

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 24, 2011
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB11-1032 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

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

5 **16-7-202. Presence of defendant.** (1) If the offense charged is
6 a felony or a class 1 misdemeanor or if the maximum penalty for the
7 offense charged is more than one year's imprisonment, the defendant must
8 be personally present for arraignment; except that the court, for good
9 cause shown, may accept a plea of not guilty made by an attorney
10 representing the defendant without requiring the defendant to be
11 personally present. In all prosecutions for lesser offenses, the defendant
12 may appear by his OR HER attorney who may enter a plea on his OR HER
13 behalf. IF THE DEFENDANT APPEARS PERSONALLY FOR A CHARGE THAT IS
14 NOT IN TITLE 42, C.R.S., THE COURT MAY ADVISE THE DEFENDANT OF THE
15 POSSIBILITY THAT RESTORATIVE JUSTICE PRACTICES MAY BE PART OF A
16 SENTENCE, IF AVAILABLE IN THE JURISDICTION AND REQUESTED BY THE
17 VICTIM WHO HAS BEEN INFORMED ABOUT THE RESTORATIVE JUSTICE
18 PRACTICES PURSUANT TO SECTION 24-4.1-303 (11) (g), C.R.S.

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

21 **17-28-101. Legislative declaration.** (1) The general assembly
22 finds and declares that:

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

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

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

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

10 (2) The purpose of this article is to encourage the establishment
11 of programs to provide for restitution to AND RESTORATION OF victims of
12 crime by offenders who are sentenced, or who have been released on
13 parole, or who are being held in local correctional and detention facilities.
14 It is the intent of the general assembly that restitution be utilized wherever
15 feasible to restore losses to the victims of crime and to aid the offender
16 in reintegration as a productive member of society. IT IS ALSO THE
17 PURPOSE OF THIS ARTICLE TO PROMOTE ESTABLISHMENT OF
18 VICTIM-OFFENDER CONFERENCES IN THE INSTITUTIONS UNDER THE
19 CONTROL OF THE DEPARTMENT OF CORRECTIONS, USING RESTORATIVE
20 JUSTICE PRACTICES AS DEFINED IN SECTION 18-1-901 (3) (o.5), C.R.S.

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

23 **17-28-103. Victim-offender conferences - pilot program.** THE
24 DEPARTMENT IS AUTHORIZED TO ESTABLISH A PILOT PROGRAM, WHEN
25 FUNDS BECOME AVAILABLE, IN ITS CORRECTIONAL FACILITIES TO
26 FACILITATE VICTIM-INITIATED VICTIM-OFFENDER CONFERENCES WHEREBY
27 A VICTIM OF A CRIME MAY REQUEST A FACILITATED CONFERENCE WITH THE
28 OFFENDER WHO COMMITTED THE CRIME, IF THE OFFENDER IS IN THE
29 CUSTODY OF THE DEPARTMENT. AFTER SUCH A PILOT PROGRAM IS
30 ESTABLISHED, THE DEPARTMENT MAY ESTABLISH POLICIES AND
31 PROCEDURES FOR THE VICTIM-OFFENDER CONFERENCES USING
32 VOLUNTEERS TO FACILITATE THE CONFERENCES. THE VOLUNTEERS SHALL
33 COMPLETE THE DEPARTMENT'S VOLUNTEER AND FACILITY-SPECIFIC
34 TRAINING PROGRAMS AND COMPLETE HIGH-RISK VICTIM-OFFENDER
35 TRAINING AND VICTIM ADVOCACY TRAINING. THE DEPARTMENT SHALL
36 NOT COMPENSATE OR REIMBURSE A VOLUNTEER OR VICTIM FOR ANY
37 EXPENSES NOR OTHERWISE INCUR ANY ADDITIONAL EXPENSES TO
38 ESTABLISH OR OPERATE THE VICTIM-OFFENDER CONFERENCES PILOT
39 PROGRAM. IF A PILOT PROGRAM IS AVAILABLE, AND SUBSEQUENT TO THE
40 VICTIM'S OR THE VICTIM REPRESENTATIVE'S REQUEST, THE DEPARTMENT
41 SHALL ARRANGE SUCH A CONFERENCE ONLY AFTER DETERMINING THAT

1 THE CONFERENCE WOULD BE SAFE AND ONLY IF THE OFFENDER AGREES TO
2 PARTICIPATE. THE PURPOSES OF THE CONFERENCE SHALL BE TO ENABLE
3 THE VICTIM TO MEET THE OFFENDER, TO OBTAIN ANSWERS TO QUESTIONS
4 ONLY THE OFFENDER CAN ANSWER, TO ASSIST THE VICTIM IN HEALING
5 FROM THE IMPACT OF THE CRIME, AND TO PROMOTE A SENSE OF REMORSE
6 AND ACCEPTANCE OF RESPONSIBILITY BY THE OFFENDER THAT MAY
7 CONTRIBUTE TO HIS OR HER REHABILITATION.

