

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 13, 2018
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB18-1156 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, before line 2 insert:
2 **"SECTION 1. Legislative declaration.** (1) The general
3 assembly finds and declares that:
4 (a) The general assembly has previously declared, in House Bill
5 11-1053, enacted in 2011, that "[t]he best practice for addressing truancy
6 is a graduated approach that includes early intervention", and that youth
7 who are truant and "who have committed no criminal offense . . . may be
8 physically and emotionally unprepared for the stress" of the juvenile
9 justice system;
10 (b) Yet, in 2017, youth who were truant were held in secure
11 confinement in a facility more than forty times;
12 (c) National and Colorado studies clearly demonstrate that placing
13 a youth in secure confinement for truancy alone is counterproductive and
14 harmful to the youth and the community for the following reasons:
15 (I) A youth who was detained for truancy is 14.5 times less likely
16 to graduate from high school than a youth who was found truant but not
17 detained; and
18 (II) Detention for truancy increases the likelihood of future
19 criminal behavior. Youth who are truant are not charged with any
20 criminal conduct, but placing these youth in secure confinement with
21 youth who are charged with criminal conduct increases the likelihood the
22 truant youth will subsequently engage in criminal behavior.
23 (d) The state has a strong interest in preserving limited and costly
24 youth detention beds for youth who have been accused of or adjudicated

1 for dangerous criminal conduct; and
2 (e) Truancy by a youth does not pose an inherent or immediate
3 threat to the safety of the youth or the community.
4 (2) The general assembly therefore finds that youth in Colorado
5 should not be placed in secure confinement for truancy alone. The general
6 assembly further finds that the power of the court to sanction youth for
7 contempt, including sanctions of detention and incarceration, is an
8 inherent power of the court that may not be abrogated by the legislature,
9 pursuant to article III of the state constitution."

10 Renumber succeeding sections accordingly.

11 Page 4, strike lines 25 through 27 and substitute "(7) as follows:

12 **22-33-108. Judicial proceedings.** (7) (a) If the child OR YOUTH
13 does not comply with the valid court order issued against the child OR
14 YOUTH or against both the parent and the child OR YOUTH, the court may
15 order that an assessment for neglect as described in section 19-3-102 (1)
16 ~~C.R.S.~~, be conducted as provided in section 19-3-501. ~~C.R.S.~~ In addition,
17 the court may order the child OR YOUTH to show cause why he or she
18 should not be held in contempt of court. WHEN INSTITUTING CONTEMPT
19 OF COURT PROCEEDINGS PURSUANT TO THIS SUBSECTION (7), THE COURT
20 SHALL PROVIDE ALL PROCEDURAL PROTECTIONS MANDATED IN THE
21 COLORADO RULES OF CIVIL PROCEDURE CONCERNING PUNITIVE SANCTIONS
22 FOR CONTEMPT.

23 (a.5) A JUDGE OR MAGISTRATE OF ANY COURT MAY ISSUE A
24 WARRANT THAT AUTHORIZES THE TAKING INTO TEMPORARY CUSTODY OF
25 A CHILD OR YOUTH WHO HAS FAILED TO APPEAR FOR A COURT HEARING
26 FOR A TRUANCY OR CONTEMPT ACTION; EXCEPT THAT ANY SUCH WARRANT
27 MUST PROVIDE FOR RELEASE OF THE CHILD OR YOUTH FROM TEMPORARY
28 CUSTODY ON AN UNSECURED PERSONAL RECOGNIZANCE BOND THAT IS
29 COSIGNED BY THE CHILD'S OR YOUTH'S PARENT OR LEGAL GUARDIAN OR,
30 IF THE CHILD OR YOUTH IS IN THE CUSTODY OF THE DEPARTMENT OF
31 HUMAN SERVICES, COSIGNING MAY BE ACCOMPLISHED BY A
32 REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES. IN THE
33 ALTERNATIVE, THE WARRANT MAY DIRECT THAT THE CHILD OR YOUTH
34 MUST ONLY BE ARRESTED WHILE COURT IS IN SESSION AND THAT HE OR SHE
35 BE TAKEN DIRECTLY TO COURT FOR AN APPEARANCE RATHER THAN
36 BOOKED INTO SECURE CONFINEMENT.

