

CHAPTER 3

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 93S-1005

BY REPRESENTATIVES Coffman, Adkins, Agler, Allen, Armstrong, Berry, Fleming, Foster, Friednash, Greenwood, Hagedorn, R. Hernandez, Jerke, June, Keller, Kerns, Lawrence, Lyle, Martin, Mattingly, Morrison, Nichol, Pierson, Ratterree, Reeser, Taylor, and Tucker;
also SENATORS Owens, Bishop, Blickensderfer, Feeley, Gallagher, Johnson, Norton, Pastore, R. Powers, Schroeder, Tebedo, Traylor, Wattenberg, and Wells.

AN ACT

CONCERNING THE CREATION OF A REGIMENTED JUVENILE TRAINING PROGRAM FOR CERTAIN JUVENILE OFFENDERS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Part 7 of article 2 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-2-708. Regimented juvenile training program - legislative declaration.

(1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION BENEFIT THE STATE BY PROVIDING A THREE-PHASE REGIMENTED JUVENILE TRAINING PROGRAM UNDER WHICH CERTAIN ADJUDICATED JUVENILES ARE SUBJECT TO A CONTROLLED AND REGIMENTED ENVIRONMENT THAT AFFIRMS DIGNITY OF SELF AND RESPECT FOR OTHERS; PROMOTES THE VALUE OF EDUCATION, WORK, AND SELF-DISCIPLINE; AND DEVELOPS USEFUL SKILLS AND ABILITIES THAT CAN BE APPLIED WHEN THE JUVENILE IS REINTEGRATED INTO THE COMMUNITY.

(2) (a) THE DEPARTMENT OF INSTITUTIONS, UNDER CONTRACT WITH ANY PRIVATE ENTITY, SHALL ESTABLISH, MAINTAIN, AND OPERATE A REGIMENTED JUVENILE TRAINING PROGRAM. JUVENILES ELIGIBLE FOR PARTICIPATION IN THE PROGRAM SHALL BE ASSESSED AND DEEMED APPROPRIATE FOR THE PROGRAM BY THE DEPARTMENT. THE JUVENILES ELIGIBLE FOR THE PROGRAM SHALL INCLUDE ONLY JUVENILES SENTENCED TO THE DEPARTMENT OF INSTITUTIONS,

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

REGARDLESS OF WHETHER THE SENTENCE TO THE DEPARTMENT IS A DIRECT SENTENCE OR AS A CONDITION OF PROBATION.

(b) A JUVENILE MAY BE ELIMINATED FROM THE PROGRAM UPON A DETERMINATION BY THE DEPARTMENT OF INSTITUTIONS THAT A PHYSICAL OR MENTAL CONDITION WILL PREVENT FULL PARTICIPATION IN THE PROGRAM BY SUCH OFFENDER.

(3) THE REGIMENTED JUVENILE TRAINING PROGRAM SHALL CONSIST OF TWO PHASES, WHICH SHALL BE ADMINISTERED AS FOLLOWS:

(a) **Phase I:** A MILITARY STYLED INTENSIVE PHYSICAL TRAINING AND DISCIPLINE PHASE IN A SECURE FACILITY CONSISTING OF EIGHTY BEDS FOR A PERIOD OF SIXTY DAYS AND ADMINISTERED BY THE DEPARTMENT OF INSTITUTIONS;

(b) **Phase II:** A COMMUNITY REINTEGRATION PHASE FOR EIGHTY JUVENILES, WHICH IS ADMINISTERED BY THE JUDICIAL DEPARTMENT, AS FOLLOWS:

(I) (A) IF APPROPRIATE JUVENILE DIVERSION SERVICES ARE AVAILABLE UNDER A CONTRACT AUTHORIZED BY SECTION 19-2-303 FOR THE JUDICIAL DISTRICT IN WHICH THE JUVENILE RESIDES, THE JUDICIAL DEPARTMENT SHALL CONTRACT WITH ANY GOVERNMENTAL UNIT OR NONGOVERNMENTAL AGENCY PROVIDING SERVICES UNDER SUCH CONTRACT TO PROVIDE DIVERSION SERVICES SIMILAR TO THOSE PROVIDED UNDER THE CONTRACT; AND

(B) A JUVENILE IN THE REGIMENTED JUVENILE TRAINING PROGRAM WHO RESIDES IN A JUDICIAL DISTRICT DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) SHALL BE REQUIRED TO PARTICIPATE IN A DIVERSION PROGRAM FOR A PERIOD TO BE DETERMINED BY THE JUDICIAL DEPARTMENT;

(II) IF DIVERSION SERVICES DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) ARE NOT AVAILABLE IN THE JUDICIAL DISTRICT IN WHICH THE JUVENILE RESIDES, THE JUVENILE SHALL BE SUBJECT TO A PERIOD OF SUPERVISION UNDER THE JUDICIAL DEPARTMENT;

(III) IN ADDITION TO THE REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (b), JUVENILES SHALL BE REQUIRED TO PARTICIPATE IN A JOB TRAINING AND EDUCATIONAL COMPONENT, AS DEEMED APPROPRIATE BY THE JUDICIAL DEPARTMENT. THE EDUCATIONAL COMPONENT SHALL INCLUDE CLASSROOM WORK COMPRISED OF BASIC ACADEMIC AND/OR VOCATIONAL INSTRUCTION.

