

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB21-1091 be amended as follows:

1 Amend reengrossed bill, page 6, after line 10 insert:

2 **"SECTION 4.** In Colorado Revised Statutes, 19-2.5-802, **repeal**
3 **and reenact, with amendments, as relocated by Senate Bill 21-059**
4 (1)(d) as follows:

5 **19-2.5-802. [Formerly 19-2-518] Transfers.** (1) (d) (I) IF A
6 JUVENILE IS CONVICTED IN CASES IN WHICH CRIMINAL CHARGES ARE
7 TRANSFERRED TO THE DISTRICT COURT PURSUANT TO THIS SECTION, THE
8 DISTRICT COURT JUDGE SHALL SENTENCE THE JUVENILE EITHER:

9 (A) AS AN ADULT; EXCEPT THAT A JUVENILE IS EXCLUDED FROM
10 THE MANDATORY MINIMUM SENTENCING PROVISIONS IN SECTION
11 18-1.3-406, UNLESS THE JUVENILE IS CONVICTED OF A CLASS 1 FELONY OR
12 A SEX OFFENSE THAT IS SUBJECT TO PART 9 OF ARTICLE 1.3 OF TITLE 18; OR

13 (B) TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF
14 CORRECTIONS IN ACCORDANCE WITH SECTION 18-1.3-407; EXCEPT THAT
15 A JUVENILE IS NOT ELIGIBLE FOR SENTENCING TO THE YOUTHFUL
16 OFFENDER SYSTEM IF THE JUVENILE IS CONVICTED OF A CLASS 1 FELONY;
17 ANY SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301 OR 18-6-302, OR
18 PART 4 OF ARTICLE 3 OF TITLE 18; OR A SECOND OR SUBSEQUENT OFFENSE,
19 IF THE JUVENILE RECEIVED A SENTENCE TO THE DEPARTMENT OF
20 CORRECTIONS OR TO THE YOUTHFUL OFFENDER SYSTEM FOR THE PRIOR
21 OFFENSE.

22 (II) THE DISTRICT COURT JUDGE MAY SENTENCE A JUVENILE
23 PURSUANT TO THIS ARTICLE 2.5 IF THE JUVENILE IS CONVICTED OF A
24 LESSER INCLUDED OR NONENUMERATED FELONY OFFENSE IN CASES IN
25 WHICH CRIMINAL CHARGES ARE TRANSFERRED TO THE DISTRICT COURT
26 PURSUANT TO THIS SECTION. IF THE JUVENILE IS CONVICTED OF ONLY A
27 MISDEMEANOR OFFENSE OR MISDEMEANOR OFFENSES, THE COURT SHALL
28 ADJUDICATE THE JUVENILE A DELINQUENT AND SENTENCE THE JUVENILE
29 PURSUANT TO THIS ARTICLE 2.5.

30 (III) IF A JUVENILE IS CONVICTED OF AN OFFENSE THAT IS NOT
31 ELIGIBLE FOR DISTRICT COURT JURISDICTION PURSUANT TO EITHER THIS
32 SECTION OR SECTION 19-2.5-801, THE JUVENILE SHALL BE REMANDED TO
33 JUVENILE COURT FOR SENTENCING PURSUANT TO THIS ARTICLE 2.5.

34 (IV) IN THE CASE OF A PERSON WHO IS SENTENCED AS A JUVENILE
35 PURSUANT TO THIS SUBSECTION (1)(d), THE FOLLOWING PROVISIONS
36 APPLY:

37 (A) SECTION 19-2.5-1126 (1)(a), REGARDING MANDATORY
38 SENTENCE OFFENDERS;

39 (B) SECTION 19-2.5-1126 (1)(b), REGARDING REPEAT JUVENILE
40 OFFENDERS;

1 (C) SECTION 19-2.5-1126 (1)(c), REGARDING VIOLENT JUVENILE
2 OFFENDERS; AND

3 (D) SECTION 19-2.5-1127, REGARDING AGGRAVATED JUVENILE
4 OFFENDERS.

5 (V) THE COURT IN ITS DISCRETION MAY APPOINT A GUARDIAN AD
6 LITEM FOR A JUVENILE FOLLOWING THE TRANSFER OF CHARGES TO THE
7 DISTRICT COURT PURSUANT TO THIS SECTION.

8 (VI) WHEN A JUVENILE IS SENTENCED PURSUANT TO THIS ARTICLE
9 2.5, THE JUVENILE'S CONVICTION SHALL BE ADJUDICATED AS A JUVENILE
10 DELINQUENCY ADJUDICATION.

