

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

INTRODUCED

LLS NO. 13-0396.01 Michael Dohr x4347

HOUSE BILL 13-1254

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING RESTORATIVE JUSTICE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, restorative justice victim-offender conferences must be initiated by the victim. The bill modifies the requirement of victim initiation in some instances to permit district attorney or offender initiation. There is a restorative justice coordinating council established in the state court administrator's office; the bill adds:

- ! A member of the parole board;
- ! A representative from the department of corrections;

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.*

- ! A representative from a statewide organization representing victims; and
- ! A restorative justice practitioner.

The restorative justice coordinating council shall develop a uniform restorative justice satisfaction evaluation. The council shall collect information regarding all existing restorative justice programs and practices and report that data to the house and senate judiciary committees by January 31, 2014.

The bill creates a pilot project for restorative justice programs in 4 judicial districts. At each site, if a juvenile who is under 18 years of age and could be charged in the petition with a misdemeanor and has not been previously charged or who has not participated in the pilot project, the district attorney shall assess the juvenile's suitability for restorative justice. The district attorney may also refer any juvenile who is charged with a class 3, 4, 5, or 6 felony and has not been previously charged or who has not participated in the pilot project. If the district attorney determines that the juvenile is a suitable candidate for the restorative justice program, the district attorney may offer the juvenile an opportunity to participate in the restorative justice program. If the juvenile agrees to participate, the district attorney shall not file charges pending completion of the program. If the juvenile fails to complete the program, the district attorney may file a petition against the juvenile. The pilot project sites must annually report to the division of criminal justice in the department of public safety certain information on the pilot projects. The division of criminal justice shall prepare an annual report based on the information received.

The bill creates a \$10 surcharge on all crimes to support a restorative justice fund. The fund will be used to defray the costs of restorative justice programs and administrative costs of the restorative justice coordinating council.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-901, **amend** (3)
3 (o.5) as follows:

4 **18-1-901. Definitions.** (3) (o.5) "Restorative justice practices"
5 means practices that emphasize repairing the harm caused to victims and
6 the community by offenses. Restorative justice practices include
7 ~~victim-initiated~~ victim-offender conferences, family group conferences,
8 circles, community conferences, and other similar victim-centered

1 practices. Restorative justice practices are facilitated meetings attended
2 voluntarily by the victim or victim's representatives, the victim's
3 supporters, the offender, and the offender's supporters and may include
4 community members. By engaging the parties to the offense in voluntary
5 dialogue, restorative justice practices provide an opportunity for the
6 offender to accept responsibility for the harm caused to the victim and
7 community, promote victim healing, and enable the participants to agree
8 on consequences to repair the harm, to the extent possible, including but
9 not limited to apologies, community service, reparation, restoration, and
10 counseling. Restorative justice practices may be used in addition to any
11 other conditions, consequences, or sentence imposed by the court.

12 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-204, **amend**
13 (2) (a) (III.5) as follows:

14 **18-1.3-204. Conditions of probation - interstate compact**
15 **probation transfer cash fund - creation.** (2) (a) When granting
16 probation, the court may, as a condition of probation, require that the
17 defendant:

18 (III.5) Participate in restorative justice practices, as defined in
19 section 18-1-901 (3) (o.5), if available in the jurisdiction, requested by
20 THE DISTRICT ATTORNEY OR THE DEFENDANT OR REQUESTED BY the victim
21 who has been informed about restorative justice practices pursuant to
22 section 24-4.1-303 (11) (g), C.R.S., and the defendant is determined
23 suitable by a designated restorative justice practices facilitator. IF
24 REQUESTED BY THE DEFENDANT OR DISTRICT ATTORNEY, A
25 VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED AFTER THE
26 VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND OFFERED THE
27 OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT STATEMENT.

