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0327 Juvenile Offenders

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COLORADO

LEGISLATIVE COUNCIL

**JUVENILE OFFENDERS
COLORADO LEGISLATIVE
COUNCIL
NOVEMBER, 1988**

**COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1989**

COMMITTEE ON JUVENILE OFFENDERS

**Legislative Council
Report to the
Colorado General Assembly**

**Research Publication No. 327
November, 1988**

COLORADO GENERAL ASSEMBLY



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To Members of the Fifty-seventh Colorado General Assembly:

Submitted herewith is the final report of the Committee on Juvenile Offenders. The committee was appointed by the Legislative Council pursuant to House Joint Resolution No. 1003, 1988 session.

At its meeting on October 24, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Committee on Juvenile Offenders to the Fifty-seventh General Assembly was also approved.

Respectfully submitted,

/s/ Senator Ted Strickland
Chairman
Colorado Legislative Council

TS/td

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COMMITTEE ON JUVENILE OFFENDERS

Committee Charge

The interim Committee on Juvenile Offenders was created pursuant to House Joint Resolution 1003 (1988 session). The committee was directed to study the juvenile justice system, including, but not limited to, the administration of the system and the lack of standardization of services in the administration of services provided to juveniles.

Committee Activities

In carrying out the purposes of the study, the committee held six days of meetings. Testimony was provided by: members of the Jefferson County Children's Task Force; the Department of Institutions (DOI); the Department of Social Services; the Department of Public Safety; the Judicial Department; judges and representatives of juvenile courts; representatives of the Juvenile and Adult Parole Boards; the Colorado District Attorney's Council; school districts; police departments; a representative of the National Council on Crime and Delinquency; the High Plains Youth Center; and the Serious Habitual Offender Comprehensive Action Program (SHOCAP).

Committee discussion centered on the following issues:

- tracking of juvenile offenders through the juvenile justice system;
- completion of construction and renovation projects authorized under Senate Bill 101 (1986 session);
- alternatives to juvenile parole and evaluation of the juvenile parole system - transfer of parole functions from the Department of Institutions to the Judicial Department;
- juvenile diversion programs administered under the Department of Public Safety;
- adequacy of community-based programs and residential community placement;
- overcrowded juvenile detention facilities;
- licensing of secure residential treatment facilities for juveniles (High Plains Youth Center - Brush, Colorado);

- overview of juvenile probation system - statistical data on the number of probation cases - comparison of the juvenile probation, parole, and commitment population;
- review of SHOCAP program;
- outline of services provided to juvenile offenders by various state agencies;
- review of effective juvenile corrections programs in other states;
- statistical data on juvenile crime; and
- funding for services provided outside school districts.

As a result of its deliberations, the committee recommends ten bills for consideration in the 1989 legislative session. The bills will:

- 1) authorize the release of a juvenile's school records and eliminate the requirement that law enforcement records concerning juveniles be maintained separately from adult records, provided that juvenile records are identified;
- 2) reorganize the juvenile parole system and transfer the functions of the Division of Juvenile Parole from the Department of Institutions to the Judicial Department;
- 3) require that a school district be reimbursed for the cost of providing educational services to nonresident juveniles who are not included in the district's pupil enrollment;
- 4) provide that a county or counties in a judicial district be reimbursed for the costs of prosecuting a crime alleged to have been committed by a person in the custody of the Department of Institutions;
- 5) require the court to impose an additional sentence for juveniles who escape from the DOI and allow the court to specify at sentencing which secure facility a juvenile should be committed to;
- 6) make technical and conforming amendments to the Colorado Children's Code; and
- 7) authorize the Department of Social Services to license secure residential treatment centers for juveniles which are operated under private or nonprofit sponsorship.

I. MAJOR PROBLEM AREAS IN THE JUVENILE JUSTICE SYSTEM

Confidentiality of Juvenile Records

The committee was concerned about a lack of information sharing on juveniles by state agencies and a need to expand agency access to juvenile records. The "tracking" of juveniles through juvenile records is restricted by statutory provisions dealing with the confidentiality of such records. The statutory restrictions are summarized below.

Inspection of juvenile records. Section 19-2-901, C.R.S., provides that court records concerning juvenile delinquency proceedings are open to inspection without a court order to the following persons:

- 1) the juvenile named in the records;
- 2) the juvenile's parent, guardian, or legal custodian;
- 3) any attorney of record;
- 4) the juvenile's guardian ad litem;
- 5) the juvenile probation department; and
- 6) any agency to which legal custody of the juvenile has been transferred.

Consent of the court is required for inspection of a juvenile probation officer's records and all other records of social and clinical studies. Court consent is also required for inspection by any person, other than those listed above, having a legitimate interest in the proceedings and by persons conducting pertinent research studies.

Expungement of juvenile records. Criteria for the expungement (i.e., the designation of records whereby such records are deemed never to have existed) of juvenile records are set forth in section 19-2-902, C.R.S. Expungement proceedings are initiated by the filing of a petition in the appropriate juvenile court requesting an order of expungement. The court is required to order expungement if the following conditions are met:

- 1) the juvenile who is the subject of the hearing has not been convicted of a felony or of a misdemeanor and has not been adjudicated a juvenile delinquent since the termination of the court's jurisdiction or his unconditional release from parole supervision;
- 2) no proceeding concerning a felony, misdemeanor, or delinquency action is pending against him; and
- 3) the rehabilitation of the juvenile has been attained to the satisfaction of the court.

Basic identification information on a juvenile and lists of any state and local agencies having contact with the juvenile are not open for public inspection but must be made available to a district attorney, local law enforcement agency, and the Department of Social Services. Records which have been designated as expunged can only be inspected by order of the juvenile court after a hearing, with good cause shown.

School records. Colorado's Public Records Law is the basis for the restrictions on use of school records. Section 24-72-204 (3) (a), C.R.S., provides that the custodian (i.e. any authorized person having personal custody and control of public records) has authority to deny the right to inspection of medical, psychological, sociological, and scholastic achievement data on individual persons. Inspection can also be denied of addresses and telephone numbers of students in any public elementary or secondary school.

A law enforcement agency in Colorado or another state is able to obtain copies, print-outs, or photographs of data concerning the scholastic achievement or medical, psychological, or sociological information of any student only if said student is under investigation by such agency, and if the agency can show that such data is necessary for the investigation.

Procedures are enumerated in section 24-72-204 (4) and (5) for persons to petition for review of public records for which a custodian has denied access. Persons denied the right to inspect any public record may apply to the appropriate district court for an order directing the custodian of such record to show cause why inspection of the record was not permitted. The statute provides that, unless the court finds that the denial of the right of inspection was proper, the custodian will be directed to permit inspection of the record.

On the other hand, if the custodian of any public record believes that disclosure of the contents of such record should be restricted, he may apply to the appropriate district court for an order permitting him to restrict such disclosure. The burden of proof is upon the custodian to show that disclosure of the contents of the public record would cause substantial injury to the public interest.

Recommendations. The committee recommends revising statutory restrictions regarding the inspection and expungement of juvenile records. Bill 1 authorizes the custodian of school records to release medical records, scholastic achievement records, or attendance records to any agency to which legal custody of the juvenile has been transferred and to the juvenile probation department. Bill 2 eliminates the requirement that law enforcement records concerning juveniles be maintained separately from the records of adults.

Juvenile Parole System

The 1987 interim Committee on Juvenile Offenders recommended legislation to reorganize the juvenile parole system (Senate Bill 14, 1988 legislative session). The bill, as introduced, transferred the Division of Juvenile Parole from the Department of Institutions to the Judicial Department and also transferred the Juvenile Parole Board from the DOI to the Department of Public Safety.

However, as enacted, Senate Bill 14 repealed the provisions governing the Juvenile Parole Board, the Division of Juvenile Parole, and the juvenile parole system, effective July 1, 1989. The bill declared that the General Assembly's intent in repealing these provisions was to allow time for the Executive Director of the DOI, community officials, and community groups to consider changes and make recommendations to the General Assembly on the reorganization of the juvenile parole system. Members of the Committee on Juvenile Offenders expressed concerns regarding the structure of the juvenile parole system and suggested this issue be addressed in the 1988 interim.

Testimony received from various individuals concerned with the parole system indicated that:

- 1) parole is frequently used as a mechanism to control bed space at institutions and the safety needs of the community are not always taken into consideration in juvenile parole decisions;
- 2) written guidelines/criteria have not been utilized until recently by the Juvenile Parole Board for making parole decisions;
- 3) the Juvenile Parole Board does not have the necessary organizational structure to operate effectively nor are board members given any policy direction;
- 4) the statutes do not provide written criteria as a basis for determining whether juvenile offenders should be paroled;
- 5) an overwhelming number of juveniles are placed on parole before they are prepared for integration into community life;
- 6) the court has no control over a juvenile who is placed on parole unless he commits another offense while on parole or escapes from the DOI; and
- 7) there are only eleven parole officers to cover the entire state.

Recommendation. The reorganization and transfer of the juvenile parole system is recommended. Bill 3 transfers the Division of Juvenile Parole from the Department of Institutions to the Judicial Department and reorganizes the juvenile parole system.

Sentencing Authority for Juvenile Judges

Testimony by Judge Dana Wakefield, Denver Juvenile Court, raised issues of the handling of out-of-home placements and the difficulty encountered by the court in gaining access to background information when commitment to the DOI is being contemplated.

Out-of-home placements. Juvenile placements are funded through the Department of Social Services (DOSS) and the DOI. Juveniles placed under DOSS jurisdiction are usually not considered serious delinquents but may be developing a delinquency pattern. Placement of juveniles in the DOI facilities is viewed as a last resort for those juvenile delinquents needing severe punishment.

