

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0213.01 Richard Sweetman x4333

HOUSE BILL 14-1032

HOUSE SPONSORSHIP

Kagan, Lee

SENATE SPONSORSHIP

Guzman, Ulibarri

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF DEFENSE COUNSEL TO JUVENILE**
102 **OFFENDERS, AND, IN CONNECTION THEREWITH, MAKING AND**
103 **REDUCING APPROPRIATIONS.**

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.>)

Juvenile Defense Attorney Interim Committee. A promise to appear in court served upon a juvenile and the juvenile's parent, guardian, or legal custodian shall state, in clear language that is understandable and appropriate to a juvenile:

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
3rd Reading Unamended
April 15, 2014

HOUSE
Amended 2nd Reading
April 14, 2014

- ! That the juvenile has the right to have counsel;
- ! That counsel will be appointed for the juvenile if the juvenile or the juvenile's parent, guardian, or legal custodian lacks adequate resources to retain counsel or refuses to retain counsel for the juvenile;
- ! That, if the juvenile chooses to retain his or her own counsel, then the juvenile and the juvenile's parent, guardian, or legal custodian are advised to choose counsel that is experienced in representing juveniles in the juvenile justice system; and
- ! The contact information for the local office of the state public defender (OSPD).

When a juvenile is placed in a detention facility, a temporary holding facility, or a shelter facility designated by the court, the screening team shall promptly so notify the court, the district attorney, and the local office of the OSPD.

A juvenile who is detained shall be represented at the detention hearing by counsel. If the juvenile has not retained his or her own counsel, he or she shall be represented by the OSPD or, in the case of a conflict, by the office of alternate defense counsel (OADC). This representation shall continue unless:

- ! The juvenile retains his or her own counsel; or
- ! The juvenile is charged with an offense for which the juvenile may waive counsel and the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel.

The scheduled time for a detention hearing must allow a juvenile's defense counsel sufficient time to consult with the juvenile before the detention hearing. This consultation may be performed by secure electronic means if the conditions under which the electronic consultation is held allow the consultation to be confidential. The law enforcement agency that arrested the juvenile shall promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall promptly provide to the court and to defense counsel any screening material prepared pursuant to the juvenile's arrest.

A detention hearing shall not be combined with a preliminary hearing or a first advisement. Due to the limited scope of a detention hearing, the representation of a juvenile by appointed counsel at a detention hearing does not, by itself, create a conflict in the event that such counsel is subsequently appointed to represent another individual whose case is related to the juvenile's case.

A summons issued by a court to a juvenile shall:

- ! Explain that the court will appoint counsel for the juvenile if the juvenile does not retain his or her own counsel; and

! State the contact information for the OSPD that serves the jurisdiction of the court.

At a juvenile's first appearance before the court, after the detention hearing or at the first appearance if the juvenile appears on a summons, the court shall advise the juvenile of his or her constitutional and legal rights, including the right to counsel. The court shall appoint the OSPD or, in the case of a conflict, the OADC for the juvenile unless the juvenile has retained his or her own counsel or the juvenile has made a knowing, intelligent, and voluntary waiver of his or her right to counsel.

Any decision to waive the right to counsel shall be made by the juvenile himself or herself after consulting with his or her defense counsel. The court may accept a waiver of counsel by a juvenile only after finding that:

! The juvenile is of a sufficient maturity level to make a voluntary, knowing, and intelligent waiver of the right to counsel;

! The juvenile has consulted with counsel and understands the sentencing options that will be available to the court in the event of an adjudication or conviction;

! The juvenile has not been coerced into making the waiver;

! The juvenile understands that the court will provide counsel if the juvenile's parent, guardian, or legal custodian is unable or unwilling to obtain counsel for the juvenile; and

! The juvenile understands the possible consequences that may result from an adjudication or conviction of the offense with which the juvenile is charged.

The court shall not accept a juvenile's waiver of his or her right to counsel in any proceeding relating to a case in which the juvenile is charged with:

! A sexual offense;

! A crime of violence;

! An offense for which the juvenile will receive a mandatory sentence upon his or her conviction of the offense; or

! An offense for which the juvenile is being charged as a repeat juvenile offender, as an aggravated juvenile offender, or as a mandatory sentence offender.

The court shall not accept a juvenile's attempt to waive his or her right to counsel if the prosecuting attorney is seeking direct file proceedings or a transfer proceeding or if the juvenile is in the custody of the state department of human services or a county department of social services.

For purposes of applying for court-appointed counsel, the indigence of a juvenile is determined only by considering the juvenile's assets and income.

