

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0748.01 Jane Ritter x4342

HOUSE BILL 17-1207

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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House Committees

Judiciary
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REQUIREMENT FOR THE DEPARTMENT OF HUMAN**
102 **SERVICES TO PLACE A JUVENILE WHO IS TEN YEARS OF AGE AND**
103 **OLDER BUT LESS THAN THIRTEEN YEARS OF AGE IN A DETENTION**
104 **FACILITY UNLESS THE JUVENILE IS CHARGED WITH A SERIOUS**
105 **OFFENSE, AND, IN CONNECTION THEREWITH, REDUCING AN**
106 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates provisions that remove the requirements for the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 27, 2017

HOUSE
3rd Reading Unamended
April 5, 2017

HOUSE
Amended 2nd Reading
April 4, 2017

department of human services to receive, detain, or provide care for any juvenile who is 10 years of age and older but less than 13 years of age, unless the juvenile has been arrested or adjudicated for a felony or a weapons charge that is a misdemeanor or felony. Provisions remain in statute for other programs and services for the age group that will no longer require placement of the juvenile in a detention facility.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 19-2-310 as
3 follows:

4 **19-2-310. Appropriations to department of human services for**
5 **services to juveniles.** (1) The general assembly shall appropriate ~~money~~
6 MONEY for the provision of services to juveniles to the department of
7 human services. ~~which~~ THE DEPARTMENT OF HUMAN SERVICES shall
8 allocate such ~~money~~ MONEY by each judicial district in the state. Such
9 appropriation and allocation shall be made based upon the formula
10 developed in section 19-2-212 (1)(b). The department of human services
11 shall administer ~~such~~ THE appropriated ~~money~~. The ~~money~~ MONEY. THE
12 MONEY appropriated to the department of human services for allocation
13 by each judicial district ~~shall~~ MUST be expended in ~~such~~ THE judicial
14 district by the department of human services for services to juveniles that
15 are intended to prevent the juvenile from being held in detention prior to
16 adjudication, sentenced to detention, or committed to the department of
17 human services or to reduce the length of time the juvenile is held in
18 preadjudication or postadjudication detention or held in a commitment
19 facility operated under section 19-2-403. If a judicial district has a local
20 juvenile services planning committee, the expenditure of ~~money~~ MONEY
21 for juvenile services in ~~such~~ THE judicial district shall be made in
22 accordance with the plan developed pursuant to section 19-2-211.

5 **SECTION 2.** In Colorado Revised Statutes, 19-2-402, amend
6 (1)(a); and **add** (1)(c) as follows:

7 **19-2-402. Juvenile detention services and facilities to be**
8 **provided by department of human services - education.**

9 (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, THE
10 DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE detention services for
11 temporary care of a juvenile, pursuant to this ~~article~~, ~~shall be provided by~~
12 ~~the department of human services~~, which ARTICLE 2. THE DEPARTMENT
13 OF HUMAN SERVICES shall consult on a regular basis with the court in any
14 district where a detention facility is located concerning the detention
15 program at that facility. The department OF HUMAN SERVICES may use
16 staff secure facilities to provide preadjudication and postadjudication
17 detention services.

18 (c) THE DEPARTMENT OF HUMAN SERVICES IS NOT REQUIRED TO
19 RECEIVE AND PROVIDE CARE FOR ANY JUVENILE WHO IS TEN YEARS OF AGE
20 AND OLDER BUT LESS THAN THIRTEEN YEARS OF AGE, UNLESS SUCH
21 JUVENILE HAS BEEN ARRESTED OR ADJUDICATED FOR A FELONY OR
22 WEAPONS CHARGE PURSUANT TO SECTION 18-12-102, 18-12-105,
23 18-12-106, OR 18-12-108.5.

26 **19-2-507. Duty of officer - screening teams - notification -**
27 **release or detention. (2) The juvenile shall be detained if The law**

1 enforcement officer or the court SHALL DETAIN THE JUVENILE IF THE LAW
2 ENFORCEMENT OFFICER OR THE COURT determines that the juvenile's
3 immediate welfare or the protection of the community ~~require that the~~
4 ~~juvenile be detained~~ REQUIRES DETAINMENT. In determining whether a
5 juvenile requires detention, the law enforcement officer or the court shall
6 follow criteria for the detention of juvenile offenders which criteria are
7 established in accordance with section 19-2-212, AND SHALL MAKE
8 EFFORTS TO KEEP THE JUVENILE WITH HIS OR HER PARENT, GUARDIAN, OR
9 LEGAL CUSTODIAN.

