

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0401.01 Michael Dohr

HOUSE BILL 11-1032

HOUSE SPONSORSHIP

Lee,

SENATE SPONSORSHIP

Newell,

House Committees

Judiciary
Appropriations

Senate Committees

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>.)

The bill adds restorative justice to the options a court has when it imposes an alternative sentence instead of incarceration or as a part of a probation sentence.

Under current law, restorative justice sentencing provisions are permitted in juvenile cases during advisement, entry of plea, sentencing, and during probation. The bill would make some of those provisions mandatory, including provisions that would require most juveniles to

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.*

HOUSE
Amended 2nd Reading
April 8, 2011

undergo a presentence evaluation to determine whether restorative justice is a suitable sentencing option. Prior to charging a juvenile for the first time, which juvenile would be subject to misdemeanor or petty offenses, the district attorney shall assess whether the juvenile is suitable for restorative justice. If the district attorney determines the juvenile is suitable, the district attorney may offer the juvenile the opportunity to participate in restorative justice rather than charging the juvenile.

The bill directs the department of corrections to establish policies and procedures for facilitated victim-offender dialogues in institutions under the control of the department, which would arrange the dialogues if requested by the victim and agreed to by the offender.

The bill encourages each school district in the state and the state charter school institute to implement restorative justice practices that each school in the district or each institute charter school can use in its disciplinary program.

The bill creates the right for a victim to be informed by the district attorney about the availability of restorative justice practices and the possibility of a victim-offender conference.

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

2 **SECTION 1.** 16-7-202 (1), Colorado Revised Statutes, is
3 amended to read:

4 **16-7-202. Presence of defendant.** (1) If the offense charged is
5 a felony or a class 1 misdemeanor or if the maximum penalty for the
6 offense charged is more than one year's imprisonment, the defendant must
7 be personally present for arraignment; except that the court, for good
8 cause shown, may accept a plea of not guilty made by an attorney
9 representing the defendant without requiring the defendant to be
10 personally present. In all prosecutions for lesser offenses, the defendant
11 may appear by his OR HER attorney who may enter a plea on his OR HER
12 behalf. IF THE DEFENDANT APPEARS PERSONALLY FOR A CHARGE THAT IS
13 NOT IN TITLE 42, C.R.S., THE COURT MAY ADVISE THE DEFENDANT OF THE
14 POSSIBILITY THAT RESTORATIVE JUSTICE PRACTICES MAY BE PART OF A
15 SENTENCE, IF AVAILABLE IN THE JURISDICTION AND REQUESTED BY THE

1 VICTIM WHO HAS BEEN INFORMED ABOUT THE RESTORATIVE JUSTICE
2 PRACTICES PURSUANT TO SECTION 24-4.1-303 (1) (g), C.R.S.

3 **SECTION 2.** 17-28-101, Colorado Revised Statutes, is amended
4 to read:

5 **17-28-101. Legislative declaration.** (1) The general assembly
6 finds and declares that:

7 (a) The number of victims of crime increases daily;

8 (b) These victims suffer undue hardship by virtue of physical,
9 MENTAL, AND EMOTIONAL injury or loss of property;

10 (c) Persons found guilty of causing such suffering ~~should be~~ ARE
11 under a moral and legal obligation to make adequate restitution AND
12 RESTORATION to those injured by their conduct;

13 (d) Restitution AND RESTORATION provided by criminal offenders
14 to their victims may be ~~an instrument~~ INSTRUMENTS of rehabilitation for
15 offenders AND MAY CONTRIBUTE TO THE HEALING AND IMPROVED
16 EMOTIONAL WELL-BEING OF THEIR VICTIMS.

17 (2) The purpose of this article is to encourage the establishment
18 of programs to provide for restitution to AND RESTORATION OF victims of
19 crime by offenders who are sentenced, or who have been released on
20 parole, or who are being held in local correctional and detention facilities.

21 It is the intent of the general assembly that restitution be utilized wherever
22 feasible to restore losses to the victims of crime and to aid the offender
23 in reintegration as a productive member of society. IT IS ALSO THE
24 PURPOSE OF THIS ARTICLE TO PROMOTE ESTABLISHMENT OF
25 VICTIM-OFFENDER CONFERENCES IN THE INSTITUTIONS UNDER THE
26 CONTROL OF THE DEPARTMENT OF CORRECTIONS, USING RESTORATIVE
27 JUSTICE PRACTICES AS DEFINED IN SECTION 18-1-901 (3) (o.5), C.R.S.

1 **SECTION 3.** Article 28 of title 17, Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW SECTION to read:

3 **17-28-103. Victim-offender conferences - pilot program.** THE
4 DEPARTMENT IS AUTHORIZED TO ESTABLISH A PILOT PROGRAM, WHEN
5 FUNDS BECOME AVAILABLE, IN ITS CORRECTIONAL FACILITIES TO
6 FACILITATE VICTIM-INITIATED VICTIM-OFFENDER CONFERENCES WHEREBY
7 A VICTIM OF A CRIME MAY REQUEST A FACILITATED CONFERENCE WITH THE
8 OFFENDER WHO COMMITTED THE CRIME, IF THE OFFENDER IS IN THE
9 CUSTODY OF THE DEPARTMENT. AFTER SUCH A PILOT PROGRAM IS
10 ESTABLISHED, THE DEPARTMENT MAY ESTABLISH POLICIES AND
11 PROCEDURES FOR THE VICTIM-OFFENDER CONFERENCES USING
12 VOLUNTEERS TO FACILITATE THE CONFERENCES. THE VOLUNTEERS SHALL
13 COMPLETE THE DEPARTMENT'S VOLUNTEER AND FACILITY-SPECIFIC
14 TRAINING PROGRAMS AND COMPLETE HIGH-RISK VICTIM-OFFENDER
15 TRAINING AND VICTIM ADVOCACY TRAINING. THE DEPARTMENT SHALL
16 NOT COMPENSATE OR REIMBURSE A VOLUNTEER OR VICTIM FOR ANY
17 EXPENSES NOR OTHERWISE INCUR ANY ADDITIONAL EXPENSES TO
18 ESTABLISH OR OPERATE THE VICTIM-OFFENDER CONFERENCES PILOT
19 PROGRAM. IF A PILOT PROGRAM IS AVAILABLE, AND SUBSEQUENT TO THE
20 VICTIM'S OR THE VICTIM REPRESENTATIVE'S REQUEST, THE DEPARTMENT
21 SHALL ARRANGE SUCH A CONFERENCE ONLY AFTER DETERMINING THAT
22 THE CONFERENCE WOULD BE SAFE AND ONLY IF THE OFFENDER AGREES TO
23 PARTICIPATE. THE PURPOSES OF THE CONFERENCE SHALL BE TO ENABLE
24 THE VICTIM TO MEET THE OFFENDER, TO OBTAIN ANSWERS TO QUESTIONS
25 ONLY THE OFFENDER CAN ANSWER, TO ASSIST THE VICTIM IN HEALING
26 FROM THE IMPACT OF THE CRIME, AND TO PROMOTE A SENSE OF REMORSE
27 AND ACCEPTANCE OF RESPONSIBILITY BY THE OFFENDER THAT MAY

1 CONTRIBUTE TO HIS OR HER REHABILITATION.

2 **SECTION 4.** 18-1-102 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **18-1-102. Purpose of code, statutory construction.** (1) This
5 code shall be construed in such manner as to promote maximum
6 fulfillment of its general purposes, namely:

7 (e) TO PROMOTE ACCEPTANCE OF RESPONSIBILITY AND
8 ACCOUNTABILITY BY OFFENDERS AND TO PROVIDE RESTORATION AND
9 HEALING FOR VICTIMS AND THE COMMUNITY WHILE ATTEMPTING TO
10 REDUCE RECIDIVISM AND THE COSTS TO SOCIETY BY THE USE OF
11 RESTORATIVE JUSTICE PRACTICES.

12 **SECTION 5.** 18-1-102.5 (1) (c) and (1) (d), Colorado Revised
13 Statutes, are amended, and the said 18-1-102.5 (1) is further amended BY
14 THE ADDITION OF A NEW PARAGRAPH, to read:

15 **18-1-102.5. Purposes of code with respect to sentencing.**

16 (1) The purposes of this code with respect to sentencing are:

17 (c) To prevent crime and promote respect for the law by providing
18 an effective deterrent to others likely to commit similar offenses; ~~and~~

19 (d) To promote rehabilitation by encouraging correctional
20 programs that elicit the voluntary cooperation and participation of
21 convicted offenders; AND

22 (e) TO PROMOTE ACCEPTANCE OF RESPONSIBILITY AND
23 ACCOUNTABILITY BY OFFENDERS AND TO PROVIDE RESTORATION AND
24 HEALING FOR VICTIMS AND THE COMMUNITY WHILE ATTEMPTING TO
25 REDUCE RECIDIVISM AND THE COSTS TO SOCIETY BY THE USE OF
26 RESTORATIVE JUSTICE PRACTICES.

27 **SECTION 6.** 18-1-901 (3), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **18-1-901. Definitions.** (3) (o.5) "RESTORATIVE JUSTICE
3 PRACTICES" MEANS PRACTICES THAT EMPHASIZE REPAIRING THE HARM
4 CAUSED TO VICTIMS AND THE COMMUNITY BY OFFENSES. RESTORATIVE
5 JUSTICE PRACTICES INCLUDE VICTIM INITIATED VICTIM-OFFENDER
6 CONFERENCES, FAMILY GROUP CONFERENCES, CIRCLES, COMMUNITY
7 CONFERENCES, AND OTHER SIMILAR VICTIM-CENTERED PRACTICES.
8 RESTORATIVE JUSTICE PRACTICES ARE FACILITATED MEETINGS ATTENDED
9 VOLUNTARILY BY THE VICTIM OR VICTIM'S REPRESENTATIVES, THE
10 VICTIM'S SUPPORTERS, THE OFFENDER, AND THE OFFENDER'S SUPPORTERS
11 AND MAY INCLUDE COMMUNITY MEMBERS. BY ENGAGING THE PARTIES TO
12 THE OFFENSE IN VOLUNTARY DIALOGUE, RESTORATIVE JUSTICE PRACTICES
13 PROVIDE AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT RESPONSIBILITY
14 FOR THE HARM CAUSED TO THE VICTIM AND COMMUNITY, PROMOTE VICTIM
15 HEALING, AND ENABLE THE PARTICIPANTS TO AGREE ON CONSEQUENCES
16 TO REPAIR THE HARM, TO THE EXTENT POSSIBLE, INCLUDING BUT NOT
17 LIMITED TO APOLOGIES, COMMUNITY SERVICE, REPARATION,
18 RESTORATION, AND COUNSELING. RESTORATIVE JUSTICE PRACTICES MAY
19 BE IN USED IN ADDITION TO ANY OTHER CONDITIONS, CONSEQUENCES, OR
20 SENTENCE IMPOSED BY THE COURT.

21 **SECTION 7.** 18-1.3-104 (1) (b.5) (I), Colorado Revised Statutes,
22 is amended to read:

23 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within
24 the limitations of the applicable statute pertaining to sentencing and
25 subject to the provisions of this title, the trial court has the following
26 alternatives in entering judgment imposing a sentence:

27 (b.5) (I) Except as otherwise provided by subparagraph (II) of this

1 paragraph (b.5), any defendant who, in the determination of the court, is
2 a candidate for an alternative sentencing option and who would otherwise
3 be sentenced to imprisonment pursuant to paragraph (b) of this subsection
4 (1) may, as an alternative, be sentenced to a specialized restitution and
5 community service program pursuant to section 18-1.3-302, WHICH MAY
6 INCLUDE RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION
7 18-1-901 (3) (o.5), if such defendant is determined eligible and is
8 accepted into such program. TO BE ELIGIBLE FOR RESTORATIVE JUSTICE
9 PRACTICES, THE DEFENDANT SHALL NOT HAVE BEEN CONVICTED OF
10 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9),
11 C.R.S., A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS INVOLVES
12 DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), STALKING AS
13 DEFINED IN SECTION 18-3-602 ,OR VIOLATION OF A PROTECTION ORDER AS
14 DEFINED IN SECTION 18-6-803.5. IF THE COURT ORDERS THE DEFENDANT
15 TO ATTEND A RESTORATIVE JUSTICE PRACTICES VICTIM-OFFENDER
16 CONFERENCE, THE FACILITATOR OF THE CONFERENCE SHALL PROVIDE HIS
17 OR HER SERVICES FOR A FEE OF NO MORE THAN ONE HUNDRED
18 TWENTY-FIVE DOLLARS, BASED ON A SLIDING SCALE. ANY STATEMENTS
19 MADE DURING THE CONFERENCE SHALL BE CONFIDENTIAL AND SHALL NOT
20 BE USED AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT
21 UNLESS THE DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE
22 CONFERENCE.

