

CHAPTER 332

**CHILDREN AND DOMESTIC MATTERS**

**SENATE BILL 99-130**

BY SENATORS Wham, Arnold, Epps, Evans, Hernandez, Powers, and Weddig;  
also REPRESENTATIVES Kaufman, Gotlieb, Grossman, Hagedorn, Lee, Leyba, McKay, Swenson, and Zimmerman.

**AN ACT**

CONCERNING SUBSTANTIVE CHANGES FOR THE STRENGTHENING OF THE JUVENILE LAWS.

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

**SECTION 1.** 19-2-517 (3) (a), Colorado Revised Statutes, is amended to read:

**19-2-517. Direct filing - repeal.** (3) (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) 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) or (V) of paragraph (a) of subsection (1) of this section; except that ~~if a person~~ A JUVENILE SHALL BE INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE JUVENILE is convicted of:

(A) A class 1 ~~or class 2~~ felony;

(B) A CLASS 2 FELONY AS A RESULT OF A PLEA AGREEMENT IN CASES WHERE THE JUVENILE IS CHARGED WITH A CLASS 1 FELONY;

(C) A CLASS 2 FELONY AND THE JUVENILE HAS ONE OR MORE PRIOR CONVICTIONS FOR A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S., OR PRIOR ADJUDICATIONS FOR AN OFFENSE THAT WOULD CONSTITUTE A CRIME OF VIOLENCE IF COMMITTED BY AN ADULT;

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

(D) A CLASS 2 FELONY AND THE JUVENILE IS SIXTEEN YEARS OF AGE OR OLDER;

(E) Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.; or

(F) A second or subsequent offense described in said subparagraph (II) or (V), ~~for which~~ IF 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~~ FOR THE PRIOR OFFENSE; or

(III) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age at the time of commission of the crime and is convicted of an offense other than a class 1 or class 2 felony, a crime of violence as defined under section 16-11-309, C.R.S., or an offense described in subparagraph (V) of paragraph (a) of subsection (1) of this section and the judge makes a finding of special circumstances.

**SECTION 2.** 19-2-518 (1) (d), Colorado Revised Statutes, is amended to read:

**19-2-518. Transfers.** (1) (d) (I) ~~Whenever criminal charges are transferred to 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 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.~~ EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), IN CASES IN WHICH CRIMINAL CHARGES ARE TRANSFERRED TO THE DISTRICT COURT PURSUANT TO THE PROVISIONS OF THIS SECTION, THE JUDGE OF THE DISTRICT COURT SHALL SENTENCE THE JUVENILE PURSUANT TO THE PROVISIONS OF SECTION 18-1-105, C.R.S., IF THE JUVENILE IS:

(A) CONVICTED OF A CLASS 1 FELONY;

(B) CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S.; OR

(C) CONVICTED OF ANY OTHER CRIMINAL CHARGE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1) AND THE JUVENILE WAS PREVIOUSLY ADJUDICATED A MANDATORY SENTENCE OFFENDER, A VIOLENT JUVENILE OFFENDER, OR AN AGGRAVATED JUVENILE OFFENDER.

(II) IN CASES IN WHICH CRIMINAL CHARGES ARE TRANSFERRED TO THE DISTRICT COURT PURSUANT TO THE PROVISIONS OF THIS SECTION, THE JUDGE OF THE DISTRICT COURT MAY SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM CREATED IN SECTION 16-11-311, C.R.S., ANY JUVENILE WHO WOULD OTHERWISE BE SENTENCED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d); EXCEPT THAT A JUVENILE SHALL BE INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE JUVENILE IS CONVICTED OF:

(A) A CLASS 1 FELONY;

(B) A CLASS 2 FELONY AS A RESULT OF A PLEA AGREEMENT IN CASES WHERE THE JUVENILE IS CHARGED WITH A CLASS 1 FELONY;

(C) A CLASS 2 FELONY AND THE JUVENILE HAS ONE OR MORE PRIOR CONVICTIONS FOR A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S., OR PRIOR ADJUDICATIONS FOR AN OFFENSE THAT WOULD CONSTITUTE A CRIME OF VIOLENCE IF COMMITTED BY AN ADULT;

(D) A CLASS 2 FELONY AND THE JUVENILE IS SIXTEEN YEARS OF AGE OR OLDER;

(E) ANY SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301 OR 18-6-302, C.R.S., OR PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.

(III) IN CASES IN WHICH CRIMINAL CHARGES ARE TRANSFERRED TO THE DISTRICT COURT PURSUANT TO THE PROVISIONS OF THIS SECTION AND THE JUVENILE IS NOT ELIGIBLE FOR SENTENCING PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), 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.

