

ภาคผนวก

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กฎหมายต่างประเทศ

Colorado Revised Statutes 2017**United States of America****Section 19-2-925** Probation - terms - release - revocation.

(1) (a) The terms and conditions of probation shall be specified by rules or orders of the court. The court, as a condition of probation for a juvenile who is ten years of age or older but less than eighteen years of age on the date of the sentencing hearing, may impose a commitment or detention. The aggregate length of any such commitment or detention, whether continuous or at designated intervals, shall not exceed forty-five days; except that such limit shall not apply to any placement out of the home through a county department of social services. Each juvenile placed on probation shall be given a written statement of the terms and conditions of his or her probation and shall have such terms and conditions fully explained to him or her.

(b) The court, as a condition of probation for a juvenile eighteen years of age or older at the time of sentencing for delinquent acts committed prior to his or her eighteenth birthday, may impose as a condition of probation a sentence to the county jail that shall not exceed ninety days; except that such sentence may be for a period of up to one hundred eighty days if the court orders the juvenile released for school attendance, job training, or employment.

(2) The court shall, as minimum conditions of probation, order that the juvenile:

(a) 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;

(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;

(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;

(e) 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;

(g) 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;

(i) Make restitution as ordered by the court;

(j) Pay the victim compensation fee as ordered by the court;

(k) Pay the surcharge levied pursuant to section 24-4.2-104 (1)(a)(I), C.R.S.;

and

(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.

(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.

(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.

(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.

(b) The juvenile and his or her parents, guardian, or other legal custodian shall be given a written statement concerning the alleged violation and shall have the right to be represented by counsel at the hearing and shall be entitled to the issuance of compulsory process for the attendance of witnesses.

(c) When the juvenile has been taken into custody because of the alleged violation, the provisions of sections 19-2-507 and 19-2-508 shall apply.

(d) (I) The hearing on the alleged violation shall be conducted as provided in section 19-1-106.

(II) Subject to the provisions of section 19-2-907, if the court finds that the juvenile violated the terms and conditions of probation, it may modify the terms and conditions of probation, revoke probation, or take such other action permitted by this article that is in the best interest of the juvenile and the public.

(III) If the court finds that the juvenile did not violate the terms and conditions of his or her probation as alleged, it shall dismiss the proceedings and continue the juvenile on probation under the terms and conditions previously prescribed.

(e) If the court revokes the probation of a person over eighteen years of age, in addition to other action permitted by this article, the court may sentence him or her to the county jail for a period not to exceed one hundred eighty days during which time he or she may be released during the day for school attendance, job training, or employment, as ordered by the court; except that, if the sentence imposed exceeds ninety days, the court shall order the person released for school attendance, job training, or employment while serving his or her sentence.

(5) Following specification of the terms and conditions of probation, where the conditions of probation include requiring the juvenile to attend school, the court shall notify the school district in which the juvenile is enrolled of such requirement.

Missouri Revised Statutes 2017**United States of America**

Section 211.141 Child returned to parent, when, conditions — detention on order of court — detention without order, when — assessment of child required, when — random sampling of assessments. —

1. When a child is taken into custody as provided in section 211.131, the person taking the child into custody shall, unless it has been otherwise ordered by the court, return the child to his or her parent, guardian or legal custodian on the promise of such person to bring the child to court, if necessary, at a stated time or at such times as the court may direct. The court may also impose other conditions relating to activities of the child. If these additional conditions are not met, the court may order the child detained as provided in section 211.151. If additional conditions are imposed, the child shall be notified that failure to adhere to the conditions may result in the court imposing more restrictive conditions or ordering the detention of the child. If the person taking the child into custody believes it desirable, he may request the parent, guardian or legal custodian to sign a written promise to bring the child into court and acknowledging any additional conditions imposed on the child.

2. If the child is not released as provided in subsection 1 of this section, he or she may be conditionally released or detained in any place of detention specified in section 211.151 but only on order of the court specifying the reason for the conditional release or the detention. The parent, guardian or legal custodian of the child shall be notified of the terms of the conditional release or the place of detention as soon as possible.

3. The juvenile officer may conditionally release or detain a child for a period not to exceed twenty-four hours if it is impractical to obtain a written order from the court because of the unreasonableness of the hour or the fact that it is a Sunday or holiday. The conditional release shall be as provided in subsection 1 of this section, and the detention shall be as provided in section 211.151. A written record of such conditional release or detention shall be kept and a report in writing filed with the court. In the event that the judge is absent from his circuit, or is unable to act, the approval of another circuit judge of the same or adjoining circuit must be

obtained as a condition or continuing the conditional release or detention of a child for more than twenty-four hours.

4. In any matter referred to the juvenile court pursuant to section 211.031, the juvenile officer shall make a risk and needs assessment of the child and, before the disposition of the matter, shall report the results of the assessment to the juvenile court. The assessment shall be written on a standardized form approved by the office of state courts administrator.

5. The division, in cooperation with juvenile officers and juvenile courts, shall at least biennially review a random sample of assessments of children and the disposition of each child's case to recommend assessment and disposition equity throughout the state. Such review shall identify any evidence of racial disparity in certification. Such review shall be conducted in a manner which protects the confidentiality of the cases examined.

Section 211.151 Places of detention — photographing and fingerprinting, restrictions. —

1. Pending disposition of a case, the juvenile court may order in writing the detention of a child in one of the following places:

- (1) A juvenile detention facility provided by the county;
- (2) A shelter care facility, subject to the supervision of the court;
- (3) A suitable place of detention maintained by an association having for one of its objects the care and protection of children;
- (4) Such other suitable custody as the court may direct.

2. A child shall not be detained in a jail or other adult detention facility pending disposition of a case.

3. Law enforcement officers shall take fingerprints and photographs of a child taken into custody for offenses that would be considered felonies if committed by adults, without the approval of the juvenile judge. A child taken into custody as a victim of abuse or neglect or as a status offender pursuant to subdivision (1) or (2) of subsection 1 of section 211.031 or for an offense that would be considered a misdemeanor if committed by an adult may be fingerprinted or photographed with the consent of the juvenile judge. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided under section 610.100 if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the

date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126.

4. (1) As used in this section, the term "jail or other adult detention facility" means any locked facility administered by state, county or local law enforcement and correctional agencies, a primary purpose of which is to detain adults charged with violating a criminal law pending trial, including facilities of a temporary nature which do not hold persons after they have been formally charged, or to confine adults convicted of an offense. The term "jail or other adult detention facility" does not include a juvenile detention facility.

(2) As used in this section, the term "juvenile detention facility" means a place, institution, building or part thereof, set of buildings or area, whether or not enclosing a building or set of buildings, which has been designated by the juvenile court as a place of detention for juveniles and which is operated, administered and staffed separately and independently of a jail or other detention facility for adults and used exclusively for the lawful custody and treatment of juveniles. The facility may be owned or operated by public or private agencies. A juvenile detention facility may be located in the same building or grounds as a jail or other adult detention facility if there is spatial separation between the facilities which prevents haphazard or accidental contact between juvenile and adult detainees; there is separation between juvenile and adult program activities; and there are separate juvenile and adult staff other than specialized support staff who have infrequent contact with detainees.

Section 211.181 Order for disposition or treatment of child — suspension of order and probation granted, when — community organizations, immunity from liability, when — length of commitment may be set forth — assessments, deposits, use. —

1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age;

(6) The department of social services, in conjunction with the department of mental health, shall apply to the United States Department of Health and Human Services for such

federal waivers as required to provide services for such children, including the acquisition of community-based services waivers.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.

Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his or her own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require; provided that, no child who has been adjudicated a delinquent by a juvenile court for committing or attempting to commit a sex-related offense which if committed by an adult would be considered a felony offense pursuant to chapter 566, including but not limited to rape, forcible sodomy, child molestation, and sexual abuse, and in which the victim was a child, shall be placed in any residence within one thousand feet of the residence of the abused child of that offense until the abused child reaches the age of eighteen, and provided further that the provisions of this subdivision regarding placement within one thousand feet of the abused child shall not apply when the abusing child and the abused child are siblings or children living in the same home;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288. Execution of any

order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

The Juvenile Justice (Care and Protection of Children) Act 2015.

Republic of India

Section 18 (1) Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,—

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;

(b) direct the child to participate in group counselling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;

(f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill

development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home: Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to—

- (i) attend school; or
- (ii) attend a vocational training centre; or
- (iii) attend a therapeutic centre; or
- (iv) prohibit the child from visiting, frequenting or appearing at a specified place;

or

- (v) undergo a de-addiction programme.

(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.

Section 41 (1) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a State Government or by voluntary or non-governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as may be prescribed, within a period of six months from the date of commencement of this Act, regardless of whether they are receiving grants from the Central Government or, as the case may be, the State Government or not: Provided that the institutions having valid registration under the Juvenile Justice (Care and Protection of Children) Act, 2000 on the date of commencement of this Act shall be deemed to have been registered under this Act.

(2) At the time of registration under this section, the State Government shall determine and record the capacity and purpose of the institution and shall register the institution as a Children's Home or open shelter or Specialised Adoption Agency or observation home or special home or place of safety, as the case may be.

(3) On receipt of application for registration under sub-section (1), from an existing or new institution housing children in need of care and protection of children in conflict with law, the State

Government may grant provisional registration, within one month from the date of receipt of application, for a maximum period of six months, in order to bring such institution under the purview of this Act, and shall determine the capacity of the Home which shall be mentioned in the registration certificate: Provided that if the said institution does not fulfill the prescribed criteria for registration, within the period specified in sub-section (1), the provisional registration shall stand cancelled and the provisions of sub-section (5) shall apply.

(4) If the State Government does not issue a provisional registration certificate within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional registration to run an institution for a maximum period of six months.

(5) If the application for registration is not disposed of within six months by any officer or officers of any State Government, it shall be regarded as dereliction of duty on their part by their higher controlling authority and appropriate departmental proceedings shall be initiated.

(6) The period of registration of an institution shall be five years, and it shall be subject to renewal in every five years.

(7) The State Government may, after following the procedure as may be prescribed, cancel or withhold registration, as the case may be, of such institutions which fail to provide rehabilitation and reintegration services as specified in section 53 and till such time that the registration of an institution is renewed or granted, the State Government shall manage the institution.

(8) Any child care institution registered under this section shall be duty bound to admit children, subject to the capacity of the institution, as directed by the Committee, whether they are receiving grants from the Central Government or, as the case may be, the State Government or not.

(9) Not with standing anything contained in any other law for the time being in force, the inspection committee appointed under section 54, shall have the powers to inspect any institution housing children, even if not registered under this Act to determine whether such institution is housing children in need of care and protection.

Section 47 (1) The State Government shall establish and maintain in every district or a group of districts, either by itself, or through voluntary or non-governmental organisations, observation homes, which shall be registered under section 41 of this Act, for temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under this Act.

(2) Where the State Government is of the opinion that any registered institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of such child alleged to be in conflict with law during the pendency of any inquiry under this Act, it may register such institution as an observation home for the purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management and monitoring of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a child alleged to be in conflict with law and the circumstances under which, and the manner in which, the registration of an observation home may be granted or withdrawn.

(4) Every child alleged to be in conflict with law who is not placed under the charge of parent or guardian and is sent to an observation home shall be segregated according to the child's age and gender, after giving due consideration to physical and mental status of the child and degree of the offence committed.

Section 48 (1) The State Government may establish and maintain either by itself or through voluntary or non-governmental organisations, special homes, which shall be registered as such, in the manner as may be prescribed, in every district or a group of districts, as may be required for rehabilitation of those children in conflict with law who are found to have committed an offence and who are placed there by an order of the Juvenile Justice Board made under section 18.

(2) The State Government may, by rules, provide for the management and monitoring of special homes, including the standards and various types of services to be provided by them which are necessary for social re-integration of a child, and the circumstances under which, and the manner in which, the registration of a special home may be granted or withdrawn.

(3) The rules made under sub-section (2) may also provide for the segregation and separation of children found to be in conflict with law on the basis of age, gender, the nature of offence committed by them and the child's mental and physical status.