

1971

Amending 22-1-3 (18) (b), 22-1-7 (1) (a), 22-1-8 (2), 22-1-11, 22-1-12, 22-2-2 (1), 22-2-2 (3) (c), 22-2-3 (2), 22-2-3 (6) (a), 22-3-2 (1), 22-3-5, 22-3-6 (3), 22-3-6 (6) (a), 22-3-12 (1) (d) (iv), 22-3-13 (1) (c), 22-4-7, 22-4-12 (1) and (2), 22-6-5, 22-7-3, 22-8-6 (2), 22-8-7 (2) and Article 10 of Chapter 22, and Repealing 22-3-16, Colorado Revised Statutes 1963, as Amended, Concerning Children

Colorado General Assembly

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CHAPTER 87

CHILDREN'S CODE

MISCELLANEOUS AMENDMENTS

House Bill No. 1133. By Representatives Dittmore, Cole, Byerly, Fentress, Lamm, Moore, Munson, Schmidt, Strahle, Edmonds, Fuhr, Johnson, and P. Massari; also Senators Birmingham, Vollack, Minister, Stockton, Anderson, Calabrese, DeBerard, L. Fowler, Kinnle, Rufand, and Strickland.

A N A C T

AMENDING 22-1-3 (18) (b), 22-1-7 (1) (a), 22-1-8 (2), 22-1-11, 22-1-12, 22-2-2 (1), 22-2-2 (3) (c), 22-2-3 (2), 22-2-3 (6) (a), 22-3-2 (1), 22-3-5, 22-3-6 (3), 22-3-6 (6) (a), 22-3-12 (1) (d) (iv), 22-3-13 (1) (c), 22-4-7, 22-4-12 (1) AND (2), 22-6-5, 22-7-3, 22-8-6 (2), 22-8-7 (2) AND ARTICLE 10 OF CHAPTER 22, AND REPEALING 22-3-16, COLORADO REVISED STATUTES 1963, AS AMENDED, CONCERNING CHILDREN.

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

Section 1. 22-1-3 (18) (b), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-1-3. Definitions. (18) (b) Who is an habitual truant from school REPEATEDLY ABSENT FROM SCHOOL IN VIOLATION OF THE REQUIREMENTS OF ARTICLE 20 OF CHAPTER 123, C.R.S. 1963.

Section 2. 22-1-7 (1) (a), Colorado Revised Statutes 1963 (1969 Supp.), is amended to read:

22-1-7. Hearings — procedure — record — publicity. (1) (a) Until such time as the Colorado supreme court may adopt rules of juvenile procedure, the Colorado rules of civil procedure, except as to discovery in proceedings under section 22-1-4 (1) (b), shall apply in all proceedings under section 22-1-4, as amended; other than section 22-1-4 (2); and as otherwise provided in this chapter. Upon adoption by the supreme court, The Colorado rules of juvenile procedure shall apply in all proceedings under section 22-1-4, as amended, except section 22-1-4 (2).

Section 3. 22-1-8 (2), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

22-1-8. Social study and other reports. (2) For the purpose of determining proper disposition of a child, ~~or for establishing the fact of neglect or dependency,~~ written reports and other material relating to the child's mental, physical, and social history may be received and considered by the court along with other evidence, but the court, if so requested by the child, his parent or guardian, or other interested party, shall require that the person who wrote the report or prepared the material appear as a witness and be subject to both direct and cross-examination. In the absence of such request, the court may order the person who prepared the report or other material to appear if it finds that the interest of the child, his parent or guardian, or other party to the proceedings so requires.

Section 4. 22-1-11, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-1-11. Court records — inspection — expungement. (3) In any proceeding under section 22-1-4 (1) (b) or (1) (c) in which the court shall order the petition dismissed as provided in section 22-3-6 (5), the court may order the records expunged as provided in subsections (c) (i), (d), (e), and (f) of this subsection. Such order of expungement may be entered without delay upon petition of the child or any party or upon the court's own motion.

Section 5. 22-1-12, Colorado Revised Statutes 1963 (1967 Supp.), is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-1-12. Appeals. An appeal as provided in section 37-21-2 (1) (a) and (b), C.R.S. 1963, may be taken from any order, decree or judgment. Appellate procedure shall be as provided by the Colorado appellate rules. Initials shall appear on the record on appeal in place of the name of the child and respondents. Appeals shall be advanced on the calendar of the appellate court and shall be decided at the earliest practical time.