(IV) IN ADDITION TO THE REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (b), IF DEEMED APPROPRIATE BY THE JUDICIAL DEPARTMENT, JUVENILES MAY BE SUBJECT TO ELECTRONIC MONITORING OR MAY BE PLACED IN A COMMUNITY RESIDENTIAL FACILITY SUBJECT TO AN INTERDEPARTMENTAL AGREEMENT BETWEEN THE JUDICIAL DEPARTMENT AND THE DEPARTMENT OF INSTITUTIONS; EXCEPT THAT NO MORE THAN SIXTY JUVENILES SHALL BE SUBJECT TO ELECTRONIC MONITORING AND NO MORE THAN TWENTY JUVENILES SHALL BE PLACED IN A COMMUNITY RESIDENTIAL FACILITY.

(4) WHENEVER A JUVENILE FAILS TO PROGRESS THROUGH OR COMPLETE THE INITIAL PHASE OF THE REGIMENTED JUVENILE TRAINING PROGRAM, THE DEPARTMENT OF INSTITUTIONS MAY REASSIGN THE JUVENILE TO A DIVISION OF YOUTH SERVICES FACILITY. IN ADDITION, WHENEVER A JUVENILE FAILS TO PROGRESS THROUGH OR COMPLETE THE SECOND OR THIRD PHASE OF THE PROGRAM, THE DEPARTMENT MAY RETURN THE JUVENILE TO AN EARLIER PHASE OF THE PROGRAM FOR COMPLETION OF ALL OR PART OF THE EARLIER PHASE; EXCEPT THAT A JUVENILE SHALL NOT BE RETURNED FOR PARTICIPATION IN THE INITIAL PHASE MORE THAN ONCE.

(5) THE DEPARTMENT OF INSTITUTIONS SHALL ESTABLISH AND ENFORCE STANDARDS FOR THE REGIMENTED JUVENILE TRAINING PROGRAM AND EACH OF THE PHASES THEREOF DESCRIBED IN SUBSECTION (3) OF THIS SECTION. SUPPORTIVE SERVICES DEEMED NECESSARY BY THE DEPARTMENT OF INSTITUTIONS SHALL BE MADE AVAILABLE UNDER THE PHASES OF THE REGIMENTED JUVENILE TRAINING PROGRAM, AS DEEMED APPROPRIATE BY THE DEPARTMENT OF INSTITUTIONS.

(6) (a) ON OR BEFORE DECEMBER 1, 1996, THE DEPARTMENT OF INSTITUTIONS SHALL SUBMIT A REPORT EVALUATING THE REGIMENTED JUVENILE TRAINING PROGRAM TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE, AND THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY.

(b) THE REPORT SHALL INCLUDE THE FOLLOWING DETERMINATIONS:

(I) WHETHER THE COURTS ARE COMMITTING JUVENILES TO THE DEPARTMENT OF INSTITUTIONS IN ANTICIPATION OF THE JUVENILE BEING ASSIGNED TO THE REGIMENTED JUVENILE TRAINING PROGRAM WHEN SUCH JUVENILE WOULD BETTER BE PLACED IN ANOTHER DIVISION OF YOUTH SERVICES FACILITY OR ON PROBATION; AND

(II) WHETHER, AS A RESULT OF BEING ASSIGNED TO THE REGIMENTED JUVENILE TRAINING PROGRAM, JUVENILES IN FACT RECEIVE LESS SERIOUS SENTENCES THAN SIMILARLY ADJUDICATED JUVENILES, IN TERMS OF THE TYPE OF DELINQUENT ACT, JUVENILE HISTORY, AND ASSESSED NEEDS, WHO WERE NOT ASSIGNED TO SUCH A PROGRAM BUT WERE OTHERWISE COMMITTED TO THE DEPARTMENT OF INSTITUTIONS; AND

(III) WHETHER BED SAVINGS TO THE DEPARTMENT OF INSTITUTIONS ARE A RESULT OF THE REGIMENTED JUVENILE TRAINING PROGRAM; AND

(IV) WHETHER JUVENILES PLACED IN A REGIMENTED JUVENILE TRAINING PROGRAM HAVE A RECIDIVISM RATE WHICH IS EQUAL TO OR LESS THAN THAT OF SIMILAR ADJUDICATED JUVENILES WHO WERE NOT PLACED IN SUCH PROGRAM BUT WERE OTHERWISE COMMITTED TO THE DEPARTMENT OF INSTITUTIONS.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1997.

