

AMENDMENTS TO LB157

(Amendments to Standing Committee amendments, AM1525)

Introduced by Wayne, 13.

1 1. Insert the following new section:

2 Sec. 7. Section 43-286, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 43-286 (1) When any juvenile is adjudicated to be a juvenile
5 described in subdivision (1), (2), or (4) of section 43-247:

6 (a) The court may continue the dispositional portion of the hearing,
7 from time to time upon such terms and conditions as the court may
8 prescribe, including an order of restitution of any property stolen or
9 damaged or an order requiring the juvenile to participate in restorative
10 justice programs or community service programs, if such order is in the
11 interest of the juvenile's reformation or rehabilitation, and, subject to
12 the further order of the court, may:

13 (i) Place the juvenile on probation subject to the supervision of a
14 probation officer; or

15 (ii) Permit the juvenile to remain in his or her own home or be
16 placed in a suitable family home or institution, subject to the
17 supervision of the probation officer;

18 (b) When it is alleged that the juvenile has exhausted all levels of
19 probation supervision and options for community-based services and
20 section 43-251.01 has been satisfied, a motion for commitment to a youth
21 rehabilitation and treatment center may be filed and proceedings held as
22 follows:

23 (i) The motion shall set forth specific factual allegations that
24 support the motion and a copy of such motion shall be served on all
25 persons required to be served by sections 43-262 to 43-267;

26 (ii) The Office of Juvenile Services shall be served with a copy of

1 such motion and shall be a party to the case for all matters related to
2 the juvenile's commitment to, placement with, or discharge from the
3 Office of Juvenile Services; and

4 (iii) The juvenile shall be entitled to a hearing before the court
5 to determine the validity of the allegations. At such hearing the burden
6 is upon the state by a preponderance of the evidence to show that:

7 (A) All levels of probation supervision have been exhausted;

8 (B) All options for community-based services have been exhausted;
9 and

10 (C) Placement at a youth rehabilitation and treatment center is a
11 matter of immediate and urgent necessity for the protection of the
12 juvenile or the person or property of another or if it appears that such
13 juvenile is likely to flee the jurisdiction of the court;

14 (c) After the hearing, the court may, as a condition of an order of
15 intensive supervised probation, commit such juvenile to the Office of
16 Juvenile Services for placement at a youth rehabilitation and treatment
17 center operated in compliance with state law. Upon commitment by the
18 court to the Office of Juvenile Services, the court shall immediately
19 notify the Office of Juvenile Services of the commitment. Intensive
20 supervised probation for purposes of this subdivision means that the
21 Office of Juvenile Services shall be responsible for the care and custody
22 of the juvenile until the Office of Juvenile Services discharges the
23 juvenile from commitment to the Office of Juvenile Services. Upon
24 discharge of the juvenile, the court shall hold a review hearing on the
25 conditions of probation and enter any order allowed under subdivision (1)
26 (a) of this section;

27 (d) The Office of Juvenile Services shall notify those required to
28 be served by sections 43-262 to 43-267, all interested parties, and the
29 committing court of the pending discharge of a juvenile from the youth
30 rehabilitation and treatment center sixty days prior to discharge and
31 again in every case not less than thirty days prior to discharge. Upon

1 notice of pending discharge by the Office of Juvenile Services, the court
2 shall set a continued disposition hearing in anticipation of reentry. The
3 Office of Juvenile Services shall work in collaboration with the Office
4 of Probation Administration in developing an individualized reentry plan
5 for the juvenile as provided in section 43-425. The Office of Juvenile
6 Services shall provide a copy of the individualized reentry plan to the
7 juvenile, the juvenile's attorney, and the county attorney or city
8 attorney prior to the continued disposition hearing. At the continued
9 disposition hearing, the court shall review and approve or modify the
10 individualized reentry plan, place the juvenile under probation
11 supervision, and enter any other order allowed by law. No hearing is
12 required if all interested parties stipulate to the individualized
13 reentry plan by signed motion. In such a case, the court shall approve
14 the conditions of probation, approve the individualized reentry plan, and
15 place the juvenile under probation supervision; and

16 (e) The Office of Juvenile Services is responsible for
17 transportation of the juvenile to and from the youth rehabilitation and
18 treatment center. The Office of Juvenile Services may contract for such
19 services. A plan for a juvenile's transport to return to the community
20 shall be a part of the individualized reentry plan. The Office of
21 Juvenile Services may approve family to provide such transport when
22 specified in the individualized reentry plan.

23 (2) When any juvenile is found by the court to be a juvenile
24 described in subdivision (3)(b) of section 43-247, the court may enter
25 such order as it is empowered to enter under subdivision (1)(a) of this
26 section.

27 (3) When any juvenile is adjudicated to be a juvenile described in
28 subdivision (1), (2), (3)(b), or (4) of section 43-247, the court may
29 order the juvenile to be assessed for referral to participate in a
30 restorative justice program. Factors that the judge may consider for such
31 referral include, but are not limited to: The juvenile's age,

1 intellectual capacity, and living environment; the ages of others who
2 were part of the offense; the age and capacity of the victim; and the
3 nature of the case.