23 **SECTION 8.** 18-1.3-204 (2) (a), Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

25 **18-1.3-204. Conditions of probation.** (2) (a) When granting
26 probation, the court may, as a condition of probation, require that the
27 defendant:

1 (III.5) PARTICIPATE IN RESTORATIVE JUSTICE PRACTICES, AS
2 DEFINED IN SECTION 18-1-901 (3) (o.5), IF AVAILABLE IN THE
3 JURISDICTION, REQUESTED BY THE VICTIM WHO HAS BEEN INFORMED
4 ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO SECTION
5 24-4.1-303 (11) (g), C.R.S., AND THE DEFENDANT IS DETERMINED
6 SUITABLE BY A DESIGNATED RESTORATIVE JUSTICE PRACTICES
7 FACILITATOR. TO BE ELIGIBLE FOR RESTORATIVE JUSTICE PRACTICES, THE
8 DEFENDANT SHALL NOT HAVE BEEN CONVICTED OF UNLAWFUL SEXUAL
9 BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9), C.R.S., A CRIME IN
10 WHICH THE UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE,
11 AS DEFINED IN SECTION 18-6-800.3 (1), STALKING AS DEFINED IN SECTION
12 18-3-602, OR VIOLATION OF A PROTECTION ORDER AS DEFINED IN
13 SECTION 18-6-803.5. ANY STATEMENTS MADE DURING A RESTORATIVE
14 JUSTICE CONFERENCE SHALL BE CONFIDENTIAL AND SHALL NOT BE USED
15 AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT UNLESS THE
16 DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE CONFERENCE.
17 FAILURE TO COMPLETE THE REQUIREMENTS ARISING FROM A RESTORATIVE
18 JUSTICE CONFERENCE MAY BE CONSIDERED A VIOLATION OF PROBATION.
19 NOTHING IN THIS SUBPARAGRAPH (III.5) SHALL BE CONSTRUED TO
20 REQUIRE A VICTIM TO PARTICIPATE IN A RESTORATIVE JUSTICE
21 VICTIM-OFFENDER CONFERENCE.

22 SECTION 9. 19-1-103 (44), Colorado Revised Statutes, is
23 amended to read:

24 19-1-103. Definitions. As used in this title or in the specified
25 portion of this title, unless the context otherwise requires:

26 (44) "Diversion" means a decision made by a person with
27 authority or a delegate of that person that results in specific official action

1 of the legal system not being taken in regard to a specific juvenile or child
2 and in lieu thereof providing individually designed services by a specific
3 program. The goal of diversion is to prevent further involvement of the
4 juvenile or child in the formal legal system. Diversion of a juvenile or
5 child may take place either at the prefiling level as an alternative to the
6 filing of a petition pursuant to section 19-2-512 or at the postadjudication
7 level as an adjunct to probation services following an adjudicatory
8 hearing pursuant to section 19-3-505 or a disposition as a part of
9 sentencing pursuant to section 19-2-907. "Services", as used in this
10 subsection (44), includes but is not limited to diagnostic needs
11 assessment, restitution programs, community service, job training and
12 placement, specialized tutoring, constructive recreational activities,
13 general counseling and counseling during a crisis situation, and follow-up
14 activities. Services may include restorative justice practices ~~including,~~
15 ~~where practicable, victim-offender conferences~~ AS DEFINED IN SECTION
16 18-1-901 (3) (o.5), AS REQUESTED BY THE VICTIM, AFTER BEING INFORMED
17 ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO SECTION
18 24-4.1-303 (11) (g), C.R.S., AND AS DEEMED SUITABLE BY THE PROBATION
19 DEPARTMENT OR A DESIGNATED RESTORATIVE JUSTICE PRACTICES
20 FACILITATOR. SUCH PRACTICES MAY INCLUDE VICTIM-OFFENDER
21 CONFERENCES, IF REQUESTED BY THE VICTIM. RESTORATIVE JUSTICE
22 PRACTICES SHALL BE CONDUCTED BY FACILITATORS RECOMMENDED BY
23 THE DISTRICT ATTORNEY.

