knowledge and experience in the areas of juvenile defense, juvenile delinquency court administration, and professionalism in the law, and were selected as follows:

- *Office of the State Public Defender:* Frances Brown, Deputy State Public Defender;
- *Juvenile defense attorneys:* Angela Brant, Deputy State Public Defender and Arapahoe County Juvenile Supervisor;
- *State Court Administrator's Office:* Patrick Brodhead, Colorado Judicial Branch legislative liaison;
- *Juvenile court judges and magistrates:* Magistrate Rebecca Koppes-Conway, 19th Judicial District;
- *Youth and parents of youth previously involved in the juvenile court system:* Feliciana Lilgerose (parent);
- *District attorneys:* Peggy Jessel, Deputy District Attorney, 20th Judicial District;
- *Office of the Child's Representative:* Linda Weinerman, executive director;
- *Community victim rights organizations:* Benita Martin, 2nd Judicial District Attorney's Office Director of Juvenile Diversion, nominated by the Colorado Organization for Victim Assistance and the Colorado Coalition Against Sexual Assault;
- *Community organizations:* Judge Jack Smith, nominated by the Denver Inner City Parish; and
- *Other:* Kim Dvorchak, executive director, Colorado Juvenile Defender Coalition.



Committee Activities

The committee held six meetings during the 2013 interim. During this time, it heard presentations from representatives of the National Juvenile Defender Center, the Colorado Juvenile Defender Coalition (CJDC), parents and youth involved in the juvenile justice system, the Division of Youth Corrections, current and former judicial officers, public defenders, district attorneys, representatives of juvenile defense programs in other states, the National Conference of State Legislatures, and staff from the Office of Legislative Legal Services and Legislative Council Staff on a wide range of subjects, including:

- access to and quality of juvenile representation;
- the juvenile adjudication process;
- expungement of records;
- truancy; and
- the juvenile justice systems and practices of other states.

Three bills and one resolution were drafted at the request of the committee, and the committee ultimately recommended that two bills and one resolution be forwarded to the Legislative Council Committee.

The following subsections discuss the Juvenile Defense Attorney Interim Committee's activities in the 2013 interim.

Overview of the National Juvenile Defender Center Assessment

The committee opened its proceedings with a presentation from Patricia Puritz, author of the National Juvenile Defender Center (NJDC) report "Colorado: An Assessment of Access to Counsel and Quality of Representation in Juvenile Delinquency Proceedings," which was published in 2012. The committee heard information about the phases of the assessment process and the report's findings, which raised concerns about: inadequate protections in place to limit waivers of counsel; group advisements; shackling of youth in the courtroom; the process for determining indigence; a lack of statewide standards for the early and timely appointment of counsel; and limited training and professional standards for practice in the juvenile justice community. Other committee discussion centered around the importance of early intervention, the relationship between school zero-tolerance policies and juvenile justice involvement, and the NJDC's recommendation to mandate juvenile defense specialization in Colorado.

Agencies and Departments Involved in the Juvenile Justice System in Colorado

The committee heard from a number of state and local agencies that are involved in the juvenile justice system, including the Office of the State Public Defender, the Office of the Alternate Defense Counsel, the Office of the Child's Representative, the Department of Human Services, Senate Bill 94 programs, district attorneys' offices, juvenile diversion programs, and the Judicial Branch. Table 1 provides a brief summary of the role of each entity in the juvenile justice system.



Table 1
Agencies and Departments involved in Colorado's Juvenile Justice System

Agency or Department	Local or State	Role in the Juvenile Justice System
District Attorneys' Offices	Local	District attorneys' offices review law enforcement referrals to decide whether to file charges in court. District attorneys are responsible for prosecuting juvenile delinquency cases. District attorneys' offices also have the option of diverting a case or requesting an informal adjustment. District attorneys' offices receive state funding for juvenile diversion programs.
Division of Youth Corrections	State	The Division of Youth Corrections within the Department of Human Services provides residential and nonresidential services for juveniles aged 10 through 21, including juvenile detention (prior to the adjudication of a case or for certain short-term sentences), commitment (after the adjudication of a criminal case), and parole.
Office of the Alternate Defense Counsel	State	The Office of the Alternate Defense Counsel provides representation in cases in which an individual is charged with a crime, is indigent, and the Office of the State Public Defender determines that an ethical conflict prevents a public defender from being appointed.
Office of the Child's Representative	State	The Office of the Child's Representative contracts with attorneys to serve as guardians ad litem (GALs) in dependency and neglect, delinquency, domestic relations, paternity, truancy, and probate cases. GALs are required to independently represent and advocate for a child's best interests. GALs are not equivalent to defense attorneys.
Office of the State Public Defender	State	The Office of the State Public Defender provides representation for individuals, whether juveniles or adults, who are charged with a crime and are indigent. Individuals seeking representation by a public defender must apply and meet certain criteria.
Judicial Branch	State, with variations among local judicial districts	Colorado's Judicial Branch includes the Colorado Supreme Court, the Colorado Court of Appeals, District Courts, and County Courts. Generally, juvenile cases are heard in district courts. There are 22 judicial districts in Colorado, and practices concerning juvenile cases may vary among the districts. For example, some districts have a designated juvenile court to hear all juvenile cases. The Probation Division within the Judicial Branch conducts a pre-sentence investigation and is responsible for supervising juveniles on probation. The Judicial Branch also provides a "Bench Book" to offer guidance to judges throughout the state on the proper form of advisements, but judges are allowed to tailor these forms to fit their needs.
Senate Bill 94 programs	State oversight, local implementation	Senate Bill 91-094 established a statewide grant initiative to provide community-based alternatives to detention for youth ages 10 to 17 involved in the juvenile justice system. The initiative provides structure and funding to local jurisdictions, and also funds a position in each judicial district to perform assessments on juveniles entering the juvenile justice system. The assessment process is the same in each judicial district.
Youthful Offender System	State	The Youthful Offender System within the Department of Corrections houses certain juvenile offenders who were charged and sentenced as adults.

Source: Legislative Council Staff



Overlap between the juvenile justice system and the child welfare system. In response to committee questions, the Department of Human Services provided data indicating that 70.7 percent of juveniles committed to the Division of Youth Corrections (DYC) in FY 2008-09 had received child welfare services in the previous three years. Of the youth in detention during that time period, approximately 28 percent had previously been removed from their home by the Division of Child Welfare and placed in out-of-home placements.

Overview of the Phases of a Juvenile Case

A panel of public defenders, district attorneys, judges, and other experts provided the committee with an overview of the phases of a juvenile case and examples of areas in which judicial district practices may vary. Juveniles can enter the juvenile justice system either through a summons (an order to appear in court) or a warrant (an order for arrest). Depending on the circumstances of a juvenile's situation, he or she may be screened according to the Juvenile Detention Screening and Assessment Guide. This screening determines whether a juvenile should be held in detention, released with services, or held in a shelter or other facility. If the screening determines that a juvenile should be held in detention, the court must hold a detention hearing within 48 hours (excluding weekends and holidays). After this hearing, a juvenile may be released with or without posting bail, placed in a shelter, placed in detention, or placed in a service program. The committee debated whether counsel should be appointed for juveniles prior to a detention hearing and also discussed whether the Office of the State Public Defender receives adequate notice prior to a detention hearing.

