

CHAPTER 463

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 21-071

BY SENATOR(S) Buckner, Danielson, Fenberg, Gonzales, Hansen, Kolker, Lee, Moreno, Pettersen, Priola, Story, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Daugherty and Boesenecker, Amabile, Burnett, Bird, Esgar, Herod, Hooton, Jodeh, Kennedy, Kipp, Michaelson Jenet, Mullica, Ricks, Weissman, Woodrow.

AN ACT

CONCERNING MEASURES TO LIMIT THE DETENTION OF JUVENILES, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 19-2-503, **amend** (3) as follows:

19-2-503. Issuance of a lawful warrant taking a juvenile into custody. (3) A warrant for the arrest of a juvenile for violation of the conditions of probation or of a ~~bail~~ bond may be issued by any judge of a court of record or juvenile magistrate upon the report of a juvenile probation officer or upon the verified complaint of any person, establishing to the satisfaction of the judge or juvenile magistrate probable cause to believe that a condition of probation or of a ~~bail~~ bond has been violated and that the arrest of the juvenile is reasonably necessary. The warrant may be executed by any juvenile probation officer or by a peace officer authorized to execute warrants in the county in which the juvenile is found. If the warrant is for a juvenile found in contempt of court in a truancy proceeding, the court shall follow the procedures set forth in section 22-33-108 (7).

SECTION 2. In Colorado Revised Statutes, 19-2-508, **amend** (3)(a)(VII) introductory portion, (3)(a)(VII)(C), (4)(e)(I), and (5) as follows:

19-2-508. Detention and temporary shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions. (3) (a) (VII) Except as provided in subsection (3)(a)(IX) of this section, at the conclusion of the hearing, the court shall enter one of the following orders, while ensuring efforts are made to keep the juvenile with ~~his or her~~ THE JUVENILE'S parent, guardian, or legal

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

custodian:

(C) That ~~bail~~ AN UNSECURED PERSONAL RECOGNIZANCE BOND be set and that the juvenile be released ACCORDINGLY; ~~upon the posting of that bail;~~

(4) (e) (I) Any juvenile arrested and detained for an alleged violation of any article of title 42, or for any alleged violation of a municipal or county ordinance, and not released on bond, must be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of ~~bail~~ BOND and conditions of bond pursuant to subsection (3)(a)(VII) of this section. A juvenile 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 must 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. After 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 pursuant to this subsection (4), Saturdays, Sundays, and legal holidays are included.

(5) A juvenile has the right to ~~bail~~ BOND as limited by the provisions of this section.

SECTION 3. In Colorado Revised Statutes, 19-2-509, **amend** (1) introductory portion, (2), (3), (4), (6), (7), and (8); **repeal** (5); and **add** (10) as follows:

19-2-509. Personal recognizance bond. (1) Unless the district attorney consents, ~~no~~ A juvenile charged or accused of having committed a delinquent act that constitutes a felony or a class 1 misdemeanor shall NOT be released without a ~~bond or on a~~ AN UNSECURED personal recognizance bond, if:

(2) In lieu of ~~a~~ AN UNSECURED PERSONAL RECOGNIZANCE bond, a juvenile who the court determines poses a substantial risk of serious harm to others may be placed in a preadjudication service program established pursuant to section 19-2-302.

(3) Any application for the revocation or modification of the ~~amount, type, or~~ conditions of ~~bail~~ AN UNSECURED PERSONAL RECOGNIZANCE BOND must be made in accordance with section 16-4-109; except that the presumption described in section 19-2-508 (3)(a)(IV) must continue to apply for the purposes of this section.

(4) (a) In determining the ~~type of bond and~~ conditions of release for the juvenile, the judge or magistrate fixing the same shall consider the criteria set forth in section 16-4-103. ~~C.R.S.~~

(b) In setting, modifying, or continuing ~~any bail~~ AN UNSECURED PERSONAL RECOGNIZANCE bond, it must be a condition that the released juvenile appear at any place and upon any date to which the proceeding is transferred or continued. Further conditions of ~~every bail~~ THE UNSECURED PERSONAL RECOGNIZANCE bond must be that the released juvenile not commit any delinquent acts or harass, intimidate, or threaten any potential witnesses. EXCEPT AS DESCRIBED IN SUBSECTION (10) OF THIS SECTION, the judge or magistrate may set any other conditions or limitations on the release of the juvenile as are reasonably necessary for the protection of the community. Any juvenile who is ORDERED held ~~without bail or whose bail or bail~~

~~bond is revoked or increased under~~ AT THE DETENTION HEARING OR PURSUANT TO an order entered at any time after the initial detention hearing ~~pursuant to subsection (3) of this section~~ and who remains in custody or detention must be tried on the charges ~~on which the bail is denied or the bail or bail bond is revoked or increased~~ within sixty days after the entry of ~~such~~ THE COURT order DETAINING THE JUVENILE or within sixty days after the juvenile's entry of a plea, whichever date is earlier; except that, if the juvenile requests a jury trial pursuant to section 19-2-107, ~~the provisions of section 19-2-107 (4) apply~~ APPLIES.

