

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT 10.21.13

BILL 1

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LLS NO. 14-0213 Richard Sweetman x.4333

INTERIM COMMITTEE BILL

Juvenile Defense Attorney Interim Committee

SHORT TITLE: "Defense Counsel For Juvenile Offenders"

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF DEFENSE COUNSEL TO JUVENILE**
102 **OFFENDERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Juvenile Defense Attorney Interim Committee. A promise to appear in court served upon a juvenile and the juvenile's parent, guardian, or legal custodian shall state, in clear language that is understandable and appropriate to a juvenile:

- That the juvenile has the right to have the assistance of

counsel;

- That counsel will be appointed for the juvenile if the juvenile or the juvenile's parent, guardian, or legal custodian lacks adequate resources to retain counsel or refuses to retain counsel for the juvenile;
- That, if the juvenile chooses to retain his or her own counsel, then the juvenile and the juvenile's parent, guardian, or legal custodian are advised to choose counsel that is experienced in representing juveniles in the juvenile justice system; and
- The contact information for the local office of the state public defender.

When a juvenile is placed in a detention facility, a temporary holding facility, or a shelter facility designated by the court, the screening team shall promptly so notify the court, the district attorney, and the local office of the state public defender.

A juvenile who is detained shall be represented at the detention hearing by counsel. If the juvenile has not retained his or her own counsel, he or she shall be represented by the state public defender or, in the case of a conflict, by the office of alternate defense counsel. This representation shall continue unless:

- The juvenile retains his or her own counsel; or
- The juvenile is charged with an offense for which the juvenile may waive counsel and the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel.

The scheduled time for a detention hearing shall allow a juvenile's defense counsel sufficient time to consult with the juvenile before the detention hearing. This consultation may be performed by secure electronic means if the conditions under which the electronic consultation is held allow the consultation to be confidential. Before the detention hearing, the law enforcement agency that arrested the juvenile shall provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall provide to the court and to defense counsel any screening material prepared pursuant to the juvenile's arrest.

A detention hearing shall not be combined with a preliminary hearing or a first advisement. Due to the limited scope of a detention hearing, the representation of a juvenile by appointed counsel at a detention hearing does not, by itself, create a conflict in the event that such counsel is subsequently appointed to represent another individual whose case is related to the juvenile's case.

A summons issued by a court to a juvenile shall:

- Explain that the court will appoint counsel for the juvenile if the juvenile does not retain his or her own counsel; and

- State the contact information for the office of the state public defender that serves the jurisdiction of the court.

At a juvenile's first appearance before the court, the court shall advise the juvenile of his or her constitutional and legal rights, including the right to counsel. The court shall appoint counsel for the juvenile unless the juvenile has retained his or her own counsel or the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel.

Any decision to waive the right to counsel shall be made by the juvenile himself or herself after consulting with his or her defense counsel. If the court appoints counsel for a juvenile, the court shall advise the juvenile's parent, guardian, or legal custodian that if the juvenile's parent, guardian, or legal custodian is determined by the court to possess adequate financial resources to provide counsel for the juvenile, then the court will order the parent, guardian, or legal custodian to reimburse the court for the cost of the counsel. The amount of the reimbursement will be a predetermined amount that is based on the stage of the proceeding at which a disposition is reached and determined by the court in consultation with the office of the state public defender and the office of alternate defense counsel.

The court may accept a waiver of counsel by a juvenile only after finding on the record, based on a dialogue conducted with the juvenile, that:

- The juvenile is at least 15 years of age;
- The juvenile understands the sentencing options that will be available to the court in the event of an adjudication or conviction of the offense with which the juvenile is charged;
- The juvenile has not been coerced by any other party, including but not limited to the juvenile's parent, guardian, or legal custodian, into making the waiver;
- The juvenile understands that the court will provide counsel for the juvenile if the juvenile's parent, guardian, or legal custodian is unable or unwilling to obtain counsel for the juvenile; and
- The juvenile understands the possible consequences that may result from an adjudication or conviction of the offense with which the juvenile is charged, which consequences may occur in addition to the actual adjudication or conviction itself. An adjudication or conviction may not be challenged on the basis that the court's advisement or finding regarding such collateral consequences was inadequate or incomplete.

