

**AGENDA**  
**COLORADO SUPREME COURT**  
**RULES OF JUVENILE PROCEDURE COMMITTEE**

Friday, June 26th, 2020, 9:00 AM  
Videoconference Meeting via Cisco Webex

- I. Call to Order
- II. Chair's Report
  - A. Approval of the 4/24/20 meeting minutes [p. 2-5](#)
- III. Old Business
  - A. CASA in Rules? *See* emails from Peg Long [p. 7-9](#)
  - B. Reviewing Current Rules [p. 10-16](#)
    - 1. General Corrections to Set of Draft Rules (*see* attached excel sheet)
- IV. New Business
  - A. Judge Slade's Email Re Adjudicatory Trials [p. 17](#)
  - B. C.R.J.P. 3.7 & SB19-108 Email from Judge Meinster & Clancy Johnson [p. 18-94](#)
- V. Adjourn
  - A. Next Meeting: **Next Meeting August 7, 2020, 9:00 AM, 4<sup>th</sup> floor Supreme Court Conference Room** (*public health circumstances permitting*)

**Cisco Webex**

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**Colorado Supreme Court Rules of Juvenile Procedure Committee  
Minutes of April 24, 2020 Meeting**

**I. Call to Order**

The Rules of Juvenile Procedure Committee came to order around 9:00 AM via videoconference. Members present or excused from the meeting were:

<b>Name</b>	<b>Present</b>	<b>Excused</b>
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Jennifer Conn	X	
Cara Nord (for Sheri Danz)	X	
Traci Engdol-Fruhworth	X	
Judge David Furman		X
Ruchi Kapoor	X	
Shana Kloek		X
Wendy Lewis	X	
Peg Long	X	
Judge Ann Meinster	X	
Judge Dave Miller		X
Chief Judge Mick O'Hara		X
Trent Palmer		X
Professor Colene Robinson	X	
Magistrate Fran Simonet		X
Judge Traci Slade	X	
Magistrate Kent S. Spangler	X	
John Thirkell	X	
Pam Wakefield	X	
<b>Non-voting Participants</b>		
Justice Richard Gabriel, Liaison	X	
Terri Morrison	X	
J.J. Wallace	X	

**Attachments & Handouts:**

**(1) Draft Minutes of 2/7/20 Meeting**

**I. Call to Order**

## II. Chair's Report

A. The 2/7/2020 meeting minutes were approved by the committee.

### B. Quick Catch Up & Planning for Future (including additional emergency rules)

Judge Welling recapped the process for the recent emergency rule change to C.R.J.P. 3.5. He indicated that the suggestion came from someone who noticed a gap in the juvenile rules after the criminal rule changed. The chair thanked everyone on the committee for acting quickly.

Justice Gabriel also thanked the committee for their work on the rule change and explained that the supreme court has been working on several emergency rule changes in different contexts. He emphasized that the court is open to any needed rule change, so if anyone has suggestions, please reach out. Contact JJ, Judge Welling, or Justice Gabriel if other concerns present themselves that can be solved by rule.

Judge Welling opened the floor. He wanted to hear from committee members about the new world we are all working in.

Judge Meinster related that things have changed, but hearings are getting done, people are being cooperative, patient and, somehow, it's working. She feels that some of the new things we are doing will forever change the practice. She urges the committee to think about the draft rules we've worked on in light of what is going on now and how things have changed because she believes that some of the changes have been very helpful and would like to see those practices continue.

Cara Nord stated that OCR has put together a [COVID resource page](#), which compiles a wide variety of resources and is open for anyone to use. She also stated that OCR has been concerned about blanket orders issued in some jurisdictions (stopping all hearings or all visitations) and prefers access to the courts (even if it's just a phone hearing or videoconference) and case by case inquiry into what is best for a specific family. Cara also reported that, in El Paso County, parents' participation rates during video services is much higher than prior rates of in-person services. Several other committee members echoed that virtual family services has increased participation substantially.

Peg Long from CASA also reported that CASAs are having more frequent virtual contact with children – shorter, but more frequent. She noted that 50% of kids were in their homes. She too reported that family engagement in services were up. She also felt like virtual visiting was a new tool that CASAs will continue to use.

John Thirkell added that Douglas County is using video conferencing as well (for court, for visitation, etc.). He stated that there have been a couple of demands for live court hearings. Overall, he believed that counties should approach child welfare cases reasonably. For example, there may be due process concerns about filing a

termination motion at this time, so a reasonable course would be not to file those motions right now.

Jennifer Conn said that Adams County has not done webex videoconferencing yet, but they are having court hearings over the phone, which seems to work. She's also noticed that it's easier to have more frequent contact with clients using a variety of apps that she's recently started using.

Professor Colene Robinson indicated that the law school has adapted to the new environment. Because many students are no longer able to work in their summer job, the clinic will continue over the summer and will be offering coverage for GALs and RPCs. Other legal services organizations have reached out to the clinic due to high demand, so the clinic will also be taking on protection order and eviction cases. She also noted that Boulder is not currently doing any hearings other than shelter hearings, but they are doing written pleas, so cases are able to stay moving. She said that law students are mostly worried over the bar exam and whether it will be postponed.

Pam Wakefield stated that, because of her illness, she's been using remote and virtual options for a while, so not much has changed for her. She agrees that it is easier to get a hold of clients virtually. New filings have diminished – likely due to lack of interaction with mandatory reporters. Caseworkers are going to houses with masks, which helps Pam do FaceTime with children who do not have smartphones. Staffings have occurred virtually and, overall, participation has been great.

Ruchi Kapoor related that continuing visits is an important issue for ORPC. ORPC is concerned about the impact of lack of visits on TPR filings. She also reports problems with the record in virtual proceedings-delays and pauses lead to people to talk over one another and it's hard to identify who is speaking. ORPC has worked on a tip sheet for ensuring that the record is clear and audible. Justice Gabriel recommend raising a hand before talking to deal with the pauses. Judge Welling recommended, when people talk over one another, acting to clarify the record in real time. John Thirkell returned to reasonableness and feels like it would be unreasonable to rest a termination motion on lack of visits when visits have been prohibited because of current circumstances.

Terri Morrison indicated that SCAO, the courts, and IT are working together to train judges and court staff on using webex for court hearings. There have been some difficulties because many courts are down to skeleton staffs. Also, obtaining PPE and cleaning supplies for staff and the public coming to in-person court dates to comply with local and state public health orders has been an issue for the

courts. She also expects the court will be challenged with the same budget issues facing all other governments.

Judge Slade echoed other members' observations that everyone is pulling together and working as a team to solve issues and keep cases moving constructively. She stated that Douglas County is having difficulties getting video pleas in delinquency cases--the jail doesn't have the technology that the court uses, and she hasn't been able to locate a spare judicial laptop to give to the jail for juvenile pleas. The district attorney feels that telephone pleas are not authorized under Crim. P. 43. Thus, this is one area where there has been no resolution and cases are stalled. A committee member from OCR and Judge Meinster, offered to work with Judge Slade on the issue.

Traci Engdol-Fruhworth noted that some parents are able to participate in services virtually, but others are not. She worries that two months without progress is a lot in an EPP case, but the lack of progress is due to circumstances beyond the control of the parents. Committee members noted that a "spirit of reasonableness" is important in working on D&N cases at this particular moment.

On this note, Judge Meinster believed that, at this time, the definition of "reasonable efforts" may be different than what it was two months ago. She also has seen early adoption of services that will be valuable under "Families First." She is co-chair of the Juvenile Institute this July; they are in the planning stage and will go forward with some version of the institute. If committee members have ideas for sessions, please email her.

Magistrate Spangler related that the 8<sup>th</sup> JD hasn't issued blanket orders on visitation, services, etc.-they are addressing issues on a case-by-case basis. They are holding shelter hearings in person, but other hearings are through webex. Even for shelter hearings, they are doing a pre-hearing webex among the parties to see if they can work things out or if they truly need a hearing. He's finding a good spirit of cooperation among all the parties. Parties are being reasonable and judicious in filing motions. He has also observed that participation is up – 85% by his account. Many providers are doing virtual services and this has really increased participation. He noted the only problem area seems to be getting mandatory forms back.

Judge Ashby is enjoying her retirement and has time available; she's very impressed by the work everyone is doing. If anyone needs someone to be a touchstone and talk an issue through, she is available, and offers her support by phone and email. Feel free to reach out to her.

The chair related that it was helpful to share and hear what is going on. He offers kudos to everyone for working well as a team and making sure that child welfare

cases are able to move forward in some form. He also reminded members that, if any issues surface, he's willing to form a subset of this group to address any COVID-19 related issues.

**III. Old Business (tabled until next meeting)**

- A. CASA in Rules? Peg Long
- B. Reviewing Current Rules-See spreadsheet

**IV. New Business (tabled until next meeting)**

- V. Adjourn-Next Meeting June 26, 2020, 9:00 AM, 3<sup>rd</sup> floor Court of Appeals Conference Room (public health circumstances permitting)**

The Committee adjourned at 9:55 AM.

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*Respectfully Submitted,  
J.J. Wallace*

**wallace, jennifer**

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**From:** Peg Long  
**Sent:** Thursday, June 18, 2020 3:29 PM  
**To:** wallace, jennifer  
**Cc:** Jenny Bender  
**Subject:** RE: Friday's Discussion of CRS 19-3-702

Hi JJ,  
Thank you for your email and the opportunity to frame the issue. Yes, I am planning to participate in the meeting. Jenny Bender, who is copied on my reply, is the Colorado CASA Executive Director and may join in our call just for that portion of the agenda. I provided the information you reference as background to assist committee members with a simple question.

Given the Colorado Juvenile Code's language regarding CASAs and CASA programs, the MOU process between the chief judges of state district courts and the local CASA programs, and the federal Family First Prevention Services Act, which emphasizes expedited permanency planning:

**Should the Juvenile Code Rules be amended to include a brief statement regarding appointment of a CASA volunteer upon the filing of a dependency and neglect petition or at least prior to the initial hearing whenever feasible?**

I believe many judges and magistrates may already do this, but I provided the statutory support for an amendment to the Rules so that it is clear that it is in the child's/children's best interests, and supported by state and federal law, for CASA appointments to be made expeditiously.

Thank you again for the opportunity to present this issue. Please let me know if you have any questions.

Best regards,  
Peg

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**From:** wallace, jennifer  
**Sent:** Thursday, June 18, 2020 2:26 PM  
**To:** Peg Long  
**Subject:** RE: Friday's Discussion of CRS 19-3-702

Hi Peg! I hope you are well. I'm emailing to ask if you will be available for the Juvenile Rules Meeting next Friday, 6/26. I haven't gotten the official word from Judge Welling, but I'm pretty certain it will be a webex meeting.

I'm asking about your availability because a couple of meetings ago, the minutes indicated that "CASA in Rules?" should be at the top of the agenda for the next meeting. The next meeting was devoted to pandemic planning, but I think next meeting will be back to regular business, including your agenda item. Your initial email is below with the attachment you sent. I wanted to make sure you were prepared to discuss at the next meeting. Let me know if you're able to attend.

Thanks,

J.J.

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**From:** Peg Long [\\_\\_\\_\\_\\_](#)  
**Sent:** Tuesday, October 1, 2019 2:01 PM  
**To:** wallace, jennifer [\\_\\_\\_\\_\\_](#)  
**Subject:** Friday's Discussion of CRS 19-3-702

Hi Jennifer,

I have attached a document that I believe accurately summarizes the viewpoint of Colorado CASA and the local programs with respect to changes in the Juvenile Rules that may result from adoption of HB 19-1219, which repeals, reenacts and amends C.R.S. 19-3-702 and modifies the permanency planning process. Please share this information with committee members in whatever fashion you deem best. Please also extend my apologies to the group for my absence and inability to address any questions that may arise on Friday regarding this perspective.

Thank you for the opportunity to provide this input and for your strong and knowledgeable support of the Juvenile Rules Committee.

Sincerely  
Peg

## **CASA Appointments After HB 19-1219**

- The Court Appointed Special Advocate (CASA) program was created to allow judges and magistrates to appoint highly trained, qualified community volunteers when, in her or his opinion, “a child who may be affected by such [court] requires services that a CASA volunteer can provide” (CRS § 19-1-206 (1)) and to “enhance the quality of representation of children” (CRS § 19-1-201 (2)) in cases brought under C.R.S. Titles 19, 14 or 15. (CRS § 19-1-206 (1))
- The chief judge of a judicial district and the local CASA program may enter into a Memorandum of Understanding, which identifies the roles and responsibilities of an appointed CASA volunteer. (CRS § 19-1-202(1))
- There are currently 18 local CASA programs, serving children in all state judicial districts except for the 3<sup>rd</sup>, 12<sup>th</sup>, 13<sup>th</sup> and 15<sup>th</sup> judicial districts.
- “A CASA volunteer shall be appointed at the earliest stages of an action pursuant to a court order that gives him or her the authority to review all relevant documents and interview all parties involved in the case, including parents, other parties in interest, and any other persons having significant information relating to the child.” (CRS § 19-1-206 (2))
- House Bill 19-1219 repeals, reenacts and amends CRS §19-3-702 to support an expedited permanency planning process. The early appointment of a CASA advocate is critical to the thoroughness and success of an expedited process.
- It would be helpful to all parties, the court, and especially the child(ren) listed on the petition, to have the CASA appointment occur as early in the filing as possible.
- **My question: Is this something that would be appropriate to include in the juvenile court rules?**

	Rule	Issue	Page of 5/2019 draft set	Page of 1/2020 draft set	source	Proposal (if applicable)
1.3	Continued (Deferred) Adjudications	(f)(1) worry that the findings described ("whether the Respondent has failed to comply with the terms and conditions of the continued adjudication") is potentially misleading	28	30	Sheri's email	Two versions: one combining (f)(1)& (2) into one step; also <i>People v. N.G.</i> ; Case for (f)(3)-turns out it should be deleted see CO & BC
5	Trial By Jury- (d)Peremptory Challenges	From 3/14/19 minutes: The committee agreed that peremptory challenges should be allocated per aligned side and that each aligned side should get equal numbers of challenges. John Thirkell (with assistance from J.J. Wallace) will work on developing a draft rule incorporating the committee's ideas. See attached emails.	29	31	David's Email	See Attachment B. Further work? CRCP 47(h) ("Each side shall be entitled to four peremptory challenges")?
6	Form Release	Length of time release is active	39	43	David's email	6 months is too short and 2 years is more appropriate because the client can revoke
7	Discovery	(c) is titled "Persons Exempted from <i>Discovery and Disclosures</i> " and the last sentence says GALs are exempted from <i>discovery</i> (there's no reference to disclosures).	7-8	10	Trent's email	
7.1	Disclosures	(f) requires disclosures "upon written request"	8	10	Trent's email	This has been discussed before and perhaps training RPC to put the request as a sentence on their entry of appearance adequately addresses the issue
7.2	Discovery	we want to make sure we are not creating a new standard of practice regarding depositions, requests for admissions, interrogatories, and requests for production	6+	8+	Sheri's email	

	Rule	Issue	Page of 5/2019 draft set	Page of 1/2020 draft set	source	Proposal (if applicable)
	8 Order to Interview or Examine Child	Is this an ex parte process? And/or should there be an opportunity to respond, especially in the instance where parents are represented?	13-14	15-16	Trent's email	
	8.1 Order to Interview or Examine Child	Should we say that an application for an order to interview or examine child shall be supported by affidavit rather than in the form of an affidavit?	13-14	15-16	Sheri's email	
	9 Temporary Custody	(c) Relative Affidavit and Advisement	14	16	Trent's email	These two rules' references to the relative affidavit seem inconsistent
	9.1 Discovery	(e)(2) also relative affidavit	8	10	Trent's email	
	9.2 Temporary Custody	Much of this language is already in the statute and some of the language contradicts the existing statute. For example, section 19-3-405(2)(a) uses the language "danger to the child's life or health in the reasonably foreseeable future." If we are going to repeat statutory language, we need to compare this to 19-3-405 and 19-3-403 to make sure we are consistent	14	16	Sheri's email	
	10 Emergency Protection Orders	(d) doesn't say what happens if the Department <i>does not</i> file a motion to continue	15	17	Trent's email	
	11 Adjudication on Non-Appearing or Non-Defending Respondent	(a)-"in person or through counsel" may be unclear because ORPC is often provisionally appointed and may appear, so technically a parent would appear through counsel even though they were not actually there	28	30	Trent's email	
	11.1 Adjudication on Non-Appearing or Non-Defending Respondent	(b) Given some of the recent case law regarding offers of proof, we just want to make sure we are not creating appealable issues with this procedure of adjudication based on motion and affidavit	28	30	Sheri's email	

## wallace, jennifer

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**From:** Sheri Danz  
**Sent:** Thursday, February 6, 2020 2:47 PM  
**To:** wallace, jennifer  
**Subject:** really late feedback on rules (sorry!)

Hi JJ,

I am so sorry that I am just getting you feedback on these rules. I realize that you requested it by last week; we've had a lot going on and I was finally able to get to this today. I'm also sorry that I have not had time to check these rules and my comments against our minutes; when I saw you in December, you indicated that a fresh review of the rules would be helpful. I also gave it to Cara as I thought having a completely outside perspective would be helpful—she had some really great feedback, which I've incorporated here.

I hope sharing feedback in the following format works; please let me know if you want me to share in another format:

### In general

- It seems that we are really inconsistent about when we are adding language of statutes, other civil rules and when we are referencing them.
- It seems that these rules really emphasize certain aspects of the proceedings (i.e., adjudication) rather than others (i.e., termination). While that may be appropriate, I just want to be sure that we are confident about the level of detail we are giving to some areas and not others.

### Attorney of Record

- Denial of request to withdraw (page 4, subsection C): We're trying to understand the ability to file a request before a new judge. The concern is that the new judge may not have relevant information about the impact on the proceeding, the child, etc, caused by withdrawal. We also wonder about *ex parte* motions and in camera hearings, especially since the first hearing/motion is not *ex parte*.
- Substitution without a hearing (page 4, subsection D): The rule in its current draft allows respondent and opposing counsel "7 days from the date of the notification certificate, or such other time as the court may permit" to file objections. We are worried about delay and wonder if it might be better to state that the court cannot extend the timeframe for filing an objection beyond 7 days.

### Time: Continuances

- Continuances (page 6, subsection (d)): If we are going to keep this detailed language in, we should mirror it to 19-3-505(3). Specifically, the last sentence requiring specific reasons necessitating delay appears to apply to all cases, not just EPP cases.

### Evidence

- Request for absentee testimony (telephone testimony, page 7, subsection (h)(1)(B)): a detailed description of *all* testimony seems like a high standard, so we just wanted to confirm that is the intent.

### Intervention

- This section requires a written motion to be served on all parties. Given the fact that many potential intervenors will not have the resources to hire an attorney and the intervention is of right, we wonder about the written motion requirement, especially since it requires a citation of legal authority and grounds.

- Parents, grandparents, and relatives: Adding “who have information or knowledge concerning the care and protection of the child” to this section interprets an unresolved area of the law and imposes requirements on this class that the legislature may not have intended in enacting 19-3-507.
- Kin: This is likely a legislative question that cannot be addressed by this group, but it did strike me that intervention of right excludes kinship caregivers who have not been licensed as foster parents by a department.

#### Discovery

- #7.2 • I know we’ve discussed this a ton, but I just want to make sure we are not creating a new standard of practice regarding depositions, requests for admissions, interrogatories, and requests for production.

#### Case/commencement rules/definitions

- Cara thought the discovery committee had written these rules but then deleted them from the final draft.
- Confidential information (page 14, line (a)(2)): I have concerns about the definition of “confidential” information and the procedure outlined for the access of that information. As some information that is confidential is also privileged, I worry about the application of an incorrect and less protective standard than the privilege waiver analysis for accessing this information.
- Privileged information (page 14, subsection (e)): Why are we specifically stating that communication between children and their GAL is not privileged? Should we also say then that it might be confidential? It seems like we are interpreting/making law in this section.

#### Search Warrants

- Applications for search warrants (page 14, section (a)): Should we say that an application for a search warrant shall be supported by an affidavit rather than in the form of an affidavit?

#### Order to interview or examine child (page 14, section (a))

- #8.1 • Same comment re affidavit as for search warrant.

#### Temporary Custody

- #9.2 • Much of this language is already in statute and some of the language contradicts existing statute. For example, 19-3-405(2)(a) uses the language “danger to the child’s life or health in the reasonably foreseeable future.” If we are going to repeat statutory language, we need to compare this to 19-3-405 and 19-3-403 to make sure that we are consistent.

#### Adjudication

- The child (page 23, subsection b): I’m not sure how the standard of appointment of counsel for the child reads “necessary to protect the interests of the child **or other parties**” but that is not what 19-1-105(2) states. “And the parties” should be stricken from the rule.

#### Responsive Pleadings and Motions

- Pleadings, jurisdictional matters (page 24, subsection (a)): by adding continued adjudication to this section, are we extending the timeframe for denying jurisdictional matters longer than we intended?
- Determination of Motions (page 23, section (e)): Do we want to more explicitly state that court has the discretion to shorten these timeframes?

