

Final
STAFF SUMMARY OF MEETING
JUVENILE DEFENSE ATTORNEY

Date: 10/28/2013

Time: **09:03 AM to 04:02 PM**

Place: HCR 0112

This Meeting was called to order by
Representative Levy

This Report was prepared by
Dave DeNovellis

ATTENDANCE

Brant	X
Brodhead	X
Brown	E
Dvorchak	X
Harvey	X
Jessel	X
Kagan	*
Koppes Conway	E
Lee	X
Lilgerose	X
Marble	E
Martin	X
Navarro	X
Smith	X
Steadman	X
Ulibarri	X
Weinerman	*
Wright	X
Guzman	X
Levy	X

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:	Action Taken:
Opening Comments - Public Testimony	Witness Testimony and/or Committee Discussion Only
Draft Interim Resolution	Move to Refer to the Legislative Council Committee
Bill 2	Witness Testimony and/or Committee Discussion Only
Bill 1	Move to Refer to the Legislative Council Committee
Bill 3	Move to Refer to the Legislative Council Committee

09:05 AM -- Opening Comments - Public Testimony

Representative Levy, chair, called the meeting to order. Senator Guzman thanked the committee for its work throughout the interim. Representative Levy announced that the committee would take public testimony and then discuss proposed draft legislation. Copies of the Draft Interim Resolution, Bill 1, Bill 2, and Bill 3 were distributed to the committee (Attachments A, Attachment B, Attachment C, and Attachment D, respectively). Senator Steadman replaced Senator Hudak on the committee for the meeting. Doug Wilson, representing the Office of the State Public Defender (OSPD) sat in for Frances Brown.

09:07 AM -- Professor Robin Walker Sterling from the University of Denver Sturm College of Law came to the table to discuss the committee's draft legislation. She discussed the evolution of juvenile justice systems since the Supreme Court case *In re: Gault* in 1967. She discussed the difference between rehabilitative and punitive justice systems and expressed her wish that Colorado have a more rehabilitative juvenile justice system.

09:15 AM -- Cori Alcock and Sarah Ericson, representing the 18th Judicial District Attorney's Office, came to the table to discuss the committee's draft legislation. Ms. Ericson stated that she is concerned about requiring all juveniles to have an attorney and that juveniles have a constitutional right to defend themselves. She stated that she is concerned about adding social workers to public defender's offices and how that would function practically. She asked that the committee not move forward with any of the proposed legislation in its current form. Ms. Alcock stated that she echoes Ms. Ericson's comments. Ms. Ericson responded to questions from Representative Lee about why she opposes Bill 2 and Bill 3 (Attachments C and D).

09:24 AM

Ms. Ericson stated that there are already multiple social workers assigned to juvenile cases and that she is concerned that it is only duplicating evaluations. She discussed Bill 1's proposal concerning the advisement of rights (Attachment B). Ms. Ericson responded to questions from Senator Harvey about what she thinks would be adequate and stated that focusing on human services is more important than waiting until a juvenile is in the justice system. Ms. Weinerman addressed comments that Ms. Ericson made regarding guardians ad litem. Representative Levy addressed Ms. Ericson's comments regarding the waiver of counsel and stated that the committee received multiple sources of testimony that said waivers of counsel are pro forma and many juveniles did not feel they were knowing and informed.

09:33 AM -- George Brauchler, representing the 18th Judicial District Attorney's Office, came to the table to discuss the committee's draft legislation. He discussed the demographic make-up of the 18th Judicial District and stated that he feels the proposed legislation is a statewide solution that does not fit each individual jurisdiction. Mr. Brauchler stated that he does not feel the legislation takes into account the work that Colorado has already done in the area of juvenile justice. He stated that there is a deliberate distinction between juvenile and adult justice systems. Mr. Brauchler stated that the proposed legislation will slow down the system.

09:41 AM

Mr. Brauchler continued to discuss the proposed legislation and gave statistics regarding the number of juvenile cases in Douglas County. He stated that it is important to note that increased numbers of public defenders will also require more judges, magistrates, and administrative support that counties will be required to pay for. Ms. Dvorchak discussed Mr. Brauchler's comments and her experience court watching in Arapahoe County. Mr. Brauchler and Ms. Dvorchak discussed what the overall goals of the juvenile justice system are and what they believe they should be. Representative Levy stated that the goal of the committee is not necessarily to make the system more expedient, but to see that juveniles have an opportunity to receive adequate representation.

09:51 AM

Representative Levy and Mr. Brauchler discussed his statements regarding parental responsibility and a juvenile's legal interests. Ms. Lilgerose discussed her experience in the Arapahoe County juvenile justice system and how difficult it is for a parent to adequately represent a child's legal interests without an attorney.

10:02 AM -- Draft Interim Resolution

The committee took up discussion on Draft Interim Resolution concerning requesting the Chief Justice of the Supreme Court to take certain actions concerning the adjudication of juvenile delinquency petitions (Attachment A). The resolution first states that the interim committee identified certain problems in the juvenile justice system that require the judicial branch to take certain actions. Specifically, the General Assembly requests that the Chief Justice of the Colorado Supreme Court:

- issue a directive to the judges of the state court system to assign juvenile delinquency petitions, to the extent practicable, to a single courtroom within each judicial district and to allow judges with juvenile dockets to remain in that rotation so they may develop expertise in handling juvenile cases; and
- establish a committee to review the Colorado Rules of Juvenile Procedure and juvenile court forms and make recommendations concerning any amendments that may be necessary.

Representative Kagan distributed prepared Amendment #1 to the committee (Attachment E) and Representative Levy distributed prepared Amendment #2 to the committee (Attachment F). Mr. Wilson discussed whether the committee could mandate that there be dedicated juvenile justices. Representative Levy stated that she feels it is a question of separation of powers. Senator Harvey discussed other state models that had dedicated and separate juvenile justice systems. Mr. Brodhead stated that the Judicial branch does appreciate that there may be deficiencies in the system and does want to work with the legislature. He stated that there are resource concerns in rural districts.

BILL:	Draft Interim Resolution	
TIME:	10:04:07 AM	
MOVED:	Levy	
MOTION:	Recommend that Draft Interim Resolution (Attachment A), as amended (see vote sheets below), be included in the bills recommended by the Juvenile Defense Attorney Interim Committee to the Legislative Council. The motion passed on a vote of 9-0, with one member excused.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	Yes
	Jessel	
	Kagan	Yes
	Koppes Conway	
	Lee	Yes
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	Yes
	Smith	
	Steadman	Yes
	Ulibarri	Yes
	Weinerman	
	Wright	Yes
	Guzman	Yes
	Levy	Yes
Final YES: 9 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: PASS		

BILL:	Draft Interim Resolution	
TIME:	10:04:42 AM	
MOVED:	Kagan	
MOTION:	Adopt prepared Amendment #1 to Draft Interim Resolution (Attachment E). The motion passed without objection.	
SECONDED:	Levy	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

BILL:	Draft Interim Resolution	
TIME:	10:06:58 AM	
MOVED:	Levy	
MOTION:	Adopt prepared Amendment #2 to Draft Interim Resolution (Attachment F). The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

10:14 AM -- Bill 2

The committee took up discussion on Bill 2 concerning the creation of the Division of Juvenile Defense within the OSPD (Attachment C). Representative Kagan distributed prepared amendments #1, #2, #3, #4, and #7 to Bill 2 to the committee (Attachments G, Attachment H, Attachment I, Attachment J, and Attachment K, respectively). Representative Kagan discussed the bill and amendment #7. Mr. Wilson stated that the OSPD does not need legislative permission to reorganize and is opposed to Bill 2.

10:30 AM

Mr. Wilson and Ms. Dvorchak discussed their opinions on the bill and whether a dedicated juvenile office could be created without legislation.