24 **SECTION 10.** 19-2-512, Colorado Revised Statutes, is amended
25 to read:

26 **19-2-512. Petition initiation.** (1) If the district attorney
27 determines that the interests of the juvenile or of the community require

1 that further action be taken, the district attorney may file a petition in
2 delinquency on the form specified in section 19-2-513, which shall be
3 accepted by the court. If the district attorney chooses to file a petition in
4 delinquency on any juvenile who receives a detention hearing under
5 section 19-2-508, he or she shall file said petition within seventy-two
6 hours after the detention hearing, excluding Saturdays, Sundays, and legal
7 holidays. Upon filing of such petition, the court, if practicable, shall send
8 notice of the pendency of such action to the natural parents of the juvenile
9 who is the subject of such petition.

10 (2) IF THE PETITION IS THE FIRST JUVENILE PETITION FILED AGAINST
11 THE JUVENILE IN ANY JURISDICTION AND IS INITIATED IN A JURISDICTION
12 THAT HAS RESTORATIVE JUSTICE PRACTICES AVAILABLE, THE DISTRICT
13 ATTORNEY OR HIS OR HER DESIGNEE MAY DETERMINE WHETHER A
14 JUVENILE IS SUITABLE FOR RESTORATIVE JUSTICE PRACTICES. IN MAKING
15 A DETERMINATION OF WHETHER THE JUVENILE IS SUITABLE FOR
16 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL FIRST
17 DETERMINE WHETHER THE VICTIM, HAVING BEEN INFORMED ABOUT
18 RESTORATIVE JUSTICE PRACTICES PURSUANT TO SECTION 24-4.1-303 (11)
19 (g), C.R.S., IS REQUESTING CONSIDERATION OF RESTORATIVE JUSTICE
20 PRACTICES AS AN ALTERNATIVE TO FORMAL PROSECUTION. UPON SUCH
21 REQUEST, THE DISTRICT ATTORNEY SHALL CONSIDER WHETHER THE
22 JUVENILE ACCEPTS RESPONSIBILITY FOR, EXPRESSES REMORSE FOR, AND
23 IS WILLING TO REPAIR THE HARM CAUSED BY HIS OR HER ACTIONS AND
24 WHETHER THE JUVENILE'S PARENT OR LEGAL GUARDIAN IS WILLING TO
25 SUPPORT THE JUVENILE IN THE PROCESS. IF REQUESTED BY THE VICTIM,
26 RESTORATIVE JUSTICE PRACTICES MAY BE UTILIZED AS PART OF THIS
27 PROCESS. THE DISTRICT ATTORNEY MAY OFFER DISMISSAL OF CHARGES AS

1 AN OPTION FOR THE SUCCESSFUL COMPLETION OF THESE AND ANY OTHER
2 CONDITIONS IMPOSED AND DESIGNED TO ADDRESS THE HARM DONE TO THE
3 VICTIM AND THE COMMUNITY BY THE OFFENDER, SUBJECT TO APPROVAL
4 BY THE COURT.

5 **SECTION 11.** 19-2-706 (1), Colorado Revised Statutes, is
6 amended to read:

7 **19-2-706. Advisement.** (1) At the first appearance before the
8 court after the filing of a petition, the juvenile and his or her parents,
9 guardian, or other legal custodian shall be advised by the court of their
10 constitutional and legal rights as set forth in rule 3 of the Colorado rules
11 of juvenile procedure. Such advisement ~~may~~ SHALL include the
12 possibility of restorative justice practices, including victim-offender
13 conferences if applicable. THE ADVISEMENT REGARDING RESTORATIVE
14 JUSTICE PRACTICES DOES NOT ESTABLISH ANY RIGHT TO RESTORATIVE
15 JUSTICE PRACTICES ON BEHALF OF THE JUVENILE, AND FAILURE TO
16 PROVIDE AN ADVISEMENT REGARDING RESTORATIVE JUSTICE PRACTICES
17 DOES NOT CONSTITUTE ANY LEGAL ERROR BY THE COURT.

