

CHAPTER 283

**CHILDREN AND DOMESTIC MATTERS**

**HOUSE BILL 96-1005**

BY REPRESENTATIVES Adkins, George, and Reeser;  
also SENATORS Wham, Hopper, Meiklejohn, and Tebedo.

**AN ACT**

**CONCERNING JUVENILE JUSTICE, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** Article 2 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended by House Bill 96-1019 and House Bill 96-1006, enacted at the Second Regular Session of the Sixtieth General Assembly, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

**ARTICLE 2**  
**The Colorado Juvenile Justice System**

**PART 1**  
**GENERAL PROVISIONS**

**19-2-101. Short title.** THIS PART 1 SHALL BE KNOWN AND MAY BE CITED AS "GENERAL PROVISIONS".

**19-2-102. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS THAT THE INTENT OF THIS ARTICLE IS TO PROTECT AND IMPROVE THE PUBLIC SAFETY BY CREATING A SYSTEM OF JUVENILE JUSTICE THAT WILL APPROPRIATELY SANCTION JUVENILES WHO VIOLATE THE LAW. THE GENERAL ASSEMBLY FURTHER FINDS THAT, WHILE HOLDING PARAMOUNT THE PUBLIC SAFETY, THE JUVENILE JUSTICE SYSTEM SHALL TAKE INTO CONSIDERATION THE BEST INTERESTS OF THE JUVENILE IN PROVIDING APPROPRIATE TREATMENT TO REDUCE THE RATE OF RECIDIVISM IN THE JUVENILE JUSTICE SYSTEM AND TO ASSIST THE JUVENILE IN BECOMING A PRODUCTIVE MEMBER OF SOCIETY.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**19-2-103. Definitions.** FOR PURPOSES OF THIS ARTICLE:

- (1) "ADJUDICATION" IS DEFINED IN SECTION 19-1-103 (2).
- (2) "BASIC IDENTIFICATION INFORMATION" IS DEFINED IN SECTION 19-1-103 (12).
- (3) "COMMIT" IS DEFINED IN SECTION 19-1-103 (24).
- (4) "COST OF CARE" IS DEFINED IN SECTION 19-1-103 (30).
- (5) "DELINQUENT ACT" IS DEFINED IN SECTION 19-1-103 (36).
- (6) "DIAGNOSTIC AND EVALUATION CENTER" IS DEFINED IN SECTION 19-1-103 (41).
- (7) "ESTATE" IS DEFINED IN SECTION 19-1-103 (47).
- (8) "GANG" IS DEFINED IN SECTION 19-1-103 (52).
- (9) "HALFWAY HOUSE" IS DEFINED IN SECTION 19-1-103 (62).
- (10) "JUVENILE" IS DEFINED IN SECTION 19-1-103 (68).
- (11) "JUVENILE COMMUNITY REVIEW BOARD" IS DEFINED IN SECTION 19-1-103 (69).
- (12) "JUVENILE DELINQUENT" IS DEFINED IN SECTION 19-1-103 (71).
- (13) "RECEIVING CENTER" IS DEFINED IN SECTION 19-1-103 (90).
- (14) "RESIDENTIAL COMMUNITY PLACEMENT" IS DEFINED IN SECTION 19-1-103 (92).
- (15) "SCREENING TEAM" IS DEFINED IN SECTION 19-1-103 (94.5).
- (16) "SENTENCING HEARING" IS DEFINED IN SECTION 19-1-103 (95).
- (17) "STAFF SECURE FACILITY" IS DEFINED IN SECTION 19-1-103 (101.5).
- (18) "TRAINING SCHOOL" IS DEFINED IN SECTION 19-1-103 (109).

**19-2-104. [Formerly 19-2-102.] Jurisdiction.** (1) Except as otherwise provided by law, the juvenile court shall have exclusive original jurisdiction in proceedings:

- (a) Concerning any juvenile ten years of age or older who has violated:

(I) Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or regulations, the offenses specified in section 18-13-121, C.R.S., concerning tobacco products, and the offense specified in section 18-13-122, C.R.S., concerning the illegal possession or consumption of ethyl alcohol by an underage person, AND THE OFFENSES SPECIFIED IN SECTION 18-18-406 (1) AND (3), C.R.S., CONCERNING MARIHUANA AND MARIHUANA CONCENTRATE;

(II) Any county or municipal ordinance except traffic ordinances, the penalty for which may be a jail sentence of more than ten days; or

(III) Any lawful order of the court made under this title;

(b) Concerning any juvenile to which section ~~19-2-806~~ 19-2-518 applies; EXCEPT THAT, AFTER FILING CHARGES IN THE JUVENILE COURT BUT PRIOR TO THE TIME THAT THE JUVENILE COURT CONDUCTS A TRANSFER HEARING, THE DISTRICT ATTORNEY MAY FILE THE SAME OR DIFFERENT CHARGES AGAINST THE JUVENILE BY DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO SECTION 19-2-517. UPON SAID FILING OR INDICTMENT IN THE DISTRICT COURT, THE JUVENILE COURT SHALL NO LONGER HAVE JURISDICTION OVER PROCEEDINGS CONCERNING SAID CHARGES.

(2) The juvenile court shall have limited jurisdiction in matters to which section ~~19-2-805~~ 19-2-517 applies.

(3) The fact that a juvenile has been prosecuted or convicted in the county court for a nonfelony violation under title 42, C.R.S., shall not be a bar to a subsequent or parallel proceeding under this title for delinquent acts arising out of the same criminal episode; nor shall proceedings under this title be a bar to a subsequent or parallel prosecution in the county court for a nonfelony violation under title 42, C.R.S., for the same delinquent acts arising from the same criminal episode.

(4) Notwithstanding any other provision of this section to the contrary, the juvenile court may exercise jurisdiction over a juvenile who is under sixteen years of age and who has violated a traffic law or ordinance if his OR HER case is transferred to the juvenile court from the county court. Such a transfer shall be subject to approval by the juvenile court.

~~(4.5)~~ (5) Notwithstanding any other provision of this section to the contrary, the juvenile court and the county court shall have concurrent jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, C.R.S., OR SECTION 18-18-406 (1) OR (3), C.R.S.; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction shall terminate.

~~(5)~~ (6) The juvenile court may retain jurisdiction over a juvenile until all orders have been fully complied with by such person, or any pending cases have been completed, or the statute of limitations applicable to any offense ~~which~~ THAT may be charged has run, regardless of whether such person has attained the age of eighteen years, and regardless of the age of such person.

~~(6)~~ (7) This section shall not be construed to confer any jurisdiction upon the court over a person for any offense committed after the person attains the age of eighteen years.

**19-2-105. [Formerly 19-2-103.] Venue.** (1) Proceedings in cases brought under this article shall be commenced in the county in which the alleged violation of the law, ordinance, or court order took place. When the court in which the petition was filed is in a county other than where the juvenile resides, such court may transfer

venue to the court of the county of the juvenile's residence after findings of fact but prior to adjudication and sentencing. The court may also transfer venue to the court of the county of the juvenile's residence after sentencing for the purposes of supervision. A TRANSFER OF VENUE MAY NOT BE REJECTED FOR ANY REASON EXCEPT WHERE VENUE WOULD BE IMPROPER.

(2) In determining proper venue, the provisions of section 18-1-202, C.R.S., shall apply.

(3) A court transferring venue under this section shall transmit all documents and legal social records, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in such court.

(4) UPON TRANSFER OF VENUE, THE RECEIVING COURT SHALL SET A DATE NOT MORE THAN THIRTY DAYS FOLLOWING THE DATE UPON WHICH THE CHANGE OF VENUE IS ORDERED FOR THE JUVENILE AND HIS OR HER PARENT OR GUARDIAN TO APPEAR.

**19-2-106. [Formerly 19-2-104.] Representation of petitioner.** In all matters under this article, the petitioner shall be represented by the district attorney.

**19-2-107. [Formerly 19-2-501.] Right to jury trial.** (1) IN ANY ACTION IN DELINQUENCY IN WHICH A JUVENILE IS ALLEGED TO BE AN AGGRAVATED JUVENILE OFFENDER, AS DESCRIBED IN SECTION 19-2-516, OR IS ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD CONSTITUTE A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S., IF COMMITTED BY AN ADULT, the juvenile or the district attorney may demand a trial by a jury of not more than six persons except as provided in ~~section 19-2-804 (4) (a)~~ SECTION 19-2-601 (3) (a), or the court, on its own motion, may order such a jury to try any case brought under this title, except as provided in subsection (2) of this section.

(2) The juvenile is not entitled to a trial by jury when the petition alleges a delinquent act which is a ~~class 2 or class 3~~ misdemeanor, a petty offense, a violation of a municipal or county ordinance, or a violation of a court order. ~~if, prior to the trial and with the approval of the court, the district attorney has waived in writing the right to seek a commitment to the department of human services or a sentence to the county jail.~~

(3) Unless a jury is demanded pursuant to subsection (1) of this section, it shall be deemed waived.

(4) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, IN ANY ACTION IN DELINQUENCY IN WHICH A JUVENILE REQUESTS A JURY PURSUANT TO THIS SECTION, THE JUVENILE SHALL BE DEEMED TO HAVE WAIVED THE SIXTY-DAY REQUIREMENT FOR HOLDING THE ADJUDICATORY TRIAL ESTABLISHED IN SECTION 19-2-708. IN SUCH A CASE, THE JUVENILE'S RIGHT TO A SPEEDY TRIAL SHALL BE GOVERNED BY SECTION 18-1-405, C.R.S., AND RULE 48 (b) OF THE COLORADO RULES OF CRIMINAL PROCEDURE.

**19-2-108. [Formerly 19-2-502.] Speedy trial - procedural schedule.** (1) The juvenile's right to a speedy trial shall be governed by section 18-1-405, C.R.S., and

rule 48(b) of the Colorado rules of criminal procedure.

(2) IN BRINGING AN ADJUDICATORY ACTION AGAINST A JUVENILE PURSUANT TO THIS ARTICLE, THE DISTRICT ATTORNEY AND THE COURT SHALL COMPLY WITH THE DEADLINES FOR:

(a) HOLDING THE DETENTION HEARING, AS SPECIFIED IN SECTION 19-2-508 (3) (a) (I);

(b) FILING THE PETITION, AS SPECIFIED IN SECTION 19-2-508 (3) (a) (V);

(c) SETTING THE FIRST APPEARANCE, AS SPECIFIED IN SECTION 19-2-514 (4); AND

(d) HOLDING THE ADJUDICATORY TRIAL, AS SPECIFIED IN SECTION 19-2-708 (1).

(3) THE COURT MAY GRANT A CONTINUANCE WITH REGARD TO ANY OF THE DEADLINES SPECIFIED IN SUBSECTION (2) OF THIS SECTION UPON MAKING A FINDING OF GOOD CAUSE.

**19-2-109. [Formerly 19-2-401.] General procedure for juvenile hearings.**

(1) The Colorado rules of juvenile procedure shall apply in all proceedings conducted under this article.

(2) Hearings shall be held before the court without a jury, except as provided in ~~section 19-2-501~~ SECTIONS 19-2-107 AND 19-2-601 (3), and may be conducted in an informal manner. ~~The general public shall not be excluded unless the court determines that it is in the best interest of the juvenile or of the community to exclude the general public, and, in such event, the court shall admit only such persons as have an interest in the case or the work of the court, including persons whom the district attorney, the juvenile, or his parents or guardian wish to be present.~~

(3) A verbatim record shall be taken of all proceedings, including any hearing conducted by a magistrate.

(4) When more than one juvenile is named in a petition or individual petitions are filed against more than one juvenile alleging delinquent acts arising from the same delinquent episode, any proceedings, including trials, may be consolidated.

(5) Juvenile cases shall be heard separately from adult cases, and the juvenile or his OR HER parents, guardian, or other custodian may be heard separately when deemed necessary by the court.

(6) THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN OF THE JUVENILE IS REQUIRED TO ATTEND ALL PROCEEDINGS, INCLUDING ALL HEARINGS, CONCERNING THE JUVENILE. FAILURE, WITHOUT GOOD CAUSE, TO ATTEND A PROCEEDING CONCERNING THE JUVENILE MAY SUBJECT THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN TO CONTEMPT SANCTIONS; EXCEPT THAT, IF THE JUVENILE'S LEGAL CUSTODIAN IS A COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF HUMAN SERVICES, THE LEGAL CUSTODIAN NEED NOT ATTEND ANY PROCEEDING AT WHICH THE JUVENILE'S GUARDIAN AD LITEM IS PRESENT.

**19-2-110. [Formerly 19-2-904.] Open hearings.** The general public shall not be excluded from hearings held under this article unless the court determines that it is in the best interest of the juvenile or of the community to exclude the general public, and, in such event, the court shall admit only such persons as have an interest in the case or work of the court, including persons whom the district attorney, the juvenile, or his OR HER parents or guardian wish to be present.

**19-2-111. [Formerly 19-2-903.] Effect of proceedings.** No adjudication or proceeding under this article shall impose any civil disability upon a juvenile or disqualify him OR HER from holding any position under the state personnel system or submitting any governmental or military service application or receiving any governmental or military service appointment or from holding public office.

**19-2-112. [Formerly 19-2-707.] Victim's right to attend dispositional, review, and restitution proceedings.** The victim of any delinquent act or a relative of the victim, if the victim has died, has the right to attend all dispositional, review, and restitution proceedings resulting from the adjudication of such act. The victim or his OR HER relative has the right to appear at the proceedings personally or with counsel and to adequately and reasonably express his OR HER views concerning the act, the juvenile, the need for restitution, and the type of dispositional orders ~~which~~ THAT should be issued by the court. When issuing such orders, the court shall consider the statements made by the victim or his OR HER relative and shall make a finding, on the record, when appropriate, as to whether or not the juvenile would pose a threat to public safety if granted probation.

**19-2-113. Parental accountability.** (1) (a) THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN OF ANY JUVENILE SUBJECT TO PROCEEDINGS UNDER THIS ARTICLE IS REQUIRED TO ATTEND ALL PROCEEDINGS THAT MAY BE BROUGHT UNDER THIS ARTICLE CONCERNING THE JUVENILE. THE COURT MAY IMPOSE CONTEMPT SANCTIONS AGAINST SAID PARENT, GUARDIAN, OR LEGAL CUSTODIAN FOR FAILURE, WITHOUT GOOD CAUSE, TO ATTEND ANY PROCEEDING CONCERNING THE JUVENILE; EXCEPT THAT, IF THE JUVENILE'S LEGAL CUSTODIAN IS A COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF HUMAN SERVICES, THE LEGAL CUSTODIAN NEED NOT ATTEND ANY PROCEEDING AT WHICH THE JUVENILE'S GUARDIAN AD LITEM IS PRESENT.

(b) FOR ANY JUVENILE ADJUDICATED PURSUANT TO THIS ARTICLE, THE COURT MAY SPECIFY ITS EXPECTATIONS FOR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN, SO LONG AS THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS A PARTY TO THE DELINQUENCY PROCEEDINGS.

(2) (a) THE GENERAL ASSEMBLY HEREBY DETERMINES THAT FAMILIES PLAY A SIGNIFICANT ROLE IN THE CAUSE AND CURE OF DELINQUENT BEHAVIOR OF CHILDREN. IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY THAT PARENTS COOPERATE AND PARTICIPATE SIGNIFICANTLY IN THE ASSESSMENT AND TREATMENT PLANNING FOR THEIR CHILDREN.

(b) ANY TREATMENT PLAN DEVELOPED PURSUANT TO THIS ARTICLE MAY INCLUDE REQUIREMENTS TO BE IMPOSED ON THE JUVENILE'S PARENT, SO LONG AS THE PARENT IS A PARTY TO THE DELINQUENCY PROCEEDINGS. THESE REQUIREMENTS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- (I) MAXIMUM PARENT INVOLVEMENT IN THE SENTENCING ORDERS;
- (II) PARTICIPATION BY THE PARENT IN PARENTAL RESPONSIBILITY TRAINING;
- (III) COOPERATION BY THE PARENT IN TREATMENT PLANS FOR THE JUVENILE;
- (IV) PERFORMANCE OF PUBLIC SERVICE BY THE PARENT;
- (V) COST OF CARE REIMBURSEMENT BY THE PARENT;
- (VI) SUPERVISION OF THE JUVENILE; AND
- (VII) ANY OTHER PROVISIONS THE COURT DEEMS TO BE IN THE BEST INTERESTS OF THE JUVENILE, THE PARENT'S OTHER CHILDREN, OR THE COMMUNITY.

(c) ANY PARENT WHO IS A PARTY TO THE DELINQUENCY PROCEEDINGS AND WHO FAILS TO COMPLY WITH ANY REQUIREMENTS IMPOSED ON THE PARENT IN A TREATMENT PLAN MAY BE SUBJECT TO CONTEMPT SANCTIONS.

(d) THE COURT SHALL HAVE DISCRETION TO EXEMPT THE PARENT FROM PARTICIPATION IN THE JUVENILE'S TREATMENT.

**19-2-114. [Formerly 19-2-705.5 (1) to (5).] Cost of care.** (1) Notwithstanding the provisions of section 19-1-115 (4) (d), where a juvenile is sentenced to a placement out of the home or is granted probation as a result of an adjudication, deferral of adjudication, or direct filing in OR TRANSFER TO district court, the court may order the juvenile or the juvenile's parent to make such payments toward the cost of care as are appropriate under the circumstances. In setting the amount of such payments, the court shall take into consideration and make allowances for any restitution ordered to the victim or victims of a crime, which shall take priority over any payments ordered pursuant to this section, and for the maintenance and support of the juvenile's spouse, dependent children, any other persons having a legal right to support and maintenance out of the estate of the juvenile, or any persons having a legal right to support and maintenance out of the estate of the juvenile's parent. The court shall also consider the financial needs of the juvenile for the six-month period immediately following the juvenile's release, for the purpose of allowing said juvenile to seek employment.

(2) Any order for payment toward the cost of care entered by the court pursuant to subsection (1) of this section shall constitute a judgment which shall be enforceable by the state or the governmental agency ~~which~~ THAT would otherwise incur the cost of care for the juvenile in the same manner as are civil judgments.

(3) In order to effectuate the provisions of this section, a juvenile and such juvenile's parent shall be required to provide information to the court regarding the juvenile's estate and the estate of such juvenile's parent. Such financial information shall be submitted in writing and under oath.

(4) If the court finds, after a hearing, that the juvenile's parent has made diligent, good faith efforts to prevent or discourage the juvenile from engaging in delinquent activity, the court may absolve such parent of accountability for cost of care under

subsection (1) of this section.

(5) Liability for cost of care of a juvenile by such juvenile's parent under subsection (1) of this section shall be limited to a maximum of ten thousand dollars.

JUVENILE JUSTICE ADMINISTRATION  
PART 2  
ADMINISTRATIVE ENTITIES - AGENTS

**19-2-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE ADMINISTRATIVE ENTITIES AND AGENTS".

**19-2-202. Responsible agencies.** THE DEPARTMENT OF HUMAN SERVICES IS THE SINGLE STATE AGENCY RESPONSIBLE FOR THE OVERSIGHT OF THE ADMINISTRATION OF JUVENILE PROGRAMS AND THE DELIVERY OF SERVICES FOR JUVENILES AND THEIR FAMILIES IN THIS STATE. IN ADDITION, THE DEPARTMENT OF HUMAN SERVICES IS RESPONSIBLE FOR JUVENILE PAROLE. THE STATE JUDICIAL DEPARTMENT IS RESPONSIBLE FOR THE OVERSIGHT OF JUVENILE PROBATION. THE DEPARTMENT OF PUBLIC SAFETY IS RESPONSIBLE FOR THE OVERSIGHT OF COMMUNITY DIVERSION PROGRAMS. THE STATE AGENCIES DESCRIBED IN THIS SECTION SHALL JOINTLY OVERSEE THE APPLICATION BY JUDICIAL DISTRICTS OF THE PLACEMENT CRITERIA ESTABLISHED BY THE WORKING GROUP AS PROVIDED IN SECTION 19-2-212.

**19-2-203. Division of youth corrections - created - interagency agreements.**  
(1) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF HUMAN SERVICES THE DIVISION OF YOUTH CORRECTIONS, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE DIVISION OF YOUTH CORRECTIONS. THE DIRECTOR SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION AND THE LAWS AND RULES GOVERNING THE STATE PERSONNEL SYSTEM. THE DIRECTOR SHALL EXERCISE POWERS AND PERFORM DUTIES AND FUNCTIONS WITHIN THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND AS IF TRANSFERRED THERETO BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(2) (a) THE DIVISION OF YOUTH CORRECTIONS MAY ENTER INTO AGREEMENTS WITH THE JUDICIAL DEPARTMENT TO COMBINE PROVISION OF JUVENILE PAROLE AND PROBATION SERVICES. JUVENILE PROBATION AND PAROLE SUPERVISION PROGRAMS IMPLEMENTED PURSUANT TO SUCH AGREEMENTS SHALL NOT INCLUDE PROVISIONS FOR SUPERVISION OF JUVENILES SENTENCED TO THE DEPARTMENT OF CORRECTIONS.

(b) ON OR BEFORE MARCH 1, 1997, AND ON OR BEFORE EACH MARCH 1 THEREAFTER, THE DIVISION OF YOUTH CORRECTIONS SHALL SUBMIT TO THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY A REPORT CONCERNING THE IMPLEMENTATION OF ANY INTERAGENCY AGREEMENTS ENTERED INTO PURSUANT TO THIS SUBSECTION (2). AT A MINIMUM, THE REPORT SHALL SPECIFY THE PARTICIPATING JUDICIAL DISTRICTS AND THE NUMBER OF OFFENDERS INVOLVED IN THE PROGRAMS.

**19-2-204. [Formerly 19-2-1001.] Juvenile probation departments or divisions - service agreements.** (1) The juvenile court is authorized to establish juvenile



probation departments or divisions.

(2) Subject to the provisions of section 13-3-105, C.R.S., the juvenile court is authorized to appoint juvenile probation officers and such other professional and clerical personnel as may be required. JUVENILE PROBATION OFFICERS SHALL HAVE THE POWERS AND DUTIES SPECIFIED IN SECTION 19-2-926 AND SHALL HAVE THE POWERS OF PEACE OFFICERS, LEVEL III, AS DEFINED IN SECTION 18-1-901 (3) (I) (IV), C.R.S.

(3) Upon the agreement of the juvenile court judges, the approval of the chief judge in each district OR, FOR THE SECOND JUDICIAL DISTRICT, THE PRESIDING JUDGE OF THE DENVER JUVENILE COURT, and the approval of the chief justice of the supreme court, two or more contiguous judicial districts may combine to form an interdistrict juvenile probation department.

(4) (a) The juvenile court judges are authorized to enter into agreements with the department of human services, county departments of social services, other public agencies, private nonprofit agencies, or with other juvenile courts to provide supervision or other services for juveniles placed on probation by the court.

(b) The conditions and terms of any such agreement shall be set forth in writing, including any payments to be made by the court for the services provided.

(c) Any agreement made under this subsection (4) may be terminated upon ninety days' written notice by either party thereto.

**19-2-205. [Formerly 19-2-1111 except (2)(d)(II).] Facility directors - duties.**

(1) A director of each state-operated facility established by ~~section 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ SECTION 19-2-403 AND SECTIONS 19-2-406 TO 19-2-408 shall be appointed by the ~~executive director of the department of human services~~ DIRECTOR OF THE DIVISION OF YOUTH CORRECTIONS pursuant to section 13 of article XII of the state constitution.

(2) It is the duty of the director of each facility established by ~~section 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ SECTION 19-2-403 AND SECTIONS 19-2-406 TO 19-2-408:

(a) To report to the executive director of the department of human services at such times and on such matters as the director may require;

(b) To receive ~~subject to limitations on physical capacity and programs, all~~ juveniles committed to the custody of the department of human services and placed in his OR HER care under the provisions of this article and to keep them for rehabilitation, education, and training until discharged by law or under the rules of the department of human services or released on parole;

(c) To make a careful and thorough evaluation of every juvenile placed under his OR HER care at intervals no greater than six months, such evaluation to ascertain whether the juvenile's program should be modified, whether ~~his~~ THE JUVENILE'S transfer to another facility should be recommended to the said director, or whether ~~his~~ THE JUVENILE'S release should be recommended to the juvenile parole board;

(d) ~~(f)~~ ~~Whenever possible,~~ To take such measures as are ~~reasonably~~ necessary to prevent recruitment of new gang members from among the juveniles committed to the custody of the department of human services.

**19-2-206. [Formerly 19-2-1201.] Juvenile parole board - creation - membership.** (1) There is hereby created a juvenile parole board, referred to in this ~~part 12~~ SECTION AND SECTION 19-2-207 as the "board", to consist of seven members appointed by the governor and confirmed by the senate. The governor shall appoint members to this board immediately after June 7, 1989, and such members may serve temporarily until such members are confirmed by the senate in the regular session of the general assembly beginning in January of 1990 or at any special session prior to that regular session.

(2) All seven members shall be voting members, and, of the seven members:

(a) One member shall be from the department of human services;

(b) One member shall be from the department of education;

(c) One member shall be from the department of public safety;

(d) One member shall be from the department of labor and employment;

(e) One member shall be a local elected official; and

(f) Two members shall be from the public at large and shall not be employees of the state government. At least one of the members from the public at large shall be a resident of the area west of the continental divide.

(3) All members shall serve at the pleasure of the governor, and the governor shall designate one member of the board to act as ~~chairman~~ CHAIRPERSON.

(4) The full board shall meet not less than once a month, and the presence of four members, at least one of whom is one of the members described in paragraph (e) or (f) of subsection (2) of this section, shall constitute a quorum to transact official business of the full board.

(5) All members of the board shall be reimbursed for expenses necessarily incurred in the performance of their duties. In addition to the reimbursement of said expenses, the two citizen board members and the local elected official member shall receive a per diem of one hundred fifty dollars per day spent transacting official business of the board.

(6) Clerical and other assistance for the board shall be furnished by the department of human services. Such clerical and other assistance shall be supervised by a juvenile parole board administrator appointed by the executive director of the department of human services.

**19-2-207. [Formerly 19-2-1202 (1).] Juvenile parole board - authority.** The board shall have the authority to grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole for any juvenile committed to the department of

human services under section ~~19-2-703~~ 19-2-601 OR 19-2-907 in such a manner as is in the best interests of the juvenile and the public. The board shall promulgate rules and regulations ~~which~~ THAT establish criteria under which its parole decisions are made. THE BOARD SHALL HAVE THE DUTIES AND RESPONSIBILITIES SPECIFIED IN PART 10 OF THIS ARTICLE.

**19-2-208. [Formerly 19-2-1203 (1).] Administrative law judges.** An administrative law judge shall assist any hearing panel ~~which~~ OF THE JUVENILE PAROLEBOARD THAT is considering the suspension, modification, or revocation of the parole of a juvenile.

**19-2-209. [Formerly 19-2-1204.] Division of juvenile parole - organization.** (1) There is hereby established in the department of human services a division of juvenile parole, under the direction of the director of juvenile parole, who shall be appointed by the executive director of the department of human services pursuant to section 13 of article XII of the state constitution.

(2) The division of juvenile parole shall include the director of juvenile parole and all juvenile parole officers appointed under this section. Such juvenile parole officers and other personnel shall be appointed by the director of juvenile parole pursuant to section 13 of article XII of the state constitution and with the consent of the department of human services. JUVENILE PAROLE OFFICERS SHALL HAVE THE POWERS AND DUTIES SPECIFIED IN PART 10 OF THIS ARTICLE AND SHALL HAVE THE POWERS OF PEACE OFFICERS, LEVEL III, AS DEFINED IN SECTION 18-1-901 (3) (1) (IV), C.R.S.

(3) The director of juvenile parole shall establish districts in the state for the administration of juvenile parole. The number of districts and their size shall be determined with reference to the number of counties using parole services, their location, and the case load in each county. An office for the juvenile parole officer shall be provided in each district.

(4) The director of juvenile parole shall report to the director of THE DIVISION OF youth ~~services~~ CORRECTIONS in the department of human services at such times and on such matters as the executive director of the department may require.

(5) Publications of the division circulated in quantity outside the division are subject to the "Information Coordination Act", section 24-1-136, C.R.S.

**19-2-210. [Formerly 19-2-1303, 19-2-1304, 19-2-1305.] Juvenile community review board.** (1) A board of county commissioners or the city council of the city and county of Denver or more than one board of county commissioners may adopt a written resolution requiring approval by a juvenile community review board of residential community placements within its county of ~~children~~ JUVENILES under commitment to the department of human services. Upon the effective date of such resolution and notice to the department of human services, no ~~child~~ JUVENILE committed to the custody of the department of human services shall be placed into a residential community placement in that county or region unless and until such placement is approved by the juvenile community review board.

(2) Notification of any placement of a ~~child~~ JUVENILE under the jurisdiction of the juvenile parole board shall be made to the juvenile community review board prior to

or at the time of placement.

(3) (a) Prior to placement of a ~~child~~ JUVENILE in a residential community placement, the juvenile community review board shall review the case file of the ~~child~~ JUVENILE. It is the responsibility of the department of human services to provide accurate information regarding the ~~child~~ JUVENILE and the proposed placement to the juvenile community review board. Such information shall include, but not be limited to, a history of delinquent adjudications, a social history, an educational history, a mental health treatment history, a drug and alcohol treatment history, and a summary of institutional progress. Each ~~child~~ JUVENILE referred to the board shall be reviewed within fifteen days from the date the referral is received.

(b) The board shall review the case file of the ~~child~~ JUVENILE and make a decision regarding residential community placement, taking into consideration the results of the objective risk assessment by the department of human services, the needs of the ~~child~~ JUVENILE, and the criteria established by the juvenile community review board based on the interests of the community. Objective risk criteria shall be established and maintained by the department of human services and shall be based upon researched factors that have been demonstrated to be correlative to risk to the community.

(c) All names, addresses, and information regarding a ~~child~~ JUVENILE reviewed by the juvenile community review board shall be confidential and not disclosed except to such board or its designees, the Colorado bureau of investigation, and any law enforcement agency, without express written permission of the ~~child~~ JUVENILE and the legal custodian.

(4) No later than January 30, 1988, the department of human services shall submit a report to the general assembly describing the number of juvenile community review boards that have been established, the number of residential community programs, the number of ~~children~~ JUVENILES assigned to those programs, the number of ~~children~~ JUVENILES that have been rejected by the boards who subsequently required secure institutional care, and the rate of recidivism of those ~~children~~ JUVENILES as compared with the recidivism rates for ~~children~~ JUVENILES placed into secure institutional programs.

~~19-2-1602.5. Transfer of appropriations between the department of social services and the department of human services. (Repealed)~~

**19-2-211. [Formerly 19-2-1602.7.] Local juvenile services planning committee - creation - duties.** If all of the boards of commissioners of each county or the city council of each city and county in a judicial district agree, there shall be created in such judicial district a local juvenile services planning committee ~~which~~ THAT shall be appointed by the chief judge of the judicial district OR, FOR THE SECOND JUDICIAL DISTRICT, THE PRESIDING JUDGE OF THE DENVER JUVENILE COURT from persons recommended by the boards of commissioners of each county or the city council of each city and county within the judicial district. The committee, if practicable, shall include but not be limited to a representative from the county department of social services, a local school district, a local law enforcement agency, a local probation department, the division of youth ~~services~~ CORRECTIONS, private citizens, the district attorney's office, and the public defender's office and a community mental health

representative and a representative of the concerns of municipalities. The committee, if created, shall meet as necessary to develop a plan for the allocation of resources for local juvenile services within the judicial district for the fiscal year. Such plan shall be approved by the department of human services.

**19-2-212. [Formerly 19-2-1602 and 19-2-1605.] Working group for criteria for placement of juvenile offenders - establishment of formula - review of criteria.** (1) The executive director of the department of human services and the state court administrator of the judicial department, or any designees 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 council, law enforcement representatives, and representatives of local and county governments, shall form a working group ~~which~~ THAT shall carry out the following duties:

(a) ~~The working group established pursuant to this subsection (1) shall~~ 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 shall conform with section ~~19-2-204~~ 19-2-508. This set of criteria, when adopted by the department of human services and the judicial department, shall be used to 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 developing such set of criteria, the working group shall utilize any existing risk scale devised by the department of human services or any other measures to determine when it is appropriate to place a juvenile in the physical custody of the department of human services or in the legal custody of the department of human services. ~~On and after July 1, 1992,~~ The working group established pursuant to ~~section 19-2-1602 (1)~~ THIS SUBSECTION (1) shall hold a meeting once each year ~~prior to January 1~~ to review and propose revision to the criteria ~~created pursuant to section 19-2-1602 (1) (a)~~ ESTABLISHED PURSUANT TO THIS PARAGRAPH (a) and the formula created pursuant to ~~section 19-2-1602 (1) (b)~~ PARAGRAPH (b) OF THIS SUBSECTION (1). ~~At such meeting, the working group shall review any changes in the criteria or the formula and the report of such changes shall be made~~ THE WORKING GROUP SHALL REPORT ANY CHANGES MADE TO THE CRITERIA OR TO THE FORMULA to the general assembly on or before ~~January 1~~ DECEMBER 1 of each year.