Juvenile justice process. Throughout the process, district attorneys investigate a case and consider whether to file charges or to divert the juvenile from the system through a diversion program or informal adjustment. If charges are filed, an advisement hearing is held to advise the juvenile and his or her guardian of their constitutional and legal rights, including the right to counsel. Other hearings may be held to determine probable cause, enter a plea, and begin an adjudicatory trial, if necessary. If a juvenile is adjudicated (the equivalent of being found guilty), he or she may be sentenced to:

- commitment to the DYC;
- county jail;
- detention;
- placement with a suitable guardian;
- probation;
- juvenile intensive supervision;
- a community accountability program;
- placement with social services or in a hospital;
- fines;
- restitution; or
- a treatment program.

Juveniles committed to the DYC have a mandatory six-month period of parole.

Judicial district resources. The committee paid particular attention to the differences between resources available in judicial districts serving large metropolitan areas, which may also have designated juvenile courts and attorneys who specialize in juvenile cases, and judicial districts



encompassing rural or mountain areas, which often do not. In some areas of the state, juvenile cases are heard on certain days and public defenders are always present. Other areas do not have designated days devoted to juvenile cases due to the small number of such cases. The committee also discussed opportunities for counsel to meet with juveniles, and debated whether teleconferencing initiatives could be expanded to include more consultations. The committee also explored whether juveniles are advised of the potential collateral consequences of their case during the process. In some jurisdictions, juveniles are given a list of potential collateral consequences, but it is generally the responsibility of an attorney to explain individual and specific collateral consequences to a juvenile. The committee noted that recent legislation and materials posted online by the Office of the State Public Defender address collateral consequences for adults, but not for juveniles.

Data concerning the juvenile justice system. At the committee's request, the Department of Human Services provided data related to detention and commitment to the DYC broken down by judicial district and ethnicity. Information concerning the most common offenses for which a juvenile was committed to DYC was also provided to the committee. The Department of Human Services indicated that in FY 2012-13, the top three most serious offenses for which juveniles were committed were assault, burglary and related offenses, and trespassing/tampering/criminal mischief. The Department of Human Services also provided information concerning the average daily population of detention facilities throughout the state and the average length of stay in detention facilities for juveniles from each judicial district.

Records Expungement Subcommittee

At the chair's request, a subcommittee was formed to study and report its findings concerning records expungement for juveniles. Benita Martin and Kim Dvorchak provided a brief summary of the subcommittee's discussions, noting that the group discussed the following topics:

- streamlining the expungement process, especially in cases of a deferred prosecution;
- making the expungement process more consistent across judicial districts;
- access to records following expungement; and
- victim notification when a juvenile petitions for expungement.

Ultimately, the subcommittee determined that further research was necessary prior to making any recommendations. The subcommittee indicated that it would ask the Juvenile Justice Task Force of the Colorado Commission on Criminal and Juvenile Justice to address the topics listed above and the outcomes of House Bill 13-1082, which made several changes to the process of expunging juvenile records.

Indigency Guidelines and the Appointment of Counsel

The committee received information from Legislative Council Staff and Carol Haller of the Colorado Judicial Branch regarding state-appointed counsel for indigent persons. State law requires that the Office of the State Public Defender represent indigent persons without charge. The Office of the State Public Defender determines whether a person is indigent based on financial guidelines established by the Colorado Supreme Court, using three factors:

- gross household income;



- household expenses compared to gross household income; and
- the criminal charge compared to assets which may be used to pay defense costs.

Parental refusal process. State law also permits the court to appoint counsel for a juvenile in situations in which his or her parent refuses to retain counsel or the court finds such representation is necessary to protect the interest of the juvenile or other parties involved in the case. The court may order the parent or guardian to reimburse the cost of representation if it does not find good cause for the refusal. An example of good cause includes when a family member is alleged to be the victim of the juvenile's actions. In parental refusal cases, the court appoints an attorney from a list, often the same list of attorneys contracted by the Office of Alternate Defense Counsel.

Presumption of indigency. The committee discussed whether a broad presumption of indigence for juveniles would ensure adequate representation for juveniles and how to fairly address recoupment from parents and juveniles who were not found to be indigent.

Waivers of counsel. Numerous discussions concerning waivers of counsel occurred over several meetings. Ms. Haller provided the committee with the Colorado Supreme Court waiver advisement guidelines and noted that every judge has the option to tailor the guidelines to fit the district's needs. Discussion focused primarily on whether a juvenile should be prevented from waiving counsel until after he or she had consulted with an attorney and whether other restrictions on waivers were necessary. Suggestions from the committee included separate advisements in hearings, detailed descriptions of collateral consequences, an age limit for waivers, and removal of the option to waive counsel for certain offenses.

Standards of Professionalism

Representatives from the Office of the State Public Defender, the Office of the Alternate Defense Counsel, and private practice attorneys presented information to the committee about professionalism standards for juvenile defense attorneys. The committee spoke about the differences between juvenile and adult cases and discussed possible ways to address juvenile defense specialization, noting that, outside of patent law, the Colorado Supreme Court does not certify or designate individual subject areas. Representatives from the Office of the State Public Defender discussed the juvenile defense continuing education classes it presents for employees and private attorneys, and also noted that promotion policies within the office have been changed to ensure that choosing to remain in juvenile justice does not prevent an attorney from advancing within the office. Representatives from the Office of the Alternate Defense Counsel noted that the contract attorneys are required to complete five hours of juvenile defense continuing education every year.

Court Rules and Their Modification

The committee devoted considerable discussion to the effects of state and federal law (including case law), Chief Justice directives, and court rules on Colorado's juvenile justice system. Ms. Haller from the Colorado Judicial Branch spoke to the committee about the process of creating and modifying court rules and the possibility of forming a committee to update the Colorado Rules of Juvenile Procedure. The committee discussed possible legislative avenues for amending the



juvenile court rules, noting that the rules are set by the Colorado Supreme Court. Discussion centered on the separation of powers between the governmental branches and the feasibility of a resolution requesting that the Chief Justice amend the rules, forms, or directives that structure the juvenile justice system.

Colorado Juvenile Defender Coalition Research

Representatives of the CJDC presented information on the CJDC's court-watching program, the intent of which was to try to understand why juveniles waive counsel and how the practices among Colorado's various counties and judicial districts may differ. The committee discussed the CJDC's findings, including observations that waiver rates were higher in the many counties without defense attorneys present at the juvenile's first appearance and that some consider the process to apply for an indigency determination to be cumbersome. The committee discussed concerns that juveniles are waiving counsel in many jurisdictions in the context of accepting a plea agreement without a full understanding of the collateral consequences.

Other States' Juvenile Defense Models

A number of sources provided information on other states during the course of several committee meetings. Legislative Council Staff and representatives from the CJDC each discussed research on legislation and the practices in other states. This research demonstrated that multiple states have a presumption of indigence for juveniles or provide for appointment of counsel from the first appearance through the time indigency status is determined. A panel of juvenile defense experts from Louisiana, Massachusetts, North Carolina, and Washington also presented information and responded to questions about the practices of their respective states, highlighting the systems for appointing counsel, providing ancillary support services, and the process for determining indigency.