1 IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM OFFENDER CONFERENCE
2 MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE,
3 AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT STATEMENT. To be
4 eligible for restorative justice practices, the defendant shall not have been
5 convicted of unlawful sexual behavior as defined in section 16-22-102
6 (9), C.R.S., a crime in which the underlying factual basis involves
7 domestic violence, as defined in section 18-6-800.3 (1), stalking as
8 defined in section 18-3-602, or violation of a protection order as defined
9 in section 18-6-803.5. Any statements made during a restorative justice
10 conference shall be confidential and shall not be used as a basis for
11 charging or prosecuting the defendant unless the defendant commits a
12 chargeable offense during the conference. Failure to complete the
13 requirements arising from a restorative justice conference may be
14 considered a violation of probation. Nothing in this subparagraph (III.5)
15 shall be construed to require a victim to participate in RESTORATIVE
16 JUSTICE PRACTICES OR a restorative justice victim-offender conference.

17 **SECTION 3.** In Colorado Revised Statutes, 19-1-103, **amend**
18 (44) as follows:

19 **19-1-103. Definitions.** As used in this title or in the specified
20 portion of this title, unless the context otherwise requires:

21 (44) "Diversion" means a decision made by a person with
22 authority or a delegate of that person that results in specific official action
23 of the legal system not being taken in regard to a specific juvenile or child
24 and in lieu thereof providing individually designed services by a specific
25 program. The goal of diversion is to prevent further involvement of the
26 juvenile or child in the formal legal system. Diversion of a juvenile or
27 child may take place either at the prefiling level as an alternative to the

1 filing of a petition pursuant to section 19-2-512 or at the postadjudication
2 level as an adjunct to probation services following an adjudicatory
3 hearing pursuant to section 19-3-505 or a disposition as a part of
4 sentencing pursuant to section 19-2-907. "Services", as used in this
5 subsection (44), includes but is not limited to diagnostic needs
6 assessment, restitution programs, community service, job training and
7 placement, specialized tutoring, constructive recreational activities,
8 general counseling and counseling during a crisis situation, and follow-up
9 activities. Services may include restorative justice practices as defined in
10 section 18-1-901 (3) (o.5), C.R.S., ~~as requested by the victim, after being~~
11 ~~informed about restorative justice practices pursuant to section~~
12 ~~24-4.1-303 (11) (g), C.R.S.,~~ and as deemed suitable by the probation
13 department or a designated restorative justice practices facilitator.
14 RESTORATIVE JUSTICE PRACTICES, INCLUDING VICTIM-OFFENDER
15 CONFERENCES, MAY BE REQUESTED BY THE VICTIM, AFTER BEING
16 INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO
17 SECTION 24-4.1-303 (11) (g), C.R.S., THE JUVENILE, OR DISTRICT
18 ATTORNEY. ~~Such practices may include victim-offender conferences, if~~
19 ~~requested by the victim.~~ Restorative justice practices shall be conducted
20 by facilitators recommended by the district attorney.

21 **SECTION 4.** In Colorado Revised Statutes, 19-2-213, **amend** (1)
22 and (2) (g); and **add** (2) (i), (2) (j), (2) (k), and (2) (l) as follows:

23 **19-2-213. Restorative justice coordinating council -**
24 **establishment - membership - repeal.** (1) (a) A council to provide
25 assistance and education related to restorative justice programs is hereby
26 established. The council shall be known as the "restorative justice
27 coordinating council" and shall be established in the state judicial

1 department within the office of the state court administrator. To the extent
2 that resources permit, the restorative justice coordinating council shall
3 support the development of restorative justice programs, serve as a central
4 repository for information, assist in the development and provision of
5 related education and training, and provide technical assistance to entities
6 engaged in or wishing to develop restorative justice programs.

7 (b) IN ORDER TO ASSESS THE EFFICACY OF RESTORATIVE JUSTICE
8 PRACTICES IN PROVIDING SATISFACTION TO PARTICIPANTS, THE COUNCIL
9 SHALL DEVELOP A UNIFORM RESTORATIVE JUSTICE SATISFACTION
10 EVALUATION BY SEPTEMBER 1, 2013. THE EVALUATION SHALL INCLUDE
11 A PRE-CONFERENCE QUESTIONNAIRE TO ESTABLISH A BASELINE AND A
12 POST-CONFERENCE QUESTIONNAIRE THAT IS SUITABLE TO ADMINISTER TO
13 RESTORATIVE JUSTICE PARTICIPANTS, INCLUDING COMMUNITY MEMBERS,
14 VICTIMS, AND OFFENDERS.

15 (c) (I) THE COUNCIL SHALL DEVELOP A DATABASE OF EXISTING
16 RESTORATIVE JUSTICE PROGRAMS IN THE STATE BY DECEMBER 31, 2013,
17 AND UPDATE IT ANNUALLY BY DECEMBER 31 OF EACH YEAR.

18 (II) THE DATABASE MUST CONSIST OF THE FOLLOWING
19 INFORMATION:

20 (A) THE LOCATION OF THE RESTORATIVE JUSTICE PROGRAM;

21 (B) THE TYPES OF RESTORATIVE JUSTICE PRACTICES USED IN THE
22 PROGRAM AND THE COSTS AND FEES ASSOCIATED WITH THE PRACTICES;
23 AND

24 (C) THE BACKGROUND, TRAINING, AND RESTORATIVE JUSTICE
25 EXPERIENCE OF THE FACILITATORS IN THE RESTORATIVE JUSTICE
26 PROGRAM.

27 (d) (I) THE COUNCIL SHALL COLLECT INFORMATION REGARDING

1 RESTORATIVE JUSTICE PRACTICES IN THE STATE AND SHALL REPORT TO THE
2 JUDICIARY COMMITTEES OF THE SENATE AND HOUSE REPRESENTATIVES BY
3 JANUARY 31, 2014. THE REPORT MUST INCLUDE INFORMATION ON THE
4 NUMBER OF CASES IN WHICH RESTORATIVE JUSTICE WAS CONSIDERED,
5 USED, AND NOT USED, INCLUDING THE DEMOGRAPHIC INFORMATION OF
6 THE INDIVIDUALS, A DESCRIPTION OF THE RESTORATIVE JUSTICE PRACTICES
7 USED, AND THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE
8 SATISFACTION EVALUATION. THE INFORMATION MUST ALSO BE IDENTIFIED
9 BY THE COURT EMPLOYING THE RESTORATIVE JUSTICE PRACTICES, BY THE
10 OUTCOME OF THE RESTORATIVE JUSTICE PRACTICES, AND BY THE POINT IN
11 THE CRIMINAL OR JUVENILE JUSTICE PROCESS IN WHICH RESTORATIVE
12 JUSTICE WAS CONSIDERED OR USED.

13 (II) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.

14 (2) The restorative justice coordinating council shall include, at
15 a minimum, the following:

16 (g) A victim's advocate within the judicial department with
17 restorative justice experience who shall be appointed by the state court
18 administrator; ~~and~~

19 (i) A REPRESENTATIVE FROM THE STATE BOARD OF PAROLE
20 APPOINTED BY THE CHAIR OF THE PAROLE BOARD;

21 (j) A REPRESENTATIVE FROM THE DEPARTMENT OF CORRECTIONS
22 APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
23 CORRECTIONS;

24 (k) A REPRESENTATIVE FROM A NONGOVERNMENT STATEWIDE
25 ORGANIZATION REPRESENTING VICTIMS APPOINTED BY THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY; AND

27 (l) A RESTORATIVE JUSTICE PRACTITIONER APPOINTED BY THE

1 EXECUTIVE DIRECTOR OF THE JUDICIAL DEPARTMENT.

2 **SECTION 5.** In Colorado Revised Statutes, **add** 19-2-510.5 as
3 follows:

4 **19-2-510.5. Restorative justice pilot project - definitions -**
5 **repeal.** (1) THE GENERAL ASSEMBLY FINDS THAT:

6 (a) JUVENILES SHOULD BE CONFRONTED WITH AND HELD
7 ACCOUNTABLE FOR THEIR OFFENDING BEHAVIOR AND GIVEN
8 OPPORTUNITIES TO TAKE RESPONSIBILITY FOR THEIR ACTIONS BY MAKING
9 AMENDS TO THE VICTIM AND COMMUNITY;

10 (b) JUVENILE OFFENDING IS OFTEN OPPORTUNISTIC BEHAVIOR,
11 WHICH IS OUTGROWN;

12 (c) INVOLVEMENT WITH THE JUVENILE JUSTICE SYSTEM CAN BE
13 DETRIMENTAL TO JUVENILES AND SHOULD BE PREVENTED WHEN POSSIBLE;

14 (d) BY INVOLVING JUVENILES IN FACE-TO-FACE MEETINGS WITH
15 THEIR VICTIMS OR A SURROGATE VICTIM, THEY CAN UNDERSTAND THE
16 EFFECTS OF THEIR CONDUCT IN HUMAN TERMS;

17 (e) THE JUVENILE JUSTICE SYSTEM SHOULD INCORPORATE
18 EVIDENCE-BASED PRACTICES DERIVED FROM THE PILOT PROJECT'S
19 RESEARCH AND DATA;

20 (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
21 SECTION:

22 (I) ESTABLISH A PILOT PROGRAM TO FACILITATE AND ENCOURAGE
23 DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM TO
24 RESTORATIVE JUSTICE PRACTICES, BOTH TO PROVIDE DATA TO ASSESS THE
25 EFFICACY OF RESTORATIVE JUSTICE TO REDUCE RECIDIVISM, INCREASE
26 VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION, AND
27 REDUCE COST; AND TO PROMOTE THE RESTORATIVE JUSTICE PRINCIPLES OF

1 RECONCILIATION, RESPONSIBILITY, REINTEGRATION, RESPECT,
2 RELATIONSHIP-BUILDING, AND RESTITUTION; AND

3 (II) FACILITATE AND ENCOURAGE DIVERSION OF JUVENILES FROM
4 THE JUVENILE JUSTICE SYSTEM WHEN DIVERSION MAY PREVENT JUVENILES
5 FROM COMMITTING ADDITIONAL CRIMINAL ACTS, RESTORE VICTIMS OF
6 CRIME, FACILITATE THE JUVENILES' ABILITY TO PAY RESTITUTION TO
7 VICTIMS OF CRIME, AND REDUCE THE NUMBER OF CASES IN THE JUVENILE
8 JUSTICE SYSTEM. RESTORATIVE JUSTICE SHOULD ENSURE ACCOUNTABILITY
9 WHILE ALLOWING JUVENILES TO AVOID THE COLLATERAL CONSEQUENCES
10 ASSOCIATED WITH CRIMINAL CHARGES AND CONVICTIONS.

11 (2) (a) THERE SHALL BE A RESTORATIVE JUSTICE PILOT PROJECT.
12 THE PILOT PROJECT CONSISTS OF TWO NEW RESTORATIVE JUSTICE
13 PROGRAMS IN THE TENTH AND NINETEENTH JUDICIAL DISTRICT AND TWO
14 EXISTING RESTORATIVE JUSTICE PROGRAMS IN THE TWELFTH AND
15 TWENTIETH JUDICIAL DISTRICTS.

16 (b) THE PILOT PROJECT SITES DESCRIBED IN PARAGRAPH (a) OF
17 THIS SUBSECTION (2) MUST PROVIDE TO THE DIVISION OF CRIMINAL JUSTICE
18 IN THE DEPARTMENT OF PUBLIC SAFETY THE FOLLOWING INFORMATION
19 BASED ON THE PREVIOUS YEAR BY JULY 1, 2014, AND JULY 1, EACH YEAR
20 THEREAFTER:

21 (I) A DESCRIPTION OF THE TYPES OF RESTORATIVE JUSTICE
22 PRACTICES USED AND COSTS ASSOCIATED WITH EACH PRACTICE;

23 (II) THE NUMBER OF JUVENILES IN THE JURISDICTION'S JUVENILE
24 JUSTICE SYSTEM WHO MET THE CRITERIA IN PARAGRAPH (b) OF
25 SUBSECTION (3) OF THIS SECTION;

26 (III) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE
27 RESTORATIVE JUSTICE PROGRAM, INCLUDING DEMOGRAPHIC INFORMATION

1 CONSISTING OF THE JUVENILE'S AGE, RACE, AND GENDER;

2 (IV) THE NUMBER OF JUVENILES PARTICIPATING IN THE
3 RESTORATIVE JUSTICE PROGRAM WHO REACHED AN AGREEMENT TO REPAIR
4 THE HARM AND SUCCESSFULLY COMPLETED THE RESTORATIVE JUSTICE
5 PROGRAM AND THE NUMBER OF JUVENILES WHO DID NOT COMPLETE THE
6 RESTORATIVE JUSTICE PROGRAM AND THE REASON FOR NONCOMPLETION;

7 (V) THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE
8 SATISFACTION EVALUATION DEVELOPED PURSUANT TO SECTION 19-2-213
9 (1) (b);

10 (VI) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE
11 RESTORATIVE JUSTICE PROGRAM AND HAD A SUBSEQUENT JUVENILE
12 PETITION FILED AGAINST HIM OR HER IN THE SAME OR ANOTHER JUDICIAL
13 DISTRICT WITHIN ONE YEAR; AND

14 (VII) THE NUMBER OF VICTIMS WHO:

15 (A) WERE CONTACTED FOR PARTICIPATION;

16 (B) PARTICIPATED;

17 (C) SUBMITTED VICTIM IMPACT STATEMENTS;

18 (D) SENT A SURROGATE; OR

19 (E) DECLINED TO PARTICIPATE IN A RESTORATIVE JUSTICE
20 PROGRAM.

21 (c) (I) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A
22 REPORT BASED ON THE INFORMATION IT RECEIVES PURSUANT TO
23 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2014.

24 (II) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A REPORT
25 THAT INCLUDES A SUMMARY OF THE PILOT PROJECT SITES AND THE
26 EXISTING SITES BASED ON THE INFORMATION IT RECEIVES PURSUANT TO
27 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2015.

1 (3) (a) THE PILOT PROJECT AND EXISTING SITES MUST IMPLEMENT
2 A RESTORATIVE JUSTICE PROGRAM THAT REQUIRES THE DISTRICT
3 ATTORNEY, PRIOR TO FILING CHARGES, TO ASSESS IF THE JUVENILE IS
4 SUITABLE FOR PARTICIPATION IN THE RESTORATIVE JUSTICE PILOT
5 PROGRAM BASED ON THE CONSIDERATIONS SET FORTH IN SECTION
6 19-2-512 (2). IF THE ASSESSMENT DETERMINES THE JUVENILE IS SUITABLE,
7 THE DISTRICT ATTORNEY MAY OFFER THE JUVENILE PREFILING DIVERSION
8 TO A PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES. IF THE
9 JUVENILE ACCEPTS PARTICIPATION IN THE PROGRAM UTILIZING
10 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL NOT
11 FILE THE PETITION. THE DISTRICT ATTORNEY SHALL PLACE THE JUVENILE
12 IN A DIVERSION PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES,
13 AND THE JUVENILE SHALL PAY A FEE OF ONE HUNDRED TWENTY-FIVE
14 DOLLARS, BUT THE FEE MAY BE REDUCED ON SLIDING SCALE BASED ON
15 INCOME CONSISTENT WITH GUIDELINES USED TO DETERMINE ELIGIBILITY
16 FOR APPOINTMENT OF COUNSEL. IF THE JUVENILE SUCCESSFULLY
17 COMPLETES THE PROGRAM, THE DISTRICT ATTORNEY SHALL NOT FILE A
18 PETITION AGAINST THE JUVENILE FOR THE ALLEGED CRIMES THAT LED TO
19 PARTICIPATION IN THE PROGRAM. IF THE JUVENILE IS CHARGED WITH A
20 NEW OFFENSE WHILE IN THE PROGRAM OR DOES NOT SUCCESSFULLY
21 COMPLETE THE PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, THE
22 DISTRICT ATTORNEY MAY INITIATE A PETITION AGAINST THE JUVENILE AND
23 SHALL PROCEED AS AUTHORIZED IN THIS ARTICLE. ANY STATEMENTS
24 MADE DURING THE CONFERENCE ARE CONFIDENTIAL AND MAY NOT BE
25 USED AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT UNLESS
26 THE DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE
27 CONFERENCE. EACH PARTICIPANT IN THE RESTORATIVE JUSTICE PROGRAM

