



**Child**  
**Welfare**  
**Oversight**  
**Committee**

**Report to the**  
**COLORADO**  
**GENERAL ASSEMBLY**

**Colorado Legislative Council**  
**Research Publication No. 436**  
**November 1997**

**RECOMMENDATIONS FOR 1998**

**CHILD WELFARE OVERSIGHT COMMITTEE**

**Report to the  
Colorado General Assembly**

**Research Publication No. 436  
November 1997**

# COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE  
Rep. Chuck Berry, Chairman  
Sen. Tom Norton, Vice Chairman  
Sen. Michael Feeley  
Sen. Jeff Wells  
Rep. Norma Anderson  
Rep. Carol Snyder



COMMITTEE  
Sen. Tilman Bishop  
Sen. Rob Hernandez  
Sen. Bob Martinez  
Sen. Ray Powers  
Sen. Bill Schroeder  
Sen. Bill Thiebaut  
Rep. Jeanne Faatz  
Rep. Ken Gordon  
Rep. Doug Lamborn  
Rep. Gloria Leyba  
Rep. Gary McPherson  
Rep. Paul Schauer

STAFF  
Charles S. Brown, Director  
David Hite, Deputy Director  
Stanley D. Eloffson, Asst. Director

## LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL  
DENVER, COLORADO 80203-1784  
(303) 866-3521 FAX: 866-3855 TDD: 866-3472

November 14, 1997

To Members of the Sixty-first General Assembly:

Submitted herewith is the final report of the Child Welfare Oversight Committee. This committee was created pursuant to Section 26-5-105.7, C.R.S.

At its meeting on November 13, 1997, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1998 session was approved.

Respectfully submitted,

/s/ Representative Chuck Berry  
Chairman  
Legislative Council

CB/LD/eg

# TABLE OF CONTENTS

	PAGE
<b>LETTER OF TRANSMITTAL</b> .....	iii
<b>TABLE OF CONTENTS</b> .....	v
<b>RECOMMENDED BILLS AND FISCAL NOTES</b> .....	vii
<b>MEMBERS OF THE COMMITTEE</b> .....	ix
<b>EXECUTIVE SUMMARY</b> .....	xi
Committee Charge .....	xi
Committee Activities .....	xi
Committee Recommendations .....	xi
<b>STATUTORY AUTHORITY AND RESPONSIBILITIES</b> .....	1
Committee Charge .....	1
<b>COMMITTEE ACTIVITIES</b> .....	3
Child Welfare Out-of-Home Placement Expenditures .....	3
Current Placement Process for Child Welfare and the Division of Youth Corrections .....	3
Principles of Managed Care .....	6
Child Welfare Managed Care — Pilot Counties and County Concerns .....	6
Division of Youth Corrections .....	7
Department of Human Services Recommendations for Legislation .....	7
<b>SUMMARY OF RECOMMENDATIONS</b> .....	9
House Joint Resolution A — Juvenile Sentencing Study .....	9
Bill A — Sentencing of Juvenile Misdemeanants .....	9

# RECOMMENDED BILLS AND FISCAL NOTES

	PAGE
Joint	
Resolution A — Concerning the Creation of a Task Force to Study Racial and Ethnic Disparities in the Child Welfare and Juvenile Justice Systems .....	11
— Fiscal Note .....	13
Bill A — Concerning Sentencing of a Juvenile Who is Adjudicated for Commission of an Act that Would Constitute a Misdemeanor if Committed by an Adult .....	17
— Fiscal Note .....	19

# **CHILD WELFARE OVERSIGHT COMMITTEE**

## **Members of the Committee**

Senator Dottie Wham  
Chair  
Senator Sally Hopper  
Senator Peggy Reeves

Representative Jeanne Adkins  
Vice-Chair  
Representative Marcy Morrison  
Representative Dan Grossman

## **Legislative Council Staff**

Lorraine Dixon-Jones  
Research Associate II

Cynthia Honssinger  
Research Associate

Janis Baron  
Senior Fiscal Analyst

## **Office of Legislative Legal Services**

Margaret Nee  
Senior Staff Attorney

# EXECUTIVE SUMMARY

## **Committee Charge**

The Child Welfare Oversight Committee was established by Senate Bill 97-218, which also changed the method by which the state reimbursed counties for child welfare expenditures from a quasi-entitlement to capped allocations. The committee was charged with: 1) studying the implementation of managed care principles and tools, such as performance-based contracting, in the child welfare system; and 2) examining the delivery of services in the juvenile justice system.

## **Committee Activities**

The committee held six meetings during October and November. During these hearings, testimony was provided by legislative staff, Department of Human Services staff, county representatives, providers of child welfare and mental health services, judicial branch personnel, and parents of and advocates for mentally ill children. Testimony centered upon the following issues: information about the existing child welfare and juvenile justice systems; the principles of managed care; county concerns with the implementation of managed care in child welfare; the impact of child welfare managed care on the juvenile justice system; and the demographics of children in the Division of Youth Corrections.

## **Committee Recommendations**

The committee recommends the following:

***House Joint Resolution A — Juvenile Sentencing Study.*** The joint resolution creates a task force to study racial and ethnic disparities in the child welfare and juvenile justice systems and the nature of any biases that contribute to the existence of such disparities.

***Bill A — Sentencing of Juvenile Misdemeanants.*** The bill prohibits the court from committing to the Division of Youth Corrections, within the Department of Human Services, any juvenile who is adjudicated for a misdemeanor offense, unless that juvenile is a mandatory sentence offender.

# STATUTORY AUTHORITY AND RESPONSIBILITIES

## Committee Charge

---

Section 26-5-105.7., C.R.S., created the Child Welfare Oversight Committee consisting of six members of the General Assembly. In addition, the law required the Department of Human Services, with input from the Child Welfare Oversight Committee, to study and make recommendations on the advisability of implementing managed care on a statewide basis for the delivery of child welfare services. Specifically, the study is to include, but is not limited to:

- the delivery of delinquency services in the statewide system or in another delivery system, including how to provide and manage services for delinquents who are currently served by the county departments;
- the implementation of levels of care in child welfare and delinquency services;
- performance-based contracting in the implementation of managed care;
- a method for allocating funds appropriated for child welfare services, including federal and state general fund moneys, to counties or groups of counties;
- a method for determining the maintenance of effort required for each county or group of counties;
- the need for creating a reserve at the state level and the criteria and requirements for accessing the reserve;
- proposals for the use of any savings realized to provide additional child welfare services, including preventive services such as those pursuant to home visitation programs; and
- any suggested legislation necessary to implement the recommendations set forth in the study.

The study and recommendations for the implementation of the statewide managed care system for the delivery of child welfare services is to be submitted to the following committees by January 1, 1998: the House and Senate Health, Environment, Welfare, and Institutions Committees, the House and Senate Judiciary committees, and the Joint Budget Committee.



# COMMITTEE ACTIVITIES

The committee held meetings on October 8 and 9; October 30 and 31; and November 10 and 11. During these meetings, the committee heard testimony from legislative staff, the Department of Human Services (DHS), counties, providers, the judicial branch and advocates for, and parents of, mentally ill children. The discussions raised the issues highlighted in the following narrative.

## Child Welfare Out-of-Home Placement Expenditures

During fiscal years (FY) 1986-87 and 1989-90, counties were funded through capped allocations. In 1990, legislation was enacted to change the funding mechanism from capped allocations to a quasi-entitlement. Under the quasi-entitlement policy, expenditures increased significantly. During FY 1993-94 through FY 1997-98, expenditures increased by 142 percent; however, the caseload only increased by 37 percent during this time period. Table 1 identifies child welfare appropriations and caseload during this five year period.

**Table 1. Child Welfare Caseload and Appropriations — FY 1993-94 to FY 1997-98**

	FY 1993-94	FY 1994-95	FY 1995-96	FY 1996-97	FY 1997-98
<b>Appropriation</b>	\$55,692,260	\$63,405,335	\$94,784,923	\$126,920,917	\$134,856,749
<b>Caseload</b>	4,678	4,992	5,642	6,173	6,426

In response to spiraling out-of-home placement costs, Senate Bill 97-218 reverted the manner in which counties are reimbursed for child welfare costs to capped allocations.

## Current Placement Process for Child Welfare and the Division of Youth Corrections

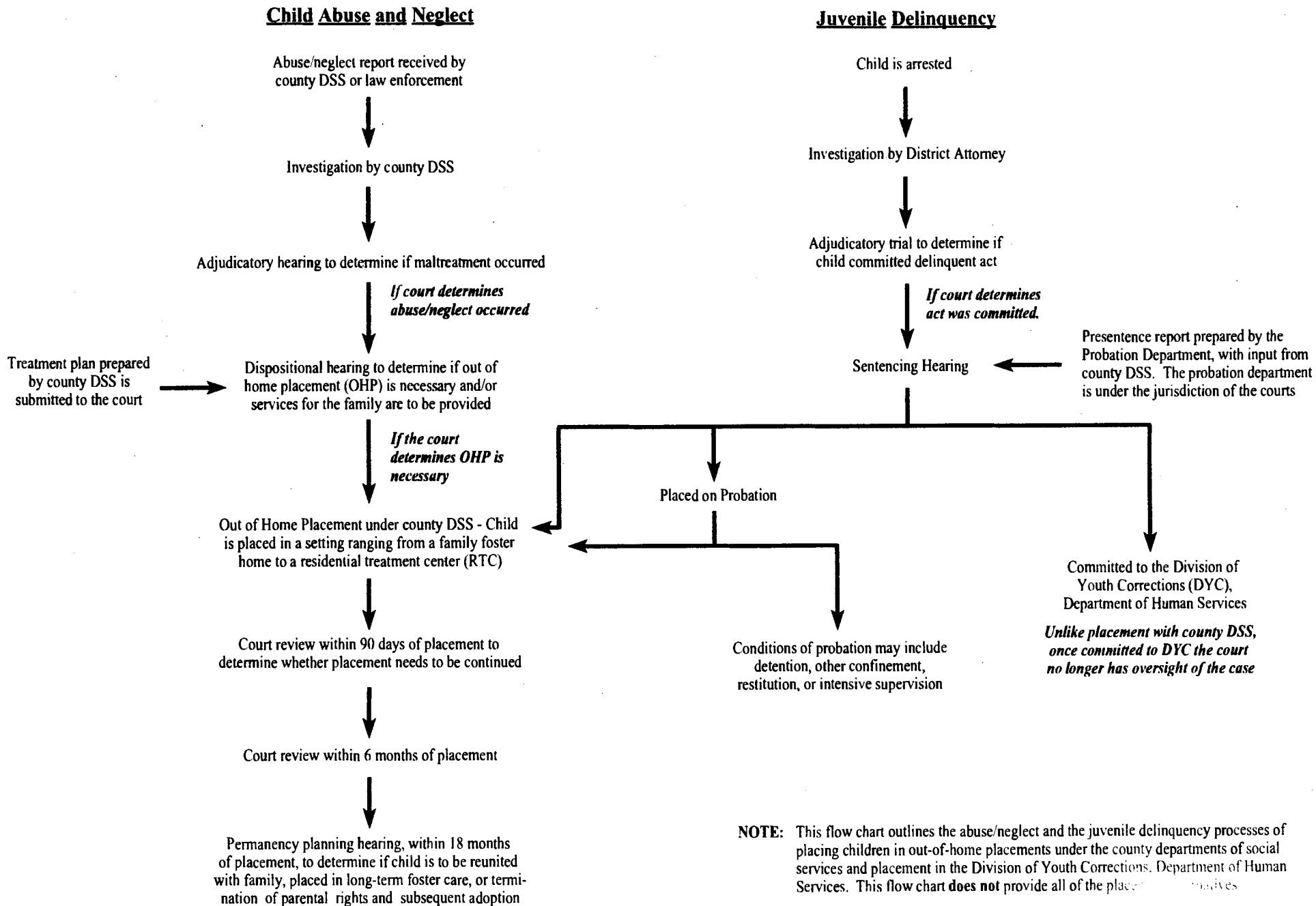
Children enter the child welfare out-of-home placement system because the courts determine that they have been abused/neglected or the child has been adjudicated delinquent. The aim of the child welfare system is to ensure the best interests of the child, and as such, provide services so that the child may eventually be returned to the home or to live in another permanent placement. Out-of-home placements under the child welfare system include a continuum ranging from family foster care homes to residential treatment facilities (RTCs).

Children who have been adjudicated delinquent are also placed in the Division of Youth Corrections (DYC). However, the primary mission of the DYC is to ensure public safety. Data provided during committee hearings concerning the DYC population indicated that: 1) 70-80 percent of these children have previously been involved in the child welfare system; 2) a large proportion of the DYC population has received services from the mental health system; and 3) minorities are overrepresented in this population.

Figure 1 on the following page provides a flow chart showing how children are placed in both systems. Although the purpose of the child welfare and the delinquency systems differ, many of the delinquent children have similar profiles; i.e., have committed similar offenses. Historically, the juvenile felony offenders were directed to DYC, while misdemeanants were placed in the child welfare system. This placement pattern is no longer true, since courts are placing felons and misdemeanants in both systems. Placement of a delinquent child may depend on the amount of involvement of the judge in the case. If the judge wishes to determine the exact level of care, then the child is placed in child welfare.

Figure 1

**Child Placement in the Child Welfare System and Juvenile Justice System**



## **Principles of Managed Care**

Managed care is not defined as a specific form of service delivery, but as a set of techniques used to manage resources. These techniques may include selective contracting, performance-based contracting based on outcomes, and case management. Some of the options in developing a managed care program include: 1) blending of funding streams to enable providers to tailor services to families and children; and 2) emphasizing the provision of services to certain populations, such as devoting significant resources to preventing abuse and neglect, thereby decreasing the need for child welfare services. Baseline data are necessary to determine whether managed care is effective. The Department of Human Services is designing an automation system to provide this and other data necessary for successful program performance. Completion of the automation system is scheduled for July 1, 1999.

Collaboration between systems serving children is important. Some county representatives noted that local collaboration between social service and mental health agencies is increasing. At the state level, DHS is seeking a federal Medicaid waiver that will enable the mental health and social services systems to create a partnership whereby Medicaid mental health funding can be used for services other than out-of-home placement, such as for home and community-based services and schools. The committee heard testimony concerning barriers to collaboration between social services and schools.

## **Child Welfare Managed Care — Pilot Counties and County Concerns**

*Pilot counties.* Senate Bill 97-218 authorizes the creation of three pilot counties to enter into performance contracts with DHS to deliver child welfare services. The pilot counties are exempt from state child welfare regulations. In addition, these counties are authorized to reinvest savings, realized as a result of programmatic reforms, for the provision of additional services for children. The committee heard preliminary reports from the three pilot counties: Boulder, Jefferson, and Mesa. The counties discussed innovations and the importance of interagency collaboration as an integral element of serving children in a comprehensive way with limited funding.

### **County Concerns**

*Allocations formula.* Senate Bill 97-218 created a Child Welfare Allocations Committee to advise DHS concerning the establishment of a formula for allocating funds to the counties for fiscal year 1997-98. Testimony indicated that it is difficult to craft a formula that will be equitable for all counties.

