

CHAPTER 111

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 08-1016

BY REPRESENTATIVE(S) Solano, Stafford, Benefield, Borodkin, Buescher, Carroll M., Carroll T., Casso, Frangas, Gagliardi, Green, Hodge, Jahn, Kerr A., Kerr J., Labuda, Levy, Madden, McFadyen, McGihon, Merrifield, Peniston, Primavera, Todd, Kefalas, and Rose;
also SENATOR(S) Boyd, Windels, Bacon, Gibbs, Groff, Keller, Morse, Shaffer, Tapia, Tochtrop, Tupa, Ward, and Williams.

AN ACT

CONCERNING JUVENILE JUSTICE PROCEDURES FOR JUVENILES WHO MAY BENEFIT FROM MENTAL HEALTH SERVICES.

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, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

19-2-709.5 Implementation committees - repeal. (1) THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT AND THE PRESIDING JUDGE OF THE JUVENILE COURT FOR THE SECOND JUDICIAL DISTRICT MAY EACH APPOINT A COMMITTEE THAT SHALL DEVELOP AN IMPLEMENTATION PLAN FOR SECTIONS 19-2-710 AND 19-2-906. EACH IMPLEMENTATION COMMITTEE SHALL INCLUDE BUT SHALL BE NOT LIMITED TO A REPRESENTATIVE OF THE DISTRICT ATTORNEY'S OFFICE, THE PUBLIC DEFENDER, A COUNTY DEPARTMENT OF SOCIAL SERVICES, THE PROBATION DEPARTMENT, AND A COMMUNITY MENTAL HEALTH REPRESENTATIVE.

(2) EACH IMPLEMENTATION COMMITTEE SHALL SUBMIT ITS IMPLEMENTATION PLAN TO THE JUDICIAL DEPARTMENT BY JULY 1, 2009.

(3) EACH JUDICIAL DISTRICT SHALL HAVE UNTIL JULY 1, 2010, TO IMPLEMENT ITS PLAN.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

19-2-710. Mental health services for juvenile - how and when issue raised - procedure - definitions - repeal. (1) AT ANY STAGE OF A DELINQUENCY

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

PROCEEDING, IF THE COURT, PROSECUTION, PROBATION OFFICER, GUARDIAN AD LITEM, PARENT, OR LEGAL GUARDIAN HAS REASON TO BELIEVE THAT THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES, THE PARTY SHALL IMMEDIATELY ADVISE THE COURT OF SUCH BELIEF.

(2) AFTER THE PARTY ADVISES THE COURT OF THE PARTY'S BELIEF THAT THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES, THE COURT SHALL IMMEDIATELY ORDER A MENTAL HEALTH SCREENING OF THE JUVENILE PURSUANT TO SECTION 16-11.9-102, C.R.S., UNLESS THE COURT ALREADY HAS SUFFICIENT INFORMATION TO DETERMINE WHETHER THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES OR UNLESS A MENTAL HEALTH SCREENING OF THE JUVENILE HAS BEEN COMPLETED WITHIN THE LAST THREE MONTHS. THE DELINQUENCY PROCEEDINGS SHALL NOT BE STAYED OR SUSPENDED PENDING THE RESULTS OF THE MENTAL HEALTH SCREENING ORDERED PURSUANT THIS SECTION, HOWEVER, THE COURT MAY CONTINUE THE DISPOSITIONAL AND SENTENCING HEARING TO AWAIT THE RESULTS OF THE MENTAL HEALTH SCREENING.

(3) IF THE MENTAL HEALTH SCREENING INDICATES THAT THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES, THE COURT MAY ORDER A MENTAL HEALTH ASSESSMENT.

(4) AT THE TIME THE COURT ORDERS A MENTAL HEALTH ASSESSMENT, THE COURT SHALL SPECIFY THE DATE UPON WHICH THE ASSESSMENT SHALL BE COMPLETED AND RETURNED TO THE COURT. THE COURT MAY ASSIGN RESPONSIBILITY FOR THE COST OF THE ASSESSMENT TO ANY PARTY HAVING LEGAL CUSTODY OR LEGAL GUARDIANSHIP OF THE JUVENILE.

