

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Coleman

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

Page 13, after line 22 insert:

"(d) CONCERNING A CHILD TEN YEARS OF AGE OR OLDER BUT UNDER THIRTEEN YEARS OF AGE WHO HAS KNOWINGLY AND VOLUNTARILY AVAILED THEMSELVES TO THE COURT'S JURISDICTION, PURSUANT TO SECTION 24-1.9-102.3(3).".

Page 18, after line 25 insert:

"SECTION 18. In Colorado Revised Statutes, **add** 19-2.5-505 as follows:

19-2.5-505. Hearing on referral from collaborative management programs. (1) WITHIN SEVEN DAYS AFTER RECEIPT OF AN INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS OF AGE, AS PROVIDED IN SECTION 24-1.9-102.3(3), THE JUVENILE COURT SHALL APPOINT THE OFFICE OF THE STATE PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT, THE OFFICE OF ALTERNATE DEFENSE COUNSEL, TO REPRESENT THE CHILD IDENTIFIED ON THE FORM. THE APPOINTMENT ORDER MUST INCLUDE THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS OF AGE AND BE SENT TO THE OFFICE OF THE STATE PUBLIC DEFENDER OR THE OFFICE OF ALTERNATE DEFENSE COUNSEL. THE APPOINTMENT CONTINUES PURSUANT TO SECTION 19-2.5-605 (2)(a) UNLESS:

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

(2) THE JUVENILE COURT MUST SET A STATUS HEARING IN TWENTY-ONE DAYS FOR THE CHILD TO NOTIFY THE COURT OF THE CHILD'S DECISION TO AVAIL THEMSELVES TO THE JUVENILE COURT OR TO BE REFERRED BACK TO THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM.

(3) AFTER A CHILD HAS CONSULTED WITH COUNSEL, THE CHILD MUST APPEAR BEFORE THE JUVENILE COURT FOR THE COURT TO MAKE A DETERMINATION REGARDING THE CHILD'S DECISION TO AVAIL THEMSELVES TO THE JUVENILE COURT OR TO BE REFERRED BACK TO THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM.

(4) (a) BEFORE THE JUVENILE COURT OBTAINS A DECISION FROM THE CHILD, THE JUVENILE COURT MUST NOTIFY THE CHILD IN PLAIN LANGUAGE THAT IS UNDERSTANDABLE TO THE CHILD OF THE FOLLOWING:

(I) HOW THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM WORKS AND WHAT THE PROGRAM CAN REQUIRE;

(II) THAT THE CHILD CAN DECLINE TO PARTICIPATE IN A MEETING WITH THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM BY CHOOSING TO AGREE TO POTENTIAL PROSECUTION IN JUVENILE COURT AND GIVING JURISDICTION TO THE JUVENILE COURT TO HEAR THE CASE;

(III) THE SENTENCING OPTIONS AVAILABLE TO THE JUVENILE COURT IN THE EVENT OF AN ADJUDICATION OF ALL OFFENSES WITH WHICH THE CHILD COULD BE CHARGED;

(IV) WHETHER AND WHEN AN ADJUDICATION FOR AN OFFENSE COULD BE EXPUNGED AND THE COLLATERAL CONSEQUENCES OF NOT EXPUNGING; AND

(V) THAT THE CHILD'S DECISION TO AVAIL THEMSELVES TO THE JUVENILE COURT IS FINAL UPON THE DISTRICT ATTORNEY'S DECISION TO FILE A PETITION IN DELINQUENCY.

(b) IF THE CHILD DECIDES TO AVAIL THEMSELVES TO THE JUVENILE COURT, THE JUVENILE COURT MUST OBTAIN A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF THE CHILD'S PARTICIPATION IN THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM. IF THE WAIVER IS MADE, THE JUVENILE COURT MUST SEND THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS OF AGE TO THE DISTRICT ATTORNEY'S OFFICE WITHIN TWENTY-FOUR HOURS AFTER RECEIPT OF THE WAIVER.

(c) IF THE CHILD DECIDES TO PARTICIPATE IN THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM, THE JUVENILE COURT MUST REFER THE CHILD BACK TO THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM.

(d) IF THE JUVENILE COURT IS UNABLE TO OBTAIN EITHER A DECISION TO PARTICIPATE IN THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM OR A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER FROM THE CHILD, THE JUVENILE COURT MUST APPOINT A GUARDIAN AD LITEM TO ADVISE THE JUVENILE COURT REGARDING THE BEST INTEREST OF THE CHILD, AND MUST DETERMINE WHETHER THE CHILD SHOULD BE REFERRED TO THE DEPARTMENT OF HUMAN SERVICES FOR AN ASSESSMENT.

