



APR 08 2010

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Be it Enacted by the People of the State of Colorado:

ELECTIONS
SECRETARY OF STATE

SECTION 1. 19-2-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-102. Legislative declaration. (3) IT IS THE INTENT OF THE PEOPLE OF THIS STATE THAT THE JUVENILE JUSTICE SYSTEM SHALL AT ALL TIMES SEEK TO BALANCE THE PRESERVATION OF PUBLIC SAFETY WITH THE INTERESTS OF REHABILITATING JUVENILE OFFENDERS AND REDUCING RATES OF RECIDIVISM AMONG JUVENILE OFFENDERS. THE PEOPLE OF THIS STATE FIND AND DECLARE THAT PUBLIC SAFETY IS ENHANCED AND THE PUBLIC INTEREST IS BEST SERVED THROUGH ADMINISTRATION OF A JUVENILE JUSTICE SYSTEM RESPONSIVE TO THE PARTICULAR FACTORS RESULTING IN CRIMINAL BEHAVIOR BY JUVENILES AND DEDICATED TO ASSISTING JUVENILES IN OVERCOMING THOSE FACTORS AND BECOMING PRODUCTIVE MEMBERS OF SOCIETY.

SECTION 2. 19-2-104 (1) (b), Colorado Revised Statutes, is amended to read:

19-2-104. Jurisdiction. (1) (b). Concerning any juvenile to which section 19-2-518 applies ~~except that, after filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to section 19-2-517. Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.~~

SECTION 3. Repeal. ~~19-1-103 (61), 19-2-104 (2), 19-2-517, 19-2-518 (1) (c), and 19-2-518 (2).~~ Colorado Revised Statutes, are repealed.

SECTION 4. 16-4-105 (1) (n.5), Colorado Revised Statutes, is amended to read:

16-4-105. Selection by judge of the amount of bail and type of bond – criteria. (1) (n.5) Unless the district attorney consents, no person who is eighteen years of age or older ~~or is being charged as an adult pursuant to section 19-2-517, C.R.S., or WHO~~ IS transferred to the district court pursuant to section 19-2-518, C.R.S., shall be released on personal recognizance if the person's criminal record indicates that he or she failed to appear on bond in any case involving a felony or class 1 misdemeanor charge in the preceding five years;

SECTION 5. 18-1.3-301 (2) (b) (III), Colorado Revised Statutes, is amended, and the said 18-1.3-301 (2) (b) is further amended BY THE ADDITION OF A NEW SUB-PARAGRAPH, to read:

18-1.3-301. Authority to place offenders in community corrections programs. (2) (b) Unless the offender has an active felony warrant or detainer or has refused community placement, the executive director of the department of corrections shall refer for placement in a community corrections program:

(III) Any other offender who has displayed acceptable institutional behavior one hundred eighty days prior to such offender's parole eligibility date; AND

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Deleted: 19-2-104. Jurisdiction. (2) The juvenile court shall have limited jurisdiction in matters to which section 19-2-517 applies.¶

¶

SECTION 4. Repeal. 19-2-517, Colorado Revised Statutes, is repealed as follows:¶

¶

19-2-517. Direct filing. (1)(a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:¶

¶

(I) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense and is alleged to have committed a class 1 or class 2 felony; or¶

¶

(II) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense and:¶

¶

(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406, C.R.S.; or¶

¶

(B) Is alleged to have committed a felony offense described in part 1 of article 12 of title 18, C.R.S., except for the possession of a handgun by a juvenile, as set forth in section 18-12-100.5, C.R.S.; or¶

¶

(C) Is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person, which are set forth in article 3 of title 18, C.R.S.; or¶

¶

(D) Is alleged to have committed vehicular homicide, as described in section 18-3-106, C.R.S., vehicular assault, as described in section 18-3-205, C.R.S., or felonious arson, as described in part 1 of article 4 of title 18, C.R.S.; or¶

¶

(III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older at the time of the commission of the alleged offense, and allegedly has committed a crime defined by section 18-1.3-401, C.R.S., as a class 3 felony, except felonies defined by section 18-3-402 (1) (d), C.R.S., or section 18-3-403 (1) (e), C.R.S., as it existed prior to July 1, 2000; or¶

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(IV) ANY OFFENDER SENTENCED PURSUANT TO SECTION 19-2-517 (3) (a) (I), C.R.S., ~~AS IT EXISTED PRIOR TO JANUARY 1, 2011,~~ OR SECTION 19-2-518 (1) (d) (I), C.R.S., AND WHO HAS DISPLAYED ACCEPTABLE INSTITUTIONAL BEHAVIOR, UPON ATTAINING THIRTY YEARS OF AGE.