(b) ~~The working group established pursuant to this subsection (1) shall~~ To establish a formula for the purpose of allocating funds by each judicial district in the state of Colorado for alternative services to placing juveniles in the physical custody of the department of human services or in the legal custody of the department of human services. Such allocation shall take into consideration such factors as the population of the judicial district, the incidence of offenses committed by juveniles in such judicial district, and such other factors as deemed appropriate. The working group shall consider and take into account whether any federal moneys or matching funds are available to cover the costs of juveniles within the system, including parent fees and third-party reimbursement as authorized by law or reimbursements under Title IV-E of the federal "Social Security Act", as amended. ~~The working group shall propose such allocation formula in time for implementation on or before July 1, 1992.~~ A written report shall be made to the general assembly concerning such formula and

~~the level of funding adequate for implementation of such formula on or before such date.~~

(2) Of the members of the working group established pursuant to subsection (1) of this section, 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 have final authority to carry out the duty of creating the set of criteria pursuant to paragraph (a) of subsection (1) of this section and creating the formula pursuant to paragraph (b) of subsection (1) of this section. This authority shall be exercised after working with and participating in the working group process established in this section.

~~**19-2-1606. Department of institutions - establishment of pilot programs. (Repealed)**~~

### PART 3

#### JUVENILE ADMINISTRATIVE PROGRAMS - SERVICES

**19-2-301. Short title.** THIS PART 3 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE ADMINISTRATIVE PROGRAMS AND SERVICES".

**19-2-302. [Formerly 19-2-205.5.] Preadjudication service program created - community advisory board established - duties of board.** (1) The chief judge of any judicial district may issue an order that any juvenile who applies for preadjudication release be evaluated for placement by a preadjudication service program established pursuant to this section. In evaluating the juvenile, the service agency shall follow criteria for the placement of a juvenile ~~which criteria shall be established in accordance with section 19-2-1602~~ PURSUANT TO SECTION 19-2-212. Upon evaluation, the service agency shall make a recommendation to the court concerning placement of the juvenile with a preadjudication service program.

(2) Any county or city and county or judicial district in the state may establish a preadjudication service program for use by the district court for the county or city and county or judicial district. Such program shall be established in accordance with a local justice plan developed pursuant to section ~~19-2-1602.7~~ 19-2-211.

(3) The local justice plan shall provide for the assessment of juveniles taken into custody and detained by law enforcement officers, which assessment shall be based on criteria for the placement of juveniles ~~in accordance with section 19-2-1602~~ ESTABLISHED PURSUANT TO SECTION 19-2-212, so that relevant information may be presented to the judge presiding over the detention hearing. The information provided to the court through the screening process, which information shall include the record of any prior adjudication of the juvenile, is intended to enhance the court's ability to make a more appropriate detention and bond decision, based on facts relative to the juvenile's welfare or the juvenile's risk of danger to the community.

(4) The plan may include different methods and levels of community-based supervision as conditions for preadjudication release. The plan may provide for the use of the same supervision methods that have been established for adult defendants as a pretrial release method to reduce pretrial incarceration or that have been

established as sentencing alternatives for juvenile or adult offenders placed on probation or parole. The use of such supervision methods is intended to reduce preadjudication detentions without sacrificing the protection of the community from juveniles who may be risks to the public. The plan may provide for the use of any of the following supervision methods as conditions of preadjudication release:

- (a) Periodic telephone communications with the juvenile;
- (b) Periodic office visits by the juvenile to the preadjudication service agency;
- (c) Periodic home visits to the juvenile's home;
- (d) Periodic drug testing of the juvenile;
- (e) Periodic visits to the juvenile's school;
- (f) Mental health or substance abuse treatment for the juvenile, which treatment may include residential treatment;
- (g) Domestic violence or child abuse counseling for the juvenile, if applicable;
- (h) Electronic monitoring of the juvenile; ~~or~~
- (i) Work release for the juvenile, if school attendance is not applicable or appropriate under the circumstances; OR
- (j) JUVENILE DAY REPORTING AND DAY TREATMENT PROGRAMS.

**19-2-303. Juvenile diversion program - authorized.** (1) In order to more fully implement the stated objectives of this title, the general assembly declares its intent to establish a juvenile diversion program to provide community-based alternatives to the formal court system that will reduce juvenile crime and recidivism, change juvenile offenders' behavior and attitudes, and reduce the costs within the juvenile justice system.

(2) The division of criminal justice in the department of public safety is authorized to establish and administer a juvenile diversion program. In order to effectuate the program, the division may contract with governmental units and nongovernmental agencies to provide services for eligible youth through community-based projects providing an alternative to a petition filed pursuant to section ~~19-2-304~~ 19-2-512, an adjudicatory hearing pursuant to section 19-3-505, or dispositions of a juvenile delinquent pursuant to section ~~19-2-703~~ 19-2-907.

(3) FOR PURPOSES OF THIS SECTION:

- (a) "DIRECTOR" IS DEFINED IN SECTION 19-1-103 (42).
- (b) "DIVERSION" IS DEFINED IN SECTION 19-1-103 (44).
- (c) "GOVERNMENTAL UNIT" IS DEFINED IN SECTION 19-1-103 (55).

(d) "NONGOVERNMENTAL AGENCY" IS DEFINED IN SECTION 19-1-103 (79).

(e) "SERVICES" IS DEFINED IN SECTION 19-1-103 (96).

~~(4) Repealed.~~

~~(5)~~ (4) Projects soliciting service contracts pursuant to this section must demonstrate that they:

(a) Meet a demonstrated community need as shown by a survey of the type of community, its special circumstances, and the type and number of youth who will be served by the project;

(b) Provide services that do not duplicate services already provided in the community; and

(c) ~~Show community support of the project~~ ARE SUPPORTED BY THE COMMUNITY, AS DEMONSTRATED through receipt of nonstate funds or in-kind supplies or services to meet at least twenty-five percent of the total cost of the project.

~~(6)~~ (5) When applying for a contract with the division of criminal justice to provide services to youths under the juvenile diversion program, a community project shall submit for review by the division a list of the project's objectives, a report of the progress made during the previous year if applicable toward implementing the stated objectives, an annual budget, and such other documentation as may be required by the director.

~~(7)~~(a) (6) (a) Each project providing services under this section shall develop objectives and report progress toward such objectives as required by rules and regulations promulgated by the director.

(b) The director shall regularly monitor these diversion projects to ~~insure~~ ENSURE that progress is being made to accomplish the objectives of this section.

~~(8) Repealed.~~

**19-2-304. [Formerly 19-2-1401.] Parental responsibility training programs - criteria.** (1) The state department of human services, after consultation with the state department of public safety and the judicial department, shall establish standards and guidelines for parental responsibility training programs for the parent, guardian, or legal custodian of a juvenile or juvenile delinquent ~~which~~ THAT shall include, but shall not be limited to, instruction in the following:

(a) Physical, mental, social, and emotional child growth and development;

(b) Skill development for parents in providing for the child's learning and development, including teaching the child responsibility for his or her actions;

(c) Prevention of drug abuse;

(d) Family structure, function, and management; and



(e) The physical, mental, emotional, social, economic, and psychological aspects of interpersonal and family relationships.

(2) The state department of human services is authorized and directed to establish such standards and guidelines within the available resources of the state government and each of the state departments described in subsection (1) of this section.

**19-2-305. [Formerly 19-2-705.6.] Intensive family preservation program - adjudicated juveniles - legislative declaration - financing for program - cash fund created - report - repeal.** (1) (a) The general assembly declares that juvenile delinquency and violence is a pressing issue in need of resolution. Many adjudicated juveniles are sentenced or committed to the department of human services, are otherwise placed in the legal custody of the department of human services and placed out of the home, or are at imminent risk of being placed out of the home, and, after serving a sentence or commitment or after placement out of the home, return to dysfunctional families where the cycle of delinquency and violence often originates. The general assembly further declares that, when a juvenile has not learned self-discipline and self-respect, effective methods of communication, and respect for the rights and property of others, it becomes necessary to make programs available that foster those attributes. However, it is not the duty of the state of Colorado to adopt the parental role when a parent is capable of learning and teaching these behaviors. It is fiscally irresponsible and detrimental to our society as a whole for the state to take on family responsibilities when it is not absolutely necessary.

(b) The general assembly further finds that the provision of properly targeted intensive family preservation services that are family-focused, skills-based, goal-driven, and cost-efficient is likely to result in the improvement of family functioning and provides the necessary training for an adjudicated juvenile to successfully remain with or reintegrate into his or her family, thereby allowing the state to use alternatives to institutionalization or out-of-home placements followed by an adjudicated juvenile's reintegration into a family. It is for this purpose that the general assembly has enacted this section.

(2) (a) On or before October 1, 1994, the chief justice of the Colorado supreme court, in consultation with the Colorado foundation for families and children and the department of human services, shall select two urban judicial districts and one rural judicial district to participate in a three-year intensive family preservation pilot program to provide intensive family preservation services for adjudicated juveniles. At least two division of youth ~~services~~ CORRECTIONS regions shall be included in the judicial districts selected for the pilot program. The pilot program is for adjudicated juveniles described in subparagraphs (I) to (III) of paragraph (c) of this subsection (2) from the judicial districts participating in the pilot program who are subject to sentencing in accordance with section ~~19-2-703~~ 19-2-907.

(b) Any judicial district that wishes to participate in the pilot program shall apply for consideration by submitting to the state judicial department a letter of intent to participate. A judicial district's letter shall include:

(I) Statements by the affected county departments of social services, the chief judge of the judicial district OR, FOR THE SECOND JUDICIAL DISTRICT, THE PRESIDING JUDGE OF THE DENVER JUVENILE COURT, the placement alternative commissions for

affected counties, and the local juvenile services planning committee for the judicial district, which statements indicate the willingness of such entities to participate in the pilot program; and

(II) A commitment by the judicial district to expend a portion of moneys allocated to the judicial district pursuant to section ~~19-2-1603~~ 19-2-310 and a portion of moneys allocated to the judicial district by the state judicial department for juvenile services to implement a plan for adjudicated juveniles who, as a condition of probation, will be required to participate in the intensive family preservation pilot program. The department of human services and the state judicial department shall develop a plan that is consistent with the criteria ~~set forth in~~ ADOPTED PURSUANT TO section ~~19-2-1602~~ 19-2-212 no later than December 1, 1994. The judicial district shall commit to implement the plan as part of the intensive family preservation pilot program no later than July 1, 1995.

(c) The juvenile may be placed in the pilot program, as follows:

(I) (A) On and after July 1, 1995, by the court in sentencing the adjudicated juvenile, if the court finds that the adjudicated juvenile would benefit from the family preservation services described in subsection (4) of this section instead of being sentenced or committed to the department of human services. The court shall follow a recommendation made by a juvenile probation officer in a social study and report submitted in accordance with section 19-1-107 for an adjudicated juvenile to participate in the pilot program as a condition of probation.

(B) As a part of the social study and report prepared in accordance with section 19-1-107, a juvenile probation officer shall determine whether an adjudicated juvenile who may be sentenced pursuant to section ~~19-2-703~~ 19-2-907, including any juvenile who may be sentenced pursuant to section ~~19-2-805 (2) (c)~~ 19-2-517 (3) (a) (III), can benefit from participation in an intensive family preservation pilot program as a condition of probation. If the juvenile probation officer determines that the interests of the adjudicated juvenile and the community are best served by the juvenile's participation in the program, the juvenile probation officer shall make that recommendation to the court.

(II) (A) By the court in placing the juvenile under the supervision of the county department of social services as an alternative to placing the juvenile in the legal custody of the department of human services and out of the juvenile's home, if the court finds that the juvenile would benefit from the family preservation services described in subsection (4) of this section. The court shall follow a recommendation made by the county department of social services in a social study and report submitted in accordance with section 19-1-107 for an adjudicated juvenile to participate in the pilot program under the county department's supervision.

(B) As a part of the social study and report prepared in accordance with section 19-1-107, the county department of social services shall determine whether an adjudicated juvenile who may be sentenced pursuant to section ~~19-2-703~~ 19-2-907, including any juvenile sentenced pursuant to section ~~19-2-805 (2) (c)~~ 19-2-517 (3) (a) (III), who might otherwise be placed in the legal custody of the county department of social services, can benefit from participation in an intensive family preservation pilot program under the supervision of the county department. If the county

department determines that the interests of the adjudicated juvenile and the community are best served by the juvenile's participation in the program, the county department shall make that recommendation to the court.

(III) By the juvenile parole board under whose supervision a juvenile is paroled, if the board determines that the juvenile will benefit from imposing as a condition of parole that the juvenile participate in the intensive family preservation pilot program.

(d) Placement in the intensive family preservation pilot program pursuant to paragraph (c) of this subsection (2) may be made only when:

(I) It appears satisfactory to the court and the state judicial department, the county department of social services, or the juvenile parole board, as applicable, that the ends of justice and the best interests of the public, as well as the juvenile, will be served;

(II) The juvenile otherwise meets family preservation eligibility criteria established by the department of human services, probation criteria established by the state judicial department, or parole eligibility criteria established by the juvenile parole board, as applicable;

(III) With respect to juveniles committed to the department of human services, family preservation services are essential to a successful parole program for the juvenile; and

(IV) The juvenile and the appropriate members of the juvenile's family voluntarily agree to participate in the program.

(e) If, at any time, a juvenile fails to cooperate or participate in the program, the conditions of the juvenile's probation or parole may be modified, the juvenile's probation or parole may be revoked, or a juvenile under the supervision of the county department of social services may be returned to the court for out-of-home placement.

(3) A juvenile adjudicated for an act that would constitute a class 1 or 2 felony if such act were committed by an adult and who has been placed on probation as a result of such conviction is prohibited from participating in the pilot program.

(4) (a) The executive director of the department of human services, in consultation with the state judicial department, shall develop and implement an intensive family preservation pilot program for adjudicated juveniles, which program includes, but need not be limited to, the following:

(I) Services ~~which~~ THAT focus on family strengths and empowering the family through alternative problem-solving techniques, child-rearing practices, responses to living situations that create stress upon the family, and resources that are available as support systems for the family;

(II) Crisis intervention, including in-home counseling, by a family development specialist, which intervention shall be available on a twenty-four-hour basis;

(III) Concentrated assistance in the development and enhancement of parenting

skills, stress reduction, and problem-solving from a family development specialist who shall carry a caseload consisting of no more than two families;

(IV) Individualized and group counseling.

(b) FOR PURPOSES OF THIS SECTION, "FAMILY DEVELOPMENT SPECIALIST" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 26-5.5-104 (4) (b), C.R.S.

(c) The executive director of the department of human services may contract with any public or private entity in providing the services described in this section. Priority shall be given to vendors with qualified and trained staff who provide the most geographically and culturally relevant services.

(5) Adjudicated juveniles who meet one of the following conditions are the targeted population for the intensive family preservation pilot program:

(a) Juveniles who are parents whose parental rights have not been terminated pursuant to this title;

(b) Juveniles with one or more juvenile siblings living at the home of the juvenile's parent or guardian; or

(c) Juveniles who are seventeen years of age or younger.

(6) The department of human services, in consultation with the state judicial department, shall contract with an independent entity to evaluate annually the progress of the pilot program. The department of human services, in consultation with the state judicial department, shall submit a report to the general assembly on or before December 1, 1995, and on or before the first of December each subsequent year, on the effectiveness of the program. The department shall base its report on the independent evaluation and shall address the impact on recidivism and additional out-of-home placements for juveniles who participate in the pilot program, projected cost-savings and cost-avoidance, and the feasibility of implementing the intensive family preservation program for juveniles statewide.

(7) This section is repealed, effective July 1, 1998.

**19-2-306. [Formerly 19-2-1501.] Juvenile intensive supervision program - creation - judicial department.** The judicial department may establish and operate, either directly or by contracting with one or more private organizations, a juvenile intensive supervision program, which may be utilized by any judge in sentencing any juvenile who has been placed on probation and who presents a high risk of future placement within juvenile correctional facilities according to assessment criteria developed pursuant to section ~~19-2-1502 (2)~~ 19-2-307 (2).

**19-2-307. [Formerly 19-2-1502.] Juvenile intensive supervision program - elements.** (1) The juvenile intensive supervision program created by section ~~19-2-1501~~ 19-2-306 shall include, but shall not be limited to, utilization of any or all of the following elements:

(a) Increased supervision of the juvenile by probation officers;

(b) Utilization of specific youth case management approaches;

(c) Community service work assignments;

(d) Restitution programs;

(e) Structured group training regarding problem solving, social skills, negotiation skills, emotion management, creative thinking, value enhancement, and critical reasoning;

(f) Use of electronic monitoring and substance abuse testing to monitor compliance with the program by the juvenile and providing sanctions for failure to comply with the program; and

(g) Individual and family treatment.

(2) The judicial department shall be assisted in developing assessment criteria for placement in the juvenile intensive supervision program AND judicial department guidelines for implementation of the program and measurement of the outcome of the program by a juvenile intensive supervision advisory committee. Such advisory committee shall be appointed by the state court administrator and shall include, but shall not be limited to, representatives of the division of youth services CORRECTIONS in the department of human services and the division of criminal justice in the department of public safety.

**~~19-2-1503. Pilot program - report to general assembly. (Repealed)~~**

**19-2-308. [Formerly 19-2-706.] Community service and work programs.**

(1) As a condition of a deferral of adjudication or of probation, in conjunction with other dispositional orders, or otherwise, the court may order the juvenile to participate in a supervised community service or community work program if the court finds that the program will promote the purposes of this title as set forth in section 19-1-102.

(2) Participation by the juvenile or by both the juvenile and the parent or guardian of the juvenile in a community service or work program may be ordered in addition to or in conjunction with an order to pay restitution pursuant to ~~section 19-2-703 (4)~~ SECTION 19-2-918 OR 19-2-919.

(3) With the written consent of the victim of the juvenile's delinquent act, the juvenile or both the juvenile and the custodial parent or guardian of the juvenile may be ordered to perform work for the victim.

(4) Any order issued by the court pursuant to this section shall be structured to allow the juvenile to continue regular school attendance and any employment, if appropriate, and shall be suitable to the age and abilities of the juvenile. The amount of community service or work ordered shall be reasonably related to the seriousness of the juvenile's delinquent act.

(5) The court may order any agency or person supervising a juvenile in a community service or work program to advise the court concerning the juvenile's participation in the program in such manner as the court requires.

(6) The court may order, as a condition of probation, that the juvenile be placed out of the home in a residential child care facility providing a supervised work program or that the juvenile in such facility report to a supervised work program if the court finds the following:

(a) That the juvenile will not be deprived of the education ~~which~~ THAT is appropriate to his OR HER age, needs, and specific rehabilitative goals;

(b) That the supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the juvenile, and is combined with counseling from a probation officer or other guidance personnel; and

(c) That the supervised work program assignment is made for a period of time consistent with the juvenile's best interest but not exceeding one hundred eighty days.

(7) The probation department of the court shall be responsible for establishing and identifying suitable work programs and assignments. There shall be cooperation of boards of county commissioners, county sheriffs, and political subdivisions in helping to establish work programs. The cooperation of suitable nonprofit organizations and other entities may be sought to establish suitable work programs.

(8) FOR PURPOSES OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S., "PUBLIC EMPLOYEE" DOES NOT INCLUDE ANY JUVENILE WHO IS ORDERED TO PARTICIPATE IN A WORK OR COMMUNITY SERVICE PROGRAM UNDER THIS SECTION.

(9) No governmental entity or cooperating nonprofit organization shall be liable under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., or under the "Colorado Employment Security Act", articles 70 to 82 of title 8, C.R.S., for any benefits on account of any juvenile who is ordered to participate in a work or community service program under this section, but nothing in this subsection (9) shall prohibit a governmental entity or cooperating nonprofit organization from electing to accept the provisions of the "Workers' Compensation Act of Colorado" by purchasing and keeping in force a policy of workers' compensation insurance covering such person.

(10) Any general public liability insurance policy obtained to cover juveniles performing work or community service pursuant to this section and to provide coverage for injuries caused to or by juveniles performing work or community service pursuant to this section shall be in a sum of not less than the current limit on government liability under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

**19-2-309. [Formerly 19-2-708.] Regimented juvenile training program - legislative declaration - repeal.** (1) It is the intent of the general assembly that the program established pursuant to this section benefit the state by providing a two-phase regimented juvenile training program under which certain adjudicated juveniles are subject to a controlled and regimented environment that affirms dignity of self and respect for others; promotes the value of education, work, and self-discipline; and develops useful skills and abilities that can be applied when the

juvenile is reintegrated into the community.

(2) (a) The department of human services, under contract with any private entity, shall establish, maintain, and operate a regimented juvenile training program. THE DEPARTMENT OF HUMAN SERVICES AND THE JUDICIAL DEPARTMENT SHALL ESTABLISH SELECTION GUIDELINES FOR JUVENILES SENTENCED TO THE REGIMENTED JUVENILE TRAINING PROGRAM. THE GUIDELINES SHALL TAKE INTO ACCOUNT THE SEVERITY AND NUMBER OF OFFENSES COMMITTED BY THE JUVENILE, AND JUVENILES WITH EXTENSIVE CRIMINAL HISTORIES SHALL NOT BE CONSIDERED TO BE APPROPRIATE FOR THE PROGRAM. Juveniles eligible for participation in the program shall be assessed and deemed appropriate for the program by the department OF HUMAN SERVICES. THE JUDICIAL DEPARTMENT SHALL PROVIDE INFORMATION TO THE DEPARTMENT OF HUMAN SERVICES CONCERNING THE CRIMINAL HISTORIES OF THE JUVENILES SENTENCED TO THE REGIMENTED JUVENILE TRAINING PROGRAM AS A CONDITION OF PROBATION. The juveniles eligible for the program shall include only juveniles ~~sentenced to the department of human services, regardless of whether the sentence to the department is a direct sentence or~~ WHO ARE REQUIRED TO PARTICIPATE IN THE REGIMENTED JUVENILE TRAINING PROGRAM as a condition of probation.

(b) A juvenile may be ~~eliminated from~~ DENIED PARTICIPATION IN the program upon a determination by the department of human services that a physical or mental condition will prevent full participation in the program by such offender. ANY JUVENILE WHO IS DENIED PARTICIPATION IN THE PROGRAM SHALL BE RETURNED TO THE JUVENILE COURT FOR RESENTENCING.

(c) THE REGIMENTED JUVENILE TRAINING PROGRAM SHALL BE ESTABLISHED FOR EIGHTY JUVENILES.

(3) The regimented juvenile training program shall consist of two phases, which shall be administered as follows:

(a) **Phase I:** SHALL CONSIST OF A SIXTY-DAY RESIDENTIAL PROGRAM, ADMINISTERED BY THE DEPARTMENT OF HUMAN SERVICES, AS A military-styled intensive physical training and discipline phase in a secure facility consisting of eighty beds for ~~a period of sixty days and administered by the department of human services~~ MALE JUVENILES;

(b) **Phase II:** A community reintegration phase ~~for eighty juveniles which~~ THAT is administered by the judicial department ~~as follows:~~ THROUGH THE LOCAL PROBATION DEPARTMENTS. THE LOCAL PROBATION DEPARTMENTS MAY CONTRACT WITH ANY APPROPRIATE ENTITY TO PROVIDE AFTERCARE SERVICES FOR JUVENILES WHO COMPLETE THE REGIMENTED JUVENILE TRAINING PROGRAM. EACH LOCAL PROBATION DEPARTMENT MAY ISSUE A REQUEST FOR PROPOSALS TO PROVIDE AFTERCARE SERVICE WHEN THE LOCAL PROBATION DEPARTMENT ANTICIPATES THAT AT LEAST FIVE JUVENILES WILL COMPLETE PHASE I OF THE REGIMENTED JUVENILE TRAINING PROGRAM.

~~(f) (A) If appropriate juvenile diversion services are available under a contract authorized by section 19-2-303 for the judicial district in which the juvenile resides, the judicial department shall contract with any governmental unit or nongovernmental agency providing services under such contract to provide diversion services similar~~

to those provided under the contract; and

~~(B) A juvenile in the regimented juvenile training program who resides in a judicial district described in sub-subparagraph (A) of this subparagraph (I) shall be required to participate in a diversion program for a period to be determined by the judicial department.~~

~~(H) If diversion services described in sub-subparagraph (A) of subparagraph (I) of this paragraph (b) are not available in the judicial district in which the juvenile resides, the juvenile shall be subject to a period of supervision under the judicial department.~~

~~(H) In addition to the requirements set forth in subparagraphs (I) and (H) of this paragraph (b), juveniles shall be required to participate in a job training and educational component, as deemed appropriate by the judicial department. The educational component shall include classroom work comprised of basic academic and/or vocational instruction.~~

~~(IV) In addition to the requirements set forth in subparagraphs (I) and (H) of this paragraph (b), if deemed appropriate by the judicial department, juveniles may be subject to electronic monitoring or may be placed in a community residential facility subject to an interdepartmental agreement between the judicial department and the department of human services; except that no more than sixty juveniles shall be subject to electronic monitoring and no more than twenty juveniles shall be placed in a community residential facility.~~

(4) Whenever a juvenile fails to progress through or complete the initial phase of the regimented juvenile training program, ~~the department of human services may reassign the juvenile to a division of youth services facility~~ THE JUVENILE SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 19-2-925 (4) FOR VIOLATION OF A CONDITION OF PROBATION. In addition, whenever a juvenile fails to progress through or complete the second phase of the program, the department may return the juvenile to the first phase of the program for completion of all or part of it; except that a juvenile shall not be returned for participation in the initial phase more than once, BUT UPON SUBSEQUENTLY FAILING TO PROGRESS THROUGH OR COMPLETE THE SECOND PHASE OF THE PROGRAM, THE JUVENILE SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 19-2-925 (4) FOR VIOLATION OF A CONDITION OF PROBATION.

(5) The department of human services AND THE JUDICIAL DEPARTMENT shall establish ~~and enforce standards~~ GUIDELINES for the regimented juvenile training program and each of the phases thereof described in subsection (3) of this section. Supportive services deemed necessary by the department of human services AND THE JUDICIAL DEPARTMENT shall be made available under the phases of the regimented juvenile training program, as deemed appropriate by the department of human services AND THE JUDICIAL DEPARTMENT.

(6) (a) On or before December 1, 1996, the department of human services shall submit a report evaluating the regimented juvenile training program to the governor, the speaker of the house of representatives, the president of the senate, and the joint budget committee of the general assembly.



(b) The report shall include the following determinations:

(I) Whether the courts are ~~committing~~ SENTENCING juveniles to the ~~department of human services in anticipation of the juvenile being assigned to the~~ regimented juvenile training program when such juvenile would better be placed COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES FOR PLACEMENT in ~~another~~ A division of youth services CORRECTIONS facility or OTHERWISE PLACED on probation; and

(II) Whether, as a result of being assigned to the regimented juvenile training program, juveniles in fact receive less serious sentences than similarly adjudicated juveniles, in terms of the type of delinquent act, juvenile history, and assessed needs, who were not assigned to such a program but were otherwise committed to the department of human services; and

(III) Whether bed savings to the department of human services are a result of the regimented juvenile training program; and

(IV) Whether juveniles placed in a regimented juvenile training program have a recidivism rate ~~which~~ THAT is equal to or less than that of similar adjudicated juveniles who were not placed in such program but were otherwise committed to the department of human services.

(7) This section is repealed, effective July 1, 1997.

**19-2-310. [Formerly 19-2-1603.] Appropriations to department of human services for services to juveniles.**

~~(1) (Deleted by amendment, L. 93, p. 1553, § 12, effective July 1, 1993.)~~

~~(2)~~ On and after July 1, 1993, the general assembly shall appropriate moneys for the provision of services to juveniles to the department of human services which shall allocate such moneys by each judicial district in the state. Such appropriation and allocation shall be made based upon the formula developed in section ~~19-2-1602~~ ~~(1)~~ ~~(b)~~ 19-2-212 (1) (b). The department of human services shall administer such appropriated moneys. The moneys appropriated to the department of human services for allocation by each judicial district shall be expended in such judicial district by the department of human services for services to juveniles ~~which~~ THAT may include, but shall not be limited to, intervention, treatment, supervision, lodging, assessment and bonding programs, and family services. If a judicial district has a local juvenile services planning committee, the expenditure of moneys for juvenile services in such judicial district shall be made in accordance with the plan developed pursuant to section ~~19-2-1602.7~~ 19-2-211.

#### PART 4 JUVENILE FACILITIES

**19-2-401. Short title.** THIS PART 4 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE FACILITIES".

**19-2-402. [Formerly 19-2-1115.] Juvenile detention services and facilities to be provided by department of human services - education.** (1) (a) Detention

services for temporary care of a juvenile, pursuant to this article, shall be provided by the department of human services, which shall consult on a regular basis with the court in any district where a detention facility is located concerning the detention program at that facility. THE DEPARTMENT MAY USE STAFF SECURE FACILITIES TO PROVIDE PREADJUDICATION AND POSTADJUDICATION DETENTION SERVICES.

(b) Detention facilities operated by or under contract with the department of human services, SUBJECT TO LIMITATIONS ON PHYSICAL CAPACITY AND PROGRAMS, shall receive and provide care for any juvenile arrested for or convicted of a violation of any provision of articles 1 to 15 of title 33, C.R.S., or any rule or regulation promulgated thereunder, or any article of title 42, C.R.S., or any municipal or county ordinance and for any juvenile found in contempt of court in connection with a violation or an alleged violation of any of those articles or any municipal or county ordinance.

(2) Detention facilities operated in part by a state court, pursuant to section 13-3-108, C.R.S., shall be operated in the same manner by the department of human services, within the limits of available funds appropriated for such purpose.

(3) (a) The school boards of the school districts ~~which~~ THAT a juvenile detention facility serves or in which the juvenile detention facility is located, when requested by the judge of the juvenile court, shall furnish teachers and any books or equipment needed for the proper education of such ~~children~~ JUVENILES as may be present in the juvenile detention facility.

~~(b) Repealed.~~

~~(c)~~ (b) Effective January 1, 1988, the expenses incurred by a school district pursuant to paragraph (a) of this subsection (3) shall be shared and paid by each school district served in the proportion ~~which~~ THAT the school enrollment of each school district bears to the total school enrollment of all the districts served.

**19-2-403. [Formerly 19-2-1101.] Human services facilities - authority.**

(1) The department of human services shall establish and operate facilities necessary for the care, education, training, treatment, and rehabilitation of those juveniles legally committed to its custody under section ~~19-2-703~~ 19-2-601 OR 19-2-907. As necessary and when funds are available for such purposes, such facilities may include but shall not be limited to:

(a) Group care facilities and homes, including halfway houses, ~~and~~ nonresidential transition programs, DAY REPORTING AND DAY TREATMENT CENTERS, AND STAFF SECURE FACILITIES;

(b) Training schools;

(c) Conservation camps;

(d) Diagnostic and evaluation centers and receiving centers; and

(e) Any programs necessary to implement the purposes of this section for juveniles in community placement.

(2) The department shall cooperate with other governmental units and agencies, including appropriate local units of government, state departments and institutions, and agencies of the federal government in order to facilitate the training and rehabilitation of youth.

(3) Once a juvenile is committed to the department of human services, ~~he~~ THE JUVENILE shall remain in a facility directly operated by the department of human services or in a secure facility contracted for by the department of human services until his OR HER commitment expires as provided by law, parole status is granted pursuant to ~~part 12~~ PART 10 of this article, or a community placement is approved by ORDER OF THE JUVENILE COURT AND BY a juvenile community review board, if one exists in the county of proposed placement.

(4) THE DEPARTMENT OF HUMAN SERVICES SHALL CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO HOUSE IN AN APPROPRIATE FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES AND, AS APPROPRIATE, TO PROVIDE SERVICES TO ANY JUVENILE UNDER THE AGE OF FOURTEEN YEARS WHO IS SENTENCED AS AN ADULT TO THE DEPARTMENT OF CORRECTIONS. ON REACHING FOURTEEN YEARS OF AGE, ANY JUVENILE SENTENCED TO THE DEPARTMENT OF CORRECTIONS SHALL BE TRANSFERRED TO AN APPROPRIATE FACILITY OPERATED BY THE DEPARTMENT OF CORRECTIONS FOR THE COMPLETION OF THE JUVENILE'S SENTENCE.