The appointment of counsel for a juvenile offender shall continue until the court's jurisdiction is terminated, the juvenile or the juvenile's parent, guardian, or legal custodian retains counsel for the juvenile, or the juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.

A court shall not deem a guardian ad litem who is appointed by the court for a child in a delinquency proceeding to be a substitute for defense counsel for the juvenile.

The OSPD, before determining indigency, may provide limited representation to juveniles in detention hearings or adult defendants in custody who cannot post or are not allowed bond.

The OSPD, the OADC, and the judicial branch shall annually report certain data concerning juvenile delinquency proceedings.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2-507, **amend** (5)
3 as follows:

4 **19-2-507. Duty of officer - screening teams - notification -**
5 **release or detention.** (5) (a) As an alternative to taking a juvenile into
6 temporary custody pursuant to subsections (1), (3), and (4) of this section,
7 a law enforcement officer may, if authorized by the establishment of a
8 policy that permits such service by order of the chief judge of the judicial
9 district or the presiding judge of the Denver juvenile court, which policy
10 is established after consultation between such judge and the district
11 attorney and law enforcement officials in the judicial district, serve a
12 written promise to appear for juvenile proceedings based on any act that
13 would constitute a felony, misdemeanor, or petty offense upon the
14 juvenile and the juvenile's parent, guardian, or legal custodian.

15 (b) ~~Such~~ A promise to appear ~~SERVED~~ pursuant to PARAGRAPH (a)
16 OF this subsection (5) ~~shall~~ **MUST** state any charges against the juvenile
17 and the date, time, and place where such juvenile shall be required to
18 answer such charges. **THE PROMISE TO APPEAR MUST ALSO STATE:**

1 (I) THAT THE JUVENILE HAS THE RIGHT TO HAVE THE ASSISTANCE
2 OF COUNSEL;

3 (II) THAT COUNSEL CAN BE APPOINTED FOR THE JUVENILE IF THE
4 JUVENILE AND THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
5 LACK ADEQUATE RESOURCES TO RETAIN COUNSEL OR THE JUVENILE'S
6 PARENT, GUARDIAN, OR LEGAL CUSTODIAN REFUSES TO RETAIN COUNSEL
7 FOR THE JUVENILE;

8 (III) THAT, TO DETERMINE IF THE JUVENILE IS ELIGIBLE FOR
9 COURT-APPOINTED COUNSEL, OR TO APPLY FOR COURT-APPOINTED
10 COUNSEL, THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS
11 ADVISED TO CALL THE OFFICE OF THE STATE PUBLIC DEFENDER, VISIT THE
12 STATE PUBLIC DEFENDER'S OFFICE, OR VISIT THE STATE PUBLIC DEFENDER'S
13 INTERNET WEB SITE;

14 (IV) THAT, TO AVOID DELAY IN OBTAINING COUNSEL, THE
15 JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS ADVISED TO
16 APPLY FOR COURT-APPOINTED COUNSEL AT LEAST FIVE DAYS BEFORE THE
17 JUVENILE'S PROMISED DATE OF APPEARANCE; AND

18 (V) THE CONTACT INFORMATION FOR THE LOCAL OFFICE OF THE
19 STATE PUBLIC DEFENDER, INCLUDING THE OFFICE'S TELEPHONE NUMBER
20 AND ADDRESS, AND THE ADDRESS OF THE INTERNET WEB SITE OF THE
21 OFFICE OF THE STATE PUBLIC DEFENDER.

22 (c) The promise to appear shall be signed by the juvenile. The
23 promise to appear shall be served upon the juvenile's parent, guardian, or
24 legal custodian by personal service or by certified mail, return receipt
25 requested. The date established for the juvenile and the juvenile's parent,
26 guardian, or legal custodian to appear shall not be earlier than seven days
27 nor later than thirty days after the promise to appear is served upon both

1 the juvenile and the juvenile's parent, guardian, or legal custodian.