18 **SECTION 12.** 19-2-708 (2), Colorado Revised Statutes, is
19 amended to read:

20 **19-2-708. Entry of plea.** (2) Upon the entry of a plea of guilty to
21 one or more of the allegations contained in the petition, the court shall
22 advise the juvenile in accordance with rule 3 of the Colorado rules of
23 juvenile procedure. Such advisement ~~may~~ SHALL include the possibility
24 of restorative justice practices, including victim-offender conferences if
25 applicable. THE ADVISEMENT REGARDING RESTORATIVE JUSTICE
26 PRACTICES DOES NOT ESTABLISH ANY RIGHT TO RESTORATIVE JUSTICE
27 PRACTICES ON BEHALF OF THE JUVENILE, AND FAILURE TO PROVIDE AN

1 ADVISEMENT REGARDING RESTORATIVE JUSTICE PRACTICES DOES NOT
2 CONSTITUTE ANY LEGAL ERROR BY THE COURT.

3 **SECTION 13.** 19-2-905, Colorado Revised Statutes, is amended
4 BY THE ADDITION OF A NEW SUBSECTION to read:

5 **19-2-905. Presentence investigation.** (4) PRIOR TO SENTENCING
6 A JUVENILE WHO WAS ADJUDICATED FOR AN OFFENSE THAT WOULD BE A
7 FELONY OR MISDEMEANOR NOT CONTAINED IN TITLE 42, C.R.S., IF
8 COMMITTED BY AN ADULT, THE COURT, AND UPON THE REQUEST OF THE
9 VICTIM, MAY ORDER THE JUVENILE TO PARTICIPATE IN AN ASSESSMENT TO
10 DETERMINE WHETHER THE JUVENILE WOULD BE SUITABLE FOR
11 PARTICIPATION IN RESTORATIVE JUSTICE PRACTICES THAT WOULD BE A
12 PART OF THE JUVENILE'S SENTENCE; EXCEPT THAT THE COURT MAY NOT
13 ORDER PARTICIPATION IN A RESTORATIVE JUSTICE PRACTICE IF THE
14 JUVENILE WAS ADJUDICATED A DELINQUENT FOR UNLAWFUL SEXUAL
15 BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S., A CRIME IN
16 WHICH THE UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE,
17 AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., STALKING AS DEFINED IN
18 SECTION 18-3-602, C.R.S., OR VIOLATION OF A PROTECTION ORDER AS
19 DEFINED IN SECTION 18-6-803.5, C.R.S. IF THE COURT ORDERS A
20 SUITABILITY ASSESSMENT, THE ASSESSOR SHALL PROVIDE THE SERVICES
21 FOR A FEE OF NO MORE THAN FORTY DOLLARS BASED ON A SLIDING SCALE.
22 IF THE JUVENILE PARTICIPATES IN A RESTORATIVE JUSTICE PRACTICES
23 VICTIM-OFFENDER CONFERENCE, THE FACILITATOR SHALL PROVIDE THESE
24 SERVICES FOR A FEE OF NO MORE THAN ONE HUNDRED TWENTY-FIVE
25 DOLLARS BASED ON A SLIDING SCALE.

26 **SECTION 14.** 19-2-907 (1) (1), Colorado Revised Statutes, is
27 amended to read:

1 **19-2-907. Sentencing schedule - options.** (1) Upon completion
2 of the sentencing hearing, pursuant to section 19-2-906, the court shall
3 enter a decree of sentence or commitment imposing any of the following
4 sentences or combination of sentences, as appropriate:

5 (1) Participation in an evaluation to determine whether the juvenile
6 would be suitable for restorative justice practices, that would be a part of
7 the juvenile's sentence; except that the court may not order participation
8 in restorative justice practices if the juvenile was adjudicated a delinquent
9 for unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.,
10 or a crime in which the underlying factual basis involves domestic
11 violence as defined in section 18-6-800.3 (1), C.R.S., STALKING AS
12 DEFINED IN SECTION 18-3-602, C.R.S., OR VIOLATION OF A PROTECTION
13 ORDER AS DEFINED IN SECTION 18-6-803.5, C.R.S. IF THE COURT ORDERS
14 PARTICIPATION IN RESTORATIVE JUSTICE PRACTICES, THE FACILITATOR
15 SHALL PROVIDE THESE SERVICES FOR A FEE OF NO MORE THAN ONE
16 HUNDRED TWENTY-FIVE DOLLARS BASED ON A SLIDING SCALE. NOTHING
17 IN THIS PARAGRAPH (1) SHALL BE CONSTRUED TO REQUIRE A VICTIM TO
18 PARTICIPATE IN A RESTORATIVE JUSTICE VICTIM-OFFENDER CONFERENCE.