*Judicial discretion.* When the court places children in the child welfare system, the judge has the discretion to order the specific services that the child is to receive, even if these services differ from the recommendations developed by the county department of social services. County representatives expressed concern that this discretion may prevent the department from operating under the budget constraints created by capped allocations.

## **Division of Youth Corrections**

Testimony indicated that capped allocations in child welfare may lead to increased placement in the Division of Youth Corrections (DYC), Department of Human Services. Capped allocations also increase the incentive for county departments of social services to divert children to DYC because counties are responsible for a portion of child welfare costs, but have no financial involvement in DYC placement costs. The DYC placement costs are completely state-funded.

In addition, the committee heard statistics concerning the over-representation of minority youth in DYC. Minorities represent over 50 percent of the committed population. As a result, the committee recommends that a task force be created to study racial and ethnic disparities in the child welfare and juvenile justice systems and the nature of any biases that contribute to the existence of such disparities.

## **Department of Human Services Recommendations for Legislation**

In response to testimony and committee discussion, the Department of Human Services presented the following recommendations to the committee.

***Pilots.*** Repeal the June 30, 1997, sunset date for the current managed care pilot projects in Boulder, Jefferson, and Mesa counties and allow up to three additional pilot sites to be implemented on or before January 1, 1999. Limit the additional sites to the other applicant counties (El Paso and Arapahoe), and one multi-county rural pilot.

***External evaluation.*** Authorize the department to contract for an external evaluation of the pilots, with a report to the Governor, General Assembly, and Chief Justice on June 30, 2000.

***New legal category of youth to be served.*** Establish a separate legal category for "children in need of supervision" (CHINS). Include as part of the definition of CHINS children whose behavior is out of the control of their parents, guardian, or legal custodian. Statutes could define such youth to include, but not be limited to: a) chronic run-aways; b) chronic truants from school; c) those who have committed delinquent acts but not adjudicated as delinquent; and d) homeless, without proper care, or not domiciled with his or her parent guardian or legal custodian.

***Multi-agency teams.*** Create a statutory framework and specify the functions and core membership of local multi-agency teams. Include as team functions, child and family assessment, services plan development, recommendations and reports to the court, designation of lead case coordination responsibility, identification of a financial plan for supporting specific services, periodic case reviews, permanency plan development, and case closure. Require core membership to be child welfare, probation, youth corrections, mental health, alcohol and drug treatment, and education, with additional agency

representation to be based upon individual cases. Focus the efforts of the multi-agency teams on adolescents, including dependent, neglected, and delinquent youth and CHINS. Include also those youth defined in the previous paragraph.

***Court approval of service plans.*** Add statutory language to require the court to make specific findings on the record if its decision is to deviate from a service plan for: dependency and neglect; children in need of supervision; or delinquent adolescents. Require reports to the court whenever there are changes in placement from the approved service plan, but do not require an additional court hearing and approval for such changes unless there are objections or the court makes such a request.

***Training needs.*** Provide increased funding for county staff, judges and court staff, providers, parents and families, and others involved in moving to more flexible, integrated and locally-managed service systems.

***Development of a plan for statewide implementation.*** Require the Department of Human Services to develop a plan for statewide implementation of system reforms that have been demonstrated to be effective through the pilots and other local efforts. Require the plan to be developed in consultation with key stakeholders, and to be presented to the General Assembly and the Chief Justice on or before December 1, 2000. Require statewide implementation to begin July 1, 2001, with the possibility of a multi-year phase-in.

# SUMMARY OF RECOMMENDATIONS

## **House Joint Resolution A — Juvenile Sentencing Study**

---

House Joint Resolution A creates a task force to study racial and ethnic disparities in the child welfare and juvenile justice systems and the nature of any biases that contribute to the existence of such disparities. The 12-member task force includes 8 members of the General Assembly, and 4 members appointed by the Governor and statewide association of counties with knowledge of the juvenile justice system. Task force recommendations are to be submitted to the House and Senate Health, Environment, Welfare, and Institutions Committees, House and Senate Judiciary Committees, and the Joint Budget Committee by January 1, 1999.

If this resolution is not approved by the Legislative Council as part of the regular interim studies currently budgeted, the Legislative Department would require an appropriation of \$23,181 General Fund and 0.35 FTE in FY 1998-99.

## **Bill A — Sentencing of Juvenile Misdemeanants**

---

Bill A prohibits a court from committing to the Division of Youth Corrections, within the Department of Human Services, any juvenile who is adjudicated for an offense that would constitute a misdemeanor if committed by an adult, unless that juvenile is a mandatory sentence offender. The fiscal note indicates that for FY 1998-99, the appropriation to the Department of Human Services should be reduced by \$128,910. This amount represents a General Fund reduction of \$183,478 and an increase in federal funds of \$54,568. In addition, the appropriation to the Judicial Department should be increased by \$154,925 and 4.5 FTE.

