

HB1156\_L.001

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB18-1156 be amended as follows:

1 Amend printed bill, page 2, before line 2 insert:

2 "SECTION 1. Legislative declaration. (1) The general  
3 assembly finds and declares that:

4 (a) The general assembly has previously declared, in House Bill  
5 11-1053, enacted in 2011, that "[t]he best practice for addressing truancy  
6 is a graduated approach that includes early intervention", and that youth  
7 who are truant and "who have committed no criminal offense . . . may be  
8 physically and emotionally unprepared for the stress" of the juvenile  
9 justice system;

10 (b) Yet, in 2017, youth who were truant were held in secure  
11 confinement in a facility more than forty times;

12 (c) National and Colorado studies clearly demonstrate that placing  
13 a youth in secure confinement for truancy alone is counterproductive and  
14 harmful to the youth and the community for the following reasons:

15 (I) A youth who was detained for truancy is 14.5 times less likely  
16 to graduate from high school than a youth who was found truant but not  
17 detained; and

18 (II) Detention for truancy increases the likelihood of future  
19 criminal behavior. Youth who are truant are not charged with any  
20 criminal conduct, but placing these youth in secure confinement with  
21 youth who are charged with criminal conduct increases the likelihood the  
22 truant youth will subsequently engage in criminal behavior.

23 (d) The state has a strong interest in preserving limited and costly  
24 youth detention beds for youth who have been accused of or adjudicated  
25 for dangerous criminal conduct; and

26 (e) Truancy by a youth does not pose an inherent or immediate  
27 threat to the safety of the youth or the community.

28 (2) The general assembly therefore finds that youth in Colorado  
29 should not be placed in secure confinement for truancy alone. The general  
30 assembly further finds that the power of the court to sanction youth for  
31 contempt, including sanctions of detention and incarceration, is an  
32 inherent power of the court that may not be abrogated by the legislature,  
33 pursuant to article III of the state constitution."

34 Renumber succeeding sections accordingly.

35 Page 4, strike lines 25 through 27 and substitute "(7) as follows:

36 22-33-108. Judicial proceedings. (7) (a) If the child OR YOUTH  
37 does not comply with the valid court order issued against the child OR  
38 YOUTH or against both the parent and the child OR YOUTH, the court may  
39 order that an assessment for neglect as described in section 19-3-102 (1)

1 ~~C.R.S.~~, be conducted as provided in section 19-3-501. ~~C.R.S.~~ In addition,  
2 the court may order the child OR YOUTH to show cause why he or she  
3 should not be held in contempt of court. WHEN INSTITUTING CONTEMPT  
4 OF COURT PROCEEDINGS PURSUANT TO THIS SUBSECTION (7), THE COURT  
5 SHALL PROVIDE ALL PROCEDURAL PROTECTIONS MANDATED IN THE  
6 COLORADO RULES OF CIVIL PROCEDURE CONCERNING PUNITIVE SANCTIONS  
7 FOR CONTEMPT.

8 (a.5) A COURT MAY ONLY ISSUE A WARRANT AUTHORIZING THE  
9 TAKING INTO TEMPORARY CUSTODY A CHILD OR YOUTH WHO HAS FAILED  
10 TO APPEAR FOR AT LEAST TWO COURT HEARINGS FOR TRUANCY OR A  
11 CONTEMPT ACTION IF THE COURT FIRST FINDS THAT THE CHILD OR YOUTH  
12 WAS PERSONALLY SERVED WITH NOTICE OF THE DATE AND TIME OF THE  
13 MISSED HEARINGS. ANY WARRANT ISSUED PURSUANT TO THIS SUBSECTION  
14 (7)(a.5) MUST EITHER PROVIDE FOR IMMEDIATE RELEASE FROM  
15 TEMPORARY CUSTODY ON AN UNSECURED PERSONAL RECOGNIZANCE BOND  
16 COSIGNED BY THE CHILD'S OR YOUTH'S PARENT OR LEGAL GUARDIAN, OR,  
17 IF THE CHILD OR YOUTH IS IN THE CUSTODY OF THE DEPARTMENT OF  
18 HUMAN SERVICES, THEN COSIGNING MAY BE ACCOMPLISHED BY A  
19 REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES. IN THE  
20 ALTERNATIVE, THE WARRANT MAY DIRECT THAT THE CHILD OR YOUTH  
21 MUST ONLY BE ARRESTED WHILE COURT IS IN SESSION AND THAT HE OR SHE  
22 BE TAKEN DIRECTLY TO COURT FOR AN APPEARANCE RATHER THAN  
23 BOOKED INTO SECURE CONFINEMENT.

