

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 13, 2009  
Date

Committee on Judiciary.

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

HB09-1321 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, line 3, after "OR", insert "OTHER";
- 2 line 4, after "COURT", insert "MAY PROCEED BY OFFER OF PROOF AND";
- 3 strike line 7.
- 4 Renumber succeeding subparagraphs accordingly.
- 5 Page 3, line 10, after "DELINQUENT", insert "OR CRIMINAL";
- 6 strike lines 11 through 14.
- 7 Renumber succeeding subparagraphs accordingly.
- 8 Page 3, strike lines 18 through 20 and substitute the following:
  - 9 "(V) WHETHER DETENTION IN A JUVENILE FACILITY WILL
  - 10 NEGATIVELY IMPACT THE FUNCTIONING OF THE JUVENILE FACILITY BY
  - 11 COMPROMISING THE GOALS OF DETENTION TO MAINTAIN A SAFE, POSITIVE
  - 12 AND SECURE ENVIRONMENT FOR ALL JUVENILES WITHIN THE FACILITY;"
- 13 after line 23, insert the following:
  - 14 "(VII) WHETHER THE JUVENILE PRESENTS AN IMMINENT RISK OF
  - 15 HARM TO HIMSELF OR OTHERS WITHIN A JUVENILE FACILITY;

1 (VIII) THE PHYSICAL MATURITY OF THE JUVENILE;

2 (IX) THE CURRENT MENTAL STATE OR MATURITY OF THE JUVENILE  
3 AS EVIDENCED BY RELEVANT MENTAL HEALTH OR PSYCHOLOGICAL  
4 ASSESSMENTS OR SCREENINGS THAT ARE MADE AVAILABLE TO BOTH THE  
5 DISTRICT ATTORNEY AND COUNSEL FOR THE DEFENDANT; AND".

6 Renumber succeeding subparagraph accordingly.

7 Page 3, after line 24, insert the following:

8 "(c) THE AMOUNT OF WEIGHT TO BE GIVEN TO EACH OF THE  
9 FACTORS LISTED IN PARAGRAPH (b) OF THIS SUBSECTION (4) IS  
10 DISCRETIONARY WITH THE COURT."

11 Reletter succeeding paragraphs accordingly.

12 Page 4, line 2, strike "19-2-517." and substitute "19-2-517; EXCEPT THAT  
13 A HEARING SHALL NOT BE HELD IF THE JUVENILE IS CHARGED WITH A  
14 CLASS 1 FELONY, IN SUCH CASE, THE JUVENILE SHALL BE HELD IN THE JAIL,  
15 UNLESS THE DISTRICT ATTORNEY STIPULATES TO THE JUVENILE REMAINING  
16 IN A JUVENILE FACILITY."

17 Page 6, line 1, strike "(i)" and substitute "(j)";

18 line 4, strike "(i)" and substitute "(j)";

19 line 6, strike "(i)." and substitute "(j).";

20 line 16, strike "(j)," and substitute "(k),".

21 Page 7, line 11, strike "(i)." and substitute "(j).";

22 line 21, strike "(i)," and substitute "(j),";

23 after line 26, insert the following:

24 **"SECTION 4.** Title 18, Colorado Revised Statutes, is amended  
25 **BY THE ADDITION OF A NEW ARTICLE** to read:

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**ARTICLE 25**  
**Juvenile Confinement Cost and Surcharge**

**18-25-101. Juvenile confinement cost and surcharge.** (1)(a) A COST OF ONE DOLLAR AND FIFTY CENTS IS HEREBY LEVIED ON EACH CRIMINAL ACTION RESULTING IN A CONVICTION OR IN A DEFERRED JUDGMENT AND SENTENCE, AS PROVIDED IN SECTION 18-1.3-102 FOR A FELONY, A MISDEMEANOR, OR MISDEMEANOR TRAFFIC OFFENSE, CHARGED PURSUANT TO STATE STATUTE. THE DEFENDANT SHALL PAY THE COSTS TO THE CLERK OF THE COURT. EACH CLERK SHALL TRANSMIT THE MONEYS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

(b) THE PROVISIONS OF SECTIONS 18-1.3-701 AND 18-1.3-702 SHALL APPLY AS TO THE COLLECTION OF COSTS LEVIED PURSUANT TO THIS SUBSECTION (1).

