

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 28, 2017

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB17-1204 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 8, lines 8 and 9, strike "~~harassment, in violation~~
2 ~~of section 18-9-111,~~" and substitute "harassment, in violation of section
3 18-9-111,".
- 4 Page 8, line 14, strike "~~hazing, in violation of section 18-9-124,~~" and
5 substitute "hazing, in violation of section 18-9-124,".
- 6 Page 8, line 16, after "~~C.R.S.,~~" insert "OR WHEN A PETITION IS FILED IN
7 JUVENILE COURT IN WHICH THE ALLEGED VICTIM OF THE CRIME IS A
8 STUDENT OR STAFF PERSON IN THE SAME SCHOOL AS THE JUVENILE OR IN
9 WHICH IT IS ALLEGED THAT THE JUVENILE POSSESSED A DEADLY WEAPON
10 DURING THE COMMISSION OF THE ALLEGED CRIME,".
- 11 Page 10, line 23, strike "DEFENDANT" and substitute "JUVENILE".
- 12 Page 11, line 2, strike "DEFENDANT" and substitute "JUVENILE".
- 13 Page 11, line 7, strike "DEFENDANT'S" and substitute "JUVENILE'S".
- 14 Page 11, line 8, strike "DEFENDANT" and substitute "JUVENILE".
- 15 Page 11, strike line 12 and substitute "MUNICIPAL COURT, AT
16 SENTENCING,".

1 Page 11, line 13, strike "DEFENDANT" and "JUVENILE AND ANY
2 RESPONDENT PARENT OR GUARDIAN".

3 Page 11, strike line 27 and substitute:

4 "(h) THE PROSECUTING ATTORNEY SHALL NOT REQUIRE AS A
5 CONDITION OF A PLEA AGREEMENT THAT THE JUVENILE WAIVE HIS OR HER
6 RIGHT TO EXPUNGEMENT UNDER THIS SECTION UPON THE COMPLETION OF
7 THE JUVENILE'S SENTENCE."

8 Page 12, strike lines 1 and 2.

9 Page 12, after line 2 insert:

10 "(i) PRIOR TO THE COURT ORDERING ANY RECORDS EXPUNGED, THE
11 COURT SHALL DETERMINE WHETHER THE JUVENILE HAS ANY FELONY,
12 DRUG FELONY, MISDEMEANOR, DRUG MISDEMEANOR, PETTY OFFENSE, OR
13 DELINQUENCY ACTIONS PENDING, AND, IF THE COURT DETERMINES THAT
14 THERE IS A FELONY, DRUG FELONY, MISDEMEANOR, DRUG MISDEMEANOR,
15 PETTY OFFENSE, OR DELINQUENCY ACTION PENDING AGAINST THE
16 JUVENILE, THE COURT SHALL STAY THE PETITION FOR EXPUNGEMENT
17 PROCEEDINGS UNTIL THE RESOLUTION OF THE PENDING CASE."

18 Page 12, line 26, strike "PROSECUTION." and substitute "PROSECUTION AS
19 A SUBSTANTIVE PREDICATE OFFENSE CONVICTION OR ADJUDICATION OF
20 RECORD."

21 Page 13, line 3, strike "PROGRAM," and substitute "PROGRAM OR A LAW
22 ENFORCEMENT AGENCY OR LAW ENFORCEMENT VICTIM ASSISTANCE
23 PROGRAM,".

24 Page 13, strike lines 15 through 19.

25 Reletter succeeding paragraph accordingly.

26 Page 14, line 5, strike "SEVEN" and substitute "FORTY-TWO".

27 Page 14, line 9, strike "OFFENSE OR" and substitute "OFFENSE, DRUG
28 PETTY OFFENSE,".

29 Page 14, line 10, strike "MISDEMEANOR OFFENSE" and substitute
30 "MISDEMEANOR OFFENSE, OR LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR".

