

## SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Coleman

1 Amend reengrossed bill, page 13, line 15, after "(1)(c)" insert "and  
2 (1)(d)".

3 Page 13, after line 22 insert:

4 "(d) CONCERNING A CHILD WHO IS TEN YEARS OF AGE OR OLDER  
5 BUT UNDER THIRTEEN YEARS OF AGE IF THE JUVENILE COURT DETERMINES  
6 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD COMMITTED AN  
7 OFFENSE LISTED IN SECTION 19-2.5-504, FOR THE PURPOSES OF  
8 DETERMINING WHETHER THE PROSECUTION HAS OVERCOME THE  
9 REBUTTABLE PRESUMPTION THAT THE CHILD WILL NOT BE PROSECUTED  
10 PURSUANT TO SECTION 19-2.5-504, AND THEREAFTER ONLY IF THE  
11 JUVENILE COURT DETERMINES THAT THE PROSECUTION HAS REBUTTED THE  
12 PRESUMPTION THAT THE CHILD WILL NOT BE PROSECUTED."

13 Page 17, after line 17 insert:

14 "(c) WHEN A LAW ENFORCEMENT OFFICER HAS CONTACT WITH A  
15 CHILD WHO IS TEN YEARS OF AGE OR OLDER BUT UNDER THIRTEEN YEARS  
16 OF AGE AND DETERMINES THERE IS PROBABLE CAUSE TO BELIEVE THAT  
17 THE CHILD COMMITTED AN OFFENSE LISTED IN SECTION 19-2.5-504, THE  
18 LAW ENFORCEMENT OFFICER SHALL PROVIDE A COPY OF THE INFORMATION  
19 FORM FOR CHILDREN UNDER THIRTEEN YEARS OF AGE CREATED PURSUANT  
20 TO SECTION 24-1.9-102.7 TO THE LOCAL DISTRICT ATTORNEY WITHIN  
21 TWENTY-FOUR HOURS."

22 Reletter succeeding paragraph accordingly.

23 Page 17, line 19, after "(6)(b)" insert "and (6)(c)".

24 Page 18, after line 25 insert:

25 "**SECTION 18.** In Colorado Revised Statutes, **add** 19-2.5-504 as  
26 follows:

27 **19-2.5-504. Rebuttable presumption hearing for children ten**  
28 **years of age or older but under thirteen years of age.** (1) WHEN THE  
29 JUVENILE COURT DETERMINES THERE IS PROBABLE CAUSE TO BELIEVE  
30 THAT THE CHILD COMMITTED AN ACT IN VIOLATION OF SECTION 18-3-402,  
31 THERE IS A PRESUMPTION THAT THE CHILD SHALL NOT BE PROSECUTED  
32 AND INSTEAD SHALL BE REFERRED TO THE LOCAL COLLABORATIVE  
33 MANAGEMENT PROGRAM CREATED PURSUANT TO SECTION 24-1.9-102.  
34 THIS PRESUMPTION MAY BE REBUTTED BY CLEAR AND CONVINCING  
35 EVIDENCE THAT THE CHILD POSES A SUBSTANTIAL RISK TO ANOTHER AND  
36 THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM WOULD BE

1 INSUFFICIENT TO PROTECT AGAINST SUCH RISK.

2 (2) THE DISTRICT ATTORNEY MAY FILE A MOTION WITH THE COURT  
3 REQUESTING A REBUTTABLE PRESUMPTION HEARING PURSUANT TO THIS  
4 SECTION WITHIN FOURTEEN DAYS AFTER THE DISTRICT ATTORNEY  
5 RECEIVES THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS  
6 OF AGE CREATED PURSUANT TO SECTION 24-1.9-102.7. THE DISTRICT  
7 ATTORNEY SHALL CONSULT WITH THE VICTIM OR VICTIM'S DESIGNEE  
8 BEFORE THE DISTRICT ATTORNEY FILES A MOTION WITH THE COURT. THE  
9 DISTRICT ATTORNEY MAY OVERCOME THE PRESUMPTION DESCRIBED IN  
10 SUBSECTION (1) OF THIS SECTION IF THE DISTRICT ATTORNEY SHOWS BY  
11 CLEAR AND CONVINCING EVIDENCE THAT PROSECUTION OF THE CHILD IS  
12 NECESSARY BECAUSE THE CHILD POSES A SUBSTANTIAL RISK TO ANOTHER  
13 AND THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM CREATED  
14 PURSUANT TO SECTION 24-1.9-102 WOULD BE INSUFFICIENT TO PROTECT  
15 AGAINST SUCH RISK.

16 (3) THE COURT MUST HOLD A HEARING WITHIN SEVEN DAYS AFTER  
17 RECEIVING THE DISTRICT ATTORNEY'S MOTION REQUESTING A REBUTTABLE  
18 PRESUMPTION HEARING. THE COURT MAY ORDER A CONTINUATION OF THE  
19 HEARING FOR UP TO TWENTY-EIGHT ADDITIONAL DAYS AT THE REQUEST  
20 OF THE CHILD, OR, IF THERE IS GOOD CAUSE SHOWN, THE COURT MAY  
21 EXTEND BEYOND THE TWENTY-EIGHT DAYS.