10:37 AM

Mr. Wilson and Judge Smith discussed budgetary issues within the OSPD. Mr. Wilson stated that, beginning in 2014, the OSPD will have a dedicated juvenile trainer.

10:43 AM

The committee discussed whether or not to recommend Bill 2 and ultimately declined to do so.

10:51 AM -- Bill 1

The committee recessed.

01:04 PM

The committee reconvened. The committee took up discussion on Bill 1 concerning the provision of defense counsel to juvenile offenders (Attachment B).

The bill makes several changes to provisions of the Colorado juvenile justice system concerning the representation of children in juvenile proceedings including changes regarding: representation at detention hearings; notice of the right to counsel on juvenile summons; notice to OSPD and/or OADC when a juvenile is detained; waivers of counsel; the role of guardians ad litem; and representation and indigence determination.

Prepared amendments #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #14, and #16 were distributed to the committee (Attachments L, Attachment M, Attachment N, Attachment O, Attachment P, Attachment Q, Attachment R, Attachment S, Attachment T, Attachment U, Attachment V, Attachment W, and Attachment X, respectively). The committee discussed whether any of the amendments conflict with each other with Mr. Richard Sweetman, Office of Legislative Legal Services. Senator Steadman stated that he will support the bill in committee but that he is concerned about its potential fiscal impact. Senator Harvey also discussed his concerns about the potential fiscal impact of the bill.

01:09 PM

Representative Kagan described prepared amendment #1 (Attachment L). Representative Levy stated that parental refusal should not be eliminated from the bill. Ms. Dvorchak stated that she believes parental refusal should be related to the juvenile's indigence determination.

BILL:	Bill 1	
TIME:	01:09:28 PM	
MOVED:	Levy	
MOTION:	Recommend that Bill 1 (Attachment B), as amended (see vote sheets below), be included in the bills recommended by the Juvenile Defense Attorney Interim Committee to the Legislative Council. The motion passed on a vote of 6-3, with one member excused.	
SECONDED:	Steadman	
	VOTE	
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	No
	Jessel	
	Kagan	Yes
	Koppes Conway	
	Lee	Yes
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	No
	Smith	
	Steadman	Yes
	Ulibarri	Yes
	Weinerman	
	Wright	No
	Guzman	Yes
	Levy	Yes
Final YES: 6 NO: 3 EXC: 1 ABS: 0 FINAL ACTION: PASS		

BILL:	Bill 1	
TIME:	01:09:46 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #1 to Bill 11 (Attachment L). The motion was withdrawn.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION:		

01:13 PM

Representative Kagan described prepared amendment #2, which eliminates the change in the definition of a juvenile being "a danger to him or herself or to the community" (Attachment M) .

BILL:	Bill 1	
TIME:	01:13:32 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #2 to Bill 1 (Attachment M). The motion was withdrawn.	
SECONDED:		
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION:		

BILL:	Bill 1	
TIME:	01:23:34 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #4 to Bill 1 (Attachment O). The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

01:25 PM

Representative Kagan described prepared amendment #5, concerning when a public defender attaches to a juvenile's case (Attachment P). Mr. Wilson said the amendment may have a large fiscal impact.

BILL:	Bill 1	
TIME:	01:25:11 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #5 to Bill 1 (Attachment P). The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

01:35 PM

Representative Kagan described prepared amendment #6, concerning limiting waivers of counsel (Attachment Q). Mr. Wilson noted that it may be difficult to have a public defender on-call in all districts to know if a summons contains a waivable offense or not. Ms. Jessel discussed how summons returns work in Boulder County. The committee discussed how to increase juvenile access to diversion programs.

BILL:	Bill 1	
TIME:	01:35:05 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #6 to Bill 1 (Attachment Q). The motion passed on a vote of 7-2, with one member excused.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	Yes
	Jessel	
	Kagan	Yes
	Koppes Conway	
	Lee	Yes
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	Yes
	Smith	
	Steadman	No
	Ulibarri	Yes
	Weinerman	
	Wright	No
	Guzman	Yes
	Levy	Yes
YES: 7 NO: 2 EXC: 1 ABS: 0 FINAL ACTION: PASS		

02:16 PM

Representative Levy described prepared amendment #7, regarding status offenders (Attachment R).

BILL:	Bill 1	
TIME:	02:16:57 PM	
MOVED:	Levy	
MOTION:	Adopt prepared amendment #7 to Bill 1 (Attachment R). The motion passed without objection.	
SECONDED:	Kagan	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

02:17 PM

Representative Kagan described prepared amendment #9, concerning the make up of the Public Defender Commission and the Alternate Defense Counsel Commission (Attachment T). Senator Steadman stated that he feels that the amendment puts an inordinate amount of importance on one area considering the commissions only have five members. Ms. Dvorchak said the amendment creates oversight and accountability for juvenile matters.

BILL:	Bill 1	
TIME:	02:17:56 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #9 to Bill 1 (Attachment T). The motion was withdrawn.	
SECONDED:	Lee	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION:		

02:25 PM

Representative Kagan described prepared amendment #10, concerning parental refusal (Attachment U). The committee discussed recoupment mechanisms for parents and clients who are later found to not be indigent.

02:31 PM

V). Representative Kagan described prepared amendment #11, concerning reporting requirements (Attachment V).

BILL:	Bill 1	
TIME:	02:31:36 PM	
MOVED:	Steadman	
MOTION:	Adopt prepared amendment #11 to Bill 1 (Attachment V). The motion passed without objection.	
SECONDED:	Ulibarri	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

02:32 PM

Representative Kagan described prepared amendment #14, concerning providing notice of summons to OSPD (Attachment W).

BILL:	Bill 1	
TIME:	02:32:35 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #14 to Bill 1 (Attachment W). The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

02:40 PM

The committee discussed prepared amendment #16 concerning the presumption of indigence determination and waivers of counsel (Attachment X). Representative Levy stated that she preferred to sever the prepared amendment into multiple sections due to the number of topics contained in the amendment and due to other amendments that address similar areas in the bill.

BILL:	Bill 1	
TIME:	02:40:28 PM	
MOVED:	Levy	
MOTION:	Adopt lines 11-12 of page 1 of prepared amendment #16 to Bill 1 (Attachment X). The motion was withdrawn.	
SECONDED:		
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION:		

BILL:	Bill 1	
TIME:	02:47:08 PM	
MOVED:	Levy	
MOTION:	Adopt severed section A of prepared amendment #16 to Bill 1 (Attachment X), page 1, lines 1-10. The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

BILL:	Bill 1
TIME:	02:55:06 PM
MOVED:	Steadman
MOTION:	Adopt severed section B of prepared amendment #16 to Bill 1 (Attachment X), page 1, lines 13-26, and page 2, lines 1-5 and 8-11. The motion was withdrawn.
SECONDED:	
	VOTE
	Brant
	Brodhead
	Brown
	Dvorchak
	Harvey
	Jessel
	Kagan
	Koppes Conway
	Lee
	Lilgerose
	Marble
	Excused
	Martin
	Navarro
	Smith
	Steadman
	Ulibarri
	Weinerman
	Wright
	Guzman
	Levy
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION:	

03:16 PM

Representative Kagan discussed prepared amendment #3, concerning a juvenile's indigence determination (Attachment N).