#### Adjudicatory Hearing

- Comment regarding counsel for child (beginning on page 27): I am not sure of the legal source for the restrictions and limitations for this role and worry about creating substantive law in a comment.

#### #1.3 Continued Adjudication

- Dismissal or entry of a deferred adjudication (page 30, subsection (f)(1)): I know we are not interested in promulgating court of appeals caselaw in these rules, but we worry that the findings as described (“whether

the Respondent has failed to comply with the terms and conditions of the continued adjudication”) is potentially misleading.

Adjudication on Non-Appearing Respondent

- #11.1
- Supporting documentation (page 30, section (b)): Given some of the recent caselaw regarding offers of proof, we just want to make sure we are not creating appealable issues with this procedure of adjudication based on motion and affidavit.

Permanency Hearings:

- Consultation with the child or youth (page 33, subsection (3)): Again, I know that we are not interested in promulgating caselaw into rule, but are we at all worried that by only including some of the procedures required by recent appellate caselaw, we are potentially creating due process and appellate issues?

Post-termination

- GAL’s written report (page 37, subsection (c)): The requirements for this report are much more specific than what is required by 19-3-606. We do not think we should be creating a standard of practice or substantive law in the rules.

Thanks for organizing all of these comments, and I apologize for making your task difficult with our late feedback. I will see you tomorrow!

**Sheri Danz, JD & CWLS**

Deputy Director

Office of the Child’s Representative

Ralph L. Carr Colorado Judicial Center

1300 Broadway, Suite 320 / Denver, CO / 80203

O: 303.860.1517 ext. 102 / F: 303.860.1735

wallace, jennifer

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**From:** David Ayraud  
**Sent:** Monday, September 30, 2019 9:51 AM  
**To:** wallace, jennifer  
**Subject:** Re: Juvenile Rules Meeting Next Friday, 10/4 at 9:30

J.J.,

I will be out of town on Friday, but thought I would send in comments.

- #2 P. 15 of the draft rules, Authorizing the Filing of a Petition - I support the last bracket "No additional evidence or argument shall be presented to the court prior to making this determination." Allowing a hearing to be held, even if it's solely at the court's discretion would likely result in "mini-adjudication hearings".
- #3 P. 16 - Pre-Trial Motions (a)(1), I support the second conferral option.
- #4 P. 22 - Responsive Pleadings and Motions - I realize we drafted this before most of the other sections were done. We seem to have made very general rules pertaining to motions instead of only focusing on motions related to the adjudicatory hearing. Are we ok with this or do we feel we need to move these "motion" rules to a more general section?
- #1.1 P. 27 - Continued (Deferred) Adjudications (f) - yes I agree the bracketed "dismiss the case" should be included.
- #1.2 P. 28 - 3/15/19 Minutes indicate that the committee wants 1) procedures to amend the terms and conditions (appears to be addressed on P.27 subsection (d), 2) procedure for when Respondent succeeds (does the added information in the bracket on P.27, subsection (f) accomplish this)? If the committee wants a new (4) to specifically address dismissal, I can draft something.
- #5 P.29 - peremptory challenges - looks like J.J. and John were going to propose language. I am happy to have the adjudicatory sub-committee address this if it's easier.
- #6 P.39 - I know we discussed the length of time for a release, but I'll just raise the concern that 6 months is very short. Given that statutory timelines are approximately 12 months for permanency, there could be complications if the release is shorter than the case length. I believe 2 years is most appropriate especially since clients can revoke.

Thanks,

David

**David Ayraud**  
Senior County Attorney

County Attorney's Office

[www.larimer.org](http://www.larimer.org)



## wallace, jennifer

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**From:** William Trent Palmer  
**Sent:** Thursday, January 30, 2020 5:27 PM  
**To:** wallace, jennifer; Ruchi Kapoor  
**Subject:** Re: Reminder: Juv. Rules Meeting 2/7-Feedback

J.J. & Ruchi, I doubt I can attend the 2/7 meeting due to a scheduled criminal motions hearing. However, I read through the draft rules and here are some thoughts:

- #7 • Discovery sub. (c); is the GAL exempted from disclosures *and* discovery, or just discovery?
- #7.1 • Discovery sub. (f); I still don't like the *upon written request* language and would prefer the Department's disclosures be automatic. In any event, I suppose it will suffice to add a line to entries of appearance or make some other standalone request in every case
- #8 • Order to Interview or Examine Child; is this an *ex parte* process? And/or should there be an opportunity to respond, especially in the instance where parents are represented?
- #9 & 9.1 • Re. Relative Affidavits: Descriptions of timing in Temporary Custody sub. (c) and Discovery sub. (e) seem inconsistent
- #10 • Emergency Protection Order section doesn't say what happens if the Department *does not* file motion to continue
- #3.1 & 3.2 • Pre-Trial Motions, there is nothing under sub. (d) re. Service
  - I also have serious concerns about effecting *Notice* of a motion to terminate on a parent simply by giving it to their attorney. This may work for "service" of other, non-substantive motions after the Petition stage, but notice that a termination trial is pending seems like it should require more diligent efforts by the Department or the GAL to provide *actual notice*. See *M.M.*
- #3.3 • See Pretrial Motions sub. (a) and Responsive Pleadings and Motions sub. (f). Idea that the court "may" deem a motion abandoned doesn't really do anything. If the rule said "shall", one would know not to respond. Otherwise, what purpose does this serve? No one would risk not responding, even if a motion has no legal authority, since that "may" be a confession
  - Adjudication on Non-Appearing or Non-Defending Respondent sub. (a). I'm not clear what 'in person or through counsel' means here. Often ORPC is provisionally appointed and may appear, so technically a parent would appear through counsel even though they weren't actually there

Hope this is useful. See y'all soon,

Trent

WTP | LAW  
970.923.9915

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**wallace, jennifer**

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**From:** slade, theresa  
**Sent:** Thursday, May 14, 2020 1:31 PM  
**To:** wallace, jennifer  
**Subject:** Adjudicatory Jury trials

Hi JJ,  
I am reaching out because at our last meeting I had not considered the thought that the jury summonses would be cancelled for another 60 days. The criminal rules committee addressed speedy trial for criminal cases. So far judges here have been using "good cause" to go beyond 60 or 90 days, but I wonder if a rule would help? Just a thought.  
Thanks!

Traci

*THERESA "TRACI" SLADE  
DISTRICT COURT JUDGE  
DOUGLAS COUNTY DISTRICT COURT, DIV 1  
4000 JUSTICE WAY  
CASTLE ROCK, CO 80109*



**wallace, jennifer**

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**From:** meinster, ann  
**Sent:** Friday, May 22, 2020 7:19 AM  
**To:** wallace, jennifer  
**Subject:** Juvenile Rules & SB 19-108: New detn standard

Hi JJ, Happy Memorial Day Weekend! We have to celebrate what we can right now, right?

We are working to be ready for the July 1 implementation date for the Juvenile Justice Reform Act SB 19-108. My wonderful staff atty Clancy Johnson raised the question below:

I am wondering if the Juvenile Rules Committee intends to amend CRJP 3.7(g) prior to July 1, 2020, which is when the new statutory standard for detention takes effect.

The new standard for detention of juveniles under SB 19-108 is “substantial risk of serious harm to others or a substantial risk of flight from prosecution...” along with other findings per 19-2-508(3)(a)(IV)(A)-(C) (effective July 1, 2020).

However, CRJP 3.7(g) provides that “The court may further detain a juvenile only if it finds from information provided at the hearing that the juvenile is a danger to himself or herself or to the community.”

Further:

- 19-2-507.5(1)(d) detention is not permitted for juveniles who are solely assessed as suicidal or exhibit behavior placing them at imminent risk of suicide...
- 19-2-507.5(3)(e) a juvenile shall not be placed in detention solely: due to a risk of the juvenile’s self-harm.

**Clancy Johnson, J.D.**  
Juvenile Staff Attorney  
1<sup>st</sup> Judicial District



## wallace, jennifer

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**From:** johnson, clancy  
**Sent:** Wednesday, May 27, 2020 10:18 AM  
**To:** wallace, jennifer  
**Cc:** meinster, ann  
**Subject:** RE: Juvenile Rules & SB 19-108: New detn standard  
**Attachments:** CRJP 3.7 CJJ.docx; 19-2-508 Detention and temporary shelter Eff 07-01-2020.pdf; New 19-2-508 outline of statute.docx; Juv Justice SB 19-108 Summary.pdf

Hi J.J., I've attached an attempt at amending the rule to match the spirit of SB 19-108. I placed the origin of each sentence in footnotes. The second attachment of 19-2-508 is a colorful enhancement of the statute effective July 1<sup>st</sup> in case it is helpful in any way (I have a terrible time navigating subsection (3) without resorting to something like this 😊). Also a third, which organizes 19-2-508 which may help, or not—just throwing it out there in case. The last is an attempt to organize SB 19-108 and compare it to prior versions of statutes. -Clancy

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Colorado Rule of Juvenile Procedure

Rule 3.7

**(a) – (f)** [NO CHANGE]

**(g) Hearing.** The purposes of a detention hearing are to determine if a juvenile should be detained further and to define conditions under which he or she may be released, if release is appropriate. Detention hearings shall be conducted in the manner prescribed by § 19-2-508, C.R.S.

**(h) Court Orders.** At the conclusion of a detention hearing, the court shall enter orders prescribed by § 19-2-508., C.R.S. The court may also issue temporary orders for legal custody of a juvenile as provided in § 19-1-115., C.R.S. The court may further detain a juvenile only if it finds from information provided at the hearing that the juvenile is a danger to himself or herself or to the community.

**(i)** [NO CHANGE]

Colorado Rule of Juvenile Procedure  
Rule 3.7

(a) – (f) [NO CHANGE]

**(g) Hearing.** The purposes of a detention hearing are to determine if a juvenile should be detained further and to define conditions under which he or she may be released, if release is appropriate. Detention hearings shall be conducted in the manner prescribed by § 19-2-508, C.R.S. **A detention hearing shall not be combined with a preliminary hearing or a first advisement.**<sup>1</sup>

**(h) Court Findings and Orders.**

**(1)** At the conclusion of a detention hearing, the court shall enter orders prescribed by § 19-2-508., C.R.S. **If the court orders further detention of the juvenile, said orders shall contain the findings provided in subsections (3) and (4) of this rule.**

**(2)** **Except for a juvenile described in § 19-2-507.5(2),<sup>2</sup> the court may also issue temporary orders for legal custody of a juvenile as provided in § 19-1-115., C.R.S.**

**(3)** **The court may further detain a juvenile only if it finds from information provided at the hearing that:<sup>3</sup>**

**(A)** **none of the limitations on detention prescribed by § 19-2-507.5 apply;<sup>4</sup>**

**(B)** **probable cause exists to believe that the delinquent act charged was committed by the juvenile;<sup>5</sup>**

**(C)** **the juvenile scored as detention-eligible on the validated detention screening instrument or there are grounds to override the result of the detention screening instrument;<sup>6</sup> and**

**(D)** **~~the juvenile is a danger to himself or herself or to the community~~ poses a substantial risk of serious harm to others or a substantial risk of flight from prosecution and community-based alternatives to detention are insufficient to reasonably mitigate that risk.<sup>7</sup> There is a rebuttable presumption that a juvenile poses a substantial risk of serious harm to others based on certain charges listed in § 19-2-508(3)(a)(V),<sup>8</sup> with exclusions provided in 19-2-508(a)(VI).<sup>9</sup> A substantial risk of flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.<sup>10</sup>**

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<sup>1</sup> 19-2-508(3)(a)(III) (in statute since 2014)

<sup>2</sup> See 19-2-508(6) (adds “except for a juvenile described in section 19-2-507.5(2)”) (SB 19-108)

<sup>3</sup> 19-2-508(3)(a)(IV)(A)-(C) (SB 19-108)

<sup>4</sup> See 19-2-507.5 (SB 19-108)

<sup>5</sup> 19-2-508(3)(a)(IV)(A) (SB 19-108)

<sup>6</sup> 19-2-508(3)(a)(IV)(B) (SB 19-108)

<sup>7</sup> 19-2-508(3)(a)(IV)(C) (SB 19-108)

<sup>8</sup> See 19-2-508(3)(a)(V) (was previously a presumption that the juvenile was a danger to himself or herself or to the community)

<sup>9</sup> See 19-2-508(3)(a)(VI) (excludes BB guns, pellet guns and gas guns—in statute prior to SB 19-108)

<sup>10</sup> 19-2-508(3)(a)(IV)(C) (SB 19-108)

(4) If the court orders further detention of a juvenile pursuant to § 19-2-508, said order shall contain specific findings as follows:<sup>11</sup>

(A) Whether placement of the juvenile out of his or her home would be in the juvenile's and the community's best interest;<sup>12</sup>

(B) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home, whether it is reasonable that such efforts not be provided due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, or whether such efforts not be required due to the circumstances described in § 19-1-115(7);<sup>13</sup> and

(C) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting visitation of the juvenile.<sup>14</sup>

**(i) [NO CHANGE]**

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<sup>11</sup> 19-2-508(3)(a)(XI)(A)-(C) (in statute prior to SB 19-108)

<sup>12</sup> 19-2-508(3)(a)(XI)(A) (in statute prior to SB 19-108)

<sup>13</sup> 19-2-508(3)(a)(XI)(B) (in statute prior to SB 19-108)

<sup>14</sup> 19-2-508(3)(a)(XI)(C) (in statute prior to SB 19-108)

West's Colorado Revised Statutes Annotated  
Title 19. Children's Code ([Refs & Annos](#))  
Article 2. The Colorado Juvenile Justice System ([Refs & Annos](#))  
Part 5. Entry into System ([Refs & Annos](#))

C.R.S.A. § 19-2-508

§ 19-2-508. Detention and temporary shelter--hearing--time limits--  
findings--review--confinement with adult offenders--restrictions

Effective: July 1, 2020

[Currentness](#)

<Text of section effective July 1, 2020. See, also,  
text of [section 19-2-508](#) effective until July 1, 2020.>

(1) Unless placement is prohibited pursuant to [section 19-2-507.5](#), when a juvenile is placed in a detention facility, in a temporary holding facility, or in a temporary shelter facility designated by the court, the screening team shall promptly notify the court, the district attorney, and the local office of the state public defender. The screening team shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the juvenile has been residing and inform him or her of the right to a prompt hearing to determine whether the juvenile is to be detained further. The court shall hold the detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. For a juvenile being held in detention on a warrant for violating a valid court order on a status offense, the court shall hold the detention hearing within twenty-four hours, excluding Saturdays, Sundays, and legal holidays.

(2) A juvenile who is detained for committing a delinquent act must be represented at the detention hearing by counsel. If the juvenile has not retained his or her own counsel, the court shall appoint the office of the state public defender or, in the case of a conflict, the office of alternate defense counsel to represent the juvenile. This appointment continues if the court appoints the office of the state public defender or the office of alternate defense counsel pursuant to [section 19-2-706\(2\)](#)  
(a) unless:

(a) The juvenile retains his or her own counsel; or

(b) The juvenile makes a knowing, intelligent, and voluntary waiver of his or her right to counsel, as described in [section 19-2-706\(2\)\(c\)](#).

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(3)(a) (3)(a)

(3)(a)(I) A juvenile taken into custody pursuant to this article 2 and placed in a detention or temporary shelter facility or a temporary holding facility is entitled to a hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of such placement to determine if he or she should be detained. The time of the detention hearing must allow defense counsel sufficient time to consult with the juvenile before the detention hearing. This consultation may be performed by secure electronic means if the conditions under which the electronic consultation is held allow the consultation to be confidential. The time in which the hearing must be held may be extended for a reasonable time by order of the court upon good cause shown.

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(3)(a)(II) The law enforcement agency that arrested the juvenile shall promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall promptly provide to the court and to defense counsel results from the detention risk screening prepared pursuant to the juvenile's arrest. Upon completion of the detention hearing, the defense shall return any materials received pursuant to this subsection (3)(a)(II) unless the appointment is continued at the conclusion of the hearing.

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(3)(a)(III) The only purposes of a detention hearing are to determine if a juvenile should be detained further and to define conditions under which he or she may be released, if his or her release is appropriate. A detention hearing shall not be combined with a preliminary hearing or a first advisement. Due to the limited scope of a detention hearing, the representation of a juvenile by appointed counsel at a detention hearing does not, by itself, create a basis for disqualification in the event that such counsel is subsequently appointed to represent another individual whose case is related to the juvenile's case.

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(3)(a)(IV) With respect to this section, the court may further detain the juvenile **only if the court finds** from the information provided at the hearing that:

(3)(a)(IV)

(A) Probable cause exists to believe that the delinquent act charged was committed by the juvenile;

(3)(a)(IV)

(B) On and after thirty days after the screening instrument has been developed or adopted pursuant to [section 19-2-212](#), the validated detention screening instrument has been administered and the

juvenile scored as detention-eligible; or there are grounds to override the result of the detention screening instrument based on the criteria developed in accordance with [section 19-2-212](#); and

(3)(a)(IV)

(C) The juvenile poses a substantial risk of serious harm to others or a substantial risk of flight from prosecution and community-based alternatives to detention are insufficient to reasonably mitigate that risk. Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.

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(3)(a)(V) A court shall not order further detention for a juvenile who is ten years of age and older but less than thirteen years of age unless the juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to [section 18-12-102](#), [18-12-105](#), [18-12-106](#), or [18-12-108.5](#). The court shall receive any information having probative value regardless of its admissibility under the rules of evidence. In determining whether a juvenile requires detention, the court shall consider the results of the detention screening instrument. There is a **rebuttable presumption that a juvenile poses a substantial risk of serious harm to others if:**

(3)(a)(V)

(A) The juvenile is alleged to have committed a felony enumerated as a crime of violence pursuant to [section 18-1.3-406](#); or

(3)(a)(V)

(B) The juvenile is alleged to have used, or possessed and threatened to use, a firearm during the commission of any felony offense against a person, as such offenses are described in article 3 of title 18; or

(3)(a)(V)

(C) The juvenile is alleged to have committed possessing a dangerous or illegal weapon, as described in [section 18-12-102](#); possession of a defaced firearm, as described in [section 18-12-103](#); unlawfully carrying a concealed weapon, as described in [section 18-12-105](#); unlawfully carrying a concealed weapon on school, college, or university grounds, as described in [section 18-12-105.5](#); prohibited use of weapons, as described in [section 18-12-106](#); illegal discharge of a firearm, as described in [section 18-12-107.5](#); or illegal possession of a handgun by a juvenile, as described in [section 18-12-108.5](#).

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(3)(a)(VI) Notwithstanding the provisions of subsection (3)(a)(IV) of this section, there is no presumption under subsection (3)(a)(IV)(C) of this section that a juvenile poses a substantial risk of serious harm to others if the item in the possession of the juvenile is alleged to be a BB gun, a pellet gun, or a gas gun.

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(3)(a)(VII) Except as provided in subsection (3)(a)(IX) of this section, at the conclusion of the hearing, the court shall enter one of the following orders, while ensuring efforts are made to keep the juvenile with his or her parent, guardian, or legal custodian:

(3)(a)(VII)(A) That the juvenile be released to the custody of a parent, guardian, legal custodian, kin, or other suitable person without the posting of bond;

(3)(a)(VII)(B) That the juvenile be placed in a temporary shelter facility;

(3)(a)(VII)(C) That bail be set and that the juvenile be released upon the posting of that bail;

(3)(a)(VII)(D) That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile poses a substantial risk of serious harm to others. Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subsection (3)(a)(IX) of this section within the time limits set forth in [section 19-2-108](#), unless the juvenile is deemed to have waived the time limit for an adjudicatory trial pursuant to [section 19-2-107\(4\)](#).

(3)(a)(VII)(E) That no bail be set and that, upon the court's finding that the juvenile poses a substantial risk of serious harm to others, the juvenile be placed in a preadjudication service program established pursuant to [section 19-2-302](#). This subsection (3)(a)(VII)(E) does not apply to any case in which the juvenile's alleged offense is one of the offenses described in subsection (3)(a)(IV) of this section.

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(3)(a)(VIII) A preadjudication service program created pursuant to [section 19-2-302](#) shall evaluate a juvenile described in subsection (8) of this section. The evaluation may result in the juvenile:

(3)(a)(VIII)(A) Remaining in the custody of a parent, guardian, or legal custodian; or

(3)(a)(VIII)(B) Being placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship care placement, as defined in [section 19-1-103\(71.3\)](#), or other suitable person under such conditions as the court may impose; or

(3)(a)(VIII)

(C) Being placed in a temporary shelter facility; or

(3)(a)(VIII)

(D) Being referred to a local county department of human or social services for assessment for placement.

---

(3)(a)(IX) When the court orders further detention of the juvenile or placement of the juvenile in a preadjudication service program after a detention hearing, the district attorney shall file a petition alleging the juvenile to be a delinquent within seventy-two hours after the detention hearing, excluding Saturdays, Sundays, and legal holidays. The juvenile must be held or must participate in a preadjudication service program pending a hearing on the petition. Upon a showing of good cause, the court may extend such time for the filing of charges.