The court shall not accept a juvenile's waiver of his or her right to counsel in any proceeding relating to a case in which the juvenile is

charged with:

- A sexual offense;
- A crime of violence;
- An offense for which the juvenile will receive a mandatory sentence upon his or her conviction of the offense; or
- An offense for which the juvenile is being charged as a repeat juvenile offender or as an aggravated juvenile offender.

The court shall not accept a juvenile's attempt to waive his or her right to counsel in any proceeding if the juvenile is in the custody of the state department of human services or a county department of social services.

The appointment of counsel for a juvenile offender shall continue until the court's jurisdiction is terminated, the court reaches a disposition in the juvenile's case, the juvenile or the juvenile's parent, guardian, or legal custodian retains counsel for the juvenile, or the juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.

The court may not deem a guardian ad litem who is appointed by the court for a child in a delinquency proceeding to be a substitute for defense counsel for the juvenile.

The state public defender, before determining indigence, shall represent all unrepresented juveniles in detention hearings; except that, in the case of a conflict, the office of alternate defense counsel shall provide representation. The state public defender shall continue to represent a juvenile unless:

- The juvenile or the juvenile's parent, guardian, or legal custodian retains counsel for the juvenile; or
- The juvenile is charged with an offense for which counsel may be waived and the juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2-507, **amend (5)**

3 as follows:

4 **19-2-507. Duty of officer - screening teams - notification -**

5 **release or detention.** (5) (a) As an alternative to taking a juvenile into

6 temporary custody pursuant to subsections (1), (3), and (4) of this section,

7 a law enforcement officer may, if authorized by the establishment of a

1 policy that permits such service by order of the chief judge of the judicial
2 district or the presiding judge of the Denver juvenile court, which policy
3 is established after consultation between such judge and the district
4 attorney and law enforcement officials in the judicial district, serve a
5 written promise to appear for juvenile proceedings based on any act that
6 would constitute a felony, misdemeanor, or petty offense upon the
7 juvenile and the juvenile's parent, guardian, or legal custodian.

8 (b) ~~Such~~ A promise to appear SERVED pursuant to PARAGRAPH (a)
9 OF this subsection (5) ~~shall~~ MUST state any charges against the juvenile
10 and the date, time, and place where such juvenile shall be required to
11 answer such charges. THE PROMISE TO APPEAR MUST ALSO STATE, IN
12 CLEAR LANGUAGE THAT IS UNDERSTANDABLE AND APPROPRIATE TO A
13 JUVENILE:

14 (I) THAT THE JUVENILE HAS THE RIGHT TO HAVE THE ASSISTANCE
15 OF COUNSEL;

16 (II) THAT COUNSEL WILL BE APPOINTED FOR THE JUVENILE IF THE
17 JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
18 LACKS ADEQUATE RESOURCES TO RETAIN COUNSEL OR REFUSES TO RETAIN
19 COUNSEL FOR THE JUVENILE;

20 (III) THAT IF THE JUVENILE CHOOSES TO RETAIN HIS OR HER OWN
21 COUNSEL, THEN THE JUVENILE AND THE JUVENILE'S PARENT, GUARDIAN,
22 OR LEGAL CUSTODIAN ARE ADVISED TO CHOOSE COUNSEL THAT IS
23 EXPERIENCED IN REPRESENTING JUVENILES IN THE JUVENILE JUSTICE
24 SYSTEM; AND

25 (IV) THE CONTACT INFORMATION FOR THE LOCAL OFFICE OF THE
26 STATE PUBLIC DEFENDER.

27 (c) The promise to appear shall be signed by the juvenile. The

1 promise to appear shall be served upon the juvenile's parent, guardian, or
2 legal custodian by personal service or by certified mail, return receipt
3 requested. The date established for the juvenile and the juvenile's parent,
4 guardian, or legal custodian to appear shall not be earlier than seven days
5 nor later than thirty days after the promise to appear is served upon both
6 the juvenile and the juvenile's parent, guardian, or legal custodian.

