

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

**REVISED**

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

LLS NO. 11-0401.01 Michael Dohr

**HOUSE BILL 11-1032**

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**HOUSE SPONSORSHIP**

**Lee,**

**SENATE SPONSORSHIP**

**Newell,**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

Judiciary

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**A BILL FOR AN ACT**

101 **CONCERNING RESTORATIVE JUSTICE.**

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**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.*

SENATE  
Am ended 2nd Reading  
May 6, 2011

HOUSE  
3rd Reading Unam ended  
April 18, 2011

HOUSE  
Am ended 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.

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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, HOWEVER, THE FEE  
19 MAY BE WAIVED BY THE COURT. ANY STATEMENTS MADE DURING THE  
20 CONFERENCE SHALL BE CONFIDENTIAL AND SHALL NOT BE USED AS A BASIS  
21 FOR CHARGING OR PROSECUTING THE DEFENDANT UNLESS THE DEFENDANT  
22 COMMITS A CHARGEABLE OFFENSE DURING THE 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.** Part 3 of article 2 of title 19, Colorado Revised  
25 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
26 read:

27 **19-2-311. Victim-offender conferences - pilot program.** THE

1 DIVISION OF YOUTH CORRECTIONS IS AUTHORIZED TO ESTABLISH A PILOT  
2 PROGRAM, WHEN FUNDS BECOME AVAILABLE, IN ITS FACILITIES TO  
3 FACILITATE VICTIM-INITIATED VICTIM-OFFENDER CONFERENCES WHEREBY  
4 A VICTIM OF A CRIME MAY REQUEST A FACILITATED CONFERENCE WITH THE  
5 JUVENILE WHO COMMITTED THE CRIME, IF THE JUVENILE IS IN THE  
6 CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS. AFTER SUCH A PILOT  
7 PROGRAM IS ESTABLISHED, THE DIVISION OF YOUTH CORRECTIONS MAY  
8 ESTABLISH POLICIES AND PROCEDURES FOR THE VICTIM-OFFENDER  
9 CONFERENCES USING VOLUNTEERS TO FACILITATE THE CONFERENCES. THE  
10 VOLUNTEERS SHALL COMPLETE THE DIVISION OF YOUTH CORRECTIONS'  
11 VOLUNTEER AND FACILITY-SPECIFIC TRAINING PROGRAMS AND COMPLETE  
12 HIGH-RISK VICTIM-OFFENDER TRAINING AND VICTIM ADVOCACY TRAINING.  
13 THE DIVISION OF YOUTH CORRECTIONS SHALL NOT COMPENSATE OR  
14 REIMBURSE A VOLUNTEER OR VICTIM FOR ANY EXPENSES. IF A PILOT  
15 PROGRAM IS AVAILABLE, AND SUBSEQUENT TO THE VICTIM'S OR THE  
16 VICTIM REPRESENTATIVE'S REQUEST, THE DIVISION OF YOUTH  
17 CORRECTIONS SHALL ARRANGE SUCH A CONFERENCE ONLY AFTER  
18 DETERMINING THAT THE CONFERENCE WOULD BE SAFE AND ONLY IF THE  
19 JUVENILE AGREES TO PARTICIPATE. THE PURPOSES OF THE CONFERENCE  
20 SHALL BE TO ENABLE THE VICTIM TO MEET THE JUVENILE, TO OBTAIN  
21 ANSWERS TO QUESTIONS ONLY THE JUVENILE CAN ANSWER, TO ASSIST THE  
22 VICTIM IN HEALING FROM THE IMPACT OF THE CRIME, AND TO PROMOTE A  
23 SENSE OF REMORSE AND ACCEPTANCE OF RESPONSIBILITY BY THE  
24 JUVENILE THAT MAY CONTRIBUTE TO HIS OR HER REHABILITATION.

25 **SECTION 11.** 19-2-512, Colorado Revised Statutes, is amended  
26 to read:

27 **19-2-512. Petition initiation.** (1) If the district attorney

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

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

1 PROCESS. THE DISTRICT ATTORNEY MAY OFFER DISMISSAL OF CHARGES AS  
2 AN OPTION FOR THE SUCCESSFUL COMPLETION OF THESE AND ANY OTHER  
3 CONDITIONS IMPOSED AND DESIGNED TO ADDRESS THE HARM DONE TO THE  
4 VICTIM AND THE COMMUNITY BY THE OFFENDER, SUBJECT TO APPROVAL  
5 BY THE COURT.

6 **SECTION 12.** 19-2-706 (1), Colorado Revised Statutes, is  
7 amended to read:

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

19 **SECTION 13.** 19-2-708 (2), Colorado Revised Statutes, is  
20 amended to read:

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

1 PRACTICES ON BEHALF OF THE JUVENILE, AND FAILURE TO PROVIDE AN  
2 ADVISEMENT REGARDING RESTORATIVE JUSTICE PRACTICES DOES NOT  
3 CONSTITUTE ANY LEGAL ERROR BY THE COURT.