1 SHALL COMPLETE THE UNIFORM RESTORATIVE JUSTICE SATISFACTION
2 EVALUATION.

3 (b) FOR PURPOSES OF THIS SUBSECTION (3), "JUVENILE" MEANS A
4 PERSON WHO:

5 (I) IS LESS THAN EIGHTEEN YEARS OF AGE;

6 (II) HAS NOT BEEN PREVIOUSLY ADJUDICATED FOR AN OFFENSE
7 THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT AND HAS NOT
8 PREVIOUSLY PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS
9 SECTION; AND

10 (III) COULD BE CHARGED IN A PETITION ONLY WITH THE
11 FOLLOWING CRIMES:

12 (A) A MISDEMEANOR, EXCLUDING THOSE IN TITLE 42, C.R.S., IF
13 CHARGED AGAINST AN ADULT; OR

14 (B) A CLASS 3, 4, 5, OR 6 FELONY, IF CHARGED AGAINST AN ADULT
15 AND THE DISTRICT ATTORNEY SELECTS THE JUVENILE FOR PARTICIPATION
16 IN THE PROGRAM.

17 (4) THE RESTORATIVE JUSTICE PILOT PROJECTS SITES SHALL HAVE
18 PRIORITY IN RECEIVING FUNDS FROM THE RESTORATIVE JUSTICE
19 SURCHARGE FUND CREATED IN SECTION 18-25-101 (3), C.R.S.

20 (5) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2015.

21 **SECTION 6.** In Colorado Revised Statutes, 19-2-512, **amend** (2)
22 as follows:

23 **19-2-512. Petition initiation.** (2) If the petition is the first
24 juvenile petition filed against the juvenile in any jurisdiction and is
25 initiated in a jurisdiction that has restorative justice practices available,
26 the district attorney or his or her designee may determine whether a
27 juvenile is suitable for restorative justice practices. ~~In making a~~

1 ~~determination of whether the juvenile is suitable for restorative justice~~
2 ~~practices, the district attorney shall first determine whether the victim,~~
3 ~~having been informed about restorative justice practices pursuant to~~
4 ~~section 24-4.1-303 (11) (g), C.R.S., is requesting consideration of~~
5 ~~restorative justice practices as an alternative to formal prosecution. Upon~~
6 ~~such request, The district attorney shall consider WHETHER THE VICTIM,~~
7 ~~HAVING BEEN INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES~~
8 ~~PURSUANT TO SECTION 24-4.1-303 (11) (g), C.R.S., IS REQUESTING~~
9 ~~CONSIDERATION OF RESTORATIVE JUSTICE PRACTICES AS AN ALTERNATIVE~~
10 ~~TO FORMAL PROSECUTION; whether the juvenile accepts responsibility for,~~
11 ~~expresses remorse for, and is willing to repair the harm caused by his or~~
12 ~~her actions; and whether the juvenile's parent or legal guardian is willing~~
13 ~~to support the juvenile in the process. If requested by the victim,~~
14 ~~restorative justice practices may be utilized as part of this process. IF~~
15 ~~REQUESTED BY THE JUVENILE, A VICTIM-OFFENDER CONFERENCE MAY~~
16 ~~ONLY BE CONDUCTED AFTER THE VICTIM IS CONSULTED BY THE DISTRICT~~
17 ~~ATTORNEY AND OFFERED AN OPPORTUNITY TO PARTICIPATE OR SUBMIT A~~
18 ~~VICTIM IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A~~
19 ~~VICTIM-OFFENDER CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM~~
20 ~~SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A~~
21 ~~VICTIM-IMPACT STATEMENT. The district attorney may offer dismissal of~~
22 ~~charges as an option for the successful completion of these and any other~~
23 ~~conditions imposed and designed to address the harm done to the victim~~
24 ~~and the community by the offender, subject to approval by the court.~~

