

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. R13-0904.01 Michael Dohr x4347

**HJR13-1019**

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**HOUSE JOINT RESOLUTION 13-1019**

101 **CONCERNING CREATION OF AN INTERIM COMMITTEE TO STUDY LEGAL**  
102 **DEFENSE IN JUVENILE JUSTICE PROCEEDINGS.**

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1           WHEREAS, One hundred and ten years ago, Colorado was the  
2 second state in the nation to establish a separate juvenile court for  
3 children accused of misconduct and activity that would be criminal if  
4 committed by an adult in order to hold children accountable for their  
5 behavior through developmentally appropriate responses and treatment  
6 that both protects the public and assists the child in becoming a  
7 productive member of society; and

8           WHEREAS, The Bill of Rights of the United States and Colorado  
9 constitutions guarantee children due process of law, access to courts, and  
10 the right to counsel in juvenile delinquency court under the United States

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

1 Supreme Court decision of *In re Gault*, 387 U.S. 1 (1967), extending the  
2 protections under *Gideon v. Wainright*, 372 U.S. 335 (1963) to children;  
3 and

4 WHEREAS, Children in juvenile delinquency proceedings face  
5 direct consequences, such as secure confinement, shackling, placement  
6 outside of their family homes, and probation; and

7 WHEREAS, The collateral consequences of a juvenile  
8 adjudication can have lasting detrimental effects on a child's current and  
9 future ability to attend school, secure housing, obtain a job, obtain credit,  
10 or enroll in college, all of which hinder the ability to recover from a  
11 delinquency adjudication; and

12 WHEREAS, Defense counsel plays a critical role for children in  
13 juvenile court by protecting against unfairness, promoting accuracy in  
14 decision-making, presenting alternatives to decisionmakers, helping  
15 children understand the court proceedings and the consequences of  
16 decision-making, and representing children's expressed interests; and

17 WHEREAS, Children are different from adults, and the  
18 representation of a child client requires specialized skills and training, but  
19 juvenile defense has not consistently been treated as a specialty practice  
20 for dedicated attorneys by indigent defense delivery systems, and  
21 statewide disparities exist as to how and when children access counsel  
22 and in the quality of representation children receive in delinquency  
23 proceedings; and

24 WHEREAS, Because children and families face barriers in  
25 accessing the courts and counsel, and a significant percentage of children  
26 and families proceed without counsel in juvenile delinquency court,  
27 children enter waivers of counsel without consultation with counsel and  
28 enter guilty pleas without a full advisement of the collateral consequences  
29 of juvenile adjudications by counsel; and

30 WHEREAS, Children and families are often unaware of public  
31 access to juvenile court records and juvenile court proceedings and the  
32 barriers those records impose on future success. Moreover, the process of  
33 petitioning for expungement of a juvenile record or removal from the  
34 juvenile sex offender registry are important statutory rights in this regard,  
35 but the process is cumbersome for children and families to navigate  
36 without counsel; now, therefore,

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

3           (1) That there is hereby created a legislative committee, referred  
4           to in this resolution as the "committee", which shall meet in the interim  
5           after the first regular session of the Sixty-ninth General Assembly to  
6           study the role of legal defense counsel in the juvenile justice system.

7           (2) (a) That the committee shall consist of six legislative members  
8           appointed as follows:

9           (I) Three members of the Senate, two appointed by the President  
10          of the Senate and one appointed by the Minority Leader of the Senate;  
11          and

12          (II) Three members of the House of Representatives, two  
13          appointed by the Speaker of the House of Representatives and one  
14          appointed by the Minority Leader of the House of Representatives.

15          (III) The Speaker of the House of Representatives shall select a  
16          legislative committee member to serve as Chair of the committee, and the  
17          President of the Senate shall select a legislative member of the committee  
18          to serve as Vice-Chair of the committee.

19          (b) All appointments to the committee must be made by May 31,  
20          2013.

