

CHAPTER 82

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 06-1112

BY REPRESENTATIVE(S) Marshall, Berens, Borodkin, Boyd, Carroll M., Coleman, Hefley, Jahn, Massey, McGihon, Paccione, Stafford, Todd, and Stengel;
also SENATOR(S) Veiga, Groff, and Williams.

AN ACT

CONCERNING CHANGES TO CONFORM COLORADO JUVENILE LAW TO FEDERAL LAW.

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

SECTION 1. 19-1-103 (106), Colorado Revised Statutes, is amended, and the said 19-1-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(103.7) "STATUS OFFENSE" SHALL HAVE THE SAME MEANING AS IS DEFINED IN FEDERAL LAW IN 28 CFR 31.304, AS AMENDED.

(106) "Temporary holding facility" means an area used for the temporary holding of a child from the time that the child is taken into temporary custody until a detention hearing is held, if it has been determined that the child requires a staff-secure ~~or physically secure~~ setting. Such an area must be separated by sight and sound from any area that houses adult offenders.

SECTION 2. 19-2-508 (4) (d), Colorado Revised Statutes, is amended, and said 19-2-508 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (4) (d) (I) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall

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

be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. ~~Such~~ A juvenile ~~shall not~~ MAY be detained in a jail, lockup, or other place used for the confinement of adult offenders ONLY FOR PROCESSING for NO longer than six hours AND DURING SUCH TIME SHALL BE PLACED IN A SETTING THAT IS PHYSICALLY SEGREGATED BY SIGHT AND SOUND FROM THE ADULT OFFENDERS, and in no case MAY THE JUVENILE BE DETAINED IN SUCH PLACE overnight. ~~for processing only~~; After ~~which~~ SIX HOURS, the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of human services. In calculating time under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(II) A SHERIFF OR POLICE CHIEF WHO VIOLATES THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) MAY BE SUBJECT TO A CIVIL FINE OF NO MORE THAN ONE THOUSAND DOLLARS. THE DECISION TO FINE SHALL BE BASED ON PRIOR VIOLATIONS OF THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) BY THE SHERIFF OR POLICE CHIEF AND THE WILLINGNESS OF THE SHERIFF OR POLICE CHIEF TO ADDRESS THE VIOLATIONS IN ORDER TO COMPLY WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (d).

(g) A JUVENILE COURT SHALL NOT ORDER A JUVENILE OFFENDER WHO IS UNDER EIGHTEEN YEARS OF AGE AT THE TIME OF SENTENCING TO ENTER A SECURE SETTING OR SECURE SECTION OF AN ADULT JAIL OR LOCKUP AS A DISPOSITION FOR AN OFFENSE OR AS A MEANS OF MODIFYING THE JUVENILE OFFENDER'S BEHAVIOR.

SECTION 3. 19-2-508, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (8) (a) A JUVENILE WHO ALLEGEDLY COMMITS A STATUS OFFENSE OR IS CONVICTED OF A STATUS OFFENSE SHALL NOT BE HELD IN A SECURE AREA OF A JAIL OR LOCKUP.

(b) A SHERIFF OR POLICE CHIEF WHO VIOLATES THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (8) MAY BE SUBJECT TO A CIVIL FINE OF NO MORE THAN ONE THOUSAND DOLLARS. THE DECISION TO FINE SHALL BE BASED ON PRIOR VIOLATIONS OF THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (8) BY THE SHERIFF OR POLICE CHIEF AND THE WILLINGNESS OF THE SHERIFF OR POLICE CHIEF TO ADDRESS THE VIOLATIONS IN ORDER TO COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (8).

SECTION 4. 22-33-108 (3), Colorado Revised Statutes, is amended to read:

22-33-108. Judicial proceedings. (3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a) (4) of the Colorado rules of civil procedure AND RULE 3.8 OF THE COLORADO RULES OF JUVENILE PROCEDURE.

SECTION 5. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(r) TO INSPECT SECURE JUVENILE FACILITIES AND COLLECT DATA ON JUVENILES THAT ARE HELD IN SECURE JUVENILE FACILITIES, JAILS, AND LOCKUPS THROUGHOUT THE STATE.

