

CHAPTER 269

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 17-1207

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 also SENATOR(S) Priola, Aguilar, Cooke, Court, Crowder, Fields, Gardner, Hill, Jahn, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Neville T., Smallwood, Todd, Williams A., Grantham.

AN ACT

CONCERNING THE REQUIREMENT FOR THE DEPARTMENT OF HUMAN SERVICES TO PLACE A JUVENILE WHO IS TEN YEARS OF AGE AND OLDER BUT LESS THAN THIRTEEN YEARS OF AGE IN A DETENTION FACILITY UNLESS THE JUVENILE IS CHARGED WITH A SERIOUS OFFENSE, AND, IN CONNECTION THEREWITH, REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **amend** 19-2-310 as follows:

19-2-310. Appropriations to department of human services for services to juveniles. (1) The general assembly shall appropriate ~~moneys~~ MONEY for the provision of services to juveniles to the department of human services. ~~which~~ THE DEPARTMENT OF HUMAN SERVICES shall allocate such ~~moneys~~ MONEY by each judicial district in the state. Such appropriation and allocation shall be made based upon the formula developed in section 19-2-212 (1)(b). The department of human services shall administer ~~such~~ THE appropriated ~~moneys~~. ~~The moneys~~ MONEY. THE MONEY appropriated to the department of human services for allocation by each judicial district ~~shall~~ MUST be expended in ~~such~~ THE judicial district by the department of human services for services to juveniles that are intended to prevent the juvenile from being held in detention prior to adjudication, sentenced to detention, or committed to the department of human services or to reduce the length of time the juvenile is held in preadjudication or postadjudication detention or held in a commitment facility operated under section 19-2-403. If a judicial district has a local juvenile services planning committee, the expenditure of ~~moneys~~ MONEY for juvenile services in ~~such~~ THE judicial district shall be made in accordance with the

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

plan developed pursuant to section 19-2-211.

(2) FOR THE PURPOSES OF THIS SECTION, A "JUVENILE" ALSO INCLUDES A YOUTH TEN YEARS OF AGE AND OLDER BUT LESS THAN THIRTEEN YEARS OF AGE WHO RECEIVED A DISTRICT COURT FILING AND WHO OTHERWISE COULD NOT BE DETAINED.

SECTION 2. In Colorado Revised Statutes, 19-2-402, **amend** (1)(a); and **add** (1)(c) as follows:

19-2-402. Juvenile detention services and facilities to be provided by department of human services - education. (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE detention services for temporary care of a juvenile, pursuant to this article; ~~shall be provided by the department of human services, which~~ ARTICLE 2. THE DEPARTMENT OF HUMAN SERVICES shall consult on a regular basis with the court in any district where a detention facility is located concerning the detention program at that facility. The department of HUMAN SERVICES may use staff secure facilities to provide preadjudication and postadjudication detention services.

(c) THE DEPARTMENT OF HUMAN SERVICES IS NOT REQUIRED TO RECEIVE AND PROVIDE CARE FOR ANY JUVENILE WHO IS TEN YEARS OF AGE AND OLDER BUT LESS THAN THIRTEEN YEARS OF AGE, UNLESS SUCH JUVENILE HAS BEEN ARRESTED OR ADJUDICATED FOR A FELONY OR WEAPONS CHARGE PURSUANT TO SECTION 18-12-102, 18-12-105, 18-12-106, OR 18-12-108.5.

SECTION 3. In Colorado Revised Statutes, 19-2-507, **amend** (2) as follows:

19-2-507. Duty of officer - screening teams - notification - release or detention. (2) ~~The juvenile shall be detained if~~ The law enforcement officer or the court SHALL DETAIN THE JUVENILE IF THE LAW ENFORCEMENT OFFICER OR THE COURT determines that the juvenile's immediate welfare or the protection of the community ~~require that the juvenile be detained~~ REQUIRES DETAINMENT. In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the detention of juvenile offenders which criteria are established in accordance with section 19-2-212, AND SHALL MAKE EFFORTS TO KEEP THE JUVENILE WITH HIS OR HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN.

SECTION 4. In Colorado Revised Statutes, 19-2-508, **amend** (2), (3)(a)(III) introductory portion, (3)(a)(IV) introductory portion, and (6); and **add** (3)(a)(IV.5) as follows:

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (2) (a) UNLESS PLACEMENT IS PROHIBITED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, when a juvenile is placed in a detention facility, in a temporary holding facility, or in 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 state public defender. The screening team shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him or her of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold the detention hearing

within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. For a juvenile being held in detention on a warrant for violating a valid court order on a status offense, the court shall hold the detention hearing within twenty-four hours, excluding Saturdays, Sundays, and legal holidays.

(b) A JUVENILE WHO IS TEN YEARS OF AGE AND OLDER BUT LESS THAN THIRTEEN YEARS OF AGE MAY NOT BE ORDERED TO DETENTION UNLESS THE JUVENILE HAS BEEN ARRESTED FOR A FELONY OR WEAPONS CHARGE PURSUANT TO SECTION 18-12-102, 18-12-105, 18-12-106, OR 18-12-108.5. A PREADJUDICATION SERVICE PROGRAM CREATED PURSUANT TO SECTION 19-2-302 SHALL EVALUATE A JUVENILE DESCRIBED IN THIS SUBSECTION (2)(b). THE EVALUATION MAY RESULT IN THE JUVENILE:

(I) REMAINING IN THE CUSTODY OF A PARENT, GUARDIAN, OR LEGAL CUSTODIAN;
OR

(II) BEING PLACED IN THE TEMPORARY LEGAL CUSTODY OF KIN, FOR PURPOSES OF A KINSHIP FOSTER CARE HOME OR NONCERTIFIED KINSHIP CARE PLACEMENT, AS DEFINED IN SECTION 19-1-103 (71.3), OR OTHER SUITABLE PERSON UNDER SUCH CONDITIONS AS THE COURT MAY IMPOSE; OR

(III) BEING PLACED IN A SHELTER FACILITY; OR

(IV) BEING REFERRED TO A LOCAL COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES FOR ASSESSMENT FOR PLACEMENT.