- 1 Page 14, line 13, strike "LEVEL 2 DRUG MISDEMEANOR," and substitute
2 "CRIME LISTED UNDER SECTION 24-4.1-302 (1),".
- 3 Page 14, after line 15 insert:
- 4 "(b) WHEN AN EXPUNGEMENT ORDER IS ISSUED PURSUANT TO THIS
5 SECTION, THE COURT SHALL SEND A COPY OF THE ORDER TO THE JUVENILE,
6 THE JUVENILE'S LAST ATTORNEY OF RECORD, AND EACH AGENCY, PERSON,
7 COMPANY, OR ORGANIZATION NAMED THEREIN, DIRECTING THE ENTITY TO
8 EXPUNGE THE RECORDS IN ITS CUSTODY AS DIRECTED IN THE ORDER. THE
9 PERSON WHO IS THE SUBJECT OF RECORDS EXPUNGED PURSUANT TO THIS
10 SECTION MAY PETITION THE COURT TO PERMIT INSPECTION OF THE
11 RECORDS HELD BY PERSONS NAMED IN THE ORDER, AND THE COURT MAY
12 SO ORDER."
- 13 Reletter succeeding paragraph accordingly.
- 14 Page 14, line 19, after "OFFENSE;" insert "A SENTENCE FOR A DRUG PETTY
15 OFFENSE; A SENTENCE FOR A DRUG MISDEMEANOR OFFENSE;".
- 16 Page 14, line 23, strike "LEVEL 2 DRUG MISDEMEANOR," and substitute
17 "CRIME LISTED UNDER SECTION 24-4.1-302 (1),".
- 18 Page 15, line 3, after "JUVENILE" insert "AT LEAST NINETY-ONE DAYS
19 PRIOR TO THE END OF THE JUVENILE'S DIVERSION PROGRAM, DEFERRED
20 ADJUDICATION, INFORMAL ADJUSTMENT, OR SENTENCE".
- 21 Page 15, line 7, strike "AND SHALL SEND THE NOTICE".
- 22 Page 15, line 11, strike "LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR,".
- 23 Page 15, line 19, after "OFFENSE" insert "OR FELONY DRUG OFFENSE".
- 24 Page 15, lines 24 and 25, strike "FELONY OR A LEVEL 1 DRUG FELONY;
25 AND" and substitute "FELONY; AND".
- 26 Page 16, line 20, strike " PRIOR TO THE".
- 27 Page 16 strike lines 21 through 27.
- 28 Page 17, strike line 1.

- 1 Page 18, lines 5 and 6, strike "LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR,
2 OR". and substitute "ANY DRUG FELONY OFFENSE, OR A".
- 3 Page 18, line 10, strike "FELONY OR" and substitute "FELONY".
- 4 Page 18, line 11, strike "LEVEL 1 DRUG FELONY".
- 5 Page 18, strike lines 16 through 19.
- 6 Page 18, line 20, strike "(II)" and substitute "(i)".
- 7 Page 19, strike lines 9 and 10 and substitute:
8 "(b) ADJUDICATED OF HOMICIDE AND RELATED OFFENSES
9 PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18;"
- 10 Page 19, strike lines 12 and 13 and substitute "SEXUAL BEHAVIOR AS
11 DESCRIBED IN SECTION 16-22-102 (9); OR".
- 12 Page 19, line 25, strike "(b)" and substitute "(b) (I)".
- 13 Page 20, after line 4 insert:
14 "(II) IF THERE IS NOT A SUPERVISING AGENCY AND THE
15 PROSECUTING ATTORNEY DOES NOT FILE AN OBJECTION WITHIN
16 FORTY-TWO DAYS AFTER RECEIPT OF THE NOTICE FROM THE COURT
17 PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THE MUNICIPAL COURT
18 SHALL ORDER ALL RECORDS RELATED TO THE CASE AND CHARGES IN THE
19 CUSTODY OF ANY OTHER AGENCY, PERSON, COMPANY, OR ORGANIZATION
20 EXPUNGED."
- 21 Page 21, line 3, strike "THAT:" and substitute "THAT THE JUVENILE
22 SUCCESSFULLY COMPLETED THE SENTENCE OR THE MUNICIPAL COURT
23 CASE IS CLOSED."
- 24 Page 21, strike lines 4 through 7.
- 25 Page 22, strike lines 23 and 24 and substitute:
26 "(h) REFERENCES TO THE CRIMINAL CASE OR CHARGE CONTAINED
27 IN THE SCHOOL RECORDS."

- 1 Page 25, line 1, strike "OFFENSE" and substitute "OFFENSE,".
- 2 Page 25, line 2, strike the first "OR" and substitute "ANY DRUG PETTY
3 OFFENSE, ANY LEVEL 1 OR LEVEL 2 DRUG MISDEMEANOR, OR A".
- 4 Page 25, line 3, strike "16-22-102 (9) OR" and substitute "16-22-109 (9),".
- 5 Page 25, line 4, strike "18-6-800.3 OR A LEVEL 2" and substitute
6 "18-6-800.3, OR A CRIME THAT IS NOT A CRIME LISTED UNDER SECTION
7 24-4.1-302 (1); OR".
- 8 Page 25, strike line 5.
- 9 Page 25, strike line 7 and substitute "OFFENSE NOT INVOLVING DOMESTIC
10 VIOLENCE AS DESCRIBED IN SECTION 18-6-800.3."

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