(2) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY LEVIED AGAINST EACH PENALTY ASSESSMENT NOTICE ISSUED PURSUANT TO SECTION 42-4-1701, C.R.S., FOR A MISDEMEANOR OR A CLASS 1 OR CLASS 2 MISDEMEANOR TRAFFIC OFFENSE UNDER STATE STATUTE THAT RESULTS IN PAYMENT OF THE PENALTY ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL MONEYS COLLECTED BY THE DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (2) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

(3) A COST OF ONE DOLLAR AND FIFTY CENTS IS HEREBY LEVIED AGAINST EACH CIVIL ACTION RESULTING IN AN ADMISSION OF LIABILITY OR A JUDGMENT AGAINST THE DEFENDANT FOR A CLASS A OR CLASS B TRAFFIC INFRACTION CHARGED PURSUANT TO STATE STATUTE. THE DEFENDANT SHALL PAY THE COST TO THE CLERK OF THE COURT. EACH CLERK SHALL TRANSMIT THE MONEYS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

(4) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY LEVIED AGAINST EACH PENALTY ASSESSMENT NOTICE ISSUED PURSUANT TO SECTION 42-4-1701, C.R.S., FOR A CLASS A OR CLASS B TRAFFIC INFRACTION UNDER STATE STATUTE THAT RESULTS IN PAYMENT OF THE PENALTY ASSESSMENT WITHOUT THE COMMENCEMENT OF A CIVIL ACTION. ALL MONEYS COLLECTED BY THE DEPARTMENT OF REVENUE PURSUANT TO

1 THIS SUBSECTION (4) SHALL BE TRANSMITTED TO THE STATE TREASURER,  
2 WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

3 (5) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY  
4 LEVIED AGAINST EACH PENALTY ASSESSMENT ISSUED PURSUANT TO  
5 SECTION 33-6-104, C.R.S., THAT RESULTS IN PAYMENT OF THE PENALTY  
6 ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL  
7 MONEYS COLLECTED BY THE DIVISION OF WILDLIFE IN THE DEPARTMENT  
8 OF NATURAL RESOURCES PURSUANT TO THIS SUBSECTION (5) SHALL BE  
9 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME  
10 TO THE GENERAL FUND.

11 (6) A SURCHARGE OF ONE DOLLAR AND FIFTY CENTS IS HEREBY  
12 LEVIED AGAINST EACH PENALTY ASSESSMENT ISSUED PURSUANT TO  
13 SECTION 33-15-102, C.R.S., THAT RESULTS IN PAYMENT OF THE PENALTY  
14 ASSESSMENT WITHOUT THE COMMENCEMENT OF A CRIMINAL ACTION. ALL  
15 MONEYS COLLECTED BY THE DIVISION OF PARKS AND OUTDOOR  
16 RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES PURSUANT TO  
17 THIS SUBSECTION (6) SHALL BE TRANSMITTED TO THE STATE TREASURER,  
18 WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

19 (7) THE COURT MAY WAIVE A COST OR SURCHARGE LEVIED  
20 PURSUANT TO THIS SECTION IF THE COURT DETERMINES THE DEFENDANT  
21 IS INDIGENT.

22 (8) THE MONEY TRANSFERRED TO THE GENERAL FUND PURSUANT  
23 TO THIS SECTION SHALL BE USED TO FOR THE COST OF IMPLEMENTING  
24 SECTION 19-2-508, C.R.S.

25 **SECTION 5.** 42-4-1701, Colorado Revised Statutes, is amended  
26 BY THE ADDITION OF A NEW SUBSECTION to read:

27 **42-4-1701. Traffic offenses and infractions classified -**  
28 **penalties - penalty and surcharge schedule.** (8) THE SURCHARGES  
29 DESCRIBED IN SUBSECTIONS (4) TO (6) OF THIS SECTION ARE SEPARATE  
30 AND DISTINCT FROM A SURCHARGE LEVIED PURSUANT TO SECTION  
31 18-25-101, C.R.S.

32 **SECTION 6.** 42-4-1707 (3) (a) and (6), Colorado Revised  
33 Statutes, are amended to read:

1           **42-4-1707. Summons and complaint or penalty assessment**  
2 **notice for misdemeanors, petty offenses, and misdemeanor traffic**  
3 **offenses - release - registration.** (3) (a) Whenever a penalty assessment  
4 notice for a misdemeanor, petty offense, or misdemeanor traffic offense  
5 is issued pursuant to section 42-4-1701 (5) (a), the penalty assessment  
6 notice ~~which~~ THAT shall be served upon the defendant by the peace  
7 officer shall contain the name and address of the defendant, the license  
8 number of the vehicle involved, if any, the number of the defendant's  
9 driver's license, if any, a citation of the statute alleged to have been  
10 violated, a brief description of the offense, the date and approximate  
11 location thereof, the amount of the penalty prescribed for the offense, the  
12 amount of the ~~surcharge~~ SURCHARGES thereon pursuant to sections  
13 ~~24-4.1-119 (1) (f) and 24-4.2-104 (1)~~ 18-25-101, 24-4.1-119 (1) (f), AND  
14 24-4.2-104 (1), C.R.S., the number of points, if any, prescribed for the  
15 offense pursuant to section 42-2-127, and the date the penalty assessment  
16 notice is served on the defendant; shall direct the defendant to appear in  
17 a specified county court at a specified time and place in the event the  
18 penalty and ~~surcharge~~ SURCHARGES thereon are not paid; shall be signed  
19 by the peace officer; and shall contain a place for the defendant to elect  
20 to execute a signed acknowledgment of guilt and an agreement to pay the  
21 penalty prescribed and ~~surcharge~~ SURCHARGES thereon within twenty  
22 days, as well as such other information as may be required by law to  
23 constitute the penalty assessment notice to be a summons and complaint,  
24 should the prescribed penalty and ~~surcharge~~ SURCHARGES thereon not be  
25 paid within the time allowed in section 42-4-1701.

26           (6) If the defendant is otherwise eligible to be issued a summons  
27 and complaint or a penalty assessment notice for a violation of this title  
28 punishable as a misdemeanor, petty offense, or misdemeanor traffic  
29 offense and if the defendant does not possess a valid Colorado driver's  
30 license, the defendant, in order to secure release, as provided in this  
31 section, must either consent to be taken by the officer to the nearest  
32 mailbox and to mail the amount of the penalty and ~~surcharge~~  
33 SURCHARGES thereon to the department or must execute a promise to  
34 appear in court on the penalty assessment notice or on the summons and  
35 complaint. If the defendant does possess a valid Colorado driver's  
36 license, the defendant shall not be required to execute a promise to appear  
37 on the penalty assessment notice or on the summons and complaint. The  
38 peace officer shall not require any person who is eligible to be issued a  
39 summons and complaint or a penalty assessment notice for a violation of  
40 this title to produce or divulge such person's social security number.

1           **SECTION 7.** 42-4-1709 (1), Colorado Revised Statutes, is  
2 amended to read:

3           **42-4-1709. Penalty assessment notice for traffic infractions -**  
4 **violations of provisions by officer - driver's license.** (1) Whenever a  
5 penalty assessment notice for a traffic infraction is issued pursuant to  
6 section 42-4-1701 (5) (a), the penalty assessment notice ~~which~~ THAT shall  
7 be served upon the defendant by the peace officer shall contain the name  
8 and address of the defendant, the license number of the vehicle involved,  
9 if any, the number of the defendant's driver's license, if any, a citation of  
10 the statute alleged to have been violated, a brief description of the traffic  
11 infraction, the date and approximate location thereof, the amount of the  
12 penalty prescribed for the traffic infraction, the amount of the ~~surcharge~~  
13 SURCHARGES thereon pursuant to sections ~~24-4.1-119 (1) (f) and~~  
14 ~~24-4.2-104(1)~~ 18-25-101, 24-4.1-119(1) (f), AND 24-4.2-104(1), C.R.S.,  
15 the number of points, if any, prescribed for the traffic infraction pursuant  
16 to section 42-2-127, and the date the penalty assessment notice is served  
17 on the defendant; shall direct the defendant to appear in a specified  
18 county court at a specified time and place in the event the penalty and  
19 ~~surcharge~~ SURCHARGES thereon ~~is~~ ARE not paid; shall be signed by the  
20 peace officer; and shall contain a place for the defendant to elect to  
21 execute a signed acknowledgment of liability and an agreement to pay the  
22 penalty prescribed and ~~surcharge~~ SURCHARGES thereon within twenty  
23 days, as well as such other information as may be required by law to  
24 constitute the penalty assessment notice to be a summons and complaint,  
25 should the prescribed penalty and ~~surcharge~~ SURCHARGES thereon not be  
26 paid within the time allowed in section 42-4-1701.

27           **SECTION 8.** 33-6-104, Colorado Revised Statutes, is amended  
28 to read:

29           **33-6-104. Imposition of penalty - procedures.** (1) Any person  
30 who violates any of the provisions of articles 1 to 6 of this title or any rule  
31 ~~or regulation~~ of the commission that does not have a specific penalty  
32 listed is guilty of a misdemeanor and, upon conviction thereof, shall be  
33 punished by a fine of fifty dollars, A SURCHARGE AS DESCRIBED IN  
34 SECTION 18-25-101, C.R.S., and an assessment of five license suspension  
35 points.

