

CHAPTER 341

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 94-155

BY SENATORS Wells, Norton, R. Powers, Ruddick, and Tebedo;
also REPRESENTATIVES Adkins, Armstrong, Friednash, Lawrence, and Reeser.

AN ACT

CONCERNING JUVENILES AGAINST WHOM CRIMINAL CHARGES ARE FILED DIRECTLY IN DISTRICT COURT, AND MAKING APPROPRIATIONS IN CONNECTION THEREWITH.

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

SECTION 1. 19-2-805 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-2-805. Direct filing. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(I) The juvenile is fourteen years of age or older and is alleged to have committed a class 1 or class 2 felony; or

(II) The juvenile is fourteen years of age or older and:

(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 16-11-309, C.R.S.; or

(B) Is alleged to have committed a felony offense described in article 12 of title 18, C.R.S., except for the possession of a handgun by a juvenile, as set forth in section 18-12-108.5, C.R.S.; or

(C) Is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person, which are set forth in article 3 of title 18, C.R.S.; or

(III) The juvenile has, within the two previous years, been adjudicated a juvenile

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

delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older, and allegedly has committed a crime defined by section 18-1-105, C.R.S., as a class 3 felony, except felonies defined by section 18-3-403 (1) (e), C.R.S.; or

(IV) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-806; except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court; OR

(V) THE JUVENILE IS FOURTEEN YEARS OF AGE OR OLDER, HAS ALLEGEDLY COMMITTED A DELINQUENT ACT THAT CONSTITUTES A FELONY, AND IS DETERMINED TO BE AN "HABITUAL JUVENILE OFFENDER". FOR PURPOSES OF THIS SECTION, AN "HABITUAL JUVENILE OFFENDER" IS A JUVENILE OFFENDER WHO HAS PREVIOUSLY BEEN TWICE ADJUDICATED A JUVENILE DELINQUENT FOR SEPARATE DELINQUENT ACTS, ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, THAT CONSTITUTE FELONIES.

(b) The offenses described in subparagraphs (I) to ~~(IV)~~ (V) of paragraph (a) of this subsection (1) shall include the attempt, conspiracy, solicitation, or complicity to commit such offenses.

(2) (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) (A) 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 is convicted of a class 1 or class 2 felony, any sexual offense described in part 4 of article 3 of title 18, C.R.S., or a second or subsequent offense described in said subparagraph (II) OR (V) for which 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.

(B) This subparagraph (II) is repealed, effective June 30, 1999.

(III) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age and is convicted of an offense other than a class 1 or class 2 felony or a crime of violence as defined under section 16-11-309, C.R.S., OR IS CONVICTED OF AN OFFENSE DESCRIBED IN SUBPARAGRAPH (V) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION.

SECTION 2. 16-11-311 (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is 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. (2) (a) A juvenile may be sentenced to the youthful offender system created pursuant to this section under the circumstances set forth in section 19-2-805 (2) (a) (II) AND (2) (a) (V), C.R.S. In order to sentence a person 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 parole supervision. The court shall impose any such sentence to the youthful offender system for a determinate period of not less than one year nor more than five years and a mandatory period of parole supervision for a period of one year. Upon the successful completion of the programs in the youthful offender system, including the mandatory period of supervision, the sentence to the department of corrections shall have been completed. Whenever a person is returned to the district court for revocation pursuant to subsection (5) of this section, the court shall impose the original sentence following the revocation of the sentence to the youthful offender system. Such revocation shall be in accordance with section 16-11-206.

SECTION 3. 16-11-311 (10), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH 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. (10) (d) ON OR AFTER JANUARY 1, 1995, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY AND THE JOINT BUDGET COMMITTEE CONCERNING THE NUMBER OF OFFENDERS ENTERING THE YOUTHFUL OFFENDER SYSTEM AS "HABITUAL JUVENILE OFFENDERS", AS DEFINED IN SECTION 19-2-805 (1) (a) (V), C.R.S., INCLUDING A SUMMARY OF THE CRIMINAL HISTORY OF EACH OFFENDER, AND UPDATE THE GENERAL ASSEMBLY AND THE JOINT BUDGET COMMITTEE ANNUALLY ON THE NUMBERS OF HABITUAL JUVENILE OFFENDERS ENTERING THE YOUTHFUL OFFENDER SYSTEM AND ON THE NUMBERS OF OFFENDERS OF ALL TYPES WHO HAVE COMPLETED THE YOUTHFUL OFFENDER SYSTEM AND HAVE REOFFENDED.

SECTION 4. Appropriation - adjustment to 1994-95 long bill. (1) 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 to the state public defender, for the fiscal year beginning July 1, 1994, the sum of eight thousand eight hundred twenty-four dollars (\$8,824) and 0.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act to the department of human services for the fiscal year beginning July 1, 1994, shall be adjusted as follows: The general fund appropriation to the department of human services, division of youth services, community programs, purchase of contract placements, shall be decreased by one million one hundred fifty-seven thousand four hundred eighty-one dollars (\$1,157,481).

(3) Of the 1,678 adult beds provided for over a five-year period by appropriations in H.B. 94-1340, up to 67 of those beds will be allocated to implement this act. Of the 300 beds provided for over a five-year period by appropriations in H.B. 94-1340 for the youthful offender system, up to 70 of those beds will be allocated to implement

this act.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 1994, and shall apply to any delinquent act that constitutes a felony described in section 19-2-805 (1) (a) (V), Colorado Revised Statutes, which is committed on or after July 1, 1994, and which is committed subsequent to two prior adjudications of delinquency required by section 19-2-805 (1) (a) (V), Colorado Revised Statutes, regardless of whether the delinquent acts, upon which the prior adjudications of delinquency were based, were committed on or before July 1, 1994.

SECTION 6. 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 3, 1994