~~(H)~~ (IV) If, following transfer of criminal charges to the district court pursuant to this section, a juvenile is convicted of a lesser included offense for which criminal charges could not originally have been transferred to the district court, the court shall sentence the juvenile pursuant to the provisions of this article.

**SECTION 3.** 16-11-311 (1) (b) and (2) (a) (I), Colorado Revised Statutes, are amended 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 - repeal.** (1) (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 19-2-517 (3), C.R.S.~~ SECTION 19-2-517 (3) OR 19-2-518 (1) (d) (II), 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) (I) A juvenile may be sentenced to the youthful offender system created pursuant to this section under the circumstances set forth in ~~section 19-2-517 (3) (a) (H), C.R.S.~~ SECTION 19-2-517 (3) (a) (II) OR 19-2-518 (1) (d) (II), C.R.S. In order to sentence a juvenile to the youthful offender system, the court shall first impose upon such person a sentence to the department of corrections in accordance with section 18-1-105, C.R.S. The court shall thereafter suspend such sentence conditioned on completion of a sentence to the youthful offender system, including a period of community supervision. The court shall impose any such sentence to the youthful offender system for a determinate period of not less than two years nor more than six years; EXCEPT THAT A JUVENILE CONVICTED OF A CLASS 2 FELONY MAY BE

SENTENCED FOR A DETERMINATE PERIOD OF UP TO SEVEN YEARS. ~~with authority granted to~~ IN IMPOSING SUCH SENTENCE, THE COURT SHALL GRANT AUTHORITY TO the department of corrections to place a youthful offender under a period of community supervision for a period of no less than six months and up to twelve months any time after the date on which the youthful offender has twelve months remaining to complete the determinate sentence. The court may award a juvenile sentenced to the youthful offender system credit for presentence confinement; except that such credit shall not reduce the juvenile's actual time served in the youthful offender system to less than two years. The court is encouraged to have a presentence investigation conducted before sentencing a juvenile pursuant to this section.

**SECTION 4.** 19-2-908 (1) (b), Colorado Revised Statutes, is amended to read:

**19-2-908. Sentencing - special offenders.** (1) The court shall sentence a juvenile adjudicated as a special offender as follows:

(b) **Repeat juvenile offender.** The court ~~may~~ SHALL sentence any juvenile adjudicated as a repeat juvenile offender, as described in section 19-2-516 (2), ~~pursuant to section 19-2-907 or may commit a repeat juvenile offender to the department of human services. The court may impose a minimum term during which the juvenile shall not be released from a residential program without prior written approval of the court that made the commitment~~ OUT OF THE HOME FOR NOT LESS THAN ONE YEAR, UNLESS THE COURT FINDS THAT AN ALTERNATIVE SENTENCE OR A COMMITMENT OF LESS THAN ONE YEAR OUT OF THE HOME WOULD BE MORE APPROPRIATE; EXCEPT THAT:

(I) IF THE PERSON ADJUDICATED AS A REPEAT JUVENILE OFFENDER IS EIGHTEEN YEARS OF AGE OR OLDER ON THE DATE OF THE SENTENCING HEARING, THE COURT MAY SENTENCE THAT PERSON TO THE COUNTY JAIL OR TO A COMMUNITY CORRECTIONAL FACILITY OR PROGRAM FOR A PERIOD NOT TO EXCEED TWO YEARS, IF SUCH PERSON HAS BEEN ADJUDICATED A REPEAT JUVENILE OFFENDER PURSUANT TO THIS ARTICLE FOR ACTS COMMITTED PRIOR TO SUCH PERSON'S EIGHTEENTH BIRTHDAY; OR

(II) THE JUVENILE OR PERSON MAY BE RELEASED BY THE COMMITTING JUDGE UPON A SHOWING OF EXEMPLARY BEHAVIOR.

**SECTION 5.** 19-2-925 (1) and (4) (e), Colorado Revised Statutes, are amended to read:

**19-2-925. Probation - terms - release - revocation.** (1) (a) The terms and conditions of probation shall be specified by rules or orders of the court. The court, as a condition of probation for a juvenile who is ten years of age or older but less than eighteen years of age on the date of the sentencing hearing, may impose a commitment or detention. ~~The court, as a condition of probation for a juvenile eighteen years of age or older at the time of sentencing for delinquent acts committed prior to his or her eighteenth birthday, may impose a sentence to the county jail.~~ The aggregate length of any such commitment OR detention, ~~or sentence~~; whether continuous or at designated intervals, shall not exceed forty-five days; except that such limit shall not apply to any placement out of the home through a county department of social services. Each juvenile placed on probation shall be given a written statement of the terms and conditions of his or her probation and shall have

such terms and conditions fully explained to him or her.

