

**Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0592.01 Michael Dohr

**HOUSE BILL 08-1208**

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**A BILL FOR AN ACT**

101 **CONCERNING JUVENILES AGAINST WHOM CHARGES ARE DIRECTLY**  
102 **FILED IN A DISTRICT COURT.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

For purposes of authorizing a district attorney to directly file charges in district court against a juvenile ("direct file"), changes the minimum age of the defendant from 14 to 16 years. Removes vehicular homicide and vehicular assault from the crimes eligible for direct file. Permits a district court to sentence a juvenile to the youthful offender system as a result of a plea to a class 2 felony if the juvenile was originally charged with a class 1 felony and the district attorney stipulates

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
March 11, 2008

HOUSE  
Amended 2nd Reading  
March 7, 2008

or the court finds there is no reasonable likelihood of conviction on the class 1 felony. Permits the district court to sentence a juvenile who is convicted as an adult to a juvenile disposition if the court finds the interests of the juvenile and the community are better served by a juvenile disposition. Requires the district court to sentence a juvenile who is convicted as an adult to a juvenile disposition for conviction of an offense for which criminal charges could not have been originally filed by information or indictment. States that, if a juvenile is convicted as an adult and receives a juvenile disposition, the juvenile's conviction shall be adjudicated as a juvenile delinquency. Creates a reverse-transfer process.

Makes conforming amendments.

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

2 **SECTION 1.** 19-2-517 (3) (c), Colorado Revised Statutes, is  
3 amended to read:

4 **19-2-517. Direct filing.** (3) (c) The district court judge ~~may~~  
5 SHALL sentence a juvenile pursuant to the provisions of this article if the  
6 juvenile is convicted of a lesser included AN offense for which criminal  
7 charges could not have been originally filed by information or indictment  
8 in the district court pursuant to this section. WHEN A JUVENILE IS  
9 SENTENCED PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (C), THE  
10 JUVENILE'S CONVICTION BY VERDICT SHALL BE ADJUDICATED AS A  
11 JUVENILE DELINQUENCY. \_\_\_\_\_

12 **SECTION 2.** 19-2-517, Colorado Revised Statutes, is amended  
13 BY THE ADDITION OF A NEW SUBSECTION to read:

14 **19-2-517. Direct filing.** (6) (a) A JUVENILE MAY FILE A  
15 REVERSE-TRANSFER PETITION WITH THE DISTRICT COURT WITHIN THIRTY  
16 DAYS AFTER THE JUVENILE IS CHARGED BY THE DIRECT FILING OF AN  
17 INFORMATION IN DISTRICT COURT OR BY INDICTMENT PURSUANT TO THIS  
18 SECTION, REQUESTING THAT THE JUVENILE'S CASE BE REMANDED TO THE  
19 JUVENILE COURT FOR ADJUDICATION PURSUANT TO THE PROVISIONS OF

1 THIS ARTICLE.

2 (b) UPON RECEIPT OF THE PETITION, THE DISTRICT COURT SHALL  
3 SET A REVERSE-TRANSFER HEARING AS SOON AS PRACTICABLE.

4 (c) AT THE HEARING, THE JUVENILE SHALL HAVE THE BURDEN OF  
5 SHOWING BY A PREPONDERANCE OF THE EVIDENCE THAT ADJUDICATIVE  
6 PROCEEDINGS PURSUANT TO THIS ARTICLE WOULD SERVE THE BEST  
7 INTERESTS OF THE JUVENILE AND THE COMMUNITY.

8 (d) IF THE COURT FINDS THAT THE JUVENILE HAS SATISFIED THE  
9 BURDEN DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (6), THE  
10 COURT SHALL CONSIDER THE FOLLOWING IN DETERMINING WHETHER TO  
11 GRANT THE JUVENILE'S PETITION:

12 (I) WHETHER THERE IS PROBABLE CAUSE FOR THE CHARGED  
13 OFFENSES;

14 (II) WHETHER THE INTERESTS OF THE JUVENILE OR THE  
15 COMMUNITY WOULD BE BETTER SERVED BY ADJUDICATIVE PROCEEDINGS  
16 PURSUANT TO THIS ARTICLE; AND

17 (III) THE FACTORS SPECIFIED IN SECTION 19-2-518 (4) (b).