Louisiana. Louisiana allows each parish to determine how to provide juvenile defense services within its jurisdiction. Within New Orleans, the state's largest parish, juvenile defense services are contracted to a nonprofit organization, which uses the positive youth development model. This model is premised on the interrelation of advocacy, assessment, case planning, referral for services, and case management. Within New Orleans, adoption of this model has resulted in savings for the state, reduced delinquency arrests, and led to declining average daily population rates for secure custody facilities. Indigency is established in statute as 200 percent of the federal poverty level, which results in very high rates of representation. Louisiana automatically appoints counsel in cases involving parental conflict.

Massachusetts. Massachusetts also utilizes the positive youth development model. As such, juvenile defense attorneys are certified as specialists and incorporate the delivery of supportive services to help juveniles obtain mental health or substance abuse counseling, housing, and education services, among others to ensure better long-term outcomes. Within the state, a central office provides defense counsel for about 25 percent of juvenile cases, with the remaining 75 percent handled by attorneys appointed by the court. Massachusetts does not confer a right to counsel following commitment to the juvenile corrections system, and it is uncommon for judges to permit waivers of counsel for juveniles.

North Carolina. North Carolina has a unique process for filing complaints and determining whether a case will be brought to trial. Within the state, this function is handled by a local juvenile justice office, rather than by the district attorney. However, if the local court counselor does not file a case, the victim may appeal to the district attorney. North Carolina automatically presumes indigency for juveniles and appoints counsel prior to the juvenile's first hearing. The state is somewhat unique, however, because it defines juveniles as those who are aged 15 or younger and juvenile defense services make up only about 3 percent of the statewide budget for attorney costs. Regarding professional standards, there is a voluntary juvenile defense specialization, which is recognized by the North Carolina State Bar.

Washington. Within Washington, there is no centralized public defense system and each county must establish its own requirements. Many counties hire defense counsel through contracts, although the Washington Supreme Court has promulgated rules to limit waivers of counsel, limit attorney caseloads, and establish minimal qualifications to represent juveniles. The state does not have a presumption of indigency, although there is a process for provisional appointments of counsel. Yakima County established a demonstration project whereby juveniles were appointed counsel to be present at the first appearance. Project outcomes have shown an increase in detention releases and parental involvement, resulting in cost savings.

Truancy

In addition to discussing detention and representation related to juvenile delinquency cases, the committee also addressed truancy proceedings. The Colorado School Attendance Law of 1963 establishes compulsory attendance requirements for children between the ages of 6 and 17, with exceptions for children enrolled in independent, parochial, or home-school options.

Judicial enforcement of attendance laws. Under Colorado law, court proceedings may be initiated to compel compliance with school attendance laws. A school district may only initiate court proceedings as a last resort and only if the child continues to be habitually truant after the school has created and implemented a plan to improve the child's attendance. If a school district initiates court proceedings, it is required to submit evidence related to the child's attendance record and the strategies used to improve it. A court may order a child to attend school. If the child does not comply with the order, the court may hold him or her in contempt and sentence the child to no more than five days in a juvenile detention facility. Staff research indicates that truancy filings have declined by 17.2 percent from FY 2007-08 through FY 2011-12.

Representation in truancy cases. The court may appoint counsel or a guardian ad litem for any child in a truancy proceeding. Staff research indicates that from FY 2007-08 through FY 2011-12, an attorney was involved in about 1.0 percent of cases, while a guardian ad litem was involved in about 15.0 percent of cases.

Detention in truancy cases. The committee also discussed the use of detention in truancy cases. Staff research indicates that from 2010 through 2012, detention admissions in truancy cases fell 6.5 percent.



Pursuant to federal regulations and the federal Juvenile Justice and Delinquency Prevention Act of 1974, status offenders are only permitted to be detained up to 24 hours, unless they are found to have violated a valid court order. Status offenders, which include juveniles in truancy proceedings, are juveniles charged with or adjudicated for conduct that would not be an offense if committed by an adult. The Division of Criminal Justice (DCJ) within the Colorado Department of Public Safety monitors the number of times that a juvenile is admitted to a detention center for a status offense. The DCJ also tracks the number of times an accused status offender is held for more than 24 hours in detention and the number of times an adjudicated status offender is sentenced to detention without a valid court order (both of which are violations). If a state's rate of detention violations exceeds federal guidelines, its federal funding may be reduced. According to a representative of the DCJ, Colorado's rate of detention violations has never resulted in a funding reduction. According to data provided by the DCJ, between 2010 and 2012, detention violations in Colorado fell by 55.7 percent.



Summary of Recommendations

As a result of its deliberations, the Juvenile Defense Attorney Interim Committee recommended two bills and one resolution for consideration in the 2014 legislative session.

Bill A — Defense Counsel for Juvenile Offenders

Bill A makes a number of changes to the provision of defense counsel for juveniles. Specifically, the bill:

- requires certain information about defense counsel to be included in a promise to appear or court summons for a juvenile;
- requires the screening team at a detention facility, temporary holding facility, or shelter facility to promptly notify the court, the district attorney, and the local office of the state public defender upon a juvenile's placement at the facility;
- requires the law enforcement agency that arrested the juvenile and the screening team to provide certain information to the court and to defense counsel;
- specifies that the court may not deem a guardian ad litem to be a substitute for defense counsel for the juvenile; and
- includes several provisions addressing detention hearings, the appointment of counsel, and waivers of counsel, which are explained in more detail below.

Detention hearings. Bill A requires a juvenile who is detained to be represented at the detention hearing by counsel. If the juvenile does not retain private counsel, he or she will be appointed an attorney from the Office of the State Public Defender or the Office of the Alternate Defense Counsel. This representation will continue unless the juvenile later retains private counsel or makes a knowing, intelligent, and voluntary waiver of the right to counsel.

Appointment of counsel. At a juvenile's first appearance before the court, the court must advise the juvenile of his or her constitutional and legal rights, including the right to counsel. The court must appoint counsel for the juvenile unless the juvenile has retained private counsel or makes a knowing, intelligent, and voluntary waiver of the right to counsel. This appointment continues until the court's jurisdiction is terminated, the juvenile retains counsel, or the juvenile makes a knowing, intelligent, and voluntary waiver of the right to counsel.

Under current law, the assets and income of the juvenile's parents or guardian are taken into account when determining whether a juvenile meets the indigency level to qualify for court-appointed counsel. Under Bill A, for purposes of applying for court-appointed counsel, only the assets and income of the juvenile are considered.

Waiver of counsel. Currently, state law is silent on the procedure for waiving counsel in juvenile cases, although case law does provide some guidance. Bill A specifies that the court may accept a waiver of counsel by a juvenile only if the juvenile:

- is of a sufficient maturity level to make a voluntary, knowing, and intelligent waiver;
- has consulted with counsel and understands the sentencing options available to the court;



- has not been forced by any other party into making the waiver;
- understands that the court will provide counsel for the juvenile; and
- understands the possible consequences that may result from an adjudication or conviction.

