



20TH JUDICIAL DISTRICT OF COLORADO
ADMINISTRATIVE ORDER 22-103

SUBJECT: Juvenile Bonds

To: Twentieth Judicial District Judicial Officers, Court Executive, Clerk of Court, Probation Staff, Court Staff, Community Justice Services, Bond Commissioners, Jail, Law Enforcement, Public Defender, District Attorney and Attorneys

From: Ingrid S. Bakke
Chief Judge

DATE: March 14, 2022

Introduction

As part of Senate Bill 21-059, the Colorado General Assembly made significant changes to the Juvenile Justice Code in Title 19 of the Colorado Revised Statutes. Effective October 1, 2021, the imposition of cash bail is no longer allowed in juvenile delinquency matters. This change is part of the General Assembly's declaration that "the placement of children and juveniles in a detention facility exacts a negative impact on the mental and physical well-being of the child or juvenile, and such detention may make it more likely that the child or juvenile will reoffend . . . [and] penetrate deeper into the juvenile justice system than similar children or juveniles who are not detained[.]" § 19-2.5-301, C.R.S. (2021). As such, the General Assembly's intent in passing this law is "to limit the use of detention to only those children and juveniles who pose a substantial risk of serious harm to others or that are a flight risk from prosecution." *Id.*

This Administrative Order provides an outline of a juvenile's progression through the Juvenile Justice System, from arrest by law enforcement through detention hearings, and aims to provide guidance to stakeholders on the recent changes to the Juvenile Justice Code.

Initial Contact with Law Enforcement

When law enforcement comes into contact with a juvenile, and the officer has probable cause to believe the juvenile has committed a delinquent act, law enforcement may take the juvenile into temporary custody or issue a written promise to appear to the juvenile and his or her guardian.¹ Excluding the arrest mandates imposed on law enforcement in Title 18 and the remainder of Title 19, law enforcement has discretion to issue a written promise to appear, in lieu of taking a juvenile into temporary custody, "based on any act that would constitute a felony, misdemeanor, or petty offense[.]" § 19-2.5-303(5)(a). A written promise to appear must include the charges against the juvenile; the date, time, and place where the juvenile is required to answer such charges; notice of the juvenile's right to the assistance of counsel; and the contact information for the local office of the state public defender. § 19-2.5-303(5)(b).

¹ "Written promise to appear" and "referral" are used interchangeably throughout this Administrative Order.

Temporary Custody

When law enforcement does not issue a referral and takes a juvenile into temporary custody, “the officer shall notify the screening team for the judicial district in which the juvenile is taken into custody.”² § 19-2.5-303(1). At this stage, the screening team shall notify the juvenile’s parent, guardian, or legal custodian “without unnecessary delay.” *Id.* The screening team shall then “administer a validated detention screening instrument developed or adopted pursuant to section 19-2.5-1404.” § 19-2.5-303(2)(a). Following the detention screen, the screening team has two options: release the juvenile to his or her parent, guardian, or legal custodian on a \$0 co-personal recognizance bond³ or hold the juvenile in detention until the Court can hold a detention hearing.⁴

Law enforcement, the screening team, and the Court “shall not remove the juvenile from the custody of the parent or legal guardian unless the validated detention screening instrument scores the juvenile as “detention eligible[.]” § 19-2.5-303(2)(a)(I)(A). Alternatively, if the validated detention screening instrument does not score the juvenile as “detention eligible[.]” the screening team may “override” the results “based on the criteria developed in accordance with section 19-2.5-1404” and findings that “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.”⁵ § 19-2.5-303(2)(II). “Flight from prosecution” is distinguished from “simple failure to appear” and must be evidenced by “a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.” *Id.*

Until the screening instrument is developed and operational, the Court instructs the screening team to consider only whether the juvenile poses “a substantial risk of serious harm to others or a substantial risk of flight from prosecution . . . [and whether] community-based alternatives to detention are insufficient to reasonably mitigate that risk.” *Id.* If the screening team cannot make these findings, the screening team shall release the juvenile on an unsecured co-personal recognizance bond.

As mere guidance, the Court notes the following offenses have historically constituted offenses necessitating a no bond hold: first- and second-degree felonies, crimes of domestic violence, weapons offenses, stalking, violation of a protection order, intimidation of a victim or witness, and sexual offenses. To the degree these offenses may inherently weigh towards a finding of substantial risk of serious harm or substantial risk of flight from prosecution, the screening team should consider the nature of the offense in determining whether to issue a co-personal recognizance bond or request a detention hearing.

The screening team may contact the on-call judge for guidance in determining whether to seek a detention hearing or issue a co-personal recognizance bond in a specific situation.

² The Juvenile Assessment Center (“JAC”) is the “screening team” in the Colorado Twentieth Judicial District.

³ The Detention Statute refers to personal recognizance bonds as “unsecured.” *See* section 19-2.5-306. Section 19-2.5-306(6) states, “[t]he court shall not order that any personal recognizance bond be secured by monetary or property conditions of the juvenile, the juvenile’s parent, guardian, legal custodian, or other responsible adult.” The Court interprets this language as disallowing monetary conditions on personal recognizance bonds. Accordingly, when issuing personal recognizance bonds on warrants and bonds, judges and the screening team shall set the dollar amount at \$0.

⁴ The Court shall hold the detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. For a juvenile held in detention on a warrant for violating a court order on a status offense, the Court shall hold the detention hearing within twenty-four hours, excluding Saturdays, Sundays, and legal holidays. § 19-2.5-305(1).

⁵ The Court interprets this provision as requiring two separate findings: first, the screening team must find the juvenile poses either a “substantial risk of serious harm to others” or “a substantial risk of flight from prosecution[.]” and in either scenario, the screening team must then find community-based alternatives to detention cannot reasonably mitigate the risk.

When a juvenile is taken into custody and placed in a detention facility, temporary shelter facility, or temporary holding facility as the result of an allegedly delinquent act that constitutes any of the offenses listed in section 19-2.5-305(3)(a)(V), he or she “must 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.” § 19-2.5-305(3)(c)(I). In such situations, the juvenile “must not be released from detention except after a hearing[.]” *Id.*

The offenses listed in section 19-2.5-305(3)(a)(V) include felonies constituting crimes of violence under section 18-1.3-406; prohibited use of weapons, as described in section 18-12-106; illegal discharge of a firearm, as described in section 18-12-107.5; illegal possession of a handgun by a juvenile, as described in section 18-12-108.5; offenses in which 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 described in article three of title 18; offenses in which the juvenile is alleged to have possessed a dangerous or illegal weapon, as described in section 18-12-102; offenses in which the juvenile is alleged to have possessed a defaced firearm, as described in section 18-12-103; and offenses in which the juvenile is alleged to have unlawfully carried a concealed weapon on school, college, or university grounds, as described in section 18-12-105.5. § 19-2.5-305(3)(a)(V).

If the validated detention screening instrument does not score the juvenile as “detention eligible” and the screening team does not override the results of the screen based on findings that the juvenile poses a substantial risk of serious harm to others or a substantial risk of flight from prosecution, the screening team shall release the juvenile to his or her parent or guardian on an unsecured co-personal recognizance bond. § 19-2.5-303(3)(a). In fashioning a co-personal recognizance bond, the screening team “may make reasonable orders as conditions of release[.]” *Id.*

A co-personal recognizance bond must include “a condition that the released juvenile appear at any place and upon any date to which the proceeding is transferred or continued[;]” conditions that the released juvenile “not commit any delinquent acts or harass, intimidate, or threaten any potential witnesses[;]” and “any other conditions or limitations on the juvenile’s release as are reasonably necessary for the protection of the community.” § 19-2.5-306(4)(b). In determining the conditions of release, the screening team shall also consider the criteria set forth in section 16-4-103. § 19-2.5-306(4)(a).

Issuing Arrest Warrants on Probable Cause Affidavits

The Detention Statute does not provide specific guidance for issuing warrants on probable cause affidavits. Accordingly, the Court instructs judges to follow the procedures outlined in the above section when considering probable cause affidavits.

