

**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.*

HOUSE
3rd Reading Unamended
April 29, 2009

HOUSE
Amended 2nd Reading
April 28, 2009

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), Colorado Revised Statutes, is
3 amended to read:

4 **19-2-508. Detention and shelter - hearing - time limits -**
5 **findings - review - confinement with adult offenders - restrictions -**
6 **repeal.** (3) (c) (I) No A juvenile taken to a detention or shelter facility
7 or a temporary holding facility pursuant to section 19-2-502 as the result
8 of an allegedly delinquent act that constitutes any of the offenses
9 described in subparagraph (III) of paragraph (a) of this subsection (3)
10 shall NOT be released from such facility if a law enforcement agency has
11 requested that a detention hearing be held to determine whether the
12 juvenile's immediate welfare or the protection of the community requires
13 that the juvenile be detained. No such A juvenile shall NOT thereafter be
14 released from detention except after a hearing, reasonable advance notice
15 of which has been given to the district attorney, alleging new
16 circumstances concerning the further detention of the juvenile.

17 (II) Following a detention hearing held in accordance with
18 subparagraph (I) of this paragraph (c), no A juvenile who is to be tried as
19 an adult for criminal proceedings pursuant to a direct filing or transfer
20 shall NOT be held at any facility intended to be utilized by juvenile
21 offenders, unless the district attorney and the defense counsel agree
22 otherwise. IN DETERMINING WHETHER JAIL IS THE APPROPRIATE PLACE OF
23 CONFINEMENT, DISTRICT ATTORNEY AND DEFENSE COUNSEL SHALL

1 CONSIDER THE FOLLOWING FACTORS:

2 (A) THE AGE OF THE JUVENILE;

3 (B) THE NATURE, SERIOUSNESS, AND CIRCUMSTANCES OF THE
4 ALLEGED OFFENSE;

5 (C) THE JUVENILE'S HISTORY OF PRIOR DELINQUENT OR CRIMINAL
6 ACTS;

7 (D) WHETHER DETENTION IN A JUVENILE FACILITY WILL
8 ADEQUATELY SERVE THE NEED FOR COMMUNITY PROTECTION PENDING
9 THE OUTCOME OF THE CRIMINAL PROCEEDINGS;

10 (E) WHETHER DETENTION IN A JUVENILE FACILITY WILL
11 NEGATIVELY IMPACT THE FUNCTIONING OF THE JUVENILE FACILITY BY
12 COMPROMISING THE GOALS OF DETENTION TO MAINTAIN A SAFE, POSITIVE,
13 AND SECURE ENVIRONMENT FOR ALL JUVENILES WITHIN THE FACILITY;

14 (F) THE RELATIVE ABILITY OF THE AVAILABLE ADULT AND
15 JUVENILE DETENTION FACILITIES TO MEET THE NEEDS OF THE JUVENILE
16 AND PROTECT THE PUBLIC;

17 (G) WHETHER THE JUVENILE PRESENTS AN IMMINENT RISK OF
18 HARM TO HIMSELF OR HERSELF OR OTHERS WITHIN A JUVENILE FACILITY;

19 (H) THE PHYSICAL MATURITY OF THE JUVENILE;

20 (I) THE CURRENT MENTAL STATE OR MATURITY OF THE JUVENILE
21 AS EVIDENCED BY RELEVANT MENTAL HEALTH OR PSYCHOLOGICAL
22 ASSESSMENTS OR SCREENINGS THAT ARE MADE AVAILABLE TO BOTH THE
23 DISTRICT ATTORNEY AND DEFENSE COUNSEL; AND

24 (J) ANY OTHER RELEVANT FACTORS.

25 (III) AT ANY STAGE OF THE PROCEEDINGS, THE DISTRICT
26 ATTORNEY MAY, AFTER FURTHER CONSIDERATION OF THE FACTORS SET
27 FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (4), AGREE TO CHANGE THE

1 PLACE OF CONFINEMENT FROM JAIL TO A JUVENILE FACILITY.

2 (IV) If there is no agreement, detention of the juvenile shall be
3 subject to the provisions of subsection (4) of this section.

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