The bill states that the juvenile is the only party who may waive the right to counsel, and that he or she must consult with an attorney prior to doing so. If the juvenile is in the custody of the Colorado Department of Human Services or a county department of social services, a waiver will not be permitted. In addition, waivers are not allowed in any proceeding related to:

- a sexual offense;
- a crime of violence;
- an offense for which the juvenile will receive a mandatory sentence;
- an offense for which the juvenile is being charged as a repeat juvenile offender, aggravated juvenile offender, or mandatory sentence offender;
- a case in which the prosecutor has announced that he or she is seeking to file charges in adult court; or
- a case in which the prosecutor has announced that he or she is seeking to transfer the case to adult court.

Bill B — Social Workers for Juveniles

Bill B specifies that the Office of the State Public Defender may hire social workers to assist in defending juvenile defendants. Any report prepared by the social worker and submitted to the court by the juvenile's attorney must be considered as evidence in the proper disposition of the juvenile's case.

Resolution A — Request Judicial Action on Juvenile Defense

Resolution A requests that the Chief Justice of the Colorado Supreme Court take certain actions concerning the adjudication of juvenile delinquency cases. Specifically, the resolution requests that the Chief Justice:

- issue a directive to state judges to assign juvenile delinquency cases, to the extent practicable, to a single courtroom within each judicial district and to allow judges with juvenile dockets to remain in that rotation so that they may develop expertise in the handling of juvenile cases;
- convene a task force within the Judicial Branch to manage juvenile delinquency cases in a manner that includes best practices in: the education of judicial officers; docket rotation and assignment; management of juvenile delinquency cases; and regular educational opportunities for judicial officers relating to the science of juvenile and adolescent maturity and brain development; and
- establish a committee to review the Colorado Rules of Juvenile Procedure, juvenile court forms, and Chief Justice Directive 04-04, and make recommendations concerning any amendments that may be necessary to improve the juvenile justice system.



Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2013/13interim.htm

Meeting Date and Topics Discussed

July 30, 2013

- ◆ Overview of the committee's charge;
- ◆ National Juvenile Defender Center presentation on access to counsel and the quality of representation in juvenile delinquency proceedings in Colorado; and
- ◆ Panel presentation on the juvenile justice system in Colorado.

August 5, 2013

- ◆ Discussion concerning a subcommittee on records expungement;
- ◆ Overview of state law concerning indigency guidelines, the role of the Office of the State Public Defender, and the appointment of counsel;
- ◆ Panel presentation on the phases of a juvenile delinquency case;
- ◆ The roles of state agencies in Colorado's juvenile justice system; and
- ◆ Standards of professionalism for juvenile defense attorneys.

August 19, 2013

- ◆ Court rules and directives affecting Colorado's juvenile justice system;
- ◆ Procedures, statistics, and programs of the Colorado Division of Youth Corrections;
- ◆ Panel presentation on indigency determinations, waivers of counsel, parents' roles, and quality of representation in Colorado's juvenile justice system; and
- ◆ Recent juvenile defense legislation in other states.

September 25, 2013

- ◆ Panel presentation on juvenile defense models in other states;
- ◆ Experiences of parents and youth in Colorado's juvenile justice system;
- ◆ Colorado Juvenile Defender Coalition research on indigency and appointment of counsel in Colorado;
- ◆ State law and data on truancy proceedings; and
- ◆ Discussion of the process for requesting legislation and topics of potential legislation.



October 4, 2013

- ◆ Report from the Records Expungement Subcommittee; and
- ◆ Discussion of proposed legislation

October 28, 2013

- ◆ Discussion of proposed legislation; and
- ◆ Final action on draft legislation.



Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 14-0213.01 Richard Sweetman x4333

HOUSE BILL

HOUSE SPONSORSHIP

Kagan, Lee

SENATE SPONSORSHIP

Guzman, Ulibarri

House Committees

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROVISION OF DEFENSE COUNSEL TO JUVENILE
102 OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

Juvenile Defense Attorney Interim Committee. A promise to appear in court served upon a juvenile and the juvenile's parent, guardian, or legal custodian shall state, in clear language that is understandable and appropriate to a juvenile:

- That the juvenile has the right to have counsel;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.

DRAFT *Dashes through the words indicate deletions from existing statute.*

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- That counsel will be appointed for the juvenile if the juvenile or the juvenile's parent, guardian, or legal custodian lacks adequate resources to retain counsel or refuses to retain counsel for the juvenile;
- That, if the juvenile chooses to retain his or her own counsel, then the juvenile and the juvenile's parent, guardian, or legal custodian are advised to choose counsel that is experienced in representing juveniles in the juvenile justice system; and
- The contact information for the local office of the state public defender (OSPD).

When a juvenile is placed in a detention facility, a temporary holding facility, or a shelter facility designated by the court, the screening team shall promptly so notify the court, the district attorney, and the local office of the OSPD.

A juvenile who is detained shall be represented at the detention hearing by counsel. If the juvenile has not retained his or her own counsel, he or she shall be represented by the OSPD or, in the case of a conflict, by the office of alternate defense counsel (OADC). This representation shall continue unless:

- The juvenile retains his or her own counsel; or
- The juvenile is charged with an offense for which the juvenile may waive counsel and the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel.

The scheduled time for a detention hearing must allow a juvenile's defense counsel sufficient time to consult with the juvenile before the detention hearing. This consultation may be performed by secure electronic means if the conditions under which the electronic consultation is held allow the consultation to be confidential. The law enforcement agency that arrested the juvenile shall promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall promptly provide to the court and to defense counsel any screening material prepared pursuant to the juvenile's arrest.

A detention hearing shall not be combined with a preliminary hearing or a first advisement. Due to the limited scope of a detention hearing, the representation of a juvenile by appointed counsel at a detention hearing does not, by itself, create a conflict in the event that such counsel is subsequently appointed to represent another individual whose case is related to the juvenile's case.

A summons issued by a court to a juvenile shall:

- Explain that the court will appoint counsel for the juvenile if the juvenile does not retain his or her own counsel; and
- State the contact information for the OSPD that serves the

jurisdiction of the court.

At a juvenile's first appearance before the court, after the detention hearing or at the first appearance if the juvenile appears on a summons, the court shall advise the juvenile of his or her constitutional and legal rights, including the right to counsel. The court shall appoint the OSPD or, in the case of a conflict, the OADC for the juvenile unless the juvenile has retained his or her own counsel or the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel.

Any decision to waive the right to counsel shall be made by the juvenile himself or herself after consulting with his or her defense counsel. The court may accept a waiver of counsel by a juvenile only after finding that:

- The juvenile is of a sufficient maturity level to make a voluntary, knowing, and intelligent waiver of the right to counsel;
- The juvenile has consulted with counsel and understands the sentencing options that will be available to the court in the event of an adjudication or conviction;
- The juvenile has not been coerced into making the waiver;
- The juvenile understands that the court will provide counsel if the juvenile's parent, guardian, or legal custodian is unable or unwilling to obtain counsel for the juvenile; and
- The juvenile understands the possible consequences that may result from an adjudication or conviction of the offense with which the juvenile is charged.