10 **SECTION 4.** In Colorado Revised Statutes, 19-2-508, amend (2),
11 (3)(a)(III) introductory portion, (3)(a)(IV) introductory portion, and (6);
12 and add (3)(a)(IV.5) as follows:

13 **19-2-508. Detention and shelter - hearing - time limits -**
14 **findings - review - confinement with adult offenders - restrictions.**
15 (2) (a) UNLESS PLACEMENT IS PROHIBITED PURSUANT TO SUBSECTION
16 (2)(b) OF THIS SECTION, when a juvenile is placed in a detention facility,
17 in a temporary holding facility, or in a shelter facility designated by the
18 court, the screening team shall promptly so notify the court, the district
19 attorney, and the local office of the state public defender. The screening
20 team shall also notify a parent or legal guardian or, if a parent or legal
21 guardian cannot be located within the county, the person with whom the
22 juvenile has been residing and inform him or her of the right to a prompt
23 hearing to determine whether the juvenile is to be detained further. The
24 court shall hold the detention hearing within forty-eight hours, excluding
25 Saturdays, Sundays, and legal holidays. For a juvenile being held in
26 detention on a warrant for violating a valid court order on a status
27 offense, the court shall hold the detention hearing within twenty-four

1 hours, excluding Saturdays, Sundays, and legal holidays.

2 (b) A JUVENILE WHO IS TEN YEARS OF AGE AND OLDER BUT LESS
3 THAN THIRTEEN YEARS OF AGE MAY NOT BE ORDERED TO DETENTION
4 UNLESS THE JUVENILE HAS BEEN ARRESTED FOR A FELONY OR WEAPONS
5 CHARGE PURSUANT TO SECTION 18-12-102, 18-12-105, 18-12-106, OR
6 18-12-108.5. A PREADJUDICAMENT SERVICE PROGRAM CREATED PURSUANT
7 TO SECTION 19-2-302 SHALL EVALUATE A JUVENILE DESCRIBED IN THIS
8 SUBSECTION (2)(b). THE EVALUATION MAY RESULT IN THE JUVENILE:

9 (I) REMAINING IN THE CUSTODY OF A PARENT, GUARDIAN, OR
10 LEGAL CUSTODIAN; OR

11 (II) BEING PLACED IN THE TEMPORARY LEGAL CUSTODY OF KIN,
12 FOR PURPOSES OF A KINSHIP FOSTER CARE HOME OR NONCERTIFIED KINSHIP
13 CARE PLACEMENT, AS DEFINED IN SECTION 19-1-103 (71.3), OR OTHER
14 SUITABLE PERSON UNDER SUCH CONDITIONS AS THE COURT MAY IMPOSE;
15 OR

16 (III) BEING PLACED IN A SHELTER FACILITY; OR

17 (IV) BEING REFERRED TO A LOCAL COUNTY DEPARTMENT OF
18 HUMAN OR SOCIAL SERVICES FOR ASSESSMENT FOR PLACEMENT.

19 (3) (a) (III) With respect to this section, the court may further
20 detain the juvenile only if the court finds from the information provided
21 at the hearing that the juvenile is a danger to himself or herself or to the
22 community; EXCEPT THAT A JUVENILE WHO IS TEN YEARS OF AGE AND
23 OLDER BUT LESS THAN THIRTEEN YEARS OF AGE MAY NOT BE ORDERED TO
24 FURTHER DETENTION UNLESS THE JUVENILE HAS BEEN ARRESTED OR
25 ADJUDICATED FOR A FELONY OR WEAPONS CHARGE PURSUANT TO SECTION
26 18-12-102, 18-12-105, 18-12-106, OR 18-12-108.5. THE COURT SHALL
27 RECEIVE any information having probative value ~~shall be received~~

1 regardless of its admissibility under the rules of evidence. In determining
2 whether a juvenile requires detention, the court shall consider any record
3 of any prior adjudications of the juvenile. There ~~shall be~~ is a rebuttable
4 presumption that a juvenile is a danger to himself or herself or to the
5 community if:

6 (IV) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(IV.5) OF THIS
7 SECTION, at the conclusion of the hearing, the court shall enter one of the
8 following orders, WHILE ENSURING EFFORTS ARE MADE TO KEEP THE
9 JUVENILE WITH HIS OR HER PARENT, GUARDIAN, OR LEGAL CUSTODIAN:

10 (IV.5) A PREADJUDICATION SERVICE PROGRAM CREATED
11 PURSUANT TO SECTION 19-2-302 SHALL EVALUATE A JUVENILE DESCRIBED
12 IN SUBSECTION (2)(b) OF THIS SECTION. THE EVALUATION MAY RESULT IN
13 THE JUVENILE:

14 (A) REMAINING IN THE CUSTODY OF A PARENT, GUARDIAN, OR
15 LEGAL CUSTODIAN; OR

16 (B) BEING PLACED IN THE TEMPORARY LEGAL CUSTODY OF KIN,
17 FOR PURPOSES OF A KINSHIP FOSTER CARE HOME OR NONCERTIFIED KINSHIP
18 CARE PLACEMENT, AS DEFINED IN SECTION 19-1-103 (71.3), OR OTHER
19 SUITABLE PERSON UNDER SUCH CONDITIONS AS THE COURT MAY IMPOSE;

20 OR

21 (C) BEING PLACED IN A SHELTER FACILITY; OR

22 (D) BEING REFERRED TO A LOCAL COUNTY DEPARTMENT OF
23 HUMAN OR SOCIAL SERVICES FOR ASSESSMENT FOR PLACEMENT.

24 (6) EXCEPT FOR A JUVENILE DESCRIBED IN SUBSECTION (2)(b) OF
25 THIS SECTION, the court may also issue temporary orders for legal custody
26 as provided in section 19-1-115.

27 **SECTION 5.** In Colorado Revised Statutes, 19-2-911, amend (1):

1 and add (3) as follows:

2 **19-2-911. Sentencing - alternative services - detention.**

3 (1) Except as otherwise provided in section 19-2-601 for an aggravated
4 juvenile offender and except as provided in subsection (2) of this section,
5 the court may sentence the juvenile to alternative services funded through
6 section 19-2-212 or other alternative services programs. If a juvenile who
7 is ~~twelve~~ THIRTEEN years of age or older fails to make satisfactory
8 progress in the alternative services to which he or she is sentenced or if
9 the court finds that a sentence to alternative services would be contrary
10 to the community interest, the court may sentence any juvenile
11 adjudicated for an offense that would constitute a class 3, class 4, class 5,
12 or class 6 felony or a misdemeanor WEAPONS CHARGE if committed by an
13 adult to detention for a period not to exceed forty-five days. Release for
14 purposes of work, therapy, education, or other good cause may be granted
15 by the court. The court may not sentence to detention any juvenile
16 adjudicated for an offense that would constitute a class 1 or class 2 felony
17 if committed by an adult.

18 (3) A JUVENILE WHO IS LESS THAN THIRTEEN YEARS OF AGE MAY
19 NOT BE SENTENCED TO DETENTION UNLESS HE OR SHE HAS BEEN
20 ADJUDICATED FOR A FELONY OR WEAPONS CHARGE PURSUANT TO SECTION
21 18-12-102, 18-12-105, 18-12-106, OR 18-12-108.5. AS AN ALTERNATIVE,
22 THE JUVENILE PROBATION DEPARTMENT MAY CONDUCT A PRESENTENCE
23 INVESTIGATION PURSUANT TO SECTION 19-2-905. THE INVESTIGATION
24 MAY RESULT IN THE JUVENILE:

25 (a) REMAINING IN THE CUSTODY OF A PARENT, GUARDIAN, OR
26 LEGAL CUSTODIAN; OR
27 (b) BEING PLACED IN THE TEMPORARY LEGAL CUSTODY OF KIN,

1 FOR PURPOSES OF A KINSHIP FOSTER CARE HOME OR NONCERTIFIED KINSHIP
2 CARE PLACEMENT, AS DEFINED IN SECTION 19-1-103 (71.3), OR OTHER
3 SUITABLE PERSON UNDER SUCH CONDITIONS AS THE COURT MAY IMPOSE;

4 OR

5 (c) BEING PLACED IN A SHELTER FACILITY; OR
6 (d) BEING REFERRED TO A LOCAL COUNTY DEPARTMENT OF HUMAN
7 OR SOCIAL SERVICES FOR ASSESSMENT FOR PLACEMENT.

8 **SECTION 6. Appropriation - adjustments to 2017 long bill.** To
9 implement this act, the general fund appropriation made in the annual
10 general appropriation act for the 2017-18 state fiscal year to the
11 department of human services for use by the division of youth corrections
12 for institutional programs is decreased by \$160,270.

13 **SECTION 7. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.