BILL:	Bill 1	
TIME:	03:16:58 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #3 to Bill 1 (Attachment N). The motion passed on a vote of 6-3, with one member excused.	
SECONDED:	Ulibarri	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	No
	Jessel	
	Kagan	Yes
	Koppes Conway	Excused
	Lee	Yes
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	No
	Smith	
	Steadman	Yes
	Ulibarri	Yes
	Weinerman	
	Wright	Yes
	Guzman	Yes
	Levy	No
YES: 6 NO: 3 EXC: 1 ABS: 0 FINAL ACTION: PASS		

BILL:	Bill 1	
TIME:	03:34:15 PM	
MOVED:	Levy	
MOTION:	Adopt severed section C of prepared amendment #16 to Bill 1 (Attachment X), page 2, lines 8-30. The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

BILL:	Bill 1	
TIME:	03:37:02 PM	
MOVED:	Levy	
MOTION:	Strike line 12 of page 2 of prepared amendment #16 to Bill 1 (Attachment X). The motion passed without objection.	
SECONDED:	Kagan	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	Excused
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 1 ABS: 0 FINAL ACTION: Pass Without Objection		

03:44 PM -- Bill 3

The committee took up discussion of Bill #3 concerning the provision of social services to juvenile defendants. The bill authorizes the OSPD to hire social workers and independent investigators to assist in defending juvenile defendants. Any report that such a social worker prepares and that the juvenile’s attorney submits to the court is considered as evidence in the juvenile’s case. Representative Kagan discussed prepared amendment #1 with the committee (Attachment Y). Representative Levy discussed removing the term "investigators" from the language in the bill.

BILL:	Bill 3	
TIME:	03:50:02 PM	
MOVED:	Kagan	
MOTION:	Recommend that Bill 3 (Attachment D), as amended (see vote sheets below), be included in the bills recommended by the Juvenile Defense Attorney Interim Committee to the Legislative Council. The motion passed on a vote of 6-3, with one member excused.	
SECONDED:	Levy	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	No
	Jessel	
	Kagan	Yes
	Koppes Conway	
	Lee	Yes
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	No
	Smith	
	Steadman	Yes
	Ulibarri	Yes
	Weinerman	
	Wright	No
	Guzman	Yes
	Levy	Yes
Final YES: 6 NO: 3 EXC: 1 ABS: 0 FINAL ACTION: PASS		

BILL:	Bill 3	
TIME:	03:50:17 PM	
MOVED:	Kagan	
MOTION:	Adopt prepared amendment #1 to Bill 3 (Attachment Y). The motion passed without objection.	
SECONDED:	Levy	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 2 ABS: 0 FINAL ACTION: Pass Without Objection		

BILL:	Bill 3	
TIME:	03:50:41 PM	
MOVED:	Levy	
MOTION:	Strike "investigators and" from line 2 and strike "and investigators" from line 9 of prepared amendment #1 to Bill 3 (Attachment Y). The motion passed without objection.	
SECONDED:	Steadman	
		VOTE
	Brant	
	Brodhead	
	Brown	
	Dvorchak	
	Harvey	
	Jessel	
	Kagan	
	Koppes Conway	
	Lee	
	Lilgerose	
	Marble	Excused
	Martin	
	Navarro	
	Smith	
	Steadman	
	Ulibarri	
	Weinerman	
	Wright	
	Guzman	
	Levy	
YES: 0 NO: 0 EXC: 2 ABS: 0 FINAL ACTION: Pass Without Objection		

03:56 PM

The committee discussed bill sponsorship and which house each bill would originate in. Representative Kagan and Senator Guzman agreed to be the prime sponsors of the draft resolution and Bill 1. The committee agreed to have the draft resolution originate in the Senate with Representative Lee and Senators Steadman and Ulibarri as co-sponsors. The committee decided that Bill 1 will originate in the House with Representative Kagan and Senator Guzman as prime sponsors, and Senator Ulibarri and Representative Lee as co-sponsors. Senator Ulibarri and Representative Lee agreed to be the prime sponsors of Bill 3, with it originating in the House and Representative Kagan and Senators Guzman and Steadman as co-sponsors. The committee requested that Mr. Sweetman add a safety clause to Bill 3.

04:02 PM

The committee adjourned.

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
10.21.13

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LLS NO. R14-0216 Richard Sweetman x 4333

INTERIM RESOLUTION

Juvenile Defense Attorney Interim Committee

SHORT TITLE: "Request Judicial Action On Juvenile Defense"

SENATE JOINT RESOLUTION

101 **CONCERNING REQUESTING THE CHIEF JUSTICE OF THE COLORADO**
102 **SUPREME COURT TO TAKE CERTAIN ACTIONS CONCERNING**
103 **ADJUDICATION OF JUVENILE DELINQUENCY PETITIONS.**

1 WHEREAS, The juvenile defense attorney interim committee was
2 created pursuant to House Joint Resolution 13-1019, which resolution
3 was adopted during the first regular session of the Sixty-ninth General
4 Assembly; and

5 WHEREAS, The juvenile defense attorney interim committee met
6 during the 2013 interim to study the role of legal defense counsel in the
7 juvenile justice system; and

8 WHEREAS, The juvenile defense attorney interim committee has
9 recommended legislation to be introduced during the second regular
10 session of the Sixty-ninth General Assembly, which legislation addresses
11 certain inadequacies in Colorado law relating to the representation of
12 juvenile offenders; and

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 WHEREAS, Actions by the judicial branch are necessary to
2 address problems identified by the juvenile defense attorney interim
3 committee and improve the juvenile justice system; now, therefore,

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

6 (1) That the General Assembly requests that the Chief Justice of
7 the Colorado Supreme Court:

8 (a) Issue a directive to the judges of the state court system to
9 assign juvenile delinquency petitions, to the extent practicable, to a single
10 courtroom within each judicial district and to allow judges with juvenile
11 dockets to remain in that rotation so they may develop expertise in the
12 handling of juvenile cases; and

13 (b) Establish a committee of qualified persons to review the
14 Colorado Rules of Juvenile Procedure and make recommendations
15 concerning any amendments to the Rules that may be necessary to
16 improve the juvenile justice system.

17 *Be It Further Resolved*, That a copy of this Joint Resolution be
18 sent to Chief Justice Michael Bender, Colorado Supreme Court.

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT 10.21.13

BILL 1

Temporary storage location: C:\Temp\14-0213.tmp

LLS NO. 14-0213 Richard Sweetman x.4333

INTERIM COMMITTEE BILL

Juvenile Defense Attorney Interim Committee

SHORT TITLE: "Defense Counsel For Juvenile Offenders"

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF DEFENSE COUNSEL TO JUVENILE**
102 **OFFENDERS.**

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:

- That the juvenile has the right to have the assistance of

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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.

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 state public defender.

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 state public defender or, in the case of a conflict, by the office of alternate defense counsel. 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 shall 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. Before the detention hearing, the law enforcement agency that arrested the juvenile shall 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 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 office of the state public defender that serves the jurisdiction of the court.

At a juvenile's first appearance before the court, the court shall advise the juvenile of his or her constitutional and legal rights, including the right to counsel. The court shall appoint counsel 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. If the court appoints counsel for a juvenile, the court shall advise the juvenile's parent, guardian, or legal custodian that if the juvenile's parent, guardian, or legal custodian is determined by the court to possess adequate financial resources to provide counsel for the juvenile, then the court will order the parent, guardian, or legal custodian to reimburse the court for the cost of the counsel. The amount of the reimbursement will be a predetermined amount that is based on the stage of the proceeding at which a disposition is reached and determined by the court in consultation with the office of the state public defender and the office of alternate defense counsel.

The court may accept a waiver of counsel by a juvenile only after finding on the record, based on a dialogue conducted with the juvenile, that:

- The juvenile is at least 15 years of age;
- The juvenile understands the sentencing options that will be available to the court in the event of an adjudication or conviction of the offense with which the juvenile is charged;
- The juvenile has not been coerced by any other party, including but not limited to the juvenile's parent, guardian, or legal custodian, into making the waiver;
- The juvenile understands that the court will provide counsel for the juvenile 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, which consequences may occur in addition to the actual adjudication or conviction itself. An adjudication or conviction may not be challenged on the basis that the court's advisement or finding regarding such collateral consequences was inadequate or incomplete.

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 or as an aggravated juvenile offender.

The court shall not accept a juvenile's attempt to waive his or her right to counsel in any proceeding if the juvenile is in the custody of the state department of human services or a county department of social services.