The court shall not accept a juvenile's waiver of his or her right to counsel in any proceeding relating to a case in which the juvenile is charged with:

- A sexual offense;
- A crime of violence;
- An offense for which the juvenile will receive a mandatory sentence upon his or her conviction of the offense; or
- An offense for which the juvenile is being charged as a repeat juvenile offender, as an aggravated juvenile offender, or as a mandatory sentence offender.

The court shall not accept a juvenile's attempt to waive his or her right to counsel if the prosecuting attorney is seeking direct file proceedings or a transfer proceeding or if the juvenile is in the custody of the state department of human services or a county department of social services.

For purposes of applying for court-appointed counsel, the indigence of a juvenile is determined only by considering the juvenile's assets and income.

The appointment of counsel for a juvenile offender shall continue

until the court's jurisdiction is terminated, the juvenile or the juvenile's parent, guardian, or legal custodian retains counsel for the juvenile, or the juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.

A court shall not deem a guardian ad litem who is appointed by the court for a child in a delinquency proceeding to be a substitute for defense counsel for the juvenile.

The OSPD, before determining indigency, may provide limited representation to juveniles in detention hearings or adult defendants in custody who cannot post or are not allowed bond.

The OSPD, the OADC, and the judicial branch shall annually report certain data concerning juvenile delinquency proceedings.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 19-2-507, **amend** (5) as follows:

19-2-507. Duty of officer - screening teams - notification - release or detention. (5) (a) As an alternative to taking a juvenile into temporary custody pursuant to subsections (1), (3), and (4) of this section, a law enforcement officer may, if authorized by the establishment of a policy that permits such service by order of the chief judge of the judicial district or the presiding judge of the Denver juvenile court, which policy is established after consultation between such judge and the district attorney and law enforcement officials in the judicial district, serve a written promise to appear for juvenile proceedings based on any act that would constitute a felony, misdemeanor, or petty offense upon the juvenile and the juvenile's parent, guardian, or legal custodian.

(b) ~~Such~~ A promise to appear ~~SERVED~~ pursuant to PARAGRAPH (a) OF this subsection (5) ~~shall~~ MUST state any charges against the juvenile and the date, time, and place where such juvenile shall be required to answer such charges. THE PROMISE TO APPEAR MUST ALSO STATE, IN CLEAR LANGUAGE THAT IS UNDERSTANDABLE AND APPROPRIATE TO A

1 JUVENILE:

2 (I) THAT THE JUVENILE HAS THE RIGHT TO HAVE THE ASSISTANCE
3 OF COUNSEL;

4 (II) THAT COUNSEL WILL BE APPOINTED FOR THE JUVENILE IF THE
5 JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
6 LACKS ADEQUATE RESOURCES TO RETAIN COUNSEL OR REFUSES TO RETAIN
7 COUNSEL FOR THE JUVENILE;

8 (III) THAT IF THE JUVENILE CHOOSES TO RETAIN HIS OR HER OWN
9 COUNSEL, THEN THE JUVENILE AND THE JUVENILE'S PARENT, GUARDIAN,
10 OR LEGAL CUSTODIAN ARE ADVISED TO CHOOSE COUNSEL THAT IS
11 EXPERIENCED IN REPRESENTING JUVENILES IN THE JUVENILE JUSTICE
12 SYSTEM; AND

13 (IV) THE CONTACT INFORMATION FOR THE LOCAL OFFICE OF THE
14 STATE PUBLIC DEFENDER.

15 (c) The promise to appear shall be signed by the juvenile. The
16 promise to appear shall be served upon the juvenile's parent, guardian, or
17 legal custodian by personal service or by certified mail, return receipt
18 requested. The date established for the juvenile and the juvenile's parent,
19 guardian, or legal custodian to appear shall not be earlier than seven days
20 nor later than thirty days after the promise to appear is served upon both
21 the juvenile and the juvenile's parent, guardian, or legal custodian.

22 **SECTION 2.** In Colorado Revised Statutes, 19-2-508, **amend** (2),
23 (3) (a) (I), (3) (a) (II), and (3) (a) (III) introductory portion; and **add** (2.5)
24 and (3) (a) (I.5) as follows:

25 **19-2-508. Detention and shelter - hearing - time limits -**
26 **findings - review - confinement with adult offenders - restrictions.**

27 (2) When a juvenile is placed in a detention facility, in a temporary
28 holding facility, or in a shelter facility designated by the court, the

1 screening team shall promptly so notify the court, THE DISTRICT
2 ATTORNEY, AND THE LOCAL OFFICE OF THE STATE PUBLIC DEFENDER. The
3 screening team shall also notify a parent or legal guardian or, if a parent
4 or legal guardian cannot be located within the county, the person with
5 whom the juvenile has been residing and inform him or her of the right
6 to a prompt hearing to determine whether the juvenile is to be detained
7 further. The court shall hold ~~such~~ THE detention hearing within forty-eight
8 hours, excluding Saturdays, Sundays, and legal holidays. FOR A JUVENILE
9 BEING HELD IN DETENTION ON A WARRANT FOR VIOLATING A VALID COURT
10 ORDER ON A STATUS OFFENSE, THE COURT SHALL HOLD THE DETENTION
11 HEARING WITHIN TWENTY-FOUR HOURS, EXCLUDING SATURDAYS,
12 SUNDAYS, AND LEGAL HOLIDAYS.

13 (2.5) A JUVENILE WHO IS DETAINED PURSUANT TO SUBSECTION (2)
14 OF THIS SECTION SHALL BE REPRESENTED AT THE DETENTION HEARING BY
15 COUNSEL. IF THE JUVENILE HAS NOT RETAINED HIS OR HER OWN COUNSEL,
16 HE OR SHE SHALL BE REPRESENTED BY THE OFFICE OF THE STATE PUBLIC
17 DEFENDER OR, IN THE CASE OF A CONFLICT, BY THE OFFICE OF ALTERNATE
18 DEFENSE COUNSEL. THIS REPRESENTATION SHALL CONTINUE UNLESS:

- 19 (a) THE JUVENILE RETAINS HIS OR HER OWN COUNSEL; OR
20 (b) THE JUVENILE IS CHARGED WITH AN OFFENSE FOR WHICH THE
21 JUVENILE MAY WAIVE COUNSEL AND THE JUVENILE HAS MADE A KNOWING,
22 INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL,
23 AS DESCRIBED IN SECTION 19-2-706 (2) (c).

24 (3) (a) (I) A juvenile taken into custody pursuant to this article and
25 placed in a detention or shelter facility or a temporary holding facility
26 ~~shall be~~ IS entitled to a hearing within forty-eight hours, excluding
27 Saturdays, Sundays, and legal holidays, of such placement to determine
28 if he or she should be detained. THE TIME OF THE DETENTION HEARING

1 MUST ALLOW DEFENSE COUNSEL SUFFICIENT TIME TO CONSULT WITH THE
2 JUVENILE BEFORE THE DETENTION HEARING. THIS CONSULTATION MAY BE
3 PERFORMED BY SECURE ELECTRONIC MEANS IF THE CONDITIONS UNDER
4 WHICH THE ELECTRONIC CONSULTATION IS HELD ALLOW THE
5 CONSULTATION TO BE CONFIDENTIAL. The time in which the hearing shall
6 be held may be extended for a reasonable time by order of the court upon
7 good cause shown.