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(3)(a)(X) Following the detention hearing, if the court orders that the juvenile be released and, as a condition of such release, requires the juvenile to attend school, the court shall notify the school district in which the juvenile is enrolled of such requirement.

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(3)(a)(XI) If the court orders further detention of a juvenile pursuant to the provisions of this section, the order must contain specific findings as follows:

(3)(a)(XI)

(A) Whether placement of the juvenile out of his or her home would be in the juvenile's and the community's best interests;

(3)(a)(XI)

(B) Whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home, whether it is reasonable that such efforts not be provided due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, or whether such efforts not be required due to the circumstances described in [section 19-1-115\(7\)](#); and

(3)(a)(XI)

(C) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting parental visitation of the juvenile.

(3)(b)

(3)(b)

**(b)(I)** If it appears that any juvenile being held in detention or temporary shelter may have an intellectual and developmental disability, as provided in article 10.5 of title 27, the court or detention personnel shall refer the juvenile to the nearest community-centered board for an eligibility determination. If it appears that any juvenile being held in a detention or temporary shelter facility pursuant to the provisions of this article 2 may have a mental health disorder, as provided in sections 27-65-105 and 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health hospital placement prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health hospital placement prescreening is requested, it must be conducted in an appropriate place accessible to the juvenile and the mental health professional. A request for a mental health hospital placement prescreening must not extend the time within which a detention hearing must be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the mental health hospital placement prescreening must be conducted prior to the hearing; except that the prescreening must not extend the time within which a detention hearing must be held.

**(II)** If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to have a mental health disorder, as provided in section 27-65-105 or 27-65-106, the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health hospital placement prescreening. A mental health hospital placement prescreening must be conducted at any appropriate place accessible to the juvenile and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

**(III)** When the mental health professional finds, as a result of the prescreening, that the juvenile may have a mental health disorder, the mental health professional shall recommend to the court that the juvenile be evaluated pursuant to section 27-65-105 or 27-65-106.

**(IV)** Nothing in this subsection (3)(b) precludes the use of emergency procedures pursuant to section 27-65-105(1).

(3)(c)

(3)(c)

**(3)(c)(I)** A juvenile taken to a detention or temporary shelter facility or a temporary holding facility pursuant to section 19-2-502 as the result of an allegedly delinquent act that constitutes any of the offenses described in subsection (3)(a)(IV) of this section shall not be released from such facility if a law enforcement agency has requested that a detention hearing be held to determine whether the juvenile's substantial risk of serious harm to others requires that the juvenile be detained. A juvenile shall not thereafter be released from detention except after a hearing, reasonable advance

notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.

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(3)(c)(II) Following a detention hearing held in accordance with subsection (3)(c)(I) of this section, a juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall not be held at any adult jail or pretrial facility unless the district court finds, after a hearing held pursuant to subsection (3)(c)(IV), (3)(c)(V), or (3)(c)(VI) of this section, that an adult jail is the appropriate place of confinement for the juvenile.

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(3)(c)(III) In determining whether an adult jail is the appropriate place of confinement for the juvenile, the district court shall consider the following factors:

(3)(c)(III)

(A) The age of the juvenile;

(3)(c)(III)

(B) Whether, in order to provide physical separation from adults, the juvenile would be deprived of contact with other people for a significant portion of the day or would not have access to recreational facilities or age-appropriate educational opportunities;

(3)(c)(III)

(C) The juvenile's current emotional state, intelligence, and developmental maturity, including any emotional and psychological trauma, and the risk to the juvenile caused by his or her placement in an adult jail, which risk may be evidenced by mental health or psychological assessments or screenings made available to the district attorney and to defense counsel;

(3)(c)(III)

(D) Whether detention in a juvenile facility will adequately serve the need for community protection pending the outcome of the criminal proceedings;

(3)(c)(III)

(E) Whether detention in a juvenile facility will negatively impact the functioning of the juvenile facility by compromising the goals of detention to maintain a safe, positive, and secure environment for all juveniles within the facility;

(3)(c)(III)

(F) The relative ability of the available adult and juvenile detention facilities to meet the needs of the juvenile, including the juvenile's need for mental health and educational services;

(3)(c)(III)

(G) Whether the juvenile presents an imminent risk of serious harm to others within a juvenile facility;

(3)(c)(III)

(H) The physical maturity of the juvenile; and

(3)(c)(III)

(I) Any other relevant factors.

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(3)(c) (IV) After charges are filed directly in district court against a juvenile pursuant to [section 19-2-517](#) or a juvenile is transferred to district court pursuant to [section 19-2-518](#), the division of youth services may petition the district court to transport the juvenile to an adult jail. The district court shall hold a hearing on the place of pretrial detention for the juvenile as soon as practicable, but no later than twenty-one days after the receipt of the division's petition to transport. The district attorney, sheriff, or juvenile may file a response to the petition and participate in the hearing. The juvenile shall remain in a juvenile detention facility pending hearing and decision by the district court.

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(3)(c) (V) If a juvenile is placed in the division of youth services and is being tried in district court, the division of youth services may petition the court for an immediate hearing to terminate juvenile detention placement if the juvenile's placement in a juvenile detention facility presents an imminent danger to the other juveniles or to staff at the detention facility. In making its determination, the court shall review the factors set forth in subsection (3)(c)(III) of this section.

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(3)(c) (VI) If the district court determines that an adult jail is the appropriate place of confinement for the juvenile, the juvenile may petition the court for a review hearing. The juvenile may not petition for a review hearing within thirty days after the initial confinement decision or within thirty days after any subsequent review hearing. Upon receipt of the petition, the court may set the matter for a hearing if the juvenile has alleged facts or circumstances that, if true, would warrant reconsideration of the juvenile's placement in an adult jail based upon the factors set forth in subsection (3)(c)(III) of this section and the factors previously relied upon by the court.

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(4)(a) No jail shall receive a juvenile for detention following a detention hearing pursuant to this section unless the juvenile has been ordered by the court to be held for criminal proceedings as an adult pursuant to a transfer or unless the juvenile is to be held for criminal proceedings as an adult pursuant to a direct filing. No juvenile under the age of fourteen and, except upon order of the court, no juvenile fourteen years of age or older shall be detained in a jail, lockup, or other place

used for the confinement of adult offenders. The exception for detention in a jail applies only if the juvenile is being held for criminal proceedings as an adult pursuant to a direct filing or transfer.

**(b)** Whenever a juvenile is held pursuant to a direct filing or transfer in a facility where adults are held, the juvenile must be physically segregated from the adult offenders.

**(c)(I)** When a juvenile who is to be held for criminal proceedings as an adult pursuant to a direct filing or transfer of charges, as provided in [sections 19-2-517](#) and [19-2-518](#), respectively, is received at a jail or other facility for the detention of adult offenders, the official in charge of the jail or facility, or his or her designee, shall, as soon as practicable, contact the person designated pursuant to [section 22-32-141](#), by the school district in which the jail or facility is located to request that the school district provide educational services for the juvenile for the period during which the juvenile is held at the jail or facility. The school district shall provide the educational services in accordance with the provisions of [section 22-32-141](#). The official, in cooperation with the school district, shall provide an appropriate and safe environment to the extent practicable in which the juvenile may receive educational services.

**(II)** Notwithstanding the provisions of subsection (4)(c)(I), if either the official in charge of the jail or facility or the school district determines that an appropriate and safe environment cannot be provided for a specific juvenile, the official and the school district are exempt from the requirement to provide educational services to the juvenile until such time as an environment that is determined to be appropriate and safe by both the official and the school district can be provided. If the school district will not be providing educational services to a juvenile because of the lack of an appropriate and safe environment, the official in charge of the jail or facility shall notify the juvenile, his or her parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case.

**(III)** The official in charge of the jail or facility for the detention of adult offenders, or his or her designee, in conjunction with each school district that provides educational services at the jail or facility, shall annually collect nonidentifying data concerning:

**(A)** The number of juveniles held at the jail or facility who are awaiting criminal proceedings as an adult pursuant to a direct filing or transfer of charges, as provided in [sections 19-2-517](#) and [19-2-518](#), respectively, for the year;

**(B)** The length of stay of each of the juveniles in the jail or facility;

**(C)** The number of the juveniles in the jail or facility who received educational services pursuant to this subsection (4)(c);

**(D)** The number of days on which school districts provided educational services to the juveniles in the jail or facility and the number of hours for which school districts provided the educational services each day;

**(E)** The number of juveniles in the jail or facility who were exempt from receiving educational services pursuant to [section 22-32-141\(2\)\(c\)](#), [\(2\)\(e\)](#), [\(2\)\(f\)](#), and [\(2\)\(g\)](#);

**(F)** The number of juveniles in the jail or facility who had previously been determined pursuant to [section 22-20-108](#) to be eligible for special education services and had an individualized education program; and

**(G)** The number of juveniles in the jail or facility who, while receiving educational services at the jail or facility, were determined pursuant to [section 22-20-108](#) to be eligible for special education services and had subsequently received an individualized education program.

**(IV)** The official in charge of the jail or facility shall submit the information collected pursuant to subsection (4)(c)(III) of this section to the division of criminal justice in the department of public safety. The division of criminal justice shall make the information available to a member of the public upon request.

**(d)** The official in charge of a jail or other facility for the detention of adult offenders shall immediately inform the court that has jurisdiction of the juvenile's alleged offense when a juvenile who is or appears to be under eighteen years of age is received at the facility, except for a juvenile ordered by the court to be held for criminal proceedings as an adult.

**(e)(I)** Any juvenile arrested and detained for an alleged violation of any article of title 42, or for any alleged violation of a municipal or county ordinance, and not released on bond, must be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subsection (3)(a)(VII) of this section. A juvenile may be detained in a jail, lockup, or other place used for the confinement of adult offenders only for processing for no

longer than six hours and during such time must be placed in a setting that is physically segregated by sight and sound from the adult offenders, and in no case may the juvenile be detained in such place overnight. After six hours, the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of human services. In calculating time pursuant to this subsection (4), Saturdays, Sundays, and legal holidays are included.

**(II)** A sheriff or police chief who violates the provisions of subsection (4)(e)(I) of this section may be subject to a civil fine of no more than one thousand dollars. The decision to fine must be based on prior violations of the provisions of subsection (4)(e)(I) of this section by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subsection (4)(e)(I) of this section.

**(f)** The official in charge of a jail, lockup, or other facility for the confinement of adult offenders that receives a juvenile for detention should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any such juvenile with known past or current affiliations or associations with any gang so as to prevent contact with other inmates at such jail, lockup, or other facility. The official should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new gang members from among the general inmate population. For purposes of this subsection (4)(f), “gang” is defined in [section 19-1-103\(52\)](#).

**(g)** Any person who is eighteen years of age or older who is being detained for a delinquent act or criminal charge over which the juvenile court has jurisdiction, or for which charges are pending in district court pursuant to a direct filing or transfer if the person has not already been transferred to the county jail pursuant to the provisions of subsection (3)(c)(IV) of this section, shall be detained in the county jail in the same manner as if such person is charged as an adult.

**(h)** A juvenile court shall not order a juvenile offender who is under eighteen years of age at the time of sentencing to enter a secure setting or secure section of an adult jail or lockup as a disposition for an offense or as a means of modifying the juvenile offender's behavior.

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**(5)** A juvenile has the right to bail as limited by the provisions of this section.

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**(6)** Except for a juvenile described in [section 19-2-507.5\(2\)](#), the court may also issue temporary orders for legal custody as provided in [section 19-1-115](#).

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(7) Any law enforcement officer, employee of the division of youth services, or another person acting under the direction of the court who in good faith transports any juvenile, releases any juvenile from custody pursuant to a written policy of a court, releases any juvenile pursuant to any written criteria established pursuant to this title 19, or detains any juvenile pursuant to court order or written policy or criteria established pursuant to this title 19 is immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person is presumed.

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(8)(a) A juvenile who allegedly commits a status offense or is convicted of a status offense shall not be held in a secure area of a jail or lockup.

(b) A sheriff or police chief who violates the provisions of subsection (8)(a) of this section may be subject to a civil fine of no more than one thousand dollars. The decision to fine must be based on prior violations of the provisions of subsection (8)(a) of this section by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subsection (8)(a) of this section.

### Credits

Added by Laws 1996, H.B.96-1005, § 1, eff. Jan. 1, 1997. Amended by Laws 1999, Ch. 233, § 3, eff. July 1, 1999; Laws 2001, Ch. 241, § 4, eff. June 1, 2001; Laws 2002, Ch. 179, § 8, eff. May 24, 2002; Laws 2002, Ch. 318, § 226, eff. Oct. 1, 2002; Laws 2003, Ch. 297, § 4, eff. July 1, 2003; Laws 2005, Ch. 267, § 3, eff. July 1, 2005; Laws 2006, Ch. 82, §§ 2, 3, eff. Mar. 31, 2006; Laws 2006, Ch. 298, § 53, eff. Aug. 7, 2006; Laws 2007, Ch. 273, § 1, eff. Aug. 3, 2007; Laws 2009, Ch. 351, § 1, eff. June 1, 2009; Laws 2010, Ch. 188, § 38, eff. April 29, 2010; Laws 2010, Ch. 265, § 7, eff. May 25, 2010; Laws 2010, Ch. 265, §§ 4, 7, eff. May 25, 2010; Laws 2012, Ch. 18, § 1, eff. March 15, 2012; Laws 2013, Ch. 272, § 11, eff. July 1, 2013; Laws 2014, Ch. 247, § 2, eff. Nov. 1, 2014; Laws 2017, Ch. 263, § 154, eff. May 25, 2017; Laws 2017, Ch. 269, § 4, eff. May 31, 2017; Laws 2017, Ch. 381, § 7, eff. June 6, 2017; Laws 2018, Ch. 38, § 44, eff. Aug. 8, 2018; Laws 2019, Ch. 294, § 11, eff. July 1, 2020.

C. R. S. A. § 19-2-508, CO ST § 19-2-508

Current through legislation effective April 1, 2020 of the 2020 Regular Session. Some statute sections may be more current. See credits for details.

# New 19-2-508 Outline (Effective July 1, 2020 per SB 19-108)

## (1) DUTY TO NOTIFY

- Unless placement is prohibited pursuant to 19-2-507.5,
- When a juvenile is placed in a detention facility (DF), Temporary Holding Facility (THF), Temporary Shelter Facility (TSF) designated by the court,
  - The screening team (ST) shall promptly notify the court, the DA, PD.
  - ST shall notify a parent or legal guardian (PG), or if PG cannot be located within the county, the person with whom the juvenile has been residing and inform him or her of the right of a prompt hearing to determine whether the juvenile is to be detained further.
- Court shall hold the detention hearing (DETN) within 48 hrs, excluding Saturdays, Sundays, and legal holidays.
- For a juvenile being held in detention (D) on a warrant for violating a valid court order on a status offense, the court shall hold the hearing within 24 hrs, excluding Saturdays, Sundays and legal holidays.

## DEFINITIONS:

- **Detention (D):** means the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.<sup>1</sup>
- **Detention facility (DF),**
- **Temporary Holding Facility (THF):** means an area used for the temporary holding of a child from the time that the child is taken into temporary custody until a detention hearing is held, if it has been determined that the child requires a staff-secure setting. Such an area must be separated by sight and sound from any area that houses adult offenders.
- **Shelter<sup>2</sup>:** means the temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement.
- **Temporary Shelter Facility (TSF)<sup>3</sup>** –certified twenty-four hour care facility for temporary shelter
- **Temporary Shelter (TS)<sup>4</sup>:** means the temporary placement of a child with kin, as defined in subsection (71.3) of this section; with an adult with a significant relationship with the child; or in a licensed and certified twenty-four-hour care facility.
- **Screening Team (ST)<sup>5</sup>** means the person or persons designated, pursuant to rule 3.7 of the Colorado rules of juvenile procedure, by the chief judge in each judicial district . . . to make recommendations to the juvenile court concerning whether a juvenile taken into temporary custody should be released or admitted to a detention or shelter facility pursuant to section 19-2-508.

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<sup>1</sup> 19-1-103(40)

<sup>2</sup> 19-1-103(98)

<sup>3</sup> Not in definition sections, but based on 19-1-103(106)

<sup>4</sup> 19-1-103(106)

<sup>5</sup> 19-2-103(15), 19-1-103(94.5)

- **Staff Secure Facility (SSF)**<sup>6</sup> means a group facility or home at which each juvenile is continuously under staff supervision and at which all services, including but not limited to education and treatment, are provided on site. A staff secure facility may or may not be a locked facility
- **Services:** as used in section 19-2-303, may include, but is not limited to, provision of diagnostic needs assessment, general counseling and counseling during a crisis situation, specialized tutoring, job training and placement, restitution programs, community service, constructive recreational activities, day reporting and day treatment programs, and follow-up activities.
- **Residential Community Placement**<sup>7</sup>: as used in article 2 of this title, means any placement for residential purposes permitted under this title except in an institutional facility directly operated by, or a secure facility under contract with, the department of human services and except while a juvenile is under the jurisdiction of the juvenile parole board.
- **Qualified Residential Treatment Program (QRTP)**<sup>8</sup>: means a licensed and accredited program that has a trauma-informed treatment model that is designed to address the child's or youth's needs, including clinical needs, as appropriate, of children and youth with serious emotional or behavioral disorders or disturbances in accordance with section 201(a)(4) of the federal "Family First Prevention Services Act", and is able to implement the treatment identified for the child or youth by the assessment of the child required in section 19-1-115(4)(e)(I).
- **Reasonable Efforts**<sup>9</sup>: as used in articles 1, 2, and 3 of this title, means the exercise of diligence and care ...for children who are in out-of-home placement, or are at imminent risk of out-of-home placement. In determining whether it is appropriate to provide, purchase, or develop the supportive and rehabilitative services that are required to prevent unnecessary placement of a child outside of a child's home or to foster the safe reunification of a child with a child's family, as described in section 19-3-208, or whether it is appropriate to find and finalize an alternative permanent plan for a child, and in making reasonable efforts, the child's health and safety shall be the paramount concern. Services provided by a county or city and county in accordance with section 19-3-208 are deemed to meet the reasonable effort standard described in this subsection (89). Nothing in this subsection (89) shall be construed to conflict with federal law.

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<sup>6</sup> 19-2-103(17) (staff secure facility is defined in section 19-1-103(101.5)); 19-1-103(101.5)

<sup>7</sup> 19-1-103(92)

<sup>8</sup> 19-1-103(87.9)

<sup>9</sup> 19-1-103(89)

## (2) DETN ATTORNEY – PD/ADC

- A juvenile detained for committing delinquent act must be represented at the DETN by counsel.
  - If JV has not retained counsel, the court shall appoint PD/ADC.
    - This appointment continues if the court appoints the PD/ADC pursuant to 19-2-706(2)(a) unless:
      - (a) JV retains their own counsel
      - (b) JV makes knowing, intelligent, and voluntary waiver of right to counsel as described in 19-2-706(2)(c)

**(3)**

**• (a)**

**○ (3)(a)(I) TIMEFRAME FOR DETN – 48 HRS**

- JV taken into custody and placed in D/TSF/THF is entitled to have a hearing within 48 hrs excluding Saturdays, Sundays, and legal holidays to determine if they should be detained.
  - Time of hearing must allow defense counsel sufficient time to consult with JV before DETN.
    - Consultation may be performed by secure electronic means if the conditions under which the consultation is held allow the consultation to be confidential.
  - \*\*\*The time in which the hearing must be held may be extended for a reasonable time by order of the court upon **good cause** shown.\*\*\*

**○ (3)(a)(II) INFO EXCHANGE**

- Law Enforcement Agency (LE) that arrested JV shall promptly provide to the court and atty:
  - the affidavit supporting probable cause for the arrest and
  - Arrest report, if available
- Screening team shall promptly provide to court & atty
  - Results from detention risk screening prepared per JV's arrest
- Upon completion of hearing, atty shall return materials received under this subsection unless the appointment is continued at the conclusion of the hearing

**○ (3)(a)(III) PURPOSE OF DETN & ATTY CONFLICT**

- The only purpose of DETN- to determine if JV should be detained further and to define conditions under which they may be released, if appropriate.
- DETN **shall not** be combined with PREL or first advisement.
- Due to limited scope of DETN, representation of a JV at DETN does not, by itself, create a basis for disqualification in the event that such counsel is subsequently appointed to represent another individual whose case is related to the juvenile's case.

**○ (3)(a)(IV) \*\*\*FINDINGS TO FURTHER DETAIN\*\*\*\*\***

- With respect to this section, the court may further detain JV **only if ct finds** from information provided at the hearing that:
  - **(A)** probable cause exists to believe that the delinquent act charged was committed by the juvenile
  - **(B)** on and after 30 days after the screening instrument has been developed/adopted pursuant to 19-2-212, the validated detention screening instrument has been administered and the juvenile scored as detention-eligible; or there are grounds to override the result of the detention screening instrument based on the criteria developed in accordance with 19-2-212; and
  - **(C)** Juvenile poses substantial risk of serious harm to others or a substantial risk of flight from prosecution and alternatives to detention are insufficient

to reasonably mitigate that risk. Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.

○ **(3)(a)(V) AGES 10-12; 'EVIDENCE'; REBUTTABLE PRESUMPTION- SUBST RISK**

- A court shall not order further detention for a juvenile who is ten years of age and older but less than thirteen years of age unless the juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5.
- The court shall receive any information having probative value regardless of its admissibility under the rules of evidence.
- In determining whether a juvenile requires detention, the court shall consider the results of the detention screening instrument.
- **There is a rebuttable presumption that a juvenile poses a substantial risk of serious harm to others if:**
  - (A) The juvenile is alleged to have committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406; or
  - (B) The juvenile is alleged to have used, or possessed and threatened to use, a firearm during the commission of any felony offense against a person, as such offenses are described in article 3 of title 18; or
  - (C) The juvenile is alleged to have committed possessing a dangerous or illegal weapon, as described in section 18-12-102; possession of a defaced firearm, as described in section 18-12-103; unlawfully carrying a concealed weapon, as described in section 18-12-105; unlawfully carrying a concealed weapon on school, college, or university grounds, as described in section 18-12-105.5; prohibited use of weapons, as described in section 18-12-106; illegal discharge of a firearm, as described in section 18-12-107.5; or illegal possession of a handgun by a juvenile, as described in section 18-12-108.5.

○ **(3)(a)(VI) EXCLUSION TO PRESUMPTIVE SUBST RISK**

- Notwithstanding the provisions of subsection (3)(a)(IV) of this section, there is no presumption under subsection (3)(a)(IV)(C) of this section that a juvenile poses a substantial risk of serious harm to others if the item in the possession of the juvenile is alleged to be a BB gun, a pellet gun, or a gas gun.

○ **(3)(a)(VII) \*\*\*ORDERS AT CONCLUSION OF DETN\*\*\*\*\***

- Except as provided in subsection (3)(a)(IX) of this section, at the conclusion of the hearing, the court shall enter one of the following orders, while ensuring efforts are made to keep the juvenile with his or her parent, guardian, or legal custodian:
  - (a)(VII)(A) That the juvenile be released to the custody of a parent, guardian, legal custodian, kin, or other suitable person without the posting of bond;
  - (a)(VII)(B) That the juvenile be placed in a temporary shelter facility;
  - (a)(VII)(C) That bail be set and that the juvenile be released upon the posting of that bail;
  - (a)(VII)(D)

- That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile poses a substantial risk of serious harm to others.
- Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subsection (3)(a)(IX) of this section within the time limits set forth in section 19-2-108, unless the juvenile is deemed to have waived the time limit for an adjudicatory trial pursuant to section 19-2-107(4).
- **(a)(VII)(E)**
  - That no bail be set and that, upon the court's finding that the juvenile poses a substantial risk of serious harm to others, the juvenile be placed in a preadjudication service program established pursuant to section 19-2-302.
  - This subsection (3)(a)(VII)(E) does not apply to any case in which the juvenile's alleged offense is one of the offenses described in subsection (3)(a)(IV) of this section.
- **(3)(a)(VIII) PRETRIAL EVALUATION**
  - A preadjudication service program created pursuant to section 19-2-302 shall evaluate a juvenile described in subsection (8) of this section. The evaluation may result in the juvenile:
    - **(a)(VIII)(A)** Remaining in the custody of a parent, guardian, or legal custodian; or
    - **(a)(VIII)(B)** Being placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship care placement, as defined in section 19-1-103(71.3), or other suitable person under such conditions as the court may impose; or
    - **(a)(VIII)(C)** Being placed in a temporary shelter facility; or
    - **(a)(VIII)(D)** Being referred to a local county department of human or social services for assessment for placement.
- **(3)(a)(IX) PTJD WITHIN 72 HRS IF FURTHER DETAINED**
  - When the court orders further detention of the juvenile or placement of the juvenile in a preadjudication service program after a detention hearing, the district attorney shall file a petition alleging the juvenile to be a delinquent within seventy-two hours after the detention hearing, excluding Saturdays, Sundays, and legal holidays.
  - The juvenile must be held or must participate in a preadjudication service program pending a hearing on the petition.
  - \*\*\*Upon a showing of good cause, the court may extend such time for the filing of charges.\*\*\*
- **(3)(a)(X) SCHOOL NOTIFICATION**
  - Following the detention hearing, if the court orders that the juvenile be released and, as a condition of such release, requires the juvenile to attend school, the court shall notify the school district in which the juvenile is enrolled of such requirement.
- **(3)(a)(XI) \*\*\*SPECIFIC FINDINGS IF FURTHER DETAINED\*\*\*\*\***

- If the court orders further detention of a juvenile pursuant to the provisions of this section, the order must contain specific findings as follows:
  - **(a)(XI)(A)** whether placement of the juvenile out of their home would be in JV's and community's best interests;
  - **(a)(XI)(B)**
    - whether reasonable efforts have been made to prevent or eliminate the need for removal of the JV from the home,
    - whether it is reasonable that such efforts NOT be provided due to the existence of an emergency situation that requires immediate removal of the juvenile from the home, or
    - whether such efforts not be required due to the circumstances described in 19-1-115(7)<sup>10</sup>
  - **(a)(XI)(C)** whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting parental visitation of the JV.

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<sup>10</sup> 19-1-115(7) provides: Reasonable efforts are not required to prevent the child's removal from the home or to reunify the child and the family in the following circumstances:

- (a) When the court finds that the parent has subjected the child to aggravated circumstances as described in sections 19-3-604(1) and (2); or
- (b) When the parental rights of the parent with respect to a sibling of the child have been involuntarily terminated; unless the prior sibling termination resulted from a parent delivering a child to a firefighter or a staff member of a hospital or community clinic emergency center, as defined in section 19-3-304.5(9), pursuant to the provisions of section 19-3-304.5; or
- (c) When the court finds that the parent has been convicted of any of the following crimes: (I) Murder of another child of the parent; (II) Voluntary manslaughter of another child of the parent; Aiding, abetting, or attempting the commission of or conspiring or soliciting to commit the crimes in subparagraphs (I) and (II) of this paragraph (c); or (IV) A felony assault that resulted in serious bodily injury to the child or to another child of the parent

**(3)**

**• (b) MENTAL HEALTH**

○ **(3)(b)(I) MENTAL HEALTH**

- If it appears that any juvenile being held in detention or temporary shelter may have an intellectual and developmental disability, as provided in article 10.5 of title 27, the court or detention personnel shall refer the juvenile to the nearest community-centered board for an eligibility determination.
- If it appears that any juvenile being held in a detention or temporary shelter facility pursuant to the provisions of this article 2 may have a mental health disorder, as provided in sections 27-65-105 and 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health hospital placement prescreening on the juvenile.
- The court shall be notified of the contact and may take appropriate action.
- If a mental health hospital placement prescreening is requested, it must be conducted in an appropriate place accessible to the juvenile and the mental health professional.
- A request for a mental health hospital placement prescreening must not extend the time within which a detention hearing must be held pursuant to this section.
- If a detention hearing has been set but has not yet occurred, the mental health hospital placement prescreening must be conducted prior to the hearing;
  - except that the prescreening must not extend the time within which a detention hearing must be held.

○ **(3)(b)(II) MENTAL HEALTH**

- If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to have a mental health disorder, as provided in section 27-65-105 or 27-65-106, the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health hospital placement prescreening.
- A mental health hospital placement prescreening must be conducted at any appropriate place accessible to the juvenile and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

○ **(3)(b)(III) MENTAL HEALTH**

- When the mental health professional finds, as a result of the prescreening, that the juvenile may have a mental health disorder, the mental health professional shall recommend to the court that the juvenile be evaluated pursuant to section 27-65-105 or 27-65-106.

○ **(3)(b)(IV) MENTAL HEALTH**

- Nothing in this subsection (3)(b) precludes the use of emergency procedures pursuant to section 27-65-105(1).

(3)

• (c)

○ **(3)(c)(I) Presumptive non-release**

- A JV taken to a D/TSF/THF pursuant to section 19-2-502 as the result of an allegedly delinquent act that constitutes any of the offenses described in subsection (3)(a)(IV) (V) of this section **shall not be released** from such facility **if** a LE has requested that a DETN be held to determine whether the JV's substantial risk of serious harm to others requires that the JV be detained.
  - [note: and then the court may find that the offenses under (3)(a)(V) are presumptively SRSHO]
- A JV shall not thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the DA, alleging new circumstances concerning the further D of JV.

○ **(3)(c)(II) when juvenile may be held in Adult facility – tried as adult**

- Following a DETN held in accordance with subsection (3)(c)(I), a JV who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall not be held at any adult jail or pretrial facility
  - UNLESS the district court finds, after a hearing held pursuant to section (3)(c)(IV), (3)(c)(V), or (3)(c)(VI), that an adult jail is the appropriate place of confinement for the JV.

○ **(3)(c)(III) Adult Jail**

- In determining whether an adult jail is the appropriate place of confinement for the juvenile, the district court shall consider the following factors:
  - **(c)(III)(A)** The age of the juvenile;
  - **(c)(III)(B)** Whether, in order to provide physical separation from adults, the juvenile would be deprived of contact with other people for a significant portion of the day or would not have access to recreational facilities or age-appropriate educational opportunities
  - **(c)(III)(C)** The juvenile's current emotional state, intelligence, and developmental maturity, including any emotional and psychological trauma, and the risk to the juvenile caused by his or her placement in an adult jail, which risk may be evidenced by mental health or psychological assessments or screenings made available to the district attorney and to defense counsel;
  - **(c)(III)(D)** Whether detention in a juvenile facility will adequately serve the need for community protection pending the outcome of the criminal proceedings;
  - **(c)(III)(E)** Whether detention in a juvenile facility will negatively impact the functioning of the juvenile facility by compromising the goals of detention to maintain a safe, positive, and secure environment for all juveniles within the facility;

- **(c)(III)(F)** The relative ability of the available adult and juvenile detention facilities to meet the needs of the juvenile, including the juvenile's need for mental health and educational services;
- **(c)(III)(G)** Whether the juvenile presents an imminent risk of serious harm to others within a juvenile facility;
- **(c)(III)(H)** Maturity of the JV; and
- **(c)(III)(I)** any other relevant factors

○ **(3)(c)(IV) Direct File – DYS transfer to Adult Jail**

- After charges are filed directly in district court against a JV pursuant to section 19-2-517 or a JV is transferred to district court pursuant to section 19-2-518, the division of youth services (DYS) may petition the district court to transport the juvenile to an adult jail.
- The district court shall hold a hearing on the place of pretrial detention for the JV as soon as practicable, but no later than twenty-one days after the receipt of the division's petition to transport.
- The district attorney, sheriff, or juvenile may file a response to the petition and participate in the hearing.
- The juvenile shall remain in a juvenile detention facility pending hearing and decision by the district court

○ **(3)(c)(V) DYS request to transfer to adult facilities**

- If a juvenile is placed in the division of youth services and is being tried in district court, the division of youth services may petition the court for an immediate hearing to terminate juvenile detention placement if the juvenile's placement in a juvenile detention facility presents an imminent danger to the other juveniles or to staff at the detention facility.
- In making its determination, the court shall review the factors set forth in subsection (3)(c)(III) of this section.

○ **(3)(c)(V) Adult Jail – review**

- If the district court determines that an adult jail is the appropriate place of confinement for the juvenile, the juvenile may petition the court for a review hearing.
- The juvenile may not petition for a review hearing within thirty days after the initial confinement decision or within thirty days after any subsequent review hearing.
- Upon receipt of the petition, the court may set the matter for a hearing if the juvenile has alleged facts or circumstances that, if true, would warrant reconsideration of the juvenile's placement in an adult jail based upon the factors set forth in subsection (3)(c)(III) of this section and the factors previously relied upon by the court.

#### **(4) JUVENILES HELD IN ADULT FACILITIES**

##### **• (4)(a) PROSECUTED AS ADULT**

- No jail shall receive a juvenile for detention following a detention hearing pursuant to this section unless the juvenile has been ordered by the court to be held for criminal proceedings as an adult pursuant to a transfer or unless the juvenile is to be held for criminal proceedings as an adult pursuant to a direct filing.
- No juvenile under the age of fourteen and, except upon order of the court, no juvenile fourteen years of age or older shall be detained in a jail, lockup, or other place used for the confinement of adult offenders.
- The exception for detention in a jail applies only if the juvenile is being held for criminal proceedings as an adult pursuant to a direct filing or transfer.

##### **• (4)(b) PROSECUTED AS ADULT**

- Whenever a juvenile is held pursuant to a direct filing or transfer in a facility where adults are held, the juvenile must be physically segregated from the adult offenders.

##### **• (4)(c) PROSECUTED AS ADULT**

###### **○ (4)(c)(I) adult facilities - education**

- When a juvenile who is to be held for criminal proceedings as an adult pursuant to a direct filing or transfer of charges, as provided in sections 19-2-517 and 19-2-518, respectively, is received at a jail or other facility for the detention of adult offenders, the official in charge of the jail or facility, or his or her designee, shall, as soon as practicable, contact the person designated pursuant to section 22-32-141, by the school district in which the jail or facility is located to request that the school district provide educational services for the juvenile for the period during which the juvenile is held at the jail or facility.
- The school district shall provide the educational services in accordance with the provisions of section 22-32-141.
- The official, in cooperation with the school district, shall provide an appropriate and safe environment to the extent practicable in which the juvenile may receive educational services.

###### **○ (4)(c)(II) Adult facilities – education**

- Notwithstanding the provisions of subsection (4)(c)(I), if either the official in charge of the jail or facility or the school district determines that an appropriate and safe environment cannot be provided for a specific juvenile, the official and the school district are exempt from the requirement to provide educational services to the juvenile until such time as an environment that is determined to be appropriate and safe by both the official and the school district can be provided.
- If the school district will not be providing educational services to a juvenile because of the lack of an appropriate and safe environment, the official in charge of the jail or facility shall notify the juvenile, his or her parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case

###### **○ (4)(c)(III) Adult facilities housing juveniles – annual data**

- The official in charge of the jail or facility for the detention of adult offenders, or his or her designee, in conjunction with each school district that provides educational services at the jail or facility, shall annually collect nonidentifying data concerning:

- **(A)** The number of juveniles held at the jail or facility who are awaiting criminal proceedings as an adult pursuant to a direct filing or transfer of charges, as provided in sections 19-2-517 and 19-2-518, respectively, for the year;
- **(B)** The length of stay of each of the juveniles in the jail or facility;
- **(C)** The number of the juveniles in the jail or facility who received educational services pursuant to this subsection (4)(c);
- **(D)** The number of days on which school districts provided educational services to the juveniles in the jail or facility and the number of hours for which school districts provided the educational services each day;
- **(E)** The number of juveniles in the jail or facility who were exempt from receiving educational services pursuant to section 22-32-141(2)(c), (2)(e), (2)(f), and (2)(g);
- **(F)** The number of juveniles in the jail or facility who had previously been determined pursuant to section 22-20-108 to be eligible for special education services and had an individualized education program; and
- **(G)** The number of juveniles in the jail or facility who, while receiving educational services at the jail or facility, were determined pursuant to section 22-20-108 to be eligible for special education services and had subsequently received an individualized education program.

- **(4)(d) PROSECUTED AS ADULT**

- The official in charge of the jail or facility shall submit the information collected pursuant to subsection (4)(c)(III) of this section to the division of criminal justice in the department of public safety. The division of criminal justice shall make the information available to a member of the public upon request.

- **(4)(e) MUNICIPAL COURT – COUNTY COURT VIOLATIONS**

- **(4)(e)(I) MUNICIPALE & COUNTY- 48 HRS; 6 HRS NON-JUV FACILITY**

- Any juvenile arrested and detained for an alleged violation of any article of title 42, or for any alleged violation of a municipal or county ordinance, and not released on bond, must be taken before a judge with jurisdiction of such violation within forty-eight hours for the fixing of bail and conditions of bond pursuant to subsection (3)(a)(VII) of this section.
- A juvenile may be detained in a jail, lockup, or other place used for the confinement of adult offenders only for processing for no longer than six hours and during such time must be placed in a setting that is physically segregated by sight and sound from the adult offenders, and in no case may the juvenile be detained in such place overnight.
- After six hours, the juvenile may be further detained only in a juvenile detention facility operated by or under contract with the department of human services.
- In calculating time pursuant to this subsection (4), Saturdays, Sundays, and legal holidays are included.

- **(4)(e)(II) Fine for non-compliance**

- A sheriff or police chief who violates the provisions of subsection (4)(e)(I) of this section may be subject to a civil fine of no more than one thousand dollars.

- The decision to fine must be based on prior violations of the provisions of subsection (4)(e)(I) of this section by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subsection (4)(e)(I) of this section

- **(4)(f) adult facilities – gang affiliation**

- The official in charge of a jail, lockup, or other facility for the confinement of adult offenders that receives a juvenile for detention should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any such juvenile with known past or current affiliations or associations with any gang so as to prevent contact with other inmates at such jail, lockup, or other facility.
- The official should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new gang members from among the general inmate population. For purposes of this subsection (4)(f), “gang” is defined in section 19-1-103(52).

- **(4)(g) COUNTY JAIL IF OVER 18**

- Any person who is eighteen years of age or older who is being detained for a delinquent act or criminal charge over which the juvenile court has jurisdiction, or for which charges are pending in district court pursuant to a direct filing or transfer if the person has not already been transferred to the county jail pursuant to the provisions of subsection (3)(c)(IV) of this section, shall be detained in the county jail in the same manner as if such person is charged as an adult.

- **(4)(h) JAIL NOT JV CT SENTENCING OPTION FOR UNDER 18yrs**

- A juvenile court shall not order a juvenile offender who is under eighteen years of age at the time of sentencing to enter a secure setting or secure section of an adult jail or lockup as a disposition for an offense or as a means of modifying the juvenile offender's behavior.

- **(5) RIGHT TO BAIL**

- A juvenile has the right to bail as limited by the provisions of this section.

- **(6) TEMPORARY ORDERS FOR LEGAL CUSTODY**

- Except for a juvenile described in section 19-2-507.5(2)<sup>11</sup>, the court may also issue temporary orders for legal custody as provided in section 19-1-115.

- **(7) Governmental immunity**

- Any law enforcement officer, employee of the division of youth services, or another person acting under the direction of the court who in good faith transports any juvenile, releases any juvenile from custody pursuant to a written policy of a court, releases any juvenile pursuant to any written criteria established pursuant to this title 19, or detains any juvenile pursuant to court order or written policy or criteria established pursuant to this title 19 is immune from civil or criminal liability that might otherwise result by reason of such act.
- For purposes of any proceedings, civil or criminal, the good faith of any such person is presumed.

- **(8) Status Offense**

- **(a)** A juvenile who allegedly commits a status offense or is convicted of a status offense shall not be held in a secure area of a jail or lockup.
- **(b)**
  - sheriff or police chief who violates the provisions of subsection (8)(a) of this section may be subject to a civil fine of no more than one thousand dollars.
  - The decision to fine must be based on prior violations of the provisions of subsection (8)(a) of this section by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subsection (8)(a) of this section.

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<sup>11</sup> ten years of age and older but less than thirteen years of age---section 19-2-507.5(2) provides options for the court

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Validated Tools & other items				
Name in SB 19-108	User	Responsible Group	Deadline to Choose/Create	Statute
Detention Screening Tool	Preadjudication Services	Colorado Youth Detention Continuum State Workgroup	Sept. 1, 2019	§ 19-2-212(1)(b)(II)
Risk Screening Tool	Diversion	Juvenile Justice Reform Committee	Jan. 1, 2021	§ 24-33.5-2402(1)(c)
Relative Information Form	PreTrial, Court	Colorado Youth Detention Continuum State Workgroup	Jan. 1, 2021	§ 19-2-212(1)(a)(VIII)
Mental Health Screening Tool	Probation	Juvenile Justice Reform Committee	Jan. 1, 2021 (?)	§ 24-33.5-2402(1)(b)
Risk and Needs Assessment Tool	Probation DYS	Juvenile Justice Reform Committee	Jan. 1, 2021	§ 24-33.5-2402(1)(a)
Probation Standards	Probation	State Court Administrator	July 1, 2021	§ 19-2-925.2(1)
Length of Stay Matrix		Department of Human Services	Jan. 1, 2021	§ 19-2-921(3.3)(a)
Guidelines		Juvenile Justice Reform Committee		§ 24-33.5-2402.

Topic & Item Effective Dates/Deadlines				
Name in SB 19-108	User	Portion of Reform impacted	Effective Date	Statute
Risk Screening Tool		DA, Diversion	Jan. 1, 2021	
Detention Screening Tool		Pre-Trial, Court	Sep. 1, 2019	
New Detention Standard			July 1, 2020	
New Bail Standard			July 1, 2019	
Legislative Declaration re: Detention Standard			July 1, 2019	
Risk & Needs Assessment Tool		Probation/Court	Jan. 1, 2021	
Probation Standards			July 1, 2021	§ 19-2-925.2(1)
Terms of Probation			July 1, 2020	
Detn/Warrants re: Probation			July 1, 2020	
Relative Information Form		Pre-Trial, Court	Jan. 1, 2021	§ 19-2-212(1)(a)(VIII)
Mental Health			July 1, 2019	19-2-710(2)
Mental Health Screening Tool			Jan. 1, 2021	
Diversion			July 1, 2019 Jan 1, 2021*	(*Jan. 1, 2021 for risk screening implementation)
Risk Screening Tool		Diversion	Jan. 1, 2021	

## New standard for detention

### § 19-2-211.5 Legislative Declaration (eff. July 1, 2019)

It is the intent of the general assembly in adopting section 19-2-507.5 and amending sections 19-2-212, 19-2-507, and 19-2-508 to limit the use of detention to only those children who pose a substantial risk of serious harm to others or that are a flight risk from prosecution. § 19-2-211.5

substantial risk of serious harm to others

OR

a flight risk

Reason: The general assembly declares that the placement of children in a detention facility exacts a negative impact on the mental and physical well-being of the child and such detention may make it more likely that the child will reoffend. § 19-2-211.5

Children who are detained are more likely to penetrate deeper into the juvenile justice system than similar children who are not detained, and community-based alternatives to detention should be based on the principle of using the least restrictive setting possible and returning a child to his or her home, family, or other responsible adult whenever possible consistent with public safety. § 19-2-211.5

### § 19-2-507(2) Screening Teams – Release or Detention (eff. July 1, 2020)

	19-2-507(2)	19-2-507(2) (eff. July 1, 2020)
<b>Presumption</b>	The law enforcement officer or the court <b>shall detain</b> the juvenile if the law enforcement officer or the court determines that the juvenile's immediate welfare or the protection of the community requires detainment.	<b>If the law enforcement officer does not release</b> the juvenile to the care of such juvenile's parents, legal guardian, kin, or other responsible adult,
	In determining whether a juvenile requires detention, the law enforcement officer or the court shall <b>follow criteria for the detention</b> of juvenile offenders which criteria are established in accordance with section 19-2-212	the screening team shall administer a <b>validated detention screening instrument</b> developed or adopted pursuant to section 19-2-212.
	and <b>shall make efforts</b> to keep the juvenile with his or her parent, guardian, or legal custodian. <sup>1</sup>	The law enforcement officer, screening team, or juvenile court <b>shall not remove</b> the juvenile from the custody of the parent or legal guardian pursuant to this section <b>unless</b> the screening team or the juvenile court:

<sup>1</sup> Although the reference to efforts made to keep the juvenile in their home is removed from this section effective July 1, 2020, section 19-2-508(3)(a)(XI)(B) (subsection is (3)(a)(VII)(B) prior to July 1, 2020) will still require that if the court orders further detention of a juvenile, the order must contain specific findings regarding whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home. Additionally, a new provision will require that if the court orders legal custody of a juvenile to the county, the order must contain specific findings regarding whether the county made reasonable efforts to identify kin or a suitable adult with which to place the juvenile. § 19-2-906.5(1)(d) (eff. July 1, 2020).

**New standard for detention**

§ 19-2-507(2) Screening Teams – Release or Detention (eff. July 1, 2020)

<b>Detention Standard</b>	One prong	Two Pronged
	the juvenile's immediate welfare or the protection of the community requires detainment.	<b>(1)</b> detn screening tool scored juv as detn eligible <b>OR</b> grounds for override of instrument <b>AND</b> <b>(2)</b> the juvenile poses a substantial risk of serious harm to others <b>OR</b> a substantial risk of flight <sup>2</sup> from prosecution and finds that community-based alternatives to detention are insufficient to reasonably mitigate that risk.
		<b>Cannot detain if juvenile is solely a threat to themselves or for their immediate welfare<sup>3</sup></b>
<b>Who/What determines whether standard met</b>	law enforcement officer or the court	Validated detn screening tool (prong 1) & screening team or the juvenile court (prong 2)

General comparison:

19-2-507(2)	
Current	July 1, 2020
(2) The law enforcement officer or the court shall detain the juvenile if the law enforcement officer or the court determines that the juvenile's immediate welfare or the protection of the community requires detainment. In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the detention of juvenile offenders which criteria are established in accordance with section 19-2-212, and shall make efforts to keep the juvenile with his or her parent, guardian, or legal custodian. (ALL STRUCK)	n/a
n/a	<b>(2)</b> <b>(a)</b> If the law enforcement officer does not release the juvenile to the care of such juvenile's parents, legal guardian, kin, or other responsible adult, the screening team shall administer a validated detention screening instrument developed or adopted pursuant to section 19-2-212. The law enforcement officer, screening team, or juvenile court shall not remove the juvenile

<sup>2</sup> Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance. § 19-2-507(2)(a)(II) (eff. July 1, 2020)

<sup>3</sup> § 19-2-507.5(1)(d)-(e), (3)(e)-(f) (eff. July 1, 2020). Detention is **not permitted** for the following (d) Juveniles who are solely assessed as suicidal or exhibit behavior placing them at imminent risk of suicide; (e) Juveniles who have not committed a delinquent act but present an imminent danger to self or others or appear to be gravely disabled as a result of a mental health condition or an intellectual and developmental disability. § 19-2-507.5(1)(d)-(e). A juvenile **shall not** be placed in detention solely: (e) Due to a risk of the juvenile's self-harm; (f) In order to attempt to punish, treat, or rehabilitate the juvenile. § 19-2-507.5(3)(e)-(f).

	<p>from the custody of the parent or legal guardian pursuant to this section unless the screening team or the juvenile court:</p> <p style="padding-left: 40px;">(I)</p> <p style="padding-left: 80px;">(A) First finds that a validated detention screening instrument selected or adopted pursuant to section 19-2-212 has been administered and the juvenile scored as detention-eligible; or</p> <p style="padding-left: 80px;">(B) There are grounds to override the results of the detention screening instrument based on the criteria developed in accordance with section 19-2-212; and</p> <p style="padding-left: 40px;">(II) Finds that the juvenile <b>poses a substantial risk of serious harm to others</b> or <u>a substantial risk of flight from prosecution and finds that community-based alternatives to detention are insufficient to reasonably mitigate that risk</u>. Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.</p>
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§ 19-2-507(3) Screening Teams – Release or Detention (eff. July 2, 2020)

	<b>19-2-507(3)</b>	<b>19-2-507(3) (eff. July 1, 2020)</b>
<b>Presumption</b>	Juvenile shall be released unless	Juvenile shall be released unless
	a determination has been made in accordance with subsection (2) of this section that	a determination in subsection (2) that the juvenile poses a
<b>Extent of Risk</b>	n/a	<b>substantial risk</b>
<b>Degree of harm</b>	n/a	<b>of serious harm</b>
<b>Who</b>	<b>Juvenile’s immediate welfare or the protection of the community</b>	<b>to others</b>
	requires that such juvenile be detained.	requires that the juvenile be detained.
<b>Reasonable Conditions on release</b>	<b>which conditions may include participation in a preadjudication service program established pursuant to section 19-2-302.</b>	<b>pursuant to section 19-2-508(5).</b> (right to bail)

<b>Relative Information Form</b>	n/a	If juvenile is released, parents shall complete the relative Information form no later than the next hearing on the matter.

General comparison:

<b>19-2-507(3)</b>	
<b>Current</b>	<b>July 1, 2020</b>
<p>(3) The juvenile shall be released to the care of such juvenile's parents or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that such juvenile's <b><u>immediate welfare or the protection of the community</u></b> requires that such juvenile be detained. The court may make reasonable orders as conditions of said release, <b>which conditions may include participation in a preadjudication service program established pursuant to section 19-2-302.</b> In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released shall be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise shall subject the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.</p>	<p><b>(3)</b></p> <p><b>(a)</b> The juvenile must be released to the care of the juvenile's parents, kin, or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that the juvenile's <b><u>substantial risk of serious harm to others</u></b> requires that the juvenile be detained. The court may make reasonable orders as conditions of release <b>pursuant to section 19-2-508(5).</b> In addition, the court may provide that any violation of such orders may subject the juvenile to contempt sanctions of the court. The parent, kin, or other person to whom the juvenile is released is required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise subjects the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.</p> <p><b>(b)</b> Parents or legal guardians of a juvenile released from detention pursuant to this section shall complete the <b>relative information form</b> described in section 19-2-212(1)(h) no later than the next hearing on the matter.</p>

Presumption not to release prior to detention hearing

	<b>19-2-508(3)(c)</b>	<b>19-2-508(3)(c) (eff. July 1, 2020)</b>
	A juvenile taken to a detention or shelter facility or a temporary holding facility as the result of an alleged act including the following (Felony crime of violence, Firearm during commission of felony against a person, Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun))	A juvenile taken to a detention or shelter facility or a temporary holding facility as the result of an alleged act including the following (Felony crime of violence, Firearm during commission of felony against a person, Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun))

**New standard for detention**

§ 19-2-508(3)(a) Detention Hearing (eff. July 2, 2020)

	shall not be released from such facility if a law enforcement agency has requested that a detention hearing be held	shall not be released from such facility if a law enforcement agency has requested that a detention hearing be held
	to determine whether the <b>juvenile's immediate welfare or the protection of the community</b> requires that the juvenile be detained.	to determine whether the juvenile's <b>substantial risk of serious harm to others</b> requires that the juvenile be detained.
	A juvenile shall not thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.	A juvenile shall not thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.

§ 19-2-508(3)(a) Detention Hearing (eff. July 2, 2020)

	<b>19-2-508(3)(a)</b>	<b>19-2-508(3)(a) (eff. July 1, 2020)</b>
	(3)(a)(III) With respect to this section, the court may further detain the juvenile only if the court finds from the information provided at the hearing that the	(3)(a)(IV) With respect to this section, the court may further detain the juvenile only if the court finds from the information provided at the hearing that:
<b>Standard</b>	<b>juvenile is a danger to himself or herself or to the community;</b> except that	Three pronged: (1) Probable cause exists; (2) Detention eligible per screening instrument (or grounds to override); <b>AND</b> (3) <b>The juvenile poses a substantial risk of serious harm to others or a substantial risk of flight from prosecution<sup>4</sup></b> and community-based alternatives to detention are insufficient to reasonably mitigate that risk.
	Juvenile is 10, 11 or 12 (with exceptions) Court shall consider any record of any prior adjudications	Juvenile is 10, 11 or 12 (with exceptions) Court shall consider the results of the detention screening instrument.
<b>Rebuttable presumption</b>	that a juvenile is a danger to himself or herself or to the community if:	that a juvenile poses a substantial risk of serious harm to others if:
	Felony crime of violence	<i>Unchanged</i> (but there must also be (1) probable cause and (2) affirmative detention screening instrument factor)
	Firearm during commission of felony against a person	<i>Unchanged</i> (but there must also be (1) probable cause and (2) affirmative detention screening instrument factor)
	Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun)	<i>Unchanged</i> (but there must also be (1) probable cause and (2) affirmative detention screening instrument factor)
<b>Court must enter one of</b>		

<sup>4</sup> Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance. § 19-2-508(3)(a)(IV)(C) (eff. July 1, 2020)

**New standard for detention**

§ 19-2-508(3)(c) Presumption not to release pre-Detention Hearing (eff. July 2, 2020)

	<b>19-2-508(3)(a)</b>	<b>19-2-508(3)(a) (eff. July 1, 2020)</b>
<b>the following orders</b>		
	(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;	(A) That the juvenile be released to the custody of a parent, guardian, legal custodian, <b>kin, or other suitable person</b> without the posting of bond;
	(B) That the juvenile be placed in a shelter facility;	(B) That the juvenile be placed in a <b>temporary</b> shelter facility;
	(C) That bail be set and that the juvenile be released upon the posting of that bail;	(C) That bail be set and that the juvenile be released upon the posting of that bail;
	(D) no bail set up & detn continue without bail w/finding that juvenile is a <b>danger to himself or herself or to the community</b> .	(D) no bail set up & detn continue without bail w/finding that juvenile poses a <b>substantial risk of serious harm to others</b> . (but there must also be (1) probable cause and (2) affirmative detention screening instrument factor?)
	(E) That no bail be set and that, upon the court's finding that the juvenile is a <b>danger to himself or herself or to the community</b> , the juvenile be placed in a preadjudication service program (excludes Felony crime of violence, Firearm during commission of felony against a person, Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun))	(E) That no bail be set and that, upon the court's finding that the juvenile poses a <b>substantial risk of serious harm to others</b> , the juvenile be placed in a preadjudication service program established (excludes Felony crime of violence, Firearm during commission of felony against a person, Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun))

§ 19-2-508(3)(c) Presumption not to release pre-Detention Hearing (eff. July 2, 2020)

	<b>19-2-508(3)(c)</b>	<b>19-2-508(3)(c) (eff. July 1, 2020)</b>
	A juvenile taken to a detention or shelter facility or a temporary holding facility as the result of an alleged act including the following (Felony crime of violence, Firearm during commission of felony against a person, Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun))	A juvenile taken to a detention or shelter facility or a temporary holding facility as the result of an alleged act including the following (Felony crime of violence, Firearm during commission of felony against a person, Possessing a dangerous or illegal weapon (except if item is BB gun, a pellet gun or a gas gun))
	shall not be released from such facility if a law enforcement agency has requested that a detention hearing be held	shall not be released from such facility if a law enforcement agency has requested that a detention hearing be held

**New standard for detention**

§ 19-2-509 Bail (effective July 1, 2019)

	to determine whether the <b>juvenile's immediate welfare or the protection of the community</b> requires that the juvenile be detained.	to determine whether the juvenile's <b>substantial risk of serious harm to others</b> requires that the juvenile be detained.
	A juvenile shall not thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.	A juvenile shall not thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile.
<b>If direct filed-factor court must consider when determining whether to place in adult jail</b>	(G) Whether the juvenile presents <b>an imminent risk of harm to himself or herself or others</b> within a juvenile facility;	(G) Whether the juvenile presents <b>an imminent risk of serious harm to others</b> within a juvenile facility;

§ 19-2-509 Bail (effective July 1, 2019)

	<b>19-2-508(3)(c)</b>	<b>19-2-508(3)(c) (eff. July 1, 2020)</b>
	(2) In lieu of a bond, a juvenile who the court determines is <b>a danger to himself or herself or to the community</b> may be placed in a preadjudication service program established pursuant to section 19-2-302.	<b>(2)</b> In lieu of a bond, a juvenile who the court determines <b>poses a substantial risk of serious harm to others</b> may be placed in a preadjudication service program established pursuant to section 19-2-302.
<b>Conditions impose by court may include</b>	any other conditions or limitations on the release of the juvenile as are <b>reasonably necessary for the protection of the juvenile and the community.</b>	any other conditions or limitations on the release of the juvenile as are <b>reasonably necessary for the protection of the community.</b>

§ 19-2-507.5 Limitations on Detention (eff. July 1, 2020)

**(3)** A juvenile shall not be placed in detention solely:

**(j)** As a response to technical violations of probation unless the results of a detention screening instrument indicate that the juvenile **poses a substantial risk of serious harm to others** or if the applicable graduated responses system adopted pursuant to section 19-2-925 allows for such a placement.

§ 19-2-925 Probation – terms

**(5)** Whenever

- a probation office has reasonable cause to believe that a juvenile has committed a violation of the terms and conditions of probation and
- that graduated responses developed pursuant to subsection (4) of this section have previously been applied
- **--or--**
- when the nature of the violation **poses a substantial risk of serious harm to others,**

the probation officer, following the approval of his or her chief probation officer or the chief's designee, shall petition the court for revocation **and** shall file written information with the court concerning the juvenile's violation behavior history **and** the responses applied pursuant to the graduated response system pursuant to subsection (4) of this section.

(6) Unless there is reason to believe that a juvenile would not appear, would interfere with the juvenile justice process, **or poses substantial risk of serious harm to others**, probation officers shall issue a summons, or other method approved by local court rule, rather than a warrant when filing a petition for revocation.

**§ 19-2-302 Preadjudication Service Program**

(3) local justice plan must provide for assessment of juveniles taken into custody and detained.... Which must be based on criteria established per 19-2-212 (WHICH WON'T BE AVAILABLE UNTIL JAN 1, 2021), so that relevant information may be presented to the judge presiding over the detention hearing. The information provided to the court through the screening process, which information must include the record of any prior adjudication of the juvenile, is intended to enhance the court's ability to make a more appropriate detention and bond decision, based on facts relative to the juvenile's....

<b>PREVIOUS</b>	<b>REVISED</b>
Based on facts relative to the juvenile's	Based on facts relative to the juvenile's
Welfare or the juvenile's risk of danger to the community	<b>Substantial risk of serious harm to others</b>

## Detention Screening Tool/Instrument

### § 19-2-212 Colorado Youth Detention Continuum State Workgroup Duties (eff. July 1, 2019)

19-2-212(1)(b)(II) Researched-based detention screening instrument to be used statewide to inform placement to juveniles in a detention facility. Before January 1, 2021.

19-2-212(1)(b)(II)(D) identify statewide scoring override policies that minimize subjective decisions to hold a juvenile in a detention facility, while allowing for local flexibility.

19-2-212(1)(a)(VIII) “Relative information form” – must be available at each judicial district to each parent or legal guardian of a juvenile screened for detention and participation in alternative services. (developed by statewide CYDC prior to Jan. 1, 2021)..

### § 19-2-507.5 Limitations on Detention (eff. July 1, 2019)

**(3)** A juvenile shall not be placed in detention solely: (j) [a] a response to technical violations of probation unless the results of a detention screening instrument indicate that the juvenile poses a substantial risk of serious harm to others or if the applicable graduated response system adopted pursuant to section 19-2-925 allows for such a placement.

19-2-302 Preadjudication Service Program (eff. July 1, 2019)

(3) local justice plan must provide for **assessment** of juveniles taken into custody and detained.... Which must be based on criteria established per 19-2-212 (WHICH WON'T BE AVAILABLE UNTIL JAN 1, 2021), so that relevant information may be presented to the judge presiding over the detention hearing. The information provided to the court through the **screening process**, which information must include the record of any prior adjudication of the juvenile, is intended to enhance the court’s ability to make a more appropriate detention and bond decision, based on facts relative to the juvenile’s....

### § 19-2-507(2) screening teams – release or detention (eff. July 1, 2020)

19-2-507(2)	
Current	July 1, 2020
(2) The law enforcement officer or the court shall detain the juvenile if the law enforcement officer or the court determines that the juvenile's immediate welfare or the protection of the community requires detainment. In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the detention of juvenile offenders which criteria are established in accordance with section 19-2-212, and shall make efforts to keep the juvenile with his or her parent, guardian, or legal custodian. (ALL STRUCK)	n/a
n/a	<b>(2)</b>

	<p><b>(a)</b> If the law enforcement officer does not release the juvenile to the care of such juvenile's parents, legal guardian, kin, or other responsible adult, the screening team shall administer a <b>validated detention screening instrument</b> developed or adopted pursuant to section 19-2-212. The law enforcement officer, screening team, or juvenile court shall not remove the juvenile from the custody of the parent or legal guardian pursuant to this section unless the screening team or the juvenile court:</p> <p><b>(i)</b></p> <p><b>(A)</b> First finds that a <b>validated detention screening instrument</b> selected or adopted pursuant to section 19-2-212 has been administered and the juvenile scored as detention-eligible; or</p> <p><b>(B)</b> There are grounds to override the results of the <b>detention screening instrument</b> based on the criteria developed in accordance with section 19-2-212; and</p> <p><b>(ii)</b> Finds that the juvenile poses a substantial risk of serious harm to others or a substantial risk of flight from prosecution and finds that community-based alternatives to detention are insufficient to reasonably mitigate that risk. Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.</p> <p><b>(b)</b> The <b>detention screening instrument</b> must be administered by the screening team for each juvenile under consideration for detention and must be administered by a screener who has completed training to administer the detention screening instrument.</p> <p><b>(c)</b> Any information concerning a juvenile that is obtained during the administration of the <b>detention screening instrument</b> must be used solely for the purpose of making a recommendation to the court regarding the continued detention of the juvenile. The information is not subject to subpoena or other court process, for use in any other proceeding, or for any other purpose.</p> <p><b>(d)</b> Court records and division of youth services records must include data on <b>detention screening</b> scores and, if the score does not mandate detention, the explanation for the override placing the juvenile in detention.</p> <p><b>(e)</b> A juvenile who must be taken from his or her home but who does not require physical restriction must be given temporary care with his or her grandparent, kin, or other suitable person; in a temporary shelter facility designated by the court; or with</p>
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**Detention Screening Tool/Instrument**

§ 19-2-508 Detention & temporary shelter (eff. July 1, 2020)

	<p>the county department of human or social services and must not be placed in detention.</p> <p><b>(f)</b> The screening team and the juvenile court shall use the results from the <b>detention screening instrument</b> in making a release determination. Release options include allowing a juvenile to return home with no supervision, or with limited supervision such as a location monitoring device, or a referral to a preadjudication alternative to detention or service program established pursuant to section 19-2-302.</p>
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**§ 19-2-508 Detention & temporary shelter (eff. July 1, 2020)**

<p>(3)(a)(I.5) The law enforcement agency that arrested the juvenile shall promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall promptly provide to the court and to defense counsel <u>any screening material</u> prepared pursuant to the juvenile's arrest. Upon completion of the detention hearing, the defense shall return any materials received pursuant to this <u>subparagraph (I.5)</u> unless the appointment is continued at the conclusion of the hearing.</p>	<p><b>(3)(a)(II)</b> The law enforcement agency that arrested the juvenile shall promptly provide to the court and to defense counsel the affidavit supporting probable cause for the arrest and the arrest report, if the arrest report is available, and the screening team shall promptly provide to the court and to defense counsel <b>results from the detention risk screening</b> prepared pursuant to the juvenile's arrest. Upon completion of the detention hearing, the defense shall return any materials received pursuant to this <u>subsection (3)(a)(II)</u> unless the appointment is continued at the conclusion of the hearing.</p>
<p>(3)(a)(III) With respect to this section, the court may further detain the juvenile only if the court finds from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community; except that</p>	<p>(3)(a)(IV) With respect to this section, the court may further detain the juvenile only if the court finds from the information provided at the hearing that:</p> <p>(A) Probable cause exists to believe that the delinquent act charged was committed by the juvenile;</p> <p>(B) On and after thirty days after <b>the screening instrument</b> has been developed or adopted pursuant to section 19-2-212, the <b>validated detention screening instrument</b> has been administered and the juvenile scored as detention-eligible; or there are grounds to override the result of the <b>detention screening instrument</b> based on the criteria developed in accordance with section 19-2-212; and</p> <p>(C) The juvenile poses a substantial risk of serious harm to others or a substantial risk of flight from prosecution and community-based alternatives to detention are insufficient to reasonably mitigate that risk. Flight from prosecution is distinguished from simple failure to appear and must generally be evidenced by a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.</p>

<p>(3)(a)(III) . . . a juvenile who is ten years of age and older but less than thirteen years of age may not be ordered to further detention unless the juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5. The court shall receive any information having probative value regardless of its admissibility under the rules of evidence. In determining whether a juvenile requires detention, the court shall consider any record of any prior adjudications of the juvenile. There is a rebuttable presumption that a juvenile is a danger to himself or herself or to the community if:</p>	<p>(3)(a)(V) A court shall not order further detention for a juvenile who is ten years of age and older but less than thirteen years of age unless the juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5. The court shall receive any information having probative value regardless of its admissibility under the rules of evidence. In determining whether a juvenile requires detention, the court shall consider the results of the <b>detention screening instrument</b>. There is a rebuttable presumption that a juvenile poses a substantial risk of serious harm to others if:</p>
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**§ 19-2-302 Preadjudication Service Program**

(3) **local justice plan must provide for assessment of juveniles taken into custody and detained....** Which must be based on criteria established per 19-2-212 (WHICH WON'T BE AVAILABLE UNTIL JAN 1, 2021), so that relevant information may be presented to the judge presiding over the detention hearing. The information provided to the court through the screening process, which information must include the record of any prior adjudication of the juvenile, is intended to enhance the court's ability to make a more appropriate detention and bond decision, based on facts relative to the juvenile's....