SECTION 6. 25-1-310 (1), Colorado Revised Statutes, is amended to read:

25-1-310. Emergency commitment. (1) (a) When any person is intoxicated or incapacitated by alcohol and clearly dangerous to the health and safety of himself, HERSELF, or others, such person shall be taken into protective custody by law enforcement authorities or an emergency service patrol, acting with probable cause, and placed in an approved treatment facility. If no such facilities are available, he OR SHE may be detained in an emergency medical facility or jail, but only for so long as may be necessary to prevent injury to himself, HERSELF, or others or to prevent a breach of the peace. IF THE PERSON BEING DETAINED IS A JUVENILE, AS DEFINED IN SECTION 19-1-103 (68), C.R.S., THE JUVENILE SHALL BE PLACED IN A SETTING THAT IS NONSECURE AND PHYSICALLY SEGREGATED BY SIGHT AND SOUND FROM THE ADULT OFFENDERS. A law enforcement officer or emergency service ~~patrolman~~ PATROL OFFICER, in detaining the person, is taking him OR HER into protective custody. In so doing, the detaining officer may protect himself OR HERSELF by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime. Law enforcement or emergency service personnel who act in compliance with this section are acting in the course of their official duties and are not criminally or civilly liable therefor. Nothing in this subsection (1) shall preclude an intoxicated or incapacitated person who is not dangerous to the health and safety of himself, HERSELF, or others from being assisted to his OR HER home or like location by the law enforcement officer or emergency service ~~patrolman~~ PATROL OFFICER.

(b) A SHERIFF OR POLICE CHIEF WHO VIOLATES THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) RELATED TO DETAINING JUVENILES MAY BE SUBJECT TO A CIVIL FINE OF NO MORE THAN ONE THOUSAND DOLLARS. THE DECISION TO FINE SHALL BE BASED ON PRIOR VIOLATIONS OF THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) BY THE SHERIFF OR POLICE CHIEF AND THE WILLINGNESS OF THE SHERIFF OR POLICE CHIEF TO ADDRESS THE VIOLATIONS IN ORDER TO COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (1).

SECTION 7. 27-10-105 (1.1), Colorado Revised Statutes, is amended to read:

27-10-105. Emergency procedure. (1.1) (a) When a person is taken into custody pursuant to subsection (1) of this section, such person shall not be detained in a jail, lockup, or other place used for the confinement of persons charged with or convicted of penal offenses; except that such place may be used if no other suitable place of confinement for treatment and evaluation is readily available. In such situation the person shall be detained separately from those persons charged with or convicted of penal offenses and shall be held for a period not to exceed twenty-four hours, excluding Saturdays, Sundays, and holidays, after which time he shall be transferred to a facility designated or approved by the executive director for

a seventy-two-hour treatment and evaluation. IF THE PERSON BEING DETAINED IS A JUVENILE, AS DEFINED IN SECTION 19-1-103 (68), C.R.S., THE JUVENILE SHALL BE PLACED IN A SETTING THAT IS NONSECURE AND PHYSICALLY SEGREGATED BY SIGHT AND SOUND FROM THE ADULT OFFENDERS. When a person is taken into custody and confined pursuant to this subsection (1.1), such person shall be examined at least every twelve hours by a peace officer, nurse, or physician or by an appropriate staff professional of the nearest designated or approved mental health treatment facility to determine if the person is receiving appropriate care consistent with his mental condition.

(b) A SHERIFF OR POLICE CHIEF WHO VIOLATES THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1.1) RELATED TO DETAINING JUVENILES MAY BE SUBJECT TO A CIVIL FINE OF NO MORE THAN ONE THOUSAND DOLLARS. THE DECISION TO FINE SHALL BE BASED ON PRIOR VIOLATIONS OF THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1.1) BY THE SHERIFF OR POLICE CHIEF AND THE WILLINGNESS OF THE SHERIFF OR POLICE CHIEF TO ADDRESS THE VIOLATIONS IN ORDER TO COMPLY WITH PARAGRAPH (a) OF THIS SUBSECTION (1.1).

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: March 31, 2006