(b) THE COURT, AS A CONDITION OF PROBATION FOR A JUVENILE EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF SENTENCING FOR DELINQUENT ACTS COMMITTED PRIOR TO HIS OR HER EIGHTEENTH BIRTHDAY, MAY IMPOSE AS A CONDITION OF PROBATION A SENTENCE TO THE COUNTY JAIL THAT SHALL NOT EXCEED NINETY DAYS; EXCEPT THAT SUCH SENTENCE MAY BE FOR A PERIOD OF UP TO ONE HUNDRED EIGHTY DAYS IF THE COURT ORDERS THE JUVENILE RELEASED FOR SCHOOL ATTENDANCE, JOB TRAINING, OR EMPLOYMENT.

(4) (e) If the court revokes the probation of a person over eighteen years of age, in addition to other action permitted by this article, the court may sentence him or her to the county jail for a period not to exceed one-hundred eighty days during which TIME he or she may be released during the day for school attendance, job training, or employment, as ordered by the court; EXCEPT THAT, IF THE SENTENCE IMPOSED EXCEEDS NINETY DAYS, THE COURT SHALL ORDER THE PERSON RELEASED FOR SCHOOL ATTENDANCE, JOB TRAINING, OR EMPLOYMENT WHILE SERVING HIS OR HER SENTENCE.

**SECTION 6.** 19-2-509, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**19-2-509. Bail.** (7) THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN FOR ANY JUVENILE RELEASED ON BOND PURSUANT TO THIS SECTION OR ANY OTHER RESPONSIBLE ADULT WHO SECURES A PERSONAL RECOGNIZANCE BOND FOR A JUVENILE PURSUANT TO SUBSECTION (6) OF THIS SECTION MAY PETITION THE COURT, PRIOR TO FORFEITURE OR EXONERATION OF THE BOND, TO REVOKE THE BOND AND REMAND THE JUVENILE INTO CUSTODY IF THE PARENT, GUARDIAN, LEGAL CUSTODIAN, OR OTHER RESPONSIBLE ADULT DETERMINES THAT HE OR SHE IS UNABLE TO CONTROL THE JUVENILE. THE COURT SHALL APPLY THE PRESUMPTION SPECIFIED IN SECTION 19-2-508 (3) (a) (III) IN DETERMINING WHETHER TO REVOKE THE BOND.

**SECTION 7.** 19-2-105 (1), Colorado Revised Statutes, is amended to read:

**19-2-105. Venue.** (1) (a) Proceedings in cases brought under this article shall be commenced in the county in which the alleged violation of the law, ordinance, or court order took place; EXCEPT THAT THE COURT MAY ORDER A CHANGE OF VENUE BASED UPON WRITTEN FINDINGS THAT A CHANGE OF VENUE IS NECESSARY TO ENSURE THAT THE JUVENILE RECEIVES A FAIR TRIAL, IN WHICH CASE VENUE SHALL BE TRANSFERRED TO AN APPROPRIATE JURISDICTION PRIOR TO THE FINDINGS OF FACT. When the court in which the petition was filed is in a county other than where the juvenile resides, such court may transfer venue to the court of the county of the juvenile's residence ~~after findings of fact but prior to adjudication and sentencing. The court may also transfer venue to the court of the county of the juvenile's residence after sentencing~~ for the purposes of supervision AFTER SENTENCING AND ENTRY OF ANY ORDER FOR PAYMENT OF RESTITUTION. A transfer of venue may not be rejected for any reason except where venue would be improper.

(b) FOR PURPOSES OF DETERMINING PROPER VENUE, A JUVENILE WHO IS PLACED IN THE LEGAL CUSTODY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL BE DEEMED FOR THE ENTIRE PERIOD OF PLACEMENT TO RESIDE IN THE COUNTY IN WHICH THE JUVENILE'S LEGAL CUSTODIAN IS LOCATED, EVEN IF THE JUVENILE IS PHYSICALLY

RESIDING IN A RESIDENTIAL FACILITY LOCATED IN ANOTHER COUNTY. IF A JUVENILE IS PLACED IN THE LEGAL CUSTODY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES, THE COURT SHALL NOT TRANSFER VENUE DURING THE PERIOD OF PLACEMENT TO ANY COUNTY OTHER THAN THE COUNTY IN WHICH THE JUVENILE'S LEGAL CUSTODIAN IS LOCATED.