PREVIOUS	REVISED
Based on facts relative to the juvenile's	Based on facts relative to the juvenile's
Welfare or the juvenile's risk of danger to the community	Substantial risk of serious harm to others

## Limitations on Detention

### § 19-2-507.5 Limitation on Detention (eff. July 1, 2020)

**(1)** Detention is **not permitted** for the following:

- (a)** Juveniles who have not committed, or have not been accused of committing, a delinquent act unless otherwise found in contempt of court;
- (b)** Delinquent and nondelinquent juveniles who have been placed in the legal custody of a county department of human or social services pursuant to a petition in dependency or neglect and are solely awaiting out-of-home placement;
- (c)** Juveniles who at admission require medical care, are intoxicated, or are under the influence of drugs, to an extent that custody of the juvenile is beyond the scope of the detention facility's medical service capacity;
- (d)** Juveniles who are solely assessed as suicidal or exhibit behavior placing them at imminent risk of suicide; and
- (e)** Juveniles who have not committed a delinquent act but present an imminent danger to self or others or appear to be gravely disabled as a result of a mental health condition or an intellectual and developmental disability.

**(2)** (formerly 19-2-508(2)(b)) A juvenile court **shall not order** a juvenile who is ten years of age and older but less than thirteen years of age to detention unless the juvenile has been arrested for a felony or weapons charge pursuant to section 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5. A preadjudication service program created pursuant to section 19-2-302 shall evaluate a juvenile described in this subsection (2). The evaluation may result in the juvenile:

- (a)** Remaining in the custody of a parent or legal guardian;
- (b)** Being placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship care placement, as defined in section 19-1-103(71.3), or other suitable person under such conditions as the court may impose;
- (c)** Being placed in a temporary shelter facility; or
- (d)** Being referred to a local county department of human or social services for assessment for placement.

**(3)** A juvenile **shall not** be placed in detention solely:

- (a)** Due to lack of supervision alternatives, service options, or more appropriate facilities;
- (b)** Due to the community's inability to provide treatment or services;
- (c)** Due to a lack of supervision in the home or community;
- (d)** In order to allow a parent, guardian, or legal custodian to avoid his or her legal responsibility;
- (e)** Due to a risk of the juvenile's self-harm;
- (f)** In order to attempt to punish, treat, or rehabilitate the juvenile;
- (g)** Due to a request by a victim, law enforcement, or the community;
- (h)** In order to permit more convenient administrative access to the juvenile;
- (i)** In order to facilitate further interrogation or investigation; or

**(j)** As a response to technical violations of probation unless the results of a detention screening instrument indicate that the juvenile poses a substantial risk of serious harm to others or if the applicable graduated responses system adopted pursuant to section 19-2-925 allows for such a placement

Terms/Conditions of Probation

§ 19-2-925 Probation –Terms (eff. July 1, 2019)

CONDITIONS OF PROBATION	
(2) The court shall, as minimum conditions of probation, order that the juvenile:	(2)(a) <b>Conditions of probation</b> shall be customized to each juvenile based on the guidelines developed by the committee on juvenile justice reform pursuant to section 24-33.5-2402. The court shall, as <b>minimum conditions of probation</b> , order that the juvenile:
(a) Not violate any federal or state statutes, municipal ordinances, or orders of the court;	(I) Not violate any federal or state statutes, municipal ordinances, or orders of the court;
(b) Not consume or possess any alcohol or use any controlled substance without a prescription;	n/a
(c) Not use or possess a firearm, a dangerous or illegal weapon, or an explosive or incendiary device, unless granted written permission by the court or probation officer;	(II) Not use or possess a firearm, a dangerous or illegal weapon, or an explosive or incendiary device, unless granted written permission by the court or probation officer;
(d) Attend school or an educational program or work regularly at suitable employment, and, if the juvenile has an individualized education program pursuant to section 22-20-108, C.R.S., the court may order the juvenile to comply with his or her individualized education program, taking into account the intellectual functioning, adaptive behavior, and emotional behaviors associated with the juvenile's disabilities, and subject to a manifestation determination pursuant to section 22-33-106(1)(c), C.R.S.; except that the court shall not require any such juvenile to attend a school from which he or she has been expelled without the prior approval of that school's local board of education;	n/a
(e) Report to a probation officer at reasonable times as directed by the court or probation officer;	(III) Report to a probation officer at reasonable times as directed by the court or probation officer;
(f) Permit the probation officer to visit the juvenile at reasonable times at his or her home or elsewhere;	(IV) Permit the probation officer to visit the juvenile at reasonable times at his or her home or elsewhere;
(g) Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer;	(V) Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer;
(h) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;	(VI) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;
(i) Make restitution as ordered by the court;	(VII) Make restitution as ordered by the court;
(j) Pay the victim compensation fee as ordered by the court;	(VIII) Pay the victim compensation fee as ordered by the court;

**Terms/Conditions of Probation**

§ 19-2-925 Probation –Terms (eff. July 1, 2019)

<p>(k) Pay the surcharge levied pursuant to section 24-4.2-104(1)(a)(I), C.R. S.; and</p>	<p>(IX) Pay the surcharge levied pursuant to section 24-4.2-104(1)(a)(I); and</p>
<p>(l) May be evaluated to determine whether the juvenile would be suitable for restorative justice practices that would be a part of the juvenile's probation program; except that the court may not order participation in restorative justice practices if the juvenile was adjudicated a delinquent for unlawful sexual behavior as defined in section 16-22-102(9), C.R.S., a crime in which the underlying factual basis involves domestic violence as defined in section 18-6-800.3(1), C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a protection order as defined in section 18-6-803.5, C.R.S.</p>	<p>(X) May be evaluated to determine whether the juvenile would be suitable for restorative justice practices that would be a part of the juvenile's probation program; except that the court may not order participation in restorative justice practices if the juvenile was adjudicated a delinquent for unlawful sexual behavior as defined in section 16-22-102(9), a crime in which the underlying factual basis involves domestic violence as defined in section 18-6-800.3(1), stalking as defined in section 18-3-602, or violation of a protection order as defined in section 18-6-803.5.</p>
<p>n/a</p>	<p>(2)(b) The court shall use the results from a validated risk and needs assessment adopted by the juvenile justice reform committee pursuant to section 24-33.5-2402(1)(b) to inform the court of <b>additional conditions of probation</b>, as necessary.</p>
<p>(3) (a) The court may periodically review the terms and conditions of probation and the progress of each juvenile placed on probation. Counsel for the juvenile does not have to be present at any probation review hearing unless notified by the court that a petition to revoke probation has been filed.</p>	<p>(3) (a) The court may periodically review the terms and conditions of probation and the progress of each juvenile placed on probation. Counsel for the juvenile does not have to be present at any probation review hearing unless notified by the court that a petition to revoke probation has been filed.</p>
<p>(3) (b) The court may release a juvenile from probation or modify the terms and conditions of his or her probation at any time, but any juvenile who has complied satisfactorily with the terms and conditions of his or her probation for a period of two years shall be released from probation, and the jurisdiction of the court shall be terminated.</p>	<p>(3) (b) The court may release a juvenile from probation prior to the completion of his or her term of probation, pursuant to section 19-2-925, or <b>modify the terms and conditions of his or her probation at any time</b>, but any juvenile who has complied satisfactorily with the terms and <b>conditions of his or her probation</b> for a period of two years shall be released from probation, and the jurisdiction of the court shall be terminated.</p>

**New Section (4)**

(4) Before January 1, 2021, the state court administrator shall establish rules to develop a statewide system of structured community-based graduated responses, including incentives and sanctions, to guide probation officers in determining how best to motivate positive juvenile behavior change and the appropriate response to a violation of **terms and conditions of juvenile probation**.

Graduated responses means an accountability-based series of sanctions and services designed to respond to a juvenile's violation of probation quickly, consistently, and proportionally and incentives to motivate positive behavior change and successful completion of probation and his or her treatment goals.

Juvenile probation shall adopt and use a state juvenile graduated responses and incentives system developed pursuant to this subsection (4) or develop and use a locally developed system that is aligned to best practices.

<p>Policies and procedures for the graduated responses system must:</p>
<p>(a) Include incentives that encourage the completion of treatment milestones as well as compliance with the <b>terms and conditions of a juvenile's probation</b> and that reward behavior aligned with the expectations of supervision and the juvenile's case plan; and</p>
<p>(b) Require that a response to a juvenile's violation of the <b>terms and conditions of his or her supervision</b> take into consideration:</p>
<p>(I) The risk of the juvenile to reoffend, as determined by the results of a validated risk and needs assessment;</p>
<p>(II) The previous history of violations and the underlying cause of the juvenile's behavior leading to the violation;</p>
<p>(III) The severity of the current violation;</p>
<p>(IV) The juvenile's case plan; and</p>
<p>(V) The previous responses by the juvenile to past violations.</p>
<p>(5) Whenever</p> <ul style="list-style-type: none"> <li>• a probation office has reasonable cause to believe that a juvenile has committed a violation of the <b>terms and conditions of probation</b> and</li> <li>• that graduated responses developed pursuant to subsection (4) of this section have previously been applied</li> <li>• --or--</li> <li>• when the nature of the violation poses a substantial risk of serious harm to others,</li> </ul> <p>the probation officer, following the approval of his or her chief probation officer or the chief's designee, shall petition the court for revocation and shall file written information with the court concerning the juvenile's violation behavior history and the responses applied pursuant to the graduated response system pursuant to subsection (4) of this section.</p>
<p>(6) Unless there is reason to believe that a juvenile would not appear, would interfere with the juvenile justice process, or poses substantial risk of serious harm to others, probation officers shall issue a summons, or other method approved by local court rule, rather than a warrant when filing a petition for revocation.</p>
<p>(7) The state court administrator shall collect data related to the use of the graduated responses and incentives system and report this data annually to [selected committees of the general assembly], and the chief justice of the Colorado supreme court. Notwithstanding the provisions of section 24-1-136(11)(a)(I), the reports to the committees continue indefinitely. Data collected by the state court administrator must include at a minimum the types of responses and incentives that were issued, the number of formal violations filed, and the behavior resulting in the violation.</p>

## Guidelines for Terms/Conditions of Probation

### § 24-33.5-2402 Juvenile Justice Reform Committee Duties

(1) The committee has the following duties:

(a)(I) Adopt a validated risk and needs assessment tool or tools to be used statewide that uses an accepted standard of assessment. The committee shall determine if one tool must be used by the entire juvenile justice system or if the judicial department or division of youth services may use different validated tools. The tool or tools must be used to assist:

(E) Establish policies for the utilization of the validated risk and needs assessment tool, including policies to objectively guide supervision levels and the length of time on supervision, **develop individualized conditions of juvenile probation**, and develop case plans for each juvenile committed to the department of human services or placed on juvenile probation;

### § 19-2-925 Probation –Terms (eff. July 1, 2019)

<b>CONDITIONS OF PROBATION</b>	
(2) The court shall, as minimum conditions of probation, order that the juvenile:	(2)(a) Conditions of probation shall be customized to each juvenile based on the <b>guidelines developed by the committee on juvenile justice reform pursuant to section 24-33.5-2402</b> . The court shall, as minimum conditions of probation, order that the juvenile:

## Detention/Warrants Related to Probation

### § 19-2-507.5 Limitations on Detention (eff. July 1, 2020)

**(3)** A juvenile **shall not** be placed in detention solely:

**(j)** As a response to technical violations of probation unless the results of a detention screening instrument indicate that the juvenile poses a substantial risk of serious harm to others or if the applicable **graduated responses system** adopted pursuant to section 19-2-925 allows for such a placement.

### § 19-2-925 Probation – terms

(6) Unless there is reason to believe that a juvenile would not appear, would interfere with the juvenile justice process, or poses substantial risk of serious harm to others, **probation officers shall issue a summons**, or other method approved by local court rule, **rather than a warrant when filing a petition for revocation**.

## Risk & Needs Assessment Tool

### § 24-33.5-2402 Duties of the Juvenile Justice Reform Committee (eff. July 1, 2019)

(1) The committee has the following duties:

(a)(I) Adopt a validated **risk and needs assessment tool or tools** to be used statewide that uses an accepted standard of assessment. The committee shall determine if one tool must be used by the entire juvenile justice system or if the judicial department or division of youth services may use different validated tools. The tool or tools must be used to assist:

(A) Juvenile courts in determining the actions to take for each juvenile subject to the jurisdiction of the juvenile court;

(B) The division of youth services in development of case and reentry plans and the determination of supervision levels for juveniles committed to the department of human services; and

(C) Juvenile probation departments in the development of case plans and the determination of supervision levels for juveniles placed on probation.

(II) In adopting the **validated risk and needs assessment tool or tools** pursuant to subsection (1)(a)(I) of this section, the committee shall consult with expert organizations, consult with the delivery of child welfare services task force created in section 26-5-105.8, and review research and best practices from other jurisdictions and may consider a validated tool or tools already being used in the state. On or before January 1, 2021, the committee shall:

(A) Select a **validated risk and needs assessment tool or tools**; except that the committee shall select the tool or tools by September 1, 2019.

(B) Determine the population of juveniles for which the **validated risk and needs assessment** must be conducted prior to disposition, while in the custody of the division of youth services, or under juvenile probation supervision;

(C) Determine the time frame prior to disposition and at regular intervals thereafter that the **validated risk and needs assessment** must be conducted to determine risk levels and to identify intervention needs and who is responsible for conducting the assessment;

(D) Establish policies for how the results of the **validated risk and needs assessments** are compiled and how the results are shared and with which parties they are shared;

(E) Establish policies for the utilization of the **validated risk and needs assessment tool**, including policies to objectively guide supervision levels and the length of time on supervision, develop individualized conditions of juvenile probation, and develop case plans for each juvenile committed to the department of human services or placed on juvenile probation;

(F) Develop a plan to conduct a validation study of the **validated risk and needs assessment tool or tools** on the juveniles who are administered each tool;

(G) Develop a plan to collect and report data annually on the results of the **validated risk and needs assessments**; and

(H) Calculate the fiscal cost of collecting and reporting the data required by subsection (1)(a)(II)(G) of this section and report the cost to the office of state planning and budgeting.

§ 24-33.5-2402(1)(d) By July 1, 2020, select a qualified vendor or national provider of risk assessment technical assistance to assist the department of human services, juvenile probation, and the juvenile court with the adoption and implementation of the **validated risk and needs assessment tool or tools** and validated mental health screening tool or tools and assist juvenile diversion programs and district attorney's offices with the adoption and implementation of a validated risk screening tool. The assistance must include an implementation plan, employee training, policy development, and the establishment of quality assurance and data collection protocols

**§ 19-2-921 Commitment to department of human services**

Current	Aug. 2019
n/a	<p><b>(3.3)</b></p> <p><b>(a)</b> On or before January 1, 2021, the department of human services, in consultation with the juvenile justice reform committee established pursuant to section 24-33.5-2401, shall develop a length of stay matrix and establish criteria to guide the release of juveniles from a state facility that are based on:</p> <ul style="list-style-type: none"> <li><b>(I)</b> A juvenile's risk of reoffending, as determined by the results of a <b>validated risk and needs assessment</b> adopted pursuant to section 24-33.5-2402(1)(a);</li> <li><b>(II)</b> The seriousness of the offense for which the juvenile was adjudicated delinquent;</li> <li><b>(III)</b> The juvenile's progress in meeting treatment goals; and</li> <li><b>(IV)</b> Other criteria as determined by the department and the juvenile justice reform committee.</li> </ul> <p><b>(b)</b> In making release and discharge decisions, the department of human services shall use the matrix and release criteria developed pursuant to this subsection (3.3).</p>

**§ 19-2-925 Probation – terms**

n/a	(2)(b) The court shall use the results from a <b>validated risk and needs assessment</b> adopted by the juvenile justice reform committee pursuant to section 24-33.5-2402(1)(b) to inform the court of additional conditions of probation, as necessary.
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New subsection (4)

... Policies and procedures for the **graduated responses system** must:

(b) Require that a response to a juvenile's violation of the <b>terms and conditions of his or her supervision</b> take into consideration:
(I) The risk of the juvenile to reoffend, as determined by the results of a validated risk and needs assessment;

(II) The previous history of violations and the underlying cause of the juvenile's behavior leading to the violation;
(III) The severity of the current violation;
(IV) The juvenile's case plan; and
(V) The previous responses by the juvenile to past violations.

**§ 19-2-925.2 Juvenile probation Standards (July 1, 2021)**

**(1)** Before July 1, 2021, the state court administrator, in consultation with judges, the judicial branch, district attorneys, defense counsel, the delivery of the child welfare services task force created in section 26-5-105.8, and other interested parties shall establish statewide standards for juvenile probation supervision and services that are aligned with research-based practices and based on the juvenile's risk of reoffending as determined by a **validated risk and needs assessment tool** adopted pursuant to section 24-33.5-2402. The state court administrator shall at least annually provide training to juvenile probation on the adoption and implementation of these standards. Juvenile standards must include, but need not be limited to:

**(a)** Guidelines to support juvenile probation in adopting the most effective staffing and workloads in order to allocate probation resources most appropriately;

**(b)** Standards for minimum case contacts, including contacts with juveniles as well as their family members;

**(c)**

**(I)** Common elements for written individualized case plans for each juvenile placed under the supervision of a probation officer. In developing such a case plan, juvenile probation shall use, but need not be limited to:

**(A)** The **results of a validated risk and needs assessment**;

**(B)** The results of a validated mental health screening, and full assessment if conducted;

**(C)** The trauma, if any, experienced by the juvenile;

**(D)** The education level of the juvenile and any intellectual and developmental disability;

**(E)** The seriousness of the offense committed by the juvenile; and

**(F)** Any relevant information provided by the family of the juvenile, including the pro-social interests of the juvenile.

**(II)** A case plan developed pursuant to this section must:

**(A)** Address the risks the juvenile presents and the juvenile's service needs based on the results of the **validated risk and needs assessment**, including specific treatment goals;

**(B)** Specify the level of supervision and intensity of services that the juvenile shall receive;

**(C)** Provide referrals to treatment providers that may address the juvenile's risks and needs;

**(D)** Be developed in consultation with the juvenile and the juvenile's family or guardian;

**(E)** Specify the responsibilities of each person or agency involved with the juvenile; and

(F) Provide for the full reentry of the juvenile into the community;

(d)

(I) Criteria and policies for the early termination of juveniles under the supervision of juvenile probation.

