

**ORDER
RE: THE USE OF
DETENTION IN TRUANCY
CASES AND ADOPTING A
TRUANCY PROTOCOL**



**CHIEF JUDGE
ADMINISTRATIVE ORDER
2016-04**

SB15-184 requires the Chief Judge of each Judicial District to “convene a meeting of community stakeholders to create a policy for addressing truancy cases that seeks alternatives to the use of detention as a sanction for truancy.” C.R.S. 13-5-145(2). The Chief Judge of the 12th Judicial District has conferred and met with other District Judges who preside over truancy matters, representatives from the fourteen local school districts in the San Luis Valley, representatives from the Departments of Social Services for the six counties of the 12th Judicial District, Guardians *ad litem*, Respondent Parent Counsel, Mental Health Care providers, Substance Abuse Treatment providers, representatives of various local law enforcement agencies, the Chief Probation Officer and other interested probation officers, as well as the SB94 Coordinator. As a result of these discussions a determination has been made on the most appropriate policy to address the needs of students appearing in truancy court in our jurisdiction.

A review of the data for the 12th Judicial District indicates that the judges in this district rarely use detention in a truancy case. In fact, during calendar years 2014 and 2015, no judge in the 12th Judicial District sentenced a juvenile, who was before the court only on a truancy case, to detention. In addition, the school districts in the 12th Judicial District do not bring many truancy cases to the courts. The average number of annual truancy filings (calculated over the past three fiscal years) for all six counties of the judicial district, combined, is 44 cases. At the meetings the Chief Judge held with the various stakeholders, it became clear that the school districts believe their truancy problems are better solved by concentrating on younger students and on those students who do not yet meet the legal definition of habitually truant; thus, the school districts’ focus is not on bringing these cases to court. To that end, the Superintendents of a number of the Valley School Districts, together with the Board of Cooperative Educational Services (“BOCES”), will be applying, as a consortium of school districts, for a grant from the Colorado Department of Education’s Expelled and At Risk Students Program (EARRS) to support a truancy intervention program in the schools in the 12th Judicial District.

It also became clear through these discussions, that the school districts would like more clarity on how to use the courts, only as a last resort, for truancy cases. As a result, The 12th Judicial District judges are in the process of creating a Truancy Protocol to govern Truancy cases in the 12th Judicial District which will include forms and information the school districts can use to file a truancy case in the courts of the 12th Judicial District.

IT IS THEREFORE ORDERED THAT:

1. It is the policy of the 12th Judicial District that alternatives to detention will be used as sanctions in truancy cases whenever appropriate. Non-detention sanctions may include but are not limited to: verbal admonishment, letters of apology, imposition of curfew, community service hours, requiring a parent to accompany the child to school, increased substance abuse

testing, increased therapeutic and/or supportive services, and/or loss of privileges. In addition, if the Court determines the Respondent parents are part, or all, of the cause of the child's truancy, the Court may impose sanctions on the Respondent parents including fines of up to \$25 per day for every day the child misses school. Incentives for compliant behavior will be utilized whenever appropriate; material incentives may be utilized conditioned upon available financial resources. Incentives may include, but are not limited to: verbal praise, applause, gift cards, certificates of accomplishment, restoration of lost privileges, getting called early in court, fewer court appearances or tokens for prize drawings.

2. It is the policy of the 12th Judicial District that juveniles will not receive detention as a sanction for being truant. Juveniles may receive detention as a sanction for being in contempt of court if they violate a court order.
3. When it is alleged that a juvenile has committed contempt of court, the juvenile may be placed in detention, at the discretion of the presiding judicial officer, only if one or more of the following criteria exist:
 - a. The juvenile is sentenced for direct punitive contempt based on their conduct in the courtroom in accordance with Colorado Rule of Civil Procedure (C.R.C.P.) 107(b);
 - b. The juvenile is detained on a warrant issued in conformity with C.R.C.P. 107(c) based on the juvenile's failure to appear at any stage of a contempt proceeding of which they have notice;
 - i. The presiding judicial officer may stay a warrant, in his or her discretion, based on a juvenile's prior history with the court and cooperation with the proceedings overall;
 - ii. It is the policy of the 12th Judicial District that any warrant issued for a failure to appear at a contempt proceeding shall mandate a release be made to a parent, guardian, or legal custodian. Terms of release shall ensure that a non-sentenced youth is not held in detention longer than 24 hours;
 - c. The juvenile is sentenced for a finding of indirect punitive contempt based on knowing and willful violation of the orders of the court and one or more of the following are present:
 - i. The juvenile is being sentenced on a second or successive contempt citation in a two year calendar period that is accompanied by a demonstrated refusal to engage in remedial services;
 - ii. The juvenile is being sentenced and demonstrates additional behaviors above and beyond non-attendance that are dangerous to the juvenile or the community.

SO ORDERED this 3rd day of March 2016.

BY THE COURT:



Pattie P. Swift
Chief Judge