Section 19-2-703 (2), C.R.S., states that when the court finds that placement out of the home is necessary, the court must place the juvenile in the facility most appropriate for meeting the needs of the juvenile, the juvenile's family, and the community. In making the placement decision, the court is to consider a social study prepared by the probation department or other agency designated by the court or other reports relating to the juvenile's mental, physical, family and social history. In any case where placement out of the home is recommended, the social study must include specific recommendations for the proper disposition of the juvenile.

If the court places the juvenile in a state facility other than one recommended by the social study, or in a facility in which the average monthly cost exceeds the amount established by the General Assembly in the general appropriation bill, the court must make specific findings of fact relating to its placement decision.

Commitment to the DOI. None of the statutory provisions relating to out-of-home placements are applicable when a court commits a juvenile to the Department of Institutions. Section 19-2-703 (2) provides that the court shall not make a specific placement to any of the DOI facilities. Subsection (1) of that section further provides that any juvenile delinquent committed to the DOI may be placed in the Lookout Mountain School, the Mount View School, or any other training school or facility designated by the department. Pursuant to section 19-2-704, when a juvenile is committed to the Department of Institutions, the court is directed to transmit the following: the commitment order, a copy of the petition, the order of adjudication, copies of the social study, and any clinical or educational reports. Conversely, the department is required to provide the court with any information concerning a juvenile committed to its care which the court may require at any time.

"Courtesy evaluations". Sentencing judges encounter a dilemma in a juvenile case when the judge determines that commitment to the Department of Institutions is justified. Judges have no indication what program or treatment will be followed for the juvenile offender. Due to budget constraints, the DOI no longer submits "courtesy evaluations" which contain background information on the juvenile and his offense record. A juvenile judge suggested that judges be given the option to submit a request to the DOI for an evaluation prior to sentencing.

Recommendations. In response to issues raised by Judge Dana Wakefield, Bill 8 is recommended. Bill 8 allows the court to specify at the time of sentencing the DOI facility into which a juvenile should be committed. Also recommended is Bill 6 which would give the sentencing judge a mechanism for requesting a "courtesy evaluation" when considering a placement out of the home.

Detention

Testimony. Representatives of the Department of Institutions, members of the Jefferson County Children's Task Force, juvenile court judges, and district attorneys presented their concerns with the detention segment of the juvenile justice system. The overcrowding of detention facilities was specifically addressed.

Definition. Detention is defined under the Colorado Children's Code, Title 19, C.R.S., as the "temporary care of a juvenile who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment." A juvenile not requiring secure placement is sent to a shelter which is defined as a physically unrestricting facility. Juveniles entering the legal system may be placed in detention at various stages of the process as described below.

- *Temporary custody.* A juvenile taken into temporary custody will be detained in a detention facility pending a detention hearing if an officer of the court decides that the juvenile's immediate welfare or the protection of the community warrants physical restriction. A juvenile will also be admitted to a detention facility when a law enforcement agency requests that he be detained because the alleged act would constitute a felony if committed by an adult. A detention hearing must be held within 48 hours, excluding Saturdays, Sundays, and court holidays. Upon conclusion of the hearing, if the court orders further detention, a petition alleging that the juvenile is delinquent must be filed immediately. The juvenile will be detained until a hearing on the petition occurs.
- *Jail vs. detention facility.* A juvenile may not be held at a jail located in a county where there is a juvenile detention facility within 40 miles of said jail. An exception to detention in a jail is permissible when a juvenile is being held for criminal proceedings as an adult if no other suitable place of confinement is available or if the court determines that the juvenile is a high risk for escape.
- *Ten-day detention.* If a juvenile has been adjudicated delinquent for unlawfully concealing a weapon (section 18-12-105, C.R.S.), the court may impose detention of not less than ten days which may be suspended under certain conditions.
- *Runaways - out-of-state.* A child who is alleged to be a runaway from out-of-state may be held in a detention facility or jail for up to seven days while arrangements are made to return the child to his state of residence.

- *Detention as condition of probation.* A juvenile, fourteen years of age or older and less than eighteen years of age, may be sentenced to detention as a condition of probation, but not for more than 45 days.

Overcrowded Facilities - Bed Space

Conflicting testimony was provided regarding the shortage of detention beds statewide and the overcrowding of the Arapahoe County jail, which had been designated as a temporary detention facility.

Representatives of the Department of Institutions testified that a potential crisis may occur in the juvenile detention system because of a shortage of beds and a change in the sentencing pattern of juveniles. In particular, injuries to staff and juveniles have increased as a result of overcrowding at the Arapahoe County jail. This county jail was utilized while renovation of the Gilliam Center in Denver was completed. Approximately 100 juveniles were detained in the Arapahoe jail which was budgeted and staffed to accommodate 80 youths. The department maintained that the Division of Youth Services is unable to control the number of juveniles sent to detention. The detention population consists of a high percentage of juveniles sentenced for up to 45 days as a condition of probation. Detention facilities were originally intended for short-term placements.

On the other hand, juvenile court judges and district attorneys testified that the reported crisis at the Arapahoe County jail is not based on the number of available beds but rather on the staffing pattern. These officials said that there are approximately 176 beds in the Arapahoe facility rather than 96 as reported by the DOI. However, there is an insufficient number of staff to properly supervise this number.

District attorneys contended that as a result of Senate Bill 101 (1986 session), which authorized the renovation and construction of secure detention and institutional facilities, the number of detention beds has been reduced. Such a reduction will lead to a detention crisis because it is probable that the juvenile delinquent population will increase.

According to Orlando Martinez, Director, Division of Youth Services, Department of Institutions, upon completion of S.B. 101 detention projects (July, 1989), there will be a total of 179 beds. For the Denver metropolitan area, the General Assembly appropriated moneys for 20 community-detention beds for the 1988-89 fiscal year. Prior to enactment of Senate Bill 101, there were approximately 185 beds.

Testimony also focused on the types of juveniles held in detention facilities. Judges maintained that the highest percentage of detainees is in return commitments, which equals approximately 45 percent statewide. However, the DOI indicated that overcrowding of detention facilities stems from judges sentencing juveniles for up to 45 days as a condition of probation. Although detention was discussed at length, legislation regarding this issue is not recommended.

II. LEGISLATIVE RECOMMENDATIONS

Concerning the Release of Records Pertaining to Juvenile Offenders - Bill 1

Release of school records. Bill 1 allows the school administrator at the school at which the juvenile is enrolled or will be enrolled access to basic identifying information on a juvenile and a list of any state and local agencies and officials having contact with the juvenile. The custodian of the records of a school or school district is authorized to release medical records, scholastic achievement records, or attendance records pertaining to any student who is the subject of juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic offense. The records may be released to any agency to which legal custody of the juvenile has been transferred and to the juvenile probation department.

Background. Access to basic identifying information and a list of agencies and officials who have had contact with the juvenile is now limited to district attorneys, local law enforcement agencies, and the Department of Social Services. Bill 1 amends the Colorado Children's Code to expand access to juvenile records and to facilitate working with juveniles to share information and to "track" juveniles through juvenile records.

Concerning the Maintenance of Juvenile Records of Law Enforcement Officers - Bill 2

Tracking of juvenile records - law enforcement. Bill 2 is recommended to facilitate the tracking of information between computers operated throughout the state by law enforcement agencies. The bill eliminates the requirement that law enforcement records concerning juveniles be maintained separately from records for adults and instead requires that such records be identified as juvenile records.

Concerning a Reorganization of the Juvenile Parole System - Bill 3

Bill 3 reorganizes the juvenile parole system and transfers the functions of the Division of Juvenile Parole, which is scheduled by law to expire on July 1, 1989, from the Department of Institutions to the Judicial Department. A summary of the major provisions of the bill follows.

Transfer of parole functions. Bill 3 transfers the powers, duties, and functions of the Division of Juvenile Parole to the Judicial Department, effective July 1, 1989. The bill requires that the parole functions be assigned to probation departments in the Judicial Department by the state court administrator upon consultation with the chief judge in each judicial district.

Authority to grant parole. Bill 3, as a result of the expiration of the Juvenile Parole Board as provided by law, authorizes the committing court to grant, defer, suspend, or revoke all paroles of a juvenile committed to the Department of Institutions subsequent to a parole hearing. The Judicial Department has the authority to promulgate rules and regulations which establish criteria by which parole decisions will be made. The bill also provides that the court has the power to revoke or modify a previous order concerning a committed juvenile except an order of unconditional release. Specific parole guidelines for the committing court to follow are enumerated in the bill.

Powers and duties of juvenile probation officers. Bill 3 requires that the juvenile probation officer or officers in each district must supervise committed juveniles who are placed on parole from a DOI facility and reside in the officer's district. The bill outlines the supervision responsibilities of juvenile probation officers who are under the direction of the chief probation officer.

Parole violation and revocation. The bill permits a chief probation officer or a juvenile probation officer to arrest a parolee under certain circumstances when the use of parole officers terminates July 1, 1989. The court is to determine whether revocation or suspension of parole or modification of parole plans or conditions is warranted because of an alleged violation of parole. If a parolee denies a violation, the probation department must establish by a preponderance of evidence that a violation of a condition or conditions of parole was committed.

Commitment to Department of Institutions. Bill 3 provides that, when a juvenile is released by the Department of Institutions to parole supervision, notice must be given to the district attorney and all local law enforcement agencies in the county in which the juvenile is released. Similarly, if a juvenile escapes from custody of the department, notice must be given to the committing court, the district attorney, and all local law enforcement agencies in the county where the escape occurs and the county or counties where the juvenile was adjudicated.