(3)(a)(III) With respect to this section, the court may further detain the juvenile only if the court finds from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community; EXCEPT THAT A JUVENILE WHO IS TEN YEARS OF AGE AND OLDER BUT LESS THAN THIRTEEN YEARS OF AGE MAY NOT BE ORDERED TO FURTHER DETENTION UNLESS THE JUVENILE HAS BEEN ARRESTED OR ADJUDICATED FOR A FELONY OR WEAPONS CHARGE PURSUANT TO SECTION 18-12-102, 18-12-105, 18-12-106, OR 18-12-108.5. THE COURT SHALL RECEIVE any information having probative value ~~shall be received~~ regardless of its admissibility under the rules of evidence. In determining whether a juvenile requires detention, the court shall consider any record of any prior adjudications of the juvenile. There ~~shall be~~ is a rebuttable presumption that a juvenile is a danger to himself or herself or to the community if:

(IV) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(IV.5) OF THIS SECTION, at the conclusion of the hearing, the court shall enter one of the following orders, WHILE ENSURING EFFORTS ARE MADE TO KEEP THE JUVENILE WITH HIS OR HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN:

(IV.5) A PREADJUDICATION SERVICE PROGRAM CREATED PURSUANT TO SECTION 19-2-302 SHALL EVALUATE A JUVENILE DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION. THE EVALUATION MAY RESULT IN THE JUVENILE:

(A) REMAINING IN THE CUSTODY OF A PARENT, GUARDIAN, OR LEGAL CUSTODIAN;
OR

(B) BEING PLACED IN THE TEMPORARY LEGAL CUSTODY OF KIN, FOR PURPOSES OF A KINSHIP FOSTER CARE HOME OR NONCERTIFIED KINSHIP CARE PLACEMENT, AS DEFINED IN SECTION 19-1-103 (71.3), OR OTHER SUITABLE PERSON UNDER SUCH CONDITIONS AS THE COURT MAY IMPOSE; OR

(C) BEING PLACED IN A SHELTER FACILITY; OR

(D) BEING REFERRED TO A LOCAL COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES FOR ASSESSMENT FOR PLACEMENT.

(6) EXCEPT FOR A JUVENILE DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION, THE COURT MAY ALSO ISSUE TEMPORARY ORDERS FOR LEGAL CUSTODY AS PROVIDED IN SECTION 19-1-115.

SECTION 5. In Colorado Revised Statutes, 19-2-911, **amend** (1); and **add** (3) as follows:

19-2-911. Sentencing - alternative services - detention. (1) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender and except as provided in subsection (2) of this section, the court may sentence the juvenile to alternative services funded through section 19-2-212 or other alternative services programs. If a juvenile who is ~~twelve~~ THIRTEEN years of age or older fails to make satisfactory progress in the alternative services to which he or she is sentenced or if the court finds that a sentence to alternative services would be contrary to the community interest, the court may sentence any juvenile adjudicated for an offense that would constitute a class 3, class 4, class 5, or class 6 felony or a misdemeanor or WEAPONS CHARGE if committed by an adult to detention for a period not to exceed forty-five days. Release for purposes of work, therapy, education, or other good cause may be granted by the court. The court may not sentence to detention any juvenile adjudicated for an offense that would constitute a class 1 or class 2 felony if committed by an adult.

(3) A JUVENILE WHO IS LESS THAN THIRTEEN YEARS OF AGE MAY NOT BE SENTENCED TO DETENTION UNLESS HE OR SHE HAS BEEN ADJUDICATED FOR A FELONY OR WEAPONS CHARGE PURSUANT TO SECTION 18-12-102, 18-12-105, 18-12-106, OR 18-12-108.5. AS AN ALTERNATIVE, THE JUVENILE PROBATION DEPARTMENT MAY CONDUCT A PRESENTENCE INVESTIGATION PURSUANT TO SECTION 19-2-905. THE INVESTIGATION MAY RESULT IN THE JUVENILE:

(a) REMAINING IN THE CUSTODY OF A PARENT, GUARDIAN, OR LEGAL CUSTODIAN; OR

(b) BEING PLACED IN THE TEMPORARY LEGAL CUSTODY OF KIN, FOR PURPOSES OF A KINSHIP FOSTER CARE HOME OR NONCERTIFIED KINSHIP CARE PLACEMENT, AS DEFINED IN SECTION 19-1-103 (71.3), OR OTHER SUITABLE PERSON UNDER SUCH CONDITIONS AS THE COURT MAY IMPOSE; OR

(c) BEING PLACED IN A SHELTER FACILITY; OR

(d) BEING REFERRED TO A LOCAL COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES FOR ASSESSMENT FOR PLACEMENT.

SECTION 6. Appropriation - adjustments to 2017 long bill. To implement this act, the general fund appropriation made in the annual general appropriation act for the 2017-18 state fiscal year to the department of human services for use by the division of youth corrections for institutional programs is decreased by \$160,270.

SECTION 7. 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: May 31, 2017