18 SECTION 3. 19-2-508 (3) (c) (II), (4) (a), and (4) (b), Colorado  
19 Revised Statutes, are amended, and the said 19-2-508 (3) (c) is further  
20 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

21 19-2-508. Detention and shelter - hearing - time limits -  
22 findings - review - confinement with adult offenders - restrictions -  
23 repeal. (3) (c) (II) Following a detention hearing held in accordance  
24 with subparagraph (I) of this paragraph (c), no juvenile who is to be tried  
25 as an adult for criminal proceedings pursuant to a direct filing or transfer  
26 shall be held at any facility intended to be utilized by juvenile offenders,  
27 unless the district attorney and the defense counsel agree otherwise. If

1 there is no agreement, detention of the juvenile shall be subject to the  
2 provisions of subsection (4) of this section. ANY JUVENILE WHO IS TO BE  
3 TRIED FOR CRIMINAL PROCEEDINGS PURSUANT TO A DIRECT FILING OR  
4 TRANSFER OR HAS BEEN ORDERED BY THE COURT TO BE HELD FOR  
5 CRIMINAL PROCEEDINGS AS AN ADULT PURSUANT TO A TRANSFER OR  
6 DIRECT FILING SHALL BE HELD AT A FACILITY INTENDED TO BE UTILIZED BY  
7 JUVENILE OFFENDERS UNLESS THE COURT FINDS THAT:

8 (A) THE JUVENILE'S RELEASE FROM CUSTODY IS NOT APPROPRIATE  
9 DUE TO THE JUVENILE BEING A DANGER TO HIMSELF OR HERSELF OR THE  
10 COMMUNITY OR THAT JUVENILE IS LIKELY TO FAIL TO APPEAR FOR A  
11 PENDING COURT HEARING; AND

12 (B) THERE IS A SUBSTANTIAL PROBABILITY THAT HIS OR HER  
13 RETENTION IN A JUVENILE FACILITY WILL SERIOUSLY ENDANGER OTHER  
14 RESIDENTS OF THE FACILITY.

15 (III) IN THE EVENT THAT THE COURT MAKES THE FINDINGS IN  
16 SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) AND ORDERS THE JUVENILE  
17 HELD IN A JAIL, THE JUVENILE SHALL BE PHYSICALLY SEGREGATED FROM  
18 THE ADULT OFFENDERS AND THERE SHALL BE BOTH SIGHT AND SOUND  
19 SEPARATION FROM ADULT OFFENDERS.

20 (4) (a) No jail shall receive a juvenile for detention following a  
21 detention hearing pursuant to this section unless the juvenile has been  
22 ordered by the court to be held for criminal proceedings as an adult  
23 pursuant to a transfer or unless the juvenile is to be held for criminal  
24 proceedings as an adult pursuant to a direct filing. No juvenile under the  
25 age of fourteen and, except upon order of the court, no juvenile fourteen  
26 years of age or older shall be detained in a jail, lockup, or other place  
27 used for the confinement of adult offenders. The exception for detention

1 in a jail shall be used only if the juvenile is being held for criminal  
2 proceedings as an adult pursuant to a direct filing or transfer.

3 (b) Whenever a juvenile is held pursuant to a direct filing or  
4 transfer in a facility where adults are held, the juvenile shall be physically  
5 segregated from the adult offenders.

6 [REDACTED]

7 **SECTION 4. Effective date - applicability.** (1) This act shall  
8 take effect at 12:01 a.m. on the day following the expiration of the  
9 ninety-day period after final adjournment of the general assembly that is  
10 allowed for submitting a referendum petition pursuant to article V,  
11 section 1 (3) of the state constitution, (August 6, 2008, if adjournment  
12 sine die is on May 7, 2008); except that, if a referendum petition is filed  
13 against this act or an item, section, or part of this act within such period,  
14 then the act, item, section, or part, if approved by the people, shall take  
15 effect on the date of the official declaration of the vote thereon by  
16 proclamation of the governor.

17 (2) The provisions of this act shall apply to offenses committed on  
18 or after the applicable effective date of this act.