**JOINT RESOLUTION A**

By Representative Grossman

HOUSE JOINT RESOLUTION

WHEREAS, Statistics indicate that racial and ethnic disparities exist in the juvenile justice system, specifically in the sentencing of adjudicated juveniles and in the treatment and services that such adjudicated juveniles receive;

WHEREAS, The child welfare oversight committee created pursuant to section 26-5-105.7, Colorado Revised Statutes, heard testimony on this subject during its meetings in the 1997 interim;

WHEREAS, The child welfare oversight committee recommended that a task force be created to study these disparities and the nature of any biases that contribute to the existence of such disparities in the child welfare and juvenile justice systems; now, therefore,

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

(1) That a task force shall be created to study the racial and ethnic disparities in the child welfare and juvenile justice systems in the state of Colorado and the nature of any biases that contribute to the existence of such disparities.

(2) That such task force shall consist of four members of the House of Representatives appointed by the Speaker of the House, two members of the House of Representatives appointed by the House minority leader, four members of the Senate appointed by the President of the Senate, two members of the Senate appointed by the Senate minority leader, two community representatives with knowledge of the juvenile justice system appointed by the Governor, and two county representatives with knowledge of the juvenile justice system appointed by the statewide association of counties.

(3) The Task Force study shall include, but not be limited to:

(a) The extent to which racial or ethnic disparities exist in the juvenile justice system, specifically in the sentencing of adjudicated juveniles and in the treatment services that such juveniles receive;

(b) The racial and ethnic composition of the populations of adjudicated juveniles who are committed to the department of human services;

(c) Methods for mitigating or eliminating any racial or ethnic biases that are found to exist in sentencing and treatment of adjudicated juveniles;

(d) Any suggested legislation necessary to implement the recommendations set forth in the study.

(4) The task force study and recommendations shall be submitted to the following committees of the general assembly no later than January 1, 1999: The house and senate health, environment, welfare, and institutions committees, the house and senate judiciary committees, and the joint budget committee.

(5) The task force is authorized to accept any gifts, grants, and donations that may be made to it for purposes of the study of the child welfare and juvenile justice systems.



# House Joint Resolution A

*Colorado Legislative Council Staff*

## STATE FISCAL NOTE

*Cash Funds Revenue Impact  
Cash Funds Exempt Revenue Impact  
General Fund Expenditure Impact  
Cash Funds Expenditure Impact  
Cash Funds Exempt Expenditure Impact*

**Drafting Number:** LLS 98-318  
**Prime Sponsor(s):** Rep. Grossman

**Date:** November 26, 1997  
**Bill Status:** Child Welfare Oversight  
Committee  
**Fiscal Analyst:** Ken Cole (866-4784)

**TITLE:** CONCERNING THE CREATION OF A TASK FORCE TO STUDY RACIAL AND ETHNIC DISPARITIES IN THE CHILD WELFARE AND JUVENILE JUSTICE SYSTEMS.

### Summary of Legislation

STATE FISCAL IMPACT SUMMARY	FY 1998/99	FY 1999/2000
<b>State Revenues</b>		
General Fund	Potential cash funds	\$0
Cash Funds	and cash funds	\$0
Cash Funds Exempt	exempt revenue from gifts, grants, and donations.	\$0
<b>State Expenditures</b>		
General Fund	\$23,181	\$0
Cash Funds	Potential cash funds	\$0
Cash Funds Exempt	and cash funds exempt expenditures from gifts, grants, and donations.	\$0
FTE Position Change	0.35 FTE	None.
<b>Local Government Impact — None.</b>		

The joint resolution creates a task force to study the racial and ethnic disparities in the child welfare and juvenile justice systems and the nature of any biases that contribute to the existence of these disparities. The task force would consist of four members of the House of Representatives appointed by the Speaker of the House, two members of the House of Representatives appointed by the House minority leader, four members of the Senate appointed by the President of the Senate, two members of the Senate appointed by the Senate minority leader, two community representatives with

# House Joint Resolution A

knowledge of the juvenile justice system appointed by the Governor, and two county representatives with knowledge of the juvenile justice system appointed by the statewide association of counties.

The resolution requires the task force study to make recommendations to the House and Senate Health, Environment, Welfare, and Institutions committees, the House and Senate Judiciary committees, and the Joint Budget Committee by no later than January 1, 1999. The task force is authorized to accept any gifts, grants, and donations that may be made to it for purposes of the study of the child welfare and juvenile justice systems.

## State Revenues

The resolution authorizes the task force to accept any gifts, grants, and donations that may be made to it for purposes of the study. These revenues, if available, could offset the costs associated with the task force as identified below in the State Expenditures section. However, no estimate or source of these revenues has been identified at this time.

## State Expenditures

The resolution does not specifically authorize the payment of legislator per diem and expense reimbursement or staff support for the task force. However, this fiscal note assumes the legislative members of the task force will receive per diem, expense reimbursement, and staff assistance from Legislative Council and the Office of Legislative Legal Services. Assuming the task force will meet six times during the interim for 1998, meeting costs and staff resource requirements are identified in the following table.

Item	Assumptions/Calculations	Total
Legislator Per Diem (12 legislative members)	\$ 99/Day x 12 x 6 Meetings	\$7,128
Member Reimbursement	\$ 50/Meeting x 12 x 6 Meetings	3,600
Legislative Council Staff	0.25 FTE Research Staff	8,339
Legal Services Staff	0.10 FTE Staff Attorney	4,114
Total Costs		\$ 23,181 0.35 FTE

## Expenditures Not Shown

Pursuant to the Joint Budget Committee's budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs (\$782);
- short-term disability costs (\$26); and
- inflationary cost factors.

# House Joint Resolution A

## **Spending Authority**

This fiscal note assumes that all expenditures incurred while conducting this study shall be approved by the chair of the Legislative Council and paid by vouchers and warrants drawn as provided by law from moneys allocated to the Legislative Council for legislative studies from appropriations made by the General Assembly. If this resolution is not approved by the Legislative Council as part of the regular interim studies currently budgeted, the Legislative Department would require an appropriation of \$23,181 General Fund and 0.35 FTE in FY 1998-99.

## **Departments Contacted**

Legislative Council  
Legislative Legal Services

## **Omissions and Technical or Mechanical Defects**

This fiscal note assumes the legislative members of the task force will receive per diem, expense reimbursement, and staff assistance from Legislative Council and the Office of Legislative Legal Services. However, the resolution does not include authorization for the legislative members of the task force to receive per diem and reimbursement of necessary expenses, nor does the resolution include authorization for Legislative Council and the Office of Legislative Legal Services to assist the task force in conducting its duties. In addition, the resolution authorizes the task force to accept any gifts, grants, and donations that may be made to it for purposes of the study. However, no fund is created or identified to receive these revenues.

**BILL A**

By Representative Grossman

A BILL FOR AN ACT

CONCERNING SENTENCING OF A JUVENILE WHO IS ADJUDICATED FOR COMMISSION OF AN ACT THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT.

**Bill Summary**

"Sentencing Of Juvenile Misdemeanants"

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

Child Welfare Oversight Committee. Prohibits a court from committing to the department of human services any juvenile who is adjudicated for an offense that would constitute a misdemeanor if committed by an adult unless that juvenile is a mandatory sentence offender.

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

**SECTION 1.** 19-2-909 (1) (a), Colorado Revised Statutes, is amended to read:

**19-2-909. Sentencing - commitment to the department of human services.** (1) (a) Except as otherwise provided in sections 19-2-601 and 19-2-921 for an aggravated juvenile offender, the court may commit a juvenile to the department of human services for a determinate period of up to two years

if the juvenile is adjudicated for an offense that would constitute a felony ~~or a misdemeanor~~ if committed by an adult; except that, if the juvenile is younger than twelve years of age and is not adjudicated an aggravated juvenile offender, the court may commit the juvenile to the department of human services only if the juvenile is adjudicated for an offense that would constitute a class 1, class 2, or class 3 felony if committed by an adult.

(a.5) THE COURT MAY COMMIT A JUVENILE WHO IS ADJUDICATED FOR COMMISSION OF AN ACT THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT TO THE DEPARTMENT OF HUMAN SERVICES ONLY IF THE JUVENILE IS A MANDATORY SENTENCE OFFENDER, AS DESCRIBED IN SECTION 19-2-516 (1).

**SECTION 2.** The introductory portion to 19-2-908 (1) (a), Colorado Revised Statutes, is amended to read:

**19-2-908. Sentencing - special offenders.** (1) The court shall sentence a juvenile adjudicated as a special offender as follows:

(a) **Mandatory sentence offender.** The court shall place or commit any juvenile adjudicated as a mandatory sentence offender, as described in section 19-2-516 (1), out of the home for not less than one year, unless the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate. ~~except that~~ THE COURT MAY COMMIT TO THE DEPARTMENT OF HUMAN SERVICES A JUVENILE WHO IS ADJUDICATED AS A MANDATORY SENTENCE OFFENDER FOR AN OFFENSE THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT, AS PROVIDED IN SECTION 19-2-909 (1) (a.5). NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH (a):

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

*Colorado Legislative Council Staff*  
**STATE AND LOCAL**  
**FISCAL NOTE**  
*General Fund Expenditure Impact*  
*Cash Funds Exempt Expenditure Impact*  
*Federal Funds Expenditure Impact*  
*Local Expenditure Impact*

**Drafting Number:** LLS 98-299  
**Prime Sponsor(s):** Rep. Grossman

**Date:** November 24, 1997  
**Bill Status:** Child Welfare Oversight  
 Committee  
**Fiscal Analyst:** Ken Cole (866-4784)

**TITLE:** CONCERNING SENTENCING OF A JUVENILE WHO IS ADJUDICATED FOR COMMISSION OF AN ACT THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT.

**Summary of Legislation**

The bill prohibits a court from committing a juvenile to the Department of Human Services if the juvenile is adjudicated for an offense that would constitute a misdemeanor if committed by an adult, unless the juvenile is a mandatory sentence offender. The bill would take effect upon passage and would apply to juveniles sentenced on or after this date.

STATE FISCAL IMPACT SUMMARY	FY 1998/99	FY 1999/2000
<b>State Revenues</b>		
General Fund		
Other Fund		
<b>State Expenditures</b>		
General Fund	(\$28,553)	(\$318,959)
Federal Funds	\$54,568	\$137,981
<b>FTE Position Change</b>		
Judicial Department	4.5 FTE	4.7 FTE
County Staff <i>a/</i>	3.7 FTE	9.3 FTE

**Local Government Impact** — The bill would result in an increase in expenditures of \$120,541 and 3.7 FTE at the county level in FY 1998-99 and an increase of \$304,764 and 9.3 FTE in FY 1999-00 (See local government impact section below).

*a/ County FTE are not part of the state personnel system. The state provides the structure for the Merit System, but supervision and hiring/firing decisions are made at the county level. The Long Bill has historically shown county FTE inconsistently, and does not reflect the actual number of county FTE.*

**State Expenditures**

The bill will impact the expenditures of the Department of Human Services and the Judicial Department. These impacts are discussed below.

***Department of Human Services.*** This fiscal note assumes that responsibility for adjudicated delinquents currently committed to the Department of Human Services, Division of Youth Corrections (DYC) for misdemeanor offenses will be shifted to the Department's Division of Child Welfare and county-administered departments of social services. Thus, the bill would result in a reduction in expenditures by the DYC and an increase in expenditures by the Division of Child Welfare and county social services departments. The table on Page 3 summarizes the estimated fiscal impact to the DYC and the Division of Child Welfare (including county administration and out-of-home placement).

***Division of Youth Corrections.*** The bill would result in a reduction of 37.4 Average Daily Population (ADP) adjudicated delinquents in FY 1998-99 and a reduction of 94.6 ADP in FY 1999-00 who could not be committed to the department and placed in the custody of the DYC. Based on the current placement of juveniles adjudicated for misdemeanor offenses and committed to the DYC, this fiscal note assumes 50 percent of the 37.4 ADP reduction in FY 1998-99 represents juveniles in community residential placements and 50 percent represents juveniles being served in Residential Treatment Center (RTC) placements. As a result of these population reductions, the DYC would experience a reduction in expenditures of \$1,494,580 in FY 1998-99 (including \$741,318 General Fund and \$753,262 Medicaid Cash Funds Exempt) and \$3,780,407 in FY 1999-00 (including \$1,875,097 General Fund and \$1,905,310 Medicaid Cash Funds Exempt). Please see the Facts and Assumptions Section for additional detail on the assumptions used in calculating the fiscal impact.

***Division of Child Welfare and county departments of social services.*** The bill will result in an increase in expenditures to the Division of Child Welfare and county departments of social services since it is assumed that juveniles previously committed to the department's DYC will instead be placed in the residential custody of county departments of social services. This fiscal note assumes 50 percent of these juveniles will be placed in RTC placements at an average daily rate of \$143.87 per day/per youth and 50 percent will be placed in Proctor Care facilities at an average daily rate of \$60.08 per day/per youth. As a result of these population increases, the Division of Child Welfare and county social services departments would experience an increase in expenditures of \$1,486,211 in FY 1998-99 (including \$557,840 General Fund, \$753,262 Medicaid Cash Funds Exempt, \$120,541 County Cash Funds Exempt, and \$54,568 Federal Funds) and \$3,758,566 in FY 1999-00 (including \$1,410,511 General Fund, \$1,905,310 Medicaid Cash Funds Exempt, \$304,764 County Cash Funds Exempt, and \$137,981 Federal Funds). In addition, the bill would result in an increase of 3.7 FTE county staff in FY 1998-99 and 9.3 FTE county staff in FY 1999-00. Please see the Facts and Assumptions Section for additional detail on the assumptions used in calculating the fiscal impact.

# Bill A

	FY 1998-99	FY 1999-00
<b>DIVISION OF YOUTH CORRECTIONS (DYC)</b>		
Reduction in Average Daily Population (ADP) Misdemeanant Offenders	(37.4)	(94.6)
Assume 50 percent of current misdemeanor youth are in community placements at an average cost per day/per youth of \$72.91 General Fund.	(512,595)	(1,296,564)
Assume 50 percent of current misdemeanor youth are in Residential Treatment Centers at an average cost per day of \$143.87 (including \$110.36 per day/per youth Medicaid Cash Funds and \$33.51 per day/youth General Fund).	(981,985)	(2,483,843)
<b>Total - DYC</b>	<b>(\$1,494,580)</b>	<b>(\$3,780,407)</b>
General Fund	(741,318)	(1,875,097)
Cash Funds Exempt (Medicaid Funds)	(753,262)	(1,905,310)
<b>DIVISION OF CHILD WELFARE - County Administration</b>		
Assume increase of 37.4 average monthly caseload in FY 1998-99 and 94.6 average monthly caseload in FY 1999-00.		
Personal Services - (incl. county retirement, FICA, H/L)	119,389	301,729
Operating/Travel/Leased Space/Contractual Services	26,152	65,732
County FTE	3.7	9.3
<b>Total - Division of Child Welfare</b>	<b>\$145,541</b>	<b>\$367,461</b>
General Fund	106,973	270,084
Cash Funds Exempt (County Funds)	29,108	73,492
Federal Funds (Title IV-E)	9,460	23,885
<b>DIVISION OF CHILD WELFARE - Out-of-Home Placement</b>		
Assume 50 percent of misdemeanants will be placed in Residential Treatment Facilities and 50 percent will be placed in Proctor Care.		
General Fund	450,867	1,140,427
Cash Funds Exempt (County Funds)	91,433	231,272
Cash Funds Exempt (Medicaid Funds)	753,262	1,905,310
Federal Funds (Title IV-E)	45,108	114,096
<b>NET IMPACT - DEPARTMENT OF HUMAN SERVICES</b>		
General Fund	(183,478)	(464,586)
Cash Funds Exempt (County Funds)	120,541	304,764
Cash Funds Exempt (Medicaid Funds)	0	0
Federal Funds (Title IV-E)	54,568	137,981