**19-2-403.5. Legislative declaration - eminent domain - detention facility site.**

(1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE JUVENILE DETENTION FACILITIES CURRENTLY LOCATED WITHIN THE CITY AND COUNTY OF DENVER ARE INADEQUATE TO HOUSE THE DRAMATICALLY INCREASING NUMBER OF JUVENILES BEING HELD IN DETENTION BY OR COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES AND THIS INADEQUACY POSES A SERIOUS AND IMMEDIATE THREAT TO PUBLIC SAFETY;

(b) DURING THE 1994 LEGISLATIVE SESSION, THE GENERAL ASSEMBLY ATTEMPTED TO ADDRESS THIS SITUATION BY APPROPRIATING ADDITIONAL STATE MONEYS FOR A NEW SIXTY-BED JUVENILE DETENTION FACILITY TO BE LOCATED IN THE CITY AND COUNTY OF DENVER;

(c) ALTHOUGH THE CITY AND COUNTY OF DENVER WAS TO SELECT A PROPOSED SITE FOR THIS JUVENILE DETENTION FACILITY, THE CITY AND COUNTY OF DENVER HAD REFUSED TO DO SO UNTIL JUST RECENTLY;

(d) DUE TO NUMEROUS FACTORS, THE TWO PROPOSED SITES THAT THE CITY AND COUNTY OF DENVER FINALLY RECOMMENDED ARE NOT SUITABLE FOR A JUVENILE DETENTION FACILITY;

(e) DUE TO DENVER'S DELAYS AND REFUSAL TO RECOMMEND A SUITABLE SITE, THE SITUATION REGARDING THE NUMBER OF JUVENILE DETENTION BEDS LOCATED IN THE CITY AND COUNTY OF DENVER HAS REACHED A CRITICAL POINT AND IT HAS BECOME NECESSARY FOR THE STATE OF COLORADO TO TAKE ACTION IN ORDER TO ADDRESS THIS SITUATION;

(f) GRANTING THE DEPARTMENT OF HUMAN SERVICES THE POWER OF EMINENT

DOMAIN TO ACQUIRE PRIVATE OR PUBLIC PROPERTY FOR JUVENILE DETENTION FACILITIES IN THE CITY AND COUNTY OF DENVER IS REASONABLY RELATED TO THE LEGITIMATE STATE INTEREST OF PROVIDING A SUFFICIENT NUMBER OF JUVENILE DETENTION BEDS WITHIN THE CITY AND COUNTY OF DENVER SO THAT THE DEPARTMENT CAN ADEQUATELY HOUSE THE NUMBER OF JUVENILES HELD IN DETENTION OR COMMITTED TO THE DEPARTMENT'S CUSTODY; AND

(g) A GENERAL LAW CANNOT BE MADE APPLICABLE TO ADDRESS THE PROVISION OF JUVENILE DETENTION FACILITY BEDS WITHIN THE CITY AND COUNTY OF DENVER.

(2) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT OF HUMAN SERVICES HAS THE RIGHT TO ACQUIRE BY EMINENT DOMAIN ANY REAL PROPERTY THAT IS LOCATED WITHIN THE DENVER METROPOLITAN AREA THAT IS NECESSARY FOR THE ESTABLISHMENT OF ONE OR MORE JUVENILE DETENTION FACILITIES. SUCH REAL PROPERTY SHALL BE ACQUIRED IN ACCORDANCE WITH ARTICLES 1 TO 7 OF TITLE 38, C.R.S.

(b) ANY REAL PROPERTY SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2) THAT IS ALREADY DEVOTED TO A PUBLIC USE MAY BE ACQUIRED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO THIS SECTION; EXCEPT THAT NO PROPERTY OWNED BY THE FEDERAL GOVERNMENT MAY BE ACQUIRED WITHOUT THE CONSENT OF THE FEDERAL GOVERNMENT.

(3) PRIOR TO THE ACQUISITION OF ANY REAL PROPERTY PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE PROPOSED ACQUISITION MUST BE REVIEWED AND APPROVED BY THE JOINT BUDGET COMMITTEE ESTABLISHED PURSUANT TO SECTION 2-3-201, C.R.S.

**19-2-404. Facilities - control and restraint - liability - duty to pursue runaways.** (1) ANY FACILITY THAT HOUSES OR PROVIDES NONRESIDENTIAL SERVICES TO ADJUDICATED JUVENILES PURSUANT TO THIS ARTICLE WHETHER PUBLICLY OR PRIVATELY OPERATED FOR SHORT-TERM OR LONG-TERM COMMITMENT OR DETENTION IS AUTHORIZED TO RESPOND IN A REASONABLE MANNER TO ISSUES OF CONTROL AND RESTRAINT OF ADJUDICATED JUVENILES WHEN NECESSARY. EACH FACILITY OR PROGRAM SHALL ESTABLISH CLEARLY DEFINED POLICIES AND PROCEDURES FOR THE SHORT-TERM RESTRAINT AND CONTROL OF ADJUDICATED JUVENILES HOUSED WITHIN THE FACILITY OR RECEIVING SERVICES IN THE NONRESIDENTIAL PROGRAM.

(2) ANY FACILITY THAT HOUSES OR PROVIDES NONRESIDENTIAL SERVICES TO ADJUDICATED JUVENILES PURSUANT TO THIS ARTICLE AND ANY PERSON EMPLOYED BY SAID FACILITY OR PROGRAM SHALL NOT BE LIABLE FOR DAMAGES ARISING FROM ACTS COMMITTED IN THE GOOD FAITH IMPLEMENTATION OF THIS SECTION; EXCEPT THAT THE FACILITY OR PROGRAM AND ANY PERSON EMPLOYED BY THE FACILITY OR PROGRAM MAY BE LIABLE FOR ACTS THAT ARE COMMITTED IN A WILLFUL AND WANTON MANNER.

(3) ANY FACILITY THAT HOUSES ADJUDICATED JUVENILES PURSUANT TO THIS ARTICLE SHALL HAVE A DUTY TO NOTIFY THE COURT AND THE LOCAL LAW ENFORCEMENT AGENCY AS SOON AS POSSIBLE AFTER DISCOVERING THAT AN ADJUDICATED JUVENILE HOUSED AT THE FACILITY HAS RUN AWAY.

**19-2-405. [Formerly 19-2-1102.] Receiving centers - designation.** (1) The department of human services shall designate receiving centers for juvenile delinquents committed to the department under section ~~19-2-703~~ 19-2-601 OR 19-2-907.

(2) If a change is made in the designation of a receiving center by the department of human services, it shall so notify the juvenile courts at least thirty days prior to the date that the change takes effect.

**19-2-406. [Formerly 19-2-1106.] Lookout Mountain school.** (1) There is hereby established at Golden, Jefferson county, a training school known as the Lookout Mountain school, under the supervision and control of the department of human services.

(2) The school shall provide care, education, training, and rehabilitation for juveniles ~~twelve~~ TEN years of age or older who have been committed to the custody of the department under section ~~19-2-703~~ 19-2-601 OR 19-2-907. IN ADDITION, THE SCHOOL MAY PROVIDE CARE, EDUCATION, TRAINING, AND REHABILITATION FOR ANY JUVENILE WHO HAS BEEN SENTENCED TO THE DEPARTMENT OF CORRECTIONS AND IS BEING HOUSED IN A FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO A CONTRACT WITH THE DEPARTMENT OF CORRECTIONS AS PROVIDED IN SECTION 19-2-403 (4).

**19-2-407. [Formerly 19-2-1107.] Mount View school.** (1) There is hereby established near Morrison, Jefferson county, a training school known as the Mount View school under the supervision and control of the department of human services.

(2) The school shall provide care, education, training, and rehabilitation for juveniles ~~twelve~~ TEN years of age or older who have been committed to the custody of the department under section ~~19-2-703~~ 19-2-601 OR 19-2-907. IN ADDITION, THE SCHOOL MAY PROVIDE CARE, EDUCATION, TRAINING, AND REHABILITATION FOR ANY JUVENILE WHO HAS BEEN SENTENCED TO THE DEPARTMENT OF CORRECTIONS AND IS BEING HOUSED IN A FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO A CONTRACT WITH THE DEPARTMENT OF CORRECTIONS AS PROVIDED IN SECTION 19-2-403 (4).

**19-2-408. [Formerly 19-2-1108.] Youth camps.** ~~Youth camps may be established under the supervision and control of the department of human services and~~ THE DEPARTMENT OF HUMAN SERVICES MAY ESTABLISH AND ADMINISTER YOUTH CAMPS. STAFF AT YOUTH CAMPS shall provide care, education, training, rehabilitation, and supervision for juveniles ~~twelve~~ TEN years of age or older who have been committed to the custody of the department under section ~~19-2-703~~ 19-2-601 OR 19-2-907.

**19-2-409. [Formerly 19-2-1109.] Alternate placement.** The executive director of the department of human services may assign any juvenile placed by the department of human services in any facility established under section ~~19-2-1101, 19-2-1106, or 19-2-1107~~ 19-2-403, 19-2-406, OR 19-2-407 to any other facility established by said sections for educational training, treatment, or rehabilitation programs. The assignment and the transportation of a juvenile to and from such programs on a daily basis shall not constitute a transfer or change of placement of the

juvenile.

**19-2-410. [Formerly 19-2-1110.] Contracts and agreements with public and private agencies.** (1) The executive director of the department of human services shall, subject to available appropriations, enter into agreements or contracts deemed necessary and appropriate with any governmental unit or agency or private facility or provider cooperating or willing to cooperate in a program to carry out the purposes of this ~~part 11~~ ARTICLE. Such contracts or agreements may provide, among other things, for the type of work to be performed at a camp or other facility, for the rate of payment for such work, and for other matters relating to the care and treatment of juveniles.

(2) Placement of juveniles by the department of human services in any public or private facility not under the jurisdiction of the department shall not terminate the legal custody of the department.

(3) The department shall have the right to inspect all facilities used by it and to examine and consult with persons in its legal custody who have been placed in any such facility.

**19-2-411. [Formerly 19-2-1115.5.] Facilities for juvenile offenders.** The executive director of the department of human services shall adopt rules and implement a process to issue requests for proposals with respect to contracts for designing, financing, acquiring, constructing, and operating private facilities for juvenile offenders. The process to issue requests for proposals and privatization contracts shall meet the requirements set forth in part 2 of article 1 of title 17, C.R.S., with respect to private adult correctional facilities.

**19-2-412. [Formerly 19-2-1116.] Transfer of detention facilities and equipment.** Whenever the department of human services determines that any property, facilities, and equipment are no longer needed for juvenile detention facilities, the department shall transfer said property, facilities, and equipment back to the county without any cost to the county.

**19-2-413. [Formerly 19-2-1112.] Facility publications.** Publications of any of the facilities established by ~~section 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ SECTION 19-2-403 AND SECTIONS 19-2-406 TO 19-2-408 intended for circulation in quantity outside such facility shall be subject to the "Information Coordination Act", section 24-1-136, C.R.S.

**19-2-414. [Formerly 19-2-1113.] Facility rules - academic and vocational courses.** (1) It is the duty of the department of human services to develop such rules and regulations as may be necessary for imparting instruction, preserving health, and enforcing discipline of juveniles committed to the department.

(2) The academic courses of study and vocational training and instruction given in the facilities established by ~~section 19-2-1101 and sections 19-2-1106 to 19-2-1108~~ SECTION 19-2-403 AND SECTIONS 19-2-406 TO 19-2-408 shall include those approved by the department of education for the instruction of pupils in the primary and secondary schools of the state. Full credit shall be given by school districts in this state for completion of any semester, term, or year of study instruction

by any juvenile who has earned credit therefor.

(3) The ~~department~~ DIRECTOR OF THE DIVISION OF YOUTH CORRECTIONS may appoint, pursuant to section 13 of article XII of the state constitution, a director and such other officers, teachers, instructors, counselors, and other personnel as ~~it~~ THE DIRECTOR may consider necessary to transact the business of the schools and may designate their duties. No person shall be appointed as a teacher or instructor in the schools who is not qualified to serve as a teacher or instructor in the schools under the laws of the state and the standards established by the department of education.

**19-2-415. [Formerly 19-2-1114.] Fees for transporting juveniles.** It is the duty of the sheriff, undersheriff, or deputy, or in their absence any suitable person appointed by the court for such purpose, to convey any ~~child~~ JUVENILE committed under the provisions of section ~~19-2-703~~ 19-2-601 OR 19-2-907 to facilities of the division of youth ~~services~~ CORRECTIONS. All officers performing services under this ~~part~~ ~~11~~ PART 4 shall be paid the same fees as are allowed for similar services in criminal cases, such fees to be paid by the county from which such juvenile was committed.

**19-2-416. [Formerly 19-2-1117.] Administration or monitoring of medications to persons in juvenile institutional facilities.** The executive director of the department of human services has the power to direct the administration or monitoring of medications to persons in juvenile institutional facilities as defined in section 25-1-107 (1) (ee) (II.5) (B), C.R.S., in a manner consistent with section 25-1-107 (1) (ee), C.R.S.

THE DELINQUENCY PROCESS  
PART 5  
ENTRY INTO SYSTEM

**19-2-501. Short title.** THIS PART 5 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE JUSTICE - ENTRY INTO SYSTEM". THIS PART 5 CONSISTS OF PROVISIONS CONCERNING CUSTODY, EVIDENCE, DETENTION, AND COMMENCEMENT OF PROCEEDINGS.

**19-2-502. [Formerly 19-2-201.] Taking juvenile into custody.** (1) A juvenile may be taken into temporary custody by a law enforcement officer without order of the court when there are reasonable grounds to believe that he OR SHE has committed a delinquent act.

(2) A juvenile may be taken into temporary custody by a law enforcement officer executing a lawful warrant taking a juvenile into custody issued pursuant to section ~~19-2-202~~ 19-2-503.

(3) A juvenile probation officer may take a juvenile into temporary custody:

(a) Under the circumstances stated in subsection (1) of this section; or

(b) If he OR SHE has violated the conditions of probation and ~~he~~ is under the continuing jurisdiction of the juvenile court.

(4) A juvenile may be detained temporarily by an adult other than a law enforcement officer if the juvenile has committed or is committing a delinquent act in the presence of such adult. Any person detaining a juvenile shall notify, without unnecessary delay, a law enforcement officer, who shall assume custody of said juvenile.

(5) The taking of a juvenile into temporary custody under this section is not an arrest, nor does it constitute a police record.

**19-2-503. [Formerly 19-2-202.] Issuance of a lawful warrant taking a juvenile into custody.** (1) A lawful warrant taking a juvenile into custody may be issued pursuant to this section by any judge of a court of record or by a juvenile magistrate upon receipt of an affidavit relating facts sufficient to establish probable cause to believe that a delinquent act has been committed and probable cause to believe that a particular juvenile committed that act. Upon receipt of such affidavit, the judge or magistrate shall issue a lawful warrant commanding any peace officer to take the juvenile named in the affidavit into custody and to take him OR HER without unnecessary delay before the nearest judge of the juvenile court or magistrate as provided in section ~~19-2-204 (4)~~ 19-2-508 (4) (d).

(2) Upon filing of a petition in the juvenile court, the district attorney may request a warrant to issue ~~which~~ THAT authorizes the taking of a juvenile into temporary custody. If a warrant is requested, the petition must be accompanied by a verified affidavit relating facts sufficient to establish probable cause that the juvenile has committed the delinquent act set forth in the petition.

(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.

**19-2-504. [Formerly 19-2-206.] Search warrants - issuance - grounds.** (1) A search warrant authorized by this section may be issued by any judge of a court of record or by a juvenile magistrate.

(2) A search warrant may be issued under this section to search for and seize any property:

- (a) ~~Which~~ THAT is stolen or embezzled; or
- (b) ~~Which~~ THAT is designed or intended for use as a means of committing a delinquent act; or
- (c) ~~Which~~ THAT is or has been used as a means of committing a delinquent act; or
- (d) The possession of which is illegal; or



(e) ~~Which~~ THAT would be material evidence in a subsequent criminal prosecution or delinquency adjudication in this state or in another state; or

(f) The seizure of which is expressly required, authorized, or permitted by any statute of this state; or

(g) ~~Which~~ THAT is kept, stored, maintained, transported, sold, dispensed, or possessed in violation of a statute of this state, under circumstances involving a serious threat to public safety or order or to public health.

**19-2-505. [Formerly 19-2-207.] Search warrants - application.** (1) A search warrant shall issue only on affidavit sworn to or affirmed before the judge or juvenile magistrate and relating facts sufficient to:

(a) Identify or describe, as nearly as may be, the premises, person, place, or thing to be searched;

(b) Identify or describe, as nearly as may be, the property to be searched for, seized, or inspected;

(c) Establish the grounds for issuance of the warrant or probable cause to believe that such grounds exist; and

(d) Establish probable cause to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, person, place, or thing to be searched.

(2) The affidavit required by this section may include sworn testimony reduced to writing and signed under oath by the witness giving the testimony before issuance of the warrant. A copy of the affidavit and a copy of the transcript of testimony taken in support of the request for a search warrant shall be attached to the search warrant filed with the court.

(3) Procedures governing application for and issuance of search warrants consistent with this section may be established by rule of the supreme court.

**19-2-506. [Formerly 19-2-208.] Consent to search.** In determining the voluntariness of a juvenile's consent to a search or seizure, the court shall consider the totality of the circumstances.

**19-2-507. [Formerly 19-2-203.] Duty of officer - screening teams - notification - release or detention.** (1) When a juvenile is taken into temporary custody AND NOT RELEASED PENDING CHARGES, the officer shall notify ~~the~~ THE SCREENING TEAM FOR THE JUDICIAL DISTRICT IN WHICH THE JUVENILE IS TAKEN INTO CUSTODY. THE SCREENING TEAM SHALL NOTIFY THE JUVENILE'S parent, guardian, or legal custodian without unnecessary delay and inform him OR HER that, if the juvenile is placed in detention or a temporary holding facility, all parties have a right to a prompt hearing to determine whether the juvenile is to be detained further. Such notification may be made to a person with whom the juvenile is residing if a parent, guardian, or legal custodian cannot be located. If the officer taking the juvenile into custody SCREENING TEAM is unable to make such notification, it may be made by any ~~other~~ law

enforcement officer, juvenile probation officer, detention center counselor, or common jailor in whose physical custody the juvenile is placed.

~~(1.5)~~ (2) The juvenile shall be detained if the law enforcement officer or the court determines that the juvenile's immediate welfare or the protection of the community require that the juvenile be detained. In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the ~~placement~~ DETENTION of juvenile offenders which criteria ~~is~~ ARE established in accordance with section ~~19-2-1602~~ 19-2-212.

~~(2)~~ (3) The juvenile shall be released to the care of such juvenile's parents or other responsible adult, unless a determination has been made in accordance with subsection ~~(1.5)~~ (2) of this section that such juvenile's immediate welfare or the protection of the community requires that such juvenile be detained. The court may make reasonable orders as conditions of said release, which conditions may include participation in a preadjudication service program established pursuant to section ~~19-2-205.5~~ 19-2-302. In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released ~~may~~ SHALL be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. FAILURE, WITHOUT GOOD CAUSE, TO COMPLY WITH THE PROMISE SHALL SUBJECT THE JUVENILE'S PARENT OR ANY OTHER PERSON TO WHOM THE JUVENILE IS RELEASED TO CONTEMPT SANCTIONS OF THE COURT.

~~(3)~~ (4) (a) Except as provided in paragraph (b) of this subsection ~~(3)~~ (4), a juvenile shall not be detained by law enforcement officials any longer than is reasonably necessary to obtain basic identification information and to contact his OR HER parents, guardian, or legal custodian.

(b) If he OR SHE is not released as provided in subsection ~~(2)~~ (3) of this section, he OR SHE shall be taken directly to the court or to the place of detention, a temporary holding facility, or a shelter designated by the court without unnecessary delay.

~~(4)~~ (5) As an alternative to taking a juvenile into temporary custody pursuant to subsections ~~(1), (2), and (3)~~ (1), (3), AND (4) of this section, a law enforcement officer may, if authorized by the establishment of a policy that permits such service by order of the chief judge of the judicial district or the presiding judge of the Denver juvenile court, which policy is established after consultation between such judge and the district attorney and law enforcement officials in the judicial district, serve a written promise to appear for juvenile proceedings based on any act that would constitute a felony, misdemeanor, or petty offense upon the juvenile and the juvenile's parent, guardian, or legal custodian. Such promise to appear pursuant to this subsection ~~(4)~~ (5) shall state any charges against the juvenile and the date, time, and place where such juvenile shall be required to answer such charges. The promise to appear shall be signed by the juvenile. The promise to appear shall be served upon the juvenile's parent, guardian, or legal custodian by personal service or by certified mail, return receipt requested. The date established for the juvenile and the juvenile's parent, guardian, or legal custodian to appear shall not be earlier than seven days NOR LATER THAN THIRTY DAYS after the promise to appear is served upon both the juvenile and the juvenile's parent, guardian, or legal custodian.

**19-2-508. [Formerly 19-2-204.] Detention and shelter - hearing - time limits - confinement with adult offenders - restrictions.** (1) A juvenile who must be taken from his OR HER home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention.

(2) When a juvenile is placed in a detention facility, a temporary holding facility, or in a shelter facility designated by the court, ~~the law enforcement official taking the juvenile into custody~~ SCREENING TEAM shall promptly so notify the court. ~~He~~ THE SCREENING TEAM shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him OR HER of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold such detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.

(3) (a) (I) A juvenile taken into custody pursuant to this article and placed in a detention or shelter facility or a temporary holding facility shall be entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such placement to determine if he OR SHE should be detained. The time in which the hearing shall be held may be extended for a reasonable time by order of the court upon good cause shown.

(II) The primary purpose of a detention hearing shall be to determine if a juvenile should be detained further and to define conditions under which he OR SHE may be released, if his OR HER release is appropriate. A detention hearing shall not be considered a preliminary hearing.

(III) With respect to this section, the court may further detain the juvenile if the court is satisfied from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community. Any information having probative value shall be received regardless of its admissibility under the rules of evidence. In determining whether a ~~child~~ JUVENILE requires detention, the court shall consider any record of any prior adjudications of the juvenile. There shall be a rebuttable presumption that a juvenile is a danger to himself or herself or to the community if:

(A) The juvenile is alleged to have committed a felony enumerated as a crime of violence pursuant to section 16-11-309, C.R.S.; or

(B) The juvenile is alleged to have used, or possessed and threatened to use, a firearm during the commission of any felony offense against a person, as such offenses are described in article 3 of title 18, C.R.S.; or

(C) The juvenile is alleged to have committed possessing a dangerous or illegal weapon, as described in section 18-12-102, C.R.S.; possession of a defaced firearm, as described in section 18-12-103, C.R.S.; unlawfully carrying a concealed weapon, as described in section 18-12-105, C.R.S.; unlawfully carrying a concealed weapon on school, college, or university grounds, as described in section 18-12-105.5, C.R.S.; prohibited use of weapons, as described in section 18-12-106, C.R.S.; illegal discharge of a firearm, as described in section 18-12-107.5, C.R.S.; or illegal possession of a handgun by a juvenile, as described in section 18-12-108.5, C.R.S.

(IV) At the conclusion of the hearing, the court shall enter one of the following orders:

(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;

(B) That the juvenile be placed in a shelter facility;

(C) That bail be set and that the juvenile be released upon the posting of that bail;

(D) That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile is a danger to himself or herself or to the community. Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subparagraph (V) of this paragraph (a) within the time limits set forth in ~~section 19-2-205 (3)~~ SECTION 19-2-108, UNLESS THE JUVENILE IS DEEMED TO HAVE WAIVED THE TIME LIMIT FOR AN ADJUDICATORY TRIAL PURSUANT TO SECTION 19-2-107 (4);

(E) That no bail be set and that, upon the court's finding that the juvenile is a danger to himself or herself or to the community, the juvenile be placed in a preadjudication service program established pursuant to section ~~19-2-205.5~~ 19-2-302. This sub-subparagraph (E) shall not apply to any case in which the juvenile's alleged offense is one of the offenses described in subparagraph (III) of this paragraph (a).

(V) When the court orders further detention of the juvenile or placement of the juvenile in a preadjudication service program after a detention hearing, THE DISTRICT ATTORNEY SHALL FILE a petition alleging the juvenile to be a delinquent ~~shall be filed without unnecessary delay, and~~ WITHIN SEVENTY-TWO HOURS AFTER THE DETENTION HEARING, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS. The juvenile shall be held or shall participate in a preadjudication service program pending a hearing on the petition. ~~If the juvenile is detained for one of the offenses described in subparagraph (III) of this paragraph (a), the district attorney shall file charges within seventy-two hours after the detention hearing, excluding Saturdays, Sundays, and legal holidays.~~ Upon a showing of good cause, the court may extend such time for the filing of charges.

(VI) FOLLOWING THE DETENTION HEARING, IF THE COURT ORDERS THAT THE JUVENILE BE RELEASED AND, AS A CONDITION OF SUCH RELEASE, REQUIRES THE JUVENILE TO ATTEND SCHOOL, THE COURT SHALL NOTIFY THE SCHOOL DISTRICT IN WHICH THE JUVENILE IS ENROLLED OF SUCH REQUIREMENT.

(b) (I) If it appears that any juvenile being held in detention or shelter may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., the court or detention personnel shall refer the juvenile to the nearest community centered board for an eligibility determination. If it appears that any juvenile being held in a detention or shelter facility pursuant to the provisions of this article may be mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health prescreening is requested, it shall be

conducted in an appropriate place accessible to the juvenile and the mental health professional. A request for a mental health prescreening shall not extend the time within which a detention hearing shall be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the mental health prescreening shall be conducted prior to the hearing; except that the prescreening shall not extend the time within which a detention hearing shall be held.

(II) If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to be mentally ill, as provided in section 27-10-105 or 27-10-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health prescreening. A mental health prescreening shall be conducted at any appropriate place accessible to the juvenile and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

(III) When the mental health professional finds, as a result of the prescreening, that the juvenile may be mentally ill, the mental health professional shall recommend to the court that the ~~child~~ JUVENILE be evaluated pursuant to section 27-10-105 or 27-10-106, C.R.S., and the court shall proceed as provided in section ~~19-2-308~~ 19-2-702.

(IV) Nothing in this paragraph (b) shall be construed to preclude the use of emergency procedures pursuant to section 27-10-105 (1), C.R.S.

(c) (I) No juvenile taken to a detention or shelter facility or a temporary holding facility pursuant to section ~~19-2-201~~ 19-2-502 as the result of an allegedly delinquent act ~~which~~ THAT constitutes any of the offenses described in subparagraph (III) of paragraph (a) of this subsection (3) shall be released from such facility if a law enforcement agency has requested that a detention hearing be held to determine whether the juvenile's immediate welfare or the protection of the community requires that the juvenile be detained. No such juvenile shall thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.

(II) Following a detention hearing held in accordance with subparagraph (I) of this paragraph (c), no juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall be held at any facility intended to be utilized by juvenile offenders, unless the district attorney and the defense counsel agree otherwise. If there is no agreement, detention of the juvenile shall be subject to the provisions of subsection (4) of this section.

(4) (a) No jail shall receive a juvenile for detention following a detention hearing pursuant to this section unless the juvenile has been ordered by the court to be held for criminal proceedings as an adult pursuant to a transfer or unless the juvenile is to be held for criminal proceedings as an adult pursuant to a direct filing. No juvenile under the age of fourteen and, except upon order of the court, no juvenile fourteen years of age or older shall be detained in a jail, lockup, or other place used for the confinement of adult offenders. The exception for detention in a jail shall be used only if the juvenile is being held for criminal proceedings as an adult pursuant to a direct filing or transfer. ~~or if the court determines that the juvenile is an escape risk~~

~~or is a threat to the safety of detention center personnel or other detainees. Any determination that the juvenile is an escape risk shall be set forth by the court in written findings.~~

~~(b) Whenever a juvenile is held pursuant to a direct filing or transfer in a facility where adults are held, the juvenile shall be physically segregated from the adult offenders. A juvenile determined by the court to be an escape risk or a threat to the safety of detention center personnel or other detainees who is held in an adult facility shall be detained in an area that is reasonably separated by sight and sound from, and is without haphazard or accidental contact with, adult offenders or persons charged with a crime.~~

(c) The official in charge of a jail or other facility for the detention of adult offenders shall immediately inform the court ~~which~~ THAT has jurisdiction of the juvenile's alleged offense when a juvenile who is or appears to be under eighteen years of age is received at the facility, except for a juvenile ordered by the court to be held for criminal proceedings as an adult.

(d) Any juvenile arrested and detained for an alleged violation of any article of title 42, C.R.S., or for any alleged violation of a municipal or county ordinance, and not released on bond, shall be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subparagraph (IV) of paragraph (a) of subsection (3) of this section. Such juvenile shall not be detained in a jail, lockup, or other place used for the confinement of adult offenders for longer than six hours, and in no case overnight, for processing only, after which 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 under this subsection (4), Saturdays, Sundays, and legal holidays shall be included.

(e) ~~(f)~~ The official in charge of a jail, lockup, or other facility for the confinement of adult offenders ~~which~~ THAT receives a juvenile for detention should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any such juvenile with known past or current affiliations or associations with any gang as defined in subparagraph (H) of this paragraph (e); so as to prevent contact with other inmates at such jail, lockup, or other facility. The official should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new gang members from among the general inmate population. FOR PURPOSES OF THIS PARAGRAPH (e), "GANG" IS DEFINED IN SECTION 19-1-103 (52).

(f) Any person who is eighteen years of age or older who is being detained for a delinquent act or criminal charge over which the juvenile court has jurisdiction shall be detained in the county jail in the same manner as if such person is charged as an adult.

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

(6) The court may also issue temporary orders for legal custody as provided in section 19-1-115.

(7) Any law enforcement officer, employee of the division ~~in the department of~~

~~human services responsible for~~ OF youth services CORRECTIONS, or another person acting under the direction of the court who in good faith transports any juvenile, releases any juvenile from custody pursuant to a written policy of a court, releases any juvenile pursuant to any written criteria established pursuant to this title, or detains any juvenile pursuant to court order or written policy or criteria established pursuant to this title shall be immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed.

**19-2-509. [Formerly 19-2-205.] Bail.** (1) Unless the district attorney consents, no juvenile charged or accused of having committed a delinquent act ~~which~~ THAT constitutes a felony or a class 1 misdemeanor shall be released without a bond or on a personal recognizance bond, if:

(a) The juvenile has been found guilty of a delinquent act constituting a felony or class 1 misdemeanor within one year prior to his OR HER detention;

(b) The juvenile is currently at liberty on another bond of any type; or

(c) The juvenile has a delinquency petition alleging a felony pending in any district or juvenile court for which probable cause has been established.

~~(1.5)~~ (2) In lieu of a bond, a juvenile who the court determines is a danger to himself or herself or to the community may be placed in a preadjudication service program established pursuant to section ~~19-2-205.5~~ 19-2-302.

~~(2)~~ (3) Any application for the revocation or modification of the amount, type, or conditions of bail shall be made in accordance with section 16-4-107, C.R.S.; except that the presumption described in section ~~19-2-204(3)(a)(III)(A) to (3)(a)(III)(C)~~ 19-2-508 (3) (a) (III) shall continue to apply for the purposes of this section.

~~(3)~~ (4) (a) In determining the amount of bail and the type of bond to be furnished by the juvenile, the judge or magistrate fixing the same shall consider the criteria set forth in section 16-4-105 (1), C.R.S.

(b) In setting, modifying, or continuing any bail bond, it shall 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 bond shall be that the released juvenile not commit any delinquent acts or harass, intimidate, or threaten any potential witnesses. 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 juvenile and the community. Any juvenile who is held without bail or whose bail or bail bond is revoked or increased under an order entered pursuant to subsection ~~(2)~~ (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 order or within ~~six months~~ SIXTY DAYS after the juvenile's entry of a plea, whichever date is earlier.

~~(4)~~ (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.

~~(5)~~ (6) The court may order that any personal recognizance bond be secured by the personal obligation of the juvenile and his OR HER parents, guardian, legal custodian, or other responsible adult.

**19-2-510. [Formerly 19-2-301.] Preliminary investigation.** (1) Whenever it appears to a law enforcement officer or any other person that a ~~child~~ JUVENILE is or appears to be within the court's jurisdiction, as provided in section ~~19-2-102~~ 19-2-104, the law enforcement officer or other person may refer the matter conferring or appearing to confer jurisdiction to the district attorney, who shall determine whether the interests of the ~~child~~ JUVENILE or of the community require that further action be taken.

(2) Upon the request of the district attorney, the matter may be referred to any agency for an investigation and recommendation.

**19-2-511. [Formerly 19-2-210.] Statements.** (1) No statements or admissions of a juvenile made as a result of the custodial interrogation of such juvenile by a law enforcement official concerning delinquent acts alleged to have been committed by the juvenile shall be admissible in evidence against such juvenile unless a parent, guardian, or legal or physical custodian of the juvenile was present at such interrogation and the juvenile and his OR HER parent, guardian, or legal or physical custodian were advised of the juvenile's right to remain silent and that any statements made may be used against him OR HER in a court of law, of his OR HER right to the presence of an attorney during such interrogation, and of his OR HER right to have counsel appointed if he OR SHE so requests at the time of the interrogation; except that, if a public defender or counsel representing the juvenile is present at such interrogation, such statements or admissions may be admissible in evidence even though the juvenile's parent, guardian, or legal or physical custodian was not present.

