

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 28, 2009
Date

Committee on Appropriations.

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 of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. 19-2-508 (3) (c) (II), Colorado Revised Statutes,
4 is amended, and the said 19-2-508 (3) (c) is further amended BY THE
5 ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, 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~~ A juvenile who is to be
10 tried as an adult for criminal proceedings pursuant to a direct filing or
11 transfer shall NOT be held at any facility intended to be utilized by
12 juvenile offenders, unless the district attorney and the defense counsel
13 agree otherwise. THE AGREEMENT MAY BE MADE AT ANY STAGE OF THE
14 PROCEEDINGS; EXCEPT THAT THE DISTRICT ATTORNEY AND DEFENSE
15 COUNSEL SHALL MAKE ALL REASONABLE ATTEMPTS TO CONSIDER THE
16 APPROPRIATE PLACE OF CONFINEMENT WITHIN THIRTY DAYS AFTER THE
17 DIRECT FILE OR TRANSFER. If there is no agreement, detention of the
18 juvenile shall be subject to the provisions of subsection (4) of this section.

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

- 1 (I) THE AGE OF THE JUVENILE;
- 2 (II) THE NATURE, SERIOUSNESS, AND CIRCUMSTANCES OF THE
3 ALLEGED OFFENSE;
- 4 (III) THE JUVENILE'S HISTORY OF PRIOR DELINQUENT OR CRIMINAL
5 ACTS;
- 6 (IV) WHETHER DETENTION IN A JUVENILE FACILITY WILL
7 ADEQUATELY SERVE THE NEED FOR COMMUNITY PROTECTION PENDING
8 THE OUTCOME OF THE CRIMINAL PROCEEDINGS;
- 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 (VI) THE RELATIVE ABILITY OF THE AVAILABLE ADULT AND
14 JUVENILE DETENTION FACILITIES TO MEET THE NEEDS OF THE JUVENILE
15 AND PROTECT THE PUBLIC;
- 16 (VII) WHETHER THE JUVENILE PRESENTS AN IMMINENT RISK OF
17 HARM TO HIMSELF OR HERSELF OR OTHERS WITHIN A JUVENILE FACILITY;
- 18 (VIII) THE PHYSICAL MATURITY OF THE JUVENILE;
- 19 (IX) THE CURRENT MENTAL STATE OR MATURITY OF THE JUVENILE
20 AS EVIDENCED BY RELEVANT MENTAL HEALTH OR PSYCHOLOGICAL
21 ASSESSMENTS OR SCREENINGS THAT ARE MADE AVAILABLE TO BOTH THE
22 DISTRICT ATTORNEY AND DEFENSE COUNSEL; AND
- 23 (X) ANY OTHER RELEVANT FACTORS.

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

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