Background. This legislation resulted from a concern with the effectiveness of the juvenile parole system expressed by the committee, members of the Jefferson County Children's Task Force, and judges. Because of the legislation which terminates the juvenile parole system, effective July 1, 1989, the committee decided to evaluate the parole system and make recommendations. Testimony pointed out that the structure of the parole system is inadequate, and therefore an overwhelming number of juveniles are released on parole without parole boards taking into consideration the best interests of the community and the juvenile.

Concerning the Payment of Excess Costs Incurred by School Districts - Bill 4

Bill 4 addresses funding of school districts which provide educational services to pupils who are committed to the DOI, placed in a residential community placement, and not included in the district's pupil enrollment count. A summary of the bill's major provisions follows.

Attendance in district outside of residence. Bill 4 requires that a school district be reimbursed for the costs of providing educational services to nonresident pupils who are not included in the district's pupil enrollment. This requirement specifically applies to juveniles who either: 1) are committed to the legal custody of the DOI and placed into a residential community placement within the district's boundaries; or 2) were previously committed to DOI, are currently under the jurisdiction of the Juvenile Parole Board, and are placed in a residential community placement within the district's boundaries. The district providing educational services is entitled to be paid an amount equal to the amount of cost, incurred per pupil, which exceeds the state average per pupil operating revenues received by said district.

Funding limit. The bill stipulates that no school district shall receive more than \$2,000 per pupil in a budget year. For the 1989 budget year, no school district will receive more than \$1,000 per pupil.

Payments by the Department of Education. Bill 4 provides that the Department of Education (DOE) must pay, on a monthly basis, to the district delivering educational services the amount of excess costs incurred per pupil. These payments will be made from the State Education Excess Cost Fund which is created in the State Treasury. Monies appropriated by the General Assembly for the excess cost payments will be credited to said fund. Any school district providing such services must report monthly to the DOE the number of pupils receiving services and the excess costs incurred per pupil.

Excess costs for committed handicapped juveniles which exceed funding limit. The bill indicates that when a child is identified as handicapped pursuant to state law, the school district of residence shall be responsible for paying any excess tuition costs above the applicable per pupil operating revenues as determined by the DOE and excess costs above the payments made from the State Education Excess Cost Fund. Tuition is paid to the school district providing the educational services.

Background. The Jefferson County Public Schools and the DOE recommended that a state "pool of money" be created to pay for educational services for delinquent and/or handicapped youth committed to the DOI in out-of-district placements.

Current law addresses this category of juvenile students by providing that the per pupil operating revenue for such juveniles be allocated from the DOE to the school district providing the educational program to the juvenile. However, if the total costs incurred by the school district providing the program exceeds the amount of per pupil

operating revenue received for a handicapped juvenile, the school district of residence of such juvenile is responsible for the excess costs incurred. For a school district providing educational services to juveniles not identified as handicapped, the excess costs incurred above the amount of per pupil operating revenue must be paid by the school district providing these services.

Testimony received maintained that, generally, school districts pay for such excess costs from their general operating budget, resulting in the diversion of moneys which would otherwise be spent on the education of pupils within the school district. Those school districts then have difficulty in planning or budgeting for the payment of such excess costs because they have no control over the number of juveniles committed to the DOI or the number of committed juveniles placed in other school districts.

Therefore, Bill 4 authorizes the state to create and manage this "pool of money" to partially relieve the demands on regular per pupil funding as school districts design programs for these students in residential community placements who are wards of the DOI.

Concerning Reimbursement of Counties for Expenses Incurred for Prosecuting Crimes Alleged to have been Committed by Persons in the Custody of the Department of Institutions Pursuant to the "Colorado Children's Code" - Bill 5

Reimbursement for costs in criminal cases/counties. Bill 5 authorizes annual appropriations to the Department of Institutions to reimburse a county or counties in a judicial district for the costs of prosecuting a crime alleged to have been committed by a person in the custody of the DOI. The county or counties will certify these costs to the department having custody of such person and will be paid upon approval of the Executive Director of the DOI.

Background. Testimony indicated that juvenile escape rates have increased significantly in 1988 as compared to 1987 in Jefferson County. Consequently, the county has experienced increased costs in prosecuting crimes committed by juveniles under DOI jurisdiction, specifically the apprehension of escapees. Testimony suggested that the state be responsible for sharing in the payment of such costs. Therefore, Bill 5 is recommended to require that counties be reimbursed for the costs of prosecuting crimes allegedly committed by persons in the custody of the Department of Institutions.

Concerning the Preparation of Reports by the Department of Institutions Prior to the Sentencing of a Juvenile Offender - Bill 6

Preliminary placement evaluation. Bill 6 permits the sentencing court to request a "preliminary placement evaluation" from the Department of Institutions in cases for which the court is considering placement out of the home and where such placement may include commitment to the DOI. The bill defines "preliminary placement evaluation" as a written report prepared by the DOI prior to the sentencing of a juvenile offender. This report gives a sentencing court information regarding the probable placement of such juvenile if he is committed to the department.

Sentencing hearing. The bill provides that after the court makes a finding of guilt in a sentencing hearing, it must hear evidence on the proper disposition of the juvenile. This evidence must include, but not necessarily be limited to, a social study, a "preliminary placement evaluation," if requested, and other reports as required.

Concerning the Imposition of an Additional Sentence Upon a Juvenile who Escapes or Attempts to Escape from a Facility of the Department of Institutions - Bill 7

Background. Testimony pointed out that the number of juvenile escapes in Jefferson County has increased significantly. Statistics indicated a 135 percent increase in escape rates in 1988 as compared to 1987.

Additional sentence for juvenile escapees. Bill 7 provides that for a juvenile who escapes or attempts to escape while committed to or detained by the DOI, the court as a part of its sentence is required to order that the juvenile be committed to the DOI for an additional period of not less than three months nor more than two years. The additional sentence shall run consecutively with any sentence or period of commitment ordered in any previous case.

Concerning the Sentencing of Juvenile Offenders - Bill 8

Court authority to determine secure placement of juveniles. Bill 8 allows the court in its discretion to specify the secure facility within the state into which the juvenile should be committed. The court may impose a minimum sentence of institutionalization, not to exceed two years unless consecutive sentences are ordered as a result of separate adjudications.

Background. Testimony indicated that juvenile judges have less control over juveniles who are committed to the Department of Institutions than over juveniles who are placed with the Department of Social Services. Removing the applicable statutory restrictions would give the court more control over the placement of juveniles who are committed to the Department of Institutions.

Concerning the Colorado Children's Code - Bill 9

Technical/conforming amendments. A number of technical issues were raised during committee hearings in response to which the committee recommends Bill 9.

- The statutes are amended to provide that the parent, legal guardian, or legal or physical custodian of a juvenile must be present only during a custodial interrogation of the juvenile and need not be present at the interrogation of a juvenile who is eighteen years of age or older at the time of the interrogation.
- The commitment of a mandatory sentence offender, a repeat juvenile offender, or a violent juvenile offender to the Department of Institutions is allowed for more than two years when the sentences are the result of separate adjudications.
- The statutes are amended regarding the sentencing of juveniles to permit the court to sentence a juvenile who is twelve years of age or older, rather than fourteen years of age or older, to detention for up to 45 days as a condition of probation. This amendment would bring the applicable probation statutes into conformity with detention statutes regarding the age of sentencing for juveniles.
- The bill conforms the statutory procedures for sentencing of those juveniles who have been transferred into adult criminal court and those juveniles whose cases have been directly filed in adult criminal court.

Concerning the Licensure of Secure Residential Treatment Centers - Bill 10

Background. Representatives of the High Plains Youth Center (Brush, Colorado) and the Department of Social Services expressed concern whether there was statutory authorization for the Department of Institutions to place juvenile offenders at the Brush facility. Currently, the High Plains Youth Center has been able to obtain only a provisional license as a residential child care facility (RCCF), which requires that many of the doors of the facility remain unlocked in compliance with the rules and regulations for an RCCF. The fact that the doors remain unlocked causes safety concerns for individuals placed at this facility, for staff members, and for the community at large.

Licensing of secure residential treatment centers. Bill 10 amends the Child Care Act to authorize the Department of Social Services to license secure residential treatment centers which are operated under private or nonprofit sponsorship and which provide care for juveniles who have been committed by a court for placement in a secure facility. The department is authorized to promulgate rules and regulations setting forth standards for security in a secure residential treatment center. The standards must include, but are not limited to, the following:

- 1) locked doors;
- 2) fencing;
- 3) the staff requirements to ensure security;
- 4) inspections; and
- 5) physical requirements for program space and for secure sleeping of the residents in the facility.

The department is required to seek the advice and assistance of the Department of Institutions in developing the minimum standards for licensing.

REFERENCES

- 1) **Memorandum No. 5.** This memorandum reviews all statutory restrictions relating to the inspection and release of juvenile records. Legislative Council Staff, August 4, 1988.
- 2) **Memorandum No. 2.** This memorandum provides a summary of the statutes concerning the juvenile parole system and juvenile community review boards. Legislative Council Staff, July 7, 1988.
- 3) **Memorandum No. 4.** A review of Colorado's laws on juvenile probation is provided in this memorandum. Legislative Council Staff, August 3, 1988.
- 4) **Juvenile Offenders Report No. 314.** This report provides: 1) background on how juveniles are processed through the legal system; 2) a statutory review of the responsibilities of the departments involved in providing services to juvenile offenders; and 3) a juvenile flow chart. Legislative Council Staff, December, 1987.
- 5) **Statistical Data on Juvenile Probation.** Judicial Department, August 10, 1988.

BILL 1

A BILL FOR AN ACT

1 CONCERNING THE RELEASE OF RECORDS PERTAINING TO JUVENILE
2 OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the school administrator or his designee of the school at which a juvenile is or will be enrolled to inspect, without court order, the court records in juvenile delinquency proceedings or proceedings involving municipal ordinance violations. Authorizes the release of basic identifying information on a juvenile to the school administrator, or his designee, of the school at which a juvenile is or will be enrolled.

