

CHAPTER 2

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 93S-9

BY SENATORS Wham, Johnson, Owens, Ruddick, Bishop, Blickensderfer, Cassidy, Feeley, Gallagher, Groff, Lacy, Mares, Meiklejohn, Mutzebaugh, Norton, Pastore, R. Powers, Rizzuto, Tebedo, Thiebaut, Traylor, Wattenberg, and Wells; also REPRESENTATIVES Berry, Allen, Armstrong, Friednash, Grampas, Greenwood, Hagedorn, R. Hernandez, June, Kaufman, Keller, Kerns, Lawrence, Mattingly, Moellenberg, Owen, Pierson, and Reeser.

AN ACT

CONCERNING JUVENILES AGAINST WHOM CRIMINAL CHARGES ARE FILED DIRECTLY IN DISTRICT COURT, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 19-2-805 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-805. Direct filing. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

~~(a)~~ (I) The juvenile is fourteen years of age or older and is alleged to have committed a class 1 OR CLASS 2 felony; or

~~(a.5)~~ (II) The juvenile is ~~sixteen~~ FOURTEEN years of age or older and:

(A) Is alleged to have committed a ~~class 2 or 3~~ felony enumerated as a crime of violence pursuant to section 16-11-309, C.R.S.; OR

(B) IS ALLEGED TO HAVE COMMITTED A FELONY OFFENSE DESCRIBED IN ARTICLE 12 OF TITLE 18, C.R.S., EXCEPT FOR THE POSSESSION OF A HANDGUN BY A JUVENILE, AS SET FORTH IN SECTION 18-12-108.5, C.R.S., AS CREATED BY HOUSE BILL 93S-1001; OR

(C) IS ALLEGED TO HAVE USED, OR POSSESSED AND THREATENED THE USE OF, A DEADLY WEAPON DURING THE COMMISSION OF FELONY OFFENSES AGAINST

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE PERSON, WHICH ARE SET FORTH IN ARTICLE 3 OF TITLE 18, C.R.S.; or

(b) (III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older, and allegedly has committed a crime defined by section 18-1-105, C.R.S., as a class 2 or class 3 felony, except felonies defined by section 18-3-403 (1) (e), C.R.S.; or

(c) (IV) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-806; except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court.

(b) THE OFFENSES DESCRIBED IN SUBPARAGRAPHS (I) TO (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL INCLUDE THE ATTEMPT, CONSPIRACY, SOLICITATION, OR COMPLICITY TO COMMIT SUCH OFFENSES.

SECTION 2. 19-2-805 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

19-2-805. Direct filing. (2) (a) WHENEVER CRIMINAL CHARGES ARE FILED BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION, THE DISTRICT JUDGE SHALL SENTENCE THE JUVENILE AS FOLLOWS:

(I) AS AN ADULT; OR

(II) (A) TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF CORRECTIONS IN ACCORDANCE WITH SECTION 16-11-311, C.R.S., IF THE JUVENILE IS CONVICTED OF AN OFFENSE DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION; EXCEPT THAT IF A PERSON IS CONVICTED OF A CLASS 1 OR CLASS 2 FELONY, ANY SEXUAL OFFENSE DESCRIBED IN PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., OR A SECOND OR SUBSEQUENT OFFENSE DESCRIBED IN SAID SUBPARAGRAPH (II) FOR WHICH SUCH PERSON RECEIVED A SENTENCE TO THE DEPARTMENT OF CORRECTIONS OR TO THE YOUTHFUL OFFENDER SYSTEM, SUCH PERSON SHALL BE INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JUNE 30, 1999.

(III) PURSUANT TO THE PROVISIONS OF THIS ARTICLE, IF THE JUVENILE IS LESS THAN SIXTEEN YEARS OF AGE AND IS CONVICTED OF AN OFFENSE OTHER THAN A CLASS 1 OR CLASS 2 FELONY OR A CRIME OF VIOLENCE AS DEFINED UNDER SECTION 16-11-309, C.R.S.

SECTION 3. 19-2-806 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-806. Transfer proceedings. (1) (d) Whenever criminal charges are

transferred to ~~or filed directly in~~ the district court pursuant to the provisions of this article, the judge of the district court shall have the power to make any disposition of the case that any juvenile court would have or to remand the case to the juvenile court for disposition at its discretion; except that a juvenile who is convicted of a class 1 felony, or whose case was transferred to ~~or filed directly in~~ the district court and who is convicted of a crime of violence, as defined in section 16-11-309, C.R.S., or who has been previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender shall be sentenced pursuant to section 18-1-105, C.R.S.

SECTION 4. 16-11-101 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11-101. Alternatives in sentencing. (1) Within the limitations of the penalties provided by the classification of the offense of which a person is found guilty, and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(i) (I) IF THE DEFENDANT IS ELIGIBLE PURSUANT TO SECTION 19-2-805 (2) (a), C.R.S., THE DEFENDANT MAY BE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM IN ACCORDANCE WITH SECTION 16-11-311.

(II) THIS PARAGRAPH (i) IS REPEALED, EFFECTIVE JUNE 30, 1999.

SECTION 5. Part 3 of article 11 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-311. Sentences - youthful offenders - legislative declaration - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections. (1) (a) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE YOUTHFUL OFFENDER SYSTEM ESTABLISHED PURSUANT TO THIS SECTION SHALL BENEFIT THE STATE BY PROVIDING AS A SENTENCING OPTION FOR CERTAIN YOUTHFUL OFFENDERS A CONTROLLED AND REGIMENTED ENVIRONMENT THAT AFFIRMS DIGNITY OF SELF AND OTHERS, PROMOTES THE VALUE OF WORK AND SELF-DISCIPLINE, AND DEVELOPS USEFUL SKILLS AND ABILITIES THROUGH ENRICHED PROGRAMMING.

(b) IT IS THE FURTHER INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION THAT FEMALE AND MALE OFFENDERS FOR WHOM CHARGES HAVE BEEN DIRECTLY FILED IN THE DISTRICT COURT AND WHO HAVE BEEN CONVICTED IN THE DISTRICT COURT RECEIVE EQUITABLE TREATMENT IN SENTENCING, PARTICULARLY IN REGARD TO THE OPTION OF BEING SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM PURSUANT TO SECTION 19-2-805 (2), C.R.S. ACCORDINGLY, IT IS THE GENERAL ASSEMBLY'S INTENT THAT NECESSARY MEASURES BE TAKEN BY THE DEPARTMENT OF CORRECTIONS TO ESTABLISH SEPARATE HOUSING FOR FEMALE AND MALE OFFENDERS WHO ARE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM WITHOUT COMPROMISING THE EQUITABLE TREATMENT OF EITHER.

(2) (a) A JUVENILE MAY BE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM

