

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0896.01 Jane Ritter x4342

HOUSE BILL 13-1279

HOUSE SPONSORSHIP

Labuda, Schafer

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING DETENTION PROCEDURES FOR JUVENILES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill instructs the courts in juvenile cases to seek to limit premature waiver of counsel by a juvenile in detention hearings. The bill also requires juveniles to be free of physical restraints during hearings unless the court makes specific findings of fact to the contrary that allow for physical restraints to maintain order in the courtroom, prevent the juvenile's escape, or provide for the safety of the courtroom.

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.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-105, **add** (3) as
3 follows:

4 **19-1-105. Right to counsel and jury trial - waiver of counsel.**

5 (3) THE COURT SHALL MAKE EVERY EFFORT TO ENSURE THAT A JUVENILE
6 DOES NOT PREMATURELY WAIVE COUNSEL IN DETENTION HEARINGS AND,
7 IF THERE IS SUCH A WAIVER, THE COURT SHALL ENSURE THAT SUCH
8 WAIVER IS MADE KNOWINGLY AND VOLUNTARILY BY THE JUVENILE. PRIOR
9 TO GRANTING A WAIVER OF COUNSEL, THE COURT SHALL FULLY APPRISE
10 THE JUVENILE OF THE SHORT- AND LONG-TERM DIRECT AND COLLATERAL
11 CONSEQUENCES OF THE WAIVER.

12 **SECTION 2.** In Colorado Revised Statutes, 19-1-106, **add** (6) as
13 follows:

14 **19-1-106. Hearings - procedure - record - restraints.** (6) A

15 JUVENILE MAY BE SUBJECT TO PHYSICAL RESTRAINTS DURING A HEARING
16 ONLY IF THE JUDGE FINDS THE RESTRAINT TO BE REASONABLY NECESSARY
17 TO MAINTAIN ORDER IN THE COURTROOM, PREVENT THE JUVENILE'S
18 ESCAPE, OR PROVIDE FOR THE SAFETY OF THE COURTROOM. WHENEVER
19 PRACTICAL, THE JUDGE SHALL PROVIDE THE JUVENILE AND THE JUVENILE'S
20 ATTORNEY AN OPPORTUNITY TO BE HEARD TO CONTEST THE USE OF
21 RESTRAINTS BEFORE THE JUDGE ORDERS THE USE OF RESTRAINTS. IF
22 RESTRAINTS ARE ORDERED, THE JUDGE SHALL MAKE FINDINGS OF FACT IN
23 SUPPORT OF THE ORDER. FOR THE PURPOSES OF THIS SUBSECTION (6),
24 "PHYSICAL RESTRAINTS" INCLUDES BUT IS NOT LIMITED TO HANDCUFFS,
25 CHAINS, SHACKLES, OR IRONS.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.