Amends the public records law to authorize the custodian of school records to release medical records, scholastic achievement records, or attendance records pertaining to a juvenile who is the subject of delinquency proceedings or proceedings involving municipal violations to any agency to which legal custody of the juvenile has been transferred and to the juvenile probation department.

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

4 SECTION 1. 19-2-901 (1) (a) (V) and (1) (a) (VI),
5 Colorado Revised Statutes, 1986 Repl. Vol., as amended, is

1 amended, and the said 19-2-901 (1) (a) is further amended BY
2 THE ADDITION OF A NEW SUBPARAGRAPH, to read:

3 19-2-901. Release and inspection of juvenile records.

4 (1) (a) (V) The juvenile probation department; ~~or~~

5 (VI) Any agency to which legal custody of the juvenile
6 has been transferred; OR

7 (VII) The school administrator, or his designee, of the
8 school at which the juvenile is enrolled or will be enrolled.

9 SECTION 2. 19-2-902 (3), Colorado Revised Statutes, 1986
10 Repl. Vol., as amended, is amended to read:

11 19-2-902. Expungement of juvenile records. (3) Basic
12 identification information on the juvenile and a list of any
13 state and local agencies and officials having contact with the
14 juvenile, as they appear from the records, shall not be open
15 to the public but shall be available to a district attorney,
16 local law enforcement agency, and the department of social
17 services, AND THE SCHOOL ADMINISTRATOR, OR HIS DESIGNEE, OF
18 THE SCHOOL AT WHICH THE JUVENILE IS ENROLLED OR WILL BE
19 ENROLLED; except that such information shall not be available
20 to an agency of the military forces of the United States.

21 SECTION 3. 24-72-204 (3), Colorado Revised Statutes,
22 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
23 to read:

24 24-72-204. Allowance or denial of inspection - grounds -
25 procedure - appeal. (3) (e) Nothing in this subsection (3)
26 shall prohibit the custodian of the records of a school or a
27 school district from releasing medical records, scholastic

1 achievement records, or attendance records pertaining to any
2 student who is the subject of juvenile delinquency proceedings
3 or proceedings concerning a juvenile charged with the
4 violation of any municipal ordinance except a traffic offense
5 to the following persons:

6 (I) Any agency to which legal custody of the juvenile
7 has been transferred;

8 (II) The juvenile probation department.

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

1 to the public, except:
2 SECTION 2. Safety clause. The general assembly hereby
3 finds, determines, and declares that this act is necessary
4 for the immediate preservation of the public peace, health,
5 and safety.

BILL 2

A BILL FOR AN ACT

1 CONCERNING THE MAINTENANCE OF JUVENILE RECORDS OF LAW
2 ENFORCEMENT OFFICERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Eliminates the requirement that law enforcement records concerning juveniles be maintained separately from adults and instead requires that such records be identified as juvenile records in order to facilitate the tracking by computer of such records.

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

4 SECTION 1. The introductory portion to 19-2-901 (2) (a),
5 Colorado Revised Statutes, 1986 Repl. Vol., as amended, is
6 amended to read:

7 19-2-901. Release and inspection of juvenile records.
8 (2) (a) The records of law enforcement officers concerning
9 juveniles, including identifying information, shall be
10 ~~maintained--separately--from--those--concerning--adults~~ IDENTIFIED
11 AS JUVENILE RECORDS and shall not be inspected by or disclosed

BILL 3

A BILL FOR AN ACT

1 CONCERNING A REORGANIZATION OF THE JUVENILE PAROLE SYSTEM, AND
2 PROVIDING FOR THE TRANSFER OF JUVENILE PAROLE FUNCTIONS
3 FROM THE DEPARTMENT OF INSTITUTIONS TO THE JUDICIAL
4 DEPARTMENT AND MAKING A TRANSFER OF APPROPRIATIONS IN
5 CONNECTION THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Transfers the functions of the division of juvenile parole, which is scheduled by law to expire on July 1, 1989, from the department of institutions to the judicial department for allocation by the state court administrator to the probation departments.

As a result of the expiration of the juvenile parole board as provided by law, gives the authority to grant or revoke parole for juveniles to the court which committed the juvenile to the department of institutions and establishes procedures therefor.

Makes a transfer of appropriations from the department of institutions to the judicial department to implement this act.

Makes conforming amendments and repeals.

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

7 SECTION 1. Part 12 of article 2 of title 19, Colorado

1 Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND
2 REENACTED, WITH AMENDMENTS to read:

3 PART 12

4 JUVENILE PAROLE

5 19-2-1201. Transfer of functions relating to parole to
6 the judicial department. (1) On and after July 1, 1989, the
7 authority to execute, administer, perform, and enforce the
8 rights, powers, duties, functions, and obligations vested in
9 the division of juvenile parole in the department of
10 institutions pursuant to this part 12, as it existed prior to
11 said date, shall be transferred to the judicial department and
12 assigned to probation departments in the judicial department
13 by the state court administrator, after consultation with the
14 chief judge in each judicial district. On and after July 1,
15 1989, any officers or employees of the department of
16 institutions whose primary duties were to carry out the
17 functions specified in this part 12 prior to said date and
18 whose duties and functions concerned the duties and functions
19 transferred to the judicial department pursuant to this
20 section and whose employment in the judicial department is
21 deemed necessary by the state court administrator to carry out
22 the purposes of this part 12 shall be transferred to the
23 judicial department and become employees thereof. Such
24 employees shall retain all rights to retirement benefits
25 pursuant to the laws of this state, and their services shall
26 be deemed to have been continuous.

1 (2) On July 1, 1989, all items of property, real and
2 personal, including office furniture and fixtures, books,
3 documents, and records of the department of institutions prior
4 to said date pertaining to the duties and functions
5 transferred to the judicial department pursuant to this
6 section are transferred to the judicial department and become
7 the property thereof.

8 (3) Whenever the department of institutions is referred
9 to or designated by a contract or other document in connection
10 with the duties and functions transferred to the judicial
11 department pursuant to this section, such reference or
12 designation shall be deemed to apply to the judicial
13 department. All contracts entered into by the department of
14 institutions prior to July 1, 1989, in connection with the
15 duties and functions transferred to the judicial department
16 pursuant to this section are hereby validated, with the
17 judicial department succeeding to all the rights and
18 obligations of such contracts. Any appropriations of funds
19 from prior fiscal years open to satisfy obligations incurred
20 pursuant to such contracts are hereby transferred and
21 appropriated to the judicial department for the payment of
22 such obligations.

23 19-2-1202. Juvenile parole - authority to grant -
24 hearings. (1) The committing court shall have the authority,
25 after a hearing conducted as provided in section 19-1-106, to
26 grant, defer, suspend, or revoke all paroles of a juvenile
27 committed to the department of institutions under section

1 19-2-703 as are in the best interests of the juvenile and the
2 public; except that each juvenile shall be considered for
3 parole by the court within one year after commitment. The
4 judicial department shall have the authority to promulgate
5 rules and regulations which establish the criteria under which
6 parole decisions are to be made.

7 (2) (a) The court shall grant parole to a juvenile for
8 no longer than one year without review, and no juvenile shall
9 remain on parole longer than two years after the original
10 grant of parole; except that the court may extend parole
11 supervision for an additional period not to exceed two years
12 if such extension is found to be in the best interests of the
13 juvenile or the public after a hearing as provided in
14 subsection (1) of this section.

15 (b) The court shall have the authority to release a
16 juvenile from parole before the expiration of two years when
17 it appears to the court that there is reasonable probability
18 that the juvenile will remain at liberty without violating the
19 law.

20 (c) The court may revoke or modify any of its previous
21 orders respecting a committed juvenile except an order of
22 unconditional release.

23 (3) The juvenile and his parents or guardian shall be
24 informed that they may be represented by counsel in any
25 hearing for the grant, modification, or revocation of a parole
26 before the court.

27 (4) The court shall consult the director of the facility

1 in which the juvenile had been placed before granting a
2 parole.

3 19-2-1203. Powers and duties of juvenile probation
4 officers. (1) Under the direction of the chief probation
5 officer, the juvenile probation officer or officers in each
6 district established under this part 12 shall supervise all
7 juveniles living in the district who, having been committed to
8 the department of institutions, are on parole from one of its
9 facilities.

10 (2) The juvenile probation officer shall give to each
11 juvenile granted parole a written statement of the conditions
12 of his parole, shall explain such conditions to him fully, and
13 shall aid him to observe them. He shall have periodic
14 conferences with and reports from the juvenile. He may
15 conduct such investigations or other activities as may be
16 necessary to determine whether the conditions of parole are
17 being met and to accomplish the rehabilitation of the
18 juvenile.

19 (3) All juvenile probation officers shall have the
20 powers of peace officers in performing the duties of their
21 position.

22 19-2-1204. Parole violation and revocation. (1) The
23 chief probation officer or any juvenile probation officer may
24 arrest any parolee when:

25 (a) He has a warrant commanding that such parolee be
26 arrested; or

27 (b) He has probable cause to believe that a warrant for

1 the parolee's arrest has been issued in this state or another
2 state for any criminal offense or for violation of a condition
3 of parole; or

4 (c) Any offense under the laws of this state has been or
5 is being committed by the parolee in his presence; or

6 (d) He has probable cause to believe that a violation of
7 law has been committed and that the parolee has committed such
8 a violation; or

9 (e) He has probable cause to believe that a condition of
10 the juvenile's parole has been violated by the parolee and
11 probable cause to believe that the parolee is leaving or about
12 to leave the state, or that the parolee will fail or refuse to
13 appear before the court to answer charges of violations of one
14 or more conditions of parole, or that the arrest of the
15 parolee is necessary to prevent physical harm to the parolee
16 or another person or to prevent the violation of a law.