Section 6. 22-2-2 (1), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-2-2. Duty of officer — notification — release or detention — records. (1) When a child is taken into temporary custody, the officer shall notify the parents, A PARENT, guardian, or legal custodian without unnecessary delay and inform ~~them~~ HIM that if the child is placed in detention, ~~he has the~~ ALL PARTIES HAVE A right to a prompt hearing to determine whether ~~he~~ THE CHILD is to be detained further. SUCH NOTIFICATION MAY BE MADE TO A PERSON WITH WHOM THE CHILD IS RESIDING IF A PARENT, GUARDIAN, OR LEGAL CUSTODIAN CANNOT BE LOCATED. Such notification may be made by a juvenile police or law enforcement officer, if the child is so referred by the officer taking him into temporary custody.

Section 7. 22-2-2 (3) (c), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-2-2. Duty of officer — notification — release or detention — records. (3) (c) No statements or admissions of a child made as a result of interrogation of the child by a law enforcement official concerning acts which would constitute a crime if committed by an adult shall be admissible in evidence unless a parent, guardian, or legal

custodian of the child was present at such interrogation, and the child and his parent, guardian, or legal custodian were advised of the child's right to remain silent, that any statements made may be used against him in a court of law, the right of the presence of an attorney during such interrogation, and the right to have counsel appointed if so requested at the time of the interrogation, EXCEPT THAT IF A PUBLIC DEFENDER OR COUNSEL REPRESENTING THE CHILD IS PRESENT AT SUCH INTERROGATION, SUCH STATEMENTS OR ADMISSIONS MAY BE ADMISSIBLE IN EVIDENCE EVEN THOUGH THE CHILD'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN WAS NOT PRESENT.

Section 8. 22-2-3 (2), Colorado Revised Statutes 1963 (1969 Supp.), is amended to read:

22-2-3. Detention and shelter — hearing — time limits — restriction. (2) When a child is placed in a detention facility or in a shelter facility designated by the court, the person in charge of the facility ~~LAW ENFORCEMENT OFFICIAL~~ TAKING THE CHILD INTO CUSTODY shall promptly so notify the court. He shall also notify the parents ~~A PARENT OR LEGAL guardian or legal custodian immediately~~, OR IF A PARENT OR LEGAL GUARDIAN CANNOT BE LOCATED WITHIN THE COUNTY, THE PERSON WITH WHOM THE CHILD HAS BEEN RESIDING, and inform them ~~HIM~~ of the right to a prompt hearing to determine whether the child is to be detained further. The court shall hold such detention hearing within forty-eight hours, excluding SATURDAYS, Sundays, and court holidays unless waived in writing by the child's attorney, ~~parents~~ PARENT, ~~or~~ guardian, OR AN ADULT PERSON WITH WHOM THE CHILD HAS BEEN RESIDING.

Section 9. 22-2-3 (6) (a), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-2-3. Detention and shelter — hearing — time limits — restriction. (6) (a) No child under the age of fourteen and, EXCEPT upon order of the court, no child fourteen years of age or older and under sixteen years of age shall be detained in a jail, lockup, or other place used for the confinement of adult offenders or persons charged with crime. THE EXCEPTION SHALL BE USED BY THE COURT ONLY IF NO OTHER SUITABLE PLACE OF CONFINEMENT IS AVAILABLE.

Section 10. 22-3-2 (1), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-3-2. Petition form and content. (1) The petition and all subsequent court documents in any proceedings brought under section 22-1-4 (1) (b), (1) (c), or (1) (d) shall be entitled "The People of the State of Colorado, in the Interest of _____, a child (or children) AND CONCERNING _____, RESPONDENT." The petition shall be verified, and the statements in the petition may be made upon information and belief.

Section 11. 22-3-5, Colorado Revised Statutes 1963 (1967 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-3-5. Appointment of guardian ad litem — guardian of the person. (3) At the time any child first appears in court, if it is de-

terminated that he has no guardian of his person, the court shall appoint a guardian of the person of the child before proceeding with the matter.

Section 12. 22-3-6 (3), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-3-6. Adjudicatory hearing — findings — adjudication. (3)
(a) **AFTER MAKING A FINDING AS PROVIDED BY SUBSECTION (6) (a) OF THIS SECTION** BUT before making an adjudication, the court may continue the hearing from time to time, allowing the child to remain in his own home or in the temporary custody of another person or agency subject to such conditions of conduct and of visitation or supervision by a probation counselor as the court may prescribe, if:

(b) Consent is given by the child and his ~~parents~~ PARENT, guardian, or other legal custodian after being fully informed by the court of their rights in the proceeding, including their right to have an adjudication made either dismissing or sustaining the petition.