2 **SECTION 2.** In Colorado Revised Statutes, 19-2-508, **amend** (2),
3 (3) (a) (I), (3) (a) (II), and (3) (a) (III) introductory portion; and **add** (2.5)
4 and (3) (a) (I.5) as follows:

5 **19-2-508. Detention and shelter - hearing - time limits -**
6 **findings - review - confinement with adult offenders - restrictions.**

7 (2) When a juvenile is placed in a detention facility, in a temporary
8 holding facility, or in a shelter facility designated by the court, the
9 screening team shall promptly so notify the court, THE DISTRICT
10 ATTORNEY, AND THE LOCAL OFFICE OF THE STATE PUBLIC DEFENDER. The
11 screening team shall also notify a parent or legal guardian or, if a parent
12 or legal guardian cannot be located within the county, the person with
13 whom the juvenile has been residing and inform him or her of the right
14 to a prompt hearing to determine whether the juvenile is to be detained
15 further. The court shall hold ~~such~~ THE detention hearing within forty-eight
16 hours, excluding Saturdays, Sundays, and legal holidays. FOR A JUVENILE
17 BEING HELD IN DETENTION ON A WARRANT FOR VIOLATING A VALID COURT
18 ORDER ON A STATUS OFFENSE, THE COURT SHALL HOLD THE DETENTION
19 HEARING WITHIN TWENTY-FOUR HOURS, EXCLUDING SATURDAYS,
20 SUNDAYS, AND LEGAL HOLIDAYS.

21 (2.5) A JUVENILE WHO IS DETAINED FOR COMMITTING A
22 DELINQUENT ACT SHALL BE REPRESENTED AT THE DETENTION HEARING BY
23 COUNSEL. IF THE JUVENILE HAS NOT RETAINED HIS OR HER OWN COUNSEL,
24 THE COURT SHALL APPOINT THE OFFICE OF THE STATE PUBLIC DEFENDER
25 OR, IN THE CASE OF A CONFLICT, THE OFFICE OF ALTERNATE DEFENSE
26 COUNSEL TO REPRESENT THE JUVENILE. THIS APPOINTMENT SHALL
27 CONTINUE IF THE COURT APPOINTS THE OFFICE OF THE STATE PUBLIC

1 DEFENDER OR THE OFFICE OF ALTERNATE DEFENSE COUNSEL PURSUANT TO
2 SECTION 19-2-706 (2) (a) UNLESS:

3 (a) THE JUVENILE RETAINS HIS OR HER OWN COUNSEL; OR

4 (b) THE JUVENILE MAKES A KNOWING, INTELLIGENT, AND
5 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
6 SECTION 19-2-706 (2) (c).

7 (3) (a) (I) A juvenile taken into custody pursuant to this article and
8 placed in a detention or shelter facility or a temporary holding facility
9 ~~shall be~~ IS entitled to a hearing within forty-eight hours, excluding
10 Saturdays, Sundays, and legal holidays, of such placement to determine
11 if he or she should be detained. THE TIME OF THE DETENTION HEARING
12 MUST ALLOW DEFENSE COUNSEL SUFFICIENT TIME TO CONSULT WITH THE
13 JUVENILE BEFORE THE DETENTION HEARING. THIS CONSULTATION MAY BE
14 PERFORMED BY SECURE ELECTRONIC MEANS IF THE CONDITIONS UNDER
15 WHICH THE ELECTRONIC CONSULTATION IS HELD ALLOW THE
16 CONSULTATION TO BE CONFIDENTIAL. The time in which the hearing ~~shall~~
17 MUST be held may be extended for a reasonable time by order of the court
18 upon good cause shown.

19 (I.5) THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE
20 JUVENILE SHALL PROMPTLY PROVIDE TO THE COURT AND TO DEFENSE
21 COUNSEL THE AFFIDAVIT SUPPORTING PROBABLE CAUSE FOR THE ARREST
22 AND THE ARREST REPORT, IF THE ARREST REPORT IS AVAILABLE, AND THE
23 SCREENING TEAM SHALL PROMPTLY PROVIDE TO THE COURT AND TO
24 DEFENSE COUNSEL ANY SCREENING MATERIAL PREPARED PURSUANT TO
25 THE JUVENILE'S ARREST. UPON COMPLETION OF THE DETENTION HEARING,
26 THE DEFENSE SHALL RETURN ANY MATERIALS RECEIVED PURSUANT TO
27 THIS SUBPARAGRAPH (I.5) UNLESS THE APPOINTMENT IS CONTINUED AT

1 THE CONCLUSION OF THE HEARING.

2 (II) The ~~primary purpose~~ ONLY PURPOSES of a detention hearing
3 ~~shall be~~ ARE to determine if a juvenile should be detained further and to
4 define conditions under which he or she may be released, if his or her
5 release is appropriate. A detention hearing shall not be ~~considered~~
6 COMBINED WITH a preliminary hearing or a first advisement. DUE TO THE
7 LIMITED SCOPE OF A DETENTION HEARING, THE REPRESENTATION OF A
8 JUVENILE BY APPOINTED COUNSEL AT A DETENTION HEARING DOES NOT,
9 BY ITSELF, CREATE A BASIS FOR DISQUALIFICATION IN THE EVENT THAT
10 SUCH COUNSEL IS SUBSEQUENTLY APPOINTED TO REPRESENT ANOTHER
11 INDIVIDUAL WHOSE CASE IS RELATED TO THE JUVENILE'S CASE.