7 **SECTION 2.** In Colorado Revised Statutes, 19-2-508, **amend** (2),
8 (3) (a) (I), (3) (a) (II), and (3) (a) (III) introductory portion; and **add** (2.5)
9 and (3) (a) (I.5) as follows:

10 **19-2-508. Detention and shelter - hearing - time limits -**
11 **findings - review - confinement with adult offenders - restrictions.**

12 (2) When a juvenile is placed in a detention facility, in a temporary
13 holding facility, or in a shelter facility designated by the court, the
14 screening team shall promptly so notify the court, THE DISTRICT
15 ATTORNEY, AND THE LOCAL OFFICE OF THE STATE PUBLIC DEFENDER. The
16 screening team shall also notify a parent or legal guardian or, if a parent
17 or legal guardian cannot be located within the county, the person with
18 whom the juvenile has been residing and inform him or her of the right
19 to a prompt hearing to determine whether the juvenile is to be detained
20 further. The court shall hold ~~such~~ THE detention hearing within forty-eight
21 hours, excluding Saturdays, Sundays, and legal holidays.

22 (2.5) A JUVENILE WHO IS DETAINED PURSUANT TO SUBSECTION (2)
23 OF THIS SECTION SHALL BE REPRESENTED AT THE DETENTION HEARING BY
24 COUNSEL. IF THE JUVENILE HAS NOT RETAINED HIS OR HER OWN COUNSEL,
25 HE OR SHE SHALL BE REPRESENTED BY THE OFFICE OF THE STATE PUBLIC
26 DEFENDER OR, IN THE CASE OF A CONFLICT, BY THE OFFICE OF ALTERNATE
27 DEFENSE COUNSEL. THIS REPRESENTATION SHALL CONTINUE UNLESS:

1 (a) THE JUVENILE RETAINS HIS OR HER OWN COUNSEL; OR

2 (b) THE JUVENILE IS CHARGED WITH AN OFFENSE FOR WHICH THE
3 JUVENILE MAY WAIVE COUNSEL AND THE JUVENILE HAS MADE A KNOWING,
4 INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL,
5 AS DESCRIBED IN SECTION 19-2-706 (2) (c).

6 (3) (a) (I) A juvenile taken into custody pursuant to this article and
7 placed in a detention or shelter facility or a temporary holding facility
8 ~~shall be~~ IS entitled to a hearing within forty-eight hours, excluding
9 Saturdays, Sundays, and legal holidays, of such placement to determine
10 if he or she should be detained. THE TIME OF THE DETENTION HEARING
11 MUST ALLOW DEFENSE COUNSEL SUFFICIENT TIME TO CONSULT WITH THE
12 JUVENILE BEFORE THE DETENTION HEARING. THIS CONSULTATION MAY BE
13 PERFORMED BY SECURE ELECTRONIC MEANS IF THE CONDITIONS UNDER
14 WHICH THE ELECTRONIC CONSULTATION IS HELD ALLOW THE
15 CONSULTATION TO BE CONFIDENTIAL. The time in which the hearing shall
16 be held may be extended for a reasonable time by order of the court upon
17 good cause shown.

18 (I.5) BEFORE THE DETENTION HEARING, THE LAW ENFORCEMENT
19 AGENCY THAT ARRESTED THE JUVENILE SHALL PROVIDE TO THE COURT
20 AND TO DEFENSE COUNSEL THE AFFIDAVIT SUPPORTING PROBABLE CAUSE
21 FOR THE ARREST AND THE ARREST REPORT, IF THE ARREST REPORT IS
22 AVAILABLE, AND THE SCREENING TEAM SHALL PROVIDE TO THE COURT
23 AND TO DEFENSE COUNSEL ANY SCREENING MATERIAL PREPARED
24 PURSUANT TO THE JUVENILE'S ARREST.

25 (II) The ~~primary purpose~~ ONLY PURPOSES of a detention hearing
26 ~~shall be~~ ARE to determine if a juvenile should be detained further and to
27 define conditions under which he or she may be released, if his or her

1 release is appropriate. A detention hearing shall not be considered
2 COMBINED WITH a preliminary hearing or a first advisement. DUE TO THE
3 LIMITED SCOPE OF A DETENTION HEARING, THE REPRESENTATION OF A
4 JUVENILE BY APPOINTED COUNSEL AT A DETENTION HEARING DOES NOT,
5 BY ITSELF, CREATE A CONFLICT IN THE EVENT THAT SUCH COUNSEL IS
6 SUBSEQUENTLY APPOINTED TO REPRESENT ANOTHER INDIVIDUAL WHOSE
7 CASE IS RELATED TO THE JUVENILE'S CASE.