36           (2) At the time that any person is charged with violating any  
37 misdemeanor provisions of articles 1 to 6 of this title or any rule ~~or~~  
38 ~~regulation~~ of the commission, the officer shall issue a summons and

1 complaint to the alleged offender or, in the case of a violation for which  
2 a fine of a fixed amount is prescribed, may give the alleged offender an  
3 opportunity to voluntarily pay the fine AND SURCHARGE in the form of a  
4 penalty assessment. Penalty assessments shall not be issued for violations  
5 for which minimum and maximum fines have been established. The  
6 penalty assessment notice given to the alleged offender shall contain the  
7 information required in and be in the form of a summons and complaint  
8 and shall specify in dollars the amount of the penalty to be assessed for  
9 the alleged offense and the amount of the ~~surcharge~~ SURCHARGES to be  
10 collected pursuant to ~~section 24-4.2-104 (1)~~ SECTIONS 18-25-101 AND  
11 24-4.2-104 (1), C.R.S. If the alleged offender accepts such notice and  
12 pays the fine and the ~~surcharge~~ SURCHARGES entered thereon to the  
13 division within fifteen days of issuance of the notice, such acceptance and  
14 payment shall constitute an acknowledgment of guilt by such person of  
15 the violation set forth in the penalty assessment notice. Any person who  
16 accepts a penalty assessment notice but who does not furnish satisfactory  
17 evidence of identity or who the officer has reasonable and probable  
18 grounds to believe will disregard a written promise to pay the specified  
19 fine and ~~surcharge~~ SURCHARGES may be taken by the officer to the nearest  
20 known post-office facility and BE required to remit the amount of the  
21 specified fine and ~~surcharge~~ SURCHARGES to the division immediately by  
22 mail in United States currency or other legal tender by money order or  
23 personal check. Refusal or inability to remit the specified fine and  
24 ~~surcharge~~ SURCHARGES by mail when required shall constitute a refusal  
25 to accept a penalty assessment notice. The officer shall advise the person  
26 arrested of the license suspension points to be assessed in accordance  
27 with section 33-6-106. Checks tendered by the violator to and accepted  
28 by the division and on which payment is received by the division shall be  
29 deemed sufficient receipt. If the fine and ~~surcharge~~ SURCHARGES are not  
30 so paid, then the officer who issued the penalty assessment notice shall  
31 docket the summons and complaint with a court of competent jurisdiction  
32 for appearance by the person to answer the charges therein contained at  
33 such time and place as is specified in the summons and complaint.

34           **SECTION 9.** 33-15-102 (2), Colorado Revised Statutes, is  
35 amended to read:

36           **33-15-102. Imposition of penalty - procedures.** (2) At the time  
37 that any person is charged with violating any petty offense or  
38 misdemeanor provisions of articles 10 to 15 or 32 of this title or any rule  
39 of the board, the officer shall issue a summons and complaint to the  
40 alleged offender or, in the case of a violation for which a fine of a fixed

1 amount is prescribed, may give the alleged offender an opportunity to  
2 voluntarily pay the fine AND SURCHARGE in the form of a penalty  
3 assessment. Penalty assessments shall not be issued for violations for  
4 which minimum and maximum fines have been established. The penalty  
5 assessment notice given to the alleged offender shall contain the  
6 information required in and be in the form of a summons and complaint  
7 and shall specify in dollars the amount of the penalty to be assessed for  
8 the alleged offense AND THE AMOUNT OF THE SURCHARGE TO BE  
9 COLLECTED PURSUANT TO SECTION 18-25-101, C.R.S. If the alleged  
10 offender accepts such notice and pays the fine AND SURCHARGE entered  
11 thereon to the division within twenty days of issuance of the notice, such  
12 acceptance and payment shall constitute an acknowledgment of guilt by  
13 such person of the violation set forth in the penalty assessment notice.  
14 Any person who accepts a penalty assessment notice but who does not  
15 furnish satisfactory evidence of identity or who the officer has reasonable  
16 and probable grounds to believe will disregard a written promise to pay  
17 the specified fine AND SURCHARGE may be taken by the officer to the  
18 nearest known post-office facility and BE required to remit the amount of  
19 the specified fine AND SURCHARGE to the division immediately by mail in  
20 United States currency or other legal tender or by money order or  
21 personal check. Refusal or inability to remit the specified fine AND  
22 SURCHARGE by mail when required shall constitute a refusal to accept a  
23 penalty assessment notice. Checks tendered by the violator to and  
24 accepted by the division and on which payment is received by the division  
25 shall be deemed sufficient receipt. If the fine ~~is~~ AND SURCHARGE ARE not  
26 so paid, then the officer who issued the penalty assessment notice shall  
27 docket the summons and complaint with a court of competent jurisdiction  
28 for appearance by the person to answer the charges therein contained at  
29 such time and place as is specified in the summons and complaint.".

30 Renumber succeeding section accordingly.

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