

CHAPTER 351

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 09-1321

BY REPRESENTATIVE(S) Levy, Carroll T., Green, Benefield, Court, Ferrandino, Hullinghorst, Kerr A., Loooper, McCann, McFadyen, McGihon, McKinley, Merrifield, Miklosi, Pace, Pommer, Ryden, Scanlan, Todd, Vigil, Weissmann, Apuan, Curry, Kagan, Labuda, May, Middleton, Schafer S., Fischer, Frangas, Solano; also SENATOR(S) Carroll M., Bacon, Boyd, Foster, Heath, Morse, Romer, Groff, Hodge, Hudak, Newell, Schwartz, Shaffer B., Williams.

AN ACT

CONCERNING THE PLACEMENT OF A JUVENILE WHO IS AWAITING TRIAL IN DISTRICT COURT.

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

SECTION 1. 19-2-508 (3) (c), Colorado Revised Statutes, is amended to read:

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions - repeal. (3) (c) (I) ~~NO~~ A juvenile taken to a detention or shelter facility or a temporary holding facility pursuant to section 19-2-502 as the result of an allegedly delinquent act that constitutes any of the offenses described in subparagraph (III) of paragraph (a) of this subsection (3) shall NOT be released from such facility if a law enforcement agency has requested that a detention hearing be held to determine whether the juvenile's immediate welfare or the protection of the community requires that the juvenile be detained. ~~No such~~ A juvenile shall NOT thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.

(II) Following a detention hearing held in accordance with subparagraph (I) of this paragraph (c), ~~no~~ A juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall NOT be held at any facility intended to be utilized by juvenile offenders, unless the district attorney and the defense counsel agree otherwise. IN DETERMINING WHETHER JAIL IS THE APPROPRIATE PLACE OF CONFINEMENT, DISTRICT ATTORNEY AND DEFENSE COUNSEL SHALL CONSIDER THE FOLLOWING FACTORS:

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

(A) THE AGE OF THE JUVENILE;

(B) THE NATURE, SERIOUSNESS, AND CIRCUMSTANCES OF THE ALLEGED OFFENSE;

(C) THE JUVENILE'S HISTORY OF PRIOR DELINQUENT OR CRIMINAL ACTS;

(D) WHETHER DETENTION IN A JUVENILE FACILITY WILL ADEQUATELY SERVE THE NEED FOR COMMUNITY PROTECTION PENDING THE OUTCOME OF THE CRIMINAL PROCEEDINGS;

(E) WHETHER DETENTION IN A JUVENILE FACILITY WILL NEGATIVELY IMPACT THE FUNCTIONING OF THE JUVENILE FACILITY BY COMPROMISING THE GOALS OF DETENTION TO MAINTAIN A SAFE, POSITIVE, AND SECURE ENVIRONMENT FOR ALL JUVENILES WITHIN THE FACILITY;

(F) THE RELATIVE ABILITY OF THE AVAILABLE ADULT AND JUVENILE DETENTION FACILITIES TO MEET THE NEEDS OF THE JUVENILE AND PROTECT THE PUBLIC;

(G) WHETHER THE JUVENILE PRESENTS AN IMMINENT RISK OF HARM TO HIMSELF OR HERSELF OR OTHERS WITHIN A JUVENILE FACILITY;

(H) THE PHYSICAL MATURITY OF THE JUVENILE;

(I) THE CURRENT MENTAL STATE OR MATURITY OF THE JUVENILE AS EVIDENCED BY RELEVANT MENTAL HEALTH OR PSYCHOLOGICAL ASSESSMENTS OR SCREENINGS THAT ARE MADE AVAILABLE TO BOTH THE DISTRICT ATTORNEY AND DEFENSE COUNSEL; AND

(J) ANY OTHER RELEVANT FACTORS.

(III) AT ANY STAGE OF THE PROCEEDINGS, THE DISTRICT ATTORNEY MAY, AFTER FURTHER CONSIDERATION OF THE FACTORS SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), AGREE TO CHANGE THE PLACE OF CONFINEMENT FROM JAIL TO A JUVENILE FACILITY.

(IV) If there is no agreement, detention of the juvenile shall be subject to the provisions of subsection (4) of this section.

SECTION 2. 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 1, 2009