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SECTION 6. Effective Date. The effective date of this act shall be ~~the later of January 1, 2011, or proclamation of the governor.~~

Deleted: SECTION 9. Repeal. 19-1-103 (61), Colorado Revised Statutes, is repealed as follows:¶

¶ 19-1-103. Definitions. (61) "Habitual juvenile offender", as used in section 19-2-517, means a juvenile offender who has previously been twice adjudicated a juvenile delinquent for separate delinquent acts, arising out of separate and distinct criminal episodes, that constitute felonies.¶

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~~19-2-104. Jurisdiction. (2) The juvenile court shall have limited jurisdiction in matters to which section 19-2-517 applies.~~

SECTION 4. Repeal. 19-2-517, Colorado Revised Statutes, is repealed as follows:

~~19-2-517. Direct filing. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:~~

~~(I) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense and is alleged to have committed a class 1 or class 2 felony; or~~

~~(II) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense and:~~

~~(A) Is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406, C.R.S.; or~~

~~(B) Is alleged to have committed a felony offense described in part 1 of article 12 of title 18, C.R.S., except for the possession of a handgun by a juvenile, as set forth in section 18-12-108.5, C.R.S.; or~~

~~(C) Is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person, which are set forth in article 3 of title 18, C.R.S.; or~~

~~(D) Is alleged to have committed vehicular homicide, as described in section 18-3-106, C.R.S., vehicular assault, as described in section 18-3-205, C.R.S., or felonious arson, as described in part 1 of article 4 of title 18, C.R.S.; or~~

~~(III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older at the time of the commission of the alleged offense, and allegedly has committed a crime defined by section 18-1.3-401, C.R.S., as a class 3 felony, except felonies defined by section 18-3-402 (1) (d), C.R.S., or section 18-3-403 (1) (e), C.R.S., as it existed prior to July 1, 2000; or~~

~~(IV) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-518; except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court; or~~

~~(V) The juvenile is fourteen years of age or older at the time of the commission of the alleged offense, has allegedly committed a delinquent act that constitutes a felony,~~

and is determined to be an "habitual juvenile offender". For the purposes of this section, "habitual juvenile offender" is defined in section 19-1-103 (61).

(b) The offenses described in subparagraphs (I) to (V) of paragraph (a) of this subsection (1) shall include the attempt, conspiracy, solicitation, or complicity to commit such offenses.

(2) Notwithstanding the provisions of section 19-2-518, after filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to this section. Upon said filing or indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.

(3) (a) Whenever criminal charges are filed by information or indictment in the district court pursuant to this section, the district judge shall sentence the juvenile as follows:

(I) As an adult; or

(II) To the youthful offender system in the department of corrections in accordance with section 18-1.3-407, C.R.S., if the juvenile is convicted of an offense described in subparagraph (II) or (V) of paragraph (a) of subsection (1) of this section; except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

(A) A class 1 felony;

(B) A class 2 felony as a result of a plea agreement in cases where the juvenile is charged with a class 1 felony;

(C) A class 2 felony and the juvenile has one or more prior convictions for a crime of violence, as defined in section 18-1.3-406, C.R.S., or prior adjudications for an offense that would constitute a crime of violence if committed by an adult;

(D) A class 2 felony and the juvenile is sixteen years of age or older;

(E) Any sexual offense described in section 18-6-301 or 18-6-302, C.R.S., or part 4 of article 3 of title 18, C.R.S.; or

(F) A second or subsequent offense described in said subparagraph (II) or (V), if such person received a sentence to the department of corrections or to the youthful offender system for the prior offense; or

(III) Pursuant to the provisions of this article, if the juvenile is less than sixteen years of age at the time of commission of the crime and is convicted of an offense other

~~than a class 1 or class 2 felony, a crime of violence as defined under section 18-1.3-406, C.R.S., or an offense described in subparagraph (V) of paragraph (a) of subsection (1) of this section and the judge makes a finding of special circumstances.~~

~~(a.5) Notwithstanding the provisions of subparagraph (II) of paragraph (a) of this subsection (3), a juvenile who is charged with first degree murder as described in section 18-3-102 (1) (b), C.R.S., and pleads guilty to a class 2 felony as a result of a plea agreement is eligible for sentencing to the youthful offender system if the juvenile would be eligible for sentencing to the youthful offender system for a conviction of the felony underlying the charge of first degree murder as described in section 18-3-102 (1) (b), C.R.S.~~

~~(b) Repealed.~~

~~(e) The district court judge may sentence a juvenile pursuant to the provisions of this article if the juvenile is convicted of a lesser included offense for which criminal charges could not have been originally filed by information or indictment in the district court pursuant to this section.~~

~~(4) In the case of any person who is sentenced as a juvenile pursuant to subsection (3) of this section, section 19-2-908 (1) (a), regarding mandatory sentence offenders, section 19-2-908 (1) (b), regarding repeat juvenile offenders, section 19-2-908 (1) (c), regarding violent juvenile offenders, and section 19-2-601, regarding aggravated juvenile offenders, shall apply to the sentencing of such person.~~

~~(5) The court in its discretion may appoint a guardian ad litem for any juvenile charged by the direct filing of an information in the district court or by indictment pursuant to this section.~~

SECTION 5. Repeal. 19-2-518 (1) (c), Colorado Revised Statutes, is repealed as follows:

~~**19-2-518. Transfers.** (1)(c) If the crime alleged to have been committed is a felony defined by section 18-8-208, C.R.S., and no other crime is alleged to have been committed and the juvenile has been adjudicated a juvenile delinquent for a delinquent act which constitutes a class 4 or 5 felony, then the charge for the crime may not be filed directly in the district court, but the juvenile court may transfer such charge to the district court pursuant to paragraph (a) of this subsection (1).~~

SECTION 6. Repeal. 19-2-518 (2), Colorado Revised Statutes, is repealed as follows:

~~**19-2-518. Transfers.** (2) After filing charges in the juvenile court but prior to the time that the juvenile court conducts a transfer hearing, the district attorney may file the same or different charges against the juvenile by direct filing of an information in the district court or by indictment pursuant to section 19-2-517. Upon said filing or~~

~~indictment in the district court, the juvenile court shall no longer have jurisdiction over proceedings concerning said charges.~~