25 **SECTION 7.** In Colorado Revised Statutes, 19-2-706, **amend** (1)
26 as follows:

27 **19-2-706. Advisement.** (1) At the first appearance before the

1 court after the filing of a petition, the juvenile and his or her parents,
2 guardian, or other legal custodian shall be advised by the court of their
3 constitutional and legal rights as set forth in rule 3 of the Colorado rules
4 of juvenile procedure. Such advisement shall include the possibility of
5 restorative justice practices, including victim-offender conferences if
6 ~~applicable~~ IF RESTORATIVE JUSTICE PRACTICES ARE AVAILABLE IN THE
7 JURISDICTION. The advisement regarding restorative justice practices does
8 not establish any right to restorative justice practices on behalf of the
9 juvenile. ~~and failure to provide an advisement regarding restorative~~
10 ~~justice practices does not constitute any legal error by the court.~~

11 **SECTION 8.** In Colorado Revised Statutes, 19-2-708, **amend** (2)
12 as follows:

13 **19-2-708. Entry of plea.** (2) Upon the entry of a plea of guilty to
14 one or more of the allegations contained in the petition, the court shall
15 advise the juvenile in accordance with rule 3 of the Colorado rules of
16 juvenile procedure. Such advisement shall include the possibility of
17 restorative justice practices, including victim-offender conferences if
18 ~~applicable~~ RESTORATIVE JUSTICE PRACTICES ARE AVAILABLE IN THE
19 JURISDICTION. The advisement regarding restorative justice practices does
20 not establish any right to restorative justice practices on behalf of the
21 juvenile. ~~and failure to provide an advisement regarding restorative~~
22 ~~justice practices does not constitute any legal error by the court.~~

23 **SECTION 9.** In Colorado Revised Statutes, 19-2-905, **amend** (4)
24 as follows:

25 **19-2-905. Presentence investigation.** (4) Prior to sentencing a
26 juvenile who was adjudicated for an offense that would be a felony or
27 misdemeanor not contained in title 42, C.R.S., if committed by an adult,

1 the court ~~upon the request of the victim~~, may order the juvenile to
2 participate in an assessment to determine whether the juvenile would be
3 suitable for participation in restorative justice practices that would be a
4 part of the juvenile's sentence; except that the court may not order
5 participation in a restorative justice practice if the juvenile was
6 adjudicated a delinquent for unlawful sexual behavior, as defined in
7 section 16-22-102 (9), C.R.S., a crime in which the underlying factual
8 basis involves domestic violence, as defined in section 18-6-800.3 (1),
9 C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a
10 protection order as defined in section 18-6-803.5, C.R.S. If the court
11 orders a suitability assessment, the assessor shall provide the services for
12 a fee of no more than forty dollars based on a sliding scale; however, the
13 fee may be ~~waived by the court~~ REDUCED BY THE COURT BASED ON A
14 SLIDING SCALE CONSISTENT WITH GUIDELINES USED TO DETERMINE
15 ELIGIBILITY FOR APPOINTMENT OF COUNSEL. IF REQUESTED BY THE
16 JUVENILE, A VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED
17 AFTER THE VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND
18 OFFERED AN OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT
19 STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM-OFFENDER
20 CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR
21 VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT
22 STATEMENT. If the juvenile participates in a restorative justice practices
23 victim-offender conference, the facilitator shall provide these services for
24 a fee of no more than one hundred twenty-five dollars based on a sliding
25 scale; however, the fee may be waived by the court.

26 **SECTION 10.** In Colorado Revised Statutes, **add** article 25 to
27 title 18 as follows:

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ARTICLE 25

Restorative Justice Surcharge

18-25-101. Restorative justice surcharge - definitions.

(1) EACH PERSON WHO IS CONVICTED OF A CRIME AND EACH JUVENILE ADJUDICATED OF A CRIME SHALL BE REQUIRED TO PAY A TEN DOLLAR SURCHARGE TO THE CLERK OF THE COURT FOR THE JUDICIAL DISTRICT IN WHICH THE CONVICTION OCCURS.