The appointment of counsel for a juvenile offender shall continue until the court's jurisdiction is terminated, the court reaches a disposition in the juvenile's case, 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.

The court may 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 state public defender, before determining indigence, shall represent all unrepresented juveniles in detention hearings; except that, in the case of a conflict, the office of alternate defense counsel shall provide representation. The state public defender shall continue to represent a juvenile unless:

- The juvenile or the juvenile's parent, guardian, or legal custodian retains counsel for the juvenile; or
- The juvenile is charged with an offense for which counsel may be waived and the juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel.

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

1 policy that permits such service by order of the chief judge of the judicial
2 district or the presiding judge of the Denver juvenile court, which policy
3 is established after consultation between such judge and the district
4 attorney and law enforcement officials in the judicial district, serve a
5 written promise to appear for juvenile proceedings based on any act that
6 would constitute a felony, misdemeanor, or petty offense upon the
7 juvenile and the juvenile's parent, guardian, or legal custodian.

8 (b) ~~Such~~ A promise to appear SERVED pursuant to PARAGRAPH (a)
9 OF this subsection (5) ~~shall~~ MUST state any charges against the juvenile
10 and the date, time, and place where such juvenile shall be required to
11 answer such charges. THE PROMISE TO APPEAR MUST ALSO STATE, IN
12 CLEAR LANGUAGE THAT IS UNDERSTANDABLE AND APPROPRIATE TO A
13 JUVENILE:

14 (I) THAT THE JUVENILE HAS THE RIGHT TO HAVE THE ASSISTANCE
15 OF COUNSEL;

16 (II) THAT COUNSEL WILL BE APPOINTED FOR THE JUVENILE IF THE
17 JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
18 LACKS ADEQUATE RESOURCES TO RETAIN COUNSEL OR REFUSES TO RETAIN
19 COUNSEL FOR THE JUVENILE;

20 (III) THAT IF THE JUVENILE CHOOSES TO RETAIN HIS OR HER OWN
21 COUNSEL, THEN THE JUVENILE AND THE JUVENILE'S PARENT, GUARDIAN,
22 OR LEGAL CUSTODIAN ARE ADVISED TO CHOOSE COUNSEL THAT IS
23 EXPERIENCED IN REPRESENTING JUVENILES IN THE JUVENILE JUSTICE
24 SYSTEM; AND

25 (IV) THE CONTACT INFORMATION FOR THE LOCAL OFFICE OF THE
26 STATE PUBLIC DEFENDER.

27 (c) The promise to appear shall be signed by the juvenile. The

1 promise to appear shall be served upon the juvenile's parent, guardian, or
2 legal custodian by personal service or by certified mail, return receipt
3 requested. The date established for the juvenile and the juvenile's parent,
4 guardian, or legal custodian to appear shall not be earlier than seven days
5 nor later than thirty days after the promise to appear is served upon both
6 the juvenile and the juvenile's parent, guardian, or legal custodian.

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

10 **19-2-508. Detention and shelter - hearing - time limits -**
11 **findings - review - confinement with adult offenders - restrictions.**

12 (2) When a juvenile is placed in a detention facility, in a temporary
13 holding facility, or in a shelter facility designated by the court, the
14 screening team shall promptly so notify the court, THE DISTRICT
15 ATTORNEY, AND THE LOCAL OFFICE OF THE STATE PUBLIC DEFENDER. The
16 screening team shall also notify a parent or legal guardian or, if a parent
17 or legal guardian cannot be located within the county, the person with
18 whom the juvenile has been residing and inform him or her of the right
19 to a prompt hearing to determine whether the juvenile is to be detained
20 further. The court shall hold ~~such~~ THE detention hearing within forty-eight
21 hours, excluding Saturdays, Sundays, and legal holidays.

22 (2.5) A JUVENILE WHO IS DETAINED PURSUANT TO SUBSECTION (2)
23 OF THIS SECTION SHALL BE REPRESENTED AT THE DETENTION HEARING BY
24 COUNSEL. IF THE JUVENILE HAS NOT RETAINED HIS OR HER OWN COUNSEL,
25 HE OR SHE SHALL BE REPRESENTED BY THE OFFICE OF THE STATE PUBLIC
26 DEFENDER OR, IN THE CASE OF A CONFLICT, BY THE OFFICE OF ALTERNATE
27 DEFENSE COUNSEL. THIS REPRESENTATION SHALL CONTINUE UNLESS:

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

2 (b) THE JUVENILE IS CHARGED WITH AN OFFENSE FOR WHICH THE
3 JUVENILE MAY WAIVE COUNSEL AND THE JUVENILE HAS MADE A KNOWING,
4 INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL,
5 AS DESCRIBED IN SECTION 19-2-706 (2) (c).

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

18 (I.5) BEFORE THE DETENTION HEARING, THE LAW ENFORCEMENT
19 AGENCY THAT ARRESTED THE JUVENILE SHALL PROVIDE TO THE COURT
20 AND TO DEFENSE COUNSEL THE AFFIDAVIT SUPPORTING PROBABLE CAUSE
21 FOR THE ARREST AND THE ARREST REPORT, IF THE ARREST REPORT IS
22 AVAILABLE, AND THE SCREENING TEAM SHALL PROVIDE TO THE COURT
23 AND TO DEFENSE COUNSEL ANY SCREENING MATERIAL PREPARED
24 PURSUANT TO THE JUVENILE'S ARREST.

25 (II) The ~~primary purpose~~ ONLY PURPOSES of a detention hearing
26 ~~shall be~~ ARE to determine if a juvenile should be detained further and to
27 define conditions under which he or she may be released, if his or her

1 release is appropriate. A detention hearing shall not be considered
2 COMBINED WITH a preliminary hearing or a first advisement. DUE TO THE
3 LIMITED SCOPE OF A DETENTION HEARING, THE REPRESENTATION OF A
4 JUVENILE BY APPOINTED COUNSEL AT A DETENTION HEARING DOES NOT,
5 BY ITSELF, CREATE A CONFLICT IN THE EVENT THAT SUCH COUNSEL IS
6 SUBSEQUENTLY APPOINTED TO REPRESENT ANOTHER INDIVIDUAL WHOSE
7 CASE IS RELATED TO THE JUVENILE'S CASE.

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

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

19 **19-2-514. Summons - issuance - contents - service.** (1) After a
20 petition has been filed, the court shall promptly issue a summons reciting
21 briefly the substance of the petition. The summons shall:

22 (a) Set forth the constitutional and legal rights of the juvenile,
23 including the right to have an attorney present at the hearing on the
24 petition;

25 (b) EXPLAIN THAT THE COURT WILL APPOINT COUNSEL FOR THE
26 JUVENILE IF THE JUVENILE DOES NOT RETAIN HIS OR HER OWN COUNSEL;
27 AND

1 (c) STATE THE CONTACT INFORMATION FOR THE OFFICE OF THE
2 STATE PUBLIC DEFENDER THAT SERVES THE JURISDICTION OF THE COURT.

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

5 19-2-706. ~~Advisement - right to counsel - waiver of right to~~
6 ~~counsel.~~ <{Note new section title.}> (1) At the JUVENILE'S first
7 appearance before the court, ~~after the filing of a petition~~ THE COURT
8 SHALL ADVISE the juvenile and his or her parents, guardian, or other legal
9 custodian ~~shall be advised by the court of their~~ THE JUVENILE'S
10 constitutional RIGHTS and legal rights as set forth in rule 3 of the
11 Colorado rules of juvenile procedure, INCLUDING, BUT NOT LIMITED TO,
12 THE RIGHT TO COUNSEL. ~~Such~~ THE advisement shall include the
13 possibility of restorative justice practices, including victim-offender
14 conferences if restorative justice practices are available in the jurisdiction.
15 The advisement regarding restorative justice practices does not establish
16 any right to restorative justice practices on behalf of the juvenile.