19 **SECTION 15.** 19-2-925 (2) (1), Colorado Revised Statutes, is
20 amended to read:

21 **19-2-925. Probation - terms - release - revocation.** (2) The
22 court shall, as minimum conditions of probation, order that the juvenile:

23 (1) May be evaluated to determine whether the juvenile would be
24 suitable for restorative justice practices that would be a part of the
25 juvenile's probation program; except that the court may not order
26 participation in restorative justice practices if the juvenile was adjudicated
27 a delinquent for unlawful sexual behavior as defined in section 16-22-102

1 (9), C.R.S., or a crime in which the underlying factual basis involves
2 domestic violence as defined in section 18-6-800.3 (1), C.R.S., STALKING
3 AS DEFINED IN SECTION 18-3-602, C.R.S., OR VIOLATION OF A PROTECTION
4 ORDER AS DEFINED IN SECTION 18-6-803.5, C.R.S.

5 **SECTION 16.** Article 32 of title 22, Colorado Revised Statutes,
6 is amended BY THE ADDITION OF A NEW SECTION to read:

7 **22-32-142. Restorative justice practices - legislative**
8 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

9 (a) CONFLICTS AND OFFENSES ARISING DURING THE SCHOOL DAY
10 INTERRUPT LEARNING, THREATEN SCHOOL SAFETY, AND OFTEN LEAD TO
11 SUSPENSIONS, EXPULSIONS, AND AN INCREASE IN THE LIKELIHOOD OF A
12 STUDENT DROPPING OUT OF SCHOOL;

13 (b) STUDENTS WHO DROP OUT OF HIGH SCHOOL FACE DIMINISHED
14 JOB OPPORTUNITIES, LOWER LIFETIME EARNINGS, AND INCREASED
15 UNEMPLOYMENT AND MORE OFTEN REQUIRE PUBLIC ASSISTANCE. THEY
16 ARE MORE LIKELY TO PARTICIPATE IN CRIMINAL ACTIVITY, RESULTING IN
17 HIGHER INCARCERATION RATES, AND THEY FACE MUCH GREATER
18 CHALLENGES TO BECOMING PRODUCTIVE, CONTRIBUTING MEMBERS OF
19 THEIR COMMUNITIES.

20 (c) SCHOOL CONFLICTS CAN RESULT IN OFFENSES THAT VIOLATE
21 SCHOOL RULES AND LOCAL LAWS AND DAMAGE RELATIONSHIPS AMONG
22 MEMBERS OF THE SCHOOL AND SURROUNDING COMMUNITY;

23 (d) RESTORATIVE JUSTICE, WHICH REQUIRES THE OFFENDER TO
24 ACCEPT RESPONSIBILITY AND ACCOUNTABILITY FOR HIS OR HER ACTIONS,
25 TEACHES CONFLICT RESOLUTION, REPAIRS THE HARM FROM THE OFFENSE,
26 REDUCES CLASSROOM DISRUPTIONS, SUSPENSIONS, EXPULSIONS, AND
27 CONSEQUENT DROPOUTS, PROMOTES SCHOOL SAFETY, AND ENABLES

1 VICTIMS, OFFENDERS, AND COMMUNITY MEMBERS TO REBUILD THE
2 COMMUNITY AND RESTORE RELATIONSHIPS; AND

3 (e) THE GENERAL ASSEMBLY HAS A VITAL INTEREST IN REDUCING
4 CLASSROOM DISRUPTIONS, SUSPENSIONS, EXPULSIONS, AND DROPOUT
5 RATES AND IN ASSISTING VICTIMS, REDUCING REFERRALS TO THE JUSTICE
6 SYSTEM, AND BUILDING SAFER, MORE COHESIVE SCHOOL COMMUNITIES TO
7 PROMOTE LEARNING.

8 (2) (a) THEREFORE, THE GENERAL ASSEMBLY SUPPORTS AND
9 ENCOURAGES THE USE OF RESTORATIVE JUSTICE AS A SCHOOL'S FIRST
10 CONSIDERATION TO REMEDIATE OFFENSES SUCH AS INTERPERSONAL
11 CONFLICTS, BULLYING, VERBAL AND PHYSICAL CONFLICTS, THEFT,
12 DAMAGE TO PROPERTY, CLASS DISRUPTION, HARASSMENT AND INTERNET
13 HARASSMENT, AND ATTENDANCE ISSUES.