17 (2) When an alleged parole violator is taken into
18 custody, the chief probation officer or the juvenile probation
19 officer shall notify the parents, guardian, or legal custodian
20 of the juvenile without unnecessary delay.

21 (3) When a juvenile probation officer has reasonable
22 grounds to believe that a condition of parole has been
23 violated by any parolee, he may issue a summons requiring the
24 parolee to appear before the court at a specified time and
25 place to answer charges of violation of one or more conditions
26 of parole. Such summons, unless accompanied by a copy of a
27 complaint filed before the court seeking revocation or

1 suspension of parole or modification of parole conditions,
2 shall contain a brief statement of the alleged parole
3 violation and the date and place thereof. Failure of the
4 parolee to appear before the court as required by such summons
5 shall be deemed a violation of a condition of parole.

6 (4) (a) If, rather than issuing a summons, a juvenile
7 probation officer makes an arrest of a parolee with or without
8 a warrant or takes custody of a parolee who has been arrested
9 by another, the probation officer shall place the parolee in
10 the nearest local juvenile detention facility or shelter care
11 facility approved by the department of social services and
12 without unnecessary delay report the facts to the court having
13 jurisdiction, as provided by section 19-2-1202, which court
14 shall hold a preliminary hearing to determine whether there is
15 probable cause to believe a condition of parole has been
16 violated by the parolee. The court shall, within a reasonable
17 time, serve upon the parolee and his parents, guardian, or
18 legal custodian, a notice of the preliminary hearing regarding
19 the parole violation unless upon the affidavit or other
20 showing made by the probation officer the court determines
21 that there is no sufficient grounds for revocation of parole
22 or other disciplinary action, in which event the court shall
23 order the release of the parolee. In the event that the notice
24 of preliminary hearing on parole violation is issued by the
25 court, a copy of such notice shall be served on the parolee
26 and his parents, guardian, or legal custodian, by the
27 probation officer or other person authorized to serve civil

1 process. Such notice shall contain the following information:

2 (I) The date, the place, and the time of the hearing;

3 (II) That the purpose of the hearing will be to
4 determine whether probable cause exists for the revocation or
5 suspension of parole or modification of parole plans or
6 conditions because of the alleged violation of parole;

7 (III) That at the scheduled hearing the parolee will be
8 permitted to present evidence, either oral or documentary, in
9 person or by other witnesses in defense of any alleged
10 violation;

11 (IV) A statement of the alleged violation of one or more
12 conditions of parole or the parole agreement signed by the
13 parolee;

14 (V) A brief summary of the evidence tending to establish
15 any alleged violation;

16 (VI) That the parolee has the right to counsel at the
17 hearing.

18 (b) The court shall hear such testimony as shall be
19 offered and determine whether probable cause for revocation of
20 parole or other disciplinary action has been shown. If
21 probable cause has not been shown, the court shall order the
22 release of the parolee from the juvenile detention facility,
23 and the revocation action shall be dismissed. If the
24 preliminary hearing determines that there is probable cause,
25 the court shall order that the parolee be held to answer the
26 charges before the court in a full evidentiary hearing, and,
27 upon the entry of such order, the probation officer shall

1 return the parolee without unnecessary delay to any of the
2 juvenile corrections facilities of the department of
3 institutions pending a hearing before the court on the
4 complaint for revocation or suspension of parole.

5 (5) Within ten working days after the finding of
6 probable cause at the preliminary hearing, the juvenile
7 probation officer shall complete his investigation and either:

8 (a) File a complaint before the court in which the facts
9 are alleged upon which a revocation of parole is sought; or

10 (b) Recommend to the chief probation officer that the
11 parolee, if detained, be released and the violation
12 proceedings be dismissed. The chief probation officer shall
13 determine whether to cause the violation proceedings to be
14 dismissed, and, if he elects to cause dismissal, the parolee
15 shall be released or notified that he is relieved of
16 obligation to appear before the court. In such event, the
17 chief probation officer shall give written notification to the
18 court of his action.

19 (6) A complaint filed by a juvenile probation officer in
20 which revocation of parole is sought shall contain the name of
21 the parolee, shall identify the violation charged and the
22 condition or conditions of parole alleged to have been
23 violated, including the date and approximate location thereof,
24 and shall be signed by the juvenile probation officer. A copy
25 thereof shall be given to the parolee and his parents,
26 guardian, or legal custodian at least five days before a
27 hearing on the complaint is held before the court.

1 (7) The court may order the detention of any parolee for
2 failure to appear as required by the summons issued under
3 subsection (3) of this section.

4 (8) At least five days before the appearance of a
5 parolee before the court, he and his parents, guardian, or
6 legal custodian shall be advised in writing by the chief
7 probation officer of the nature of the charges which are
8 alleged to justify revocation or suspension of his parole and
9 the substance of the evidence sustaining the charges; he shall
10 be given a copy of the complaint unless he has already
11 received one; he shall be informed of the consequences which
12 may follow in the event his parole is revoked; and he shall be
13 advised that, if the charges are denied by him, a hearing will
14 be held before the court and that, at such hearing, he may
15 testify and present witnesses and documentary evidence in
16 defense of the charges or in mitigation or explanation
17 thereof, and that he has the right to counsel at the hearing.

18 (9) At the hearing before the court, if the parolee
19 denies the violation, the probation department shall have the
20 burden of establishing by a preponderance of the evidence the
21 violation of a condition or conditions of parole. The court
22 shall, when it appears that the alleged violation of
23 conditions of parole consists of an offense with which the
24 parolee is charged in a criminal case then pending, continue
25 the parole violation hearing until the termination of such
26 criminal proceeding. Any evidence having probative value
27 shall be admissible regardless of its admissibility under

1 exclusionary rules of evidence if the parolee is accorded a
2 fair opportunity to rebut hearsay evidence. The parolee or
3 his counsel shall have the right to confront and to
4 cross-examine adverse witnesses unless the court specifically
5 finds good cause for not allowing confrontation.

6 (10) If the court determines that a violation of a
7 condition or conditions of parole has been committed, it shall
8 hear further evidence related to the disposition of the
9 parolee. At the conclusion of the hearing, the court shall
10 advise the parties before it of its findings and
11 recommendations.

12 (11) The case of a juvenile alleged or found to have
13 violated the conditions of his parole outside the state of
14 Colorado shall be handled according to the provisions of the
15 interstate compact on juveniles, part 7 of article 60 of title
16 24, C.R.S.

17 SECTION 2. 19-2-704 (5) and (7), Colorado Revised
18 Statutes, 1986 Repl. Vol., as amended, are amended to read:

19 19-2-704. Commitment to department of institutions.

20 (5) Parole supervision of juveniles committed to the
21 department of institutions under section 19-2-703 as
22 ~~determined--by-the-juvenile-parole-board,~~ shall not exceed two
23 years except as otherwise provided by--statute IN SECTION
24 19-2-1202.

25 (7) When a juvenile is released by the department of
26 institutions to parole supervision, ~~or--escapes--from--said~~
27 ~~department,--the-committing-court-and~~ the district attorney AND

1 ALL LOCAL LAW ENFORCEMENT AGENCIES IN THE COUNTY WHERE THE
2 JUVENILE IS RELEASED shall be notified. WHEN A JUVENILE
3 ESCAPES FROM THE DEPARTMENT OF INSTITUTIONS, THE COMMITTING
4 COURT, THE DISTRICT ATTORNEY, AND ALL LOCAL LAW ENFORCEMENT
5 AGENCIES IN THE COUNTY WHERE THE ESCAPE OCCURS AND THE COUNTY
6 OR COUNTIES WHERE THE JUVENILE WAS ADJUDICATED SHALL BE
7 NOTIFIED.

8 SECTION 3. 19-2-804 (7) (a), Colorado Revised Statutes,
9 1986 Repl. Vol., as amended, is amended to read:

10 19-2-804. Aggravated juvenile offender. (7) (a) After
11 the juvenile has been in the custody of the department of
12 institutions for three years or more, the department may
13 petition the court for an order authorizing release of the
14 juvenile subject to parole supervision of the juvenile by the
15 JUDICIAL department. ~~of-institutions.~~ Upon the filing of such
16 petition, the court shall notify the interested parties and
17 set the matter for a hearing. The court shall authorize such
18 release only upon finding by a preponderance of the evidence
19 that the safety of the community will not be jeopardized by
20 such release.

21 SECTION 4. 19-2-1111 (2) (c), Colorado Revised Statutes,
22 1986 Repl. Vol., as amended, is amended to read:

23 19-2-1111. Directors - duties. (2) (c) To make a
24 careful and thorough evaluation of every juvenile placed under
25 his care at intervals no greater than six months, such
26 evaluation to ascertain whether the juvenile's program should
27 be modified, whether his transfer to another facility should

1 be recommended to the said director, or whether his release
2 should be recommended to the ~~juvenile-parole-board~~ COMMITTING
3 COURT.

4 SECTION 5. 19-2-1302 (2), Colorado Revised Statutes,
5 1986 Repl. Vol., as amended, is amended to read:

6 19-2-1302. Definitions. (2) "Residential community
7 placement" means any placement for residential purposes
8 permitted under this title except in an institutional facility
9 directly operated by, or a secure facility under contract
10 with, the department of institutions and except while a child
11 is under the PAROLE jurisdiction of the ~~juvenile-parole-board~~
12 JUDICIAL DEPARTMENT.