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

10 **18-1-102. Purpose of code, statutory construction.** (1) This
11 code shall be construed in such manner as to promote maximum
12 fulfillment of its general purposes, namely:

13 (e) TO PROMOTE ACCEPTANCE OF RESPONSIBILITY AND
14 ACCOUNTABILITY BY OFFENDERS AND TO PROVIDE RESTORATION AND
15 HEALING FOR VICTIMS AND THE COMMUNITY WHILE ATTEMPTING TO
16 REDUCE RECIDIVISM AND THE COSTS TO SOCIETY BY THE USE OF
17 RESTORATIVE JUSTICE PRACTICES.

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

21 **18-1-102.5. Purposes of code with respect to sentencing.**

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

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

25 (d) To promote rehabilitation by encouraging correctional
26 programs that elicit the voluntary cooperation and participation of
27 convicted offenders; AND

28 (e) TO PROMOTE ACCEPTANCE OF RESPONSIBILITY AND
29 ACCOUNTABILITY BY OFFENDERS AND TO PROVIDE RESTORATION AND
30 HEALING FOR VICTIMS AND THE COMMUNITY WHILE ATTEMPTING TO
31 REDUCE RECIDIVISM AND THE COSTS TO SOCIETY BY THE USE OF
32 RESTORATIVE JUSTICE PRACTICES.

33 **SECTION 6.** 18-1-901 (3), Colorado Revised Statutes, is
34 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

35 **18-1-901. Definitions.** (3) (o.5) "RESTORATIVE JUSTICE
36 PRACTICES" MEANS PRACTICES THAT EMPHASIZE REPAIRING THE HARM
37 CAUSED TO VICTIMS AND THE COMMUNITY BY OFFENSES. RESTORATIVE
38 JUSTICE PRACTICES INCLUDE VICTIM INITIATED VICTIM-OFFENDER
39 CONFERENCES, FAMILY GROUP CONFERENCES, CIRCLES, COMMUNITY
40 CONFERENCES, AND OTHER SIMILAR VICTIM-CENTERED PRACTICES.
41 RESTORATIVE JUSTICE PRACTICES ARE FACILITATED MEETINGS ATTENDED

1 VOLUNTARILY BY THE VICTIM OR VICTIM'S REPRESENTATIVES, THE
2 VICTIM'S SUPPORTERS, THE OFFENDER, AND THE OFFENDER'S SUPPORTERS
3 AND MAY INCLUDE COMMUNITY MEMBERS. BY ENGAGING THE PARTIES TO
4 THE OFFENSE IN VOLUNTARY DIALOGUE, RESTORATIVE JUSTICE PRACTICES
5 PROVIDE AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT RESPONSIBILITY
6 FOR THE HARM CAUSED TO THE VICTIM AND COMMUNITY, PROMOTE VICTIM
7 HEALING, AND ENABLE THE PARTICIPANTS TO AGREE ON CONSEQUENCES
8 TO REPAIR THE HARM, TO THE EXTENT POSSIBLE, INCLUDING BUT NOT
9 LIMITED TO APOLOGIES, COMMUNITY SERVICE, REPARATION,
10 RESTORATION, AND COUNSELING. RESTORATIVE JUSTICE PRACTICES MAY
11 BE IN USED IN ADDITION TO ANY OTHER CONDITIONS, CONSEQUENCES, OR
12 SENTENCE IMPOSED BY THE COURT.

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

15 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within
16 the limitations of the applicable statute pertaining to sentencing and
17 subject to the provisions of this title, the trial court has the following
18 alternatives in entering judgment imposing a sentence:

19 (b.5) (I) Except as otherwise provided by subparagraph (II) of this
20 paragraph (b.5), any defendant who, in the determination of the court, is
21 a candidate for an alternative sentencing option and who would otherwise
22 be sentenced to imprisonment pursuant to paragraph (b) of this subsection
23 (1) may, as an alternative, be sentenced to a specialized restitution and
24 community service program pursuant to section 18-1.3-302, WHICH MAY
25 INCLUDE RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION
26 18-1-901 (3) (o.5), if such defendant is determined eligible and is
27 accepted into such program. TO BE ELIGIBLE FOR RESTORATIVE JUSTICE
28 PRACTICES, THE DEFENDANT SHALL NOT HAVE BEEN CONVICTED OF
29 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9),
30 C.R.S., A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS INVOLVES
31 DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), STALKING AS
32 DEFINED IN SECTION 18-3-602 ,OR VIOLATION OF A PROTECTION ORDER AS
33 DEFINED IN SECTION 18-6-803.5. IF THE COURT ORDERS THE DEFENDANT
34 TO ATTEND A RESTORATIVE JUSTICE PRACTICES VICTIM-OFFENDER
35 CONFERENCE, THE FACILITATOR OF THE CONFERENCE SHALL PROVIDE HIS
36 OR HER SERVICES FOR A FEE OF NO MORE THAN ONE HUNDRED
37 TWENTY-FIVE DOLLARS, BASED ON A SLIDING SCALE. ANY STATEMENTS
38 MADE DURING THE CONFERENCE SHALL BE CONFIDENTIAL AND SHALL NOT
39 BE USED AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT
40 UNLESS THE DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE
41 CONFERENCE.

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

3 **18-1.3-204. Conditions of probation.** (2) (a) When granting
4 probation, the court may, as a condition of probation, require that the
5 defendant:

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

27 **SECTION 9.** 19-1-103 (44), Colorado Revised Statutes, is
28 amended to read:

29 **19-1-103. Definitions.** As used in this title or in the specified
30 portion of this title, unless the context otherwise requires:

31 (44) "Diversion" means a decision made by a person with
32 authority or a delegate of that person that results in specific official action
33 of the legal system not being taken in regard to a specific juvenile or child
34 and in lieu thereof providing individually designed services by a specific
35 program. The goal of diversion is to prevent further involvement of the
36 juvenile or child in the formal legal system. Diversion of a juvenile or
37 child may take place either at the pre-filing level as an alternative to the
38 filing of a petition pursuant to section 19-2-512 or at the postadjudication
39 level as an adjunct to probation services following an adjudicatory
40 hearing pursuant to section 19-3-505 or a disposition as a part of
41 sentencing pursuant to section 19-2-907. "Services", as used in this

1 subsection (44), includes but is not limited to diagnostic needs
2 assessment, restitution programs, community service, job training and
3 placement, specialized tutoring, constructive recreational activities,
4 general counseling and counseling during a crisis situation, and follow-up
5 activities. Services may include restorative justice practices ~~including,~~
6 ~~where practicable, victim-offender conferences~~ AS DEFINED IN SECTION
7 18-1-901 (3) (o.5), AS REQUESTED BY THE VICTIM, AFTER BEING INFORMED
8 ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO SECTION
9 24-4.1-303 (11) (g), C.R.S., AND AS DEEMED SUITABLE BY THE PROBATION
10 DEPARTMENT OR A DESIGNATED RESTORATIVE JUSTICE PRACTICES
11 FACILITATOR. SUCH PRACTICES MAY INCLUDE VICTIM-OFFENDER
12 CONFERENCES, IF REQUESTED BY THE VICTIM. RESTORATIVE JUSTICE
13 PRACTICES SHALL BE CONDUCTED BY FACILITATORS RECOMMENDED BY
14 THE DISTRICT ATTORNEY.

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

17 **19-2-512. Petition initiation.** (1) If the district attorney
18 determines that the interests of the juvenile or of the community require
19 that further action be taken, the district attorney may file a petition in
20 delinquency on the form specified in section 19-2-513, which shall be
21 accepted by the court. If the district attorney chooses to file a petition in
22 delinquency on any juvenile who receives a detention hearing under
23 section 19-2-508, he or she shall file said petition within seventy-two
24 hours after the detention hearing, excluding Saturdays, Sundays, and legal
25 holidays. Upon filing of such petition, the court, if practicable, shall send
26 notice of the pendency of such action to the natural parents of the juvenile
27 who is the subject of such petition.