12 (III) With respect to this section, the court may further detain the
13 juvenile ONLY if the court ~~is satisfied~~ FINDS from the information
14 provided at the hearing that the juvenile is a danger to himself or herself
15 or to the community. Any information having probative value shall be
16 received regardless of its admissibility under the rules of evidence. In
17 determining whether a juvenile requires detention, the court shall consider
18 any record of any prior adjudications of the juvenile. There shall be a
19 rebuttable presumption that a juvenile is a danger to himself or herself or
20 to the community if:

21 **SECTION 3.** In Colorado Revised Statutes, 19-2-514, **amend** (1)
22 as follows:

23 **19-2-514. Summons - issuance - contents - service.** (1) After a
24 petition has been filed, the court shall promptly issue a summons reciting
25 briefly the substance of the petition. The summons ~~shall set forth the~~
26 ~~constitutional and legal rights of the juvenile, including the right to have~~
27 ~~an attorney present at the hearing on the petition~~ MUST ALSO STATE, IN A

1 SEPARATE BOX, IN BOLD, AND IN CAPITALIZED LETTERS, THE FOLLOWING
2 TEXT, INSERTING THE TELEPHONE NUMBER AND ADDRESS OF THE LOCAL
3 OFFICE OF THE STATE PUBLIC DEFENDER AND THE INTERNET WEB SITE
4 ADDRESS OF THE STATE PUBLIC DEFENDER, AS INDICATED:

5 1. YOU HAVE THE RIGHT TO HAVE YOUR OWN
6 LAWYER HELP YOU AT YOUR HEARING.

7 2. YOU MAY BE ELIGIBLE FOR THIS LAWYER AT
8 NO CHARGE.

9 3. TO FIND OUT IF YOU ARE ELIGIBLE, YOU OR
10 YOUR PARENT, GUARDIAN, OR LEGAL
11 CUSTODIAN SHOULD CALL THE OFFICE OF THE
12 STATE PUBLIC DEFENDER AT _____, VISIT
13 THE OFFICE OF THE STATE PUBLIC DEFENDER AT
14 _____, OR VISIT THE STATE PUBLIC
15 DEFENDER'S WEB SITE AT _____.

16 4. YOU ARE MORE LIKELY TO HAVE A FREE
17 LAWYER PRESENT AT YOUR HEARING IF YOU OR
18 YOUR PARENT, GUARDIAN, OR LEGAL
19 CUSTODIAN CALLS OR VISITS THE OFFICE OF THE
20 STATE PUBLIC DEFENDER AT LEAST FIVE DAYS
21 BEFORE YOUR HEARING.

22 **SECTION 4.** In Colorado Revised Statutes, 19-2-706, **amend** (1)
23 and (2) as follows:

24 **19-2-706. Advisement - right to counsel - waiver of right to**
25 **counsel.** (1) (a) At the JUVENILE'S first appearance before the court, after
26 the filing of a petition DETENTION HEARING OR AT THE FIRST APPEARANCE
27 IF THE JUVENILE APPEARS ON A SUMMONS, THE COURT SHALL ADVISE the

1 juvenile and his or her parents, guardian, or other legal custodian shall be
2 advised by the court of their THE JUVENILE'S constitutional RIGHTS and
3 legal rights as set forth in rule 3 of the Colorado rules of juvenile
4 procedure, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO COUNSEL.
5 Such THE advisement shall include the possibility of restorative justice
6 practices, including victim-offender conferences if restorative justice
7 practices are available in the jurisdiction. The advisement regarding
8 restorative justice practices does not establish any right to restorative
9 justice practices on behalf of the juvenile.

10 (b) IF THE RESPONDENT HAS MADE AN EARLY APPLICATION FOR
11 APPOINTED COUNSEL FOR THE JUVENILE AND THE OFFICE OF THE STATE
12 PUBLIC DEFENDER HAS MADE A PRELIMINARY DETERMINATION THAT THE
13 JUVENILE IS ELIGIBLE FOR APPOINTED COUNSEL AS SET FORTH IN SECTION
14 21-1-103, C.R.S., OR IF THE COURT HAS APPOINTED COUNSEL FOR THE
15 JUVENILE PURSUANT TO SECTION 19-2-508 (2.5), AN ATTORNEY FROM THE
16 OFFICE OF THE STATE PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT,
17 FROM THE OFFICE OF ALTERNATE DEFENSE COUNSEL, SHALL BE AVAILABLE
18 TO REPRESENT THE JUVENILE AT THE JUVENILE'S FIRST APPEARANCE, AS
19 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1).