When reviewing an affidavit for arrest warrant, judges shall issue no bond, ordering the juvenile to be detained until the Court can hold a detention hearing, or issue an unsecured \$0 co-personal recognizance bond. In making this determination, judges shall issue co-personal recognizance bonds unless they find “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.”⁶ § 19-2.5-303(2)(II). “Flight from prosecution” is

⁶ The Court interprets this provision as requiring two separate findings: first, the judge must find the juvenile poses either a “substantial risk of serious harm to others” or “a substantial risk of flight from prosecution[.]” and in either scenario, the judge must then find community-based alternatives to detention cannot reasonably mitigate the risk.

distinguished from “simple failure to appear” and must be evidenced by “a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.” *Id.*

The Court reiterates that the General Assembly’s intent in passing this law was to limit the use of detention to only those juveniles who pose a substantial risk of serious harm to others or who are a substantial risk of flight from prosecution. § 19-2.5-301. When issuing no bond and ordering a juvenile to be detained on an arrest warrant pending a detention hearing, judges must make specific findings articulating the “substantial risk of serious harm to others” or “substantial risk of flight from prosecution” that the juvenile poses. § 19-2.5-303(2)(II).

In fashioning co-personal recognizance bonds, judges must include the following: “a condition that the released juvenile appear at any place and upon any date to which the proceeding is transferred or continued[;]” conditions that the released juvenile “not commit any delinquent acts or harass, intimidate, or threaten any potential witnesses[;]” and “any other conditions or limitations on the juvenile’s release as are reasonably necessary for the protection of the community.” § 19-2.5-306(4)(b). Judges may also consider the criteria set forth in section 16-4-103 in crafting additional conditions of release. § 19-2.5-306(4)(a). The Court notes judges may include no contact provisions as conditions of co-personal recognizance bonds in sexual assault, domestic violence, and other charges implicating the Victim Rights Act.

For purposes of failure to appear and failure to comply warrants, the above analysis shall apply in determining whether to issue a co-personal recognizance bond or no bond. The Court notes a juvenile shall not be placed in detention solely as a response to technical violations of probation unless the results of a detention screening instrument indicate the juvenile poses a substantial risk of serious harm to others or if the applicable graduated responses system adopted pursuant to section 19-2.5-1108 allows for such a placement. § 19-2.5-304(3)(j). Similarly, the Court notes “flight from prosecution” is distinguished from “simple failure to appear” and must be evidenced by “a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.” § 19-2.5-303(2)(II).

Limitations on Detention

Detention is not permitted under the following circumstances:

- (a) juveniles who have not committed, or have not been accused of committing, a delinquent act unless otherwise found in contempt of court;
- (b) 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 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 disorder or an intellectual and developmental disability.

§ 19-2.5-304(1).

The Court shall not order a juvenile who is ten years old but younger than thirteen to detention unless he or she “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.” § 19-2.5-304(2). In such a situation, a pre-adjudication service program shall evaluate the juvenile, as outlined on page eight of this Administrative Order. *Id.* The evaluation may result in the juvenile remaining in the custody of his or her parent or guardian; being placed in the temporary legal custody of kin or another suitable person; being placed in a temporary shelter facility; or being referred to the department of human or social services for assessment for placement. *Id.*

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 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 the juvenile poses a substantial risk of serious harm to others or if the applicable graduated responses system adopted pursuant to section 19-2.5-1108 allows for such a placement.

§ 19-2.5-304(3).

Detention Hearing

When a juvenile is in temporary custody, if the screening team’s validated detention screening instrument scores the juvenile as “detention eligible” or if the screening team overrides the results of the screen, the screening team shall “promptly notify” the Court, the district attorney, the local office of the state public defender, and a parent, legal guardian, or the person with whom the juvenile has been residing. § 19-2.5-305(1). The Court shall then hold a detention hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. *Id.* For a juvenile 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.” *Id.* The juvenile “must be represented at the detention hearing by counsel.” § 19-2.5-305(2).

The sole purpose of the detention hearing is to determine whether the juvenile should be further detained and to define the conditions under which the juvenile may be released. § 19-2.5-305(3)(a)(III). Prior to the detention hearing, the arresting law enforcement agency shall promptly provide to defense counsel and to the Court the affidavit supporting probable cause for the arrest and the arrest report, and the screening team shall promptly provide to defense counsel and to the Court results from the detention risk screening. § 19-2.5-305(3)(a)(II).

The Court notes that the issuance of no bond on an affidavit for arrest warrant shall not function as a presumption in favor of further detention at the detention hearing.

The Court may further detain the juvenile only if it can make the following findings: (A) probable cause exists to believe the juvenile committed the charged delinquent act; (B) the validated detention screening instrument was administered, and the juvenile scored as detention-eligible or there are grounds to override the result of the screen based on the criteria developed in accordance with section 19-2.5-1404; and (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.” § 19-2.5-305(3)(a)(IV). “Flight from prosecution” is distinguished from “simple failure to appear” and must be evidenced by “a demonstrated record of repeat, recent willful failures to appear at a scheduled court appearance.” § 19-2.5-305(3)(a)(IV)(C).

In determining whether to order further detention, there is a rebuttable presumption that a juvenile poses a substantial risk of serious harm to others in the following situations: (A) the juvenile allegedly committed a felony enumerated as a crime of violence pursuant to section 18-1.3-406; (B) the juvenile allegedly 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 three of title 18; or (C) the juvenile allegedly committed possession of a dangerous or illegal weapon, as described in section 18-12-102; possession of a defaced firearm, as described in section 18-12-103; unlawful carry of a concealed weapon, as described in section 18-12-105; unlawful carry of 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. § 19-2.5-305(3)(a)(V).⁷

The Court shall not order further detention for a juvenile less than thirteen years of age “unless the juvenile has been arrested or adjudicated for a felony or weapons charge pursuant to sections 18-12-102, 18-12-105, 18-12-106, or 18-12-108.5.” *Id.*

If a juvenile receives a co-personal recognizance bond, the juvenile’s parents, guardians, or legal custodians “may petition the court to revoke the bond and remand the juvenile into custody” if they determine they are “unable to control the juvenile.” § 19-2.5-306(7). In such a situation, the Court shall apply the presumption specified in section 19-2.5-305(3)(a)(V) in determining whether to revoke the co-personal recognizance bond. *Id.*

At the conclusion of a detention hearing, the Court must enter one of the following orders, “ensuring efforts are made to keep the juvenile with a parent, guardian, or legal custodian: (A) [t]hat the juvenile be released to the custody of a parent, guardian, legal custodian, kin, or other suitable person without the posting of bond; (B) [t]hat the juvenile be placed in a temporary shelter facility; (C) [t]hat an unsecured personal recognizance bond be set and the juvenile be released accordingly; (D) [t]hat no bail be set and that the juvenile be detained without bail upon a finding that the juvenile poses a substantial risk of serious harm to others[; . . . or] (E) [t]hat 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 pre-adjudication service program established pursuant to section 19-2.5-606.” § 19-2.5-305(3)(a)(VII).

If the Court orders the juvenile to be placed in a pre-adjudication service program, the program must evaluate the juvenile, and the evaluation may result in any of the following results: (A) the juvenile remains in the custody of a parent, guardian, or legal custodian; (B) the juvenile is placed in the temporary legal custody of kin, for purposes of a kinship foster care home or noncertified kinship

⁷ The presumption that a juvenile poses a substantial risk of serious harm to others shall not exist if the juvenile allegedly possessed a BB gun, pellet gun, or gas gun. § 19-2.5-305(3)(a)(VI).

care placement, or other suitable person under such conditions as the Court may impose; (C) the juvenile is placed in a temporary shelter facility; or (D) the juvenile is referred to a local county department of human or social services for assessment for placement. § 19-2.5-305(3)(a)(VIII).

For the purposes of the Twentieth Judicial District, the Court interprets the above provision related to pre-adjudication service programs as providing the Court with the option to hold the juvenile without bond pending a Community Review Team (“CRT”) evaluation and/or a Boulder Enhanced Supervision Team (“BEST”) assessment. In such a situation, the Court shall set a review date to reconsider the juvenile’s bond. Upon the completion of a CRT evaluation or a BEST assessment, the CRT or BEST shall provide the Court with a recommendation as to whether the juvenile should be further detained or released on a co-personal recognizance bond and what conditions are necessary to protect the juvenile and the community.⁸ At the next court appearance, considering the results of the CRT evaluation or BEST assessment, the Court shall determine whether to continue holding the juvenile without bond or whether to release the juvenile on a co-personal recognizance bond.