22 (4) AT A REBUTTABLE PRESUMPTION HEARING, THE CHILD SHALL  
23 BE REPRESENTED BY COUNSEL. IF THE CHILD HAS NOT RETAINED THE  
24 CHILD'S OWN COUNSEL, THE COURT SHALL APPOINT THE OFFICE OF THE  
25 STATE PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT, THE OFFICE OF  
26 ALTERNATE DEFENSE COUNSEL TO REPRESENT THE CHILD. THIS  
27 APPOINTMENT CONTINUES IF THE COURT APPOINTS THE OFFICE OF THE  
28 STATE PUBLIC DEFENDER OR THE OFFICE OF ALTERNATE DEFENSE COUNSEL  
29 PURSUANT TO SECTION 19-2.5-605 (2)(a) UNLESS:

30 (a) THE CHILD RETAINS THE CHILD'S OWN COUNSEL; OR  
31 (b) THE CHILD MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY  
32 WAIVER OF THE RIGHT TO COUNSEL, AS DESCRIBED IN SECTION 19-2.5-605  
33 (2)(c).

34 (5) AT THE REBUTTABLE PRESUMPTION HEARING, THE COURT  
35 SHALL PROVIDE THE DISTRICT ATTORNEY AND CHILD AN OPPORTUNITY TO  
36 PRESENT THE COURT WITH INFORMATION PERTINENT TO THE REBUTTABLE  
37 PRESUMPTION. INFORMATION OFFERED TO THE COURT PURSUANT TO THIS  
38 SECTION MAY BE PROVIDED TO THE COURT WITHOUT REGARD TO WHETHER  
39 IT WOULD OTHERWISE BE ADMISSIBLE UNDER THE RULES OF EVIDENCE IF  
40 IT IS RELEVANT AND RELIABLE. THE CHILD SHALL NOT SUBPOENA A VICTIM  
41 OR VICTIMS IN THE CASE.

42 (6) AFTER THE REBUTTABLE PRESUMPTION HEARING, IF THE COURT  
43 DETERMINES THAT THE PROSECUTION HAS REBUTTED THE PRESUMPTION

1 THAT THE CHILD WILL NOT BE PROSECUTED BY CLEAR AND CONVINCING  
2 EVIDENCE THAT THE CHILD POSES A SUBSTANTIAL RISK TO ANOTHER, AND  
3 THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM CREATED PURSUANT  
4 TO SECTION 24-1.9-102 WOULD BE INSUFFICIENT TO PROTECT AGAINST  
5 SUCH RISK, THE CHILD MAY BE PROSECUTED PURSUANT TO SECTION  
6 19-2.5-103 (1)(d). IF THE COURT DETERMINES THAT THE PROSECUTION  
7 HAS NOT MET THIS BURDEN, PROSECUTION MUST NOT PROCEED, AND THE  
8 CHILD SHALL BE REFERRED TO THE LOCAL COLLABORATIVE MANAGEMENT  
9 PROGRAM. THE COURT SHALL BASE ITS DETERMINATION ON WHETHER THE  
10 PRESUMPTION HAS BEEN PROPERLY REBUTTED BASED ON THE SPECIFIC  
11 FACTS AND CIRCUMSTANCES APPLICABLE TO THE JUVENILE.

12 (7) FOR CHILDREN TEN YEARS OF AGE OR OLDER BUT UNDER  
13 THIRTEEN YEARS OF AGE WHO ALLEGEDLY ENGAGED IN AN OFFENSE  
14 DESCRIBED IN SUBSECTION (1) OF THIS SECTION, IF THE DISTRICT  
15 ATTORNEY DOES NOT FILE A MOTION FOR A REBUTTABLE PRESUMPTION  
16 HEARING WITHIN FOURTEEN DAYS AFTER THE DISTRICT ATTORNEY  
17 RECEIVES THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS  
18 OF AGE CREATED PURSUANT TO SECTION 24-1.9-102.7, THE DISTRICT  
19 ATTORNEY SHALL REFER THE CHILD TO THE LOCAL COLLABORATIVE  
20 MANAGEMENT PROGRAM CREATED PURSUANT TO SECTION 24-1.9-102 BY  
21 FORWARDING THE INITIAL FORM FOR CHILDREN UNDER THIRTEEN YEARS  
22 OF AGE TO THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM. AFTER  
23 THE FOURTEEN-DAY PERIOD HAS PASSED, THE CHILD SHALL NOT BE  
24 SUBSEQUENTLY PROSECUTED FOR THE INCIDENT DESCRIBED ON THE FORM  
25 FOR CHILDREN UNDER THIRTEEN YEARS OF AGE.

26 Renumber succeeding sections accordingly.

27 Page 52, line 8, strike "Sections 23, 24, 26, and 34" and substitute  
28 "Sections 24, 25, 27, and 35".

29 Page 52, line 9, strike "28" and substitute "29".

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