

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 16, 2008
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB08-1208 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend reengrossed bill, page 2, strike lines 2 through 19 and substitute
2 the following:

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

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

13 Strike pages 3 and 4.

14 Page 5, strike lines 1 through 17 and substitute the following:

15 "SECTION 2. 19-2-517, Colorado Revised Statutes, is amended
16 BY THE ADDITION OF A NEW SUBSECTION to read:

17 **19-2-517. Direct filing.** (6) (a) A JUVENILE MAY FILE A
18 REVERSE-TRANSFER PETITION WITH".

1 Renumber succeeding sections accordingly.

2 Page 6, strike lines 12 through 20 and substitute the following:

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

6 **19-2-508. Detention and shelter - hearing - time limits -**
7 **findings - review - confinement with adult offenders - restrictions -**
8 **repeal.** (3) (c) (II) Following a detention hearing held in accordance
9 with subparagraph (I) of this paragraph (c), ~~no juvenile who is to be tried~~
10 ~~as an adult for criminal proceedings pursuant to a direct filing or transfer~~
11 ~~shall be held at any facility intended to be utilized by juvenile offenders,~~
12 ~~unless the district attorney and the defense counsel agree otherwise. If~~
13 ~~there is no agreement, detention of the juvenile shall be subject to the~~
14 ~~provisions of subsection (4) of this section.~~ ANY JUVENILE WHO IS TO BE
15 TRIED FOR CRIMINAL PROCEEDINGS PURSUANT TO A DIRECT FILING OR
16 TRANSFER OR HAS BEEN ORDERED BY THE COURT TO BE HELD FOR
17 CRIMINAL PROCEEDINGS AS AN ADULT PURSUANT TO A TRANSFER OR
18 DIRECT FILING SHALL BE HELD AT A FACILITY INTENDED TO BE UTILIZED BY
19 JUVENILE OFFENDERS UNLESS THE COURT FINDS THAT:

20 (A) THE JUVENILE'S RELEASE FROM CUSTODY IS NOT APPROPRIATE
21 DUE TO THE JUVENILE BEING A DANGER TO HIMSELF OR HERSELF OR THE
22 COMMUNITY OR THAT JUVENILE IS LIKELY TO FAIL TO APPEAR FOR A
23 PENDING COURT HEARING; AND

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

27 (III) IN THE EVENT THAT THE COURT MAKES THE FINDINGS IN
28 SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) AND ORDERS THE JUVENILE
29 HELD IN A JAIL, THE JUVENILE SHALL BE PHYSICALLY SEGREGATED FROM
30 THE ADULT OFFENDERS AND THERE SHALL BE BOTH SIGHT AND SOUND
31 SEPARATION FROM ADULT OFFENDERS.

32 (4) (a) ~~No jail shall receive a juvenile for detention following a~~
33 ~~detention hearing pursuant to this section unless the juvenile has been~~
34 ~~ordered by the court to be held for criminal proceedings as an adult~~

1 ~~pursuant to a transfer or unless the juvenile is to be held for criminal~~
2 ~~proceedings as an adult pursuant to a direct filing. No juvenile under the~~
3 ~~age of fourteen and, except upon order of the court, no juvenile fourteen~~
4 ~~years of age or older shall be detained in a jail, lockup, or other place~~
5 ~~used for the confinement of adult offenders. The exception for detention~~
6 ~~in a jail shall be used only if the juvenile is being held for criminal~~
7 ~~proceedings as an adult pursuant to a direct filing or transfer.~~

8 (b) ~~Whenever a juvenile is held pursuant to a direct filing or~~
9 ~~transfer in a facility where adults are held, the juvenile shall be physically~~
10 ~~segregated from the adult offenders."~~

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