(II) Juvenile probation and the juvenile court shall consider the following factors, among others, in determining the early termination of supervision:

(A) The seriousness of the offense committed by the juvenile resulting in placement under the supervision of a probation officer;

(B) The results of a **validated risk and needs assessment**, which shall be conducted at least every six months to determine whether the juvenile's risk of reoffending or risk scores in key domains have been reduced;

(C) The juvenile's progress in meeting the goals of the juvenile's individualized case plan; and

(D) The juvenile's offense history, if any, during the juvenile's probation term.

(e) Common criteria for when juvenile probation officers may recommend the use of out-of-home placements and commitment to the division of youth services. The court shall consider the results of a **validated risk and needs assessment**, a validated mental health screening, and, if applicable, a full mental health assessment conducted pursuant to section 24-33.5-2402 to make decisions concerning the placement of the juvenile.

§ 19-2-1002 Juvenile Parole

Current	Aug. 2019
(2)(b) The board or hearing panel shall take into consideration the results of the objective risk assessment administered by the department of human services.	(2)(b)(I) The board or hearing panel shall take into consideration the results of the <b>validated risk and needs assessment</b> administered by the department of human services.

§ 19-2-210 Juvenile Community Review Board

Current	Aug. 2019
(3)(b) The board shall review the case file of the juvenile and make a decision regarding residential community placement, taking into consideration the results of the objective risk assessment by the department of human services, the needs of the juvenile, and the criteria established by the juvenile community review board based on the interests of the community. Objective risk criteria shall be established and maintained by the department of human services and shall be based upon researched factors that have been demonstrated to be correlative to risk to the community.	(3)(b) The board shall review the case file of the juvenile and make a decision regarding residential community placement, taking into consideration the results of a <b>validated risk and needs assessment adopted pursuant to section 24-33.5-2402(1)</b> by the department of human services, the criteria established by the juvenile community review board based on the interests of the community, and guidance established by the department of human services in consultation with the juvenile justice reform committee established pursuant to section 24-33.5-2401. The criteria must be based upon researched factors that have been demonstrated to be correlative to risk to the community.

## Probation Standards

### § 19-2-925.2 Juvenile probation Standards (July 1, 2021)

**(1)** Before July 1, 2021, the state court administrator, in consultation with judges, the judicial branch, district attorneys, defense counsel, the delivery of the child welfare services task force created in section 26-5-105.8, and other interested parties shall establish **statewide standards for juvenile probation supervision and services** that are aligned with research-based practices and based on the juvenile's risk of reoffending as determined by a validated risk and needs assessment tool adopted pursuant to section 24-33.5-2402. The state court administrator shall at least annually provide training to juvenile probation on the adoption and implementation of these **standards**. Juvenile standards must include, but need not be limited to:

**(a) Guidelines** to support juvenile probation in adopting the most effective staffing and workloads in order to allocate probation resources most appropriately;

**(b) Standards** for minimum case contacts, including contacts with juveniles as well as their family members;

**(c)**

**(I)** Common elements for written individualized case plans for each juvenile placed under the supervision of a probation officer. In developing such a case plan, juvenile probation shall use, but need not be limited to:

**(A)** The results of a validated risk and needs assessment;

**(B)** The results of a validated mental health screening, and full assessment if conducted;

**(C)** The trauma, if any, experienced by the juvenile;

**(D)** The education level of the juvenile and any intellectual and developmental disability;

**(E)** The seriousness of the offense committed by the juvenile; and

**(F)** Any relevant information provided by the family of the juvenile, including the pro-social interests of the juvenile.

**(II)** A **case plan** developed pursuant to this section must:

**(A)** Address the risks the juvenile presents and the juvenile's service needs based on the results of the validated risk and needs assessment, including specific treatment goals;

**(B)** Specify the level of supervision and intensity of services that the juvenile shall receive;

**(C)** Provide referrals to treatment providers that may address the juvenile's risks and needs;

**(D)** Be developed in consultation with the juvenile and the juvenile's family or guardian;

**(E)** Specify the responsibilities of each person or agency involved with the juvenile; and

**(F)** Provide for the full reentry of the juvenile into the community;

**(d)**

**(I)** Criteria and policies for the early termination of juveniles under the supervision of juvenile probation.

**(II)** Juvenile probation and the juvenile court shall consider the following factors, among others, in determining the early termination of supervision:

**(A)** The seriousness of the offense committed by the juvenile resulting in placement under the supervision of a probation officer;

**(B)** The results of a validated risk and needs assessment, which shall be conducted at least every six months to determine whether the juvenile's risk of reoffending or risk scores in key domains have been reduced;

**(C)** The juvenile's progress in meeting the goals of the juvenile's individualized case plan; and

**(D)** The juvenile's offense history, if any, during the juvenile's probation term.

**(e)** Common criteria for when juvenile probation officers may recommend the use of out-of-home placements and commitment to the division of youth services. The court shall consider the results of a validated risk and needs assessment, a validated mental health screening, and, if applicable, a full mental health assessment conducted pursuant to section 24-33.5-2402 to make decisions concerning the placement of the juvenile

## Probation Graduated Responses

### § 19-2-507.5 Limitations on Detention (eff. July 1, 2020)

(3) A juvenile **shall not** be placed in detention solely:

(j) As a response to technical violations of probation unless the results of a detention screening instrument indicate that the juvenile poses a substantial risk of serious harm to others or if the applicable **graduated responses system** adopted pursuant to section 19-2-925 allows for such a placement.

### § 19-2-925 Probation – terms- release – revocation – graduated responses system (eff. July 1, 2019)

New Section (4)
(4) Before January 1, 2021, the state court administrator shall establish rules to develop a <b>statewide system of structured community-based graduated responses</b> , including incentives and sanctions, to guide probation officers in determining how best to motivate positive juvenile behavior change and the appropriate response to a violation of terms and conditions of juvenile probation.
<b>Graduated responses</b> means an accountability-based series of sanctions and services designed to respond to a juvenile's violation of probation quickly, consistently, and proportionally and incentives to motivate positive behavior change and successful completion of probation and his or her treatment goals.
Juvenile probation shall adopt and use a state juvenile <b>graduated responses</b> and incentives system developed pursuant to this subsection (4) or develop and use a locally developed system that is aligned to best practices.
Policies and procedures for the <b>graduated responses system</b> must:
(b) Include incentives that encourage the completion of treatment milestones as well as compliance with the terms and conditions of a juvenile's probation and that reward behavior aligned with the expectations of supervision and the juvenile's case plan; and
(b) Require that a response to a juvenile's violation of the terms and conditions of his or her supervision take into consideration:
(I) The risk of the juvenile to reoffend, as determined by the results of a validated risk and needs assessment;
(II) The previous history of violations and the underlying cause of the juvenile's behavior leading to the violation;
(III) The severity of the current violation;
(IV) The juvenile's case plan; and
(V) The previous <b>responses</b> by the juvenile to past violations.
(5) Whenever
<ul style="list-style-type: none"> <li>• a probation office has reasonable cause to believe that a juvenile has committed a violation of the terms and conditions of probation and</li> <li>• that <b>graduated responses</b> developed pursuant to subsection (4) of this section have previously been applied</li> <li>• --or--</li> <li>• when the nature of the violation poses a substantial risk of serious harm to others,</li> </ul> <p>the probation officer, following the approval of his or her chief probation officer or the chief's designee, shall petition the court for revocation and shall file written information with the court concerning the juvenile's violation behavior</p>

history and the responses applied pursuant to the **graduated response system** pursuant to subsection (4) of this section.

(6) Unless there is reason to believe that a juvenile would not appear, would interfere with the juvenile justice process, or poses substantial risk of serious harm to others, probation officers shall issue a summons, or other method approved by local court rule, rather than a warrant when filing a petition for revocation.

(7) The state court administrator shall collect data related to the use of the **graduated responses** and incentives system and report this data annually to [selected committees of the general assembly], and the chief justice of the Colorado supreme court. Notwithstanding the provisions of section 24-1-136(11)(a)(I), the reports to the committees continue indefinitely. Data collected by the state court administrator must include at a minimum the types of responses and incentives that were issued, the number of formal violations filed, and the behavior resulting in the violation.

Current	July 1, 2020 (?)
(4)(a) When it is alleged that a juvenile has violated the terms and conditions of his or her probation, the court shall set a hearing on the alleged violation and shall give notice to the juvenile and his or her parents, guardian, or other legal custodian and any other parties to the proceeding as provided in section 19-2-514.	(8)(a) When it is alleged that a juvenile has violated the terms and conditions of his or her probation, and graduated responses have been imposed and exhausted, pursuant to subsection (7) of this section, the court shall set a hearing on the alleged violation and shall give notice to the juvenile and his or her parents, guardian, or other legal custodian and any other parties to the proceeding as provided in section 19-2-514.

## Relative Information Form

### § 19-2-212 Colorado Youth Detention Continuum State Workgroup Duties (eff. July 1, 2019)

19-2-212(1)(a)(VIII)

“Relative information form” – must be available at each judicial district to each parent or legal guardian of a juvenile screened for detention and participation in alternative services. (developed by statewide CYDC prior to Jan. 1, 2021). 19-2-212(1)(a)(VIII).

(VIII) Before January 1, 2021, to adopt a relative information form concerning a juvenile's potential need for services or placement. The information form must be available at each judicial district to each parent or legal guardian of a juvenile screened for detention and participation in alternative services. The information form must:

(A) Advise the parent or legal guardian that he or she is required to provide the requested information fully and completely; and

(B) Require the parent or legal guardian to list the names, addresses, e-mail addresses, and telephone numbers of every grandparent, relative, kin, and person with a significant relationship with the juvenile and any comments concerning the appropriateness of the juvenile's potential need for services from or placement with those persons.

### § 19-2-302 Preadjudication Service Program

Preadjudication service program shall complete the relative information form no later than 2 business days after the evaluation or prior to the juvenile’s first detention hearing, whichever occurs first.

- If available, the screening team or preadjudication service program shall file the original completed information form with the court. 19-2-302(1)(b)
- If the info form has not been completed at the time of the detention hearing, THE COURT shall direct the parent or legal guardian to immediately complete the form and file it with the court.
  - The screening team, preadjudication service program, OR THE COURT shall deliver a copy of the information report to the Division of Youth Services; the GAL, if any; and the county department of human or social services no later than five business days after the date of the detention hearing.

### § 19-2-514 Summons-Issuance-Contents-Service

Current	Aug. 2019
n/a	<b>(3)(c)</b> Parents or legal guardians of a juvenile who is the subject of a juvenile proceeding shall complete the relative information form described in section 19-2-212(1)(b)(VIII) no later than seven business days after the hearing or prior to the juvenile's next hearing, whichever occurs first.

### § 19-2-507(3) Screening Teams -Release or Detention (eff. July 1, 2020)

<b>19-2-507(3)</b>	
<b>Current</b>	<b>July 1, 2020</b>

(3) The juvenile shall be released to the care of such juvenile's parents or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that such juvenile's immediate welfare or the protection of the community requires that such juvenile be detained. The court may make reasonable orders as conditions of said release, which conditions may include participation in a preadjudication service program established pursuant to section 19-2-302. In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released shall be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise shall subject the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.

(3)

(a) The juvenile must be released to the care of the juvenile's parents, kin, or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that the juvenile's substantial risk of serious harm to others requires that the juvenile be detained. The court may make reasonable orders as conditions of release pursuant to section 19-2-508(5). In addition, the court may provide that any violation of such orders may subject the juvenile to contempt sanctions of the court. The parent, kin, or other person to whom the juvenile is released is required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise subjects the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.

(b) Parents or legal guardians of a juvenile released from detention pursuant to this section shall complete the **relative information form** described in section 19-2-212(1)(h) no later than the next hearing on the matter.

## Reasonable Efforts

### § 19-2-906.5 Orders – community placement – reasonable efforts required – reviews (eff. July 1, 2019)

Current	July 1, 2019
(1) If the court orders legal custody of a juvenile to a county department of human or social services pursuant to the provisions of this article 2, the order must contain specific findings as follows:	(1) If the court orders legal custody of a juvenile to a county department of human or social services pursuant to the provisions of this article 2, the order must contain specific findings as follows:
n/a	<b>(d) Whether reasonable efforts</b> have been made to identify kin or a suitable adult with whom to place the juvenile.
(1.5) For all hearings and reviews concerning the juvenile, the court shall ensure that notice is provided to the juvenile and to the following persons with whom the juvenile is placed:	(1.5) For all hearings and reviews concerning the juvenile, the court shall ensure that notice is provided to the juvenile and to the following persons with whom the juvenile is placed:
(a) Foster parents; (b) Pre-adoptive parents; or (c) Relatives.	<b>(a)</b> Foster parents; <b>(b)</b> Pre-adoptive parents; <b>(c)</b> Relatives; or <b>(d)</b> Kin, as defined in section 19-1-103(71.3).

### § 19-2-508 Detention & temporary shelter (eff. July 1, 2020)

(unchanged regarding “reasonable efforts” finding)

(3)(a)(VII) If the court orders further detention of a juvenile pursuant to the provisions of this section, said order shall contain specific findings as follows: <p>(A) Whether placement of the juvenile out of his or her home would be in the juvenile's and the community's best interests;</p> <p>(B) Whether <b>reasonable efforts</b> have been made to prevent or eliminate the need for removal of the juvenile from the home, whether it is reasonable that such efforts not be provided due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, or whether such efforts not be required due to the circumstances described in section 19-1-115(7); and</p> <p>(C) Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting parental visitation of the juvenile.</p>	<b>(3)(a)(XI)</b> If the court orders further detention of a juvenile pursuant to the provisions of this section, the order must contain specific findings as follows: <p><b>(A)</b> Whether placement of the juvenile out of his or her home would be in the juvenile's and the community's best interests;</p> <p><b>(B)</b> Whether <b>reasonable efforts</b> have been made to prevent or eliminate the need for removal of the juvenile from the home, whether it is reasonable that such efforts not be provided due to the existence of an emergency situation that requires the immediate removal of the juvenile from the home, or whether such efforts not be required due to the circumstances described in section 19-1-115(7); and</p> <p><b>(C)</b> Whether procedural safeguards to preserve parental rights have been applied in connection with the removal of the juvenile from the home, any change in the juvenile's placement in a community placement, or any determination affecting parental visitation of the juvenile.</p>
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Kin

§ 19-2-905 Presentence Investigation (eff.

Current	Aug. 2019
(1)(a) Prior to the sentencing hearing, the juvenile probation department for the judicial district in which the juvenile is adjudicated shall conduct a presentence investigation unless waived by the court on its own determination or on recommendation of the prosecution or the juvenile. The presentence investigation shall take into consideration and build on the intake assessment performed by the screening team. The presentence investigation may address, but is not limited to, the following:	<b>(1)(a)</b> Prior to the sentencing hearing, juvenile probation for the judicial district in which the juvenile is adjudicated shall conduct a presentence investigation unless waived by the court on its own determination or on recommendation of the prosecution or the juvenile. The presentence investigation must take into consideration and build on the intake assessment performed by the screening team. The presentence investigation may address, but is not limited to, the following:
(VII) The juvenile's family;	<b>(VII)</b> The juvenile's family, <b>kin, and persons having a significant relationship with the juvenile;</b>

§ 19-2-507(2) screening teams – release or detention (eff. July 1, 2020)

19-2-507(2)	
Current	July 1, 2020
(2) The law enforcement officer or the court shall detain the juvenile if the law enforcement officer or the court determines that the juvenile's immediate welfare or the protection of the community requires detainment. In determining whether a juvenile requires detention, the law enforcement officer or the court shall follow criteria for the detention of juvenile offenders which criteria are established in accordance with section 19-2-212, and shall make efforts to keep the juvenile with his or her parent, guardian, or legal custodian. (ALL STRUCK)	n/a
n/a	<p><b>(2)</b></p> <p><b>(a)</b> If the law enforcement officer does not release the juvenile to the care of such juvenile's parents, legal guardian, <b>kin, or other responsible adult</b>, the screening team shall administer a validated detention screening instrument developed or adopted pursuant to section 19-2-212. The law enforcement officer, screening team, or juvenile court shall not remove the juvenile from the custody of the parent or legal guardian pursuant to this section unless the screening team or the juvenile court . . .</p> <p><b>(e)</b> A juvenile who must be taken from his or her home but who does not require physical restriction must be given temporary care with his or her grandparent, <b>kin, or other suitable person;</b> in a temporary shelter facility designated by the court; or with</p>

	the county department of human or social services and must not be placed in detention.
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§ 19-2-507(3) Screening Teams -Release or Detention (eff. July 1, 2020)

19-2-507(3)	
Current	July 1, 2020
<p>(3) The juvenile shall be released to the care of such juvenile's parents or other responsible adult, unless a determination has been made in accordance with subsection (2) of this section that such juvenile's immediate welfare or the protection of the community requires that such juvenile be detained. The court may make reasonable orders as conditions of said release, which conditions may include participation in a preadjudication service program established pursuant to section 19-2-302. In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt sanctions of the court. The parent or other person to whom the juvenile is released shall be required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise shall subject the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.</p>	<p>(3)</p> <p>(a) The juvenile must be released to the care of the juvenile's parents, <b>kin, or other responsible adult</b>, unless a determination has been made in accordance with subsection (2) of this section that the juvenile's substantial risk of serious harm to others requires that the juvenile be detained. The court may make reasonable orders as conditions of release pursuant to section 19-2-508(5). In addition, the court may provide that any violation of such orders may subject the juvenile to contempt sanctions of the court. The parent, <b>kin, or other person to whom the juvenile is released</b> is required to sign a written promise, on forms supplied by the court, to bring the juvenile to the court at a time set or to be set by the court. Failure, without good cause, to comply with the promise subjects the juvenile's parent or any other person to whom the juvenile is released to contempt sanctions of the court.</p> <p>(b) Parents or legal guardians of a juvenile released from detention pursuant to this section shall complete the relative information form described in section 19-2-212(1)(h) no later than the next hearing on the matter.</p>

§ 19-2-508 Detention & temporary shelter (eff. July 1, 2020)

<p>(3)(a)(IV) Except as provided in subsection <b>(3)(a)(IV.5)</b> (ages 10-13 per (2)(b)?) of this section, at the conclusion of the hearing, the court shall enter one of the following orders, while ensuring efforts are made to keep the juvenile with his or her parent, guardian, or legal custodian:</p> <p>(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;</p> <p>(B) That the juvenile be placed in a shelter facility;</p>	<p><b>(3)(a)(VII)</b> Except as provided in subsection <b>(3)(a)(IX)(VIII?)</b> <i>Status offenders per (8)?</i> of this section, at the conclusion of the hearing, the court shall enter one of the following orders, while ensuring efforts are made to keep the juvenile with his or her parent, guardian, or legal custodian:</p> <p><b>(A)</b> That the juvenile be released to the custody of a parent, guardian, legal custodian, <b>kin, or other suitable person</b> without the posting of bond;</p> <p><b>(B)</b> That the juvenile be placed in a temporary shelter facility;</p>
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§ 19-2-906.5 Orders – community placement – reasonable efforts required – reviews (eff. July 1, 2019)

<p>(C) That bail be set and that the juvenile be released upon the posting of that bail;</p> <p>(D) That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile is a danger to himself or herself or to the community. Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subparagraph (V) of this paragraph (a) within the time limits set forth in section 19-2-108, unless the juvenile is deemed to have waived the time limit for an adjudicatory trial pursuant to section 19-2-107(4).</p> <p>(E) That no bail be set and that, upon the court's finding that the juvenile is a danger to himself or herself or to the community, the juvenile be placed in a preadjudication service program established pursuant to section 19-2-302. This sub-subparagraph (E) shall not apply to any case in which the juvenile's alleged offense is one of the offenses described in subparagraph (III) of this paragraph (a).</p>	<p><b>(C)</b> That bail be set and that the juvenile be released upon the posting of that bail;</p> <p><b>(D)</b> That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile poses a substantial risk of serious harm to others. Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subsection (3)(a)(IX) of this section within the time limits set forth in section 19-2-108, unless the juvenile is deemed to have waived the time limit for an adjudicatory trial pursuant to section 19-2-107(4).</p> <p><b>(E)</b> That no bail be set and that, upon the court's finding that the juvenile poses a substantial risk of serious harm to others, the juvenile be placed in a preadjudication service program established pursuant to section 19-2-302. This subsection (3)(a)(VII)(E) does not apply to any case in which the juvenile's alleged offense is one of the offenses described in subsection <b>(3)(a)(IV)</b> of this section.</p>
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§ 19-2-906.5 Orders – community placement – reasonable efforts required – reviews (eff. July 1, 2019)

<b>Current</b>	<b>July 1, 2019</b>
(1) If the court orders legal custody of a juvenile to a county department of human or social services pursuant to the provisions of this article 2, the order must contain specific findings as follows:	<b>(1)</b> If the court orders legal custody of a juvenile to a county department of human or social services pursuant to the provisions of this article 2, the order must contain specific findings as follows:
n/a	<b>(d) Whether reasonable efforts have been made to identify kin or a suitable adult with whom to place the juvenile.</b>
(1.5) For all hearings and reviews concerning the juvenile, the court shall ensure that notice is provided to the juvenile and to the following persons with whom the juvenile is placed:	<b>(1.5)</b> For all hearings and reviews concerning the juvenile, the court shall ensure that notice is provided to the juvenile and to the following persons with whom the juvenile is placed:
(a) Foster parents; (b) Pre-adoptive parents; or (c) Relatives.	<b>(a)</b> Foster parents; <b>(b)</b> Pre-adoptive parents; <b>(c)</b> Relatives; or <b>(d) Kin, as defined in section 19-1-103(71.3).</b>