28 (2) IF THE PETITION IS THE FIRST JUVENILE PETITION FILED AGAINST
29 THE JUVENILE IN ANY JURISDICTION AND IS INITIATED IN A JURISDICTION
30 THAT HAS RESTORATIVE JUSTICE PRACTICES AVAILABLE, THE DISTRICT
31 ATTORNEY OR HIS OR HER DESIGNEE MAY DETERMINE WHETHER A
32 JUVENILE IS SUITABLE FOR RESTORATIVE JUSTICE PRACTICES. IN MAKING
33 A DETERMINATION OF WHETHER THE JUVENILE IS SUITABLE FOR
34 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL FIRST
35 DETERMINE WHETHER THE VICTIM, HAVING BEEN INFORMED ABOUT
36 RESTORATIVE JUSTICE PRACTICES PURSUANT TO SECTION 24-4.1-303 (11)
37 (g), C.R.S., IS REQUESTING CONSIDERATION OF RESTORATIVE JUSTICE
38 PRACTICES AS AN ALTERNATIVE TO FORMAL PROSECUTION. UPON SUCH
39 REQUEST, THE DISTRICT ATTORNEY SHALL CONSIDER WHETHER THE
40 JUVENILE ACCEPTS RESPONSIBILITY FOR, EXPRESSES REMORSE FOR, AND
41 IS WILLING TO REPAIR THE HARM CAUSED BY HIS OR HER ACTIONS AND

1 WHETHER THE JUVENILE'S PARENT OR LEGAL GUARDIAN IS WILLING TO
2 SUPPORT THE JUVENILE IN THE PROCESS. IF REQUESTED BY THE VICTIM,
3 RESTORATIVE JUSTICE PRACTICES MAY BE UTILIZED AS PART OF THIS
4 PROCESS. THE DISTRICT ATTORNEY MAY OFFER DISMISSAL OF CHARGES AS
5 AN OPTION FOR THE SUCCESSFUL COMPLETION OF THESE AND ANY OTHER
6 CONDITIONS IMPOSED AND DESIGNED TO ADDRESS THE HARM DONE TO THE
7 VICTIM AND THE COMMUNITY BY THE OFFENDER, SUBJECT TO APPROVAL
8 BY THE COURT.

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

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

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

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

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

36 **19-2-905. Presentence investigation.** (4) PRIOR TO SENTENCING
37 A JUVENILE WHO WAS ADJUDICATED FOR AN OFFENSE THAT WOULD BE A
38 FELONY OR MISDEMEANOR NOT CONTAINED IN TITLE 42, C.R.S., IF
39 COMMITTED BY AN ADULT, THE COURT, AND UPON THE REQUEST OF THE
40 VICTIM, MAY ORDER THE JUVENILE TO PARTICIPATE IN AN ASSESSMENT TO
41 DETERMINE WHETHER THE JUVENILE WOULD BE SUITABLE FOR

1 PARTICIPATION IN RESTORATIVE JUSTICE PRACTICES THAT WOULD BE A
2 PART OF THE JUVENILE'S SENTENCE; EXCEPT THAT THE COURT MAY NOT
3 ORDER PARTICIPATION IN A RESTORATIVE JUSTICE PRACTICE IF THE
4 JUVENILE WAS ADJUDICATED A DELINQUENT FOR UNLAWFUL SEXUAL
5 BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S., A CRIME IN
6 WHICH THE UNDERLYING FACTUAL BASIS INVOLVES DOMESTIC VIOLENCE,
7 AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., STALKING AS DEFINED IN
8 SECTION 18-3-602, C.R.S., OR VIOLATION OF A PROTECTION ORDER AS
9 DEFINED IN SECTION 18-6-803.5, C.R.S. IF THE COURT ORDERS A
10 SUITABILITY ASSESSMENT, THE ASSESSOR SHALL PROVIDE THE SERVICES
11 FOR A FEE OF NO MORE THAN FORTY DOLLARS BASED ON A SLIDING SCALE.
12 IF THE JUVENILE PARTICIPATES IN A RESTORATIVE JUSTICE PRACTICES
13 VICTIM-OFFENDER CONFERENCE, THE FACILITATOR SHALL PROVIDE THESE
14 SERVICES FOR A FEE OF NO MORE THAN ONE HUNDRED TWENTY-FIVE
15 DOLLARS BASED ON A SLIDING SCALE.

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

18 **19-2-907. Sentencing schedule - options.** (1) Upon completion
19 of the sentencing hearing, pursuant to section 19-2-906, the court shall
20 enter a decree of sentence or commitment imposing any of the following
21 sentences or combination of sentences, as appropriate:

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

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

38 **19-2-925. Probation - terms - release - revocation.** (2) The
39 court shall, as minimum conditions of probation, order that the juvenile:

40 (1) May be evaluated to determine whether the juvenile would be
41 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 16.** 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,
28 TEACHES CONFLICT RESOLUTION, REPAIRS THE HARM FROM THE OFFENSE,
29 REDUCES CLASSROOM DISRUPTIONS, SUSPENSIONS, EXPULSIONS, AND
30 CONSEQUENT DROPOUTS, PROMOTES SCHOOL SAFETY, AND ENABLES
31 VICTIMS, OFFENDERS, AND COMMUNITY MEMBERS TO REBUILD THE
32 COMMUNITY AND RESTORE RELATIONSHIPS; AND

33 (e) THE GENERAL ASSEMBLY HAS A VITAL INTEREST IN REDUCING
34 CLASSROOM DISRUPTIONS, SUSPENSIONS, EXPULSIONS, AND DROPOUT
35 RATES AND IN ASSISTING VICTIMS, REDUCING REFERRALS TO THE JUSTICE
36 SYSTEM, AND BUILDING SAFER, MORE COHESIVE SCHOOL COMMUNITIES TO
37 PROMOTE LEARNING.