(2) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile shall not be inadmissible in evidence by reason of the absence of a parent, guardian, or legal or physical custodian if the juvenile is eighteen years of age or older at the time of the interrogation, if the juvenile is emancipated from the parent, guardian, or legal or physical custodian, or if the juvenile is a runaway from a state other than Colorado and is of sufficient age and understanding. FOR THE PURPOSES OF THIS SUBSECTION (2), "EMANCIPATED JUVENILE" IS DEFINED IN SECTION 19-1-103 (45).

(3) Notwithstanding the provisions of subsection (1) of this section, statements or admissions of a juvenile shall not be inadmissible in evidence by reason of the absence of a parent, guardian, or legal custodian if the juvenile was accompanied by a responsible adult who was a custodian of the juvenile or assuming the role of a parent at the time.

(4) FOR THE PURPOSES OF THIS SECTION, "PHYSICAL CUSTODIAN" IS DEFINED IN SECTION 19-1-103 (84).

(5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE JUVENILE AND HIS OR HER PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN MAY EXPRESSLY WAIVE THE REQUIREMENT THAT THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN BE PRESENT DURING INTERROGATION OF THE JUVENILE. THIS



EXPRESS WAIVER SHALL BE IN WRITING AND SHALL BE OBTAINED ONLY AFTER FULL ADVISEMENT OF THE JUVENILE AND HIS OR HER PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN OF THE JUVENILE'S RIGHTS PRIOR TO THE TAKING OF THE CUSTODIAL STATEMENT BY A LAW ENFORCEMENT OFFICIAL. IF SAID REQUIREMENT IS EXPRESSLY WAIVED, STATEMENTS OR ADMISSIONS OF THE JUVENILE SHALL NOT BE INADMISSIBLE IN EVIDENCE BY REASON OF THE ABSENCE OF THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN DURING INTERROGATION. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (5), A COUNTY SOCIAL SERVICES DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES, AS LEGAL OR PHYSICAL CUSTODIAN, MAY NOT WAIVE SAID REQUIREMENT.

**~~19-2-211. Common assessment instrument and common criteria for juveniles taken into temporary custody. (Repealed)~~**

**~~19-2-212. Staff assessment required - development of common criteria. (Repealed)~~**

**19-2-512. [Formerly 19-2-304.] Petition initiation.** If the district attorney determines that the interests of the juvenile or of the community require that further action be taken, ~~he~~ THE DISTRICT ATTORNEY may file a petition in delinquency on the form specified in section ~~19-2-305~~ 19-2-513, which shall be accepted by the court. IF THE DISTRICT ATTORNEY CHOOSES TO FILE A PETITION IN DELINQUENCY ON ANY JUVENILE WHO RECEIVES A DETENTION HEARING UNDER SECTION 19-2-508, HE OR SHE SHALL FILE SAID PETITION WITHIN SEVENTY-TWO HOURS AFTER THE DETENTION HEARING, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS. Upon filing of such petition, the court, if practicable, shall send notice of the pendency of such action to the natural parents of the juvenile who is the subject of such petition.

**19-2-513. [Formerly 19-2-305.] Petition form and content.** (1) The petition and all subsequent court documents in any proceedings brought under section 19-1-104 (1) (a) or (1) (b) shall be entitled "The People of the State of Colorado, in the Interest of ....., a juvenile (or juveniles) and Concerning ....., Respondent.". The petition shall be verified, and the statements in the petition may be made upon information and belief.

(2) The petition shall set forth plainly the facts ~~which~~ THAT bring the juvenile within the court's jurisdiction. If the petition alleges that the juvenile is delinquent, it shall cite the law or municipal or county ordinance ~~which~~ THAT the juvenile is alleged to have violated. The petition shall also state the name, age, and residence of the juvenile and the names and residences of his OR HER parents, guardian, or other legal custodian or of his OR HER nearest known relative if no parent, guardian, or other legal custodian is known.

**19-2-514. [Formerly 19-2-306.] Summons - issuance - contents - service.** (1) After a petition has been filed, the court shall promptly issue a summons reciting briefly the substance of the petition. The summons shall set forth the constitutional and legal rights of the juvenile, including the right to have an attorney present at the hearing on the petition.

(2) No summons shall issue to any juvenile or respondent who appears voluntarily, or who waives service, or who has promised in writing to appear at the hearing, but

any such person shall be provided with a copy of the petition and summons upon appearance or request.

~~(2.5)~~ (3) (a) The court may, when the court determines that it is in the best interests of the ~~child~~ JUVENILE, join the ~~child's~~ JUVENILE'S parent or guardian and the person with whom the ~~child~~ JUVENILE resides, if other than the ~~child's~~ JUVENILE'S parent or guardian, as a respondent to the action and ~~may~~ SHALL issue a summons requiring the parent or guardian and the person with whom the ~~child~~ JUVENILE resides, if other than the ~~child's~~ JUVENILE'S parent or guardian, to appear with the ~~child~~ JUVENILE at all proceedings under this article involving the ~~child~~ JUVENILE. If the parent or guardian of any ~~child~~ JUVENILE cannot be found, the court, in its discretion, may proceed with the case without the presence of such parent or guardian. FOR THE PURPOSES OF THIS SECTION AND SECTION 19-2-515, "PARENT" IS DEFINED IN SECTION 19-1-103 (82) (b). This subsection ~~(2.5)~~ (3) shall not apply to any person whose parental rights have been terminated pursuant to the provisions of this title or the parent of an emancipated minor. FOR THE PURPOSES OF THIS SECTION, "EMANCIPATED MINOR" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 13-21-107.5, C.R.S.

(b) The general assembly hereby declares that every parent or guardian whose ~~child~~ JUVENILE is the subject of a juvenile proceeding under this article ~~should~~ SHALL attend any such proceeding. ~~as often as is practicable.~~

~~(3)~~ (4) The summons shall require the person or persons having the physical custody of the juvenile, if other than a parent or guardian, to appear and to bring the juvenile before the court at a time and place stated NOT MORE THAN THIRTY DAYS AFTER ISSUANCE OF THE SUMMONS.

~~(4)~~ (5) The court on its own motion or on the motion of any party may join as a respondent or require the appearance of any person it deems necessary to the action and authorize the issuance of a summons directed to such person. Any party to the action may request the issuance of compulsory process by the court requiring the attendance of witnesses on his OR HER own behalf or on behalf of the juvenile.

~~(5)~~ (6) If it appears that the welfare of the juvenile or of the public requires that the juvenile be taken into custody, the court may, by endorsement upon the summons, direct that the person serving the summons take the juvenile into custody at once.

~~(6)~~ (7) The court may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear, which payments shall not exceed the amount allowed to witnesses for travel by the district court.

~~(7)~~ (8) A summons issued under this section may be served in the same manner as the summons in a civil action or by mailing it to the juvenile's last-known address by certified mail with return receipt requested not less than five days prior to the time the juvenile is requested to appear in court. Service by mail is complete upon return of the receipt signed by the juvenile, his OR HER parents, guardian, legal custodian, physical custodian, or spousal equivalent as defined in ~~section 19-1-103 (25)~~ SECTION 19-1-103 (101).

~~(8)~~ (9) If the parents, guardian, or other legal custodian of the juvenile required to

be summoned under subsection (4) of this section cannot be found within the state, the fact of the juvenile's presence in the state shall confer jurisdiction on the court as to any absent parent, guardian, or legal custodian.

(10) When the residence of the person to be served outside the state is known, a copy of the summons and petition shall be sent by certified mail with postage prepaid to such person at his OR HER place of residence with a return receipt requested. Service of summons shall be deemed complete five days after return of the requested receipt.

**19-2-515. [Formerly 19-2-307.] Contempt - warrant.** (1) Except as otherwise provided by subsection (3) of this section, any person summoned or required to appear as provided in section ~~19-2-306~~ 19-2-514 who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

(2) If after reasonable effort the summons cannot be served or if the welfare of the juvenile requires that he OR SHE be brought immediately into the custody of the court, a bench warrant may be issued for the parents, guardian, or other legal custodian or for the juvenile.

(3) (a) When a parent or other person who signed a written promise to appear and bring the juvenile to court or who has waived or acknowledged service fails to appear with the juvenile on the date set by the court, a bench warrant may be issued for the parent or other person, the juvenile, or both.

(b) Whenever a parent or guardian or person with whom the juvenile resides, if other than the parent or guardian, who has received a summons to appear fails, without good cause, to appear on any other date set by the court, a bench warrant shall be issued for the parent, guardian, or person with whom the juvenile resides, and the parent, guardian, or person with whom the juvenile resides shall be subject to contempt.

(c) For purposes of this subsection (3), good cause for failing to appear shall include, but shall not be limited to, a situation where a parent or guardian:

(I) Does not have physical custody of the ~~child~~ JUVENILE and resides outside of Colorado;

(II) Has physical custody of the ~~child~~ JUVENILE, but resides outside of Colorado and appearing in court will result in undue hardship to such parent or guardian; or

(III) Resides in Colorado, but is outside of the state at the time of the juvenile proceeding for reasons other than avoiding appearance before the court and appearing in court will result in undue hardship to such parent or guardian.

(d) The nonappearance of such parent, guardian, or person with whom the ~~child~~ JUVENILE resides shall not be the basis for a continuance.

(e) The provisions of this subsection (3) shall not be applicable to any proceeding in a case ~~which~~ THAT has been transferred to the district court pursuant to the

provisions of section ~~19-2-806~~ 19-2-518.

(f) The general assembly hereby declares that every parent or guardian whose ~~child~~ JUVENILE is the subject of a juvenile proceeding under this article ~~should~~ SHALL attend any such proceeding. ~~as often as is practicable.~~

(g) Nothing in this subsection (3) shall be construed to create a right for any juvenile to have his or her parent or guardian present at any proceeding at which such juvenile is present.

**19-2-516. [Formerly 19-2-801 (1), 19-2-802 (1), 19-1-803 (1), and 19-2-804 (1).] Petitions - special offenders. (1) Mandatory sentence offender.** A juvenile is a mandatory sentence offender if he OR SHE:

(a) (I) Has been adjudicated a juvenile delinquent twice; or

(II) Has been adjudicated a juvenile delinquent and if his OR HER probation has been revoked for a delinquent act; and

(b) (I) Is subsequently adjudicated a juvenile delinquent; or

(II) Has probation revoked for a delinquent act.

~~(1)~~ (2) **Repeat juvenile offender.** A juvenile is a repeat juvenile offender if he OR SHE has been previously adjudicated a juvenile delinquent and is adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a felony or if his OR HER probation is revoked for a delinquent act ~~which~~ THAT constitutes a felony.

~~(1)~~ (3) **Violent juvenile offender.** A juvenile is a violent juvenile offender if he OR SHE ~~is thirteen years of age or older at the time the act complained of was committed~~ and is adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a crime of violence as defined in section 16-11-309 (2), C.R.S.

~~(1)~~ (4) **Aggravated juvenile offender.** (a) A juvenile offender is an aggravated juvenile offender if he OR SHE is:

~~(a)~~ (I) ~~Twelve years of age or older and is~~ Adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a class 1 or class 2 felony or if his OR HER probation is revoked for a delinquent act ~~which~~ THAT constitutes a class 1 or class 2 felony; or

~~(b)~~ (II) ~~Sixteen years of age or older and is~~ Adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a felony and either is subsequently adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a crime of violence, as defined in section 16-11-309 (2), C.R.S., or has his OR HER probation revoked for a delinquent act ~~which~~ THAT constitutes a crime of violence, as defined in section 16-11-309 (2), C.R.S.; OR

(III) ADJUDICATED A JUVENILE DELINQUENT OR IF HIS OR HER PROBATION IS REVOKED FOR A DELINQUENT ACT THAT CONSTITUTES FELONIOUS UNLAWFUL SEXUAL BEHAVIOR UNDER PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., INCEST UNDER SECTION

18-6-301, C.R.S., OR AGGRAVATED INCEST UNDER SECTION 18-6-302, C.R.S.

(b) PROVISIONS CONCERNING AGGRAVATED JUVENILE OFFENDERS ARE LOCATED IN SECTION 19-2-601.

**19-2-517. [Formerly 19-2-805] Direct filing - repeal.** (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(I) The juvenile is fourteen years of age or older and is alleged to have committed a class 1 or class 2 felony; or

(II) The juvenile is fourteen years of age or older and:

(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 16-11-309, C.R.S.; or

(B) Is alleged to have committed a felony offense described in article 12 of title 18, C.R.S., except for the possession of a handgun by a juvenile, as set forth in section 18-12-108.5, C.R.S.; or

(C) Is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person, which are set forth in article 3 of title 18, C.R.S.; or

(D) IS ALLEGED TO HAVE COMMITTED VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106, C.R.S., VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205, C.R.S., OR FELONIOUS ARSON, AS DESCRIBED IN PART 1 OF ARTICLE 4 OF TITLE 18, C.R.S.; OR

(III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older, and allegedly has committed a crime defined by section 18-1-105, C.R.S., as a class 3 felony, except felonies defined by section 18-3-403 (1) (e), C.R.S.; or

(IV) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section ~~19-2-806~~ 19-2-518; except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court; or

(V) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and is determined to be an "habitual juvenile offender". FOR THE PURPOSES OF THIS SECTION, "HABITUAL JUVENILE OFFENDER" IS DEFINED IN SECTION 19-1-103 (61).

(b) The offenses described in subparagraphs (I) to (V) of paragraph (a) of this subsection (1) shall include the attempt, conspiracy, solicitation, or complicity to commit such offenses.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-2-518, AFTER FILING CHARGES IN THE JUVENILE COURT BUT PRIOR TO THE TIME THAT THE JUVENILE COURT CONDUCTS A TRANSFER HEARING, THE DISTRICT ATTORNEY MAY FILE THE SAME OR DIFFERENT CHARGES AGAINST THE JUVENILE BY DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO THIS SECTION. UPON SAID FILING OR INDICTMENT IN THE DISTRICT COURT, THE JUVENILE COURT SHALL NO LONGER HAVE JURISDICTION OVER PROCEEDINGS CONCERNING SAID CHARGES.

~~(2)~~ (3) (a) Whenever criminal charges are filed by information or indictment in the district court pursuant to this section, the district judge shall sentence the juvenile as follows:

~~(a)~~ (I) As an adult; or

~~(b)~~ ~~(I)~~ (II) To the youthful offender system in the department of corrections in accordance with section 16-11-311, C.R.S., if the juvenile is convicted of an offense described in subparagraph (II) or (V) of paragraph (a) of subsection (1) of this section; except that, if a person is convicted of a class 1 or class 2 felony, any sexual offense described in SECTION 18-6-301 OR 18-6-302, C.R.S., OR part 4 of article 3 of title 18, C.R.S., or a second or subsequent offense described in said subparagraph (II) or (V) for which such person received a sentence to the department of corrections or to the youthful offender system, such person shall be ineligible for sentencing to the youthful offender system; OR

~~(II) This paragraph (b) is repealed, effective June 30, 1999.~~

~~(c)~~ (III) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age AT THE TIME OF COMMISSION OF THE CRIME and is convicted of an offense other than a class 1 or class 2 felony, ~~or~~ a crime of violence as defined under section 16-11-309, C.R.S., or ~~is convicted of~~ an offense described in subparagraph (V) of paragraph (a) of subsection (1) of this section AND THE JUDGE MAKES A FINDING OF SPECIAL CIRCUMSTANCES.

(b) SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3) AND THIS PARAGRAPH (b) ARE REPEALED, EFFECTIVE JUNE 30, 1999.

(c) THE DISTRICT COURT JUDGE MAY SENTENCE A JUVENILE PURSUANT TO THE PROVISIONS OF THIS ARTICLE IF THE JUVENILE IS CONVICTED OF A LESSER INCLUDED OFFENSE FOR WHICH CRIMINAL CHARGES COULD NOT HAVE BEEN ORIGINALLY FILED BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION.

~~(3)~~ (4) In the case of any person who is sentenced as a juvenile pursuant to subsection (3) of this section, section ~~19-2-801~~ 19-2-908 (1) (a), regarding mandatory sentence offenders, section ~~19-2-802~~ 19-2-908 (1) (b), regarding repeat juvenile offenders, section ~~19-2-803~~ 19-2-908 (1) (c), regarding violent juvenile offenders, and section ~~19-2-804~~ 19-2-601, regarding aggravated juvenile offenders, shall apply to the sentencing of such person.

(5) THE COURT IN ITS DISCRETION MAY APPOINT A GUARDIAN AD LITEM FOR ANY JUVENILE CHARGED BY THE DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO THIS SECTION.

**19-2-518. [Formerly 19-2-806.] Transfers.** (1) (a) ~~When a petition filed in juvenile court alleges a juvenile fourteen years of age or older to be a juvenile delinquent by virtue of having committed a delinquent act which constitutes a felony and if, after investigation and a hearing, the juvenile court finds it would be contrary to the best interests of the juvenile or of the public to retain jurisdiction, it~~ THE JUVENILE COURT may enter an order certifying ~~the~~ A juvenile to be held for criminal proceedings in the district court IF:

(I) A PETITION FILED IN JUVENILE COURT ALLEGES THE JUVENILE IS:

(A) TWELVE OR THIRTEEN YEARS OF AGE AND IS A JUVENILE DELINQUENT BY VIRTUE OF HAVING COMMITTED A DELINQUENT ACT THAT CONSTITUTES A CLASS 1 OR CLASS 2 FELONY OR A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S.; OR

(B) FOURTEEN YEARS OF AGE OR OLDER AND IS A JUVENILE DELINQUENT BY VIRTUE OF HAVING COMMITTED A DELINQUENT ACT THAT CONSTITUTES A FELONY; AND

(II) AFTER INVESTIGATION AND A HEARING, THE JUVENILE COURT FINDS IT WOULD BE CONTRARY TO THE BEST INTERESTS OF THE JUVENILE OR OF THE PUBLIC TO RETAIN JURISDICTION.

(b) A petition may be transferred from the juvenile court to the district court only after a hearing as provided in this section.

(c) If the crime alleged to have been committed is a felony defined by section 18-8-208, C.R.S., and no other crime is alleged to have been committed and the juvenile has been adjudicated a juvenile delinquent for a delinquent act which constitutes a class 4 or 5 felony, then the charge for the crime may not be filed directly in the district court, but the juvenile court may transfer such charge to the district court pursuant to paragraph (a) of this subsection (1).

(d) (I) Whenever criminal charges are transferred to the district court pursuant to the provisions of this article, the judge of the district court shall have the power to make any disposition of the case that any juvenile court would have or to remand the case to the juvenile court for disposition at its discretion; except that a juvenile who is convicted of a class 1 felony, or whose case was transferred to the district court and who is convicted of a crime of violence, as defined in section 16-11-309, C.R.S., or who has been previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender shall be sentenced pursuant to section 18-1-105, C.R.S.

(II) IF, FOLLOWING TRANSFER OF CRIMINAL CHARGES TO THE DISTRICT COURT PURSUANT TO THIS SECTION, A JUVENILE IS CONVICTED OF A LESSER INCLUDED OFFENSE FOR WHICH CRIMINAL CHARGES COULD NOT ORIGINALLY HAVE BEEN TRANSFERRED TO THE DISTRICT COURT, THE COURT SHALL SENTENCE THE JUVENILE PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(e) WHENEVER A JUVENILE UNDER THE AGE OF FOURTEEN YEARS IS SENTENCED PURSUANT TO SECTION 18-1-105, C.R.S., AS PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1), THE DEPARTMENT OF CORRECTIONS SHALL CONTRACT WITH THE

DEPARTMENT OF HUMAN SERVICES TO HOUSE AND PROVIDE SERVICES TO THE JUVENILE IN A FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES UNTIL THE JUVENILE REACHES THE AGE OF FOURTEEN YEARS. ON REACHING THE AGE OF FOURTEEN YEARS, THE JUVENILE SHALL BE TRANSFERRED TO AN APPROPRIATE FACILITY OPERATED BY THE DEPARTMENT OF CORRECTIONS FOR THE COMPLETION OF THE JUVENILE'S SENTENCE.

(2) AFTER FILING CHARGES IN THE JUVENILE COURT BUT PRIOR TO THE TIME THAT THE JUVENILE COURT CONDUCTS A TRANSFER HEARING, THE DISTRICT ATTORNEY MAY FILE THE SAME OR DIFFERENT CHARGES AGAINST THE JUVENILE BY DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO SECTION 19-2-517. UPON SAID FILING OR INDICTMENT IN THE DISTRICT COURT, THE JUVENILE COURT SHALL NO LONGER HAVE JURISDICTION OVER PROCEEDINGS CONCERNING SAID CHARGES.

~~(2)~~ (3) At the transfer hearing, the court shall consider:

(a) Whether there is probable cause to believe that the juvenile has committed a delinquent act for which waiver of juvenile court jurisdiction over the juvenile and transfer to the district court may be sought pursuant to subsection (1) of this section; and

(b) Whether the interests of the juvenile or of the community would be better served by the juvenile court's waiving its jurisdiction over the juvenile and transferring jurisdiction over him OR HER to the district court.

~~(3)~~ (4) (a) The hearing shall be conducted as provided in section 19-1-106, and the court shall make certain that the juvenile and his OR HER parents, guardian, or legal custodian have been fully informed of their right to be represented by counsel.

(b) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(I) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(II) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile;

(VI) The likelihood of rehabilitation of the juvenile by use of facilities available to the juvenile court;

(VII) The interest of the community in the imposition of a punishment



commensurate with the gravity of the offense;

(VIII) The impact of the offense on the victim;

(IX) That the juvenile was twice previously adjudicated a delinquent juvenile for delinquent acts ~~which~~ THAT constitute felonies;

(X) That the juvenile was previously adjudicated a juvenile delinquent for a delinquent act ~~which~~ THAT constitutes a crime of violence, as defined in section 16-11-309, C.R.S.;

(XI) That the juvenile was previously committed to the department of human services following an adjudication for a delinquent act ~~which~~ THAT constitutes a felony;

(XII) That the juvenile is sixteen years of age or older at the time of the offense and the present act constitutes a crime of violence, as defined in section 16-11-309, C.R.S.;

(XIII) That the juvenile is sixteen years of age or older at the time of the offense and has been twice previously adjudicated a juvenile delinquent for delinquent acts against property ~~which~~ THAT constitute felonies; and

(XIV) That the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of a delinquent act.

(c) The amount of weight to be given to each of the factors listed in paragraph (b) of this subsection ~~(3)~~ (4) is discretionary with the court; except that a record of two or more previously sustained petitions for delinquent acts ~~which~~ THAT constitute felonies or a record of two or more juvenile probation revocations based on acts ~~which~~ THAT constitute felonies shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

(d) The insufficiency of evidence pertaining to any one or more of the factors listed in paragraph (b) of this subsection ~~(3)~~ (4) shall not in and of itself be determinative of the issue of waiver of juvenile court jurisdiction.

~~(4)~~ (5) When an action has been remanded to the juvenile court pursuant to section ~~19-2-805~~ 19-2-517 (1) (a) (IV) and the prosecution seeks waiver of jurisdiction pursuant to this section, the court's findings from the prior transfer hearing regarding the factor listed in paragraph (c) of subsection ~~(3)~~ (4) of this section shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

~~(5)~~ (6) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history may be considered by the court, but the court, if so requested by the juvenile, his OR HER parent or guardian, or other interested party, shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

~~(6)~~ (7) (a) If the court finds that its jurisdiction over a juvenile should be waived, it shall enter an order to that effect; except that such order of waiver shall be null and void if the district attorney fails to file an information in the criminal division of the district court within five days of issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays. Upon failure of the district attorney to file an information within five days of the issuance of the written order of waiver, exclusive of Saturdays, Sundays, and court holidays, the juvenile court shall retain jurisdiction and shall proceed as provided in ~~part 5~~ of this article.

(b) As a condition of the waiver of jurisdiction, the court in its discretion may provide that a juvenile shall continue to be held in custody pending the filing of an information in the criminal division of the district court. Where the juvenile has made bond in proceedings in the juvenile court, the bond may be continued and made returnable in and transmitted to the district court, where it shall continue in full force and effect unless modified by order of the district court.

~~(c) Repealed.~~

~~(7)~~ (8) If the court finds that it is in the best interests of the juvenile and of the public for the court to retain jurisdiction, it shall proceed with the adjudicatory trial as provided in ~~section 19-2-501~~ PART 8 OF THIS ARTICLE.

#### PART 6 SPECIAL PROCEEDINGS

**19-2-601. [Formerly 19-2-804 (2) to (10).] Aggravated juvenile offender.** ~~(2)~~  
(1) (a) In any action in delinquency alleging that a juvenile is an aggravated juvenile offender, as described in ~~this section~~ SECTION 19-2-516 (4), the petition shall allege by separate count that the juvenile is an aggravated juvenile offender and that increased commitment is authorized.

(b) If the petition alleges that the juvenile is an aggravated juvenile offender, pursuant to ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-516 (4), the petition shall identify by separate counts each alleged former adjudication or probation revocation and, for each such count, shall include the date of adjudication or revocation, the court, and the specific act ~~which~~ THAT formed the basis for the adjudication or probation revocation. If the alleged prior adjudication or probation revocation occurred outside of this state, the petition shall so allege and shall state that the delinquent act ~~which~~ THAT formed the basis for the adjudication or probation revocation would constitute a felony in this state.

~~(3)~~ (2) (a) In any action in delinquency in which it is alleged that a juvenile is an aggravated juvenile offender, the court shall, at the juvenile's first appearance, advise the juvenile of the effect and consequences of the allegation that the juvenile is an aggravated juvenile offender.

(b) If a juvenile is alleged to be an aggravated juvenile offender pursuant to ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-516 (4), the juvenile shall be required, at his OR HER first appearance before the court, to admit or deny any previous adjudications or probation revocations ~~which~~ THAT are alleged in the petition. A refusal to admit or deny any such adjudication or probation revocation

shall be considered a denial.

~~(4)~~ (3) (a) In addition to the rights specified in section ~~19-2-402~~ 19-2-706, a juvenile who is alleged to be an aggravated juvenile offender may file a written request that adjudication of the act ~~which~~ THAT is the subject of the petition shall be to a jury of twelve persons, and the court shall so order it. ANY JUVENILE WHO REQUESTS A JURY SHALL BE DEEMED TO HAVE WAIVED THE TIME LIMIT FOR AN ADJUDICATORY TRIAL PURSUANT TO SECTION 19-2-107 (4).

(b) When a jury is requested pursuant to this subsection ~~(4)~~ (3), the following challenges shall be allowed:

(I) If the petition alleges that one juvenile is an aggravated juvenile offender, the state and the juvenile shall each be entitled to five peremptory challenges.

(II) If the petition alleges that more than one juvenile is an aggravated juvenile offender and the adjudicatory trials on the acts ~~which~~ THAT are the subject of the petition are not severed, the state and the defense shall be entitled to two additional challenges for every juvenile after the first, not to exceed fifteen peremptory challenges per side; when multiple juveniles are adjudicated in a single hearing, each peremptory challenge made on the part of the juveniles shall be made and considered as the joint peremptory challenge of all of the juveniles.

(c) When more than one petition concerning different juveniles is consolidated for the adjudication of the delinquent acts ~~which~~ THAT are the subjects of the petitions, peremptory challenges shall be allowed as if the juveniles had been joined in the same petition in delinquency.

~~(5)~~ (4) (a) If a juvenile alleged to be an aggravated juvenile offender pursuant to ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-516 (4) admits the previous adjudications or probation revocations alleged in the petition, pursuant to subsection ~~(3)~~ (2) of this section, no further proof of such previous adjudications or probation revocations is required. Upon a finding that the ~~child~~ JUVENILE has committed the delinquent acts ~~which~~ THAT are the subject of the petition alleging that the ~~child~~ JUVENILE is an aggravated juvenile offender, the court may enter any sentence authorized by this section.

(b) If a juvenile alleged to be an aggravated juvenile offender pursuant to ~~paragraph (b) of subsection (1) of this section~~ SECTION 19-2-516 (4) denies one or more of the previous adjudications or probation revocations alleged in the petition, pursuant to subsection ~~(3)~~ (2) of this section, the court, after a finding of guilty of the acts ~~which~~ THAT are the subject of this petition, shall conduct a separate hearing in which the court shall be the trier of fact to determine whether or not the juvenile has suffered such adjudications or probation revocations. Each count alleging a previous adjudication or probation revocation shall be proven beyond a reasonable doubt.

(c) In any hearing before the court pursuant to paragraph (b) of this subsection ~~(5)~~ (4), a duly authenticated copy of the record of an adjudication or probation revocation shall be prima facie evidence that the juvenile suffered such adjudication or probation revocation. In addition, any basic identification information ~~which~~ THAT is part of the record of such former adjudication or probation revocation at the place the ~~child~~

JUVENILE was incarcerated after disposition of such adjudication or probation revocation may be introduced into evidence in any hearing before the court pursuant to paragraph (b) of this subsection ~~(5)~~ (4) and shall be prima facie evidence of the identity of the juvenile.

~~(6)~~ (5) (a) (I) Upon adjudication as an aggravated juvenile offender:

(A) FOR AN OFFENSE OTHER THAN AN OFFENSE THAT WOULD CONSTITUTE A CLASS 1 OR 2 FELONY IF COMMITTED BY AN ADULT, the court may commit the juvenile to the department of human services for a determinate period of UP TO five years;

(B) FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 2 FELONY IF COMMITTED BY AN ADULT, THE COURT SHALL COMMIT THE JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES FOR A DETERMINATE PERIOD OF UP TO FIVE YEARS;

(C) FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 1 FELONY IF COMMITTED BY AN ADULT, THE COURT SHALL COMMIT THE JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES FOR A DETERMINATE PERIOD OF UP TO SEVEN YEARS.

(II) An aggravated juvenile offender thus committed to the department of human services shall not be transferred to a nonsecure or community setting for a period of more than forty-eight hours, excluding Saturdays, Sundays, and court holidays, nor released before the expiration of the determinate term imposed by the court without prior order of the court.

(b) (I) Upon court order, the department of human services may transfer a ~~child~~ JUVENILE committed to its custody pursuant to paragraph (a) of this subsection ~~(6)~~ (5) to the department of corrections if the juvenile has reached eighteen years of age and the department of human services has certified that the juvenile is no longer benefiting from its programs.

(II) Such transfer shall be initiated by the filing of a request by the department of human services for transfer with the court of commitment ~~which~~ THAT shall state the basis for the request. Upon receipt of such a request, the court shall notify the interested parties and shall set the matter for a hearing.

(III) The court shall authorize such transfer only upon a finding by a preponderance of the evidence that the juvenile is no longer benefiting from the programs of the department of human services.

(IV) Upon entering an order of transfer to the department of corrections, pursuant to this paragraph (b), the court shall amend the mittimus and transfer all further jurisdiction over the juvenile to the department of corrections. Thereafter the juvenile shall be governed by the provisions for adult felony offenders in titles 16 and 17, C.R.S., as if he OR SHE had been sentenced as an adult felony offender for the unserved portion of sentence that remains upon transfer to the department of corrections.

~~(7)~~ (6) (a) After the juvenile has been in the custody of the department of human services for three years or more, the department may petition the court for an order authorizing the juvenile parole board to release the juvenile subject to parole

supervision as determined by the board at a parole hearing. Said parole supervision shall be conducted by the department of human services. Upon the filing of such petition, the court shall notify the interested parties and set the matter for a hearing. The court shall authorize the juvenile parole board to release the juvenile only upon finding by a preponderance of the evidence that the safety of the community will not be jeopardized by such release.

(b) Parole supervision of a juvenile who has been transferred to the department of corrections shall be governed by the provisions for adult felony offenders in titles 16 and 17, C.R.S., as if the juvenile had been sentenced as an adult felony offender.

~~(8)~~ (7) Upon the filing of a petition with the committing court for transfer of the juvenile to a nonsecure or community setting, or for early release from the custody of the department of corrections or human services, the court shall notify the interested parties and set the matter for a hearing. The court shall order such transfer or release only upon a finding by a preponderance of the evidence that the safety of the community will not be jeopardized by such transfer or release; except that early release of the juvenile from the department of corrections shall be governed by the provisions for adult felony offenders in titles 16 and 17, C.R.S., as if the juvenile had been sentenced as an adult felony offender.

~~(9)~~ (8) (a) When a juvenile in the custody of the department of human services pursuant to this section reaches the age of twenty years and six months, the department of human services shall file a motion with the court of commitment regarding further jurisdiction of the juvenile. Upon the filing of such a motion, the court shall notify the interested parties and set the matter for a hearing.