## Mental Health

### § 19-2-710 Mental health services for juveniles (July 1, 2019)

Current	July 1, 2019
<p>(2) After the party advises the court of the party's belief that the juvenile could benefit from mental health services, the court shall immediately order a mental health screening of the juvenile pursuant to section 16-11.9-102, C.R.S., unless the court already has sufficient information to determine whether the juvenile could benefit from mental health services or unless a mental health screening of the juvenile has been completed within the last three months. The delinquency proceedings shall not be stayed or suspended pending the results of the mental health screening ordered pursuant this section, however, the court may continue the dispositional and sentencing hearing to await the results of the mental health screening.</p>	<p><b>(2)</b> After the party advises the court of the party's belief that the juvenile could benefit from mental health services, the court shall immediately order a mental health screening of the juvenile pursuant to section 16-11.9-102 <b>using the mental health screening tool selected pursuant to section 24-33.5-2402(1)(b)</b>, unless the court already has sufficient information to determine whether the juvenile could benefit from mental health services or unless a mental health screening of the juvenile has been completed within the last three months. <b>Before sentencing a juvenile, the court shall order a mental health screening, using the mental health screening tool selected pursuant to section 24-33.5-2402(1)(b), or make a finding that the screening would not provide information that would be helpful in sentencing the juvenile.</b> The delinquency proceedings shall not be stayed or suspended pending the results of the mental health screening ordered pursuant this section, however, the court may continue the dispositional and sentencing hearing to await the results of the mental health screening.</p>
<p>(6) Evidence or treatment obtained as a result of a mental health screening or assessment ordered pursuant to this section shall not be admissible on the issues raised by a plea of not guilty unless the juvenile places his or her mental health at issue. If the juvenile places his or her mental health at issue, then either party may introduce evidence obtained as a result of a mental health screening or assessment.</p>	<p><b>(6)</b> Evidence or treatment obtained as a result of a mental health screening or assessment ordered pursuant to this section, <b>including any information obtained from the juvenile in the course of a mental health screening or assessment, shall be used only for purposes of sentencing; to determine what mental health treatment, if any, to provide to the juvenile; and to determine whether the juvenile justice or another service system is most appropriate to provide this treatment, and must not be used for any other purpose. The mental health screening or assessment and any information obtained in the course of the mental health screening or assessment is not subject to subpoena or any other court process for use in any other court proceeding and</b> is not admissible on the issues raised by a plea of not guilty unless the juvenile places his or her mental health at issue. If the juvenile places his or her mental health at issue, then either party may introduce evidence obtained as a result of a mental health screening or assessment. <b>The court shall keep any mental health screening or assessment in the court file under seal.</b></p>
<p>(7) For purposes of this section:                      (a) "Assessment" means an objective process used to collect pertinent information in order to identify a juvenile who may have mental health needs.</p>	<p><b>(7)</b> For purposes of this section:                      (a) "Assessment" means an objective process used to collect pertinent information in order to identify a juvenile who may have mental health needs <b>and identify the least restrictive and most appropriate services and treatment.</b></p>
<p>(7) For purposes of this section:                      (b) "Juvenile could benefit from mental health services" means a juvenile exhibits one or more of the following characteristics:</p>	<p><b>(7)</b> For purposes of this section:                      (b) "Juvenile could benefit from mental health services" means a juvenile exhibits one or more of the following characteristics:                      (I) A chronic or significant lack of impulse control or of judgment;                      (II) Significant abnormal behaviors under normal circumstances;</p>

<p>(I) A chronic or significant lack of impulse control or of judgment;                  (II) Significant abnormal behaviors under normal circumstances;  <b>(III) A history of suspensions, expulsions, or repeated truancy from school settings;</b>                  (IV) Severe or frequent changes in sleeping or eating patterns or in levels of activity;                  (V) A pervasive mood of unhappiness or of depression; or                  (VI) A history <b>of involvement with, or treatment in, two or more state or local governmental agencies, including but not limited to juvenile justice, youth corrections, or child welfare.</b></p>	<p><b>(III) Deleted by Laws 2019, Ch. 294, § 14, eff. July 1, 2019.</b>  <b>(IV) Severe or frequent changes in sleeping or eating patterns or in levels of activity;</b>  <b>(V) A pervasive mood of unhappiness or of depression; or</b>  <b>(VI) A history that includes mental health treatment, a suicide attempt, or the use of psychotropic medication.</b></p>
<p>n/a</p>	<p><b>(7)(c)</b> “Screening” means a short validated mental health screening to identify juveniles who may have mental health needs adopted by the juvenile justice reform committee pursuant to section 24-33.5-2402(1)(b).</p>

§ 19-2-925.2 Juvenile probation Standards (July 1, 2021)

**(1)** Before July 1, 2021, the state court administrator, in consultation with judges, the judicial branch, district attorneys, defense counsel, the delivery of the child welfare services task force created in section 26-5-105.8, and other interested parties shall establish statewide standards for juvenile probation supervision and services that are aligned with research-based practices and based on the juvenile's risk of reoffending as determined by a validated risk and needs assessment tool adopted pursuant to section 24-33.5-2402. The state court administrator shall at least annually provide training to juvenile probation on the adoption and implementation of these standards. Juvenile standards must include, but need not be limited to: . . .

**(c)**

**(I)** Common elements for written individualized case plans for each juvenile placed under the supervision of a probation officer. In developing such a case plan, juvenile probation shall use, but need not be limited to:

- (A)** The results of a validated risk and needs assessment;
- (B)** The results of a **validated mental health screening, and full assessment if conducted;**
- (C)** The trauma, if any, experienced by the juvenile;
- (D)** The education level of the juvenile and any intellectual and developmental disability;
- (E)** The seriousness of the offense committed by the juvenile; and
- (F)** Any relevant information provided by the family of the juvenile, including the pro-social interests of the juvenile.

**(e)** Common criteria for when juvenile probation officers may recommend the use of out-of-home placements and commitment to the division of youth services. The court shall consider the results of a validated risk and needs assessment, **a validated mental health screening**, and, if applicable, **a full mental health assessment conducted pursuant to section 24-33.5-2402** to make decisions concerning the placement of the juvenile.

*(Note: § 24-33.5-2402 does not discuss a “full mental health assessment”, it only specifically discusses “a validated mental health screening”)*

**§ 19-2-302 Preadjudication Service Program**

(4) . . . The plan may allow for the release of the juvenile to his or her home with no formal supervision or provide for the use of any of the following supervision methods as conditions of preadjudication release: [subsections (a)-(c), added (d):]

PREVIOUS	REVISED
(Without official evidence-based trigger)	<b>(d) If a validated mental health or substance use screening and subsequent mental health or substance use assessment indicates that the juvenile has a need:</b>
(d) periodic drug testing of the juvenile	(I) periodic drug testing of the juvenile
(f) Mental Health or substance abuse treatment for the juvenile, which treatment may include residential treatment.	(II) Mental Health or substance abuse treatment for the juvenile, which treatment may include residential treatment.

## Mental Health Screening Tool

### § 24-33.5-2402(1)(b) validated mental health screening tool

§ 24-33.5-2402(1)(d) **By July 1, 2020**, select a qualified vendor or national provider of risk assessment technical assistance to assist the department of human services, juvenile probation, and the juvenile court with the adoption and implementation of the validated risk and needs assessment tool or tools and validated mental health screening tool or tools and assist juvenile diversion programs and district attorney's offices with the adoption and implementation of a validated risk screening tool. The assistance must include an implementation plan, employee training, policy development, and the establishment of quality assurance and data collection protocols.

### § 19-2-710 Mental health services for juveniles (eff. July 1, 2019)

Current	July 1, 2019
<p>(2) After the party advises the court of the party's belief that the juvenile could benefit from mental health services, the court shall immediately order a mental health screening of the juvenile pursuant to section 16-11.9-102, C.R.S., unless the court already has sufficient information to determine whether the juvenile could benefit from mental health services or unless a mental health screening of the juvenile has been completed within the last three months. The delinquency proceedings shall not be stayed or suspended pending the results of the mental health screening ordered pursuant this section, however, the court may continue the dispositional and sentencing hearing to await the results of the mental health screening.</p>	<p><b>(2)</b> <u>After the party advises the court of the party's belief that the juvenile could benefit from mental health services, the court shall immediately order a mental health screening</u> of the juvenile pursuant to section 16-11.9-102 <b>using the mental health screening tool selected pursuant to section 24-33.5-2402(1)(b)</b>, unless the court already has sufficient information to determine whether the juvenile could benefit from mental health services or unless a <b>mental health screening</b> of the juvenile has been completed within the last three months. <b>Before sentencing a juvenile, the court shall order a mental health screening, using the mental health screening tool selected pursuant to section 24-33.5-2402(1)(b), or make a finding that the screening would not provide information that would be helpful in sentencing the juvenile.</b> The delinquency proceedings shall not be stayed or suspended pending the results of the <b>mental health screening</b> ordered pursuant this section, however, the court may continue the dispositional and sentencing hearing to await the results of the <b>mental health screening</b>.</p>
<p>(6) Evidence or treatment obtained as a result of a mental health screening or assessment ordered pursuant to this section shall not be admissible on the issues raised by a plea of not guilty unless the juvenile places his or her mental health at issue. If the juvenile places his or her mental health at issue, then either party may introduce evidence obtained as a result of a mental health screening or assessment.</p>	<p><b>(6)</b> Evidence or treatment obtained as a result of a <b>mental health screening or assessment</b> ordered pursuant to this section, including any information obtained from the juvenile in the course of a <b>mental health screening or assessment</b>, shall be used only for purposes of sentencing; to determine what mental health treatment, if any, to provide to the juvenile; and to determine whether the juvenile justice or another service system is most appropriate to provide this treatment, and must not be used for any other purpose. The <b>mental health screening or assessment</b> and any information obtained in the course of the <b>mental health screening or assessment</b> is not subject to subpoena or any other court process for use in any other court proceeding and is not admissible on the issues raised by a plea of not guilty unless the juvenile places his or her mental health at issue. If the juvenile places his or her mental health at issue, then either party may introduce evidence obtained as a result of a mental health screening or assessment. <b>The court shall keep any mental health screening or assessment in the court file under seal.</b></p>

<p>(7) For purposes of this section:                  (a) "Assessment" means an objective process used to collect pertinent information in order to identify a juvenile who may have mental health needs.</p>	<p><b>(7)</b> For purposes of this section:  <b>(a) "Assessment"</b> means an objective process used to collect pertinent information in order to identify a juvenile who may have mental health needs and identify the least restrictive and most appropriate services and treatment.</p>
<p>(7) For purposes of this section:                  (b) "Juvenile could benefit from mental health services" means a juvenile exhibits one or more of the following characteristics:                  (I) A chronic or significant lack of impulse control or of judgment;                  (II) Significant abnormal behaviors under normal circumstances;  <b>(III) A history of suspensions, expulsions, or repeated truancy from school settings;</b>                  (IV) Severe or frequent changes in sleeping or eating patterns or in levels of activity;                  (V) A pervasive mood of unhappiness or of depression; or                  (VI) A history of <b>involvement with, or treatment in, two or more state or local governmental agencies, including but not limited to juvenile justice, youth corrections, or child welfare.</b></p>	<p><b>(7)</b> For purposes of this section:  <b>(b) "Juvenile could benefit from mental health services"</b> means a juvenile exhibits one or more of the following characteristics:  <b>(I)</b> A chronic or significant lack of impulse control or of judgment;  <b>(II)</b> Significant abnormal behaviors under normal circumstances;  <b>(III) Deleted by Laws 2019, Ch. 294, § 14, eff. July 1, 2019.</b>  <b>(IV)</b> Severe or frequent changes in sleeping or eating patterns or in levels of activity;  <b>(V)</b> A pervasive mood of unhappiness or of depression; or  <b>(VI)</b> A history that includes mental health treatment, a suicide attempt, or the use of psychotropic medication.</p>
<p>n/a</p>	<p><b>(7)(c)</b> "Screening" means a short validated mental health screening to identify juveniles who may have mental health needs adopted by the juvenile justice reform committee pursuant to section 24-33.5-2402(1)(b).</p>

§ 19-2-925.2 Juvenile probation Standards (July 1, 2021)

**(1)** Before July 1, 2021, the state court administrator, in consultation with judges, the judicial branch, district attorneys, defense counsel, the delivery of the child welfare services task force created in section 26-5-105.8, and other interested parties shall establish statewide standards for juvenile probation supervision and services that are aligned with research-based practices and based on the juvenile's risk of reoffending as determined by a validated risk and needs assessment tool adopted pursuant to section 24-33.5-2402. The state court administrator shall at least annually provide training to juvenile probation on the adoption and implementation of these standards. Juvenile standards must include, but need not be limited to: . . .

**(c)**

**(I)** Common elements for written individualized case plans for each juvenile placed under the supervision of a probation officer. In developing such a case plan, juvenile probation shall use, but need not be limited to:

**(A)** The results of a validated risk and needs assessment;

**(B)** The results of a **validated mental health screening, and full assessment if conducted;**

- (C) The trauma, if any, experienced by the juvenile;
- (D) The education level of the juvenile and any intellectual and developmental disability;
- (E) The seriousness of the offense committed by the juvenile; and
- (F) Any relevant information provided by the family of the juvenile, including the pro-social interests of the juvenile.

**§ 19-2-302 Preadjudication Service Program**

(4) . . . The plan may allow for the release of the juvenile to his or her home with no formal supervision or provide for the use of any of the following supervision methods as conditions of preadjudication release: [subsections (a)-(c), added (d):]

<b>PREVIOUS</b>	<b>REVISED</b>
(Without official evidence-based trigger)	<b>(d) If a validated mental health or substance use screening and subsequent mental health or substance use assessment indicates that the juvenile has a need:</b>
(d) periodic drug testing of the juvenile	(I) periodic drug testing of the juvenile
(f) Mental Health or substance abuse treatment for the juvenile, which treatment may include residential treatment.	(II) Mental Health or substance abuse treatment for the juvenile, which treatment may include residential treatment.

**Diversion**

**§ 19-1-103(94.1) Definitions**

<b>Prior</b>	<b>July 1, 2019</b>
<p>(44) “Diversion” means a decision made by a person with authority or a delegate of that person that results in specific official action of the legal system not being taken in regard to a specific juvenile or child and in lieu thereof providing individually designed services by a specific program. The goal of diversion is to prevent further involvement of the juvenile or child in the formal legal system.</p>	<p>(44)                      (a) “Diversion” means a decision made by a person with authority or a delegate of that person that results in specific official action of the legal system not being taken in regard to a specific juvenile or child and in lieu thereof providing or referring the juvenile or child to individually designed program or activity, if necessary, provided by district attorney's offices, governmental units, or nongovernmental units. The goal of diversion is to prevent further involvement of the juvenile or child in the formal legal system.</p>
<p>Diversion of a juvenile or child may take place either at the prefiling level as an alternative to the filing of a petition pursuant to section 19-2-512 or at the postadjudication level as an adjunct to probation services following an adjudicatory hearing pursuant to section 19-3-505 or a disposition as a part of sentencing pursuant to section 19-2-907. “Services”, as used in this subsection (44), includes but is not limited to diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, constructive recreational activities, general counseling and counseling during a crisis situation, and follow-up activities. Services may include restorative justice practices as defined in section 18-1-901(3)(o.5), C.R.S., and as deemed suitable by the probation department or a designated restorative justice practices facilitator. Restorative justice practices shall be conducted by facilitators recommended by the district attorney.</p>	<p>(44)                      (b) Diversion of a juvenile or child may take place either at the prefiling level as an alternative to the filing of a petition pursuant to section 19-2-512 <b>or postfiling as an alternative to adjudication.</b> Services may include restorative justice practices as defined in section 19-1-103(94.1).   <i>(READ: Diversion can no longer be used as a post-adjudication sentence or service)</i></p>

**[\*\*\*\*\*WORK IN PROGRESS\*\*\*\*\*]**

## **Risk Screening Tool**

### **§ 24-33.5-2402 Duties of the Juvenile Justice Reform Committee**

(1)(c) Select a validated risk screening tool to be used statewide to inform district attorney decisions on a juvenile's eligibility for diversion. The validated risk screening tool must be implemented pursuant to section 19-2-303.

§ 24-33.5-2402(1)(d) By July 1, 2020, select a qualified vendor or national provider of risk assessment technical assistance to assist the department of human services, juvenile probation, and the juvenile court with the adoption and implementation of the validated risk and needs assessment tool or tools and validated mental health screening tool or tools and assist juvenile diversion programs and district attorney's offices with the adoption and implementation of a validated risk screening tool. The assistance must include an implementation plan, employee training, policy development, and the establishment of quality assurance and data collection protocols.

## Length of Stay Matrix

### § 19-2-921 Commitment to Department of Human Services

Current	Aug. 2019
n/a	<p data-bbox="285 415 349 451"><b>(3.3)</b></p> <p data-bbox="381 451 1502 588"><b>(a)</b> On or before January 1, 2021, the department of human services, in consultation with the juvenile justice reform committee established pursuant to section 24-33.5-2401, shall develop a <b>length of stay matrix</b> and establish criteria to guide the release of juveniles from a state facility that are based on:</p> <ul style="list-style-type: none"> <li data-bbox="479 619 1502 693"><b>(I)</b> A juvenile's risk of reoffending, as determined by the results of a validated risk and needs assessment adopted pursuant to section 24-33.5-2402(1)(a);</li> <li data-bbox="479 724 1502 766"><b>(II)</b> The seriousness of the offense for which the juvenile was adjudicated delinquent;</li> <li data-bbox="479 798 1502 840"><b>(III)</b> The juvenile's progress in meeting treatment goals; and</li> <li data-bbox="479 871 1502 945"><b>(IV)</b> Other criteria as determined by the department and the juvenile justice reform committee.</li> </ul> <p data-bbox="381 976 1502 1050"><b>(b)</b> In making release and discharge decisions, the department of human services shall use the <b>matrix</b> and release criteria developed pursuant to this subsection (3.3).</p>

### § 19-2-1002 Juvenile Parole

Current	Aug. 2019
(2)(b) The board or hearing panel shall take into consideration the results of the objective risk assessment administered by the department of human services.	(2)(b)(I) The board or hearing panel shall take into consideration the results of the validated risk and needs assessment administered by the department of human services.
n/a	(2)(b)(II) In making release and discharge decisions, the board or hearing panel shall use the <b>length of stay matrix</b> and release criteria developed pursuant to section 19-2-921(3.3).

## Coordination with Statewide FFPSA Efforts

### § 24-33.5-2402 Duties of the Juvenile Justice Reform Committee

(1) The committee has the following duties:

(e) **In collaboration with the delivery of child welfare services task force** created in section 26-5-105.8, identify shared outcome measures that all service providers receiving state funds and serving juveniles placed on probation and parole must track and report. The committee shall also:

(I) Develop a plan for how the department of human services and the judicial department shall collect this data as part of the contracting requirements;

(II) Establish policies for evaluating the effectiveness of service providers, including time frames and who is responsible for conducting the evaluations; and

(III) Develop a plan for the department of human services and the judicial department to report on the outcome measures. The report or reports must be made available annually to the governor, the chief justice of the Colorado supreme court, and the judiciary committees of the senate and the house of representatives, the health and human services committee of the senate, and the public health care and human services committee of the house of representatives, or any successor committees. Notwithstanding the provisions of section 24-1-136(11)(a)(I), the requirement to submit the report or reports to the committees continues indefinitely.

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(1) The committee has the following duties:

(a)(I) Adopt a validated risk and needs assessment tool or tools to be used statewide that uses an accepted standard of assessment. The committee shall determine if one tool must be used by the entire juvenile justice system or if the judicial department or division of youth services may use different validated tools. The tool or tools must be used to assist:

...

(II) In adopting the validated risk and needs assessment tool or tools pursuant to subsection (1)(a)(I) of this section, the committee shall consult with expert organizations, **consult with the delivery of child welfare services task force created in section 26-5-105.8**, and review research and best practices from other jurisdictions and may consider a validated tool or tools already being used in the state. On or before January 1, 2021, the committee shall: . . .

### § 19-2-925.2 Juvenile probation Standards (July 1, 2021)

(1) Before July 1, 2021, the state court administrator, in consultation with judges, the judicial branch, district attorneys, defense counsel, **the delivery of the child welfare services task force** created in section 26-5-105.8, and other interested parties shall establish statewide standards for juvenile probation supervision and services that are aligned with research-based practices and based on the juvenile's risk of reoffending as determined by a validated risk and needs assessment tool adopted pursuant to section 24-33.5-2402. The state court administrator shall at least annually provide training to juvenile probation on the adoption and implementation of these standards. Juvenile standards must include, but need not be limited to: . . .