**SECTION 8.** 19-2-509, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**19-2-509. Bail.** (8) A JUVENILE MAY BE RELEASED ON BOND OR AS OTHERWISE PROVIDED IN THIS SECTION REGARDLESS OF WHETHER THE JUVENILE APPEARS IN COURT PURSUANT TO A SUMMONS OR A WARRANT.

**SECTION 9.** 19-2-514 (8), Colorado Revised Statutes, is amended to read:

**19-2-514. Summons - issuance - contents - service.** (8) (a) A summons issued under this section may be served in the same manner as the summons in a civil action or by mailing it to the juvenile's last-known address by certified mail with return receipt requested not less than five days prior to the time the juvenile is requested to appear in court. Service by mail is complete upon return of the receipt signed by the juvenile, his or her parents, guardian, legal custodian, physical custodian, or spousal equivalent as defined in section 19-1-103 (101).

(b) SERVICE UPON THE PARENT, GUARDIAN, LEGAL CUSTODIAN, OR PHYSICAL CUSTODIAN WHO HAS PHYSICAL CARE OF A JUVENILE OF A SUMMONS THAT CONTAINS WORDING COMMANDING SAID PARENT, GUARDIAN, LEGAL CUSTODIAN, OR PHYSICAL CUSTODIAN TO PRODUCE THE JUVENILE IN COURT SHALL CONSTITUTE VALID SERVICE COMPELLING THE ATTENDANCE OF BOTH THE JUVENILE AND SAID PARENT, GUARDIAN, LEGAL CUSTODIAN, OR PHYSICAL CUSTODIAN IN COURT. IN ADDITION, SERVICE OF A SUMMONS AS DESCRIBED IN THIS PARAGRAPH (b) SHALL COMPEL SAID PARENT, GUARDIAN, LEGAL CUSTODIAN, OR PHYSICAL CUSTODIAN EITHER TO MAKE ALL NECESSARY ARRANGEMENTS TO ENSURE THAT THE JUVENILE IS AVAILABLE TO APPEAR BEFORE THE COURT OR TO APPEAR IN COURT AND SHOW GOOD CAUSE FOR THE JUVENILE'S FAILURE TO APPEAR.

**SECTION 10.** 19-2-511 (2), Colorado Revised Statutes, is amended to read:

**19-2-511. Statements.** (2) (a) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile ~~shall not be inadmissible~~ MAY BE ADMISSIBLE in evidence, ~~by reason of~~ NOTWITHSTANDING the absence of a parent, guardian, or legal or physical custodian, if THE COURT FINDS THAT, UNDER THE TOTALITY OF THE CIRCUMSTANCES, THE JUVENILE MADE A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF RIGHTS AND:

(I) The juvenile is eighteen years of age or older at the time of the interrogation OR THE JUVENILE MISREPRESENTS HIS OR HER AGE AS BEING EIGHTEEN YEARS OF AGE OR OLDER AND THE LAW ENFORCEMENT OFFICIAL ACTS IN GOOD FAITH RELIANCE ON SUCH MISREPRESENTATION IN CONDUCTING THE INTERROGATION; ~~if~~

(II) The juvenile is emancipated from the parent, guardian, or legal or physical custodian; or ~~if~~

(III) The juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding.

(b) For the purposes of this subsection (2), "emancipated juvenile" is defined in section 19-1-103 (45).

**SECTION 11.** 19-1-108 (1) and (6), Colorado Revised Statutes, are amended to read:

**19-1-108. Magistrates - qualifications - duties.** (1) The juvenile court may appoint one or more magistrates to hear any case or matter under the court's jurisdiction, except where a jury trial has been requested pursuant to ~~part 5 of article 2 of this title~~ SECTION 19-2-107 and in transfer hearings held pursuant to ~~section 19-2-806~~ SECTION 19-2-518. Magistrates shall serve at the pleasure of the court, unless otherwise provided by law.

(6) A magistrate may issue a lawful warrant taking a child into custody pursuant to ~~section 19-2-202~~ SECTION 19-2-503 and may issue search warrants as provided in sections 19-1-112 ~~and 19-2-206~~ AND 19-2-504.

**SECTION 12.** 19-2-104 (5), Colorado Revised Statutes, is amended to read:

**19-2-104. Jurisdiction.** (5) Notwithstanding any other provision of this section to the contrary, the juvenile court and the county court shall have concurrent jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, ~~C.R.S., or section 18-18-406 (1) or (3),~~ 18-18-406 (1) OR (3), 18-18-428, 18-18-429, OR 18-18-430, C.R.S.; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction shall terminate.

**SECTION 13. Effective date - applicability.** This act shall take effect July 1, 1999, and shall apply to offenses committed on or after said date.

**SECTION 14. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 1999