13 SECTION 6. 19-2-1303 (2), Colorado Revised Statutes,
14 1986 Repl. Vol., as amended, is amended to read:

15 19-2-1303. Approval of a juvenile community review
16 board. (2) Notification of any placement of a child under
17 the PAROLE jurisdiction of the ~~juvenile-parole-board~~ JUDICIAL
18 DEPARTMENT shall be made to the juvenile community review
19 board prior to or at the time of placement.

20 SECTION 7. Repeal. 19-2-704 (6), Colorado Revised
21 Statutes, 1986 Repl. Vol., as amended, is repealed.

22 SECTION 8. Transfer authorization. The state court
23 administrator, after consultation with the executive director
24 of the department of institutions, and upon approval of the
25 governor, shall order the controller to transfer to the
26 judicial department moneys appropriated to the department of
27 institutions for the 1989-90 fiscal year, not exceeding

1 _____ dollars (\$ _____), for the juvenile parole and
2 parole supervision functions to be performed by the judicial
3 department.

4 SECTION 9. Effective date. This act shall take effect
5 July 1, 1989.

6 SECTION 10. Safety clause. The general assembly hereby
7 finds, determines, and declares that this act is necessary
8 for the immediate preservation of the public peace, health,
9 and safety.

BILL 4

A BILL FOR AN ACT

1 CONCERNING THE PAYMENT OF EXCESS COSTS INCURRED BY SCHOOL
2 DISTRICTS IN PROVIDING EDUCATIONAL SERVICES TO CERTAIN
3 CHILDREN PLACED IN RESIDENTIAL COMMUNITY PLACEMENT, AND
MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the state department of education to make monthly payments to school districts for excess costs incurred per pupil in providing educational services to pupils who are not included in pupil enrollment and who either are committed to the legal custody of the department of institutions and are placed in residential community placement within the district or were previously committed to the legal custody of the department of institutions, are under the jurisdiction of the juvenile parole board, and are placed in residential community placement within the district. Provides that such payments shall not exceed two thousand dollars per pupil in a budget year. Provides for an exception. Requires school districts providing services to such pupils to make monthly reports to the state department of education. Modifies the responsibility of school districts of residence of handicapped children to pay tuition when school districts providing educational services to such children receive such payments from the department. Creates the state education excess cost fund. Makes an appropriation.

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

1 SECTION 1. 22-53-104, Colorado Revised Statutes, 1988
2 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to
3 read:

4 22-53-104. Attendance in district other than district of
5 residence. (5) (a) Any school district which provides
6 educational services to pupils who are not included in such
7 district's pupil enrollment and who either are committed to
8 the legal custody of the department of institutions and are
9 placed into a residential community placement within the
10 district's boundaries or were previously committed to the
11 legal custody of the department of institutions, are under the
12 jurisdiction of the juvenile parole board, and are placed into
13 a residential community placement within the district's
14 boundaries shall be entitled to an amount of money equal to
15 the amount of cost incurred per pupil in providing such
16 educational services which exceeds the state average per pupil
17 operating revenues received by such school district pursuant
18 to the provisions of this section.

19 (b) Any school district providing educational services
20 to pupils specified in paragraph (a) of this subsection (5)
21 shall report monthly to the department of education the number
22 of such pupils receiving services from said district and the
23 costs per pupil incurred in providing such services which
24 exceed the proportional amount of the state average per pupil
25 operating revenues received by the district pursuant to the
26 provisions of this section. The department of education shall
27 pay to the district delivering such services, on a monthly

1 basis, the amount of such excess costs per pupil incurred;
2 however, except as otherwise provided in this paragraph (b),
3 no school district shall receive more than two thousand
4 dollars per pupil in a budget year. For the 1989 budget year,
5 no school district shall receive more than one thousand
6 dollars per pupil. Payments made pursuant to the provisions
7 of this paragraph (b) shall be made by the department of
8 education from the state education excess cost fund.

9 (c) There is hereby created in the state treasury a fund
10 to be known as the state education excess cost fund. There
11 shall be credited to said fund such moneys as shall be
12 appropriated by the general assembly which are necessary to
13 make the payments specified in paragraph (b) of this
14 subsection (5).

15 SECTION 2. 22-20-108 (7) (b), Colorado Revised Statutes,
16 1988 Repl. Vol., is amended to read:

17 22-20-108. Determination of handicap - enrollment.

18 (7) (b) (1) The agency responsible for out-of-home placement
19 of a handicapped child, prior to the placement of such child,
20 shall work cooperatively with the administrative unit of
21 attendance in which the agency wishes to place the child to
22 ensure that the appropriate educational and residential
23 services are available. In no event shall a child be placed
24 in an administrative unit which is unable to ensure the
25 provision of educational and residential services which are
26 appropriate for said child. EXCEPT AS OTHERWISE PROVIDED IN
27 SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), the costs of

1 educating such children shall be the responsibility of the
2 school district of residence, and such school district shall
3 pay to the administrative unit of attendance the tuition cost
4 approved by the state board pursuant to section 22-20-109.

5 (II) WHEN A HANDICAPPED CHILD IS EITHER COMMITTED TO THE
6 LEGAL CUSTODY OF THE DEPARTMENT OF INSTITUTIONS AND IS PLACED
7 INTO A RESIDENTIAL COMMUNITY PLACEMENT WITHIN A SCHOOL
8 DISTRICT OTHER THAN THE SCHOOL DISTRICT OF RESIDENCE OR WAS
9 PREVIOUSLY COMMITTED TO THE LEGAL CUSTODY OF THE DEPARTMENT OF
10 INSTITUTIONS, IS UNDER THE JURISDICTION OF THE JUVENILE PAROLE
11 BOARD, AND IS PLACED INTO A RESIDENTIAL COMMUNITY PLACEMENT
12 WITHIN A SCHOOL DISTRICT OTHER THAN THE SCHOOL DISTRICT OF
13 RESIDENCE, THE DEPARTMENT OF EDUCATION SHALL BE RESPONSIBLE TO
14 MAKE PAYMENTS TO THE SCHOOL DISTRICT PROVIDING EDUCATIONAL
15 SERVICES TO SUCH HANDICAPPED CHILD PURSUANT TO THE PROVISIONS
16 OF SECTION 22-53-104 (5). SCHOOL DISTRICTS OF RESIDENCE SHALL
17 PAY TO THE SCHOOL DISTRICTS PROVIDING SUCH SERVICES AN AMOUNT
18 EQUAL TO THE TUITION COST APPROVED BY THE STATE BOARD PURSUANT
19 TO SECTION 22-20-109 MINUS THE AMOUNT OF ANY PAYMENTS MADE
20 PURSUANT TO THE PROVISIONS OF SECTION 22-53-104 (5).

21 SECTION 3. 22-20-109 (2), Colorado Revised Statutes,
22 1988 Repl. Vol., is amended to read:

23 22-20-109. Tuition. (2) The state board shall
24 promulgate rules and regulations to define the contract
25 approval process, the types and amounts of costs in excess of
26 the state average per pupil operating revenues, as defined in
27 section 22-53-103 (8), or the per pupil operating revenues of

1 the district of residence, as defined in section 22-53-103
2 (6), whichever is appropriate, as determined by the department
3 pursuant to its regulations, and to define other applicable
4 revenues that a school district of residence of a handicapped
5 child shall pay as tuition to educate that child elsewhere at
6 an administrative unit, or at a facility approved by the state
7 board pursuant to section 22-2-107 (1) (p). These rules and
8 regulations shall include, but shall not be limited to, the
9 limitations on the number of staff members per number of
10 students, the amount of equipment necessary for classroom
11 instruction of the child, the number of days of school, and
12 any other expenses involved in the provision of educational
13 services as determined by the child's individualized education
14 program. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS SUBSECTION
15 (2), the school district of residence shall be responsible for
16 paying as tuition any excess costs above the applicable per
17 pupil operating revenues as determined by the department
18 pursuant to its regulations to provide these services. FOR
19 HANDICAPPED CHILDREN SPECIFIED IN SECTION 22-20-108 (7) (b)
20 (II), THE SCHOOL DISTRICT OF RESIDENCE SHALL BE RESPONSIBLE
21 FOR PAYING AS TUITION ANY EXCESS COSTS ABOVE THE APPLICABLE
22 PER PUPIL OPERATING REVENUES AS DETERMINED BY THE DEPARTMENT
23 PURSUANT TO ITS REGULATIONS TO PROVIDE THESE SERVICES AND
24 ABOVE THE AMOUNT OF ANY PAYMENTS MADE PURSUANT TO SECTION
25 22-53-104 (5).

26 SECTION 4. Appropriation. In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys

1 in the general fund not otherwise appropriated, to the state
2 education excess cost fund, for the fiscal year beginning July
3 1, 1989, the sum of _____ dollars (\$ _____), or so much
4 thereof as may be necessary, for the implementation of this
5 act.

6 SECTION 5. Effective date. This act shall take effect
7 July 1, 1989.

8 SECTION 6. Safety clause. The general assembly hereby
9 finds, determines, and declares that this act is necessary
10 for the immediate preservation of the public peace, health,
11 and safety.

BILL 5

A BILL FOR AN ACT

1 CONCERNING REIMBURSEMENT OF COUNTIES FOR EXPENSES INCURRED FOR
2 PROSECUTING CRIMES ALLEGED TO HAVE BEEN COMMITTED BY
3 PERSONS IN THE CUSTODY OF THE DEPARTMENT OF INSTITUTIONS
4 PURSUANT TO THE "COLORADO CHILDREN'S CODE", AND MAKING AN
5 APPROPRIATION IN CONNECTION THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes annual appropriations to the department of institutions for the purpose of reimbursing counties for expenses incurred for prosecuting crimes alleged to have been committed by persons in the custody of the department of institutions pursuant to the provisions of the "Colorado Children's Code". Makes an appropriation to the department of institutions to implement this act.