4 **SECTION 14.** 19-2-905, Colorado Revised Statutes, is amended  
5 BY THE ADDITION OF A NEW SUBSECTION to read:

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

1           **SECTION 15.** 19-2-907 (1) (l), Colorado Revised Statutes, is  
2 amended to read:

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

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

22           **SECTION 16.** 19-2-925 (2) (l), Colorado Revised Statutes, is  
23 amended to read:

24           **19-2-925. Probation - terms - release - revocation.** (2) The  
25 court shall, as minimum conditions of probation, order that the juvenile:

26           (l) May be evaluated to determine whether the juvenile would be  
27 suitable for restorative justice practices that would be a part of the

1 juvenile's probation program; except that the court may not order  
2 participation in restorative justice practices if the juvenile was adjudicated  
3 a delinquent for unlawful sexual behavior as defined in section 16-22-102  
4 (9), C.R.S., or a crime in which the underlying factual basis involves  
5 domestic violence as defined in section 18-6-800.3 (1), C.R.S., STALKING  
6 AS DEFINED IN SECTION 18-3-602, C.R.S., OR VIOLATION OF A PROTECTION  
7 ORDER AS DEFINED IN SECTION 18-6-803.5, C.R.S.

8 **SECTION 17.** Article 32 of title 22, Colorado Revised Statutes,  
9 is amended BY THE ADDITION OF A NEW SECTION to read:

10 **22-32-142. Restorative justice practices - legislative**  
11 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

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

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

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

26 (d) RESTORATIVE JUSTICE, WHICH REQUIRES THE OFFENDER TO  
27 ACCEPT RESPONSIBILITY AND ACCOUNTABILITY FOR HIS OR HER ACTIONS,

1 TEACHES CONFLICT RESOLUTION, REPAIRS THE HARM FROM THE OFFENSE,  
2 REDUCES CLASSROOM DISRUPTIONS, SUSPENSIONS, EXPULSIONS, AND  
3 CONSEQUENT DROPOUTS, PROMOTES SCHOOL SAFETY, AND ENABLES  
4 VICTIMS, OFFENDERS, AND COMMUNITY MEMBERS TO REBUILD THE  
5 COMMUNITY AND RESTORE RELATIONSHIPS; AND

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

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

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

22 (3) FOR PURPOSES OF THIS SECTION, "RESTORATIVE JUSTICE"  
23 MEANS PRACTICES THAT EMPHASIZE REPAIRING THE HARM TO THE VICTIM  
24 AND THE SCHOOL COMMUNITY CAUSED BY A STUDENT'S MISCONDUCT.  
25 RESTORATIVE JUSTICE PRACTICES MAY INCLUDE VICTIM-INITIATED  
26 VICTIM-OFFENDER CONFERENCES ATTENDED VOLUNTARILY BY THE  
27 VICTIM, A VICTIM ADVOCATE, THE OFFENDER, SCHOOL MEMBERS, AND



1 SUPPORTERS OF THE VICTIM AND THE OFFENDER, WHICH PROGRAM  
2 PROVIDES AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT  
3 RESPONSIBILITY FOR THE HARM CAUSED TO THOSE AFFECTED BY THE ACT  
4 AND TO PARTICIPATE IN SETTING CONSEQUENCES TO REPAIR THE HARM.  
5 CONSEQUENCES RECOMMENDED BY THE PARTICIPANTS MAY INCLUDE, BUT  
6 NEED NOT BE LIMITED TO, APOLOGIES, COMMUNITY SERVICE, RESTITUTION,  
7 RESTORATION, AND COUNSELING. THE SELECTED CONSEQUENCES SHALL  
8 BE INCORPORATED INTO AN AGREEMENT THAT SETS TIME LIMITS FOR  
9 COMPLETION OF THE CONSEQUENCES AND IS SIGNED BY ALL PARTICIPANTS.

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

13 **SECTION 18.** Part 5 of article 30.5 of title 22, Colorado Revised  
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
15 read:

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

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

23 **24-4.1-302.5. Rights afforded to victims.** (1) In order to  
24 preserve and protect a victim's rights to justice and due process, each  
25 victim of a crime shall have the following rights:

26 (1.5) THE RIGHT TO BE INFORMED ABOUT THE POSSIBILITY OF  
27 RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION 18-1-901 (3)

1 (o.5), C.R.S.

2 **SECTION 20.** 24-4.1-303 (11) (e) and (11) (f), Colorado Revised  
3 Statutes, are amended, and the said 24-4.1-303 (11) is further amended  
4 BY THE ADDITION OF A NEW PARAGRAPH, to read:

5 **24-4.1-303. Procedures for ensuring rights of victims of**  
6 **crimes.** (11) The district attorney shall inform a victim of the following:

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

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

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

15 **SECTION 21. Act subject to petition - effective date.** This act  
16 shall take effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly (August  
18 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
19 referendum petition is filed pursuant to section 1 (3) of article V of the  
20 state constitution against this act or an item, section, or part of this act  
21 within such period, then the act, item, section, or part shall not take effect  
22 unless approved by the people at the general election to be held in  
23 November 2012 and shall take effect on the date of the official  
24 declaration of the vote thereon by the governor.