(b) At the hearing upon the motion, the court may either transfer the custody of and jurisdiction over the juvenile to the department of corrections, authorize early release of the juvenile pursuant to subsection ~~(8)~~ (7) of this section, or order that custody and jurisdiction over the juvenile shall remain with the department of human services; except that the custody of and jurisdiction over the juvenile by the department of human services shall terminate when the juvenile reaches twenty-one years of age.

~~(10)~~ (9) At any postadjudication hearing held pursuant to this section, the state shall be represented by the district attorney and by the attorney general; except that the attorney general may be excused from participation in the hearing with the permission of the district attorney and of the court. At any postadjudication hearing held pursuant to this section, the department of corrections shall be considered an interested party and shall be sent notice of such hearing.

#### PART 7 PREADJUDICATION

**19-2-701. Short title.** THIS PART 7 SHALL BE KNOWN AND MAY BE CITED AS "JUVENILE JUSTICE - PREADJUDICATION".

**19-2-702. [Formerly 19-2-308.] Mentally ill juvenile or juvenile with developmental disabilities - procedure.** (1) (a) If it appears from the evidence presented at an adjudicatory trial or otherwise that a juvenile may have developmental disabilities, as defined in article 10.5 of title 27, C.R.S., the court shall

refer the juvenile to the community centered board in the designated service area where the action is pending for an eligibility determination pursuant to article 10.5 of title 27, C.R.S.

(b) If it appears from the evidence presented at an adjudicatory trial or otherwise that a juvenile may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., and the juvenile has not had a mental health prescreening, the court shall order a prescreening to determine whether the juvenile requires further evaluation. Such prescreening shall be conducted as expeditiously as possible, and a prescreening report shall be provided to the court within twenty-four hours of the prescreening, excluding Saturdays, Sundays, and legal holidays.

(c) When the mental health professional finds, based upon a prescreening, that the juvenile may be mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and order the juvenile placed for an evaluation at a facility designated by the executive director of the department of human services for a seventy-two-hour treatment and evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S. If the juvenile to be placed is in a detention facility, the designated facility shall admit the juvenile within twenty-four hours after the court orders an evaluation, excluding Saturdays, Sundays, and legal holidays.

(d) Any evaluation conducted pursuant to this subsection (1) shall be completed within seventy-two hours, excluding Saturdays, Sundays, and legal holidays. Neither a county jail nor a detention facility, as described in this article, shall be considered a suitable facility for evaluation, although a mental health prescreening may be conducted in any appropriate setting.

(e) If the mental health professional finds, based upon the prescreening, that the juvenile is not mentally ill, the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and copies of the report shall be furnished to all parties and their attorneys. Any interested party may request a hearing on the issue of the juvenile's mental illness, and the court may order additional prescreenings as deemed appropriate. No order for a seventy-two-hour treatment and evaluation shall be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented from a mental health professional ~~which~~ THAT indicates that mental illness is present in the juvenile. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

(2) (a) When an evaluation is ordered by the court pursuant to subsection (1) of this section, the order shall specify the person or agency to whom the juvenile shall be released when the evaluation indicates that the juvenile is not mentally ill.

(b) When the court orders an evaluation pursuant to subsection (1) of this section, such order shall not obligate the person doing the prescreening or the agency ~~which~~ THAT such person represents to pay for an evaluation or for any hospitalization provided to the juvenile as a result of an evaluation.

(3) (a) When the evaluation conducted pursuant to subsection (1) of this section

states that the juvenile is mentally ill, as defined in sections 27-10-105 and 27-10-106, C.R.S., the court shall treat the evaluation report as a certification under section 27-10-107, C.R.S., and shall proceed pursuant to article 10 of title 27, C.R.S., assuming all of the powers granted to a court in such proceedings.

(b) When, subsequent to referral to a community centered board pursuant to subsection (1) of this section, it appears that the juvenile has developmental disabilities, the court may proceed pursuant to article 10.5 of title 27, C.R.S., or may follow any of the recommendations contained in the report from the community centered board.

(c) If the juvenile remains in treatment or receives services ordered pursuant to paragraph (a) or (b) of this subsection (3), the court may suspend the proceedings or dismiss any actions pending under this title.

(d) If a juvenile receiving treatment or services ordered pursuant to paragraph (a) or (b) of this subsection (3) leaves a treatment facility or program without prior approval, the facility or program shall notify the court of the juvenile's absence within twenty-four hours. When such juvenile is taken into custody, the facility or program shall be notified by the court and shall readmit the ~~child~~ JUVENILE within twenty-four hours after receiving such notification, excluding Saturdays, Sundays, and legal holidays.

(4) (a) When the report of the evaluation or eligibility determination conducted pursuant to subsection (1) of this section states that the juvenile is not mentally ill or does not have developmental disabilities, the juvenile shall be released to the person or agency specified pursuant to subsection (2) of this section within twenty-four hours after the evaluation has been completed, excluding Saturdays, Sundays, and legal holidays. The juvenile shall not be detained unless a new detention hearing is held within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and the court finds at that hearing that secure detention is necessary.

(b) When the evaluation report or eligibility determination states that the juvenile is not mentally ill or does not have developmental disabilities, the court shall set a time for resuming the hearing on the petition or any other pending matters.

**19-2-703. [Formerly 19-2-302.] Informal adjustment.** (1) The district attorney may request of the court at any time, either before, during, or after the filing of a petition, that the matter be handled as an informal adjustment if:

(a) The juvenile and his OR HER parents, guardian, or legal custodian have been informed of their constitutional and legal rights, including the right to have counsel at every stage of the proceedings;

(b) There are sufficient facts to establish the jurisdiction of the court; and

(c) The juvenile and his OR HER parents, guardian, or legal custodian have waived the right to a speedy trial.

(2) An informal adjustment shall be for an initial period of no longer than six months. One additional extension of up to six months may be ordered by the court

upon showing of good cause.

(3) During any informal adjustment, the court may place the juvenile under the supervision of the probation department or other designated agency. The court may require further conditions of conduct, as requested by the district attorney, probation department, or designated agency.

(4) No juvenile shall be granted an informal adjustment if such juvenile has been adjudicated a juvenile delinquent within the preceding twelve months, has had a prior deferred adjudication, or has had an informal adjustment granted within the preceding twelve months.

**19-2-704. Diversion.** AS AN ALTERNATIVE TO A PETITION FILED PURSUANT TO SECTION 19-2-512, AN ADJUDICATORY TRIAL PURSUANT TO PART 8 OF THIS ARTICLE, OR DISPOSITION OF A JUVENILE DELINQUENT PURSUANT TO SECTION 19-2-907, THE DISTRICT ATTORNEY MAY AGREE TO ALLOW A JUVENILE TO PARTICIPATE IN A DIVERSION PROGRAM ESTABLISHED IN ACCORDANCE WITH SECTION 19-2-303.

**19-2-705. [Formerly 19-2-404.] Preliminary hearing.** (1) The district attorney or a juvenile who is accused in a petition of a delinquent act ~~which~~ THAT constitutes a felony may demand and receive a preliminary hearing to determine if there is probable cause to believe that the delinquent act alleged in the petition was committed by the juvenile. A preliminary hearing may be heard by a judge of the juvenile court or by a magistrate and shall be conducted as follows:

(a) At the juvenile's advisement hearing and after the filing of the delinquency petition, the prosecution shall make available to the juvenile the discovery material required by the Colorado rules of juvenile procedure. The juvenile or the prosecution may file a written motion for a preliminary hearing, stating the basis therefor. Upon the filing of the motion, the court shall forthwith set the matter for a hearing. The juvenile or the prosecution shall file a written motion for a preliminary hearing not later than ten days after the advisement hearing.

(b) If the juvenile is being detained because of the delinquent act alleged in the petition, the preliminary hearing shall be held within thirty days of the filing of the motion, unless good cause for continuing the hearing beyond that time is shown to the court. If the juvenile is not being detained, it shall be held as promptly as the calendar of the court permits.

(c) At the preliminary hearing, the juvenile shall not be called upon to plead, although ~~he~~ THE JUVENILE may cross-examine the PROSECUTION witnesses ~~against him~~ and ~~he~~ may introduce evidence in his OR HER own behalf. The prosecution shall have the burden of establishing probable cause. The court at the hearing may temper the rules of evidence in the exercise of sound judicial discretion.

(d) If the court determines that probable cause exists, it shall enter a finding to that effect and shall schedule an adjudicatory trial. If from the evidence it appears to the court that probable cause does not exist, it shall dismiss the delinquency petition, and the juvenile shall be discharged from any restriction or other previous temporary order stemming from the petition.



(2) A request for review of a preliminary hearing finding entered by a magistrate shall be filed pursuant to section 19-1-108 (5), and review shall be conducted pursuant to said section.

(3) The prosecution may file a motion to refile the petition in delinquency, which motion shall be accompanied by a verified affidavit stating the grounds therefor.

**19-2-706. [Formerly 19-2-402.] Advisement.** (1) At the first appearance before the court after the filing of a petition, the juvenile and his OR HER parents, guardian, or other legal custodian shall be advised by the court of their constitutional and legal rights as set forth in rule 3 of the Colorado rules of juvenile procedure.

(2) (a) If the juvenile or his OR HER parents, guardian, or other legal custodian requests counsel and the juvenile or his OR HER parents, guardian, or other legal custodian is found to be without sufficient financial means, or the juvenile's parents, guardian, or other legal custodian refuses to retain counsel for said juvenile, the court shall appoint counsel for the juvenile.

(b) If the court appoints counsel for the juvenile because of the refusal of the parents, guardian, or other legal custodian to retain counsel for the juvenile, the parents, guardian, or legal custodian, other than a county department of social services or the department of human services, shall be ordered to reimburse the court for the cost of the counsel unless the court finds there was good cause for such refusal.

(c) The court may appoint counsel without such request if it deems representation by counsel necessary to protect the interest of the juvenile or of other parties.

(d) The appointment of counsel pursuant to this subsection (2) shall continue until such time as the court's jurisdiction is terminated or until such time as the court finds that the juvenile or his OR HER parents, guardian, or other legal custodian has sufficient financial means to retain counsel or that the juvenile's parents, guardian, or other legal custodian no longer refuses to retain counsel for the juvenile.

**19-2-707. [Formerly 19-2-403.] Mandatory restraining order.** (1) (a) There is hereby created a mandatory restraining order against any juvenile charged with the commission of a delinquent act AND THE JUVENILE'S PARENTS OR LEGAL GUARDIAN, which order shall remain in effect from the time that the juvenile is advised of such juvenile's rights and informed of such order at such juvenile's first appearance before the court until final disposition of the action or, in the case of an appeal, until disposition of the appeal. Such order shall restrain the juvenile AND THE JUVENILE'S PARENTS OR LEGAL GUARDIAN from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the delinquent act charged.

(b) A restraining order to prevent domestic abuse, as defined in section 14-4-101 (2), C.R.S., may be issued pursuant to this section against any juvenile AND THE JUVENILE'S PARENTS OR LEGAL GUARDIAN based upon the standards set forth in section 14-4-102 (4), C.R.S.

(c) The restraining order issued pursuant to this section shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the

protected parties.

(2) At the time of the juvenile's first appearance before the court, the court shall inform the juvenile AND THE JUVENILE'S PARENTS OR LEGAL GUARDIAN of the restraining order effective pursuant to this section and shall also inform the juvenile AND THE JUVENILE'S PARENTS OR LEGAL GUARDIAN that a violation of such order is punishable as contempt of court.

(3) Nothing in this section shall preclude the juvenile OR THE JUVENILE'S PARENTS OR LEGAL GUARDIAN from applying to the court at any time for modification or dismissal of the restraining order issued pursuant to this section or the district attorney from applying to the court at any time for additional provisions under the restraining order, modification of the order, or dismissal of the order. The trial court shall retain jurisdiction to enforce, modify, or dismiss the restraining order during the pendency of any appeal that may be brought.

(4) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

**19-2-708. [Formerly 19-2-405.] Entry of plea.** (1) Upon the entry of a plea of not guilty to the allegations contained in the petition, the court shall set the matter for an adjudicatory trial. EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-107, THE COURT SHALL HOLD THE ADJUDICATORY TRIAL WITHIN SIXTY DAYS FOLLOWING THE ENTRY OF A PLEA OF NOT GUILTY.

(2) Upon the entry of a plea of guilty to one or more of the allegations contained in the petition, the court shall advise the juvenile in accordance with rule 3 of the Colorado rules of juvenile procedure.

**19-2-709. [Formerly 19-2-702.] Deferral of adjudication.** (1) In any case in which the juvenile has ~~entered~~ AGREED WITH THE DISTRICT ATTORNEY TO ENTER a plea of guilty, ~~to or has been found guilty of an allegation in the petition;~~ the court, ~~has the power;~~ with the consent of the juvenile and the district attorney, ~~to~~ UPON ACCEPTING THE GUILTY PLEA, MAY continue the case for a period not to exceed one year from the date of entry of the plea. ~~or finding of guilt.~~ The court may continue the case for an additional one-year period for good cause.

(2) Any juvenile granted a deferral of adjudication under this section may be placed under the supervision of a probation department. The court may impose any conditions of supervision that it deems appropriate that are stipulated to by the juvenile and the district attorney.

(3) Upon full compliance with such conditions of supervision, the plea of the juvenile or the finding of guilt by the court shall be withdrawn and the case dismissed with prejudice.

(4) If the juvenile fails to comply with the terms of supervision, the court shall enter an order of adjudication and proceed to sentencing under section ~~19-2-701~~ 19-2-906. Such lack of compliance shall be a matter to be determined by the court without a jury, upon written application of the district attorney or probation

department. At least five days' notice shall be given to the juvenile and his OR HER parents, guardian, or legal custodian. The burden of proof shall be the same as if the matter were being heard as a probation revocation proceeding.

(5) If the juvenile agrees to a deferral of adjudication, he OR SHE waives all rights to a speedy trial and sentencing.

## PART 8 ADJUDICATORY PROCEDURES

**19-2-801. Short title.** THIS PART 8 SHALL BE KNOWN AND MAY BE CITED AS "ADJUDICATORY PROCEDURES".

**19-2-802. [Formerly 19-2-505.] Evidentiary considerations.** (1) All statutes and rules of this state ~~which~~ THAT apply to evidentiary considerations in adult criminal proceedings shall apply to proceedings under this title except as otherwise specifically provided.

(2) In any case brought under this title, the credibility of any witness may be challenged because of his OR HER prior adult felony convictions and juvenile felony adjudications. The fact of such conviction or adjudication may be proved either by the witness through testimony or by other competent evidence.

(3) Prior to the juvenile resting his OR HER case, the trial court shall advise the juvenile outside the presence of the jury that:

(a) He OR SHE has a right to testify in his OR HER own behalf;

(b) If he OR SHE wants to testify, no one, including his OR HER attorney, can prevent ~~him~~ THE JUVENILE from doing so;

(c) If he OR SHE testifies, the prosecutor will be allowed to cross-examine him OR HER;

(d) If he OR SHE has been convicted or adjudicated for a felony, the prosecutor shall be entitled to ask him OR HER about it and thereby disclose it to the jury;

(e) If a felony conviction or adjudication is disclosed to the jury, the jury can be instructed to consider it only as it bears upon his OR HER credibility;

(f) He OR SHE has a right not to testify and that, if he OR SHE does not testify, the jury shall be instructed about such right.

**19-2-803. [Formerly 19-2-209.] Legislative declaration - admissibility of evidence.** (1) It is hereby declared to be the intent of the general assembly that, when evidence is sought to be excluded from the trier of fact in a delinquency proceeding because of the conduct of a peace officer leading to its discovery, such evidence should not be suppressed if otherwise admissible when the proponent of the evidence can show that the conduct in question was taken in a reasonable, good faith belief that it was proper. It is further declared to be the intent of the general assembly to identify the characteristics of admissible evidence and not to address or attempt to

prescribe court procedure.

(2) FOR PURPOSES OF THIS SECTION:

(a) "GOOD FAITH MISTAKE" IS DEFINED IN SECTION 19-1-103 (53).

(b) "PEACE OFFICER" HAS THE MEANING SET FORTH IN THE DEFINITION OF SECTION 18-1-901 (3) (I), C.R.S.

(c) "TECHNICAL VIOLATION" IS DEFINED IN SECTION 19-1-103 (105).

(3) Evidence sought to be excluded in a delinquency proceeding because of the conduct of the peace officer leading to its discovery shall not be suppressed by the court if the court finds that the evidence was seized by the peace officer as a result of a good faith mistake or a technical violation and the evidence is otherwise admissible.

(4) Evidence ~~which~~ THAT is obtained as a result of a confession voluntarily made in a noncustodial setting shall not be suppressed by the court in a delinquency proceeding if it is otherwise admissible.

(5) It shall be prima facie evidence that the conduct of the peace officer was taken in the reasonable good faith belief that it was proper if there is a showing that the evidence was obtained pursuant to and within the scope of a warrant, unless the warrant was obtained through intentional and material misrepresentation.

**19-2-804. [Formerly 19-2-504.] Procedures at trial.** (1) At the adjudicatory trial, which shall be conducted as provided in section 19-1-106, the court shall consider whether the allegations of the petition are supported by evidence beyond a reasonable doubt. Jurisdictional matters of the age and residence of the juvenile shall be deemed admitted by or on behalf of the juvenile unless specifically denied within a reasonable time prior to the trial.

(2) If the juvenile is found not guilty after an adjudicatory trial, the court shall order the petition dismissed and the juvenile discharged from any detention or restriction previously ordered. ~~His~~ THE JUVENILE'S parents, guardian, or other legal custodian shall also be discharged from any restriction or other previous temporary order.

(3) If the juvenile is found guilty after an adjudicatory trial, the court may proceed to sentencing or direct that the matter be set for a separate sentencing hearing WITHIN FORTY-FIVE DAYS FOLLOWING COMPLETION OF THE ADJUDICATORY TRIAL.

**19-2-805. [Formerly 19-2-503.] Method of jury selection.** Examination and selection of jurors shall be as provided by rule 47 of the Colorado rules of civil procedure; except that challenges for cause shall be as provided by rule 24 of the Colorado rules of criminal procedure.

PART 9  
POST-ADJUDICATORY PROCESS

**~~19-2-901. Release and inspection of juvenile records. (Repealed)~~**

**19-2-901. Short title.** THIS PART 9 SHALL BE KNOWN AND MAY BE CITED AS "POST-ADJUDICATORY PROCESS".

**~~19-2-901.5. Public access to identity of juvenile offenders. (Repealed)~~**

**19-2-902. [Formerly 19-2-601.] Motion for new trial.** (1) All motions for a new trial shall be made pursuant to rule 33 of the Colorado rules of criminal procedure.

(2) If the juvenile was not represented by counsel, the court shall inform the juvenile and his OR HER parent, guardian, or legal custodian at the conclusion of the trial that they have the right to file a motion for a new trial and that, if such motion is denied, they have the right to appeal.

**19-2-903. [Formerly 19-2-602.] Appeals.** (1) Appellate procedure shall be provided by the Colorado appellate rules. Initials shall appear on the record on appeal in place of the name of the juvenile and other respondents. Appeals shall be advanced on the calendar of the appellate court and shall be decided at the earliest practical time.

(2) The prosecution in a delinquency case may appeal any decision of the trial court as provided in section 16-12-102, C.R.S.

**19-2-904. [Formerly 19-2-603.] Posttrial bail.** A juvenile's application for posttrial bail shall be governed by part 2 of article 4 of title 16, C.R.S., and the provisions concerning bail in section ~~19-2-205~~ 19-2-509.

**19-2-905. Presentence investigation.** (1) PRIOR TO THE SENTENCING HEARING, THE JUVENILE PROBATION DEPARTMENT FOR THE JUDICIAL DISTRICT IN WHICH THE JUVENILE IS ADJUDICATED SHALL CONDUCT A PRESENTENCE INVESTIGATION UNLESS WAIVED BY THE COURT ON ITS OWN DETERMINATION OR ON RECOMMENDATION OF THE PROSECUTION OR THE JUVENILE. THE PRESENTENCE INVESTIGATION SHALL TAKE INTO CONSIDERATION AND BUILD ON THE INTAKE ASSESSMENT PERFORMED BY THE SCREENING TEAM. THE PRESENTENCE INVESTIGATION MAY ADDRESS, BUT IS NOT LIMITED TO, THE FOLLOWING:

- (a) THE DETAILS OF THE OFFENSE;
- (b) STATEMENTS MADE BY THE VICTIMS OF THE OFFENSE;
- (c) THE AMOUNT OF RESTITUTION, IF ANY, THAT SHOULD BE IMPOSED ON THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN;
- (d) THE JUVENILE'S PREVIOUS CRIMINAL RECORD, IF ANY;
- (e) ANY HISTORY OF SUBSTANCE ABUSE BY THE JUVENILE;
- (f) THE JUVENILE'S EDUCATION AND EMPLOYMENT HISTORY;

- (g) THE JUVENILE'S FAMILY;
- (h) THE JUVENILE'S PEER RELATIONSHIPS;
- (i) THE STATUS OF JUVENILE PROGRAMS AND COMMUNITY PLACEMENTS IN THE JUVENILE'S JUDICIAL DISTRICT OF RESIDENCE;
- (j) OTHER RELATED MATERIAL;
- (k) REVIEW OF PLACEMENT AND COMMITMENT CRITERIA ADOPTED PURSUANT TO SECTION 19-2-212, WHICH SHALL BE THE CRITERIA FOR ANY SENTENCING RECOMMENDATIONS INCLUDED IN THE PRESENTENCE INVESTIGATION;
- (l) ASSESSMENT OF THE JUVENILE'S NEEDS; AND
- (m) RECOMMENDATIONS AND A PROPOSED TREATMENT PLAN FOR THE JUVENILE.

(2) THE PROBATION DEPARTMENT SHALL CONDUCT A PRESENTENCE INVESTIGATION IN EACH CASE UNLESS WAIVED BY THE COURT ON ITS OWN DETERMINATION OR ON RECOMMENDATION OF THE PROSECUTION OR THE JUVENILE. THE LEVEL OF DETAIL INCLUDED IN THE PRESENTENCE INVESTIGATION MAY VARY, AS APPROPRIATE, WITH THE SERVICES BEING CONSIDERED FOR THE JUVENILE.

**19-2-906. [Formerly 19-2-701.] Sentencing hearing.** (1) After making a finding of guilt, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. Such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 19-1-107.

(2) If the court has reason to believe that the juvenile may have developmental disabilities, the court shall refer the juvenile to the community centered board in the designated service area where the action is pending for an eligibility determination pursuant to article 10.5 of title 27, C.R.S. If the court has reason to believe that the juvenile may be mentally ill, the court shall order a mental health prescreening to be conducted in any appropriate place.

(3) (a) The court may continue the sentencing hearing, either on its own motion or on the motion of any interested party, for a reasonable period to receive reports or other evidence; EXCEPT THAT THE COURT SHALL DETERMINE SENTENCING WITHIN FORTY-FIVE DAYS FOLLOWING COMPLETION OF THE ADJUDICATORY TRIAL.

(b) If the hearing is continued, the court shall make an appropriate order for detention of the juvenile or for his OR HER release in the custody of his OR HER parents, guardian, or other responsible person or agency under such conditions of supervision as the court may impose during the continuance.

(c) In scheduling investigations and hearings, the court shall give priority to proceedings concerning a juvenile who is in detention or who has otherwise been removed from his OR HER home before an order of disposition has been made.

(4) In any case in which the sentence is placement out of the home, except for

juveniles committed to the department of human services, the court shall, at the time of placement, set a review within ninety days to determine if continued placement is necessary and is in the best interest of the juvenile and of the community. Notice of said review shall be given by the court to all parties and to the director of the facility or agency in which the juvenile is placed and any person who has physical custody of the juvenile and any attorney or guardian ad litem of record.

**19-2-907. [Formerly 19-2-703 (2)] Sentencing schedule - options.** (1) UPON COMPLETION OF THE SENTENCING HEARING, PURSUANT TO SECTION 19-2-906, THE COURT SHALL ENTER A DECREE OF SENTENCE OR COMMITMENT IMPOSING ANY OF THE FOLLOWING SENTENCES OR COMBINATION OF SENTENCES, AS APPROPRIATE:

(a) COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, AS PROVIDED IN SECTION 19-2-909;

(b) CONFINEMENT IN THE COUNTY JAIL OR IN COMMUNITY CORRECTIONS, AS PROVIDED IN SECTION 19-2-910;

(c) DETENTION, AS PROVIDED IN SECTION 19-2-911;

(d) PLACEMENT OF LEGAL CUSTODY OF THE JUVENILE WITH A RELATIVE OR OTHER SUITABLE PERSON, AS PROVIDED IN SECTION 19-2-912;

(e) PROBATION, AS PROVIDED IN SECTION 19-2-913;

(f) COMMITMENT TO THE REGIMENTED JUVENILE TRAINING PROGRAM, AS PROVIDED IN SECTION 19-2-914;

(g) PLACEMENT OF LEGAL CUSTODY OF THE JUVENILE IN THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR A CHILD PLACEMENT AGENCY, AS PROVIDED IN SECTION 19-2-915;

(h) PLACEMENT OF THE JUVENILE IN A HOSPITAL OR OTHER SUITABLE FACILITY FOR RECEIPT OF SPECIAL CARE, AS PROVIDED IN SECTION 19-2-916;

(i) IMPOSITION OF A FINE, AS PROVIDED IN SECTION 19-2-917;

(j) ORDERING THE JUVENILE TO PAY RESTITUTION, AS PROVIDED IN SECTION 19-2-918.

(2) THE JUDGE SHALL SENTENCE ANY JUVENILE ADJUDICATED AS A SPECIAL OFFENDER AS PROVIDED IN SECTION 19-2-908.

(3) ANY SENTENCE IMPOSED ON A JUVENILE PURSUANT TO THIS SECTION MAY INCLUDE THE JUVENILE'S PARENT OR GUARDIAN, AS PROVIDED IN SECTION 19-2-919.

(4) IF, AS A CONDITION OF OR IN CONNECTION WITH ANY SENTENCE IMPOSED PURSUANT TO THIS SECTION, THE COURT REQUIRES A JUVENILE TO ATTEND SCHOOL, THE COURT SHALL NOTIFY THE SCHOOL DISTRICT IN WHICH THE JUVENILE IS ENROLLED OF SUCH REQUIREMENT.

~~(2)-(a)~~ (5) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, if the court finds that placement out of the home is necessary and is in the best interests of the juvenile and the community, the court shall place the juvenile, following ~~any~~ THE criteria established pursuant to ~~section 19-2-1602~~ SECTION 19-2-212, in the facility or setting ~~which~~ THAT most appropriately meets the needs of the juvenile, the juvenile's family, and the community. In making its decision as to proper placement, the court shall utilize the evaluation for placement prepared pursuant to section 19-1-107 or the evaluation for placement required by section 19-3-701 (5). Any placement recommendation in the evaluation prepared by the county department of social services shall be accorded great weight as the placement that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. Any deviation from such recommendation shall be supported by specific findings on the record of the case detailing the specific extraordinary circumstances ~~which~~ THAT constitute the reasons for deviations from the placement recommendation of the county department of social services. Such recommendation prepared by the county department of social services shall set forth specific facts and reasons for the placement recommendation. If the evaluation for placement recommends placement in a facility located in Colorado ~~which~~ THAT can provide appropriate treatment and ~~which~~ THAT will accept the juvenile, then the court shall not place the juvenile in a facility outside this state. If the court places the juvenile in a facility located in Colorado other than one recommended by the evaluation for placement, in a facility located outside this state in accordance with the evaluation for placement, or in a facility in which the average monthly cost exceeds the amount established by the general assembly in the general appropriation bill, it shall make specific findings of fact, including the monthly cost of the facility in which such juvenile is placed, relating to its placement decision. A copy of such findings shall be sent to the chief justice of the supreme court, who shall report monthly to the joint budget committee and annually to the general assembly on such placements. If the court commits the juvenile to the department of human services, it shall not make a specific placement, nor shall the provisions of this subsection (5) relating to specific findings of fact be applicable.

(b) If the court sentences a juvenile to an out-of-home placement funded by the department of human services or any county, or commits a juvenile to the department of human services, and the receiving agency determines that such placement or commitment does not follow the criteria established pursuant to ~~section 19-2-1602~~ SECTION 19-2-212, including the placement recommended by the receiving agency, the receiving agency may, after assessing such juvenile's needs, file a petition with the court for reconsideration of the placement or commitment. Any such petition shall be filed not later than thirty days after the placement or commitment. The court shall hear such petition and enter an order thereon not later than thirty days after the filing of the petition, and after notice to all agencies or departments ~~which~~ THAT might be affected by the resolution of the petition, and AFTER all such agencies or departments have had an opportunity to participate in the hearing on the petition. Failure of any such agency or department to appear may be a basis for refusal to accept a subsequent petition by any such agency or department ~~which~~ THAT had an opportunity to appear and be present at the original petition hearing. The notification to the parties required pursuant to this paragraph (b) shall be made by the petitioning party, and proof of such service shall be filed with the court. If the court sentences a juvenile to an out-of-home placement funded by the county department of social services, temporary legal custody of such juvenile shall be placed with the county



department of social services, and the placement recommended by such county department shall be accorded great weight as the placement that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. Any deviation from such recommendation shall be supported by specific findings on the record of the case detailing the specific extraordinary circumstances ~~which~~ THAT constitute the reasons for deviations from the placement recommendation of the county department of social services.

**19-2-908. [Formerly 19-2-801 (2), 19-2-802 (2), and 19-2-803 (2) and (3)] Sentencing - special offenders.** (1) THE COURT SHALL SENTENCE A JUVENILE ADJUDICATED AS A SPECIAL OFFENDER AS FOLLOWS:

~~(2)~~ (a) **Mandatory sentence offender.** The court shall place or commit ANY JUVENILE ADJUDICATED AS a mandatory sentence offender, AS DESCRIBED IN SECTION 19-2-516 (1), out of the home for not less than one year, unless the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate; except that:

~~(a)~~ (I) If the person ADJUDICATED AS A MANDATORY SENTENCE OFFENDER is eighteen years of age or older on the date of the sentencing hearing, the court may sentence that person to the county jail or to a community correctional facility or program for a period not to exceed two years, if such person has been adjudicated a mandatory sentence offender pursuant to this article for acts committed prior to such person's eighteenth birthday; or

~~(b)~~ (II) The juvenile or person may be released by the committing judge upon a showing of exemplary behavior.

~~(2)~~ (b) **Repeat juvenile offender.** The court may sentence ANY JUVENILE ADJUDICATED AS a repeat juvenile offender, AS DESCRIBED IN SECTION 19-2-516 (2), pursuant to ~~section 19-2-703~~ SECTION 19-2-907 or may commit a repeat juvenile offender to the department of human services. The court may impose a minimum term during which the juvenile shall not be released from a residential program without prior written approval of the court ~~which~~ THAT made the commitment.

~~(2)~~~~(a)~~ (c) (I) (A) **Violent juvenile offender.** Upon adjudication as a violent juvenile offender, AS DESCRIBED IN SECTION 19-2-516(3), the juvenile shall be placed or committed out of the home for not less than one year; except that this ~~subsection~~ ~~(2)~~ SUB-SUBPARAGRAPH (A) shall not apply to a juvenile who is ~~thirteen~~ TEN years of age or older, but less than ~~fifteen~~ TWELVE years of age, when the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate.

~~(b)~~ (B) Upon adjudication as a violent juvenile offender, if the person is eighteen years of age or older on the date of the sentencing hearing, the court may sentence such person to the county jail or to a community correctional facility or program for a period not to exceed two years, if such person has been adjudicated a violent juvenile offender pursuant to this article for acts committed prior to such person's eighteenth birthday.

~~(3)~~ (II) The court may commit a violent juvenile offender to the department of

human services. The court may impose a minimum sentence during which the juvenile shall not be released from a residential program without prior written approval of the court ~~which~~ THAT made the commitment.

(d) **Aggravated juvenile offender.** THE COURT SHALL SENTENCE AN AGGRAVATED JUVENILE OFFENDER AS PROVIDED IN SECTION 19-2-601.

**19-2-909. Sentencing - commitment to the department of human services.**

(1) (a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, THE COURT MAY COMMIT A JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES FOR A DETERMINATE PERIOD OF UP TO TWO YEARS IF THE JUVENILE IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 FELONY OR A MISDEMEANOR IF COMMITTED BY AN ADULT; EXCEPT THAT, IF THE JUVENILE IS YOUNGER THAN TWELVE YEARS OF AGE AND IS NOT ADJUDICATED AN AGGRAVATED JUVENILE OFFENDER, THE COURT MAY COMMIT THE JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES ONLY IF THE JUVENILE IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 3 FELONY IF COMMITTED BY AN ADULT.

(b) ANY COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 19-2-601 OR PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL INCLUDE, IN ADDITION TO THE PERIOD OF COMMITMENT, A MANDATORY PERIOD OF PAROLE OF NO LESS THAN ONE YEAR.