17 (2) (a) ~~If the juvenile or his or her parents, guardian, or other legal~~
18 ~~custodian requests counsel and the juvenile or his or her parents,~~
19 ~~guardian, or other legal custodian is found to be without sufficient~~
20 ~~financial means, or the juvenile's parents, guardian, or other legal~~
21 ~~custodian refuses to retain counsel for said juvenile,~~ The court shall
22 appoint counsel for the juvenile UNLESS:

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

24 (II) THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
25 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
26 PARAGRAPH (c) OF THIS SUBSECTION (2).

27 (b) (I) ~~If the court appoints counsel for the juvenile because of the~~

1 ~~refusal of the parents, guardian, or other legal custodian to retain counsel~~
2 ~~for the juvenile, the parents, guardian, or legal custodian, other than a~~
3 ~~county department of social services or the department of human services,~~
4 ~~shall be ordered to reimburse the court for the cost of the counsel unless~~
5 ~~the court finds there was good cause for such refusal. ONLY THE JUVENILE~~
6 ~~HIMSELF OR HERSELF, AFTER CONSULTING WITH HIS OR HER DEFENSE~~
7 ~~COUNSEL, MAY WAIVE THE RIGHT TO COUNSEL.~~

8 (II) IF THE COURT APPOINTS COUNSEL FOR A JUVENILE, THE COURT
9 SHALL ADVISE THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
10 THAT IF THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS
11 DETERMINED BY THE COURT TO POSSESS ADEQUATE FINANCIAL RESOURCES
12 TO PROVIDE COUNSEL FOR THE JUVENILE, THEN THE COURT WILL ORDER
13 THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN TO REIMBURSE THE COURT
14 FOR THE COST OF THE COUNSEL. THE AMOUNT OF THE REIMBURSEMENT
15 WILL BE A PREDETERMINED AMOUNT THAT IS:

16 (A) BASED ON THE STAGE OF THE PROCEEDING AT WHICH A
17 DISPOSITION IS REACHED; AND

18 (B) DETERMINED BY THE COURT IN CONSULTATION WITH THE
19 OFFICE OF THE STATE PUBLIC DEFENDER AND THE OFFICE OF ALTERNATE
20 DEFENSE COUNSEL.

21 (III) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (b)
22 TO THE CONTRARY:

23 (A) THE COURT SHALL NOT ORDER A LEGAL CUSTODIAN OF A
24 JUVENILE TO REIMBURSE THE COURT FOR THE COST OF COUNSEL IF THE
25 LEGAL CUSTODIAN OF THE JUVENILE IS THE STATE DEPARTMENT OF HUMAN
26 SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES; AND

27 (B) IF THE COURT FINDS THAT THERE EXISTS A CONFLICT OF

1 INTEREST BETWEEN THE JUVENILE AND THE JUVENILE'S PARENT,
2 GUARDIAN, OR LEGAL CUSTODIAN SUCH THAT THE INCOME AND ASSETS OF
3 THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN ARE UNAVAILABLE TO THE
4 JUVENILE, THEN THE COURT SHALL CONSIDER THE JUVENILE'S OWN INCOME
5 AND ASSETS FOR THE PURPOSES OF DETERMINING WHETHER TO ISSUE AN
6 ORDER FOR REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (b).

7 (c) EXCEPT AS DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION
8 (2), the court may ~~appoint counsel without such request if it deems~~
9 ~~representation by counsel necessary to protect the interest of the juvenile~~
10 ~~or of other parties.~~ ACCEPT A WAIVER OF COUNSEL BY A JUVENILE ONLY
11 AFTER FINDING ON THE RECORD, BASED ON A DIALOGUE CONDUCTED WITH
12 THE JUVENILE, THAT:

13 (I) THE JUVENILE IS AT LEAST FIFTEEN YEARS OF AGE;

14 (II) THE JUVENILE HAS CONSULTED WITH COUNSEL AND
15 UNDERSTANDS THE SENTENCING OPTIONS THAT WILL BE AVAILABLE TO
16 THE COURT IN THE EVENT OF AN ADJUDICATION OR CONVICTION OF THE
17 OFFENSE WITH WHICH THE JUVENILE IS CHARGED;

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

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

25 (V) THE JUVENILE UNDERSTANDS THE POSSIBLE CONSEQUENCES
26 THAT MAY RESULT FROM AN ADJUDICATION OR CONVICTION OF THE
27 OFFENSE WITH WHICH THE JUVENILE IS CHARGED, WHICH CONSEQUENCES

1 MAY OCCUR IN ADDITION TO THE ACTUAL ADJUDICATION OR CONVICTION
2 ITSELF. AN ADJUDICATION OR CONVICTION MAY NOT BE CHALLENGED ON
3 THE BASIS THAT THE COURT'S DIALOGUE OR FINDING PURSUANT TO THIS
4 SUBPARAGRAPH (V) WAS INADEQUATE OR INCOMPLETE.

5 (d) THE COURT SHALL NOT ACCEPT A JUVENILE'S WAIVER OF HIS OR
6 HER RIGHT TO COUNSEL:

7 (I) IN ANY PROCEEDING RELATING TO A CASE IN WHICH THE
8 JUVENILE IS CHARGED WITH:

9 (A) A SEXUAL OFFENSE DESCRIBED IN PART 4 OF ARTICLE 3 OF
10 TITLE 18, C.R.S.;

11 (B) A CRIME OF VIOLENCE DESCRIBED IN SECTION 18-1.3-406 (2),
12 C.R.S.;

13 (C) AN OFFENSE FOR WHICH THE JUVENILE WILL RECEIVE A
14 MANDATORY SENTENCE UPON HIS OR HER CONVICTION OF THE OFFENSE;
15 OR

16 (D) AN OFFENSE FOR WHICH THE JUVENILE IS BEING CHARGED AS
17 A REPEAT JUVENILE OFFENDER, AS DESCRIBED IN SECTION 19-2-516(2), OR
18 AS AN AGGRAVATED JUVENILE OFFENDER, AS DESCRIBED IN SECTION
19 19-2-516 (4); OR

20 (II) IF THE JUVENILE IS IN THE CUSTODY OF THE STATE
21 DEPARTMENT OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL
22 SERVICES.

23 ~~(d)~~ (e) The appointment of counsel pursuant to this subsection (2)
24 shall continue until:

25 (I) ~~such time as~~ The court's jurisdiction is terminated;

26 (II) THE COURT REACHES A DISPOSITION IN THE JUVENILE'S CASE;

27 (III) THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR

1 LEGAL CUSTODIAN RETAINS COUNSEL FOR THE JUVENILE; or

2 (IV) ~~until such time as the court finds that the juvenile or his or~~
3 ~~her parents, guardian, or other legal custodian has sufficient financial~~
4 ~~means to retain counsel or that the juvenile's parents, guardian, or other~~
5 ~~legal custodian no longer refuses to retain counsel for the juvenile~~ THE
6 COURT FINDS THE JUVENILE HAS MADE A KNOWING, INTELLIGENT, AND
7 VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL, AS DESCRIBED IN
8 PARAGRAPH (c) OF THIS SUBSECTION (2).

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

11 **19-1-111. Appointment of guardian ad litem.** (2.5) A COURT
12 SHALL NOT DEEM A GUARDIAN AD LITEM WHO IS APPOINTED BY THE COURT
13 FOR A JUVENILE IN A DELINQUENCY PROCEEDING PURSUANT TO
14 SUBSECTION (2) OF THIS SECTION TO BE A SUBSTITUTE FOR DEFENSE
15 COUNSEL FOR THE JUVENILE.