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

17 **SECTION 3.** In Colorado Revised Statutes, 19-2-514, **amend** (1)
18 as follows:

19 **19-2-514. Summons - issuance - contents - service.** (1) After a
20 petition has been filed, the court shall promptly issue a summons reciting
21 briefly the substance of the petition. The summons shall:

22 (a) Set forth the constitutional and legal rights of the juvenile,
23 including the right to have an attorney present at the hearing on the
24 petition;

25 (b) EXPLAIN THAT THE COURT WILL APPOINT COUNSEL FOR THE
26 JUVENILE IF THE JUVENILE DOES NOT RETAIN HIS OR HER OWN COUNSEL;
27 AND

1 (c) STATE THE CONTACT INFORMATION FOR THE OFFICE OF THE
2 STATE PUBLIC DEFENDER THAT SERVES THE JURISDICTION OF THE COURT.

3 SECTION 4. In Colorado Revised Statutes, 19-2-706, amend (1)
4 and (2) as follows:

5 19-2-706. ~~Advisement - right to counsel - waiver of right to~~
6 ~~counsel.~~ <{Note new section title.}> (1) At the JUVENILE'S first
7 appearance before the court, ~~after the filing of a petition~~ THE COURT
8 SHALL ADVISE the juvenile and his or her parents, guardian, or other legal
9 custodian ~~shall be advised by the court of their~~ THE JUVENILE'S
10 constitutional RIGHTS and legal rights as set forth in rule 3 of the
11 Colorado rules of juvenile procedure, INCLUDING, BUT NOT LIMITED TO,
12 THE RIGHT TO COUNSEL. ~~Such~~ THE advisement shall include the
13 possibility of restorative justice practices, including victim-offender
14 conferences if restorative justice practices are available in the jurisdiction.
15 The advisement regarding restorative justice practices does not establish
16 any right to restorative justice practices on behalf of the juvenile.

17 (2) (a) ~~If the juvenile or his or her parents, guardian, or other legal~~
18 ~~custodian requests counsel and the juvenile or his or her parents,~~
19 ~~guardian, or other legal custodian is found to be without sufficient~~
20 ~~financial means, or the juvenile's parents, guardian, or other legal~~
21 ~~custodian refuses to retain counsel for said juvenile, The court shall~~
22 appoint counsel for the juvenile UNLESS:

23 (I) THE JUVENILE HAS RETAINED HIS OR HER OWN COUNSEL; OR

24 (II) THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
25 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
26 PARAGRAPH (c) OF THIS SUBSECTION (2).

27 (b) (I) ~~If the court appoints counsel for the juvenile because of the~~

1 ~~refusal of the parents, guardian, or other legal custodian to retain counsel~~
2 ~~for the juvenile, the parents, guardian, or legal custodian, other than a~~
3 ~~county department of social services or the department of human services,~~
4 ~~shall be ordered to reimburse the court for the cost of the counsel unless~~
5 ~~the court finds there was good cause for such refusal. ONLY THE JUVENILE~~
6 ~~HIMSELF OR HERSELF, AFTER CONSULTING WITH HIS OR HER DEFENSE~~
7 ~~COUNSEL, MAY WAIVE THE RIGHT TO COUNSEL.~~

8 (II) IF THE COURT APPOINTS COUNSEL FOR A JUVENILE, THE COURT
9 SHALL ADVISE THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
10 THAT IF THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS
11 DETERMINED BY THE COURT TO POSSESS ADEQUATE FINANCIAL RESOURCES
12 TO PROVIDE COUNSEL FOR THE JUVENILE, THEN THE COURT WILL ORDER
13 THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN TO REIMBURSE THE COURT
14 FOR THE COST OF THE COUNSEL. THE AMOUNT OF THE REIMBURSEMENT
15 WILL BE A PREDETERMINED AMOUNT THAT IS:

16 (A) BASED ON THE STAGE OF THE PROCEEDING AT WHICH A
17 DISPOSITION IS REACHED; AND

18 (B) DETERMINED BY THE COURT IN CONSULTATION WITH THE
19 OFFICE OF THE STATE PUBLIC DEFENDER AND THE OFFICE OF ALTERNATE
20 DEFENSE COUNSEL.

21 (III) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (b)
22 TO THE CONTRARY:

23 (A) THE COURT SHALL NOT ORDER A LEGAL CUSTODIAN OF A
24 JUVENILE TO REIMBURSE THE COURT FOR THE COST OF COUNSEL IF THE
25 LEGAL CUSTODIAN OF THE JUVENILE IS THE STATE DEPARTMENT OF HUMAN
26 SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES; AND

27 (B) IF THE COURT FINDS THAT THERE EXISTS A CONFLICT OF

1 INTEREST BETWEEN THE JUVENILE AND THE JUVENILE'S PARENT,
2 GUARDIAN, OR LEGAL CUSTODIAN SUCH THAT THE INCOME AND ASSETS OF
3 THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN ARE UNAVAILABLE TO THE
4 JUVENILE, THEN THE COURT SHALL CONSIDER THE JUVENILE'S OWN INCOME
5 AND ASSETS FOR THE PURPOSES OF DETERMINING WHETHER TO ISSUE AN
6 ORDER FOR REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (b).

7 (c) EXCEPT AS DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION
8 (2), the court may ~~appoint counsel without such request if it deems~~
9 ~~representation by counsel necessary to protect the interest of the juvenile~~
10 ~~or of other parties.~~ ACCEPT A WAIVER OF COUNSEL BY A JUVENILE ONLY
11 AFTER FINDING ON THE RECORD, BASED ON A DIALOGUE CONDUCTED WITH
12 THE JUVENILE, THAT:

13 (I) THE JUVENILE IS AT LEAST FIFTEEN YEARS OF AGE;

14 (II) THE JUVENILE HAS CONSULTED WITH COUNSEL AND
15 UNDERSTANDS THE SENTENCING OPTIONS THAT WILL BE AVAILABLE TO
16 THE COURT IN THE EVENT OF AN ADJUDICATION OR CONVICTION OF THE
17 OFFENSE WITH WHICH THE JUVENILE IS CHARGED;

18 (III) THE JUVENILE HAS NOT BEEN COERCED BY ANY OTHER PARTY,
19 INCLUDING, BUT NOT LIMITED TO, THE JUVENILE'S PARENT, GUARDIAN, OR
20 LEGAL CUSTODIAN, INTO MAKING THE WAIVER;

21 (IV) THE JUVENILE UNDERSTANDS THAT THE COURT WILL PROVIDE
22 COUNSEL FOR THE JUVENILE IF THE JUVENILE'S PARENT, GUARDIAN, OR
23 LEGAL CUSTODIAN IS UNABLE OR UNWILLING TO OBTAIN COUNSEL FOR THE
24 JUVENILE; AND

25 (V) THE JUVENILE UNDERSTANDS THE POSSIBLE CONSEQUENCES
26 THAT MAY RESULT FROM AN ADJUDICATION OR CONVICTION OF THE
27 OFFENSE WITH WHICH THE JUVENILE IS CHARGED, WHICH CONSEQUENCES

1 MAY OCCUR IN ADDITION TO THE ACTUAL ADJUDICATION OR CONVICTION
2 ITSELF. AN ADJUDICATION OR CONVICTION MAY NOT BE CHALLENGED ON
3 THE BASIS THAT THE COURT'S DIALOGUE OR FINDING PURSUANT TO THIS
4 SUBPARAGRAPH (V) WAS INADEQUATE OR INCOMPLETE.

5 (d) THE COURT SHALL NOT ACCEPT A JUVENILE'S WAIVER OF HIS OR
6 HER RIGHT TO COUNSEL:

7 (I) IN ANY PROCEEDING RELATING TO A CASE IN WHICH THE
8 JUVENILE IS CHARGED WITH:

9 (A) A SEXUAL OFFENSE DESCRIBED IN PART 4 OF ARTICLE 3 OF
10 TITLE 18, C.R.S.;

11 (B) A CRIME OF VIOLENCE DESCRIBED IN SECTION 18-1.3-406 (2),
12 C.R.S.;

13 (C) AN OFFENSE FOR WHICH THE JUVENILE WILL RECEIVE A
14 MANDATORY SENTENCE UPON HIS OR HER CONVICTION OF THE OFFENSE;
15 OR

16 (D) AN OFFENSE FOR WHICH THE JUVENILE IS BEING CHARGED AS
17 A REPEAT JUVENILE OFFENDER, AS DESCRIBED IN SECTION 19-2-516(2), OR
18 AS AN AGGRAVATED JUVENILE OFFENDER, AS DESCRIBED IN SECTION
19 19-2-516 (4); OR

20 (II) IF THE JUVENILE IS IN THE CUSTODY OF THE STATE
21 DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL
22 SERVICES.

