

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

ENGROSSED

LLS NO. R13-0904.01 Michael Dohr x4347

HJR13-1019

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HOUSE JOINT RESOLUTION 13-1019

101 **CONCERNING CREATION OF AN INTERIM COMMITTEE TO STUDY LEGAL**
102 **DEFENSE IN JUVENILE JUSTICE PROCEEDINGS.**

1 WHEREAS, One hundred and ten years ago, Colorado was the
2 second state in the nation to establish a separate juvenile court for
3 children accused of misconduct and activity that would be criminal if
4 committed by an adult in order to hold children accountable for their
5 behavior through developmentally appropriate responses and treatment
6 that both protects the public and assists the child in becoming a
7 productive member of society; and

8 WHEREAS, The Bill of Rights of the United States and Colorado
9 constitutions guarantee children due process of law, access to courts, and
10 the right to counsel in juvenile delinquency court under the United States

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
Amended Final Rdg.
April 11, 2013

1 Supreme Court decision of *In re Gault*, 387 U.S. 1 (1967), extending the
2 protections under *Gideon v. Wainright*, 372 U.S. 335 (1963) to children;
3 and

4 WHEREAS, Children in juvenile delinquency proceedings face
5 direct consequences, such as secure confinement, shackling, placement
6 outside of their family homes, and probation; and

7 WHEREAS, The collateral consequences of a juvenile
8 adjudication can have lasting detrimental effects on a child's current and
9 future ability to attend school, secure housing, obtain a job, obtain credit,
10 or enroll in college, all of which hinder the ability to recover from a
11 delinquency adjudication; and

12 WHEREAS, Defense counsel plays a critical role for children in
13 juvenile court by protecting against unfairness, promoting accuracy in
14 decision-making, presenting alternatives to decisionmakers, helping
15 children understand the court proceedings and the consequences of
16 decision-making, and representing children's expressed interests; and

17 WHEREAS, Children are different from adults, and the
18 representation of a child client requires specialized skills and training, but
19 juvenile defense has not consistently been treated as a specialty practice
20 for dedicated attorneys by indigent defense delivery systems, and
21 statewide disparities exist as to how and when children access counsel
22 and in the quality of representation children receive in delinquency
23 proceedings; and

24 WHEREAS, Because children and families face barriers in
25 accessing the courts and counsel, and a significant percentage of children
26 and families proceed without counsel in juvenile delinquency court,
27 children enter waivers of counsel without consultation with counsel and
28 enter guilty pleas without a full advisement of the collateral consequences
29 of juvenile adjudications by counsel; and

30 WHEREAS, Children and families are often unaware of public
31 access to juvenile court records and juvenile court proceedings and the
32 barriers those records impose on future success. Moreover, the process of
33 petitioning for expungement of a juvenile record or removal from the
34 juvenile sex offender registry are important statutory rights in this regard,
35 but the process is cumbersome for children and families to navigate
36 without counsel; now, therefore,

1 *Be It Resolved by the House of Representatives of the Sixty-ninth*
2 *General Assembly of the State of Colorado, the Senate concurring herein:*

3 (1) That there is hereby created a legislative committee, referred
4 to in this resolution as the "committee", which shall meet in the interim
5 after the first regular session of the Sixty-ninth General Assembly to
6 study the role of legal defense counsel in the juvenile justice system.

7 (2) (a) That the committee shall consist of ten legislative members
8 appointed as follows:

9 (I) Five members of the Senate, three appointed by the President
10 of the Senate and two appointed by the Minority Leader of the Senate;
11 and

12 (II) Five members of the House of Representatives, three
13 appointed by the Speaker of the House of Representatives and two
14 appointed by the Minority Leader of the House of Representatives.

15 (III) The Speaker of the House of Representatives shall select a
16 legislative committee member to serve as Chair of the committee, and the
17 President of the Senate shall select a legislative member of the committee
18 to serve as Vice-Chair of the committee.

19 (b) All appointments to the committee must be made by May 31,
20 2013.

21 (c) The Chair and Vice-Chair of the committee shall jointly select
22 up to ten persons to serve as nonvoting members of the committee and to
23 assist the legislative committee members in reviewing the issues
24 identified in this section. The nonvoting members must include persons
25 with knowledge and experience in the areas of juvenile defense, juvenile
26 delinquency court administration, and professionalism in the law, and
27 who represent the following constituencies:

28 (I) Office of the State Public Defender;

29 (II) Juvenile defense attorneys;

30 (III) State Court Administrator's Office;

31 (IV) Juvenile court judges and magistrates;

1 (V) Youth and parents of youth previously involved in the
2 juvenile court system;

3 (VI) District attorneys;

4 (VII) Office of Child's Representative;

5 (VIII) Community victim rights organizations; and

6 (IX) Community organizations.

7 (3) That the committee shall study and address:

8 (a) Current laws, procedures, and practices for the appointment of
9 counsel, advisement of rights, and waivers of counsel, for children in
10 juvenile delinquency court;

11 (b) The role of defense counsel as distinct from the role of a
12 guardian ad litem and the scope of the right to counsel;

13 (c) Current laws, procedures, and guidelines for the determination
14 of whether a child is indigent for the purpose of providing
15 court-appointed counsel;

16 (d) Methods for improving professionalism in the practice of
17 juvenile defense;

18 (e) The impact of inadequate access to counsel on minority,
19 immigrant, and disabled children and children with mental health needs;

20 (f) Funding attorneys to represent indigent children and the most
21 efficient way to provide counsel to juveniles in delinquency proceedings;
22 and

23 (g) The scope of public access to juvenile delinquency records, the
24 laws and procedures for expunging juvenile adjudications, and the laws
25 and procedures for petitioning for removal from the juvenile sex offender
26 registry.

27 (4) (a) That the committee shall meet at least four times, but no
28 more than six times, beginning in July 2013, during the 2013 interim. The
29 committee may form subcommittees to accomplish its goals and may

1 invite additional members of the community to participate in the
2 subcommittees. The committee may also solicit and receive written
3 comments from members of the public.

4 (b) In addition to testimony, the committee shall review any
5 available, non-identifying Colorado data collected by the Department of
6 the Judiciary, Office of the State Public Defender, Office of the Alternate
7 Defense Counsel, and other agencies with data concerning access to the
8 courts and access to defense counsel for children. The committee may
9 also solicit information from the National Conference of State
10 Legislatures, other national non-partisan organizations, and other states
11 or organizations that have studied or introduced legislation regarding
12 access to courts and counsel for children in juvenile court.

13 (5) That the legislative members of the committee be compensated
14 for attendance at meetings of the committee as provided in section
15 2-2-307, Colorado Revised Statutes. The nonlegislative members of the
16 committee shall serve without compensation and without reimbursement
17 for expenses.

18 (6) That the Legislative Council staff and the Office of Legislative
19 Legal Services shall be available to assist the committee in carrying out
20 its duties.

21 (7) That all reasonable and necessary expenses incurred by the
22 committee are subject to approval by the chair of the Legislative Council
23 and paid by vouchers and warrants drawn as provided by law from
24 moneys allocated to the Legislative Council for legislative studies from
25 appropriations made by the General Assembly.

26 (8) That the committee shall make a report to the Legislative
27 Council by the date specified in Joint Rule 24 (b) (1) (D). The report may
28 include recommendations for legislation, including but not limited to
29 legislation continuing the committee and an explanation of the additional
30 time and procedures that the committee may implement to achieve the
31 committee's study goals. Legislation recommended by the committee shall
32 be treated as legislation recommended by any other interim committee for
33 the purposes of any introduction deadlines or bill limitations imposed by
34 the Joint Rules of the Senate and House of Representatives.