SECTION 2. 19-2-703 (1) (h), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-703. Juvenile delinquent - sentencing - disposition - restitution - parental liability. (1) (h) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (h), the court may ~~commit~~ SENTENCE any juvenile twelve years of age or older 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.

(II) THE COURT MAY ALTERNATIVELY SENTENCE THE JUVENILE TO THE DEPARTMENT OF INSTITUTIONS, WITH A RECOMMENDATION TO THE DEPARTMENT THAT THE JUVENILE BE REQUIRED TO PARTICIPATE IN THE REGIMENTED JUVENILE TRAINING PROGRAM SET FORTH IN SECTION 19-2-708. A SENTENCE TO THE DEPARTMENT PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE CONDITIONED UPON AVAILABLE SPACE IN THE PROGRAM AND A DETERMINATION BY THE DEPARTMENT THAT THE JUVENILE IS APPROPRIATE FOR THE PROGRAM. THE COURT'S ORDER SHALL SPECIFY THAT IN THE EVENT THE DEPARTMENT OF INSTITUTIONS DOES NOT PLACE THE JUVENILE IN THE PROGRAM, THE JUVENILE SHALL BE SENTENCED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (h).

SECTION 3. 19-2-703 (1) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-703. Juvenile delinquent - sentencing - disposition - restitution - parental liability. (1) (e) (I) In the case of a juvenile who has been adjudicated a juvenile delinquent for ~~an act which constitutes a violation of section 18-12-105, C.R.S.,~~ THE COMMISSION OF ONE OF THE MISDEMEANOR OFFENSES DESCRIBED IN SECTION 19-2-204 (3) (a) (III) (C), the court shall ~~impose a commitment, placement, or~~ SENTENCE THE JUVENILE TO A MINIMUM MANDATORY PERIOD of detention of not less than ~~ten~~ FIVE days. ~~which may be suspended upon condition that the juvenile report for assignment to a supervised work program of ten days of useful public service consistent with the conditions in subparagraphs (I) and (II) of paragraph (i) of this subsection (1).~~

(II) THE COURT MAY ALTERNATIVELY SENTENCE THE JUVENILE TO THE DEPARTMENT OF INSTITUTIONS, WITH A RECOMMENDATION TO THE DEPARTMENT THAT THE JUVENILE BE REQUIRED TO PARTICIPATE IN THE REGIMENTED JUVENILE TRAINING PROGRAM SET FORTH IN SECTION 19-2-708. HOWEVER, IN THE EVENT THE DEPARTMENT ASSESSES A JUVENILE IN ACCORDANCE WITH SECTION 19-2-708 AND DETERMINES THAT THE JUVENILE'S PARTICIPATION IN THE PROGRAM IS INAPPROPRIATE, THE COURT'S ORDER SHALL SPECIFY THAT THE JUVENILE SHALL BE SENTENCED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

SECTION 4. Appropriation - legislative intent concerning probation officers. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of institutions for allocation to the division of youth services, for the fiscal year beginning July 1, 1993, the sum of one million four hundred one thousand six hundred dollars (\$1,401,600), and out of any moneys in the capital construction fund not otherwise appropriated, to the department of institutions for allocation to the division of youth services, for the fiscal year

beginning July 1, 1993, the sum of six hundred twenty-seven thousand eight hundred dollars (\$627,800), or so much thereof as may be necessary, for the implementation of this act.

(2) (a) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department for allocation for probation and related services, for the fiscal year beginning July 1, 1993, the sum of four hundred eighty-one thousand five dollars (\$481,005) and 3.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(b) It is the general assembly's intent that any moneys appropriated to the judicial department pursuant to paragraph (a) of this subsection (2) used for additional probation officers be limited to additional probation officers who shall solely provide services under this act.

SECTION 5. 24-75-302 (2) (f), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-75-302. Capital construction fund - capital assessment fees - calculation. (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 1995, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(f) On July 1, 1993, twenty-five million dollars PLUS SIX HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED DOLLARS PURSUANT TO H.B. 93S-1005, ENACTED AT THE FIRST EXTRAORDINARY SESSION OF THE FIFTY-NINTH GENERAL ASSEMBLY;

SECTION 6. Review of spending by capital development committee. Prior to spending the amount appropriated pursuant to subsection (1) of section 4 of this act for the purposes of constructing detention facilities, the division of youth services of the department of institutions shall submit plans for construction of such facilities or alternative plans to the capital development committee of the general assembly for review. Subsequent to such review, the capital development committee shall make recommendations to the joint budget committee of the general assembly. Such construction or alternative plans shall be submitted not later than November 1, 1993.

SECTION 7. Effective date - applicability. This act shall take effect upon passage and shall apply to sentences entered on or after said date; except that section 3 of this act shall only take effect upon passage of House Bill 93S-1001 during the First Extraordinary Session of the Fifty-ninth General Assembly.

SECTION 8. 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: September 13, 1993