(c) Such continuation shall extend no longer than ~~three~~ SIX months without review by the court. Upon review the court may continue the case for an additional period not to exceed ~~three~~ SIX months, after which the petition shall either be dismissed or sustained.

Section 13. 22-3-6 (6) (a), Colorado Revised Statutes 1963 (1969 Supp.), is amended to read:

22-3-6. Adjudicatory hearing — findings — adjudication. (6)
(a) When the court finds that the allegations of the petition are supported by evidence beyond a reasonable doubt in cases concerning delinquent children or children in need of supervision, or by a preponderance of the evidence in cases concerning neglected or dependent children, **EXCEPT WHEN THE CASE IS CONTINUED AS PROVIDED IN SUBSECTION (3) (a) OF THIS SECTION**, the court shall sustain the petition, and shall make an order of adjudication, setting forth whether the child is delinquent, in need of supervision, or neglected or dependent; but in cases concerning neglected or dependent children, evidence that child abuse or nonaccidental injury has occurred shall constitute prima facie evidence that such child is neglected or dependent and such evidence shall be sufficient to support an adjudication under this section.

Section 14. 22-3-12 (1) (d) (iv), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-3-12. Child in need of supervision — disposition. (1) (d)
(iv) The supervised work program assignment is made for a period of time consistent with the child's best interest, but not exceeding ~~ninety~~ ONE HUNDRED EIGHTY days.

Section 15. 22-3-13 (1) (c), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-3-13. Delinquent child — disposition. (1) (c) The court may impose a fine not to exceed ~~fifty~~ THREE HUNDRED dollars.

Section 16. 22-4-7, Colorado Revised Statutes 1963 (1967 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-4-7. Availability for adoption. (4) If no guardian of the person of the child has been appointed, and the child is otherwise available for adoption, the individual who shall have had the child living in his home for a year or more may petition the court to appoint such guardian, in order that the written and verified consent of the guardian may be sought. This petition shall become a part of the record in any adoption proceeding initiated thereafter.

Section 17. 22-4-12 (1) and (2), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-4-12. Hearing on petition. (1) A hearing on the petition for adoption shall be held on the date set or the date to which the matter has been regularly continued; in no event earlier than thirty days after filing.

(2) (a) ~~Within~~ NO SOONER THAN six months from the date of the hearing, UNLESS FOR GOOD CAUSE SHOWN THAT TIME IS EXTENDED OR SHORTENED BY THE COURT, the court may enter a decree setting forth its findings and grant to the petitioner or petitioners a final decree of adoption if, after such hearing, it is satisfied as to:

(b) The availability of the child for adoption;

(c) The good moral character, ability to support and educate the child, and the suitability of the home of the person or persons adopting such child;

(d) The mental and physical condition of the child as a proper subject for adoption in said home; and

(e) The fact that the best interests of the child will be served by the adoption.

Section 18. 22-6-5, Colorado Revised Statutes 1963 (1967 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-6-5. Orders. (6) The court may assess the costs of the action as part of its order.

Section 19. 22-7-3, Colorado Revised Statutes 1963 (1967 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-7-3. Hearing — orders. (6) The court may assess the costs of the action as part of its order.

Section 20. 22-8-6 (2), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-8-6. Lookout Mountain school for boys. (2) The school shall provide care, education, training, and rehabilitation for boys twelve years of age or over and under the age of eighteen years who have been committed to the custody of the department under section 22-3-13, and as provided in section 22-8-4 (2).

Section 21. 22-8-7 (2), Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

22-8-7. Mount View girls' school. (2) The school shall provide care, education, training, and rehabilitation for girls twelve years of age or older ~~and under the age of eighteen years~~ who have been committed to the custody of the department under section 22-3-13, and as provided in section 22-8-4 (2).

Section 22. Article 10 of chapter 22, Colorado Revised Statutes 1963 (1969 Supp.), is amended BY THE ADDITION OF A NEW SECTION to read:

22-10-7. Immunity from liability. Any person participating in an investigation or the making of a report pursuant to this article or participating in a judicial proceeding resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

Section 23. **Repeal.** 22-3-16, Colorado Revised Statutes 1963 (1967 Supp.), is repealed.

Section 24. **Effective date.** This act shall take effect July 1, 1971.

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

Approved: March 31, 1971