24 (b) The court may impose sanctions after a finding of contempt  
25 that may include, but need not be limited to, community service to be  
26 performed by the child OR YOUTH, supervised activities, participation in  
27 services for at-risk students, as described by section 22-33-204, and other  
28 activities having ~~goals that shall ensure~~ THE GOAL OF ENSURING that the  
29 child OR YOUTH has an opportunity to obtain a quality education.

30 (c) (I) If the court finds that the child OR YOUTH has refused to  
31 comply with the plan created for the child OR YOUTH pursuant to section  
32 22-33-107 (3), the court may impose on the child OR YOUTH, as a sanction  
33 for contempt of court, a sentence of detention for no more than ~~five days~~  
34 FORTY-EIGHT HOURS in a juvenile detention facility operated by or under  
35 contract with the department of human services pursuant to section  
36 19-2-402 ~~C.R.S.~~, and any rules promulgated by the Colorado supreme  
37 court. THE COURT SHALL NOT SENTENCE A CHILD OR YOUTH TO DETENTION  
38 AS A SANCTION FOR CONTEMPT OF COURT UNLESS THE COURT FINDS THAT  
39 DETENTION IS IN THE BEST INTEREST OF THE CHILD OR YOUTH AS WELL AS  
40 THE PUBLIC. IN MAKING SUCH A FINDING, THE COURT SHALL CONSIDER THE  
41 FOLLOWING FACTORS, INCLUDING THAT:

42 (A) THE CHILD OR YOUTH HAS VIOLATED A VALID COURT ORDER;

43 (B) NATIONAL AND COLORADO-SPECIFIC EVIDENCE SHOWS THAT  
44 DETAINING CHILDREN AND YOUTH FOR TRUANCY ALONE IS  
45 COUNTERPRODUCTIVE AND HARMFUL TO CHILDREN AND YOUTH;

46 (C) THE LEGISLATIVE INTENT IS THAT A CHILD OR YOUTH WHO IS

1 TRUANT MUST NOT BE PLACED IN SECURE CONFINEMENT FOR TRUANCY  
2 ALONE;  
3 (D) DETENTION IS LIKELY TO HAVE A DETRIMENTAL EFFECT ON  
4 THE CHILD'S OR YOUTH'S SCHOOL ATTENDANCE; AND  
5 (E) DETENTION IS LIKELY TO HAVE AN EFFECT ON THE CHILD'S OR  
6 YOUTH'S FUTURE INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM.  
7 (II) THERE IS A REBUTTABLE PRESUMPTION THAT A CHILD OR  
8 YOUTH MUST RECEIVE CREDIT FOR TIME SERVED IF HE OR SHE IS  
9 SENTENCED TO DETENTION PURSUANT TO SUBSECTION (7)(c)(I) OF THIS  
10 SECTION FOR VIOLATING A VALID COURT ORDER TO ATTEND SCHOOL. IF  
11 THE COURT REBUTS THIS PRESUMPTION, IT SHALL EXPLAIN ITS REASONING  
12 ON THE RECORD."

13 Page 5, strike lines 1 through 13.

14 Page 5, strike lines 25 through 27.

15 Page 6, strike lines 1 through 16 and substitute:

16 "SECTION 7. In Colorado Revised Statutes, 19-2-503, amend  
17 (3) as follows:  
18 **19-2-503. Issuance of a lawful warrant taking a juvenile into**  
19 **custody. (3) A warrant for the arrest of a juvenile for violation of the**  
20 **conditions of probation or of a bail bond may be issued by any judge of**  
21 **a court of record or juvenile magistrate upon the report of a juvenile**  
22 **probation officer or upon the verified complaint of any person,**  
23 **establishing to the satisfaction of the judge or juvenile magistrate**  
24 **probable cause to believe that a condition of probation or of a bail bond**  
25 **has been violated and that the arrest of the juvenile is reasonably**  
26 **necessary. The warrant may be executed by any juvenile probation officer**  
27 **or by a peace officer authorized to execute warrants in the county in**  
28 **which the juvenile is found. IF THE WARRANT IS FOR A JUVENILE FOUND**  
29 **IN CONTEMPT OF COURT IN A TRUANCY PROCEEDING, THE COURT SHALL**  
30 **FOLLOW THE PROCEDURES SET FORTH IN SECTION 22-33-108 (7)."**

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