(c) FOR PURPOSES OF THIS SECTION, "DETERMINATE PERIOD" IS DEFINED IN SECTION 19-1-103 (40.5).

(2) ANY JUVENILE COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES MAY BE PLACED IN THE LOOKOUT MOUNTAIN SCHOOL, THE MOUNT VIEW SCHOOL, OR ANY OTHER TRAINING SCHOOL OR FACILITY, OR ANY OTHER DISPOSITION MAY BE MADE THAT THE DEPARTMENT MAY DETERMINE AS PROVIDED BY LAW.

**19-2-910. [Formerly 19-2-703 (1) (b) and (1) (c)] Sentencing - persons eighteen years of age and older - county jail - community corrections. ~~(1) (b)~~**

(1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court may commit a person eighteen years of age or older but less than twenty-one years of age to the department of human services if he OR SHE is adjudicated a juvenile delinquent for an act committed prior to his OR HER eighteenth birthday or upon revocation of probation.

~~(1) (e)~~ (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court may sentence a person who is eighteen years of age or older on the date of a sentencing hearing to the county jail for a period not to exceed six months or to a community correctional facility or program for a period not to exceed one year, which may be served consecutively or in intervals, if he OR SHE is adjudicated a juvenile delinquent for an act committed prior to his OR HER eighteenth birthday.

**19-2-911. [Formerly 19-2-703 (1) (e) (I) and (1) (h) (I)] Sentencing - detention.**

~~(1) (h) (1)~~ (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER AND EXCEPT as provided in ~~subparagraph (H) of~~

~~this paragraph (h)~~ SUBSECTION (2) OF THIS SECTION, the court may sentence any juvenile ~~twelve years of age or older~~ ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 FELONY OR A MISDEMEANOR IF COMMITTED BY AN ADULT to detention for a period not to exceed forty-five days. Release for purposes of work, therapy, education, or other good cause may be granted by the court. THE COURT MAY NOT SENTENCE TO DETENTION ANY JUVENILE ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 1 OR CLASS 2 FELONY IF COMMITTED BY AN ADULT.

~~(+)(c)(+)~~ (2) In the case of a juvenile who has been adjudicated a juvenile delinquent for the commission of one of the misdemeanor offenses described in ~~section 19-2-204 (3)(a)(+)(+)~~ SECTION 19-2-508 (3) (a) (III) (C), the court shall sentence the juvenile to a minimum mandatory period of detention of not less than five days.

**19-2-912. [Formerly 19-2-703 (1) (g)] Sentencing - placement with relative.**  
~~(+)(g)~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court may place the juvenile in the legal custody of a relative or other suitable person under such conditions as the court may impose, which may include placing the juvenile on probation, AS PROVIDED IN SECTION 19-2-913, or under protective supervision.

**19-2-913. [Formerly 19-2-703 (1) (f), (1) (f.5), and (1) (i)] Sentencing - probation - supervised work program.** (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER:

~~(+)(f)~~ (a) The court may place the juvenile on probation or under protective supervision in the legal custody of one or both parents or the guardian under such conditions as the court may impose.

~~(f.5)~~ (b) The court may place the juvenile on probation and place the juvenile in the juvenile intensive supervision program created pursuant to ~~part 15 of this article~~ SECTION 19-2-306.

~~(+)(c)~~ (c) The court may require as a condition of probation that the juvenile report for assignment to a supervised work program, place such juvenile in a child care facility ~~which~~ THAT shall provide a supervised work program, or require that the custodial parent or guardian of the juvenile assist the juvenile in participating in a supervised work program, if:

(I) The juvenile is not deprived of the schooling ~~which~~ THAT is appropriate to his OR HER age, needs, and specific rehabilitative goals;

(II) The supervised work program is of a constructive nature designed to promote rehabilitation, is appropriate to the age level and physical ability of the juvenile, and is combined with counseling from a juvenile probation officer or other guidance personnel;

(III) The supervised work program assignment is made for a period of time consistent with the juvenile's best interest, but not exceeding one hundred eighty days.

**19-2-914. [Formerly 19-2-703 (1)(e)(II)] Sentencing - regimented juvenile training program.** ~~(1)-(e)-(H)~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court may ~~alternatively sentence the juvenile to the department of human services, with a recommendation to the department that the juvenile be required to participate in the regimented juvenile training program AS set forth in section 19-2-708~~ SECTION 19-2-309. ~~However, in the event the department assesses a juvenile in accordance with section 19-2-708 and determines that the juvenile's participation in the program is inappropriate, the court's order shall specify that the juvenile shall be sentenced in accordance with subparagraph (1) of this paragraph (e).~~ SUCH A SENTENCE SHALL BE A CONDITION OF PROBATION AND SHALL BE FOR JUVENILES WHO THE COURT DETERMINES SHOULD OTHERWISE BE PLACED IN DETENTION OR COMMITTED WERE IT NOT FOR THE AVAILABILITY OF THE REGIMENTED JUVENILE TRAINING PROGRAM. A SENTENCE PURSUANT TO THIS SECTION SHALL BE CONDITIONED ON THE AVAILABILITY OF SPACE IN THE PROGRAM AND ON A DETERMINATION BY THE DEPARTMENT OF HUMAN SERVICES THAT THE JUVENILE'S PARTICIPATION IN THE PROGRAM IS APPROPRIATE. IN THE EVENT THAT THE DEPARTMENT DETERMINES THAT THE PROGRAM IS AT MAXIMUM CAPACITY OR THAT A JUVENILE'S PARTICIPATION IS NOT APPROPRIATE, THE JUVENILE SHALL BE ORDERED TO RETURN TO THE SENTENCING COURT FOR ANOTHER SENTENCING HEARING. A SENTENCE PURSUANT TO THIS SECTION SHALL BE AN ALTERNATIVE TO, AND SHALL NOT BE IMPOSED IN ADDITION TO, A SENTENCE TO DETENTION PURSUANT TO SECTION 19-2-911, A SENTENCE TO DETENTION AS A CONDITION OF PROBATION PURSUANT TO SECTION 19-2-925, OR A COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 19-2-910.

**19-2-915. [Formerly 19-2-703 (1) (j)] Sentencing - legal custody - social services.** ~~(1)-(j)~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court, following the criteria for out-of-home placement established pursuant to ~~section 19-2-1602~~ SECTION 19-2-212, may place legal custody OF THE JUVENILE in the county department of social services or a child placement agency for placement in a family child care home, foster care home, or a child care center.

**19-2-916. [Formerly 19-2-703 (1) (k)] Sentencing - placement based on special needs of the juvenile.** ~~(1)-(k)-(1)~~ (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he OR SHE receive other special care and may place the juvenile in a hospital or other suitable facility for such purposes; except that no juvenile may be placed in a mental health facility operated by the department of human services until the juvenile has received a mental health prescreening resulting in a recommendation that the juvenile be placed in a facility for an evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the department of human services. No order for a seventy-two-hour treatment and evaluation shall be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional ~~which~~ THAT indicates that mental illness is present in the juvenile. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

~~(H)~~ (2) Placement in any mental health facility operated by the department of human services shall continue for such time as ordered by the court or until the professional person in charge of the juvenile's treatment concludes that the treatment or placement is no longer appropriate. If placement or treatment is no longer deemed appropriate, the court shall be notified and a hearing held for further disposition of the juvenile within five days excluding Saturdays, Sundays, and legal holidays. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

**19-2-917. [Formerly 19-2-703 (1) (d)] Sentencing - fines.** ~~(1)~~~~(d)~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-2-601 FOR AN AGGRAVATED JUVENILE OFFENDER, the court may, AS THE SOLE PUNISHMENT OR IN ADDITION TO ANY OTHER SENTENCE OR COMMITMENT SPECIFIED IN SECTION 19-2-907, impose ON THE JUVENILE a fine of not more than three hundred dollars.

**19-2-918. [Formerly 19-2-703 (4) (a) and (4) (b)] Sentencing - restitution by juvenile.** ~~(4)~~~~(a)~~ (1) If the court finds that a juvenile who receives a deferral of adjudication or who is adjudicated a juvenile delinquent has damaged the personal or real property of a victim, that the victim's personal property has been lost, or that personal injury has been caused to a victim as a result of the juvenile's delinquent act, the court, IN ADDITION TO ANY OTHER SENTENCE OR COMMITMENT THAT IT MAY IMPOSE ON THE JUVENILE PURSUANT TO SECTION 19-2-907, shall enter a sentencing order requiring the juvenile to make restitution for actual damages done to persons or property; except that the court ~~shall~~ MAY not order restitution if it finds that monetary payment or payment in kind would cause serious hardship or injustice to the juvenile.

~~(b)~~ (2) ~~Such order~~ THE ORDER OF RESTITUTION shall require payment of insurers and other persons or entities succeeding to the rights of the victim through subrogation or otherwise, if appropriate. Restitution shall be ordered in a reasonable amount to be paid in a reasonable manner, as determined by the court.

**19-2-919. [Formerly 19-2-703 (1) (l) and (4) (c)] Sentencing - requirements imposed on parents.** ~~(1)~~~~(l)~~ (1) In addition to any of the provisions specified in ~~this subsection~~ ~~(1)~~ SECTIONS 19-2-907 TO 19-2-918, any sentence imposed pursuant to ~~this section~~ SECTION 19-2-907 may require:

~~(f)~~ (a) The juvenile or both the juvenile and his or her parent or guardian to perform volunteer service in the community designed to contribute to the rehabilitation of the juvenile or to the ability of the parent or guardian to provide proper parental care and supervision of the juvenile;

~~(H)~~ (b) The parent or guardian of a juvenile or both the parent or guardian and the juvenile to attend the parental responsibility training program described in ~~part 14 of this article~~ SECTION 19-2-304. The court may make reasonable orders requiring proof of completion of such training course within a certain time period and may provide that any violation of such orders shall subject the parent or guardian to the contempt sanctions of the court; or

~~(H)~~ (c) The juvenile or both the juvenile and his or her custodial parent or guardian to perform services for the victim, AS PROVIDED IN SECTION 19-2-308,

designed to contribute to the rehabilitation of the juvenile, if the victim consents in writing to such services. However, the value of the services required to be rendered by the parent, guardian, or legal custodian of the juvenile under this ~~subparagraph (H)~~ PARAGRAPH (c) shall not exceed the damages as set forth in section 13-21-107, C.R.S., for any one delinquent act.

~~(e)-(f)~~ (2) IN ADDITION TO ANY SENTENCE IMPOSED PURSUANT TO SECTION 19-2-907 OR SUBSECTION (1) OF THIS SECTION AND REGARDLESS OF WHETHER THE COURT ORDERS THE JUVENILE TO PAY RESTITUTION PURSUANT TO SECTION 19-2-918, the court may order:

(a) The guardian or legal custodian of the juvenile to make restitution pursuant to the terms and conditions set forth in this ~~subparagraph (f)~~ SUBSECTION (2); except that the liability of the guardian or legal custodian of the juvenile under this ~~subparagraph (f)~~ SUBSECTION (2) shall not exceed the damages as set forth in section 13-21-107, C.R.S., for any one delinquent act. If the court finds, after a hearing, that the guardian or legal custodian of the juvenile has made diligent, good faith efforts to prevent or discourage the juvenile from engaging in delinquent activity, the court shall absolve the guardian or legal custodian of liability for restitution under this ~~subparagraph (f)~~ SUBSECTION (2).

~~(H)~~ (b) ~~The court may order~~ The juvenile's parent, SO LONG AS THE PARENT IS A PARTY TO THE DELINQUENCY PROCEEDINGS, to make restitution pursuant to the terms and conditions set forth in this ~~subparagraph (H)~~ PARAGRAPH (b); except that the liability of the juvenile's parent under this ~~subparagraph (H)~~ PARAGRAPH (b) shall not exceed the amount of five thousand dollars for any one delinquent act. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (2), THE COURT MAY NOT ENTER AN ORDER OF RESTITUTION AGAINST A JUVENILE'S PARENT UNLESS THE COURT, PRIOR TO ENTERING THE ORDER OF RESTITUTION, HOLDS A RESTITUTION HEARING AT WHICH THE JUVENILE'S PARENT IS PRESENT. If the court finds, after ~~a~~ THE hearing, that the juvenile's parent has made diligent, good faith efforts to prevent or discourage the juvenile from engaging in delinquent activity, the court shall absolve the parent of liability for restitution under this ~~subparagraph (H)~~ PARAGRAPH (b). FOR PURPOSES OF THIS PARAGRAPH (b), "PARENT" IS DEFINED IN SECTION 19-1-103 (82) (a).

**19-2-920. Out-of-home placement - runaways - duty to notify.** WHEN A JUVENILE WHO IS SENTENCED TO DETENTION, COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, OR OTHERWISE SENTENCED OR PLACED IN OUT-OF-HOME PLACEMENT PURSUANT TO SECTION 19-2-907 RUNS AWAY FROM THE FACILITY OR HOME IN WHICH THE JUVENILE IS PLACED, THE PERSON IN CHARGE OF THE FACILITY OR THE FOSTER PARENT SHALL NOTIFY THE COURT AND THE LOCAL LAW ENFORCEMENT AGENCY AS SOON AS POSSIBLE AFTER DISCOVERING THAT THE JUVENILE HAS RUN AWAY FROM THE FACILITY OR HOME.

**19-2-921. [Formerly 19-2-704.] Commitment to department of human services.** (1) (a) When a juvenile is committed to the department of human services, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports, and other information pertinent to the care and treatment of the juvenile.

(b) The department of human services shall provide the court with any information concerning a juvenile committed to its care ~~which~~ THAT the court at any time may require.

(2) (a) The department of human services shall designate receiving centers for juvenile delinquents committed to the department.

(b) If a change is made in the designation of a receiving center by the department, it shall so notify the juvenile courts at least thirty days prior to the date that the change takes effect.

(3) (a) ~~Subject to the provisions of this section, a commitment of a child to the department of human services under section 19-2-703 shall be for a determinate period; except that, in the case of a repeat juvenile offender or violent juvenile offender, a judge may impose a minimum sentence of institutionalization, which sentence or commitment shall be served; but institutional placement, as determined by the department of human services, shall not exceed a total of two years except as provided in subsection (4) of this section.~~ AS PROVIDED IN SECTION 19-2-907, COMMITMENT OF A JUVENILE TO THE DEPARTMENT OF HUMAN SERVICES SHALL BE FOR A DETERMINATE PERIOD.

(b) (I) THE JUVENILE COURT MAY COMMIT ANY JUVENILE ADJUDICATED FOR AN OFFENSE OTHER THAN AN OFFENSE THAT WOULD CONSTITUTE A CLASS 1 OR CLASS 2 FELONY IF COMMITTED BY AN ADULT TO THE DEPARTMENT OF HUMAN SERVICES FOR A DETERMINATE PERIOD OF UP TO FIVE YEARS.

(II) THE JUVENILE COURT SHALL COMMIT ANY JUVENILE ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 2 FELONY IF COMMITTED BY AN ADULT TO THE DEPARTMENT OF HUMAN SERVICES FOR A DETERMINATE PERIOD OF UP TO FIVE YEARS.

(III) THE JUVENILE COURT SHALL COMMIT ANY JUVENILE ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 1 FELONY IF COMMITTED BY AN ADULT TO THE DEPARTMENT OF HUMAN SERVICES FOR A DETERMINATE PERIOD OF UP TO SEVEN YEARS.

(c) THE JUVENILE COURT MAY COMMIT ANY JUVENILE WHO IS NOT ADJUDICATED AN AGGRAVATED JUVENILE OFFENDER, BUT IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 FELONY OR A MISDEMEANOR TO THE DEPARTMENT OF HUMAN SERVICES, AND THE DETERMINATE PERIOD OF COMMITMENT SHALL NOT EXCEED TWO YEARS; EXCEPT THAT, IF THE JUVENILE IS TEN OR ELEVEN YEARS OF AGE AND IS NOT ADJUDICATED AN AGGRAVATED JUVENILE OFFENDER, THE JUVENILE MAY BE COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES ONLY IF THE JUVENILE IS ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE A CLASS 3 FELONY IF COMMITTED BY AN ADULT.

(4) The department of human services may petition the committing court to extend the commitment for an additional period not to exceed two years. The petition shall set forth the reasons why it would be in the best interest of the juvenile or the public to extend the commitment. Upon filing the petition, the court shall set a hearing to determine whether the petition should be granted or denied and shall notify all

interested parties.

~~(4.5)~~ (5) When a juvenile is placed in foster care by the department of human services following commitment pursuant to section ~~19-2-703~~ 19-2-601 OR 19-2-907, an administrative review shall be conducted every six months after said placement for as long as the juvenile remains in foster care under the placement of the department of human services.

~~(5)~~ (6) Parole supervision of juveniles committed to the department of human services under section ~~19-2-703~~ 19-2-601 OR 19-2-907, as determined by the juvenile parole board, shall not exceed two years except as otherwise provided by statute.

~~(6)~~ When it is brought to the attention of the court that a juvenile committed to the department by the court has been placed in an institution or other facility for a period exceeding one year without being considered for parole, the court may request the juvenile parole board to review the case.

(7) When a juvenile is released or released to parole supervision by the department of human services or escapes from said department, the committing court, the district attorney, the Colorado bureau of investigation, and the initiating law enforcement agency shall be notified.

(8) When a juvenile is released by the department of human services to parole supervision, the payment of any remaining restitution shall be a condition of parole.

(9) At least ninety days prior to termination of commitment to the department of human services, notification shall be given to the person or agency that had custody of the juvenile prior to the commitment. Custody of the juvenile shall return to the person or agency having custody prior to the commitment, unless a court of competent jurisdiction orders that custody shall be in a different person or agency.

**19-2-922. [Formerly 19-2-1103.] Juveniles committed to the department of human services - evaluation and placement.** (1) (a) Each juvenile committed to the custody of the department of human services shall be examined and evaluated by the department prior to institutional placement or other disposition.

(b) Such evaluation and examination shall be conducted at a detention facility and shall be completed within thirty days. The executive director of the department of human services may, by rule and regulation, determine the extent and scope of the evaluation and examination. To the extent possible and relevant, the evidence, reports, examination, studies, and other materials utilized in a sentencing hearing conducted under section ~~19-2-701~~ 19-2-906 shall also be utilized in evaluation and examination conducted under this section. The provisions of this paragraph (b) shall not apply to examination and evaluation conducted pursuant to section ~~19-2-1104(1)~~ 19-2-923 (1).

(2) Each juvenile shall then be placed by the department in the appropriate state institution or facility ~~released on parole~~; or placed as provided in section ~~19-2-1109~~ or ~~19-2-1110~~ 19-2-409 OR 19-2-410, as indicated by the examination and evaluation, ~~and the limitations on physical capacity or programs at the respective state institutions and facilities.~~



(3) (a) When the department of human services determines that a juvenile requires placement in a state facility for children with developmental disabilities, as defined in article 10.5 of title 27, C.R.S., it shall initiate proceedings under article 10.5 of title 27, C.R.S., and notify the court thereof.

(b) (I) When the department of human services determines that a juvenile may require treatment for mental illness, it shall conduct or have a mental health professional conduct a prescreening on the juvenile.

(II) If the prescreening report recommends that the juvenile be evaluated, the juvenile may be transferred to a mental health facility operated by the department of human services for such evaluation.

(III) If the evaluation report states that the juvenile is mentally ill, as provided in sections 27-10-105 and 27-10-106, C.R.S., the department of human services shall initiate proceedings under article 10 of title 27, C.R.S., and notify the court thereof.

**19-2-923. [Formerly 19-2-1104.] Juveniles committed to the department of human services - transfers.** (1) The executive director of the department of human services may transfer any juvenile committed under section ~~19-2-703~~ 19-2-601 OR 19-2-907 among the facilities established under sections ~~19-2-1101 and 19-2-1106 to 19-2-1108~~ 19-2-403 AND 19-2-406 TO 19-2-408; except that, before any juvenile is transferred, he OR SHE shall be examined and evaluated, and such evaluation shall be reviewed by the said executive director before he OR SHE approves the transfer.

(2) When the executive director of the department of human services finds that the welfare and protection of a juvenile or of others requires the juvenile's immediate transfer to another facility, he OR SHE shall make the transfer prior to having the juvenile examined and evaluated.

(3) (a) Any juvenile committed to the department of human services may be transferred temporarily to any state treatment facility for the mentally ill or for persons with developmental disabilities for purposes of diagnosis, evaluation, and emergency treatment; except that no juvenile may be transferred to a mental health facility until the juvenile has received a mental health prescreening resulting in a recommendation that the juvenile be placed in a facility for evaluation pursuant to section 27-10-105 or 27-10-106, C.R.S. No juvenile committed to the department as an aggravated juvenile offender or violent juvenile offender shall be transferred until the treatment facility has a secure setting in which to house the juvenile. The period of temporary transfer pursuant to this paragraph (a) shall not exceed sixty days.

(b) When a juvenile has remained in the treatment facility for sixty days, the treatment facility shall determine whether the juvenile requires further treatment or services, and, if so, the treatment facility shall confer with the sending facility concerning continued placement. If both facilities agree that the juvenile should remain in the treatment facility, the executive director of the department of human services shall be notified of the recommendation, and he OR SHE may authorize an additional sixty-day placement. When an additional placement is authorized, the court shall be notified of the transferred placement.

(c) During each subsequent sixty-day placement period, the juvenile shall be reevaluated by both the treatment facility and the sending facility to determine the need for continued transferred placement. The juvenile shall remain in transferred placement until the facilities agree that such placement is no longer appropriate. At that time the juvenile shall be transferred back to the sending facility or to any other facility ~~which~~ THAT the department determines to be appropriate. The period of placement shall not exceed the length of the original commitment to the department of human services unless authorized by the court after notice and a hearing.

(d) When a juvenile is in continued transferred placement and the treatment facility and the sending facility agree that the need for placement of the juvenile is likely to continue beyond the original period of commitment to the department of human services, the treatment facility shall initiate proceedings with the court having jurisdiction over the juvenile under article 10 of title 27, C.R.S., if the juvenile is mentally ill or under article 10.5 of title 27, C.R.S., if the juvenile has developmental disabilities.

~~(4) The department of human services shall not have the authority to place in a penal institution any juvenile committed under section 19-2-703.~~

**19-2-924. [Formerly 19-2-1607.] Juveniles committed to department of human services - emergency release.** The department of human services and the judicial department shall ~~cooperate to~~ establish guidelines for the emergency release of juveniles committed to the custody of the department of human services during periods of crisis overcrowding of facilities operated by such department. Such guidelines shall take into consideration the best interests of juveniles, the capacity of individual facilities, and the safety of the public. ~~Such guidelines shall be presented to the general assembly on or before December 1, 1991.~~

**19-2-925. [Formerly 19-2-705.] Probation - terms - release - revocation.**  
(1) The terms and conditions of probation shall be specified by rules or orders of the court. The court, as a condition of probation for a juvenile who is ~~twelve~~ TEN years of age or older but less than eighteen years of age on the date of the sentencing hearing, may impose a commitment or detention. The court, as a condition of probation for a juvenile eighteen years of age or older at the time of sentencing for delinquent acts committed prior to his OR HER eighteenth birthday, may impose a sentence to the county jail. The aggregate length of any such commitment, detention, or sentence, whether continuous or at designated intervals, shall not exceed forty-five days; except that such limit shall not apply to any placement out of the home through a county department of social services. Each juvenile placed on probation shall be given a written statement of the terms and conditions of his OR HER probation and shall have such terms and conditions fully explained to him OR HER.

(2) The court shall, as minimum conditions of probation, order that the juvenile:

(a) Not violate any federal or state statutes, municipal ordinances, or orders of the court;

(b) Not consume or possess any alcohol or use any controlled substance without a prescription;

(c) Not use or possess a firearm, a dangerous or illegal weapon, or an explosive or incendiary device, unless granted written permission by the court or probation officer;

(d) Attend school or an educational program or work regularly at suitable employment;

(e) Report to a probation officer at reasonable times as directed by the court or probation officer;

(f) Permit the probation officer to visit ~~him~~ THE JUVENILE at reasonable times at his OR HER home or elsewhere;

(g) Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer;

(h) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;

(i) Make restitution as ordered by the court;

(j) Pay the victim compensation fee as ordered by the court; and

(k) Pay the surcharge levied pursuant to section 24-4.2-104 (1) (a) (I), C.R.S.

(3) (a) The court ~~shall~~ MAY PERIODICALLY review the terms and conditions of probation and the progress of each juvenile placed on probation. ~~at least once every six months.~~ Counsel for the juvenile does not have to be present at ~~the~~ ANY PROBATION review hearing unless notified by the court that a petition to revoke probation has been filed.

(b) The court may release a juvenile from probation or modify the terms and conditions of his OR HER probation at any time, but any juvenile who has complied satisfactorily with the terms and conditions of his OR HER probation for a period of two years shall be released from probation, and the jurisdiction of the court shall be terminated.

(4) (a) When it is alleged that a juvenile has violated the terms and conditions of his OR HER probation, the court shall set a hearing on the alleged violation and shall give notice to the juvenile and his OR HER parents, guardian, or other legal custodian and any other parties to the proceeding as provided in section ~~19-2-306~~ 19-2-514.

(b) The juvenile and his OR HER parents, guardian, or other legal custodian shall be given a written statement concerning the alleged violation and shall have the right to be represented by counsel at the hearing and shall be entitled to the issuance of compulsory process for the attendance of witnesses.

(c) When the juvenile has been taken into custody because of the alleged violation, the provisions of sections ~~19-2-203 and 19-2-204~~ 19-2-507 AND 19-2-508 shall apply.

(d) (I) The hearing on the alleged violation shall be conducted as provided in section 19-1-106.

(II) Subject to the provisions of section ~~19-2-703~~ 19-2-907, if the court finds that the juvenile violated the terms and conditions of probation, it may modify the terms and conditions of probation, revoke probation, or take such other action permitted by this article ~~which~~ THAT is in the best interest of the juvenile and the public.

(III) If the court finds that the juvenile did not violate the terms and conditions of his OR HER probation as alleged, it shall dismiss the proceedings and continue the juvenile on probation under the terms and conditions previously prescribed.

(e) If the court revokes the probation of a person over eighteen years of age, in addition to other action permitted by this article, the court may sentence him OR HER to the county jail for a period not to exceed one hundred eighty days during which he OR SHE may be released during the day for school attendance, job training, or employment, as ordered by the court.

(5) FOLLOWING SPECIFICATION OF THE TERMS AND CONDITIONS OF PROBATION, WHERE THE CONDITIONS OF PROBATION INCLUDE REQUIRING THE JUVENILE TO ATTEND SCHOOL, THE COURT SHALL NOTIFY THE SCHOOL DISTRICT IN WHICH THE JUVENILE IS ENROLLED OF SUCH REQUIREMENT.

**19-2-926. [Formerly 19-2-1002.] Juvenile probation officers - powers and duties.** (1) Juvenile probation officers appointed under the provisions of ~~this part 10~~ SECTION 19-2-204 shall make such investigations and keep written records thereof as the court may direct.

(2) When any juvenile is placed on probation, the juvenile probation officer shall give the juvenile a written statement of the terms and conditions of his OR HER probation and shall explain fully such terms and conditions to him OR HER, unless such statement has been given him OR HER and explanation made by the court pursuant to section ~~19-2-705~~ 19-2-925.

(3) (a) Each juvenile probation officer shall keep ~~himself~~ informed as to the condition and conduct of each juvenile placed under his OR HER supervision and shall report thereon to the court as it may direct.

(b) ~~He~~ EACH JUVENILE PROBATION OFFICER shall use all suitable methods, including counseling, to aid each juvenile under his OR HER supervision and shall perform such other duties in connection with the care and custody of juveniles as the court may direct.

(c) ~~He~~ EACH JUVENILE PROBATION OFFICER shall keep complete records of all work done, as well as complete accounts of all money collected from those under supervision.

(4) Juvenile probation officers, for the purpose of performing their duties, shall have all the powers of peace officers, LEVEL III, AS DEFINED IN SECTION 18-1-901 (3) (I) (IV), C.R.S.

(5) (a) When a juvenile probation officer learns that a juvenile under his OR HER supervision has changed his OR HER residence to another county, temporarily or permanently, such officer shall immediately notify the court.

(b) If, after such notification, the court determines that it is in the best interest of the juvenile to transfer jurisdiction to the court in the county in which the juvenile resides or is to reside, the court shall immediately notify such court and shall enter an order transferring jurisdiction to such court. The court transferring jurisdiction pursuant to this paragraph (b) shall transmit all documents and legal and social records, or certified copies thereof, to the receiving court, together with the order transferring jurisdiction. The receiving court shall proceed with the case as if the petition had been originally filed in said court.

PART 10  
POSTSENTENCE

**19-2-1001. Short title.** THIS PART 10 SHALL BE KNOWN AND MAY BE CITED AS "POSTSENTENCE".

**19-2-1002. [Formerly 19-2-1202 and 19-2-1207.] Juvenile parole. (8)**  
(1) **Juvenile parole board - hearing panels authority.** THE JUVENILE PAROLE BOARD, REFERRED TO IN THIS PART 10 AS THE "BOARD", ESTABLISHED PURSUANT TO SECTION 19-2-206 IS AUTHORIZED TO GRANT, DENY, DEFER, SUSPEND, REVOKE, OR SPECIFY OR MODIFY THE CONDITIONS OF ANY PAROLE FOR ANY JUVENILE COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES AS PROVIDED IN SECTIONS 19-2-601 AND 19-2-907. The board may modify any of its decisions, or those of the hearing panel, except an order of discharge.

~~(6)~~ (2) The board or a hearing panel shall have subpoena power and the power to administer oaths to secure attendance and testimony at hearings before the board. All relevant records pertaining to the juvenile shall be made available to the board.

~~(2) Hearing panels consisting of two members of the parole board shall interview and review the record of each juvenile who comes before the board for the granting of parole. Whenever possible, one of the hearing panel members shall be a representative of an executive department, and the other shall be either a member from the public at large or the member who is the local elected official.~~

(3) HEARING PANELS CONSISTING OF TWO MEMBERS OF THE JUVENILE PAROLE BOARD SHALL INTERVIEW AND REVIEW THE RECORD OF EACH JUVENILE WHO COMES BEFORE THE BOARD FOR THE GRANTING OF PAROLE. WHENEVER POSSIBLE, ONE OF THE HEARING PANEL MEMBERS SHALL BE A REPRESENTATIVE OF AN EXECUTIVE DEPARTMENT, AND THE OTHER SHALL BE EITHER A MEMBER FROM THE PUBLIC AT LARGE OR THE MEMBER WHO IS THE LOCAL ELECTED OFFICIAL. A hearing panel ~~shall have the authority to~~ MAY grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole of a juvenile ~~committed to the department of human services pursuant to section 19-2-703 as~~ THAT are in the best interests of the juvenile and the public; except that:

(a) If the members of a hearing panel disagree, a review of that case shall be referred to the entire JUVENILE PAROLE board for review and a decision made by a

majority vote of the board;

(b) The hearing panel shall not have authority to grant parole to juveniles committed as violent juvenile offenders as ~~defined~~ DESCRIBED in section ~~19-2-803~~ 19-2-516 (3) or aggravated juvenile offenders as ~~defined~~ DESCRIBED in section ~~19-2-804~~ 19-2-516 (4). In such cases, the entire board shall conduct a hearing and make a decision by a majority vote of the board.

(c) If a written request is made by the juvenile, his OR HER parents, or his OR HER guardian, or the executive director of the department of human services or his OR HER designee, the board may review the case of any juvenile who has been interviewed by a hearing panel. If such a review is made, the board shall have the authority to affirm or reverse the decision of the hearing panel or to impose such additional conditions for parole as the board deems appropriate.

~~(9)~~ (4) The hearing panel shall be assisted in its duties by the juvenile parole board administrator appointed pursuant to section ~~19-2-1201~~ (6) 19-2-206 (6). Said administrator shall also arrange training for the members of the juvenile parole board in all aspects of the juvenile justice system. It shall be mandatory for members of the board to attend such training.

~~(4)~~ (5) If the hearing panel or the board determines that parole should be granted, the hearing panel shall establish as the length of the parole supervision a period of time equal to the duration of the juvenile's commitment OR ONE YEAR, WHICHEVER IS LONGER. However, the hearing panel may extend the period of parole supervision up to an additional ninety days if the hearing panel determines that it is in the best interests of the juvenile and the public to do so.

~~(5)~~ (6) If the hearing panel or the board determines that parole should be granted, the parolee shall be ordered to pay any unpaid restitution ~~which~~ THAT has previously been ordered as a condition of parole.

~~(5)~~ (7) **Notice.** The board, prior to consideration of the case of any juvenile for parole, shall notify the committing court, any affected juvenile community review board, the prosecuting attorney, and any victims of the juvenile's actions whose names and addresses have been provided by the district attorney of the time and place of the juvenile's hearing before the board or a hearing panel of the board. Such notice shall be given in order that the persons notified will have an opportunity to present written testimony to the hearing panel or the board. The board, in its sole discretion, may allow oral testimony at any hearing and has sole discretion regarding who may attend a juvenile parole hearing.