38 (2) (a) THEREFORE, THE GENERAL ASSEMBLY SUPPORTS AND
39 ENCOURAGES THE USE OF RESTORATIVE JUSTICE AS A SCHOOL'S FIRST
40 CONSIDERATION TO REMEDIATE OFFENSES SUCH AS INTERPERSONAL
41 CONFLICTS, BULLYING, VERBAL AND PHYSICAL CONFLICTS, THEFT,

1 DAMAGE TO PROPERTY, CLASS DISRUPTION, HARASSMENT AND INTERNET
2 HARASSMENT, AND ATTENDANCE ISSUES.

3 (b) THE GENERAL ASSEMBLY ENCOURAGES EACH SCHOOL DISTRICT
4 TO IMPLEMENT TRAINING AND EDUCATION IN THE PRINCIPLES AND
5 PRACTICES OF RESTORATIVE JUSTICE TO ENSURE THAT CAPABLE
6 PERSONNEL AND RESOURCES ARE AVAILABLE TO SUCCESSFULLY
7 FACILITATE ALL STEPS OF THE RESTORATIVE JUSTICE PROCESS.

8 (3) FOR PURPOSES OF THIS SECTION, "RESTORATIVE JUSTICE"
9 MEANS PRACTICES THAT EMPHASIZE REPAIRING THE HARM TO THE VICTIM
10 AND THE SCHOOL COMMUNITY CAUSED BY A STUDENT'S MISCONDUCT.
11 RESTORATIVE JUSTICE PRACTICES MAY INCLUDE VICTIM-INITIATED
12 VICTIM-OFFENDER CONFERENCES ATTENDED VOLUNTARILY BY THE
13 VICTIM, A VICTIM ADVOCATE, THE OFFENDER, SCHOOL MEMBERS, AND
14 SUPPORTERS OF THE VICTIM AND THE OFFENDER, WHICH PROGRAM
15 PROVIDES AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT
16 RESPONSIBILITY FOR THE HARM CAUSED TO THOSE AFFECTED BY THE ACT
17 AND TO PARTICIPATE IN SETTING CONSEQUENCES TO REPAIR THE HARM.
18 CONSEQUENCES RECOMMENDED BY THE PARTICIPANTS MAY INCLUDE, BUT
19 NEED NOT BE LIMITED TO, APOLOGIES, COMMUNITY SERVICE, RESTITUTION,
20 RESTORATION, AND COUNSELING. THE SELECTED CONSEQUENCES SHALL
21 BE INCORPORATED INTO AN AGREEMENT THAT SETS TIME LIMITS FOR
22 COMPLETION OF THE CONSEQUENCES AND IS SIGNED BY ALL PARTICIPANTS.

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

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

29 **22-30.5-520. Restorative justice practices.** THE STATE CHARTER
30 SCHOOL INSTITUTE IS ENCOURAGED TO DEVELOP AND UTILIZE
31 RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION 22-32-142 (3),
32 THAT ARE PART OF THE DISCIPLINARY PROGRAM OF EACH INSTITUTE
33 CHARTER SCHOOL.

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

36 **24-4.1-302.5. Rights afforded to victims.** (1) In order to
37 preserve and protect a victim's rights to justice and due process, each
38 victim of a crime shall have the following rights:

39 (1.5) THE RIGHT TO BE INFORMED ABOUT THE POSSIBILITY OF
40 RESTORATIVE JUSTICE PRACTICES, AS DEFINED IN SECTION 18-1-901 (3)
41 (o.5), C.R.S.

1 **SECTION 19.** 24-4.1-303 (11) (e) and (11) (f), Colorado Revised
2 Statutes, are amended, and the said 24-4.1-303 (11) is further amended
3 BY THE ADDITION OF A NEW PARAGRAPH, to read:

4 **24-4.1-303. Procedures for ensuring rights of victims of**
5 **crimes.** (11) The district attorney shall inform a victim of the following:

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

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

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

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

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