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

18 **21-1-103. Representation of indigent persons - representation**
19 **of juveniles.** (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO
20 THE CONTRARY, THE STATE PUBLIC DEFENDER, BEFORE DETERMINING
21 INDIGENCE, SHALL REPRESENT ALL UNREPRESENTED JUVENILES IN
22 DETENTION HEARINGS; EXCEPT THAT, IN THE CASE OF A CONFLICT, THE
23 OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL PROVIDE
24 REPRESENTATION. THE STATE PUBLIC DEFENDER SHALL CONTINUE TO
25 REPRESENT A JUVENILE UNLESS:

26 (a) THE JUVENILE OR THE JUVENILE'S PARENT, GUARDIAN, OR
27 LEGAL CUSTODIAN RETAINS COUNSEL FOR THE JUVENILE; OR

1 (b) THE JUVENILE IS CHARGED WITH AN OFFENSE FOR WHICH
2 COUNSEL MAY BE WAIVED AND THE JUVENILE MAKES A KNOWING,
3 INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL,
4 AS DESCRIBED IN SECTION 19-2-706 (2) (c), C.R.S.

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

7 **19-2-103. Definitions.** For purposes of this article:

8 (12.5) "OFFICE OF THE STATE PUBLIC DEFENDER" MEANS THE
9 OFFICE OF STATE PUBLIC DEFENDER CREATED AND EXISTING PURSUANT TO
10 SECTION 21-1-101, C.R.S.

11 (12.7) "OFFICE OF ALTERNATE DEFENSE COUNSEL" MEANS THE
12 OFFICE OF ALTERNATE DEFENSE COUNSEL CREATED AND EXISTING
13 PURSUANT TO SECTION 21-2-101, C.R.S.

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

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

25 (b) ~~Request a court to conduct a juvenile parole preliminary~~
26 ~~hearing as a part of a detention hearing conducted as described in section~~
27 ~~19-2-508, in which hearing the court shall make a finding as to whether~~

1 ~~there is probable cause to believe that the parolee has violated a condition~~
2 ~~of parole; or~~

3 **SECTION 9. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT 10.21.13

BILL 2

Temporary storage location: C:\Temp\14-0214.tmp

LLS NO. 14-0214 Richard Sweetman x.4333

INTERIM COMMITTEE BILL

Juvenile Defense Attorney Interim Committee

SHORT TITLE: "Create Juvenile Defense Division"

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE DIVISION OF JUVENILE DEFENSE**
102 **WITHIN THE OFFICE OF THE STATE PUBLIC DEFENDER.**

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. The bill creates the division of juvenile defense within the office of the state public defender and sets forth the duties of the division.

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

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 **SECTION 1.** In Colorado Revised Statutes, **add 21-1-107** as
2 follows:

3 **21-1-107. Division of juvenile defense - creation - duties.**

4 (1) THERE IS CREATED WITHIN THE OFFICE OF THE STATE PUBLIC
5 DEFENDER THE DIVISION OF JUVENILE DEFENSE, REFERRED TO IN THIS
6 SECTION AS THE "DIVISION". THE STATE PUBLIC DEFENDER SHALL APPOINT
7 THE DIRECTOR OF THE DIVISION, WHO SERVES AT THE PLEASURE OF THE
8 STATE PUBLIC DEFENDER.

9 (2) THE DIVISION HAS THE FOLLOWING DUTIES:

10 (a) TO TRAIN, SUPERVISE, AND SUPPORT ATTORNEYS OF THE STATE
11 PUBLIC DEFENDER'S OFFICE WHO REPRESENT JUVENILE DEFENDANTS;

12 (b) TO HIRE AND SUPPORT INDEPENDENT INVESTIGATORS AND
13 SOCIAL WORKERS TO ASSIST IN DEFENDING JUVENILE DEFENDANTS AND TO
14 RECOMMEND SUCH SERVICES AS JUVENILE DEFENDANTS MAY NEED,
15 INCLUDING BUT NOT LIMITED TO EDUCATION SERVICES, MENTAL HEALTH
16 SERVICES, AND SUBSTANCE ABUSE COUNSELING SERVICES; AND

17 (c) TO COORDINATE TRAINING AND SUPPORT EFFORTS WITH THE
18 OFFICE OF ALTERNATE DEFENSE COUNSEL TO ENSURE THE QUALITY OF
19 REPRESENTATION OF JUVENILE DEFENDANTS.

20 **SECTION 2. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

- 1 November 2014 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
10.21.13

BILL 3

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LLS NO. 14-0215 Richard Sweetman x4333

INTERIM COMMITTEE BILL

Juvenile Defense Attorney Interim Committee

SHORT TITLE: "Social Services For Juveniles"

A BILL FOR AN ACT

101 **CONCERNING THE PROVISION OF SOCIAL SERVICES TO JUVENILE**
102 **DEFENDANTS.**

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. The state public defender may hire and support independent investigators and social workers to assist in defending juvenile defendants. Such a social worker

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

may not be ordered to prepare reports for the court or be called to testify against a juvenile to whom the social worker is providing services; except that, the social worker may be so ordered or called to testify with the consent of the juvenile and the juvenile's attorney. Any report prepared by the social worker and submitted to the court by the juvenile's attorney shall be considered as evidence in the proper disposition of the juvenile's case.

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

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

4 **21-1-104. Duties of public defender.** (4) THE STATE PUBLIC
5 DEFENDER MAY HIRE AND SUPPORT INDEPENDENT INVESTIGATORS AND
6 SOCIAL WORKERS TO ASSIST IN DEFENDING JUVENILE DEFENDANTS. SUCH
7 A SOCIAL WORKER MAY NOT BE ORDERED TO PREPARE REPORTS FOR THE
8 COURT OR BE CALLED TO TESTIFY AGAINST A JUVENILE TO WHOM THE
9 SOCIAL WORKER IS PROVIDING SERVICES; EXCEPT THAT, THE SOCIAL
10 WORKER MAY BE SO ORDERED OR CALLED TO TESTIFY WITH THE CONSENT
11 OF THE JUVENILE AND THE JUVENILE'S ATTORNEY. ANY REPORT PREPARED
12 BY THE SOCIAL WORKER AND SUBMITTED TO THE COURT BY THE
13 JUVENILE'S ATTORNEY SHALL BE CONSIDERED AS EVIDENCE IN THE PROPER
14 DISPOSITION OF THE JUVENILE'S CASE, AS PROVIDED IN SECTION 19-2-906,
15 C.R.S.

16 **SECTION 2. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2014 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.

LLS NO. 14-0216 AMENDMENT # 1
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0216 be amended as follows:

- 1 Amend LLS No. 14-0216, page 2, line 14, strike "Procedure" and
- 2 substitute "Procedure, juvenile court forms, and Chief Justice Directive
- 3 04-04".

- 4 Page 2, line 15, strike "Rules" and substitute "Rules, forms, or the
- 5 directive".

** ** ** ** **

LLS NO. 14-0216 AMENDMENT # 2
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Levy
LLS No. 14-0216 be amended as follows:

- 1 Amend LLS No. 14-0216, page 2, after line 12, insert:
- 2 "(b) Convene a task force within the judicial branch of qualified
- 3 persons to advance the judicial branch management of juvenile
- 4 delinquency cases to include best practices in education of judicial
- 5 officers assigned to juvenile delinquency dockets, in docket rotation and
- 6 assignment, in management of juvenile delinquency cases, and in regular
- 7 educational opportunities for judicial officers in the areas relating to the
- 8 science of juvenile and adolescent maturity and brain development; and".

- 9 Reletter succeeding paragraph accordingly.

** *** ** *** **

LLS NO. 14-0214 AMENDMENT # 1
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0214 be amended as follows:

- 1 Amend LLS No. 14-0214, page 2, line 7, after "WHO" insert "IS
- 2 EXPERIENCED IN JUVENILE DEFENSE LAW AND PRACTICE AND".

** ** ** ** **

LLS NO. 14-0214 AMENDMENT # 2
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0214 be amended as follows:

- 1 Amend LLS No. 14-0214, page 2, line 10, after "To" insert "SELECT,".