11 (VII) FOR PURPOSES OF THIS SUBSECTION (1)(d), "VIOLENT
12 JUVENILE OFFENDER" HAS THE SAME MEANING AS DEFINED IN SECTION
13 19-2.5-1125 (3).

14 **SECTION 5.** In Colorado Revised Statutes, 16-11-102, **amend**
15 **as amended by Senate Bill 21-059** (1.8) as follows:

16 **16-11-102. Presentence or probation investigation.** (1.8) At the
17 request of either the prosecution or the defense, each presentence report
18 prepared regarding a youthful offender, as defined in section 18-1.3-407,
19 who is eligible for sentencing to the youthful offender system pursuant to
20 section 18-1.3-407.5, 19-2.5-801 (5), or 19-2.5-802 ~~(1)(d)(H)~~ **(1)(d)(I)(B)**
21 must include a determination by the warden of the youthful offender
22 system whether the youthful offender is acceptable for sentencing to the
23 youthful offender system. When making a determination, the warden shall
24 consider the nature and circumstances of the crime, the circumstances and
25 criminal history of the youthful offender, the available bed space in the
26 youthful offender system, and any other appropriate considerations.

27 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-407, **amend**
28 **as amended by Senate Bill 21-059** (1)(b) and (2)(a)(I) as follows:

29 **18-1.3-407. Sentences - youthful offenders - powers and duties**
30 **of district court - authorization for youthful offender system - powers**
31 **and duties of department of corrections - legislative declaration -**
32 **definitions.** (1) (b) It is the further intent of the general assembly in
33 enacting this section that female and male offenders who are eligible for
34 sentencing to the youthful offender system pursuant to section
35 18-1.3-407.5 or section 19-2.5-801 (5) or 19-2.5-802 ~~(1)(d)(H)~~
36 **(1)(d)(I)(B)** receive equitable treatment in sentencing, particularly in
37 regard to the option of being sentenced to the youthful offender system.
38 Accordingly, it is the general assembly's intent that the department of
39 corrections take necessary measures to establish separate housing for
40 female and male offenders who are sentenced to the youthful offender
41 system without compromising the equitable treatment of either.

42 (2) (a) (I) A juvenile may be sentenced to the youthful offender
43 system created pursuant to this section under the circumstances set forth

1 in section 19-2.5-801 (5)(a)(II) or 19-2.5-802 ~~(1)(d)(II)~~ **(1)(d)(I)(B)**. A
2 young adult offender may be sentenced to the youthful offender system
3 created pursuant to this section under the circumstances set forth in
4 section 18-1.3-407.5. In order to sentence a juvenile or young adult
5 offender to the youthful offender system, the court shall first impose upon
6 such person a sentence to the department of corrections in accordance
7 with section 18-1.3-401. The court shall thereafter suspend such sentence
8 conditioned on completion of a sentence to the youthful offender system,
9 including a period of community supervision. The court shall impose any
10 such sentence to the youthful offender system for a determinate period of
11 not fewer than two years nor more than six years; except that a juvenile
12 or young adult offender convicted of a class 2 felony may be sentenced
13 for a determinate period of up to seven years. In imposing the sentence,
14 the court shall grant authority to the department of corrections to place the
15 offender under a period of community supervision for a period of not
16 fewer than six months and up to twelve months any time after the date on
17 which the offender has twelve months remaining to complete the
18 determinate sentence. The court may award an offender sentenced to the
19 youthful offender system credit for presentence confinement; except that
20 such credit shall not reduce the offender's actual time served in the
21 youthful offender system to fewer than two years. The court shall have a
22 presentence investigation conducted before sentencing a juvenile or
23 young adult offender pursuant to this section. Upon the request of either
24 the prosecution or the defense, the presentence report must include a
25 determination by the warden of the youthful offender system whether the
26 offender is acceptable for sentencing to the youthful offender system.
27 When making a determination, the warden shall consider the nature and
28 circumstances of the crime; the age, circumstances, and criminal history
29 of the offender; the available bed space in the youthful offender system;
30 and any other appropriate considerations.

31 **SECTION 7. Effective date.** This act takes effect upon passage;
32 except that sections 4, 5, and 6 of this act take effect only if Senate Bill
33 21-059 becomes law and take effect upon the effective date of this act or
34 Senate Bill 21-059, whichever is later."

35 Renumber succeeding section accordingly.

** *** ** *** **