# Bill A

**Judicial Department.** The Judicial Department will require \$154,925 and 4.5 FTE probation staff in FY 1998-99 and \$145,628 and 4.7 probation staff in FY 1999-00 to provide intensive probation services to 81 additional juveniles in FY 1998-99 and 86 additional juveniles in FY 1999-00. Misdemeanant youth currently committed to the DYC do not receive probation services. However, this fiscal note assumes these youth will be placed on intensive supervision probation by the court in addition to being placed in the custody of social services. Please see the Facts and Assumptions Section for additional detail on the assumptions used in calculating the fiscal impact.

## Local Government Impact

The bill would result in an increase in expenditures at the county level of \$120,541 and 3.7 FTE in FY 1998-99 and an increase of \$304,764 and 9.3 FTE in FY 1999-00. These costs are associated with an increase in county administration caseworkers and support staff and residential treatment costs. Additional detail is provided in the table above and in the Facts and Assumptions Section.

## Expenditures Not Included

Pursuant to the Joint Budget Committee's budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs; \$9,957
- short-term disability costs; \$284
- inflationary cost factors;
- leased space; and
- indirect costs.

## Spending Authority

This fiscal note indicates that for FY 1998-99, the appropriation to the Department of Human Services should be reduced by \$128,910. This amount represents a General Fund reduction of \$183,478 and an increase in federal funds of \$54,568. In addition, the appropriation to the Judicial Department should be increased by \$154,925 and 4.5 FTE.

## Departments Contacted

Judicial  
Human Services

## Omissions and Technical or Mechanical Defects

The bill does not contain an effective date clause. Thus, it is unclear whether the bill applies to crimes committed, or sentences imposed, after the effective date.

## **FACTS AND ASSUMPTIONS**

### **Facts**

1. In FY 1996-97 there were 220 juveniles were committed to the NYC for misdemeanor offenses. Of these 220 youth, 166.6 Average Daily Population (ADP) received nonmandatory commitments.
2. Of the 166.6 ADP committed to the NYC in FY 1996-97, 83.8 had at least one recommitment prior to discharge or had two or more prior adjudications and could have been sentenced as a mandatory commitment.

### **Assumptions**

1. Based on Legislative Council Staff November 1996 projected NYC population increases, the bill would result in a reduction of 94.6 ADP by FY 1999-00.
2. Assuming an average length of stay of 17 months, a reduction of misdemeanor commitments to the NYC would result in a reduction of 37.4 ADP in FY 1998-99 and another 57.2 ADP in FY 1999-00, or a total reduction of 94.6 ADP.
3. Of the 94.6 reduction in ADP, 50 percent of the reduction (or 47.3 ADP) would occur with youth in community residential placements and 50 percent of the reduction (or 47.3 ADP) would occur with youth in RTC placements.
4. The NYC reduction in ADP would be placed in the custody of county-administered social services departments. An estimated 50 percent would be served in RTC community placements and 50 percent would be served in Proctor Care community placements with an average length of stay of 17 months.
5. The bill would result in an increase in caseload for social services departments. Social services costs have been calculated assuming a caseworker workload standard of one caseworker per 17 youth and associated support staff workload impact has been calculated using Department of Human Services and Child Welfare Settlement Agreement standards.
6. Each of the youth placed by the court in the custody of social services would also be placed on juvenile intensive supervision probation. This represents an estimated probation caseload increase of 81 cases in FY 1998-99 and 86 cases in FY 1999-00.
7. Based on a caseload standard of one probation officer per 25 cases, the Judicial Department would require 3.2 Probation Officer I FTE in FY 1998-99 and 3.4 Probation Officer I FTE in FY 1999-00. Based on a supervisory ratio of 1 supervisor per 10 probation officers, the Judicial Department would require 0.3 FTE Probation Supervisor I in FY 1998-99 and FY 1999-00. Based on a support staff ratio of 1 support staff to 4 probation officers, the Judicial Department would require an additional 0.9 Secretary I FTE in FY 1998-99 and FY 1999-00.

# Bill A

8. The Judicial Department estimated FY 1998-99 costs associated with Assumption #7 are detailed below:

3.2 Probation Officer I (step I)	\$102,498
0.3 Probation Supervisor I (step I)	15,208
0.9 Secretary I (step 1)	17,390
Operating Expenses	2,066
Capital Outlay (one-time expenditure)	<u>17,763</u>
Total	\$154,925