(5) ~~A surety or security on a bail bond may be subject to forfeiture only if the juvenile fails to appear for any scheduled court proceedings, of which the juvenile received proper notice.~~

(6) The court ~~may~~ SHALL NOT order that any personal recognizance bond be secured by ~~the personal obligation~~ MONETARY OR PROPERTY CONDITIONS of the juvenile, ~~and his or her~~ THE JUVENILE'S ~~parents~~ PARENT, guardian, legal custodian, or other responsible adult.

(7) The parent, guardian, ~~or~~ legal custodian, ~~for any juvenile released on bond pursuant to this section~~ or any other responsible adult ~~who secures~~ FOR A JUVENILE RELEASED ON a personal recognizance bond ~~for a juvenile pursuant to subsection (6) of this section~~ may petition the court ~~prior to forfeiture or exoneration of the bond~~, to revoke the bond and remand the juvenile into custody if the parent, guardian, legal custodian, or other responsible adult determines that he or she is unable to control the juvenile. The court shall apply the presumption specified in section 19-2-508 (3)(a)(IV) in determining whether to revoke the PERSONAL RECOGNIZANCE bond.

(8) A juvenile may be released on AN UNSECURED PERSONAL RECOGNIZANCE bond, or as otherwise provided in this section regardless of whether the juvenile appears in court pursuant to a summons or a warrant.

(10) A JUDGE OR MAGISTRATE MAY ONLY IMPOSE AN UNSECURED PERSONAL RECOGNIZANCE BOND WITHOUT MONETARY OR PROPERTY CONDITIONS TO SECURE THE JUVENILE'S FUTURE APPEARANCE. A JUDGE OR MAGISTRATE SHALL NOT IMPOSE A BOND WITH SECURED MONETARY OR PROPERTY CONDITIONS FOR A JUVENILE.

SECTION 4. In Colorado Revised Statutes, 19-2-1201, **amend** (4); and **add** (5) as follows:

19-2-1201. Juvenile detention bed cap. (4) For the fiscal year ~~2019-20 and each fiscal year thereafter~~ YEARS 2019-20 AND 2020-21, the number of available juvenile detention beds statewide is limited to three hundred twenty-seven.

(5) FOR THE FISCAL YEAR 2021-22 AND EACH FISCAL YEAR THEREAFTER, THE NUMBER OF AVAILABLE JUVENILE DETENTION BEDS STATEWIDE IS LIMITED TO TWO HUNDRED FIFTEEN.

SECTION 5. In Colorado Revised Statutes, 19-2-1202, **amend** (1) introductory portion and (1)(b) as follows:

19-2-1202. Working group - allocation of beds. (1) The executive director of the department of human services and the state court administrator in the judicial department, or a designee of such persons, in consultation with the division of criminal justice of the department of public safety, the office of state planning and budgeting, the Colorado district attorneys ATTORNEYS' council, and law enforcement representatives, shall form a working group ~~which~~ THAT shall carry out the following duties:

(b) The working group shall develop a mechanism for judicial districts ~~within the same catchment area~~ to loan detention beds to other judicial districts ~~within the catchment area~~ in cases of need.

SECTION 6. In Colorado Revised Statutes, 19-2-1303, **amend** (4) as follows:

19-2-1303. Procedure after determination of competency or incompetency.

(4) A determination under subsection (2) of this section that a juvenile is incompetent to proceed ~~shall~~ MUST not preclude the court from considering the release of the juvenile on ~~bail~~ BOND upon compliance with the standards and procedures for such release prescribed by statute. At any hearing to determine eligibility for release on ~~bail~~ BOND, the court may consider any effect the juvenile's incompetency may have on the juvenile's ability to insure his or her presence for trial.