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

7 SECTION 1. 16-18-101 (3), Colorado Revised Statutes,
8 1986 Repl. Vol., is amended to read:

9 16-18-101. Costs in criminal cases. (3) The department
10 of corrections, from annual appropriations made by the general

1 assembly, shall reimburse the county or counties in a judicial
2 district for the costs of prosecuting any crime alleged to
3 have been committed by a person in the custody of the
4 department. THE DEPARTMENT OF INSTITUTIONS, FROM ANNUAL
5 APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY, SHALL REIMBURSE
6 THE COUNTY OR COUNTIES IN A JUDICIAL DISTRICT FOR THE COSTS OF
7 PROSECUTING ANY CRIME ALLEGED TO HAVE BEEN COMMITTED BY A
8 PERSON IN THE CUSTODY OF THE DEPARTMENT PURSUANT TO THE
9 PROVISIONS OF THE "COLORADO CHILDREN'S CODE", TITLE 19, C.R.S.
10 The county or counties shall certify these costs to the
11 department HAVING CUSTODY OF SUCH PERSON, and upon approval of
12 the executive director of the department, the costs shall be
13 paid. The provisions of this subsection (3) shall apply to
14 costs that are not otherwise paid by the state.

15 SECTION 2. Appropriation. In addition to any other
16 appropriation, there is hereby appropriated, out of any moneys
17 in the general fund not otherwise appropriated, to the
18 department of institutions, for the fiscal year beginning July
19 1, 1989, the sum of _____ dollars (\$ _____), or so much
20 thereof as may be necessary for the implementation of this
21 act.

22 SECTION 3. Safety clause. The general assembly hereby
23 finds, determines, and declares that this act is necessary
24 for the immediate preservation of the public peace, health,
25 and safety.

BILL 6

A BILL FOR AN ACT

1 CONCERNING THE PREPARATION OF REPORTS BY THE DEPARTMENT OF
2 INSTITUTIONS PRIOR TO THE SENTENCING OF A JUVENILE
3 OFFENDER.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Permits the sentencing court in a juvenile case to request a report from the department of institutions prior to sentencing which gives the court information regarding the probable placement of a juvenile offender if the juvenile offender is committed to the department of institutions.

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

5 SECTION 1. 19-1-103, Colorado Revised Statutes, 1986
6 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
7 SUBSECTION to read:

8 19-1-103. Definitions. (22.5) "Preliminary placement
9 evaluation" means a written report prepared by the department
10 of institutions prior to the sentencing of a juvenile offender
11 which gives a sentencing court information regarding the

1 probable placement of such juvenile offender if he is
2 committed to the department of institutions.

3 SECTION 2. 19-1-107, Colorado Revised Statutes, 1986
4 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
5 SUBSECTION to read:

6 19-1-107. Social study and other reports. (2.5) In any
7 case in which placement out of the home is being considered by
8 the court and where such placement may include commitment to
9 the department of institutions, the court may request a
10 preliminary placement evaluation to be made by the department
11 of institutions and presented to the court prior to
12 sentencing.

13 SECTION 3. 19-2-701 (1), Colorado Revised Statutes, 1986
14 Repl. Vol., as amended, is amended to read:

15 19-2-701. Sentencing hearing. (1) After making a
16 finding of guilt, the court shall hear evidence on the
17 question of the proper disposition best serving the interests
18 of the juvenile and the public. Such evidence shall include,
19 but not necessarily be limited to, the social study, A
20 PRELIMINARY PLACEMENT EVALUATION, IF REQUESTED, and other
21 reports as provided in section 19-1-107.

22 SECTION 4. Effective date. This act shall take effect
23 July 1, 1989.

24 SECTION 5. Safety clause. The general assembly hereby
25 finds, determines, and declares that this act is necessary
26 for the immediate preservation of the public peace, health,
27 and safety.

BILL 7

A BILL FOR AN ACT

1 CONCERNING THE IMPOSITION OF AN ADDITIONAL SENTENCE UPON A
2 JUVENILE WHO ESCAPES OR ATTEMPTS TO ESCAPE WHILE BEING
3 COMMITTED TO OR DETAINED BY THE DEPARTMENT OF
4 INSTITUTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires that a juvenile who escapes or attempts to escape while being committed to or detained by the department of institutions receive a mandatory minimum sentence of commitment to the department of institutions.

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

6 SECTION 1. 19-2-802, Colorado Revised Statutes, 1986
7 Repl. Vol., as amended, is amended to read:

8 19-2-802. Repeat juvenile offender. (1) A juvenile is
9 a repeat juvenile offender if he has been previously
10 adjudicated a juvenile delinquent and is adjudicated a
11 juvenile delinquent for a delinquent act which constitutes a
12 felony, or WHICH CONSTITUTES ESCAPE AS DEFINED IN SECTION

1 18-8-208, C.R.S., OR WHICH CONSTITUTES ATTEMPTED ESCAPE AS
2 DEFINED IN SECTION 18-8-208.1, C.R.S., OR if his probation is
3 revoked for a delinquent act which constitutes a felony.

4 (2) The court may sentence a repeat juvenile offender
5 pursuant to section 19-2-703 EXCEPT AS PROVIDED IN SUBSECTION
6 (3) OF THIS SECTION or may commit a repeat juvenile offender
7 to the department of institutions. The court may impose a
8 minimum term during which the juvenile shall not be released
9 from a residential program without prior written approval of
10 the court which made the commitment.

11 (3) IF THE REPEAT JUVENILE OFFENDER IS BEFORE THE COURT
12 AFTER HAVING BEEN ADJUDICATED A JUVENILE DELINQUENT FOR A
13 VIOLATION OF SECTION 18-8-208 OR 18-8-208.1, C.R.S., THE COURT
14 SHALL, AS A PART OF ITS SENTENCE, ORDER THAT THE JUVENILE BE
15 COMMITTED TO THE DEPARTMENT OF INSTITUTIONS FOR AN ADDITIONAL
16 PERIOD OF NOT LESS THAN THREE MONTHS NOR MORE THAN TWO YEARS.
17 SUCH ADDITIONAL SENTENCE SHALL RUN CONSECUTIVELY WITH ANY
18 SENTENCE OR PERIOD OF COMMITMENT ORDERED IN ANY PREVIOUS CASE.

19 SECTION 2. Effective date and applicability. This act
20 shall take effect July 1, 1989, and shall apply to offenses
21 committed on or after that date.

22 SECTION 3. Safety clause. The general assembly hereby
23 finds, determines, and declares that this act is necessary
24 for the immediate preservation of the public peace, health,
25 and safety.

BILL 8

A BILL FOR AN ACT

1 CONCERNING THE SENTENCING OF JUVENILE OFFENDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Permits judges sentencing juveniles to the department of institutions to specify the secure facility within the state to which the juvenile should be committed. Allows judges to impose a minimum sentence of institutionalization, and provides that the sentence imposed shall not exceed two years except when consecutive sentences are ordered due to separate adjudications.

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

3 SECTION 1. 19-2-703 (1) (a) and (2), Colorado Revised
4 Statutes, 1986 Repl. Vol., as amended, are amended to read:

5 19-2-703. Juvenile delinquent - sentencing - disposition
6 - restitution - parental liability. (1) (a) The court may
7 impose any sentence, or combination of sentences when
8 appropriate, provided under this subsection (1) or subsection
9 (3) of this section; except that any juvenile delinquent
10 committed to the department of institutions may be placed in

1 the Lookout Mountain school, the Mount View school, or any
2 other training school or facility, or any other disposition
3 may be made which the department may determine as provided by
4 law. HOWEVER, THE COURT MAY, IN ITS DISCRETION, SPECIFY AT
5 THE TIME OF SENTENCING THE SECURE FACILITY WITHIN THIS STATE
6 INTO WHICH THE JUVENILE SHALL BE COMMITTED. No juvenile under
7 the age of twelve years shall be committed to the department
8 of institutions.

9 (2) If the court finds that placement out of the home is
10 necessary and is in the best interest of the juvenile and the
11 community, the court shall place the juvenile in the facility
12 or setting which most appropriately meets the needs of the
13 juvenile, the family, and the community. In making its
14 decision as to proper placement, the court shall utilize the
15 evaluation for placement prepared pursuant to section 19-1-107
16 or the evaluation for placement required by section 19-3-701

17 (5). If the evaluation for placement recommends placement in
18 a facility located in Colorado which can provide appropriate
19 treatment and which will accept the juvenile, then the court
20 shall not place the juvenile in a facility outside this state.
21 If the court places the juvenile in a facility located in
22 Colorado other than one recommended by the evaluation for
23 placement, in a facility located outside this state in
24 accordance with the evaluation for placement, or in a facility
25 in which the average monthly cost exceeds the amount
26 established by the general assembly in the general
27 appropriation bill, it shall make specific findings of fact,

1 including the monthly cost of the facility in which such
 2 juvenile is placed, relating to its placement decision. A
 3 copy of such findings shall be sent to the chief justice of
 4 the supreme court, who shall report monthly to the joint
 5 budget committee and annually to the general assembly on such
 6 placements. If the court commits the juvenile to the
 7 department of institutions, ~~it shall not make a specific~~
 8 ~~placement, nor shall~~ the provisions of this subsection (2)
 9 relating to specific findings of fact SHALL NOT be applicable.

10 SECTION 2. 19-2-704 (3), Colorado Revised Statutes, 1986
 11 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
 12 AMENDMENTS, to read:

13 19-2-704. Commitment to department of institutions.
 14 (3) Subject to the provisions of this section, the court may
 15 impose a minimum sentence of institutionalization. The
 16 sentence imposed shall not exceed a total of two years unless
 17 the court, in its discretion, orders consecutive sentences as
 18 a result of separate adjudications.