~~(10)~~ (8) **Representation of juvenile - parent.** The juvenile and his OR HER parents or guardian shall be informed that they may be represented by counsel in any hearing ~~for the~~ BEFORE THE BOARD OR A HEARING PANEL TO grant, ~~modification, or revocation of a~~ MODIFY, OR REVOKE parole. ~~before the board or a hearing panel.~~

~~(7)~~ (9) **Parole discharge.** The board may discharge a juvenile from parole AFTER THE JUVENILE HAS SERVED THE MANDATORY PAROLE PERIOD OF ONE YEAR BUT prior to the expiration of his OR HER period of parole supervision when it appears to the board that there is a reasonable probability that the juvenile will remain at liberty

without violating the law or when such juvenile is under the probation supervision of the district court, in the custody of the department of corrections, or otherwise not available to receive parole supervision.

**19-2-1003. [Formerly 19-2-1205.] Division of juvenile parole - powers - duties.** (1) Under the direction of the director of juvenile parole, the juvenile parole officer or officers in each district established under this ~~part 12~~ PART 10 shall supervise all juveniles living in the district who, having been committed to the department of human services, are on parole from one of its facilities.

(2) The juvenile parole officer shall give to each juvenile granted parole a written statement of the conditions of his OR HER parole, shall explain such conditions ~~to him~~ fully, and shall aid ~~him~~ THE JUVENILE to observe them. He OR SHE shall have periodic conferences with and reports from the juvenile. ~~He~~ THE JUVENILE PAROLE OFFICER may conduct such investigations or other activities as may be necessary to determine whether the conditions of parole are being met and to accomplish the rehabilitation of the juvenile.

(3) All juvenile parole officers shall have the powers of peace officers, LEVEL III, AS DEFINED IN SECTION 18-1-901 (3) (1) (IV), C.R.S., in performing the duties of their position.

**19-2-1004. [Formerly 19-2-1206 and 19-2-1203 (2).] Parole violation and revocation.** (1) The director of juvenile parole or any juvenile parole officer may arrest any parolee when:

(a) He OR SHE has a warrant commanding that such parolee be arrested; or

(b) He OR SHE has probable cause to believe that a warrant for the parolee's arrest has been issued in this state or another state for any criminal offense or for violation of a condition of parole; or

(c) Any offense under the laws of this state has been or is being committed by the parolee in his OR HER presence; or

(d) He OR SHE has probable cause to believe that a violation of law has been committed and that the parolee has committed such a violation; or

(e) He OR SHE has probable cause to believe that a condition of the juvenile's parole has been violated by the parolee and probable cause to believe that the parolee is leaving or about to leave the state, or that the parolee will fail or refuse to appear before the hearing panel to answer charges of violations of one or more conditions of parole, or that the arrest of the parolee is necessary to prevent physical harm to the parolee or another person or to prevent the violation of a law.

(2) When an alleged parole violator is taken into custody, the director of juvenile parole or the juvenile parole officer shall notify the parents, guardian, or legal custodian of the juvenile without unnecessary delay.

(3) When a juvenile parole officer has reasonable grounds to believe that a condition of parole has been violated by any parolee, he OR SHE may issue a summons

requiring the parolee to appear before the hearing panel at a specified time and place to answer charges of violation of one or more conditions of parole. Such summons, unless accompanied by a copy of a complaint filed before the hearing panel seeking revocation or suspension of parole or modification of parole conditions, shall contain a brief statement of the alleged parole violation and the date and place thereof. Failure of the parolee to appear before the hearing panel as required by such summons shall be deemed a violation of a condition of parole.

(4) If, rather than issuing a summons, a parole officer makes an arrest of a parolee with or without a warrant or takes custody of a parolee who has been arrested by another, the parole officer shall place the parolee in the nearest local juvenile detention facility or shelter care facility approved by the department of human services, if under eighteen years of age, or in the nearest county jail, if eighteen years of age or older. Within forty-eight hours, not including Saturdays, Sundays, and legal holidays, the parole officer shall take one of the following actions:

(a) Notify the juvenile parole board that the parolee has been arrested or taken into custody and request that a juvenile parole preliminary hearing be conducted by an administrative law judge; or

(b) Request a court to conduct a juvenile parole preliminary hearing as a part of a detention hearing conducted as described in section ~~19-2-203~~ 19-2-508, in which hearing the court shall make a finding as to whether there is probable cause to believe that the parolee has violated a condition of parole; or

(c) Obtain from the parolee a written agreement that the parolee waives his OR HER right to a juvenile parole preliminary hearing, which waiver shall also be signed by a parent or guardian of the parolee if the parolee is a ~~child~~ JUVENILE; or

(d) Release the parolee if he OR SHE is not subject to other actions ~~which~~ THAT require his OR HER further detention.

(5) An administrative law judge shall, upon the request of the juvenile parole board, conduct a preliminary hearing in a case in which a parole violation has been alleged, to determine whether there is probable cause to believe that a condition of parole has been violated by the parolee, as provided in ~~section 19-2-1206 (4)~~ SUBSECTION (4) OF THIS SECTION.

~~(4.5)~~ (6) Whenever an administrative law judge schedules a preliminary hearing pursuant to ~~section 19-2-1203 (2)~~ SUBSECTION (5) OF THIS SECTION, the juvenile parole officer shall notify the parolee and his OR HER parent, guardian, or legal custodian of the following information:

(a) The date, the time, and the place of the preliminary hearing and the name of the administrative law judge;

(b) That the purpose of the hearing will be to determine whether there is probable cause to believe that the parolee has violated his OR HER parole;

(c) That at the preliminary hearing the parolee will be permitted to present evidence, either oral or documentary, in person or by other witnesses, in defense of



any alleged parole violation;

(d) A statement of any alleged parole violation;

(e) A brief summary of the evidence tending to establish any alleged parole violation;

(f) That the parolee has the right to counsel at the preliminary hearing.

~~(4.6)~~ (7) At any preliminary hearing held pursuant to ~~section 19-2-1203 (2)~~ SUBSECTION (5) OF THIS SECTION, the administrative law judge shall hear such testimony as shall be offered and shall determine whether there is probable cause to believe that the parolee has violated his OR HER parole. If probable cause has not been shown, the administrative law judge shall order the release of the parolee and shall make a written report of his OR HER findings to the juvenile parole board within ten days of the hearing. If the administrative law judge finds that probable cause exists to believe that the parolee has violated his OR HER parole, he OR SHE shall order that the parolee be held to answer the charge before a hearing panel and shall order that the juvenile parole officer return the parolee without unnecessary delay to any of the juvenile corrections facilities of the department of human services pending a hearing before a hearing panel on the complaint for revocation, suspension, or modification of the juvenile's parole.

~~(5)~~ (8) Within ten working days after the finding of probable cause by the preliminary administrative law judge, the juvenile parole officer shall complete his OR HER investigation and either:

(a) File a complaint before the hearing panel in which the facts are alleged upon which a revocation of parole is sought; or

(b) Recommend to the director of the division of juvenile parole that the parolee, if detained, be released and the violation proceedings be dismissed. The director shall determine whether to cause the violation proceedings to be dismissed, and, if he OR SHE elects to cause dismissal, the parolee shall be released or notified that he OR SHE is relieved of obligation to appear before the hearing panel. In such event, the director shall give written notification to the board of his OR HER action.

~~(6)~~ (9) A complaint filed by a juvenile parole officer in which revocation of parole is sought shall contain the name of the parolee, shall identify the violation charged and the condition or conditions of parole alleged to have been violated, including the date and approximate location thereof, and shall be signed by the juvenile parole officer. A copy thereof shall be given to the parolee and his OR HER parents, guardian, or legal custodian at least five days before a hearing on the complaint is held before the hearing panel.

~~(7)~~ (10) The board may order the detention of any parolee for failure to appear as required by the summons issued under subsection (3) of this section.

~~(8)~~ (11) At least five days before the appearance of a parolee before the hearing panel, ~~he~~ THE PAROLEE and his OR HER parents, guardian, or legal custodian shall be advised in writing by the director of the division of juvenile parole of the nature of the

charges ~~which~~ THAT are alleged to justify revocation or suspension of his OR HER parole and the substance of the evidence sustaining the charges; he OR SHE shall be given a copy of the complaint unless he OR SHE has already received one; he OR SHE shall be informed of the consequences ~~which~~ THAT may follow in the event his OR HER parole is revoked; and he OR SHE shall be advised that, if the PAROLEE DENIES THE charges, ~~are denied by him~~, a hearing will be held before the hearing panel, that, at such hearing, he OR SHE may testify and present witnesses and documentary evidence in defense of the charges or in mitigation or explanation thereof, and that he OR SHE has the right to counsel at the hearing.

~~(9)~~ (12) At the hearing before the hearing panel, if the parolee denies the violation, the division of juvenile parole shall have the burden of establishing by a preponderance of the evidence the violation of a condition or conditions of parole. The hearing panel shall, when it appears that the alleged violation of conditions of parole consists of an offense with which the parolee is charged in a criminal case then pending, continue the parole violation hearing until the termination of such criminal proceeding. Any evidence having probative value shall be admissible regardless of its admissibility under exclusionary rules of evidence if the parolee is accorded a fair opportunity to rebut hearsay evidence. The parolee shall have the right to confront and to cross-examine adverse witnesses unless the administrative law judge specifically finds good cause for not allowing confrontation.

~~(10)~~ (13) If the hearing panel determines that a violation of a condition or conditions of parole has been committed, it shall hear further evidence related to the disposition of the parolee. At the conclusion of the hearing, the hearing panel shall advise the parties before it of its findings and recommendations and of their right to request a review before the board. Such review may be held if a written request is filed within ten days after the conclusion of the hearing before the hearing panel. If a review before the board is not requested or the right to review is waived, the findings and recommendations of the hearing panel, if unanimous, shall become the decision of the juvenile parole board unless the board on its own motion orders a review.

~~(11)~~ (14) The case of a juvenile alleged or found to have violated the conditions of his OR HER parole outside the state of Colorado shall be handled according to the provisions of the interstate compact on juveniles, part 7 of article 60 of title 24, C.R.S.

**SECTION 2.** 13-10-113 (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-10-113. Fines and penalties.** (5) Notwithstanding any other provision of law, a child, as defined in ~~section 19-1-103 (4)~~ SECTION 19-1-103 (18), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of human services or a temporary holding facility operated by or under contract with a municipal government ~~which~~ THAT shall receive and provide care for such child. A municipal court imposing penalties for violation

of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to ~~section 19-2-204~~, SECTION 19-2-508, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services. In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the municipal court has jurisdiction over the juvenile pursuant to ~~section 19-2-102~~ 19-2-104 (1) (a) (II), C.R.S., a municipal court does not have the authority to order a child under eighteen years of age to a juvenile detention facility operated or contracted by the department of human services.

**SECTION 3.** 16-10-109 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-10-109. Trial by jury for petty offenses.** (1) For the purposes of this section, "petty offense" means any crime or offense classified as a petty offense or, if not so classified, which is punishable by imprisonment other than in a correctional facility for not more than six months, or by a fine of not more than five hundred dollars, or by both such imprisonment and fine, and includes any violation of a municipal ordinance or offense which was not considered a crime at common law; except that violation of a municipal traffic ordinance which does not constitute a criminal offense or any other municipal charter or ordinance offense which is neither criminal nor punishable by imprisonment under any counterpart state statute shall not constitute a petty offense. No child under the age of eighteen years shall be entitled to a trial by jury for a violation of a municipal ordinance for which imprisonment in jail is not a possible penalty. ~~except that such a child is entitled to a trial by jury for any offense which would be a class 1 misdemeanor under a state counterpart statute.~~ Nothing in this subsection (1) shall prohibit a municipality from granting a right to trial by jury for ordinance violations.

**SECTION 4.** 16-11-301, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**16-11-301. Sentences - commitments - correctional facilities - county jail - age limit.** (4) WITH REGARD TO ANY JUVENILE SENTENCED TO THE DEPARTMENT OF CORRECTIONS, THE EXECUTIVE DIRECTOR SHALL CONSIDER THE JUVENILE'S SAFETY AND WELL-BEING IN DETERMINING THE FACILITY IN WHICH TO HOUSE THE JUVENILE, THE PERSONS WITH WHOM THE JUVENILE HAS CONTACT, AND THE ACTIVITIES IN WHICH THE JUVENILE ENGAGES.

**SECTION 5.** Part 1 of article 1 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-1-104.7. Management plan for housing of juveniles - report.** (1) THE GENERAL ASSEMBLY FINDS THAT JUVENILES WHO ARE SENTENCED TO THE DEPARTMENT OF CORRECTIONS MAY BE AT GREATER RISK OF HARM THAN ADULT INMATES WHEN INCARCERATED WITH THE ADULT PRISON POPULATION. THE GENERAL ASSEMBLY THEREFORE INSTRUCTS THE EXECUTIVE DIRECTOR TO DEVELOP A MANAGEMENT PLAN FOR HOUSING JUVENILE INMATES THAT WILL ENSURE THAT EACH JUVENILE INMATE IS SEGREGATED FROM THE ADULT PRISON POPULATION TO THE EXTENT NECESSARY TO PROTECT THE SAFETY OF THE JUVENILE INMATE AND THE SAFETY OF OTHERS. IN DEVELOPING THE PLAN, THE EXECUTIVE DIRECTOR SHALL

CONSIDER THE FOLLOWING FACTORS:

- (a) THE SAFETY OF EACH JUVENILE INMATE;
- (b) WHETHER THE JUVENILE INMATE IS LIKELY TO BE A DANGER TO OTHERS;
- (c) THE LEVEL OF OFFENSE COMMITTED BY EACH JUVENILE INMATE;
- (d) PROVISION OF APPROPRIATE SERVICES FOR EACH JUVENILE INMATE;
- (e) THE MATURITY OF EACH JUVENILE INMATE; AND
- (f) ANY OTHER FACTORS THAT ASSIST IN DETERMINING THE APPROPRIATE CIRCUMSTANCES UNDER WHICH TO HOUSE EACH JUVENILE INMATE.

(2) ON OR BEFORE JANUARY 1, 1998, THE EXECUTIVE DIRECTOR SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE, THE CAPITAL DEVELOPMENT COMMITTEE, THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, AND THE GOVERNOR THE MANAGEMENT PLAN FOR HOUSING JUVENILE INMATES. THE PLAN SHALL INCLUDE RECOMMENDATIONS FOR ANY LEGISLATION THAT MAY BE NECESSARY TO IMPLEMENT THE PLAN.

(3) FOR PURPOSES OF THIS SECTION, "JUVENILE INMATE" MEANS A PERSON LESS THAN EIGHTEEN YEARS OF AGE WHO IS SENTENCED TO THE DEPARTMENT OF CORRECTIONS.

**SECTION 6.** 27-1-104.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-1-104.5. Legislative review of facilities program plans for juvenile facilities.** (1) ~~When moneys are appropriated by the general assembly for the construction of a new juvenile facility or the construction of an addition to an existing juvenile facility, the department may not begin the actual construction of any facility until the facilities program plans have been reviewed by the capital development committee and the joint budget committee of the general assembly, acting as a joint committee. The general assembly may contract with a consultant to provide assistance to the joint committee in the review of facilities program plans submitted by the department. The joint committee's review of facilities program plans for a new juvenile facility shall include, but not be limited to, whether the facilities program plans allow for a subsequent addition to the facility. Within thirty days after the date of receipt of the facilities program plans from the department, the joint committee shall provide the department with comments and suggestions concerning the plans. If the joint committee does not provide the department with comments and suggestions within such thirty-day period, the department may proceed with the actual construction of the juvenile facility. The department shall submit monthly reports concerning each construction project until the project is completed. The information to be included in the report shall be determined by the department and the joint committee.~~ PRIOR TO ANY APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE CONSTRUCTION OF A NEW, EXPANDED, RENOVATED, OR IMPROVED JUVENILE FACILITY, AND NO LATER THAN NOVEMBER 1 PRIOR TO THE BEGINNING OF THE BUDGET YEAR FOR WHICH THE APPROPRIATION IS MADE, THE DEPARTMENT OF HUMAN SERVICES

SHALL SUBMIT A PROPOSED FACILITY PROGRAM PLAN FOR EACH PROPOSED NEW, EXPANDED, RENOVATED, OR IMPROVED JUVENILE FACILITY TO THE CAPITAL DEVELOPMENT COMMITTEE. THE CAPITAL DEVELOPMENT COMMITTEE SHALL MAKE A RECOMMENDATION REGARDING THE FACILITY PROGRAM PLAN TO THE JOINT BUDGET COMMITTEE. THE GENERAL ASSEMBLY MAY CONTRACT WITH A CONSULTANT TO PROVIDE ASSISTANCE TO THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE IN THE REVIEW OF FACILITIES PROGRAM PLANS SUBMITTED BY THE DEPARTMENT OF HUMAN SERVICES.

~~(2) At the department's request and with the concurrence of the joint budget committee, the capital development committee may, as to a specified portion of a construction project, waive the requirement that the department not begin construction of any facility until the facilities program plans for the facility have been reviewed by the joint committee. Such waiver shall not constitute a waiver of the joint committee's right to provide comments and suggestions concerning the specified portion of the project, either at the time of the waiver pursuant to this subsection (2) or at the time of the review of the entire project pursuant to subsection (1) of this section. FOR THE PURPOSES OF THIS SECTION, "FACILITY PROGRAM PLAN" MEANS A PRE-ARCHITECTURAL DESIGN PROGRAM, AS THAT TERM IS UNDERSTOOD IN THE ARCHITECTURAL PROFESSION. A FACILITY PROGRAM PLAN SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE NUMBER OF BEDS PROPOSED TO BE INCLUDED IN THE NEW JUVENILE FACILITY OR THE ADDITION TO AN EXISTING JUVENILE FACILITY, THE PRIMARY SECURITY LEVEL OF THE PROPOSED FACILITY OR ADDITION, THE STAFFING PLAN OF THE PROPOSED FACILITY OR ADDITION, AND A DESCRIPTION OF ANY EDUCATIONAL OR ANCILLARY SUPPORT FACILITIES REQUIRED FOR THE PROPOSED FACILITY OR ADDITION.~~

**SECTION 7.** 18-8-208, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-8-208. Escapes.** (10) ANY PERSON HELD IN A STAFF SECURE FACILITY, AS DEFINED IN SECTION 19-1-103 (101.5), C.R.S., SHALL BE DEEMED TO BE IN CUSTODY OR CONFINEMENT FOR PURPOSES OF THIS SECTION.

**SECTION 8.** 18-8-208.1, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-8-208.1. Attempt to escape.** (7) ANY PERSON HELD IN A STAFF SECURE FACILITY, AS DEFINED IN SECTION 19-1-103 (101.5), C.R.S., SHALL BE DEEMED TO BE IN CUSTODY OR CONFINEMENT FOR PURPOSES OF THIS SECTION.

**SECTION 9.** Article 32 of title 22, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**22-32-109.3. Board of education - specific duties - student records.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, EACH SCHOOL DISTRICT, AS REQUIRED UNDER SECTION 24-72-204 (3), C.R.S., SHALL MAINTAIN THE CONFIDENTIALITY OF THE ADDRESSES AND TELEPHONE NUMBERS OF STUDENTS ENROLLED IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS WITHIN THE SCHOOL DISTRICT AND ANY MEDICAL, PSYCHOLOGICAL, SOCIOLOGICAL, AND SCHOLASTIC ACHIEVEMENT DATA COLLECTED CONCERNING INDIVIDUAL STUDENTS.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE ADDRESS AND TELEPHONE NUMBER AND ANY MEDICAL, PSYCHOLOGICAL, SOCIOLOGICAL, AND SCHOLASTIC ACHIEVEMENT DATA CONCERNING ANY STUDENT SHALL BE RELEASED UNDER THE FOLLOWING CONDITIONS:

(a) AS PROVIDED IN SECTION 24-72-204 (3), C.R.S.;

(b) TO DISTRICT OR MUNICIPAL COURT PERSONNEL, THE DIVISION OF YOUTH CORRECTIONS, COUNTY DEPARTMENTS OF SOCIAL SERVICES, THE YOUTHFUL OFFENDER SYSTEM, AND ANY OTHER JUVENILE JUSTICE AGENCY WITHIN FIFTEEN DAYS AFTER RECEIPT BY THE SCHOOL DISTRICT OF A COURT ORDER AUTHORIZING RELEASE OF SUCH INFORMATION.

**SECTION 10.** 17-1-103 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**17-1-103. Duties of the executive director.** (1) The duties of the executive director shall be:

(n) TO CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES TO HOUSE IN A FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES ANY JUVENILE UNDER THE AGE OF FOURTEEN YEARS WHO IS SENTENCED AS AN ADULT TO THE DEPARTMENT OF CORRECTIONS AND TO PROVIDE SERVICES FOR THE JUVENILE, AS PROVIDED IN SECTION 19-2-518 (1) (e), C.R.S.

**SECTION 11.** Article 33 of title 22, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**22-33-107.5. Notice of failure to attend.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A SCHOOL DISTRICT SHALL NOTIFY THE APPROPRIATE JUVENILE COURT IF A STUDENT FAILS TO ATTEND ALL OR ANY PORTION OF A SCHOOL DAY, WHERE THE SCHOOL DISTRICT HAS RECEIVED NOTICE FROM THE JUVENILE COURT:

(a) PURSUANT TO SECTION 19-2-508 (3) (a) (VI), C.R.S., THAT THE STUDENT IS REQUIRED TO ATTEND SCHOOL AS A CONDITION OF RELEASE PENDING AN ADJUDICATORY TRIAL; OR

(b) PURSUANT TO SECTION 19-2-907 (4) OR 19-2-925 (5), C.R.S., THAT THE STUDENT IS REQUIRED TO ATTEND SCHOOL AS A CONDITION OF OR IN CONNECTION WITH ANY SENTENCE IMPOSED BY THE JUVENILE COURT.

(2) IF THE SCHOOL DISTRICT HAS NOTICE THAT A STUDENT WHO IS REQUIRED TO ATTEND SCHOOL AS A CONDITION OF RELEASE OR AS A CONDITION OF OR IN CONNECTION WITH ANY SENTENCE IMPOSED BY THE JUVENILE COURT HAS ENROLLED IN A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM, PURSUANT TO SECTION 22-33-104.5, OR IN AN INDEPENDENT OR PAROCHIAL SCHOOL, THE SCHOOL DISTRICT SHALL NOTIFY THE APPROPRIATE JUVENILE COURT AND SHALL NO LONGER BE REQUIRED TO NOTIFY THE JUVENILE COURT, PURSUANT TO SUBSECTION (1) OF THIS SECTION, IF THE STUDENT FAILS TO ATTEND.

**SECTION 12.** 19-1-103 (1) (b), (2), (12), (30), (36), (44), (45), (46), (47), (50), (52), (53), (61), (69), (82) (b), (83), (84), (88), (92), (95), (96), and (105), Colorado Revised Statutes, as amended by House Bill 96-1019, enacted at the Second Regular Session of the Sixtieth General Assembly, are amended, and the said 19-1-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**19-1-103. Definitions.** As used in this title or in the specified portion of this title, unless the context otherwise requires:

(1) (b) In all cases, those investigating reports of child abuse shall take into account accepted child-rearing practices of the culture in which the child participates. Nothing in this subsection (1) shall refer to acts that could be construed to be a reasonable exercise of parental discipline or to acts reasonably necessary to subdue a child being taken into custody pursuant to ~~section 19-2-201~~ SECTION 19-2-502 that are performed by a peace officer, level I, as defined in section 18-1-901 (3) (1), C.R.S., acting in the good faith performance of the officer's duties.

(2) ~~With respect to a juvenile who has been found guilty of a delinquent act and is a juvenile delinquent, "adjudication", as used in article 2 of this title, means conviction when a previous conviction must be pled and proved as an element of an offense.~~ "ADJUDICATION" MEANS A DETERMINATION BY THE COURT THAT IT HAS BEEN PROVEN BEYOND A REASONABLE DOUBT TO THE TRIER OF FACT THAT THE JUVENILE HAS COMMITTED A DELINQUENT ACT OR THAT A JUVENILE HAS PLED GUILTY TO COMMITTING A DELINQUENT ACT. IN ADDITION, WHEN A PREVIOUS CONVICTION MUST BE PLED AND PROVEN AS AN ELEMENT OF AN OFFENSE OR FOR PURPOSES OF SENTENCE ENHANCEMENT, "ADJUDICATION" MEANS CONVICTION.

(12) "Basic identification information", as used in article 2 of this title, means the name, ~~birth date~~, PLACE AND DATE OF BIRTH, last-known address, SOCIAL SECURITY NUMBER, OCCUPATION AND ADDRESS OF EMPLOYMENT, LAST SCHOOL ATTENDED, physical description, PHOTOGRAPH, HANDWRITTEN SIGNATURE, sex, ~~and~~ fingerprints, AND ANY KNOWN ALIASES of any person.

(30) "Cost of care", as used in ~~section 19-2-705.5~~ SECTION 19-2-114, means the cost to the department or the county charged with the custody of the juvenile for providing room, board, clothing, education, medical care, and other normal living expenses to a juvenile sentenced to a placement out of the home, as determined by the court.

(36) "Delinquent act", as used in article 2 of this title, means a violation of any statute, ordinance, or order enumerated in ~~section 19-2-102(1)(a)~~ SECTION 19-2-104 (1) (a). If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense shall be determined by the statute, ordinance, or order that the petition alleges was violated.

(40.5) "DETERMINATE PERIOD", AS USED IN ARTICLE 2 OF THIS TITLE, MEANS THAT THE DEPARTMENT OF HUMAN SERVICES MAY NOT TRANSFER LEGAL OR PHYSICAL CUSTODY OF A JUVENILE UNTIL THE JUVENILE HAS COMPLETED THE PERIOD OF COMMITMENT IMPOSED BY THE COURT, UNLESS OTHERWISE ORDERED BY THE COURT; EXCEPT THAT THE DEPARTMENT MAY RELEASE THE JUVENILE ON PAROLE PRIOR TO

COMPLETION OF THE DETERMINATE PERIOD, AS PROVIDED IN SECTION 19-2-1002.

(44) "Diversion" means a decision made by a person with authority or a delegate of that person that results in specific official action of the legal system not being taken in regard to a specific juvenile or child and in lieu thereof providing individually designed services by a specific program. The goal of diversion is to prevent further involvement of the juvenile or child in the formal legal system. Diversion of a juvenile or child may take place either at the prefiling level as an alternative to the filing of a petition pursuant to ~~section 19-2-304~~ SECTION 19-2-512 or at the postadjudication level as an adjunct to probation services following an adjudicatory hearing pursuant to section 19-3-505 or a disposition as a part of sentencing pursuant to ~~section 19-2-703~~ SECTION 19-2-907. "Services", as used in this subsection (44), includes but is not limited to diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, constructive recreational activities, general counseling and counseling during a crisis situation, and follow-up activities.

(45) ~~An~~ "Emancipated juvenile", as used in ~~section 19-2-210 (2)~~ SECTION 19-2-511, means a juvenile over fifteen years of age and under eighteen years of age who has, with the real or apparent assent of the juvenile's parents, demonstrated independence from the juvenile's parents in matters of care, custody, and earnings. The term may include, but shall not be limited to, any such juvenile who has the sole responsibility for the juvenile's own support, who is married, or who is in the military.

(46) ~~"Emancipated minor", as used in sections 19-1-114 and 19-2-306, has the same meaning as set forth in section 13-21-107.5, C.R.S.~~

(47) (a) "Estate", as used in ~~section 19-2-705.5~~ SECTION 19-2-114, means any tangible or intangible properties, real or personal, belonging to or due to a person, including income or payments to such person from previously earned salary or wages, bonuses, annuities, pensions, or retirement benefits, or any source whatsoever except federal benefits of any kind.

(b) (I) REAL PROPERTY THAT IS HELD IN JOINT OWNERSHIP OR OWNERSHIP IN COMMON WITH THE JUVENILE'S SPOUSE, WHILE BEING USED AND OCCUPIED BY THE SPOUSE AS A PLACE OF RESIDENCE, SHALL NOT BE CONSIDERED A PART OF THE ESTATE OF THE JUVENILE FOR THE PURPOSES OF SECTION 19-2-114.

(II) REAL PROPERTY THAT IS HELD BY THE JUVENILE'S PARENT, WHILE BEING USED AND OCCUPIED BY SUCH PARENT AS A PLACE OF RESIDENCE, SHALL NOT BE CONSIDERED A PART OF THE ESTATE OF THE PARENT FOR THE PURPOSES OF SECTION 19-2-114.

(50) ~~"Family development specialist", as used in section 19-2-705.6, has the same meaning as set forth in section 26-5.5-104 (4) (b), C.R.S.~~

(52) "Gang", as used in ~~sections 19-2-204 (4) (c) and 19-2-1111 (2) (d)~~ SECTIONS 19-2-205 AND 19-2-508, means a group of three or more individuals with a common interest, bond, or activity, characterized by criminal or delinquent conduct, engaged in either collectively or individually.



(53) "Good faith mistake", as used in ~~section 19-2-209~~ SECTION 19-2-803, means a reasonable error of judgment concerning the existence of facts or law that, if true, would be sufficient to constitute probable cause.

(61) "Habitual juvenile offender", as used in ~~section 19-2-805~~ SECTION 19-2-517, means a juvenile offender who has previously been twice adjudicated a juvenile delinquent for separate delinquent acts, arising out of separate and distinct criminal episodes, that constitute felonies.

(69) "Juvenile community review board", as used in ~~part 13 of~~ article 2 of this title, means any board appointed by a board of county commissioners for the purpose of reviewing community placements under ~~part 13 of~~ article 2 of this title. The board, if practicable, shall include but not be limited to a representative from a county department of social services, a local school district, a local law enforcement agency, a local probation department, a local bar association, the division of youth services CORRECTIONS, and private citizens.

(82)(b) "Parent", as used in sections 19-1-114, ~~19-2-306, and 19-2-307~~ 19-2-514, AND 19-2-515, includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or an adoptive parent. For the purposes of section 19-1-114, "parent" does not include a person whose parental rights have been terminated pursuant to the provisions of this title or the parent of an emancipated minor.

(83) "~~Peace officer~~", as used in ~~section 19-2-209~~, has the same meaning as set forth in ~~section 18-1-901 (3) (1)~~, C.R.S.

(84) "Physical custodian", as used in ~~section 19-2-210~~ SECTION 19-2-511, means a guardian, whether or not appointed by court order, with whom the juvenile has resided. ~~for more than six months, excluding an individual providing foster or institutional care.~~

(88) "~~Public employee~~", as used in the "~~Colorado Governmental Immunity Act~~", ~~article 10 of title 24, C.R.S.~~, does not include any juvenile ordered to participate in a work or community service program under ~~section 19-2-706~~.

(92) "Residential community placement", as used in ~~part 13 of~~ article 2 of this title, means any placement for residential purposes permitted under this title except in an institutional facility directly operated by, or a secure facility under contract with, the department of human services and except while a ~~child~~ JUVENILE is under the jurisdiction of the juvenile parole board.

(94.5) "SCREENING TEAM" MEANS THE PERSON OR PERSONS DESIGNATED, PURSUANT TO RULE 3.7 OF THE COLORADO RULES OF JUVENILE PROCEDURE, BY THE CHIEF JUDGE IN EACH JUDICIAL DISTRICT OR, FOR THE SECOND JUDICIAL DISTRICT, THE PRESIDING JUDGE OF THE DENVER JUVENILE COURT TO MAKE RECOMMENDATIONS TO THE JUVENILE COURT CONCERNING WHETHER A JUVENILE TAKEN INTO TEMPORARY CUSTODY SHOULD BE RELEASED OR ADMITTED TO A DETENTION OR SHELTER FACILITY PURSUANT TO SECTION 19-2-508.

(95) "Sentencing hearing", as used in article 2 of this title, means a hearing to

determine what sentence shall be imposed on a juvenile delinquent or what other order of disposition shall be made concerning a juvenile delinquent, INCLUDING COMMITMENT. Such hearing may be part of the proceeding that includes the adjudicatory trial, or it may be held at a time subsequent to the adjudicatory trial.

(96) "Services", as used in section 19-2-303, may include, but is not limited to, provision of diagnostic needs assessment, general counseling and counseling during a crisis situation, specialized tutoring, job training and placement, restitution programs, community service, constructive recreational activities, DAY REPORTING AND DAY TREATMENT PROGRAMS, and follow-up activities.

(101.5) "STAFF SECURE FACILITY" MEANS A GROUP FACILITY OR HOME AT WHICH EACH JUVENILE IS CONTINUOUSLY UNDER STAFF SUPERVISION AND AT WHICH ALL SERVICES, INCLUDING BUT NOT LIMITED TO EDUCATION AND TREATMENT, ARE PROVIDED ON SITE. A STAFF SECURE FACILITY MAY OR MAY NOT BE A LOCKED FACILITY.