14 (b) THE GENERAL ASSEMBLY ENCOURAGES EACH SCHOOL DISTRICT
15 TO IMPLEMENT TRAINING AND EDUCATION IN THE PRINCIPLES AND
16 PRACTICES OF RESTORATIVE JUSTICE TO ENSURE THAT CAPABLE
17 PERSONNEL AND RESOURCES ARE AVAILABLE TO SUCCESSFULLY
18 FACILITATE ALL STEPS OF THE RESTORATIVE JUSTICE PROCESS.

19 (3) FOR PURPOSES OF THIS SECTION, "RESTORATIVE JUSTICE"
20 MEANS PRACTICES THAT EMPHASIZE REPAIRING THE HARM TO THE VICTIM
21 AND THE SCHOOL COMMUNITY CAUSED BY A STUDENT'S MISCONDUCT.
22 RESTORATIVE JUSTICE PRACTICES MAY INCLUDE VICTIM-INITIATED
23 VICTIM-OFFENDER CONFERENCES ATTENDED VOLUNTARILY BY THE
24 VICTIM, A VICTIM ADVOCATE, THE OFFENDER, SCHOOL MEMBERS, AND
25 SUPPORTERS OF THE VICTIM AND THE OFFENDER, WHICH PROGRAM
26 PROVIDES AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT
27 RESPONSIBILITY FOR THE HARM CAUSED TO THOSE AFFECTED BY THE ACT

1 AND TO PARTICIPATE IN SETTING CONSEQUENCES TO REPAIR THE HARM.
2 CONSEQUENCES RECOMMENDED BY THE PARTICIPANTS MAY INCLUDE, BUT
3 NEED NOT BE LIMITED TO, APOLOGIES, COMMUNITY SERVICE, RESTITUTION,
4 RESTORATION, AND COUNSELING. THE SELECTED CONSEQUENCES SHALL
5 BE INCORPORATED INTO AN AGREEMENT THAT SETS TIME LIMITS FOR
6 COMPLETION OF THE CONSEQUENCES AND IS SIGNED BY ALL PARTICIPANTS.

7 (4) EACH SCHOOL DISTRICT IS ENCOURAGED TO DEVELOP AND
8 UTILIZE RESTORATIVE JUSTICE PRACTICES THAT ARE PART OF THE
9 DISCIPLINARY PROGRAM OF EACH SCHOOL IN THE DISTRICT.

10 **SECTION 17.** Part 5 of article 30.5 of title 22, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **22-30.5-520. Restorative justice practices.** THE STATE CHARTER
14 SCHOOL INSTITUTE IS ENCOURAGED TO DEVELOP AND UTILIZE
15 RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION 22-32-142 (3),
16 THAT ARE PART OF THE DISCIPLINARY PROGRAM OF EACH INSTITUTE
17 CHARTER SCHOOL.

18 **SECTION 18.** 24-4.1-302.5 (1), Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

20 **24-4.1-302.5. Rights afforded to victims.** (1) In order to
21 preserve and protect a victim's rights to justice and due process, each
22 victim of a crime shall have the following rights:

23 (1.5) THE RIGHT TO BE INFORMED ABOUT THE POSSIBILITY OF
24 RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION 18-1-901 (3)
25 (o.5), C.R.S.

26 **SECTION 19.** 24-4.1-303 (11) (e) and (11) (f), Colorado Revised
27 Statutes, are amended, and the said 24-4.1-303 (11) is further amended

1 BY THE ADDITION OF A NEW PARAGRAPH, to read:

2 **24-4.1-303. Procedures for ensuring rights of victims of**
3 **crimes.** (11) The district attorney shall inform a victim of the following:

4 (e) The availability of benefits pursuant to this article and the
5 name, address, and telephone number of any person to contact to obtain
6 such benefits; ~~and~~

7 (f) The availability of transportation to and from any court
8 proceeding for any victim, except as provided in section 24-4.1-302.5 (2);

9 AND

10 (g) THE AVAILABILITY OF RESTORATIVE JUSTICE PRACTICES, AS
11 DEFINED IN SECTION 18-1-901 (3) (o.5), C.R.S.

12 **SECTION 20. Act subject to petition - effective date.** This act
13 shall take 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 10, 2011, if adjournment sine die is on May 11, 2011); 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 shall not take effect
19 unless approved by the people at the general election to be held in
20 November 2012 and shall take effect on the date of the official
21 declaration of the vote thereon by the governor.