21          (c) The Chair and Vice-Chair of the committee shall jointly select  
22          up to ten persons to serve as nonvoting members of the committee and to  
23          assist the legislative committee members in reviewing the issues  
24          identified in this section. The nonvoting members must include persons  
25          with knowledge and experience in the areas of juvenile defense, juvenile  
26          delinquency court administration, and professionalism in the law, and  
27          who represent the following constituencies:

28                 (I) Office of the State Public Defender;

29                 (II) Juvenile defense attorneys;

30                 (III) State Court Administrator's Office;

31                 (IV) Juvenile court judges and magistrates;

1 (V) Youth and parents of youth previously involved in the  
2 juvenile court system;

3 (VI) District attorneys;

4 (VII) Office of Child's Representative;

5 (VIII) Colorado Bar Association, other interested bar associations,  
6 and law school faculty; and

7 (IX) Community organizations.

8 (3) That the committee shall study and address:

9 (a) Current laws, procedures, and practices for the appointment of  
10 counsel, advisement of rights, and waivers of counsel, for children in  
11 juvenile delinquency court;

12 (b) The role of defense counsel as distinct from the role of a  
13 guardian ad litem and the scope of the right to counsel;

14 (c) Current laws, procedures, and guidelines for the determination  
15 of whether a child is indigent for the purpose of providing  
16 court-appointed counsel;

17 (d) Methods for improving professionalism in the practice of  
18 juvenile defense;

19 (e) The impact of inadequate access to counsel on minority,  
20 immigrant, and disabled children and children with mental health needs;

21 (f) Funding attorneys to represent indigent children and the most  
22 efficient way to provide counsel to juveniles in delinquency proceedings;  
23 and

24 (g) The scope of public access to juvenile delinquency records, the  
25 laws and procedures for expunging juvenile adjudications, and the laws  
26 and procedures for petitioning for removal from the juvenile sex offender  
27 registry.

28 (4) (a) That the committee shall meet at least four times, but no  
29 more than six times, beginning in July 2013, during the 2013 interim. The

1 committee may form subcommittees to accomplish its goals and may  
2 invite additional members of the community to participate in the  
3 subcommittees. The committee may also solicit and receive written  
4 comments from members of the public.

5 (b) In addition to testimony, the committee shall review any  
6 available, non-identifying Colorado data collected by the Department of  
7 the Judiciary, Office of the State Public Defender, Office of the Alternate  
8 Defense Counsel, and other agencies with data concerning access to the  
9 courts and access to defense counsel for children. The committee may  
10 also solicit information from the National Conference of State  
11 Legislatures, other national non-partisan organizations, and other states  
12 or organizations that have studied or introduced legislation regarding  
13 access to courts and counsel for children in juvenile court.

14 (5) That the legislative members of the committee be compensated  
15 for attendance at meetings of the committee as provided in section  
16 2-2-307, Colorado Revised Statutes. The nonlegislative members of the  
17 committee shall serve without compensation and without reimbursement  
18 for expenses.

19 (6) That the Legislative Council staff and the Office of Legislative  
20 Legal Services shall be available to assist the committee in carrying out  
21 its duties.

22 (7) That all reasonable and necessary expenses incurred by the  
23 committee are subject to approval by the chair of the Legislative Council  
24 and paid by vouchers and warrants drawn as provided by law from  
25 moneys allocated to the Legislative Council for legislative studies from  
26 appropriations made by the General Assembly.

27 (8) That the committee shall make a report to the Legislative  
28 Council by the date specified in Joint Rule 24 (b) (1) (D). The report may  
29 include recommendations for legislation, including but not limited to  
30 legislation continuing the committee and an explanation of the additional  
31 time and procedures that the committee may implement to achieve the  
32 committee's study goals. Legislation recommended by the committee shall  
33 be treated as legislation recommended by any other interim committee for  
34 the purposes of any introduction deadlines or bill limitations imposed by  
35 the Joint Rules of the Senate and House of Representatives.