(2) THE CLERK OF THE COURT SHALL ALLOCATE THE SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION AS FOLLOWS:

(a) FIVE PERCENT SHALL BE RETAINED BY THE CLERK OF THE COURT FOR ADMINISTRATIVE COSTS INCURRED PURSUANT TO THIS SUBSECTION (1). SUCH AMOUNT RETAINED SHALL BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND CREATED IN SECTION 13-32-101 (6), C.R.S.

(b) NINETY-FIVE PERCENT SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE RESTORATIVE JUSTICE SURCHARGE FUND CREATED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) (a) THERE IS CREATED IN THE STATE TREASURY THE RESTORATIVE JUSTICE SURCHARGE FUND THAT CONSISTS OF MONEYS RECEIVED BY THE STATE TREASURER PURSUANT TO THIS SECTION. THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE JUDICIAL DEPARTMENT FOR DISTRIBUTION TO JUDICIAL DISTRICTS THAT OFFER RESTORATIVE JUSTICE PROGRAMS AND TO THE RESTORATIVE JUSTICE COORDINATING COUNCIL FOR ADMINISTRATIVE EXPENSES.

(b) THE JUDICIAL DEPARTMENT SHALL ESTABLISH GUIDELINES FOR

1 THE DISTRIBUTION OF THE MONEYS FROM THE FUND TO ASSIST IN
2 DEFRAYING THE COSTS OF RESTORATIVE JUSTICE PROGRAMS, INCLUDING
3 BUT NOT LIMITED TO PROCEDURES FOR PROGRAMS TO USE IN APPLYING TO
4 THE JUDICIAL DEPARTMENT FOR MONEYS FROM THE FUND.

5 (c) THE JUDICIAL DEPARTMENT SHALL NOT EXPEND ANY MONEYS
6 UNTIL THE FUND HAS ENOUGH MONEY TO PAY THE EXPENSES NECESSARY
7 TO ADMINISTER THE FUND.

8 (d) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
9 OF MONEYS IN THE FUND MUST BE CREDITED TO THE FUND. ANY MONEYS
10 NOT APPROPRIATED BY THE GENERAL ASSEMBLY MUST REMAIN IN THE
11 FUND AND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND
12 OF THE STATE AT THE END OF ANY FISCAL YEAR.

13 (4) THE COURT MAY WAIVE ALL OR ANY PORTION OF THE
14 SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION IF THE COURT
15 FINDS THAT A PERSON OR JUVENILE IS INDIGENT OR FINANCIALLY UNABLE
16 TO PAY ALL OR ANY PORTION OF THE SURCHARGE. THE COURT MAY WAIVE
17 ONLY THAT PORTION OF THE SURCHARGE THAT THE COURT FINDS THAT
18 THE PERSON OR JUVENILE IS FINANCIALLY UNABLE TO PAY.

19 (5) AS USED IN THIS SECTION, "CONVICTED" AND "CONVICTION"
20 MEAN A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF
21 GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION
22 18-1.3-102, A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO
23 CONTEST ACCEPTED BY THE COURT.

24 **SECTION 11.** In Colorado Revised Statutes, 24-4.1-302.5,
25 **amend** (1) and (1.5) as follows:

26 **24-4.1-302.5. Rights afforded to victims.** (1) In order to
27 preserve and protect a victim's rights to justice and due process, each

1 victim of a crime shall have the following rights:

2 (1.5) The right to be informed about the possibility of restorative
3 justice practices, as defined in section 18-1-901 (3) (o.5), C.R.S., WHICH
4 INCLUDES VICTIM-OFFENDER CONFERENCES;

5 **SECTION 12.** In Colorado Revised Statutes, 24-4.1-303, **amend**
6 (11) (g) as follows:

7 **24-4.1-303. Procedures for ensuring rights of victims of**
8 **crimes.** (11) The district attorney shall inform a victim of the following:

9 (g) The availability of restorative justice practices, as defined in
10 section 18-1-901 (3) (o.5), C.R.S., WHICH INCLUDES VICTIM-OFFENDER
11 CONFERENCES;

12 **SECTION 13. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2014 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.