37 (b) The court may impose sanctions after a finding of contempt
38 that may include, but need not be limited to, community service to be
39 performed by the child OR YOUTH, supervised activities, participation in

1 services for at-risk students, as described by section 22-33-204, and other
2 activities having ~~goals that shall ensure~~ THE GOAL OF ENSURING that the
3 child OR YOUTH has an opportunity to obtain a quality education.
4 (c) (I) If the court finds that the child OR YOUTH has refused to
5 comply with the plan created for the child OR YOUTH pursuant to section
6 22-33-107 (3), the court may impose on the child OR YOUTH, as a sanction
7 for contempt of court, a sentence of detention for no more than ~~five days~~
8 FORTY-EIGHT HOURS in a juvenile detention facility operated by or under
9 contract with the department of human services pursuant to section
10 19-2-402 ~~C.R.S.~~, and any rules promulgated by the Colorado supreme
11 court. THE COURT SHALL NOT SENTENCE A CHILD OR YOUTH TO DETENTION
12 AS A SANCTION FOR CONTEMPT OF COURT UNLESS THE COURT FINDS THAT
13 DETENTION IS IN THE BEST INTEREST OF THE CHILD OR YOUTH AS WELL AS
14 THE PUBLIC. IN MAKING SUCH A FINDING, THE COURT SHALL CONSIDER THE
15 FOLLOWING FACTORS, INCLUDING THAT:
16 (A) THE CHILD OR YOUTH HAS VIOLATED A VALID COURT ORDER;
17 (B) NATIONAL AND COLORADO-SPECIFIC EVIDENCE SHOWS THAT
18 DETAINING CHILDREN AND YOUTH FOR TRUANCY ALONE IS
19 COUNTERPRODUCTIVE AND HARMFUL TO CHILDREN AND YOUTH;
20 (C) THE LEGISLATIVE INTENT IS THAT A CHILD OR YOUTH WHO IS
21 TRUANT MUST NOT BE PLACED IN SECURE CONFINEMENT FOR TRUANCY
22 ALONE;
23 (D) DETENTION IS LIKELY TO HAVE A DETRIMENTAL EFFECT ON
24 THE CHILD'S OR YOUTH'S SCHOOL ATTENDANCE; AND
25 (E) DETENTION IS LIKELY TO HAVE AN EFFECT ON THE CHILD'S OR
26 YOUTH'S FUTURE INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM.
27 (II) THERE IS A REBUTTABLE PRESUMPTION THAT A CHILD OR
28 YOUTH MUST RECEIVE CREDIT FOR TIME SERVED IF HE OR SHE IS
29 SENTENCED TO DETENTION PURSUANT TO SUBSECTION (7)(c)(I) OF THIS
30 SECTION FOR VIOLATING A VALID COURT ORDER TO ATTEND SCHOOL. IF
31 THE COURT REBUTS THIS PRESUMPTION, IT SHALL EXPLAIN ITS REASONING
32 ON THE RECORD."

33 Page 5, strike lines 1 through 13.

34 Page 5, strike lines 25 through 27.

35 Page 6, strike lines 1 through 16 and substitute:

36 "SECTION 7. In Colorado Revised Statutes, 19-2-503, **amend**
37 (3) as follows:

1 **19-2-503. Issuance of a lawful warrant taking a juvenile into**
2 **custody.** (3) A warrant for the arrest of a juvenile for violation of the
3 conditions of probation or of a bail bond may be issued by any judge of
4 a court of record or juvenile magistrate upon the report of a juvenile
5 probation officer or upon the verified complaint of any person,
6 establishing to the satisfaction of the judge or juvenile magistrate
7 probable cause to believe that a condition of probation or of a bail bond
8 has been violated and that the arrest of the juvenile is reasonably
9 necessary. The warrant may be executed by any juvenile probation officer
10 or by a peace officer authorized to execute warrants in the county in
11 which the juvenile is found. IF THE WARRANT IS FOR A JUVENILE FOUND
12 IN CONTEMPT OF COURT IN A TRUANCY PROCEEDING, THE COURT SHALL
13 FOLLOW THE PROCEDURES SET FORTH IN SECTION 22-33-108 (7)."

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