23 ~~(d)~~ (e) The appointment of counsel pursuant to this subsection (2)
24 shall continue until:

25 (I) ~~such time as~~ The court's jurisdiction is terminated;

26 (II) THE COURT REACHES A DISPOSITION IN THE JUVENILE'S CASE;

27 (III) THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR

1 LEGAL CUSTODIAN RETAINS COUNSEL FOR THE JUVENILE; or

2 (IV) ~~until such time as the court finds that the juvenile or his or~~
3 ~~her parents, guardian, or other legal custodian has sufficient financial~~
4 ~~means to retain counsel or that the juvenile's parents, guardian, or other~~
5 ~~legal custodian no longer refuses to retain counsel for the juvenile~~ THE
6 COURT FINDS THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
7 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
8 PARAGRAPH (c) OF THIS SUBSECTION (2).

9 **SECTION 5.** In Colorado Revised Statutes, 19-1-111, **add** (2.5)
10 as follows:

11 **19-1-111. Appointment of guardian ad litem.** (2.5) A COURT
12 SHALL NOT DEEM A GUARDIAN AD LITEM WHO IS APPOINTED BY THE COURT
13 FOR A JUVENILE IN A DELINQUENCY PROCEEDING PURSUANT TO
14 SUBSECTION (2) OF THIS SECTION TO BE A SUBSTITUTE FOR DEFENSE
15 COUNSEL FOR THE JUVENILE.

16 **SECTION 6.** In Colorado Revised Statutes, 21-1-103, **add** (5) as
17 follows:

18 **21-1-103. Representation of indigent persons - representation**
19 **of juveniles.** (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO
20 THE CONTRARY, THE STATE PUBLIC DEFENDER, BEFORE DETERMINING
21 INDIGENCE, SHALL REPRESENT ALL UNREPRESENTED JUVENILES IN
22 DETENTION HEARINGS; EXCEPT THAT, IN THE CASE OF A CONFLICT, THE
23 OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL PROVIDE
24 REPRESENTATION. THE STATE PUBLIC DEFENDER SHALL CONTINUE TO
25 REPRESENT A JUVENILE UNLESS:

26 (a) THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR
27 LEGAL CUSTODIAN RETAINS COUNSEL FOR THE JUVENILE; OR

1 (b) THE JUVENILE IS CHARGED WITH AN OFFENSE FOR WHICH
2 COUNSEL MAY BE WAIVED AND THE JUVENILE MAKES A KNOWING,
3 INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL,
4 AS DESCRIBED IN SECTION 19-2-706 (2) (c), C.R.S.

5 **SECTION 7.** In Colorado Revised Statutes, 19-2-103, **add** (12.5)
6 and (12.7) as follows:

7 **19-2-103. Definitions.** For purposes of this article:

8 (12.5) "OFFICE OF THE STATE PUBLIC DEFENDER" MEANS THE
9 OFFICE OF STATE PUBLIC DEFENDER CREATED AND EXISTING PURSUANT TO
10 SECTION 21-1-101, C.R.S.

11 (12.7) "OFFICE OF ALTERNATE DEFENSE COUNSEL" MEANS THE
12 OFFICE OF ALTERNATE DEFENSE COUNSEL CREATED AND EXISTING
13 PURSUANT TO SECTION 21-2-101, C.R.S.

14 **SECTION 8.** In Colorado Revised Statutes, 19-2-1004, **repeal** (4)
15 (b) as follows:

16 **19-2-1004. Parole violation and revocation.** (4) If, rather than
17 issuing a summons, a parole officer makes an arrest of a parolee with or
18 without a warrant or takes custody of a parolee who has been arrested by
19 another, the parole officer shall place the parolee in the nearest local
20 juvenile detention facility or shelter care facility approved by the
21 department of human services, if under eighteen years of age, or in the
22 nearest county jail, if eighteen years of age or older. Within forty-eight
23 hours, not including Saturdays, Sundays, and legal holidays, the parole
24 officer shall take one of the following actions:

25 (b) ~~Request a court to conduct a juvenile parole preliminary~~
26 ~~hearing as a part of a detention hearing conducted as described in section~~
27 ~~19-2-508, in which hearing the court shall make a finding as to whether~~

1 ~~there is probable cause to believe that the parolee has violated a condition~~
2 ~~of parole, or~~

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