(105) "Technical violation", as used in ~~section 19-2-209~~ SECTION 19-2-803, means a reasonable, good faith reliance upon a statute that is later ruled unconstitutional, a warrant that is later invalidated due to a good faith mistake, or a court precedent that is later overruled.

**SECTION 13.** 13-1-123.5, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-1-123.5. Transfer of venue - actions involving related persons.** In addition to the authority to change venue granted by sections ~~19-2-103~~ 19-2-105 and 19-3-201, C.R.S., for good cause shown, a court, on its own motion, on the motion of another court in this state, or on the motion of a party or guardian ad litem, may order the transfer of a pending action brought under title 14 or title 19, C.R.S., or rule 365 of the Colorado rules of county court civil procedure to a court in another county when there is an action pending in the other county that names the parent, guardian, or legal custodian of a child who is the subject of the action brought under title 14 or title 19, C.R.S. The county to which the action is being transferred must be one in which venue is proper. Upon an order for such transfer, the transferring court shall notify all parties of the transfer and transmit all documents to the receiving court. The transferred action shall continue in the court to which it is transferred with the same force and effect as though originally docketed in the receiving court.

**SECTION 14.** 13-8-103, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-8-103. Jurisdiction.** The jurisdiction of the juvenile court of the city and county of Denver is as set forth in sections 19-1-104, ~~19-2-102~~ 19-2-104, and 19-4-109, C.R.S., for juvenile courts, as defined in section ~~19-1-103 (17)~~ 19-1-103 (70), C.R.S.

**SECTION 15.** 13-8-119, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**13-8-119. Venue.** Venue in the juvenile court shall be as provided in sections

~~19-2-103~~ 19-2-105, 19-3-201, 19-4-109, 19-5-102, 19-5-204, and 19-6-102, C.R.S.

**SECTION 16.** 13-10-103, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-10-103. Applicability.** This article shall apply to and govern the operation of municipal courts in the cities and towns of this state. Except for the provisions relating to the method of salary payment for municipal judges, the incarceration of children provided for in sections ~~19-2-204 and 19-2-1115~~ 19-2-402 AND 19-2-508, C.R.S., the appearance of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense as required by section 13-10-111, the right to a trial by jury for petty offenses provided for in section 16-10-109, C.R.S., rules of procedure promulgated by the supreme court, and appellate procedure, this article may be superseded by charter or ordinance enacted by a home rule city.

**SECTION 17.** 14-4-102 (14), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**14-4-102. Restraining orders to prevent domestic abuse.** (14) This section shall not apply to any claim of domestic abuse against a juvenile. Such claims shall be addressed by the juvenile court pursuant to section ~~19-2-403~~ 19-2-707, C.R.S.

**SECTION 18.** 16-11-101 (1) (i) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11-101. Alternatives in sentencing - repeal.** (1) Within the limitations of the penalties provided by the classification of the offense of which a person is found guilty, and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(i) (I) If the defendant is eligible pursuant to section ~~19-2-805 (2)~~ 19-2-517 (3), C.R.S., the defendant may be sentenced to the youthful offender system in accordance with section 16-11-311.

**SECTION 19.** 16-11-302.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-11-302.5. Duration of sentences for misdemeanors.** Courts sentencing any person for the commission of a misdemeanor to the custody of the executive director of the department of corrections shall not fix a minimum term but may fix a maximum term less than the maximum provided by law for the offense. The persons so sentenced shall be imprisoned, released under parole, and discharged as provided by other applicable statutes. No person sentenced to a correctional facility for the commission of a misdemeanor shall be subjected to imprisonment for a term exceeding the maximum term provided by the statute fixing the maximum length of the sentence for the crime of which he OR SHE was convicted and for which he OR SHE was sentenced. A person sentenced to a term of imprisonment for the commission of a misdemeanor shall be entitled to the same time credits as if he OR SHE were sentenced to a term of imprisonment for the commission of a felony. No person committed as a JUVENILE delinquent ~~child~~ shall be imprisoned for a term exceeding

two years, except as otherwise provided for aggravated juvenile offenders in section ~~19-2-804~~ 19-2-601, C.R.S.

**SECTION 20.** 16-11-311 (1) (b) and (2) (a) (I), the introductory portion to 16-11-311 (2.1) (a), and 16-11-311 (10) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**16-11-311. Sentences - youthful offenders - legislative declaration - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections - repeal.** (1) (b) It is the further intent of the general assembly in enacting this section that female and male offenders for whom charges have been directly filed in the district court and who have been convicted in the district court receive equitable treatment in sentencing, particularly in regard to the option of being sentenced to the youthful offender system pursuant to section ~~19-2-805 (2)~~ 19-2-517 (3), C.R.S. Accordingly, it is the general assembly's intent that necessary measures be taken by the department of corrections to establish separate housing for female and male offenders who are sentenced to the youthful offender system without compromising the equitable treatment of either.

(2) (a) (I) A juvenile may be sentenced to the youthful offender system created pursuant to this section under the circumstances set forth in section ~~19-2-805 (2) (b)~~ ~~(19-2-517 (3) (a) (II))~~, C.R.S. In order to sentence a person to the youthful offender system, the court shall first impose upon such person a sentence to the department of corrections in accordance with section 18-1-105, C.R.S. The court shall thereafter suspend such sentence conditioned on completion of a sentence to the youthful offender system, including a period of community supervision. The court shall impose any such sentence to the youthful offender system for a determinate period of not less than two years nor more than six years, with authority granted to the department of corrections to place a youthful offender under a period of community supervision for a period of no less than six months and up to twelve months any time after the date on which the youthful offender has twelve months remaining to complete the determinate sentence. The court is encouraged to have a presentence investigation conducted before sentencing a juvenile pursuant to this section.

(2.1) (a) As originally enacted, this section applied only to offenses committed by juveniles on or after September 13, 1993. For purposes of extending the availability of sentencing options, a juvenile who meets the criteria set forth in section ~~19-2-805 (2) (b)~~ ~~(19-2-517 (3) (a) (II))~~, C.R.S., may be sentenced to the youthful offender system pursuant to this section, under the following circumstances:

(10) (d) On or after January 1, 1995, the department of corrections shall submit a report to the general assembly and the joint budget committee concerning the number of offenders entering the youthful offender system as habitual juvenile offenders, as defined in section ~~19-2-805 (1) (a) (V)~~ 19-1-103 (61), C.R.S., including a summary of the criminal history of each offender, and update the general assembly and the joint budget committee annually on the number of habitual juvenile offenders entering the youthful offender system and on the number of offenders of all types who have completed the youthful offender system and have reoffended.

**SECTION 21.** 17-26-121, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-26-121. Juveniles - confinement - when.** No jail shall receive a juvenile prisoner for confinement unless THE JUVENILE HAS BEEN CHARGED BY THE DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO SECTION 19-2-517, C.R.S., OR the juvenile has been ordered by the court to be held for criminal proceedings pursuant to section ~~19-2-806 (1)~~ 19-2-518 (1), C.R.S. ~~or the court has determined that the juvenile is an escape risk.~~

**SECTION 22.** 17-27-105 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-27-105. Authority to place offenders in community corrections programs.** (1) (a) Any judge of a district court may refer any offender convicted of a felony to a community corrections program unless such offender is required to be sentenced pursuant to section 16-11-309 (1), C.R.S. If an offender who is sentenced pursuant to section 16-11-309 (1), C.R.S., has such sentence modified upon the finding of unusual and extenuating circumstances pursuant to such section, such offender may be referred to a community corrections program if such offender is otherwise eligible for such program and is approved for placement pursuant to section 17-27-103 (5) and section 17-27-104 (3). For the purposes of this article, persons sentenced pursuant to the provisions of ~~section 19-2-703 (1) (e), C.R.S., section 19-2-801 (2) (a), C.R.S., and section 19-2-803 (2) (b), C.R.S.~~ SECTIONS 19-2-908 (1) (a) (I) and (1) (c) (I) (B) AND 19-2-910 (2), C.R.S., shall be deemed to be offenders.

**SECTION 23.** 17-31-102 (3) (c), (3) (d), and (3) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**17-31-102. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Institution" means any of the following:

(c) A halfway house, as that term is defined in section ~~19-2-101 (6)~~ 19-1-103 (62), C.R.S.;

(d) A diagnostic and evaluation center, as that term is defined in section ~~19-2-101 (5)~~ 19-1-103 (41), C.R.S.;

(e) A receiving center, as that term is defined in section ~~19-2-101 (9)~~ 19-1-103 (90), C.R.S.;

**SECTION 24.** 18-1-901 (3) (I) (IV), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-1-901. Definitions.** (3) (I) (IV) "Peace officer, level III," means a chief security officer for the general assembly pursuant to section 2-2-402, C.R.S., a coroner, the commissioner of agriculture or his OR HER designee acting under the "Farm Products Act" or the "Commodity Warehouse HANDLER Act" pursuant to sections 12-16-114 and 12-16-210, C.R.S., under the "Animal Protection Act" pursuant to section 35-42-107 (4), C.R.S., or under the "Pet Animal Care and Facilities Act" pursuant to section 35-80-109 (6), C.R.S., ~~a~~ AN ADULT probation officer, a juvenile probation officer pursuant to ~~section 19-2-1002~~; SECTION

19-2-926, C.R.S., a brand inspector pursuant to section 35-53-128, C.R.S., an employee of a district attorney's office assigned to administer an offender diversion program, a student loan investigator, an officer or member of the Colorado national guard while acting under call of the governor in cases of emergency or civil disorder, a member of the public utilities commission, an investigator for the division of racing events pursuant to section 12-60-203, C.R.S., port of entry personnel acting as peace officers pursuant to section 42-8-104, C.R.S., toll road owners acting as peace officers under section 43-3-304, C.R.S., or any other person designated as a peace officer unless otherwise specified in this section as a level I, level Ia, level II, or level IIIa peace officer. "Peace officer, level III," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his OR HER authority and in the performance of his OR HER duties.

**SECTION 25.** 18-3-412.5 (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (8) The provisions of this section shall apply to any person adjudicated as a juvenile based on the commission of any act described in subsection (1) of this section; except that, with respect to paragraphs (a) to (c) of subsection (7) of this section, a person may petition the court for an order to discontinue the duty to register as provided in those paragraphs but only if the person has not subsequently been adjudicated as a juvenile or convicted of any offense involving unlawful sexual behavior. In addition, the duty to provide notice to an offender of the duty to register, as set forth in subsection (2) of this section, shall apply to juvenile parole and probation officers and appropriate personnel of the division of youth ~~services~~ CORRECTIONS in the department of human services.

**SECTION 26.** 18-6-803.5 (1.5) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-6-803.5. Crime of violation of a restraining order - penalty - peace officers' duties.** (1.5) As used in this section:

(d) "Restraining order" means any order ~~which~~ THAT prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, ~~which~~ THAT is issued by a court of this state or a municipal court, and ~~which~~ THAT is issued pursuant to section 13-6-107, C.R.S., sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., section 18-1-1001, section ~~19-2-403~~ 19-2-707, C.R.S., section 19-3-316, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure, an order issued as part of the proceedings concerning a criminal municipal ordinance violation, or any other order of a court ~~which~~ THAT prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises. For purposes of this section only, "restraining order" includes any order ~~which~~ THAT amends, modifies, supplements, or supersedes the initial restraining order.

**SECTION 27.** 18-6-803.7 (1) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-6-803.7. Central registry of restraining orders - creation.** (1) As used in this section:

(e) "Restraining order" means any order ~~which~~ THAT prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, ~~which~~ THAT is issued by a court of this state or an authorized municipal court, and ~~which~~ THAT is issued pursuant to section 13-6-107, C.R.S., sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., section 18-1-1001, section ~~19-2-403~~ 19-2-707, C.R.S., section 19-3-316, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure or an order issued as part of the proceedings concerning a criminal municipal ordinance violation.

**SECTION 28.** 18-12-108.5 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-12-108.5. Possession of handguns by juveniles - prohibited - exceptions - penalty.** (1) (d) Any person under the age of eighteen years who is taken into custody by a law enforcement officer for an offense pursuant to this section shall be taken into temporary custody in the manner described in ~~part 2 of article 2 of title 19~~ SECTION 19-2-508, C.R.S.

**SECTION 29.** 18-18-412 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-18-412. Abusing toxic vapors - prohibited.** (5) Any juvenile charged with an offense pursuant to this section shall be subject to the jurisdiction of the juvenile court pursuant to section ~~19-2-102~~ 19-2-104, C.R.S.

**SECTION 30.** 18-22-103 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-22-103. Source of revenues - allocation of moneys.** (3) There is hereby created in the state treasury a youthful offender system surcharge fund which shall consist of moneys received by the state treasurer pursuant to paragraph (b) of subsection (2) of this section. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the youthful offender system surcharge fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. ~~In the event a youthful offender system is created pursuant to a bill introduced at the first extraordinary session of the fifty-ninth general assembly which is enacted and becomes law, All moneys in the fund shall be subject to annual appropriation by the general assembly to the department of corrections to cover the direct and indirect costs associated with the rehabilitation, education, and treatment of youthful offenders sentenced to a youthful offender system. In the event a youthful offender system is not created pursuant to a bill introduced at the first extraordinary session of the fifty-ninth~~

~~general assembly which is enacted and becomes law, then all moneys in the fund shall be subject to annual appropriation by the general assembly to the division of youth services in the department of human services to cover the direct and indirect costs associated with the rehabilitation, education, and treatment of juvenile offenders committed to the department of human services.~~

**SECTION 31.** 22-33-108 (7), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**22-33-108. Judicial proceedings.** (7) If the child does not comply with the court order, the court may order that an investigation be conducted as provided in section ~~19-2-301 (2)~~ 19-2-510 (2), C.R.S., and the court may order the child to show cause why he OR SHE should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan ~~which~~ THAT may include, but not be limited to, community service to be performed by the child, supervised activities, and other activities having goals ~~which~~ THAT shall ensure that the child has an opportunity to obtain a quality education. The court may not impose any sanction of incarceration to a jail, lockup, other place used for the confinement of adult offenders, or any juvenile detention facility operated by or under contract with the department of human services.

**SECTION 32.** 24-1-120 (6) (b) and (6) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-1-120 (6) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**24-1-120. Department of human services - creation.** (6) The department shall consist of the following divisions:

(b) The division of juvenile parole, created ~~by part 12 of article 2 of title 19~~ PURSUANT TO SECTION 19-2-209, C.R.S. The division of juvenile parole and the office of the director of juvenile parole and their powers, duties, and functions are transferred by a **type 2** transfer to the department of human services.

(c) The juvenile parole board, created ~~by part 12 of article 2 of title 19~~ PURSUANT TO SECTION 19-2-206, C.R.S. The juvenile parole board and its powers, duties, and functions are transferred by a **type 1** transfer to the department of human services as a division thereof.

(e) THE DIVISION OF YOUTH CORRECTIONS, CREATED PURSUANT TO SECTION 19-2-203, C.R.S. THE DIVISION OF YOUTH CORRECTIONS AND THE OFFICE OF THE DIRECTOR OF THE DIVISION OF YOUTH CORRECTIONS AND THEIR POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF HUMAN SERVICES AS A DIVISION THEREOF.

**SECTION 33.** 24-1.7-107 (2) (a) (II) (B), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-1.7-107. Benchmarks for restructuring - savings.** (2) On or before July 30, 1995, the departments of human services and health care policy and financing shall provide evidence to the joint budget committee and the general assembly that the departments will accomplish, in fiscal year 1995-96, a total reduction of two million



five hundred thousand dollars from their fiscal year 1994-95 budgets as a result of restructuring. As an ongoing update of the progress made toward this goal, the departments shall complete the following:

(a) On or before January 1, 1995, the department of human services shall provide a report to the general assembly specifically setting forth the progress of the department and recommending legislation for implementation as necessary in each of the following areas:

(II) Coordinating and simplifying programs and services, including, but not limited to, the following:

(B) Coordinating and unifying rate settings throughout the department, including, but not limited to, rate settings in the division of child welfare and the division of youth ~~services~~ CORRECTIONS;

**SECTION 34.** 24-1.7-404 (1) (h), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-1.7-404. Local planning committees - creation.** (1) Each local planning committee shall be composed of the following:

(h) One representative of the division of youth ~~services~~ CORRECTIONS serving the local planning area;

**SECTION 35.** 24-4.1-119 (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-4.1-119. Costs levied on criminal actions and traffic offenses.** (1) (d) A cost, in an amount determined pursuant to paragraph (a) of this subsection (1), is hereby levied on every action upon the filing of a petition alleging a child is delinquent which results in a finding of guilty pursuant to ~~part 5~~ PART 8 of article 2 of title 19, C.R.S., or a deferral of adjudication pursuant to section ~~19-2-702~~ 19-2-709, C.R.S. This cost shall be paid to the clerk of the court, who shall deposit THE same in the ~~victim-compensation~~ fund established in section 24-4.1-117.

**SECTION 36.** 24-4.2-104 (1) (a) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-4.2-104. Surcharges levied on criminal actions and traffic offenses.** (1) (a) (I) A surcharge equal to thirty-seven percent of the fine imposed for each felony, misdemeanor, or class 1 or class 2 misdemeanor traffic offense, or a surcharge of one hundred twenty-five dollars for felonies, sixty dollars for misdemeanors, thirty-five dollars for class 1 misdemeanor traffic offenses, and twenty-five dollars for class 2 misdemeanor traffic offenses, whichever amount is greater, except as otherwise provided in paragraph (b) of this subsection (1), is hereby levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided in section 16-7-403, C.R.S., which criminal action is charged pursuant to state statute, or upon each petition alleging that a child is delinquent ~~which~~ THAT results in a finding of guilty pursuant to ~~part 5~~ PART 8 of article 2 of title 19, C.R.S., or a deferral of adjudication pursuant to section ~~19-2-702~~ 19-2-709, C.R.S. These

surcharges shall be paid to the clerk of the court by the defendant. Each clerk shall transmit the moneys to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

**SECTION 37.** 25-1-107 (1) (ee) (II.5) (B), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-107. Powers and duties of the department - repeal.** (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(ee) (II.5) For purposes of this paragraph (ee), "facility" means:

(B) Institutions for juveniles provided for in ~~part 11~~ PART 4 of article 2 of title 19, C.R.S.;

**SECTION 38.** 25-1-201 (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-201. Definitions.** As used in this part 2, unless the context otherwise requires:

(4) "Public program" means a program concerning the problems of alcohol or drug abuse sponsored by a local or regional health department, county department of social services, court, probation department, law enforcement agency, school, school system, board of cooperative services, Indian tribal reservation, or state agency. "Public program" includes any alcohol or drug abuse treatment program required as a condition of probation under part 2 of article 11 of title 16, C.R.S., any alcohol or drug abuse program administered by the division of adult services under article 2 of title 17, C.R.S., any community correctional facility or program administered under article 27 of title 17, C.R.S., and any alcohol or drug abuse treatment program administered by the division of youth ~~services~~ CORRECTIONS under title 19, C.R.S.

**SECTION 39.** 25-1-207 (1) (d), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**25-1-207. Rules and regulations.** (1) The department has the power to promulgate rules and regulations governing the provisions of this part 2. Such rules and regulations may include, but shall not be limited to:

(d) Standards ~~which~~ THAT must be met by alcohol and drug abuse counselors to participate in public programs or to provide purchased services and certification requirements therefor. In addition to alcohol and drug abuse counselors specifically authorized to be certified for approved programs pursuant to this part 2, the department may certify alcohol and drug abuse counselors, upon individual application, in any alcohol or drug abuse treatment program required as a condition of probation under part 2 of article 11 of title 16, C.R.S., any alcohol or drug abuse program administered by the division of adult services under article 2 of title 17, C.R.S., any community correctional facility or program administered under article 27 of title 17, C.R.S., and any alcohol or drug abuse treatment program administered by

the division of youth ~~services~~ CORRECTIONS under title 19, C.R.S.

**SECTION 40.** 26-5-101 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**26-5-101. Definition.** As used in this article, unless the context otherwise requires:

(1) "Child welfare services" means the provision of necessary shelter, sustenance, and guidance to or for children who are or who, if such services are not provided, are likely to become juvenile delinquents, as defined in section ~~19-2-101~~ 19-1-103 (71), C.R.S., or neglected or dependent, as defined in section 19-3-102, C.R.S.

**SECTION 41.** 26-5-104 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-5-104. Reimbursement to counties.** (2) The fiscal year beginning July 1, 1990, shall constitute the base fiscal year for the purpose of computing a base amount of parental fee collections by each county on behalf of children in foster care. Commencing with the fiscal year beginning July 1, 1991, any increased amount of parental fees over and above the base amount shall be retained by the county ~~which~~ THAT collected such parental fees. Any moneys retained by each county pursuant to this subsection (2) may be used for child welfare services directed toward early intervention, placement prevention, and family preservation, or any other program ~~authorized under part 16 of article 2 of title 19~~ FUNDED PURSUANT TO SECTIONS 19-2-211, 19-2-212, AND 19-2-310, C.R.S.

**SECTION 42.** 26-6-102 (9), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**26-6-102. Definitions.** As used in this article, unless the context otherwise requires:

(9) "Secure residential treatment center" means a facility operated under private ownership ~~which~~ THAT is licensed by the state department pursuant to this article to provide twenty-four-hour group care and treatment in a secure setting for five or more children or persons up to the age of twenty-one years over whom the juvenile court retains jurisdiction pursuant to section ~~19-2-102 (5)~~ 19-2-104 (6), C.R.S., who are committed by a court pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act ~~which~~ THAT would be a crime if committed in Colorado, or in the committing jurisdiction, to be placed in a secure facility.

**SECTION 43.** 27-1-103 (1) (g) and (1) (h), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

**27-1-103. Duties of executive director - governor acquire water rights.**

(1) The duties of the executive director of the department of human services shall be:

(g) To examine and evaluate each child committed to the department and to place each child so committed as provided in section ~~19-2-1103~~ 19-2-922, C.R.S.;

(h) To transfer between appropriate state institutions children committed to the department as provided in section ~~19-2-1104~~ 19-2-923, C.R.S.;

**SECTION 44.** 27-1-109, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

**27-1-109. Rules and regulations.** Pursuant to section 24-4-103, C.R.S., the executive director of the department of human services shall promulgate such rules and regulations as are necessary to implement the provisions of this part 1 and the procedures specified in sections ~~19-2-204, 19-2-701, 19-2-1103, 19-2-1104,~~ 19-2-508, 19-2-906, 19-2-922, 19-2-923, 19-3-403, 19-3-506, 19-3-507, and 19-3-508, C.R.S., regarding children who are in detention or who are or may be mentally ill or who have or may have developmental disabilities.

**SECTION 45.** 27-12-101 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**27-12-101. Liability.** (2) The provisions of this article shall apply also to those persons received under the provisions of article 8 of title 16 and sections 16-13-216, ~~19-2-1103, and 19-2-1104~~ 19-2-922, AND 19-2-923, C.R.S., but not by way of exclusion.

**SECTION 46.** 42-4-1706 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-4-1706. Juveniles - convicted - arrested and incarcerated - provisions for confinement.** (1) Notwithstanding any other provision of law, a child, as defined in section ~~19-1-103 (4)~~ 19-1-103 (18), C.R.S., convicted of a misdemeanor traffic offense under this article, violating the conditions of probation imposed under this article, or found in contempt of court in connection with a violation or alleged violation under this article shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders if the court with jurisdiction is located in a county in which there is a juvenile detention facility operated by or under contract with the department of human services ~~which~~ THAT shall receive and provide care for such child or if the jail is located within forty miles of such facility. The court imposing penalties under this section may confine a child for a determinate period of time in a juvenile detention facility operated by or under contract with the department of human services. If a juvenile detention facility operated by or under contract with the department of human services is not located within the county or within forty miles of the jail, a child may be confined for up to forty-eight hours in a jail pursuant to section ~~19-2-204 (4)~~ 19-2-508 (4), C.R.S.

**SECTION 47.** Part 11 of article 2 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**19-2-1101.5. Legislative declaration - eminent domain - detention facility site.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE JUVENILE DETENTION FACILITIES CURRENTLY LOCATED WITHIN THE CITY AND COUNTY OF DENVER ARE INADEQUATE TO HOUSE THE DRAMATICALLY

INCREASING NUMBER OF JUVENILES BEING HELD IN DETENTION BY OR COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES AND THIS INADEQUACY POSES A SERIOUS AND IMMEDIATE THREAT TO PUBLIC SAFETY;

(b) DURING THE 1994 LEGISLATIVE SESSION, THE GENERAL ASSEMBLY ATTEMPTED TO ADDRESS THIS SITUATION BY APPROPRIATING ADDITIONAL STATE MONEYS FOR A NEW SIXTY-BED JUVENILE DETENTION FACILITY TO BE LOCATED IN THE CITY AND COUNTY OF DENVER;

(c) ALTHOUGH THE CITY AND COUNTY OF DENVER WAS TO SELECT A PROPOSED SITE FOR THIS JUVENILE DETENTION FACILITY, THE CITY AND COUNTY OF DENVER HAD REFUSED TO DO SO UNTIL JUST RECENTLY;

(d) DUE TO NUMEROUS FACTORS, THE TWO PROPOSED SITES THAT THE CITY AND COUNTY OF DENVER FINALLY RECOMMENDED ARE NOT SUITABLE FOR A JUVENILE DETENTION FACILITY;

(e) DUE TO DENVER'S DELAYS AND REFUSAL TO RECOMMEND A SUITABLE SITE, THE SITUATION REGARDING THE NUMBER OF JUVENILE DETENTION BEDS LOCATED IN THE CITY AND COUNTY OF DENVER HAS REACHED A CRITICAL POINT AND IT HAS BECOME NECESSARY FOR THE STATE OF COLORADO TO TAKE ACTION IN ORDER TO ADDRESS THIS SITUATION;

(f) GRANTING THE DEPARTMENT OF HUMAN SERVICES THE POWER OF EMINENT DOMAIN TO ACQUIRE PRIVATE OR PUBLIC PROPERTY FOR JUVENILE DETENTION FACILITIES IN THE CITY AND COUNTY OF DENVER IS REASONABLY RELATED TO THE LEGITIMATE STATE INTEREST OF PROVIDING A SUFFICIENT NUMBER OF JUVENILE DETENTION BEDS WITHIN THE CITY AND COUNTY OF DENVER SO THAT THE DEPARTMENT CAN ADEQUATELY HOUSE THE NUMBER OF JUVENILES HELD IN DETENTION OR COMMITTED TO THE DEPARTMENT'S CUSTODY; AND

(g) A GENERAL LAW CANNOT BE MADE APPLICABLE TO ADDRESS THE PROVISION OF JUVENILE DETENTION FACILITY BEDS WITHIN THE CITY AND COUNTY OF DENVER.

(2) (a) ON OR BEFORE SEPTEMBER 1, 1996, THE DEPARTMENT OF HUMAN SERVICES SHALL SELECT THREE SITES LOCATED WITHIN THE DENVER METROPOLITAN AREA THAT WOULD BE SUITABLE FOR THE ESTABLISHMENT OF ONE OR MORE JUVENILE DETENTION FACILITIES. THE DEPARTMENT SHALL RECOMMEND SAID SITES TO THE CAPITAL DEVELOPMENT COMMITTEE, AND THE COMMITTEE SHALL RECOMMEND SAID SITES TO THE CITY AND COUNTY OF DENVER AS SUGGESTED LOCATIONS FOR A JUVENILE DETENTION FACILITY.

(b) IF THE CITY AND COUNTY OF DENVER FAILS TO ACQUIRE ONE OF THE SITES RECOMMENDED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) BY JANUARY 1, 1997, SUBJECT TO THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT OF HUMAN SERVICES HAS THE RIGHT TO ACQUIRE BY EMINENT DOMAIN ANY REAL PROPERTY THAT IS INCLUDED WITHIN THE DENVER METROPOLITAN AREA THAT IS NECESSARY FOR THE ESTABLISHMENT OF ONE OR MORE JUVENILE DETENTION FACILITIES. SUCH REAL PROPERTY SHALL BE ACQUIRED IN ACCORDANCE WITH ARTICLES 1 TO 7 OF TITLE 38, C.R.S.

(c) ANY REAL PROPERTY SPECIFIED IN THIS SUBSECTION (2) THAT IS ALREADY DEVOTED TO A PUBLIC USE MAY BE ACQUIRED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO THIS SECTION; EXCEPT THAT NO PROPERTY OWNED BY THE FEDERAL GOVERNMENT MAY BE ACQUIRED WITHOUT THE CONSENT OF THE FEDERAL GOVERNMENT.

(3) PRIOR TO THE ACQUISITION OF ANY REAL PROPERTY PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE PROPOSED ACQUISITION MUST BE REVIEWED AND APPROVED BY THE JOINT BUDGET COMMITTEE ESTABLISHED PURSUANT TO SECTION 2-3-201, C.R.S.

**SECTION 48. Legislative declaration.** It is the intent of the general assembly that amendments in this act to sections 19-2-309 and 19-2-914, Colorado Revised Statutes, formerly sections 19-2-703 and 19-2-708, Colorado Revised Statutes, respectively, supersede any amendments made to those sections as they existed on July 1, 1996, in SB 96-137.

**SECTION 49. Repeal of provisions not being relocated in this act.** 19-2-703 (1) (a), (1) (h) (II), and (3), 19-2-705.5 (6), 19-2-902, 19-2-1104.5, 19-2-1105, 19-2-1111 (2) (d) (II), 19-2-1301, 19-2-1402, 19-2-1601, 19-2-1604, and 19-2-1608, Colorado Revised Statutes, 1986 Repl. Vol., as amended, are repealed.

**SECTION 50. Appropriation - adjustment in 1996 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 1996, the sum of one million eight hundred ninety-five thousand four hundred forty-five dollars (\$1,895,445), or so much thereof as may be necessary, for the implementation of section 47 of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1996, the sum of fifty-seven thousand forty-five dollars (\$57,045), or so much thereof as may be necessary, for the implementation of section 47 of this act. Such appropriation shall be from general funds received by the department of human services out of the appropriation made in subsection (1) of this section.

(3) For the implementation of section 47 of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1996, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (c) and (1) (e) is reduced by one million eight hundred ninety-five thousand four hundred forty-five dollars (\$1,895,445).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by one million eight hundred ninety-five thousand four hundred forty-five dollars (\$1,895,445).

**SECTION 51. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department for allocation to the trial courts division, for

the fiscal year beginning July 1, 1996, the sum of six hundred twenty-one thousand nine hundred thirty-four dollars (\$621,934) and 15.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department for allocation for probation and related services, for the fiscal year beginning July 1, 1996, the sum of one hundred sixty-four thousand three hundred forty-two dollars (\$164,342) and 4.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department for allocation to the office of the public defender, for the fiscal year beginning July 1, 1996, the sum of ninety-one thousand seven hundred fifty-six dollars (\$91,756) and 2.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections for allocation to the division of management, jail backlog subprogram, for the fiscal year beginning July 1, 1996, the sum of twenty-nine thousand one hundred seventy-one dollars (\$29,171), or so much thereof as may be necessary, for the implementation of this act.

(5) In addition to any other appropriation, there is hereby appropriated, to the department of human services, for allocation to the division of youth corrections, for the fiscal year beginning July 1, 1996, the sum of two hundred forty-five thousand forty-one dollars (\$245,041) and 0.1 FTE, or so much thereof as may be necessary, for the purposes of this act. Of said sum, two hundred fifteen thousand eight hundred seventy dollars (\$215,870) shall be from the general fund and twenty-nine thousand one hundred seventy-one dollars (\$29,171) shall be from cash funds exempt. Such cash funds exempt shall be from general funds received from the department of corrections out of the appropriation made in subsection (5) of this section.

**SECTION 52. Effective date - applicability.** (1) Sections 48, 51, 52, and 53 of this act shall take effect on passage, and, except as otherwise provided in subsection (2) of this section, the remainder of this act shall take effect January 1, 1997. Sections 19-2-107, 19-2-108, 19-2-309, 19-2-403, 19-2-406, 19-2-407, 19-2-408, 19-2-507, 19-2-508, 19-2-509, 19-2-511, 19-2-512, 19-2-514, 19-2-516, 19-2-517, 19-2-518, 19-2-601, 19-2-707, 19-2-708, 19-2-906 through 19-2-921, 19-2-925, and 19-2-1002, Colorado Revised Statutes, as enacted or amended in this act, and sections 3, 7, 8, and 10 of this act shall apply to offenses committed on or after January 1, 1997.

(2) Sections 47 and 50 of this act shall take effect August 1, 1996, and section 19-2-403.5, as created by this act, shall take effect January 1, 1997, only if the city and county of Denver has not selected a proposed site suitable for a juvenile detention center to be located in the city and county of Denver prior to said date. Such site selection shall be subject to approval by the capital development committee.

**SECTION 53. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1996