20 (c) IF THE RESPONDENT HAS NOT MADE AN EARLY APPLICATION
21 FOR APPOINTED COUNSEL FOR THE JUVENILE BUT THE JUVENILE REQUESTS
22 APPOINTMENT OF COUNSEL AT THE FIRST APPEARANCE, THE COURT SHALL
23 DETERMINE IF THE JUVENILE IS ELIGIBLE FOR COUNSEL PURSUANT TO
24 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

25 (d) AS USED IN THIS SUBSECTION (1), UNLESS THE CONTEXT
26 OTHERWISE REQUIRES, "EARLY APPLICATION" MEANS THAT THE
27 RESPONDENT HAS CONTACTED THE OFFICE OF THE STATE PUBLIC

1 DEFENDER AND APPLIED FOR REPRESENTATION OF THE JUVENILE BY THE
2 STATE PUBLIC DEFENDER NOT LESS THAN FIVE DAYS BEFORE THE
3 JUVENILE'S SCHEDULED COURT DATE FOR THE FIRST APPEARANCE AND HAS
4 PROVIDED SUFFICIENT INFORMATION TO THE OFFICE OF THE STATE PUBLIC
5 DEFENDER TO ALLOW THAT OFFICE TO MAKE A PRELIMINARY
6 DETERMINATION OF ELIGIBILITY FOR REPRESENTATION.

7 (e) FAILURE OF THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL
8 CUSTODIAN TO APPLY FOR COURT-APPOINTED COUNSEL MAY NOT BE
9 CONSTRUED AS A WAIVER OF THE RIGHT TO COUNSEL OR ANY OTHER
10 RIGHTS HELD BY THE JUVENILE.

11 (2) (a) If the juvenile ~~or~~ AND his or her parents, guardian, or other
12 legal custodian ~~requests counsel and the juvenile or his or her parents,~~
13 ~~guardian, or other legal custodian is~~ ARE found to be ~~without sufficient~~
14 ~~financial means,~~ INDIGENT PURSUANT TO SECTION 21-1-103 (3), C.R.S.,
15 or the juvenile's parents, guardian, or other legal custodian refuses to
16 retain counsel for ~~said~~ THE juvenile, OR THE COURT, ON ITS OWN MOTION,
17 DETERMINES THAT COUNSEL IS NECESSARY TO PROTECT THE INTERESTS OF
18 THE JUVENILE OR OTHER PARTIES, OR THE JUVENILE IS IN THE CUSTODY OF
19 THE STATE DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT
20 OF SOCIAL SERVICES, the court shall appoint ~~counsel~~ THE OFFICE OF STATE
21 PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT, THE OFFICE OF
22 ALTERNATE DEFENSE COUNSEL for the juvenile; EXCEPT THAT THE COURT
23 SHALL NOT APPOINT THE OFFICE OF THE STATE PUBLIC DEFENDER OR THE
24 OFFICE OF ALTERNATE DEFENSE COUNSEL IF:

25 (I) THE JUVENILE HAS RETAINED HIS OR HER OWN COUNSEL; OR

26 (II) THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
27 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN

1 PARAGRAPH (c) OF THIS SUBSECTION (2).

2 (b) (I) If the court appoints counsel for the juvenile because of the
3 refusal of the parents, guardian, or other legal custodian to retain counsel
4 for the juvenile, the parents, guardian, or legal custodian, other than a
5 county department of social services or the department of human services,
6 shall be ~~ordered to reimburse the court for the cost of the counsel unless~~
7 ~~the court finds there was good cause for such refusal~~. ADVISED BY THE
8 COURT THAT IF THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
9 IS DETERMINED NOT TO BE INDIGENT PURSUANT TO SECTION 21-1-103 (3),
10 C.R.S., THEN THE COURT WILL ORDER THE JUVENILE'S PARENT, GUARDIAN,
11 OR LEGAL CUSTODIAN, OTHER THAN A COUNTY DEPARTMENT OF HUMAN
12 SERVICES OR THE STATE DEPARTMENT OF HUMAN SERVICES, TO
13 REIMBURSE THE COURT FOR THE COST OF THE REPRESENTATION UNLESS
14 THE COURT, FOR GOOD CAUSE, WAIVES THE REIMBURSEMENT
15 REQUIREMENT. THE AMOUNT OF THE REIMBURSEMENT WILL BE A
16 PREDETERMINED AMOUNT THAT:

17 (A) SHALL BE SET BY THE SUPREME COURT, IN CONSULTATION
18 WITH THE OFFICE OF THE STATE PUBLIC DEFENDER AND THE OFFICE OF
19 ALTERNATE DEFENSE COUNSEL;

20 (B) SHALL BE INCLUDED IN THE CHIEF JUSTICE DIRECTIVE
21 CONCERNING THE APPOINTMENT OF STATE-FUNDED COUNSEL IN CRIMINAL
22 AND JUVENILE DELINQUENCY CASES; AND

23 (C) MAY BE BASED PARTLY OR ENTIRELY UPON THE STAGE A
24 PROCEEDING HAS REACHED WHEN COUNSEL IS APPOINTED, THE STAGE A
25 PROCEEDING HAS REACHED WHEN REPRESENTATION IS TERMINATED, OR
26 BOTH.

27 (II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF

1 THIS PARAGRAPH (b) TO THE CONTRARY, IF THE COURT FINDS THAT THERE
2 EXISTS A CONFLICT OF INTEREST BETWEEN THE JUVENILE AND THE
3 JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN SUCH THAT THE
4 INCOME AND ASSETS OF THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN
5 ARE UNAVAILABLE TO THE JUVENILE, THEN THE COURT SHALL CONSIDER
6 ONLY THE JUVENILE'S OWN INCOME AND ASSETS FOR THE PURPOSE OF
7 DETERMINING WHETHER TO ISSUE AN ORDER FOR REIMBURSEMENT
8 PURSUANT TO THIS PARAGRAPH (b).

9 (c) The court may ~~appoint counsel without such request if it~~
10 ~~deems representation by counsel necessary to protect the interest of the~~
11 ~~juvenile or of other parties.~~ ACCEPT A WAIVER OF COUNSEL BY A JUVENILE
12 ONLY AFTER FINDING ON THE RECORD, BASED ON A DIALOGUE CONDUCTED
13 WITH THE JUVENILE, THAT:

14 (I) THE JUVENILE IS OF A SUFFICIENT MATURITY LEVEL TO MAKE
15 A VOLUNTARY, KNOWING, AND INTELLIGENT WAIVER OF THE RIGHT TO
16 COUNSEL;

17 (II) THE JUVENILE UNDERSTANDS THE SENTENCING OPTIONS THAT
18 ARE AVAILABLE TO THE COURT IN THE EVENT OF AN ADJUDICATION OR
19 CONVICTION OF THE OFFENSE WITH WHICH THE JUVENILE IS CHARGED;

20 (III) THE JUVENILE HAS NOT BEEN COERCED BY ANY OTHER PARTY,
21 INCLUDING BUT NOT LIMITED TO THE JUVENILE'S PARENT, GUARDIAN, OR
22 LEGAL CUSTODIAN, INTO MAKING THE WAIVER;

23 (IV) THE JUVENILE UNDERSTANDS THAT THE COURT WILL PROVIDE
24 COUNSEL FOR THE JUVENILE IF THE JUVENILE'S PARENT, GUARDIAN, OR
25 LEGAL CUSTODIAN IS UNABLE OR UNWILLING TO OBTAIN COUNSEL FOR THE
26 JUVENILE; AND

27 (V) THE JUVENILE UNDERSTANDS THE POSSIBLE CONSEQUENCES

1 THAT MAY RESULT FROM AN ADJUDICATION OR CONVICTION OF THE
2 OFFENSE WITH WHICH THE JUVENILE IS CHARGED, WHICH CONSEQUENCES
3 MAY OCCUR IN ADDITION TO THE ACTUAL ADJUDICATION OR CONVICTION
4 ITSELF.

5 (d) The appointment of counsel pursuant to this subsection (2)
6 shall continue until: ~~such time as~~

7 (I) The court's jurisdiction is terminated; ~~or until such time as~~

8 (II) THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR
9 LEGAL CUSTODIAN RETAINS COUNSEL FOR THE JUVENILE;

10 (III) The court finds that the juvenile or his or her parents,
11 guardian, or other legal custodian has sufficient financial means to retain
12 counsel or that the juvenile's parents, guardian, or other legal custodian
13 no longer refuses to retain counsel for the juvenile; OR

14 (IV) THE COURT FINDS THE JUVENILE HAS MADE A KNOWING,
15 INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL,
16 AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (2).

