

University of Colorado Law School

Colorado Law Scholarly Commons

Session Laws 1951-2000

Colorado Session Laws

1977

Amending the "Colorado Children's Code"

Colorado General Assembly

Follow this and additional works at: <https://scholar.law.colorado.edu/session-laws-1951-2000>

Recommended Citation

Colorado General Assembly, "Amending the "Colorado Children's Code"" (1977). *Session Laws 1951-2000*. 7683.

<https://scholar.law.colorado.edu/session-laws-1951-2000/7683>

This Act is brought to you for free and open access by the Colorado Session Laws at Colorado Law Scholarly Commons. It has been accepted for inclusion in Session Laws 1951-2000 by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact rebecca.ciota@colorado.edu.

CHAPTER 237

CHILDREN'S CODE

REVISION OF CERTAIN STATUTES

HOUSE BILL NO. 1302. BY REPRESENTATIVES Swalm, Gorsuch, Tancred, Barnhill, Becker, Burford, Dittmore, Dodge, Durham, Eckelberry, Hinman, Schaefer, Spano, Yost, Younglund, Zakhem, DeMoulin, DeNier, Gustafson, Hayes, and Hillsmeier; also SENATORS Cole, Woodard, Allshouse, Gallagher, Kogovsek, Meiklejohn, Phelps, and P. Sandoval.

AN ACT

AMENDING THE "COLORADO CHILDREN'S CODE".

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

Section 1. 19-1-103, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

19-1-103. Definitions. (23.5) "Repeat juvenile offender" means a child, previously adjudicated a delinquent child, who is adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult or whose probation is revoked for an offense which would constitute a felony if committed by an adult.

(28) "Violent juvenile offender" means a child fifteen years of age or older at the time the act complained of was committed who is adjudicated a delinquent child for a crime of violence as defined in section 16-11-309 (2), C.R.S. 1973, or whose probation is revoked for a crime of violence as defined in section 16-11-309 (2), C.R.S. 1973.

Section 2. 19-2-101, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-101. Taking children into custody. (2.1) A child may be detained temporarily by an adult other than a law enforcement officer if the child has committed or is committing an act in the presence of such adult which would be a violation of any federal or state law or a municipal ordinance, other than a violation of state traffic and game and fish laws or regulations, if committed by an adult. Any person detaining a child shall notify, without unnecessary delay, a law enforcement officer, who shall assume custody of said child.

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

Section 3. 19-2-102 (3) (c) (II), Colorado Revised Statutes 1973, is amended to read:

19-2-102. Duty of officer — notification — release or detention — records. (3) (c) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (c), statements or admissions of a child shall not be inadmissible in evidence by reason of the absence of a parent, guardian, or legal custodian if the child is emancipated from the parent, guardian, or legal custodian by marriage or by military service or if the child is a runaway from a state other than Colorado and is of sufficient age and understanding.

Section 4. 19-2-102 (5), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

19-2-102. Duty of officer — notification — release or detention — records. (5) The records of law enforcement officers concerning all children taken into temporary custody or issued a summons under the provisions of this article shall be maintained separately from the records of arrest and may not be inspected by or disclosed to the public, including the names of children taken into temporary custody or issued a summons, except:

(a) To the victim in each case when the child is found guilty of a delinquent act;

(b) When the child has escaped from an institution to which he has been committed;

(c) By order of the court;

(d) When the court orders the child to be held for criminal proceedings as provided in section 19-1-104 (4); or

(e) When there has been a criminal conviction and a presentence investigation is being made on an application for probation.

Section 5. Article 2 of title 19, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

19-2-103.5. Temporary shelter — child's home. The court may find that it is not necessary to remove a child from his home to a temporary shelter facility and may provide temporary shelter in the child's home by authorizing a representative of the county or district department of social services, which has emergency caretaker services available, to remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and expresses willingness and has the apparent ability, as determined by the department, to resume charge of the child, but in no event shall such period of time exceed seventy-two hours. In the case of a relative, the relative is to assume charge of the child until a parent or legal guardian enters the home and expresses willingness and has the apparent ability, as determined by the department, to resume charge of the child. The director of the county or district department of social services shall designate in writing the representatives of the county or district departments authorized to perform such duties.

Section 6. 19-3-107 (2) and (3), Colorado Revised Statutes 1973, as amended, are amended to read:

19-3-107. Mentally ill or developmentally disabled child — procedure.