** ** ** ** **

LLS NO. 14-0214 AMENDMENT # 3
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0214 be amended as follows:

- 1 Amend LLS No. 14-0214, page 2, line 18, after "ENSURE" insert "THE
- 2 APPOINTMENT OF COUNSEL AND".

** ** ** ** **



LLS NO. 14-0214 AMENDMENT # 4
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0214 be amended as follows:

1 Amend LLS No. 14-0214, page 2, after line 19 insert:

2 "SECTION 2. In Colorado Revised Statutes, 21-1-101, amend
3 (2) as follows:

4 **21-1-101. Public defender - policy - commission.** (2) The
5 Colorado supreme court shall provide for the appointment, terms, and
6 procedure for a five-member public defender commission, no more than
7 three of whom shall be from the same political party. Three of the
8 members of the commission shall MUST be attorneys admitted to practice
9 law in this state, and two shall MUST be citizens of Colorado not admitted
10 to practice law in this state. AT LEAST ONE MEMBER OF THE COMMISSION
11 MUST REPRESENT THE INTERESTS OF JUVENILE CLIENTS. In making
12 appointments to the commission, the supreme court shall consider place
13 of residence, sex, race, and ethnic background. No member of the
14 commission shall be at any time a judge, prosecutor, public defender, or
15 employee of a law enforcement agency.

16 **SECTION 3.** In Colorado Revised Statutes, 21-2-101, amend (2)
17 as follows:

18 **21-2-101. Alternate defense counsel - policy - commission.**
19 (2) The Colorado supreme court shall appoint a nine-member alternate
20 defense counsel commission, referred to in this article as the
21 "commission". No more than five members of the commission shall MAY
22 be from the same political party. Six members of the commission shall
23 MUST be attorneys admitted to practice law in this state who have
24 experience in the practice of criminal defense, and three members of the
25 commission shall MUST be citizens of Colorado not admitted to practice
26 law in this state. AT LEAST ONE MEMBER OF THE COMMISSION MUST
27 REPRESENT THE INTERESTS OF JUVENILE CLIENTS. There shall MUST be one
28 member from each of the congressional districts in the state. Members of
29 the commission shall serve for terms of four years; except that, of the
30 members first appointed, five shall serve for terms of two years.
31 Vacancies on the commission shall be filled by the supreme court for the
32 remainder of any unexpired term. In making appointments to the
33 commission, the supreme court shall consider place of residence, sex,
34 race, and ethnic background. No member of the commission shall MAY
35 be at any time a judge, prosecutor, public defender, or employee of a law
36 enforcement agency. The supreme court shall establish procedures for the
37 operation of the commission."

1 Renumber succeeding section accordingly.

** *** ** ** **

LLS NO. 14-0214 AMENDMENT # 7
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0214 be amended as follows:

- 1 Amend LLS No. 14-0214, page 2, strike lines 4 through 6 and substitute
- 2 "(1) THE STATE PUBLIC DEFENDER MAY CREATE WITHIN THE OFFICE OF
- 3 THE STATE PUBLIC DEFENDER A DIVISION OF JUVENILE DEFENSE, REFERRED
- 4 TO IN THIS SECTION AS THE "DIVISION". THE STATE PUBLIC DEFENDER MAY
- 5 APPOINT".

** ** ** ** **

LLS NO. 14-0213 AMENDMENT # 1
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 5, strike lines 18 and 19 and substitute
- 2 "LACKS ADEQUATE RESOURCES TO RETAIN COUNSEL;".

** ** ** ** **



LLS NO. 14-0213 AMENDMENT # 2
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 6, strike line 8 and substitute "(3) (a) (I),
- 2 and (3) (a) (II); and **add** (2.5)".

- 3 Page 8, strike lines 8 through 16.

** ** ** ** **



LLS NO. 14-0213 AMENDMENT # 3
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 10, strike lines 8 through 27 and
- 2 substitute:

- 3 "(II) FOR PURPOSES OF APPLYING FOR COURT-APPOINTED COUNSEL,
- 4 THE INDIGENCE OF A JUVENILE IS DETERMINED ONLY BY CONSIDERING THE
- 5 JUVENILE'S ASSETS AND INCOME."

- 6 Page 11, strike lines 1 through 6.

** *** ** *** **

LLS NO. 14-0213 AMENDMENT # 4
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 12, strike lines 2 through 4 and substitute
- 2 "ITSELF."

** ** ** ** **



LLS NO. 14-0213 AMENDMENT # 5
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 12, strike line 26.
- 2 Renumber succeeding subparagraphs accordingly.

** ** ** ** **



LLS NO. 14-0213 AMENDMENT # 6
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 11, line 12, strike "JUVENILE," and
- 2 substitute "JUVENILE AND THE JUVENILE'S COUNCIL,".

** ** ** ** **

LLS NO. 14-0213 AMENDMENT # 7
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Levy
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 6, line 21, after "holidays." add "FOR A
- 2 JUVENILE BEING HELD IN DETENTION ON A WARRANT FOR VIOLATING A
- 3 VALID COURT ORDER ON A STATUS OFFENSE, THE COURT SHALL HOLD THE
- 4 DETENTION HEARING WITHIN TWENTY-FOUR HOURS, EXCLUDING
- 5 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS."

** ** ** ** **

LLS NO. 14-0213 AMENDMENT # 8
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend prepared amendment # 2 to LLS No. 14-0213, page 1, strike line
- 2 3 and substitute:

- 3 "Page 7, line 25, strike "~~primary purpose~~ ONLY PURPOSES" and substitute
- 4 "primary purpose".

- 5 Page 7, line 26, strike "shall be ARE" and substitute "shall be".".

** ** ** ** **

LLS NO. 14-0213 AMENDMENT # 9
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

1 Amend LLS No. 14-0213, page 15, after line 2 insert:

2 "SECTION 9. In Colorado Revised Statutes, 21-1-101, amend
3 (2) as follows:

4 **21-1-101. Public defender - policy - commission.** (2) The
5 Colorado supreme court shall provide for the appointment, terms, and
6 procedure for a five-member public defender commission, no more than
7 three of whom shall be from the same political party. Three of the
8 members of the commission shall MUST be attorneys admitted to practice
9 law in this state, and two shall MUST be citizens of Colorado not admitted
10 to practice law in this state. AT LEAST ONE MEMBER OF THE COMMISSION
11 MUST REPRESENT THE INTERESTS OF JUVENILE CLIENTS. In making
12 appointments to the commission, the supreme court shall consider place
13 of residence, sex, race, and ethnic background. No member of the
14 commission shall be at any time a judge, prosecutor, public defender, or
15 employee of a law enforcement agency.

16 **SECTION 10.** In Colorado Revised Statutes, 21-2-101, amend
17 (2) as follows:

18 **21-2-101. Alternate defense counsel - policy - commission.**
19 (2) The Colorado supreme court shall appoint a nine-member alternate
20 defense counsel commission, referred to in this article as the
21 "commission". No more than five members of the commission shall MAY
22 be from the same political party. Six members of the commission shall
23 MUST be attorneys admitted to practice law in this state who have
24 experience in the practice of criminal defense, and three members of the
25 commission shall MUST be citizens of Colorado not admitted to practice
26 law in this state. AT LEAST ONE MEMBER OF THE COMMISSION MUST
27 REPRESENT THE INTERESTS OF JUVENILE CLIENTS. There shall MUST be one
28 member from each of the congressional districts in the state. Members of
29 the commission shall serve for terms of four years; except that, of the
30 members first appointed, five shall serve for terms of two years.
31 Vacancies on the commission shall be filled by the supreme court for the
32 remainder of any unexpired term. In making appointments to the
33 commission, the supreme court shall consider place of residence, sex,
34 race, and ethnic background. No member of the commission shall MAY
35 be at any time a judge, prosecutor, public defender, or employee of a law
36 enforcement agency. The supreme court shall establish procedures for the
37 operation of the commission."



