

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 22, 2011
Date

Committee on Judiciary.

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

HB11-1278 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 4, after line 11 insert:

2 "SECTION 4. 16-22-102 (5.7), Colorado Revised Statutes, is
3 amended, and the said 16-22-102 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **16-22-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (5.7) (a) "Residence" means a place or dwelling that is used,
8 intended to be used, or usually used for habitation by a person who is
9 required to register pursuant to section 16-22-103. "Residence" may
10 include, but is not limited to, a temporary shelter or institution, if the
11 owner of the shelter or institution consents to the person utilizing the
12 shelter or institution as his or her registered address as required by section
13 16-22-106 (4) or 16-22-107 (4) (a) and if the residence of the person at
14 the shelter or institution is capable of verification as required by section
15 16-22-109 (3.5). A person may establish multiple residences by residing
16 in more than one place or dwelling.

17 (b) "RESIDENCE" FOR A TRANSIENT MEANS THE LOCATION WHERE
18 THE TRANSIENT CAN BE FOUND FOR A SIGNIFICANT PERIOD OF EACH DAY.

19 (8.5) "TRANSIENT" MEANS A PERSON WHO HAS NO RESIDENCE."

20 Renumber succeeding sections accordingly.

21 Page 6, line 2, strike "(4)" and substitute "(3) (a.5), (4),".

1 Page 6, after line 19 insert:

2 "(a.5) Changes the address at which a VEHICLE, trailer, or motor
3 home is located, if the VEHICLE, trailer, or motor home is the person's
4 place of residence, regardless of whether the new address is within the
5 jurisdiction of the law enforcement agency with which such person
6 previously registered;".

7 Page 12, line 12, strike "JUVENILE" and substitute "DEPARTMENT OF
8 HUMAN SERVICES".

9 Page 12, line 14, strike "REGISTERED" and substitute "REGISTERED, THE
10 JUVENILE PAROLE BOARD,".

11 Page 12, strike lines 20 through 24 and substitute "THIS SECTION AND IS
12 UNDER THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES AND YET
13 TO BE RELEASED ON PAROLE BY THE JUVENILE PAROLE BOARD, THE
14 DEPARTMENT OF HUMAN SERVICES MAY PETITION THE COURT TO SET A
15 HEARING PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF THIS
16 SECTION AT LEAST SIXTY DAYS BEFORE THE JUVENILE IS SCHEDULED TO
17 APPEAR BEFORE THE JUVENILE PAROLE BOARD.

18 (III) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS
19 OR HER REGISTRATION PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1)
20 OF THIS SECTION AND IS UNDER THE CUSTODY OF THE DEPARTMENT OF
21 HUMAN SERVICES AND YET TO BE RELEASED ON PAROLE BY THE JUVENILE
22 PAROLE BOARD, THE DEPARTMENT OF HUMAN SERVICES, PRIOR TO SETTING
23 THE MATTER FOR HEARING, SHALL MODIFY THE JUVENILE'S PAROLE PLAN
24 OR PAROLE HEARING TO ACKNOWLEDGE THE COURT ORDER OR PETITION
25 UNLESS IT IS ALREADY INCORPORATED IN THE PAROLE PLAN.".

26 Page 13, line 21, after "(1.5)" insert "(a)".

27 Page 13, line 24, strike "(a)" and substitute "(I)".

28 Page 13, line 26, strike "(b)" and substitute "(II)".

29 Page 14, line 2, strike "(c)" and substitute "(III)".

30 Page 14, after line 3 insert:

31 "(b) IN ORDER TO ASSERT THE AFFIRMATIVE DEFENSE PURSUANT
32 TO THIS SUBSECTION (1.5), THE DEFENDANT SHALL PROVIDE NOTICE TO

1 THE PROSECUTING ATTORNEY AS SOON AS PRACTICABLE, BUT NOT LATER
2 THAN THIRTY DAYS PRIOR TO TRIAL, OF HIS OR HER NOTICE OF INTENT TO
3 RELY UPON THE AFFIRMATIVE DEFENSE. THE NOTICE SHALL INCLUDE A
4 DESCRIPTION OF THE UNCONTROLLABLE CIRCUMSTANCE OR
5 CIRCUMSTANCES AND THE DATES THE UNCONTROLLABLE CIRCUMSTANCES
6 BEGAN AND CEASED TO EXIST IN ADDITION TO THE NAMES AND ADDRESSES
7 OF ANY WITNESSES THE DEFENDANT PLANS TO CALL TO SUPPORT THE
8 AFFIRMATIVE DEFENSE. THE PROSECUTING ATTORNEY SHALL ADVISE THE
9 DEFENDANT OF THE NAMES AND ADDRESSES OF ANY ADDITIONAL
10 WITNESSES WHO MAY BE CALLED TO REFUTE SUCH AFFIRMATIVE DEFENSE
11 AS SOON AS PRACTICABLE AFTER THEIR NAMES BECOME KNOWN. UPON
12 THE REQUEST OF THE PROSECUTION, THE COURT SHALL FIRST RULE AS A
13 MATTER OF LAW WHETHER THE CLAIMED FACTS AND CIRCUMSTANCES
14 WOULD, IF ESTABLISHED, CONSTITUTE SUFFICIENT EVIDENCE TO SUPPORT
15 SUBMISSION TO THE JURY."

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