(2) If the report of the examination made pursuant to subsection (1) of this section states that the child is mentally ill to the extent that short-term or long-term hospitalization or institutional confinement and treatment is required, the court may SHALL proceed as provided in article 10 of title 27, C.R.S. 1973, assuming the powers granted to a court in such proceedings. The report made pursuant to subsection (1) of this section shall then be treated as a certification under section 27-10-107, C.R.S. 1973.

(3) The court shall MAY dismiss the original petition when a child who has been ordered to receive treatment is no longer receiving treatment under article 10 of title 27, C.R.S. 1973.

Section 7. Article 3 of title 19, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-3-113.1. Violent and repeat juvenile offenders — disposition. (1) Upon adjudication as a violent juvenile offender, the child shall be placed or committed out of the home for not less than one year.

(2) (a) The court may sentence a repeat juvenile offender pursuant to section 19-3-113 (1) (d) or may commit a repeat juvenile offender or a violent juvenile offender to the department of institutions. A repeat juvenile offender or a violent juvenile offender thus committed shall not be transferred from the institution or facility to which he is committed for a period of more than forty-eight hours, excluding Saturdays, Sundays, and court holidays, nor released before the expiration of the minimum term imposed by the court without the prior written approval of the court which made the commitment.

(b) When a child who has been adjudicated a delinquent child twice or a child who has been adjudicated a delinquent child and whose probation has been revoked for an act which would constitute a crime if committed by an adult subsequently is adjudicated a delinquent child or has probation revoked for an act which would constitute a crime if committed by an adult, the child shall be placed or committed out of the home for not less than one year; except that the child may be released by the committing judge upon a showing of exemplary behavior.

Section 8. 19-3-114 (3) (b), Colorado Revised Statutes 1973, is amended to read:

19-3-114. Commitment to department of institutions. (3) (b) SUBJECT TO THE PROVISIONS OF SECTION 19-1-104, a commitment of a child to the department of institutions under section 19-3-113 shall be for an indeterminate period; EXCEPT THAT, IN THE CASE OF A REPEAT JUVENILE OFFENDER OR VIOLENT JUVENILE OFFENDER, A JUDGE MAY IMPOSE A MINIMUM SENTENCE OF INSTITUTIONALIZATION, WHICH SENTENCE OR COMMITMENT SHALL BE SERVED; but institutional placement shall not exceed a total of two years as determined by the department, except as provided in paragraph (c) of this subsection (3).

Section 9. 19-3-117 (1) and (3) (d) (II) and (3) (e), Colorado Revised Statutes 1973, are amended to read:

19-3-117. Probation — terms — release — revocation. (1) The terms and conditions of probation shall be specified by rules or orders of the court. THE COURT, AS A CONDITION OF PROBATION FOR A CHILD WHO

IS FOURTEEN YEARS OF AGE OR OLDER BUT LESS THAN EIGHTEEN YEARS OF AGE ON THE DATE OF THE DISPOSITIONAL HEARING, HAS THE POWER TO IMPOSE A COMMITMENT, PLACEMENT, OR DETENTION. THE AGGREGATE LENGTH OF ANY SUCH COMMITMENT, PLACEMENT, OR DETENTION, WHETHER CONTINUOUS OR AT DESIGNATED INTERVALS, SHALL NOT EXCEED FORTY-FIVE DAYS. Each child placed on probation shall be given a written statement of the terms and conditions of his probation and shall have such terms and conditions fully explained to him.

(3) (d) (II) **SUBJECT TO THE PROVISIONS OF SECTION 19-3-113.1,** if the court finds that the child violated the terms and conditions of probation, it may modify the terms and conditions of probation, revoke probation, or take such other action permitted by this article which is in the best interest of the child and the public.

(e) If the court revokes the probation of a person over eighteen years of age, in addition to other action permitted by this article, the court may sentence him to the county jail for a period not to exceed ~~three months~~ **ONE HUNDRED EIGHTY DAYS** during which he may be released during the day for school attendance, job training, or employment, as ordered by the court.

Section 10. Appropriation. There is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the division of youth services in the department of institutions, the sum of one hundred forty thousand seventy-seven dollars (\$140,077) and 10.4 FTE, or so much thereof as may be necessary, to provide needed services to the increase in case load which is anticipated to result from passage of this act.

Section 11. Effective date — applicability. This act shall take effect July 1, 1977, and shall apply only to offenses committed on or after said date.

Section 12. 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: July 17, 1977