4 (4) When a juvenile is placed on probation and a probation officer
5 has reasonable cause to believe that such juvenile has committed a
6 violation of a condition of his or her probation, the probation officer
7 shall take appropriate measures as provided in section 43-286.01.

8 (5)(a) When a juvenile is placed on probation or under the
9 supervision of the court and it is alleged that the juvenile is again a
10 juvenile described in subdivision (1), (2), (3)(b), or (4) of section
11 43-247, a petition may be filed and the same procedure followed and
12 rights given at a hearing on the original petition. If an adjudication is
13 made that the allegations of the petition are true, the court may make
14 any disposition authorized by this section for such adjudications and the
15 county attorney may file a motion to revoke the juvenile's probation.

16 (b) When a juvenile is placed on probation or under the supervision
17 of the court for conduct under subdivision (1), (2), (3)(b), or (4) of
18 section 43-247 and it is alleged that the juvenile has violated a term of
19 probation or supervision or that the juvenile has violated an order of
20 the court, a motion to revoke probation or supervision or to change the
21 disposition may be filed and proceedings held as follows:

22 (i) The motion shall set forth specific factual allegations of the
23 alleged violations and a copy of such motion shall be served on all
24 persons required to be served by sections 43-262 to 43-267;

25 (ii) The juvenile shall be entitled to a hearing before the court to
26 determine the validity of the allegations. At such hearing the juvenile
27 shall be entitled to those rights relating to counsel provided by section
28 43-272 and those rights relating to detention provided by sections 43-254
29 to 43-256. The juvenile shall also be entitled to speak and present
30 documents, witnesses, or other evidence on his or her own behalf. He or
31 she may confront persons who have given adverse information concerning

1 the alleged violations, may cross-examine such persons, and may show that
2 he or she did not violate the conditions of his or her probation or
3 supervision or an order of the court or, if he or she did, that
4 mitigating circumstances suggest that the violation does not warrant
5 revocation of probation or supervision or a change of disposition. The
6 hearing shall be held within a reasonable time after the juvenile is
7 taken into custody;

8 (iii) The hearing shall be conducted in an informal manner and shall
9 be flexible enough to consider evidence, including letters, affidavits,
10 and other material, that would not be admissible in an adversarial
11 criminal trial;

12 (iv) The juvenile shall not be confined, detained, or otherwise
13 significantly deprived of his or her liberty pursuant to the filing of a
14 motion described in this section unless the requirements of subdivision
15 (5) of section 43-251.01 and section 43-260.01 have been met. In all
16 cases when the requirements of subdivision (5) of section 43-251.01 and
17 section 43-260.01 have been met and the juvenile is confined, detained,
18 or otherwise significantly deprived of his or her liberty as a result of
19 his or her alleged violation of probation, supervision, or a court order,
20 the juvenile shall be given a preliminary hearing. If, as a result of
21 such preliminary hearing, probable cause is found to exist, the juvenile
22 shall be entitled to a hearing before the court in accordance with this
23 subsection;

24 (v) If the juvenile is found by the court to have violated the terms
25 of his or her probation or supervision or an order of the court, the
26 court may modify the terms and conditions of the probation, supervision,
27 or other court order, extend the period of probation, supervision, or
28 other court order, or enter any order of disposition that could have been
29 made at the time the original order was entered; and

30 (vi) In cases when the court revokes probation, supervision, or
31 other court order, it shall enter a written statement as to the evidence

1 relied on and the reasons for revocation.

2 (6)(a) Except as provided in subdivision (6)(b) of this section, the
3 court shall not change a disposition unless the court finds that the
4 juvenile has violated a term or condition of probation or supervision or
5 an order of the court and the procedures in subdivision (5)(b) of this
6 section have been satisfied.

7 (b) Upon motion of the juvenile, the court may modify the terms or
8 conditions of probation or supervision or modify a dispositional order
9 if:

10 (i) All parties stipulate to the particular modification; and

11 (ii) The juvenile has consulted with counsel or has waived counsel.

12 Any waiver must be particular to the modification and shall comply with
13 section 43-3102.

14 (7) ~~(6)~~ Costs incurred on behalf of a juvenile under this section
15 shall be paid as provided in section 43-290.01.

16 (8) ~~(7)~~ When any juvenile is adjudicated to be a juvenile described
17 in subdivision (4) of section 43-247, the juvenile court shall within
18 thirty days of adjudication transmit to the Director of Motor Vehicles an
19 abstract of the court record of adjudication.

20 2. Correct the operative date and repealer sections so that section
21 7 added by this amendment becomes operative three calendar months after
22 the adjournment of this legislative session.

23 3. Renumber the remaining sections and correct internal references
24 accordingly.