SECTION 7. In Colorado Revised Statutes, 19-2-212, **amend** (1)(a) introductory portion, (1)(a)(IV), (1)(a)(VIII), (1)(a)(IX), and (1)(b)(I); and **add** (1)(a)(X), (1)(a)(XI), (1)(a)(XII), (1)(a)(XIII), (1)(a.5), and (3) as follows:

19-2-212. Working group for criteria for placement of juvenile offenders - establishment of formula - review of criteria - report. (1) (a) The executive director of the department of human services and the state court administrator of the judicial department, or any designees of such persons, shall form a working group that ~~must include~~ INCLUDES representatives from:

(IV) Law enforcement, INCLUDING AT LEAST ONE REPRESENTATIVE FROM A STATEWIDE ORGANIZATION OF COUNTY SHERIFFS;

(VIII) Juvenile court judges and magistrates; ~~and~~

(IX) Local and county governments, including AT LEAST THREE REPRESENTATIVES FROM county departments of human or social services;

(X) THE DIVISION OF YOUTH SERVICES;

(XI) THE DIVISION OF CHILD WELFARE;

(XII) THE LOCAL JUVENILE SERVICES PLANNING COMMITTEES, CREATED IN SECTION 19-2-211; AND

(XIII) ORGANIZATIONS THAT ADVOCATE FOR YOUTH INVOLVED IN THE JUVENILE JUSTICE SYSTEM.

(a.5) THE WORKING GROUP MUST ALSO INCLUDE AT LEAST TWO PERSONS DIRECTLY AFFECTED BY THE INCARCERATION OF YOUTH, OF WHOM, AT LEAST ONE PERSON WHO IS OR WAS A YOUTH IN THE CUSTODY OF A DIVISION OF YOUTH SERVICES FACILITY.

(b) The working group shall carry out the following duties:

(I) To establish a set of criteria for both detention and commitment for the purposes of determining which juvenile offenders are appropriate for placement in the physical or legal custody of the department of human services. Such criteria must conform with section 19-2-508. This set of criteria, when adopted by the department of human services and the judicial department, must promote a more uniform system of determining which juveniles should be placed in the physical custody of the department of human services or in the legal custody of the department of human services so that decisions for such placement of a juvenile are made based upon a uniform set of criteria throughout the state. In addition, the criteria shall specifically take into account the educational needs of the juvenile and ensure the juvenile's access to appropriate educational services. The working group established pursuant to this subsection (1) shall hold a meeting at least ~~once~~ FOUR TIMES each year and as necessary to review and propose revision to the criteria established pursuant to this subsection (1) and the formula created pursuant to subsection (1)(b)(V) of this section.

(3)(a) ON OR BEFORE OCTOBER 31, 2021, AND AT LEAST FOUR TIMES EACH YEAR THEREAFTER AND AS NECESSARY TO PERFORM THE DUTIES DESCRIBED IN THIS SUBSECTION (3), THE WORKING GROUP SHALL CONVENE FOR THE PURPOSE OF EXAMINING THE AVAILABILITY OF ALTERNATIVES TO YOUTH DETENTION AND THE USE OF DETENTION BEDS, AND EXAMINING NECESSARY INVESTMENTS IN ALTERNATIVES TO YOUTH DETENTION, INCLUDING LESS RESTRICTIVE PLACEMENTS THAT SERVE ALLEGED AND ADJUDICATED JUVENILE OFFENDERS AND COMMUNITY-BASED SERVICES THAT ALLOW ALLEGED AND ADJUDICATED JUVENILE OFFENDERS TO LIVE WITH FAMILY OR KIN. THE WORKING GROUP SHALL CARRY OUT THE FOLLOWING DUTIES:

(I) BY OCTOBER 31, 2022, THE WORKING GROUP SHALL DEVELOP PERFORMANCE STANDARDS AND OUTCOME MEASURES TO EVALUATE THE DEGREE TO WHICH ALLEGED AND ADJUDICATED OFFENDERS ARE IN THE LEAST RESTRICTIVE SETTING WITH APPROPRIATE SERVICES. THE PERFORMANCE STANDARDS AND OUTCOME MEASURES MUST:

(A) EVALUATE WHETHER THE NUMBER OF ALTERNATIVE PLACEMENTS, RANGE OF SERVICES OFFERED BY SUCH PLACEMENTS, AND COMMUNITY-BASED SERVICES AVAILABLE MEET THE NEEDS OF YOUTH IN EACH JUDICIAL DISTRICT AND COUNTY; AND

(B) DETERMINE WHETHER AND HOW SPECIFIC DATA AND OUTCOME MEASURES MUST BE REPORTED TO EVALUATE THE EFFICACY OF LESS RESTRICTIVE PLACEMENTS AND COMMUNITY-BASED SERVICES.