8 (I.5) THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE
9 JUVENILE SHALL PROMPTLY PROVIDE TO THE COURT AND TO DEFENSE
10 COUNSEL THE AFFIDAVIT SUPPORTING PROBABLE CAUSE FOR THE ARREST
11 AND THE ARREST REPORT, IF THE ARREST REPORT IS AVAILABLE, AND THE
12 SCREENING TEAM SHALL PROMPTLY PROVIDE TO THE COURT AND TO
13 DEFENSE COUNSEL ANY SCREENING MATERIAL PREPARED PURSUANT TO
14 THE JUVENILE'S ARREST.

15 (II) The ~~primary purpose~~ ONLY PURPOSES of a detention hearing
16 ~~shall be~~ ARE to determine if a juvenile should be detained further and to
17 define conditions under which he or she may be released, if his or her
18 release is appropriate. A detention hearing shall not be ~~considered~~
19 COMBINED WITH a preliminary hearing or a first advisement. DUE TO THE
20 LIMITED SCOPE OF A DETENTION HEARING, THE REPRESENTATION OF A
21 JUVENILE BY APPOINTED COUNSEL AT A DETENTION HEARING DOES NOT,
22 BY ITSELF, CREATE A CONFLICT IN THE EVENT THAT SUCH COUNSEL IS
23 SUBSEQUENTLY APPOINTED TO REPRESENT ANOTHER INDIVIDUAL WHOSE
24 CASE IS RELATED TO THE JUVENILE'S CASE.

25 (III) With respect to this section, the court may further detain the
26 juvenile ONLY if the court ~~is satisfied~~ FINDS from the information
27 provided at the hearing that the juvenile is a danger to himself or herself
28 or to the community. Any information having probative value shall be

1 received regardless of its admissibility under the rules of evidence. In
2 determining whether a juvenile requires detention, the court shall consider
3 any record of any prior adjudications of the juvenile. There shall be a
4 rebuttable presumption that a juvenile is a danger to himself or herself or
5 to the community if:

6 **SECTION 3.** In Colorado Revised Statutes, 19-2-514, **amend** (1)
7 as follows:

8 **19-2-514. Summons - issuance - contents - service.** (1) After a
9 petition has been filed, the court shall promptly issue a summons reciting
10 briefly the substance of the petition. THE COURT SHALL PROVIDE A COPY
11 OF THE SUMMONS TO THE OFFICE OF THE STATE PUBLIC DEFENDER. The
12 summons shall:

13 (a) Set forth the constitutional and legal rights of the juvenile,
14 including the right to have an attorney present at the hearing on the
15 petition;

16 (b) EXPLAIN THAT THE COURT WILL APPOINT COUNSEL FOR THE
17 JUVENILE IF THE JUVENILE DOES NOT RETAIN HIS OR HER OWN COUNSEL;
18 AND

19 (c) STATE THE CONTACT INFORMATION FOR THE OFFICE OF THE
20 STATE PUBLIC DEFENDER THAT SERVES THE JURISDICTION OF THE COURT.

21 **SECTION 4.** In Colorado Revised Statutes, 19-2-706, **amend** (1)
22 and (2) as follows:

23 **19-2-706. Advisement - right to counsel - waiver of right to**
24 **counsel.** (1) At the JUVENILE'S first appearance before the court, after the
25 ~~filing of a petition~~ DETENTION HEARING OR AT THE FIRST APPEARANCE IF
26 THE JUVENILE APPEARS ON A SUMMONS, THE COURT SHALL ADVISE the
27 juvenile and his or her parents, guardian, or other legal custodian ~~shall be~~
28 ~~advised by the court of their~~ THE JUVENILE'S constitutional RIGHTS and

1 legal rights as set forth in rule 3 of the Colorado rules of juvenile
2 procedure, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO COUNSEL.
3 ~~Such~~ THE advisement shall include the possibility of restorative justice
4 practices, including victim-offender conferences if restorative justice
5 practices are available in the jurisdiction. The advisement regarding
6 restorative justice practices does not establish any right to restorative
7 justice practices on behalf of the juvenile.

8 (2) (a) ~~If the juvenile or his or her parents, guardian, or other legal~~
9 ~~custodian requests counsel and the juvenile or his or her parents,~~
10 ~~guardian, or other legal custodian is found to be without sufficient~~
11 ~~financial means, or the juvenile's parents, guardian, or other legal~~
12 ~~custodian refuses to retain counsel for said juvenile, The court shall~~
13 ~~appoint counsel~~ THE OFFICE OF THE STATE PUBLIC DEFENDER OR, IN THE
14 CASE OF A CONFLICT, THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL
15 for the juvenile UNLESS:

- 16 (I) THE JUVENILE HAS RETAINED HIS OR HER OWN COUNSEL; OR
17 (II) THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
18 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
19 PARAGRAPH (c) OF THIS SUBSECTION (2).

20 (b) (I) ~~If the court appoints counsel for the juvenile because of the~~
21 ~~refusal of the parents, guardian, or other legal custodian to retain counsel~~
22 ~~for the juvenile, the parents, guardian, or legal custodian, other than a~~
23 ~~county department of social services or the department of human services,~~
24 ~~shall be ordered to reimburse the court for the cost of the counsel unless~~
25 ~~the court finds there was good cause for such refusal.~~ ONLY THE JUVENILE
26 HIMSELF OR HERSELF, AFTER CONSULTING WITH HIS OR HER DEFENSE
27 COUNSEL, MAY WAIVE THE RIGHT TO COUNSEL.

28 (II) FOR PURPOSES OF APPLYING FOR COURT-APPOINTED COUNSEL,

1 THE INDIGENCE OF A JUVENILE IS DETERMINED ONLY BY CONSIDERING THE
2 JUVENILE'S ASSETS AND INCOME.

3 (c) EXCEPT AS DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION
4 (2), the court may ~~appoint counsel without such request if it deems~~
5 ~~representation by counsel necessary to protect the interest of the juvenile~~
6 ~~or of other parties.~~ ACCEPT A WAIVER OF COUNSEL BY A JUVENILE ONLY
7 AFTER FINDING ON THE RECORD, BASED ON A DIALOGUE CONDUCTED WITH
8 THE JUVENILE AND THE JUVENILE'S COUNSEL, THAT:

9 (I) THE JUVENILE IS OF A SUFFICIENT MATURITY LEVEL TO MAKE
10 A VOLUNTARY, KNOWING, AND INTELLIGENT WAIVER OF THE RIGHT TO
11 COUNSEL;

12 (II) THE JUVENILE HAS CONSULTED WITH COUNSEL AND
13 UNDERSTANDS THE SENTENCING OPTIONS THAT WILL BE AVAILABLE TO
14 THE COURT IN THE EVENT OF AN ADJUDICATION OR CONVICTION OF THE
15 OFFENSE WITH WHICH THE JUVENILE IS CHARGED;

16 (III) THE JUVENILE HAS NOT BEEN COERCED BY ANY OTHER PARTY,
17 INCLUDING, BUT NOT LIMITED TO, THE JUVENILE'S PARENT, GUARDIAN, OR
18 LEGAL CUSTODIAN, INTO MAKING THE WAIVER;

19 (IV) THE JUVENILE UNDERSTANDS THAT THE COURT WILL PROVIDE
20 COUNSEL FOR THE JUVENILE IF THE JUVENILE'S PARENT, GUARDIAN, OR
21 LEGAL CUSTODIAN IS UNABLE OR UNWILLING TO OBTAIN COUNSEL FOR THE
22 JUVENILE; AND

23 (V) THE JUVENILE UNDERSTANDS THE POSSIBLE CONSEQUENCES
24 THAT MAY RESULT FROM AN ADJUDICATION OR CONVICTION OF THE
25 OFFENSE WITH WHICH THE JUVENILE IS CHARGED, WHICH CONSEQUENCES
26 MAY OCCUR IN ADDITION TO THE ACTUAL ADJUDICATION OR CONVICTION
27 ITSELF.