(5) (a) AFTER THE DISTRICT ATTORNEY HAS RECEIVED THE JUVENILE COURT'S REFERRAL, THE DISTRICT ATTORNEY MAY FILE A PETITION WITHIN TWENTY-EIGHT DAYS, ONLY UPON THE REASONABLE BELIEF THAT:

(I) THE CHARGES ARE SUPPORTED BY PROBABLE CAUSE;

(II) ADMISSIBLE EVIDENCE WILL BE SUFFICIENT TO SUPPORT ADJUDICATION BEYOND A REASONABLE DOUBT;

(III) THE DECISION TO CHARGE THE CHILD IS IN THE INTEREST OF JUSTICE; AND

(IV) THE DECISION TO CHARGE THE CHILD IS IN THE BEST INTEREST OF THE CHILD.

(b) THE PETITION MUST INCLUDE A COPY OF THE JUVENILE COURT'S ORDER APPROVING JURISDICTION OVER THE CHILD.

(c) THE DISTRICT ATTORNEY MAY USE ALL AVAILABLE DISPOSITION TOOLS, INCLUDING DIVERSION.

(d) IF THE DISTRICT ATTORNEY RECEIVES A WRITTEN REQUEST DECLINING PROSECUTION THAT IS SIGNED BY THE CHILD, THE DISTRICT ATTORNEY NO LONGER HAS THE AUTHORITY TO FILE A PETITION IN DELINQUENCY.

(e) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A CHILD'S STATEMENTS TO THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM ARE NOT, WITHOUT THE CHILD'S CONSENT, ADMISSIBLE AS EVIDENCE IN ANY ADJUDICATORY HEARING IN WHICH THE CHILD IS ACCUSED AND IS NOT SUBJECT TO SUBPOENA OR ANY OTHER COURT PROCEEDING OR FOR ANY OTHER PURPOSE.

(6) IF THE DISTRICT ATTORNEY DOES NOT FILE A PETITION WITHIN TWENTY- EIGHT DAYS AFTER RECEIPT OF THE JUVENILE COURT'S REFERRAL, THE DISTRICT ATTORNEY SHALL NOT SUBSEQUENTLY PROSECUTE THE CHILD."

Renumber succeeding sections accordingly.

Page 28, after line 24 insert:

"(3) (a) A CHILD TEN YEARS OF AGE OR OLDER BUT UNDER THIRTEEN YEARS OF AGE MAY DECLINE A REFERRAL TO A LOCAL COLLABORATIVE MANAGEMENT PROGRAM AND INSTEAD AVAIL THEMSELVES TO THE JURISDICTION OF THE JUVENILE COURT.

(b) AFTER REFERRAL TO A LOCAL COLLABORATIVE MANAGEMENT PROGRAM, IF A CHILD CHOOSES TO AVAIL THEMSELVES TO THE JUVENILE COURT, THE LOCAL COLLABORATIVE MANAGEMENT PROGRAM MUST FORWARD THE INFORMATION FORM FOR CHILDREN UNDER THIRTEEN YEARS OF AGE TO THE JUVENILE COURT. IF THE CHILD HAS NOT RETAINED COUNSEL, THE COURT SHALL APPOINT THE OFFICE OF THE STATE PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT, THE OFFICE OF ALTERNATE DEFENSE COUNSEL, TO REPRESENT THE CHILD, AS PROVIDED IN SECTION 19-2.5-505, WITHIN SEVEN DAYS OF THE CHILD AVAILING HIMSELF OR HERSELF TO THE JUVENILE COURT."

Renumber succeeding subsections accordingly.

Page 31, line 16, strike "(9)(a)" and substitute "(10)(a)".

Page 31, line 25, strike "(9)(b)" and substitute "(10)(b)".

Page 33, line 27, strike "(9)(c)" and substitute "(10)(c)".

Page 34, line 1, strike "(9)(f)" and substitute "(10)(f)".

Page 36, line 11, strike "(11)(e)" and substitute "(12)(e)".

Page 42, line 22, after "(1)(b.5)" insert "and (1)(b.7)".

Page 43, after line 18 insert:

"(b.7) THE NUMBER OF CHILDREN WHO AVAIL THEMSELVES TO THE JUVENILE COURT'S JURISDICTION PURSUANT TO SECTION 24-1.9-102.3(3).".

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

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

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