

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 09-0956.01 Michael Dohr

HOUSE BILL 09-1321

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE PLACEMENT OF A JUVENILE WHO IS AWAITING TRIAL**
102 **IN DISTRICT COURT.**

Bill Summary

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

Precludes a juvenile from being held in a jail or adult lockup unless the juvenile is charged as an adult, either after a transfer hearing (transfer) or by the direct filing of charges in district court (direct file), and the district court determines after a hearing that such a placement is appropriate. Outlines the factors that the court shall consider when determining whether to hold a juvenile in a jail or adult lockup. Directs the court to hold the hearing within 30 days after transfer or direct file,

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.*

and provides that the juvenile shall be held in a juvenile facility until the hearing is held. If the juvenile is ordered held in a jail or adult lockup, permits the juvenile to petition the court for placement in a juvenile facility based on a change in circumstances.

Makes conforming amendments.

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

2 **SECTION 1.** 19-2-508 (3) (c) (II), Colorado Revised Statutes, is
3 amended, and the said 19-2-508 (3) (c) is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

5 **19-2-508. Detention and shelter - hearing - time limits -**
6 **findings - review - confinement with adult offenders - restrictions -**
7 **repeal.** (3) (c) (II) Following a detention hearing held in accordance
8 with subparagraph (I) of this paragraph (c), ~~no~~ A juvenile who is to be
9 tried as an adult for criminal proceedings pursuant to a direct filing or
10 transfer shall NOT be held at any facility intended to be utilized by
11 juvenile offenders, unless the district attorney and the defense counsel
12 agree otherwise. THE AGREEMENT MAY BE MADE AT ANY STAGE OF THE
13 PROCEEDINGS; EXCEPT THAT THE DISTRICT ATTORNEY AND DEFENSE
14 COUNSEL SHALL MAKE ALL REASONABLE ATTEMPTS TO CONSIDER THE
15 APPROPRIATE PLACE OF CONFINEMENT WITHIN THIRTY DAYS AFTER THE
16 DIRECT FILE OR TRANSFER. If there is no agreement, detention of the
17 juvenile shall be subject to the provisions of subsection (4) of this section.

18 (III) IN DETERMINING THE APPROPRIATE PLACE OF CONFINEMENT,
19 THE DISTRICT ATTORNEY AND DEFENSE COUNSEL SHALL CONSIDER THE
20 FOLLOWING FACTORS:

- 21 (I) THE AGE OF THE JUVENILE;
- 22 (II) THE NATURE, SERIOUSNESS, AND CIRCUMSTANCES OF THE
23 ALLEGED OFFENSE;

1 (III) THE JUVENILE'S HISTORY OF PRIOR DELINQUENT OR CRIMINAL
2 ACTS;

3 (IV) WHETHER DETENTION IN A JUVENILE FACILITY WILL
4 ADEQUATELY SERVE THE NEED FOR COMMUNITY PROTECTION PENDING
5 THE OUTCOME OF THE CRIMINAL PROCEEDINGS;

6 (V) WHETHER DETENTION IN A JUVENILE FACILITY WILL
7 NEGATIVELY IMPACT THE FUNCTIONING OF THE JUVENILE FACILITY BY
8 COMPROMISING THE GOALS OF DETENTION TO MAINTAIN A SAFE, POSITIVE,
9 AND SECURE ENVIRONMENT FOR ALL JUVENILES WITHIN THE FACILITY;

10 (VI) THE RELATIVE ABILITY OF THE AVAILABLE ADULT AND
11 JUVENILE DETENTION FACILITIES TO MEET THE NEEDS OF THE JUVENILE
12 AND PROTECT THE PUBLIC;

13 (VII) WHETHER THE JUVENILE PRESENTS AN IMMINENT RISK OF
14 HARM TO HIMSELF OR HERSELF OR OTHERS WITHIN A JUVENILE FACILITY;

15 (VIII) THE PHYSICAL MATURITY OF THE JUVENILE;

16 (IX) THE CURRENT MENTAL STATE OR MATURITY OF THE JUVENILE
17 AS EVIDENCED BY RELEVANT MENTAL HEALTH OR PSYCHOLOGICAL
18 ASSESSMENTS OR SCREENINGS THAT ARE MADE AVAILABLE TO BOTH THE
19 DISTRICT ATTORNEY AND DEFENSE COUNSEL; AND

20 (X) ANY OTHER RELEVANT FACTORS.

21 **SECTION 2. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.