19 SECTION 3. Effective date. This act shall take effect
 20 July 1, 1989.

21 SECTION 4. Safety clause. The general assembly hereby
 22 finds, determines, and declares that this act is necessary
 23 for the immediate preservation of the public peace, health,
 24 and safety.

BILL 9

A BILL FOR AN ACT

1 CONCERNING THE "COLORADO CHILDREN'S CODE".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies that the parent, legal guardian, or legal or physical custodian of a juvenile must be present only during a custodial interrogation of the juvenile and need not be present at the interrogation of a juvenile who is eighteen years of age or older at the time of the interrogation.

Permits a juvenile court to sentence a juvenile who is a mandatory sentence offender, a repeat juvenile offender, or a violent juvenile offender to commitment to the department of institutions for consecutive sentences for a period exceeding two years when the sentences are the result of separate adjudications.

Reconciles statutes regarding the sentencing of juveniles to permit the court to sentence a juvenile who is twelve years of age or older, rather than fourteen years of age or older, to detention for up to 45 days as a condition of probation.

Reconciles the sentencing provisions for those juveniles who have been transferred into adult criminal court and those juveniles whose cases have been directly filed in adult criminal court so that the sentencing court is prohibited from imposing a juvenile sentence under the same conditions in both instances.

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

3 SECTION 1. 19-2-210 (1) and (2), Colorado Revised

1 Statutes, 1986 Repl. Vol., as amended, are amended to read:
2 19-2-210. Statements. (1) No statements or admissions
3 of a juvenile made as a result of the CUSTODIAL interrogation
4 of such juvenile by a law enforcement official concerning
5 delinquent acts alleged to have been committed by the juvenile
6 shall be admissible in evidence against such juvenile unless a
7 parent, guardian, or legal or physical custodian of the
8 juvenile was present at such interrogation and the juvenile
9 and his parent, guardian, or legal or physical custodian were
10 advised of the juvenile's right to remain silent and that any
11 statements made may be used against him in a court of law, of
12 his right to the presence of an attorney during such
13 interrogation, and of his right to have counsel appointed if
14 he so requests at the time of the interrogation; except that,
15 if a public defender or counsel representing the juvenile is
16 present at such interrogation, such statements or admissions
17 may be admissible in evidence even though the juvenile's
18 parent, guardian, or legal or physical custodian was not
19 present.
20 (2) Notwithstanding the provisions of subsection (1) of
21 this section, statements or admissions of a juvenile shall not
22 be inadmissible in evidence by reason of the absence of a
23 parent, guardian, or legal or physical custodian if the
24 juvenile is EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE
25 INTERROGATION, IF THE JUVENILE IS emancipated from the parent,
26 guardian, or legal or physical custodian or if the juvenile is
27 a runaway from a state other than Colorado and is of

1 sufficient age and understanding. For the purposes of this
2 subsection (2) only, an "emancipated juvenile" means a
3 juvenile over fifteen years of age and under eighteen years of
4 age who has, with the real or apparent assent of his parents,
5 demonstrated his independence from his parents in matters of
6 care, custody, and earnings. The term may include, but shall
7 not be limited to, any such juvenile who has the sole
8 responsibility for his own support, who is married, or who is
9 in the military.

10 SECTION 2. 19-2-704 (3), Colorado Revised Statutes, 1986
11 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
12 AMENDMENTS, to read:

13 19-2-704. Commitment to department of institutions.
14 (3) Subject to the provisions of this section, the commitment
15 of a mandatory sentence offender, a repeat juvenile offender,
16 or a violent juvenile offender to the department of
17 institutions shall not exceed a total of two years unless the
18 court, in its discretion, orders consecutive sentences as a
19 result of separate adjudications.

20 SECTION 3. 19-2-705 (1), Colorado Revised Statutes, 1986
21 Repl. Vol., as amended, is amended to read:

22 19-2-705. Probation - terms - release - revocation.
23 (1) The terms and conditions of probation shall be specified
24 by rules or orders of the court. The court, as a condition of
25 probation for a juvenile who is ~~fourteen~~ TWELVE years of age
26 or older but less than eighteen years of age on the date of
27 the sentencing hearing, may impose a commitment or detention.

1 The court, as a condition of probation for a juvenile eighteen
2 years of age or older at the time of sentencing for delinquent
3 acts committed prior to his eighteenth birthday, may impose a
4 sentence to the county jail. The aggregate length of any such
5 commitment, detention, or sentence, whether continuous or at
6 designated intervals, shall not exceed forty-five days; except
7 that such limit shall not apply to any placement out of the
8 home through a county department of social services. Each
9 juvenile placed on probation shall be given a written
10 statement of the terms and conditions of his probation and
11 shall have such terms and conditions fully explained to him.

12 SECTION 4. 19-2-805 (2) (a), Colorado Revised Statutes,
13 1986 Repl. Vol., as amended, is amended to read:

14 19-2-805. Direct filing. (2) (a) The juvenile is
15 ~~sixteen--years--of--age--or--older--at--the--time--of--the--sentencing~~
16 ~~and-is~~ convicted of a class 1 felony; or

17 SECTION 5. 19-2-806 (1) (d), Colorado Revised Statutes,
18 1986 Repl. Vol., as amended, is amended to read:

19 19-2-806. Transfer proceedings. (1) (d) Whenever
20 criminal charges are transferred to or filed directly in the
21 district court pursuant to the provisions of this article, the
22 judge of the district court shall have the power to make any
23 disposition of the case that any juvenile court would have or
24 to remand the case to the juvenile court for disposition at
25 its discretion; except that a juvenile who is convicted of a
26 class 1 felony, or whose case was transferred to or filed
27 directly in the district court and who is convicted of a crime

1 of violence, as defined in section 16-11-309, C.R.S., OR WHO
2 HAS BEEN PREVIOUSLY ADJUDICATED A MANDATORY SENTENCE OFFENDER,
3 A VIOLENT JUVENILE OFFENDER, OR AN AGGRAVATED JUVENILE
4 OFFENDER shall be sentenced pursuant to section 18-1-105,
5 C.R.S.

6 SECTION 6. Effective date. This act shall take effect
7 July 1, 1989.

8 SECTION 7. Safety clause. The general assembly hereby
9 finds, determines, and declares that this act is necessary
10 for the immediate preservation of the public peace, health,
11 and safety.

BILL 10

A BILL FOR AN ACT

1 CONCERNING THE LICENSURE OF SECURE RESIDENTIAL TREATMENT
2 CENTERS, AND MAKING AN APPROPRIATION IN CONNECTION
3 THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Amends the "Child Care Act" to authorize the state department of social services to license secure residential treatment centers which are operated under private or nonprofit sponsorship and which provide care for children who have been committed by a court for placement in a secure facility. Authorizes the state department of social services to promulgate rules and regulations setting forth standards for security in such treatment centers. Sets out in statute the fees for original licenses and renewal of licenses for secure residential treatment centers. Makes an appropriation to implement this act.

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

5 SECTION 1. 26-6-102, Colorado Revised Statutes, 1982
6 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
7 SUBSECTION to read:

8 26-6-102. Definitions. (9) "Secure residential

1 treatment center" means a facility operated under private or
2 nonprofit sponsorship which is licensed by the state
3 department pursuant to this article to provide
4 twenty-four-hour group care and treatment in a secure setting
5 for five or more children who are committed by a court,
6 regardless of the committing jurisdiction, to be placed in a
7 secure facility.

8 SECTION 2. 26-6-105 (1), Colorado Revised Statutes, 1982
9 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to
10 read:

11 26-6-105. Fees. (1) (d) Secure residential treatment
12 centers.....100.00.

13 SECTION 3. 26-6-106 (1), Colorado Revised Statutes, 1982
14 Repl. Vol., is amended to read:

15 26-6-106. Standards for facilities and agencies.

16 (1) The department shall prescribe and publish minimum
17 standards for licensing. Such standards shall be applicable
18 to the various types of facilities and agencies for child care
19 regulated and licensed by this article. The department shall
20 seek the advice and assistance of persons representative of
21 the various types of child care facilities and agencies in
22 establishing such standards AND IN THE CASE OF A SECURE
23 RESIDENTIAL TREATMENT CENTER SHALL SEEK THE ADVICE AND
24 ASSISTANCE OF THE DEPARTMENT OF INSTITUTIONS. Such standards
25 shall be established by rule of the department, and such rules
26 shall be issued and published only in conformity with the
27 provisions and procedures specified in article 4 of title 24,

1 C.R.S., 1973, and shall become effective only as provided in
2 said article 4.

3 SECTION 4. 26-6-106 (2), Colorado Revised Statutes, 1982
4 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to
5 read:

6 26-6-106. Standards for facilities and agencies.

7 (2) (1) Standards for security in a secure residential
8 treatment center provided through the physical environment and
9 staffing. Such standards shall include, but not be limited
10 to, the following:

11 (I) Locked doors;

12 (II) Fencing;

13 (III) The staff requirements to ensure security;

14 (IV) Inspections;

15 (V) Physical requirements for program space and for
16 secure sleeping of the residents in the secure residential
17 treatment center;

18 (VI) Other security considerations which are necessary
19 to protect the residents of the secure residential treatment
20 center or the public.

21 ,SECTION 5. Appropriation. In addition to any other
22 appropriation, there is hereby appropriated, out of any moneys
23 in the general fund not otherwise appropriated, to the
24 department of social services, for the fiscal year beginning
25 July 1, 1989, the sum of _____ dollars (\$) and ____
26 FTE, or so much thereof as may be necessary, for the
27 implementation of this act.

1 SECTION 6. Safety clause. The general assembly hereby
2 finds, determines, and declares that this act is necessary
3 for the immediate preservation of the public peace, health,
4 and safety.