1 Renumber succeeding section accordingly.

** *** ** *** **

LLS NO. 14-0213 AMENDMENT # 10
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 11, line 23, strike "OR UNWILLING".

** ** ** ** **



LLS NO. 14-0213 AMENDMENT # 11
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

1 Amend LLS No. 14-0213, page 15, afer line 2, insert:
2 "SECTION 9. In Colorado Revised Statutes, 21-1-104, add (4)
3 as follows:

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

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

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

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

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

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

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

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

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

29 (b) THE NUMBER OF JUVENILE CASES THAT INVOLVE A CONFLICT
30 OF INTEREST;

31 (c) THE PROCESS OF SELECTING, TRAINING, AND SUPPORTING
32 ATTORNEYS WHO REPRESENT CHILDREN IN JUVENILE DELINQUENCY
33 COURT;

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

36 (e) THE OUTCOME OF EFFORTS TO REDUCE JUVENILE COURT
37 ROTATIONS AND INCREASE OPPORTUNITIES FOR PROMOTIONAL

1 ADVANCEMENT IN SALARIES FOR ATTORNEYS IN JUVENILE COURT.

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

4 **13-1-137. Reporting of data concerning juvenile proceedings.**

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

8 (a) THE NUMBER OF JUVENILE DELINQUENCY CASES;

9 (b) THE NUMBER OF JUVENILE DELINQUENCY CASES THAT
10 INVOLVED AN APPOINTMENT OF COUNSEL;

11 (c) THE NUMBER OF JUVENILE CASES THAT INVOLVED A WAIVER OF
12 COUNSEL; AND

13 (d) THE STATUS OF RECOMMENDED REVIEWS TO JUVENILE COURT
14 RULES, FORMS, AND CHIEF JUSTICE DIRECTIVES REGARDING THE
15 REPRESENTATION OF CHILDREN IN JUVENILE DELINQUENCY COURTS."

16 Renumber succeeding section accordingly.

*** **

LLS NO. 14-0213 AMENDMENT # 14
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 8, line 21, after "petition." insert "THE
- 2 COURT SHALL PROVIDE A COPY OF THE SUMMONS TO THE OFFICE OF THE
- 3 STATE PUBLIC DEFENDER."

** ** ** ** **

LLS NO. 14-0213 AMENDMENT # 16
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Levy
LLS No. 14-0213 be amended as follows:

- 1 Amend LLS No. 14-0213, page 7, line 18, strike "BEFORE THE DETENTION
2 HEARING, THE" and substitute "THE".
- 3 Page 7, line 19, after "SHALL" insert "PROMPTLY".
- 4 Page 7, line 22, after "SHALL" insert "PROMPTLY".
- 5 Page 9, line 7, strike "~~after the~~" and substitute "after the" and after
6 "~~petition~~" insert "DETENTION HEARING OR AT THE FIRST APPEARANCE IF
7 THE JUVENILE APPEARS ON A SUMMONS,".
- 8 Page 9, line 22, strike "counsel" and substitute "~~counsel~~ THE OFFICE OF
9 THE STATE PUBLIC DEFENDER OR, IN THE CASE OF A CONFLICT, THE OFFICE
10 OF THE ALTERNATE DEFENSE COUNSEL".
- 11 Page 10, strike lines 5 through 7 and substitute:
12 "~~the court finds there was good cause for such refusal.~~".
- 13 Page 10, strike lines 11 and 12 and substitute:
14 "DETERMINED BY THE COURT NOT TO FALL WITHIN THE FISCAL STANDARDS
15 OR GUIDELINES AS ESTABLISHED BY THE SUPREME COURT FOR THE
16 APPOINTMENT OF PUBLIC DEFENDERS, THEN THE COURT WILL ORDER".
- 17 Page 10, line 13, strike "COURT" and substitute "STATE".
- 18 Page 10, line 14, strike "COUNSEL." and substitute "REPRESENTATION
19 UNLESS THE COURT, FOR GOOD CAUSE, WAIVES THE REIMBURSEMENT
20 REQUIREMENT.".
- 21 Page 10, line 16 and 17, strike "A DISPOSITION IS REACHED;" and substitute
22 "COUNSEL IS APPOINTED;".
- 23 Page 10, line 18, strike "DETERMINED BY THE COURT" and substitute "SET
24 BY THE SUPREME COURT".
- 25 Page 10, line 20, strike "COUNSEL." and substitute "COUNSEL AND
26 INCLUDED IN THE CHIEF JUSTICE DIRECTIVE CONCERNING THE



1 APPOINTMENT OF STATE-FUNDED COUNSEL IN CRIMINAL AND JUVENILE
2 DELINQUENCY CASES."

3 Page 10, strike lines 22 and 23 and substitute:
4 "TO THE CONTRARY, THE COURT SHALL NOT ORDER A LEGAL CUSTODIAN
5 OF A".

6 Page 10, strike line 27.

7 Page 11, strike lines 1 through 6.

8 Page 11, strike line 13 and substitute:
9 "(I) THE JUVENILE IS OF A SUFFICIENT MATURITY LEVEL TO MAKE
10 A VOLUNTARY, KNOWING, AND INTELLIGENT WAIVER OF THE RIGHT TO
11 COUNSEL;"

12 Page 11, line 14, strike "HAS CONSULTED WITH COUNSEL AND".

13 Page 12, line 15, strike "OR".

14 Page 12, line 17, strike "OR".

15 Page 12, strike line 19 and substitute:
16 "19-2-516 (4), OR AS A MANDATORY SENTENCE OFFENDER, AS DESCRIBED
17 IN SECTION 19-2-908 (1) (a);

18 (E) IF THE PROSECUTING ATTORNEY HAS ANNOUNCED THAT HE OR
19 SHE IS SEEKING DIRECT FILE PROCEEDINGS PURSUANT TO SECTION 19-2-
20 518; OR

21 (F) IF THE PROSECUTING ATTORNEY HAS ANNOUNCED THAT HE OR
22 SHE IS SEEKING A TRANSFER PROCEEDING PURSUANT TO SECTION 19-2-518.

23 Page 13 strike lines 18 through 27 and substitute:
24 **21-1-103. Representation of indigent persons (5)** NOTHING IN
25 THIS SECTION MAY BE CONSTRUED TO PREVENT THE PUBLIC DEFENDER,
26 BEFORE DETERMINING INDIGENCY, FROM PROVIDING LIMITED
27 REPRESENTATION TO JUVENILES IN DETENTION HEARINGS OR ADULT
28 DEFENDANTS IN CUSTODY WHO CANNOT POST OR ARE NOT ALLOWED
29 BOND".

30 Page 14, strike lines 1 through 4.

** ** ** ** **



LLS NO. 14-0215 AMENDMENT # 1
INTERIM COMMITTEE AMENDMENT
Committee on Juvenile Defense Attorney
BY REPRESENTATIVE Kagan
LLS No. 14-0215 be amended as follows:

- 1 Amend LLS No. 14-0215, page 2, strike lines 5 through 15 and substitute
- 2 "DEFENDER MAY HIRE INVESTIGATORS AND SOCIAL WORKERS TO ASSIST IN
- 3 DEFENDING JUVENILE DEFENDANTS. ANY REPORT PREPARED BY SUCH A
- 4 SOCIAL WORKER AND SUBMITTED TO THE COURT BY THE JUVENILE'S
- 5 ATTORNEY SHALL BE CONSIDERED AS EVIDENCE IN THE PROPER
- 6 DISPOSITION OF THE JUVENILE'S CASE, AS PROVIDED IN SECTION 19-2-906,
- 7 C.R.S."

- 8 Page 1, strike lines 101 and 102 and substitute "CONCERNING THE
- 9 PROVISION OF SOCIAL WORKERS AND INVESTIGATORS TO JUVENILES."

** ** ** ** **