(5) THE ASSESSMENT, AT A MINIMUM, SHALL INCLUDE AN OPINION REGARDING WHETHER THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES. IF THE ASSESSMENT CONCLUDES THAT THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES, THE ASSESSMENT SHALL IDENTIFY THE JUVENILE'S MENTAL HEALTH ISSUES AND THE APPROPRIATE SERVICES AND TREATMENT.

(6) EVIDENCE OR TREATMENT OBTAINED AS A RESULT OF A MENTAL HEALTH SCREENING OR ASSESSMENT ORDERED PURSUANT TO THIS SECTION SHALL NOT BE ADMISSIBLE ON THE ISSUES RAISED BY A PLEA OF NOT GUILTY UNLESS THE JUVENILE PLACES HIS OR HER MENTAL HEALTH AT ISSUE. IF THE JUVENILE PLACES HIS OR HER MENTAL HEALTH AT ISSUE, THEN EITHER PARTY MAY INTRODUCE EVIDENCE OBTAINED AS A RESULT OF A MENTAL HEALTH SCREENING OR ASSESSMENT.

(7) FOR PURPOSES OF THIS SECTION:

(a) "ASSESSMENT" MEANS AN OBJECTIVE PROCESS USED TO COLLECT PERTINENT INFORMATION IN ORDER TO IDENTIFY A JUVENILE WHO MAY HAVE MENTAL HEALTH NEEDS.

(b) "JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES" MEANS A JUVENILE EXHIBITS ONE OR MORE OF THE FOLLOWING CHARACTERISTICS:

(I) A CHRONIC OR SIGNIFICANT LACK OF IMPULSE CONTROL OR OF JUDGMENT;

(II) SIGNIFICANT ABNORMAL BEHAVIORS UNDER NORMAL CIRCUMSTANCES;

(III) A HISTORY OF SUSPENSIONS, EXPULSIONS, OR REPEATED TRUANCY FROM SCHOOL SETTINGS;

(IV) SEVERE OR FREQUENT CHANGES IN SLEEPING OR EATING PATTERNS OR IN LEVELS OF ACTIVITY;

(V) A PERVASIVE MOOD OF UNHAPPINESS OR OF DEPRESSION; OR

(VI) A HISTORY OF INVOLVEMENT WITH, OR TREATMENT IN, TWO OR MORE STATE OR LOCAL GOVERNMENTAL AGENCIES, INCLUDING BUT NOT LIMITED TO JUVENILE JUSTICE, YOUTH CORRECTIONS, OR CHILD WELFARE.

(8) (a) THE PROVISIONS OF THIS SECTION SHALL TAKE EFFECT JULY 1, 2010, HOWEVER THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT OR THE PRESIDING JUDGE OF THE JUVENILE COURT FOR THE SECOND JUDICIAL DISTRICT MAY ORDER THAT THE PROVISIONS OF THIS SECTION BE APPLIED PRIOR TO JULY 1, 2010, IF THE JUDICIAL DISTRICT HAS AN IMPLEMENTATION PLAN PURSUANT TO SECTION 19-2-709.5 THAT MAY BE IMPLEMENTED PRIOR TO JULY 1, 2010.

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 2. 19-2-906, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-906. Sentencing hearing - repeal. (2.5) (a) IF THE COURT RECEIVES A MENTAL HEALTH SCREENING OR MENTAL HEALTH ASSESSMENT PURSUANT TO SECTION 19-2-710 DETERMINING THAT THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES, OR THE COURT ALREADY HAS SUFFICIENT INFORMATION TO DETERMINE THAT THE JUVENILE COULD BENEFIT FROM MENTAL HEALTH SERVICES, THE COURT MAY ORDER MENTAL HEALTH SERVICES AS A PART OF THE DISPOSITION.

(b) (I) THE PROVISIONS OF THIS SUBSECTION (2.5) SHALL TAKE EFFECT JULY 1, 2010, HOWEVER THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT OR THE PRESIDING JUDGE OF THE JUVENILE COURT FOR THE SECOND JUDICIAL DISTRICT MAY ORDER THAT THE PROVISIONS OF THIS SUBSECTION (2.5) BE APPLIED PRIOR TO JULY 1, 2010, IF THE JUDICIAL DISTRICT HAS AN IMPLEMENTATION PLAN PURSUANT TO SECTION 19-2-709.5 THAT MAY BE IMPLEMENTED PRIOR TO JULY 1, 2010.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2008, and shall apply to juvenile proceedings held on or after said date.

SECTION 4. 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: April 10, 2008