(II) THE WORKING GROUP SHALL ADVISE THE DEPARTMENT OF HUMAN SERVICES CONCERNING POLICIES, PROCEDURES, AND BEST PRACTICES RELATED TO SERVING

YOUTH IN THE LEAST RESTRICTIVE SETTING.

(III) THE WORKING GROUP SHALL REVIEW THE DATA PROVIDED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, AND PROVIDE RECOMMENDATIONS:

(A) TO ENHANCE THE CONTINUUM OF COMMUNITY-BASED SERVICES AND PLACEMENT OPTIONS FOR ALLEGED AND ADJUDICATED JUVENILE OFFENDERS, INCLUDING RECOMMENDATIONS TO IMPROVE AVAILABILITY AND QUALITY OF LESS RESTRICTIVE ALTERNATIVE PLACEMENTS AND COMMUNITY-BASED SERVICES FOR YOUTH;

(B) REGARDING ANY CHANGES TO SECURE DETENTION BED CAPACITY LIMITS AND THE ALLOCATION OF DETENTION BEDS ACROSS THE STATE; AND

(C) FOR FUTURE DATA COLLECTION AND REPORTING TO ASSIST THE WORKING GROUP IN COMPLETING ITS DUTIES.

(b) ON OR BEFORE JULY 1, 2023, AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER, THE DEPARTMENT OF HUMAN SERVICES SHALL SUBMIT A REPORT TO THE WORKING GROUP, THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE PUBLIC AND BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, INCLUDING:

(I) AN ANALYSIS OF THE DATA COLLECTED IN ACCORDANCE WITH THE PERFORMANCE STANDARDS AND OUTCOME MEASURES DEVELOPED PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION, AND AN ANALYSIS OF THE PROGRESS TOWARD MEETING THE PERFORMANCE STANDARDS AND OUTCOME MEASURES DEVELOPED PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION;

(II) THE STATUS OF IMPLEMENTATION OF EFFORTS GUIDED BY THE WORKING GROUP'S RECOMMENDATIONS PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION;

(III) AN ANALYSIS OF THE CONTINUUM OF IN-HOME AND OUT-OF-HOME PLACEMENT OPTIONS AND SUPPORTS FOR ALLEGED JUVENILE OFFENDERS, INCLUDING THE CURRENT AVAILABILITY CAPACITIES OF THE OPTIONS AND SUPPORTS, INCLUDING:

(A) AN ANALYSIS OF THE AVAILABILITY OF AND DEMAND FOR LESS RESTRICTIVE ALTERNATIVE PLACEMENTS IN EACH JUDICIAL DISTRICT AND COUNTY, INCLUDING BUT NOT LIMITED TO RESIDENTIAL TREATMENT FACILITIES, QUALIFIED RESIDENTIAL TREATMENT PROGRAMS, NONQUALIFIED RESIDENTIAL TREATMENT PROGRAMS, RESIDENTIAL COMMUNITY PLACEMENTS, SHELTER PLACEMENTS, AND FAMILY-TYPE SETTINGS, INCLUDING BUT NOT LIMITED TO FOSTER CARE;

(B) AN ANALYSIS OF THE AVAILABILITY AND USE OF FUNDING FOR LESS RESTRICTIVE ALTERNATIVE PLACEMENTS IN EACH JUDICIAL DISTRICT AND COUNTY, INCLUDING BUT NOT LIMITED TO RESIDENTIAL TREATMENT FACILITIES, QUALIFIED RESIDENTIAL TREATMENT PROGRAMS, NONQUALIFIED RESIDENTIAL TREATMENT

PROGRAMS, RESIDENTIAL COMMUNITY PLACEMENTS, SHELTER PLACEMENTS, AND FAMILY-TYPE SETTINGS, INCLUDING BUT NOT LIMITED TO FOSTER CARE;

(C) AN ANALYSIS OF THE AVAILABILITY OF AND DEMAND FOR COMMUNITY-BASED SERVICES IN EACH JUDICIAL DISTRICT AND COUNTY OFFERED TO ALLEGED AND ADJUDICATED JUVENILE OFFENDERS THAT ASSIST IN ALLOWING CHILDREN TO LIVE WITH FAMILY OR KIN, INCLUDING THE TYPES OF COMMUNITY-BASED SERVICES AVAILABLE AND CAPACITY FOR EACH TYPE OF SERVICE IN EACH JUDICIAL DISTRICT AND COUNTY; AND

(D) AN ANALYSIS OF THE AVAILABILITY AND USE OF FUNDING FOR COMMUNITY-BASED SERVICES IN EACH JUDICIAL DISTRICT AND COUNTY OFFERED TO ALLEGED AND ADJUDICATED JUVENILE OFFENDERS, INCLUDING THE AMOUNT OF FUNDING SPENT ON DIFFERENT TYPES OF SERVICES.