17 **SECTION 5.** In Colorado Revised Statutes, 19-1-111, **add** (2.5)
18 as follows:

19 **19-1-111. Appointment of guardian ad litem.** (2.5) A COURT
20 SHALL NOT DEEM A GUARDIAN AD LITEM WHO IS APPOINTED BY THE COURT
21 FOR A JUVENILE IN A DELINQUENCY PROCEEDING PURSUANT TO
22 SUBSECTION (2) OF THIS SECTION TO BE A SUBSTITUTE FOR DEFENSE
23 COUNSEL FOR THE JUVENILE.

24 **SECTION 6.** In Colorado Revised Statutes, 21-1-103, **add** (5) as
25 follows:

26 **21-1-103. Representation of indigent persons.** (5) NOTHING IN
27 THIS SECTION MAY BE CONSTRUED TO PREVENT THE PUBLIC DEFENDER,

1 BEFORE DETERMINING INDIGENCY, FROM PROVIDING REPRESENTATION TO
2 JUVENILES IN DETENTION HEARINGS.

3 **SECTION 7.** In Colorado Revised Statutes, 19-2-103, **add** (12.5)
4 and (12.7) as follows:

5 **19-2-103. Definitions.** For purposes of this article:

6 (12.5) "OFFICE OF ALTERNATE DEFENSE COUNSEL" MEANS THE
7 OFFICE OF ALTERNATE DEFENSE COUNSEL CREATED AND EXISTING
8 PURSUANT TO SECTION 21-2-101, C.R.S.

9 (12.7) "OFFICE OF THE STATE PUBLIC DEFENDER" MEANS THE
10 OFFICE OF STATE PUBLIC DEFENDER CREATED AND EXISTING PURSUANT TO
11 SECTION 21-1-101, C.R.S.

12 **SECTION 8.** In Colorado Revised Statutes, 19-2-1004, **repeal** (4)
13 (b) as follows:

14 **19-2-1004. Parole violation and revocation.** (4) If, rather than
15 issuing a summons, a parole officer makes an arrest of a parolee with or
16 without a warrant or takes custody of a parolee who has been arrested by
17 another, the parole officer shall place the parolee in the nearest local
18 juvenile detention facility or shelter care facility approved by the
19 department of human services, if under eighteen years of age, or in the
20 nearest county jail, if eighteen years of age or older. Within forty-eight
21 hours, not including Saturdays, Sundays, and legal holidays, the parole
22 officer shall take one of the following actions:

23 (b) ~~Request a court to conduct a juvenile parole preliminary~~
24 ~~hearing as a part of a detention hearing conducted as described in section~~
25 ~~19-2-508, in which hearing the court shall make a finding as to whether~~
26 ~~there is probable cause to believe that the parolee has violated a condition~~
27 ~~of parole; or~~

1 **SECTION 9.** In Colorado Revised Statutes, 21-1-104, **add** (4) as
2 follows:

3 **21-1-104. Duties of public defender.** (4) PURSUANT TO SECTION
4 2-7-203, C.R.S., THE STATE PUBLIC DEFENDER SHALL REPORT ANNUALLY
5 TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND
6 SENATE, OR TO ANY SUCCESSOR COMMITTEES, INFORMATION CONCERNING:

7 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES FOR WHICH
8 COUNSEL FROM THE OFFICE IS APPOINTED;

9 (b) THE NUMBER OF JUVENILE CASES THAT INVOLVE A CONFLICT
10 OF INTEREST;

11 (c) THE PROCESS OF SELECTING, TRAINING, AND SUPPORTING
12 ATTORNEYS WHO REPRESENT CHILDREN IN JUVENILE DELINQUENCY
13 COURT;

14 (d) THE AVERAGE LENGTH OF TIME ATTORNEYS ARE ASSIGNED TO
15 JUVENILE COURT; AND

16 (e) THE OUTCOME OF EFFORTS TO REDUCE JUVENILE COURT
17 ROTATIONS AND INCREASE OPPORTUNITIES FOR PROMOTIONAL
18 ADVANCEMENT IN SALARIES FOR ATTORNEYS IN JUVENILE COURT.