If the Court orders further detention at the conclusion of a detention hearing, the order must contain the following findings: (A) whether placement out of the juvenile’s home would be in the juvenile’s and community’s best interests; (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 should 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 should not be required due to the circumstances described in section 19-1-115(7); 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 parental visitation. § 19-2.5-305(3)(a)(XI).

If the juvenile held in detention or temporary shelter appears to have an intellectual and developmental disability, the Court or detention personnel shall refer the juvenile to the nearest community-centered board for an eligibility determination. § 19-2.5-305(3)(b)(I). If the juvenile held in detention or temporary shelter appears to have a mental health disorder, as defined in sections 27-65-105 and 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to perform a mental health hospital placement prescreening on the juvenile.⁹ *Id.* In either situation, the intake personnel, detention personnel, or screening team shall notify the Court, and the Court “may take appropriate action.” *Id.* If a mental health hospital placement prescreening is requested, it must take place “in an appropriate place accessible to the juvenile and the mental health professional.” *Id.* A request for a prescreen shall not extend the time in which a detention hearing must be held, and if a detention hearing and prescreen are both requested, the prescreen must take place first. *Id.*


⁸ The Court notes section 19-2.5-606(4) contains a non-exhaustive list of conditions that a pre-adjudication service program may consider when recommending a juvenile should be released to the custody of his or her parent, guardian, or legal custodian. The conditions include periodic telephone communication; periodic office visits; periodic home visits; mental health and/or substance use assessment; period drug testing; behavioral, mental health, or substance use treatment; periodic visits to the juvenile’s school; domestic violence or child abuse counseling; electronic or GPS monitoring; work release; or day reporting.

⁹ The Court notes section 27-65-105(1)(a)(I) defines “mental health disorder” as including “appear[ing] to be an imminent danger to others or to [self] . . . or appear[ing] to be gravely disabled[.]” Section 27-65-106(1) does not include imminency and states, “[a]ny person alleged to have a mental health disorder and, as a result of the mental health disorder, to be a danger to others or to himself or herself or to be gravely disabled[.]” Based on the inclusion of sections 105 and 106 in section 19-2.5-305(3)(b)(I), the Court instructs intake and detention personnel to follow the procedure outlined in 19-2.5-305(3)(b)(I) regardless of whether the juvenile’s potential danger to self or others is “imminent.”

If a juvenile has been ordered to further detention and the juvenile subsequently appears to have a mental health disorder, as outlined in footnote nine, the intake personnel shall contact the Court with a recommendation for a mental health hospital placement prescreen. § 19-2.5-305(3)(b)(II). The prescreen must take place within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays. *Id.*

Following a detention hearing requested by law enforcement, as described in section 19-2.5-305(3)(c)(I), “a juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer must not be held at any adult jail or pretrial facility unless the district court finds, after a hearing . . . that an adult jail is the appropriate place of confinement for the juvenile.” § 19-2.5-305(3)(c)(II). In determining whether an adult jail is the appropriate place of confinement, the Court shall consider the juvenile’s age; 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; the juvenile’s emotional state, intelligence, and developmental maturity; whether detention in a juvenile facility will adequately serve the need for community protection; whether detention in a juvenile facility will negatively impact the functioning of the juvenile facility by compromising its goals to maintain a safe, positive, and secure environment for all juveniles in the facility; the relative ability of the available adult and juvenile detention facilities to meet the juvenile’s needs, including mental health and educational services; whether the juvenile presents an imminent risk of serious harm to others within a juvenile facility; the juvenile’s physical maturity; and any other relevant factors. § 19-2.5-305(3)(c)(III).

A person eighteen years or older who is 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 . . . must be detained in the county jail in the same manner as if such person is charged as an adult.” § 19-2.5-305(4)(g). The Court notes the Detention Statute is silent as to bond in a juvenile case when an arrestee is over eighteen years of age at the time of arrest. In the absence of further direction on this issue, the Court instructs juvenile justice stakeholders to apply the analysis set forth in this Order when considering bond.



Hon. Ingrid S. Bakke
Chief Judge
Twentieth Judicial District