(IV) AN ANALYSIS OF BARRIERS TO PLACING YOUTH IN LESS RESTRICTIVE ALTERNATIVE PLACEMENTS;

(V) THE NUMBER OF YOUTH IN DETENTION AWAITING PLACEMENT IN A LESS RESTRICTIVE COMMUNITY SETTING;

(VI) THE NUMBER OF YOUTH IN DETENTION CHARGED BY DIRECT FILING PURSUANT TO SECTION 19-2-517 BY JUDICIAL DISTRICT OR COUNTY, AND THE AVERAGE LENGTH OF STAY IN DETENTION FOR THESE YOUTH;

(VII) AN ANALYSIS OF THE NUMBER OF YOUTH PLACED IN LESS RESTRICTIVE ALTERNATIVE PLACEMENTS, INCLUDING BUT NOT LIMITED TO RESIDENTIAL TREATMENT FACILITIES, QUALIFIED RESIDENTIAL TREATMENT PROGRAMS, NONQUALIFIED RESIDENTIAL TREATMENT PROGRAMS, RESIDENTIAL COMMUNITY PLACEMENTS, SHELTER PLACEMENTS, AND FAMILY-TYPE SETTINGS, INCLUDING BUT NOT LIMITED TO FOSTER CARE, AND THE LENGTH OF STAY IN THESE PLACEMENTS FOR ALLEGED AND ADJUDICATED OFFENDERS;

(VIII) AN ANALYSIS OF THE INVOLVEMENT OF YOUTH AND THEIR FAMILIES, AND THEIR SATISFACTION WITH LESS RESTRICTIVE ALTERNATIVE PLACEMENTS;

(IX) AN ANALYSIS OF THE NUMBER OF ALLEGED AND ADJUDICATED JUVENILE OFFENDERS WHO ARE SERVED BY COUNTY HUMAN SERVICES DEPARTMENTS THROUGH THEIR CHILD WELFARE SYSTEMS AND THE IMPACT ON THOSE COUNTY DEPARTMENTS; AND

(X) THE RECOMMENDATIONS OF THE WORKING GROUP MADE PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION.

(c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED IN SUBSECTION (3)(b) OF THIS SECTION CONTINUES INDEFINITELY.

SECTION 8. Appropriation - adjustments to 2021 long bill. (1) To implement this act, appropriations made in the annual general appropriation act for the 2021-22 state fiscal year to the department of human services are adjusted as follows:

(a) The general fund appropriation for use by the executive director's office for health, life, and dental is decreased by \$225,000;

(b) The general fund appropriation for use by the executive director's office for short term disability is decreased by \$1,428;

(c) The general fund appropriation for use by the executive director's office for S.B. 04-257 amortization equalization disbursement is decreased by \$42,003;

(d) The general fund appropriation for use by the executive director's office for S.B. 06-235 supplemental amortization equalization disbursement is decreased by \$42,003;

(e) The general fund appropriation for use by the division of youth services for personal services related to institutional programs is decreased by \$1,306,300, and the related FTE is decreased by 27.0 FTE;

(f) The appropriation for use by the division of youth services for operating expenses related to institutional programs is decreased by \$132,879, which consists of \$34,680 from the general fund and \$98,199 from reappropriated funds received from the department of education; and

(g) The general fund appropriation for use by the division of youth services for medical services related to institutional programs is decreased by \$12,202.

(2) For the 2021-22 state fiscal year, \$202,541 is appropriated to the department of human services for use by the office of information technology services. This appropriation is from the general fund. To implement this act, the office may use this appropriation for Colorado trails.

(3) For the 2021-22 state fiscal year, the general assembly anticipates that the department of human services will receive \$104,339 in federal funds for use by the office of information technology services for Colorado trails to implement this act. The appropriation in subsection (2) of this section is based on the assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

(4) For the 2021-22 state fiscal year, \$427,979 is appropriated to the department of human services for use by the division of child welfare. This appropriation is from the general fund and is based on an assumption that the division will require an additional 4.5 FTE. To implement this act, the division may use this appropriation for administration.

(5) For the 2021-22 state fiscal year, the general assembly anticipates that the department of human services will receive \$24,789 in federal funds for use by the division of child welfare for administration to implement this act. The appropriation in subsection (4) of this section is based on the assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 6, 2021