28 (d) THE COURT SHALL NOT ACCEPT A JUVENILE'S WAIVER OF HIS OR

1 HER RIGHT TO COUNSEL:

2 (I) IN ANY PROCEEDING RELATING TO A CASE IN WHICH THE
3 JUVENILE IS CHARGED WITH:

4 (A) A SEXUAL OFFENSE DESCRIBED IN PART 4 OF ARTICLE 3 OF
5 TITLE 18, C.R.S.;

6 (B) A CRIME OF VIOLENCE DESCRIBED IN SECTION 18-1.3-406 (2),
7 C.R.S.;

8 (C) AN OFFENSE FOR WHICH THE JUVENILE WILL RECEIVE A
9 MANDATORY SENTENCE UPON HIS OR HER CONVICTION OF THE OFFENSE;
10 OR

11 (D) AN OFFENSE FOR WHICH THE JUVENILE IS BEING CHARGED AS
12 A REPEAT JUVENILE OFFENDER, AS DESCRIBED IN SECTION 19-2-516 (2), AS
13 AN AGGRAVATED JUVENILE OFFENDER, AS DESCRIBED IN SECTION 19-2-516
14 (4), OR AS A MANDATORY SENTENCE OFFENDER, AS DESCRIBED IN SECTION
15 19-2-908 (1) (a);

16 (II) IF THE PROSECUTING ATTORNEY HAS ANNOUNCED THAT HE OR
17 SHE IS SEEKING DIRECT FILE PROCEEDINGS PURSUANT TO SECTION
18 19-2-517;

19 (III) IF THE PROSECUTING ATTORNEY HAS ANNOUNCED THAT HE OR
20 SHE IS SEEKING A TRANSFER PROCEEDING PURSUANT TO SECTION 19-2-518;
21 OR

22 (IV) IF THE JUVENILE IS IN THE CUSTODY OF THE STATE
23 DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL
24 SERVICES.

25 ~~(d)~~ (e) The appointment of counsel pursuant to this subsection (2)
26 shall continue until:

27 (I) ~~such time as~~ The court's jurisdiction is terminated;

28 (II) THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR

1 LEGAL CUSTODIAN RETAINS COUNSEL FOR THE JUVENILE; or
2 (III) ~~until such time as the court finds that the juvenile or his or~~
3 ~~her parents, guardian, or other legal custodian has sufficient financial~~
4 ~~means to retain counsel or that the juvenile's parents, guardian, or other~~
5 ~~legal custodian no longer refuses to retain counsel for the juvenile~~ THE
6 COURT FINDS THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
7 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
8 PARAGRAPH (c) OF THIS SUBSECTION (2).

9 **SECTION 5.** In Colorado Revised Statutes, 19-1-111, **add** (2.5)
10 as follows:

11 **19-1-111. Appointment of guardian ad litem.** (2.5) A COURT
12 SHALL NOT DEEM A GUARDIAN AD LITEM WHO IS APPOINTED BY THE COURT
13 FOR A JUVENILE IN A DELINQUENCY PROCEEDING PURSUANT TO
14 SUBSECTION (2) OF THIS SECTION TO BE A SUBSTITUTE FOR DEFENSE
15 COUNSEL FOR THE JUVENILE.

16 **SECTION 6.** In Colorado Revised Statutes, 21-1-103, **add** (5) as
17 follows:

18 **21-1-103. Representation of indigent persons.** (5) NOTHING IN
19 THIS SECTION MAY BE CONSTRUED TO PREVENT THE PUBLIC DEFENDER,
20 BEFORE DETERMINING INDIGENCY, FROM PROVIDING LIMITED
21 REPRESENTATION TO JUVENILES IN DETENTION HEARINGS OR ADULT
22 DEFENDANTS IN CUSTODY WHO CANNOT POST OR ARE NOT ALLOWED
23 BOND.

24 **SECTION 7.** In Colorado Revised Statutes, 19-2-103, **add** (12.5)
25 and (12.7) as follows:

26 **19-2-103. Definitions.** For purposes of this article:
27 (12.5) "OFFICE OF THE STATE PUBLIC DEFENDER" MEANS THE
28 OFFICE OF STATE PUBLIC DEFENDER CREATED AND EXISTING PURSUANT TO

1 SECTION 21-1-101, C.R.S.

2 (12.7) "OFFICE OF ALTERNATE DEFENSE COUNSEL" MEANS THE
3 OFFICE OF ALTERNATE DEFENSE COUNSEL CREATED AND EXISTING
4 PURSUANT TO SECTION 21-2-101, C.R.S.

5 **SECTION 8.** In Colorado Revised Statutes, 19-2-1004, **repeal** (4)
6 (b) as follows:

7 **19-2-1004. Parole violation and revocation.** (4) If, rather than
8 issuing a summons, a parole officer makes an arrest of a parolee with or
9 without a warrant or takes custody of a parolee who has been arrested by
10 another, the parole officer shall place the parolee in the nearest local
11 juvenile detention facility or shelter care facility approved by the
12 department of human services, if under eighteen years of age, or in the
13 nearest county jail, if eighteen years of age or older. Within forty-eight
14 hours, not including Saturdays, Sundays, and legal holidays, the parole
15 officer shall take one of the following actions:

16 (b) ~~Request a court to conduct a juvenile parole preliminary~~
17 ~~hearing as a part of a detention hearing conducted as described in section~~
18 ~~19-2-508, in which hearing the court shall make a finding as to whether~~
19 ~~there is probable cause to believe that the parolee has violated a condition~~
20 ~~of parole; or~~

21 **SECTION 9.** In Colorado Revised Statutes, 21-1-104, **add** (4) as
22 follows:

23 **21-1-104. Duties of public defender.** (4) THE STATE PUBLIC
24 DEFENDER SHALL REPORT ANNUALLY TO THE JUDICIARY COMMITTEES OF
25 THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY SUCCESSOR
26 COMMITTEES, INFORMATION CONCERNING:

27 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES FOR WHICH
28 COUNSEL FROM THE OFFICE IS APPOINTED;

1 (b) THE NUMBER OF JUVENILE CASES THAT INVOLVE A CONFLICT
2 OF INTEREST;

3 (c) THE PROCESS OF SELECTING, TRAINING, AND SUPPORTING
4 ATTORNEYS WHO REPRESENT CHILDREN IN JUVENILE DELINQUENCY
5 COURT;

6 (d) THE AVERAGE LENGTH OF TIME ATTORNEYS ARE ASSIGNED TO
7 JUVENILE COURT; AND

8 (e) THE OUTCOME OF EFFORTS TO REDUCE JUVENILE COURT
9 ROTATIONS AND INCREASE OPPORTUNITIES FOR PROMOTIONAL
10 ADVANCEMENT IN SALARIES FOR ATTORNEYS IN JUVENILE COURT.