19 **SECTION 10.** In Colorado Revised Statutes, 21-2-104, **add** (3)
20 as follows:

21 **21-2-104. Duties of alternate defense counsel and contract**
22 **attorneys.** (3) PURSUANT TO SECTION 2-7-203, C.R.S., THE OFFICE OF
23 ALTERNATE DEFENSE COUNSEL SHALL REPORT ANNUALLY TO THE
24 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE,
25 OR TO ANY SUCCESSOR COMMITTEES, INFORMATION CONCERNING:

26 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES FOR WHICH
27 COUNSEL FROM THE OFFICE IS APPOINTED;

1 (b) THE NUMBER OF JUVENILE CASES THAT INVOLVE A CONFLICT
2 OF INTEREST;

3 (c) THE PROCESS OF SELECTING, TRAINING, AND SUPPORTING
4 ATTORNEYS WHO REPRESENT CHILDREN IN JUVENILE DELINQUENCY
5 COURT;

6 (d) THE AVERAGE LENGTH OF TIME ATTORNEYS ARE ASSIGNED TO
7 JUVENILE COURT; AND

8 (e) THE OUTCOME OF EFFORTS TO REDUCE JUVENILE COURT
9 ROTATIONS AND INCREASE OPPORTUNITIES FOR PROMOTIONAL
10 ADVANCEMENT IN SALARIES FOR ATTORNEYS IN JUVENILE COURT.

11 **SECTION 11.** In Colorado Revised Statutes, **add** 13-1-137 as
12 follows:

13 **13-1-137. Reporting of data concerning juvenile proceedings.**

14 (1) THE JUDICIAL BRANCH SHALL REPORT ANNUALLY TO THE JUDICIARY
15 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY
16 SUCCESSOR COMMITTEES, INFORMATION CONCERNING:

17 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES;

18 (b) THE NUMBER OF JUVENILE DELINQUENCY CASES THAT
19 INVOLVED AN APPOINTMENT OF COUNSEL;

20 (c) THE NUMBER OF JUVENILE CASES THAT INVOLVED A WAIVER OF
21 COUNSEL;

22 (d) THE STATUS OF RECOMMENDED REVIEWS TO JUVENILE COURT
23 RULES, FORMS, AND CHIEF JUSTICE DIRECTIVES REGARDING THE
24 REPRESENTATION OF CHILDREN IN JUVENILE DELINQUENCY COURTS; AND

25 (e) THE NUMBER OF JUVENILE DELINQUENCY CASES THAT
26 INVOLVED A DETENTION HEARING, THE NUMBER OF JUVENILES WHO WERE
27 RELEASED AFTER THE DETENTION HEARING, AND THE NUMBER OF

1 JUVENILES WHO REMAINED IN DETENTION AFTER THE DETENTION HEARING.

2 **SECTION 12. Appropriation - adjustments to 2014 long bill.**

3 (1) For the implementation of this act, the general fund appropriation
4 made in the annual general appropriation act to the controlled
5 maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado
6 Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased
7 by \$698,452.

8 (2) For the implementation of this act, appropriations made in the
9 annual general appropriation act to the judicial department for the fiscal
10 year beginning July 1, 2014, are adjusted as follows:

11 (a) The general fund appropriation to the trial courts for court
12 costs, jury costs, and court-appointed counsel is decreased by \$114,539;
13 and

14 (b) The cash funds appropriation from various fees and cost
15 recoveries to the trial courts for court costs, jury costs, and
16 court-appointed counsel is decreased by \$53,350.

17 (3) In addition to any other appropriation, there is hereby
18 appropriated, out of any moneys in the general fund, not otherwise
19 appropriated, to the judicial department, for the fiscal year beginning July
20 1, 2014, the sum of \$737,875 and 11.1 FTE, or so much thereof as may
21 be necessary, to be allocated to the office of the state public defender for
22 the implementation of this act as follows:

23 (a) \$609,429 and 11.1 FTE for personal services;

24 (b) \$32,009 for operating and travel expenses;

25 (c) \$94,157 for capital outlay; and

26 (d) \$2,280 for attorney registration fees.

27 (4) In addition to any other appropriation, there is hereby

1 appropriated, out of any moneys in the general fund, not otherwise
2 appropriated, to the judicial department, for the fiscal year beginning July
3 1, 2014, the sum of \$75,116 and 0.6 FTE, or so much thereof as may be
4 necessary, to be allocated to the office of the alternate defense counsel for
5 the implementation of this act as follows:

- 6 (a) \$65,548 and 0.6 FTE for personal services;
- 7 (b) \$4,865 for operating and travel expenses; and
- 8 (c) \$4,703 for capital outlay.

9 **SECTION 13. Act subject to petition - effective date.** This act
10 takes effect November 1, 2014; except that, if a referendum petition is
11 filed pursuant to section 1 (3) of article V of the state constitution against
12 this act or an item, section, or part of this act within the ninety-day period
13 after final adjournment of the general assembly, then the act, item,
14 section, or part will not take effect unless approved by the people at the
15 general election to be held in November 2014 and, in such case, will take
16 effect on the date of the official declaration of the vote thereon by the
17 governor.