11 **SECTION 10.** In Colorado Revised Statutes, 21-2-104, **add** (3)
12 as follows:

13 **21-2-104. Duties of alternate defense counsel and contract**
14 **attorneys.** (3) THE OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL
15 REPORT ANNUALLY TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
16 REPRESENTATIVES AND SENATE, OR TO ANY SUCCESSOR COMMITTEES,
17 INFORMATION CONCERNING:

18 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES FOR WHICH
19 COUNSEL FROM THE OFFICE IS APPOINTED;

20 (b) THE NUMBER OF JUVENILE CASES THAT INVOLVE A CONFLICT
21 OF INTEREST;

22 (c) THE PROCESS OF SELECTING, TRAINING, AND SUPPORTING
23 ATTORNEYS WHO REPRESENT CHILDREN IN JUVENILE DELINQUENCY
24 COURT;

25 (d) THE AVERAGE LENGTH OF TIME ATTORNEYS ARE ASSIGNED TO
26 JUVENILE COURT; AND

27 (e) THE OUTCOME OF EFFORTS TO REDUCE JUVENILE COURT
28 ROTATIONS AND INCREASE OPPORTUNITIES FOR PROMOTIONAL

1 ADVANCEMENT IN SALARIES FOR ATTORNEYS IN JUVENILE COURT.

2 **SECTION 11.** In Colorado Revised Statutes, **add** 13-1-137 as
3 follows:

4 **13-1-137. Reporting of data concerning juvenile proceedings.**

5 (1) THE JUDICIAL BRANCH SHALL REPORT ANNUALLY TO THE JUDICIARY
6 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY
7 SUCCESSOR COMMITTEES, INFORMATION CONCERNING:

8 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES;

9 (b) THE NUMBER OF JUVENILE DELINQUENCY CASES THAT
10 INVOLVED AN APPOINTMENT OF COUNSEL;

11 (c) THE NUMBER OF JUVENILE CASES THAT INVOLVED A WAIVER OF
12 COUNSEL; AND

13 (d) THE STATUS OF RECOMMENDED REVIEWS TO JUVENILE COURT
14 RULES, FORMS, AND CHIEF JUSTICE DIRECTIVES REGARDING THE
15 REPRESENTATION OF CHILDREN IN JUVENILE DELINQUENCY COURTS.

16 **SECTION 12. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 14-0215.01 Richard Sweetman x4333

HOUSE BILL

HOUSE SPONSORSHIP

Lee, Kagan

SENATE SPONSORSHIP

Ulibarri, Guzman, Steadman

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF SOCIAL WORKERS TO JUVENILES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Juvenile Defense Attorney Interim Committee. The state public defender may hire social workers to assist in defending juvenile defendants. Any report prepared by such a social worker and submitted to the court by the juvenile's attorney shall be considered as evidence in the proper disposition of the juvenile's case.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

DRAFT Dashes through the words indicate deletions from existing statute.

31

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 21-1-104, **add** (4) as
3 follows:

4 **21-1-104. Duties of public defender.** (4) THE STATE PUBLIC
5 DEFENDER MAY HIRE SOCIAL WORKERS TO ASSIST IN DEFENDING JUVENILE
6 DEFENDANTS. ANY REPORT PREPARED BY SUCH A SOCIAL WORKER AND
7 SUBMITTED TO THE COURT BY THE JUVENILE'S ATTORNEY SHALL BE
8 CONSIDERED AS EVIDENCE IN THE PROPER DISPOSITION OF THE JUVENILE'S
9 CASE, AS PROVIDED IN SECTION 19-2-906, C.R.S.

10 **SECTION 2. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

RESOLUTION A

LLS NO. R14-0216.01 Richard Sweetman x4333

SENATE Joint Resolution

SENATE SPONSORSHIP

Guzman, Steadman, Ulibarri

HOUSE SPONSORSHIP

Kagan, Lee

Senate Committees

House Committees

COMMITTEE JOINT RESOLUTION

101 **CONCERNING REQUESTING THE CHIEF JUSTICE OF THE COLORADO**
102 **SUPREME COURT TO TAKE CERTAIN ACTIONS CONCERNING**
103 **ADJUDICATION OF JUVENILE DELINQUENCY PETITIONS.**

1 WHEREAS, The juvenile defense attorney interim committee was
2 created pursuant to House Joint Resolution 13-1019, which resolution
3 was adopted during the first regular session of the Sixty-ninth General
4 Assembly; and

5 WHEREAS, The juvenile defense attorney interim committee met
6 during the 2013 interim to study the role of legal defense counsel in the
7 juvenile justice system; and

8 WHEREAS, The juvenile defense attorney interim committee has

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.

DRAFT *Dashes through the words indicate deletions from existing statute.*

1 recommended legislation to be introduced during the second regular
2 session of the Sixty-ninth General Assembly, which legislation addresses
3 certain inadequacies in Colorado law relating to the representation of
4 juvenile offenders; and

5 WHEREAS, Actions by the judicial branch are necessary to
6 address problems identified by the juvenile defense attorney interim
7 committee and improve the juvenile justice system; now, therefore,

8 *Be It Resolved by the Senate of the Sixty-ninth General Assembly*
9 *of the State of Colorado, the House of Representatives concurring herein:*

10 (1) That the General Assembly requests that the Chief Justice of
11 the Colorado Supreme Court:

12 (a) Issue a directive to the judges of the state court system to
13 assign juvenile delinquency petitions, to the extent practicable, to a single
14 courtroom within each judicial district and to allow judges with juvenile
15 dockets to remain in that rotation so they may develop expertise in the
16 handling of juvenile cases;

17 (b) Convene a task force within the judicial branch of qualified
18 persons to advance the judicial branch management of juvenile
19 delinquency cases to include best practices in education of judicial
20 officers assigned to juvenile delinquency dockets, in docket rotation and
21 assignment, in management of juvenile delinquency cases, and in regular
22 educational opportunities for judicial officers in the areas relating to the
23 science of juvenile and adolescent maturity and brain development; and

24 (c) Establish a committee of qualified persons to review the
25 Colorado Rules of Juvenile Procedure, juvenile court forms, and Chief
26 Justice Directive 04-04 and make recommendations concerning any
27 amendments to the Rules, forms, or the directive that may be necessary
28 to improve the juvenile justice system.

29 *Be It Further Resolved*, That a copy of this Joint Resolution be
30 sent to Chief Justice Michael Bender, Colorado Supreme Court.