

HB1254 L.003

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB13-1254 be amended as follows:

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

3 "SECTION 1. In Colorado Revised Statutes, 19-2-213, amend
4 (1) and (2) (g); and add (2) (i), (2) (j), (2) (k), (2) (l), and (2) (m) as
5 follows:

6 **19-2-213. Restorative justice coordinating council -**
7 **establishment - membership - repeal.** (1) (a) A council to provide
8 assistance, DEVELOP STANDARDS FOR, and PROVIDE education related to
9 restorative justice programs is hereby established. The council shall be
10 known as the "restorative justice coordinating council" and shall be
11 established in the state judicial department within the office of the state
12 court administrator. THE RESTORATIVE JUSTICE COORDINATING COUNCIL
13 SHALL CREATE STANDARDS FOR RESTORATIVE JUSTICE PRACTICES IN
14 COLORADO to the extent that resources permit AND ADEQUATE STAFFING
15 IS PROVIDED. THE STANDARDS MUST FOCUS ON PROGRAMS THAT HAVE
16 THEIR PRIMARY GOAL AS RESTORING THE HARM DONE BY CRIMINAL AND
17 JUVENILE OFFENDERS TO INDIVIDUALS AND COMMUNITIES AND SHALL
18 INCLUDE, BUT SHALL NOT BE LIMITED TO, PRINCIPLES THAT GUIDE
19 RESTORATIVE JUSTICE PRACTICES, DEFINITIONS OF DIFFERING
20 RESTORATIVE JUSTICE PRACTICES, GUIDANCE FOR IMPLEMENTING EACH
21 PRACTICE, APPROPRIATE AND INAPPROPRIATE USES FOR EACH TYPE OF
22 PRACTICE, PARTICIPANTS OR PARTICIPANT GROUPS IN EACH TYPE OF
23 PRACTICE, APPROPRIATE TECHNIQUES FOR ENGAGING PARTICIPATION FOR
24 EACH PARTICIPANT OR PARTICIPANT GROUP, ALTERNATIVES FOR
25 PARTICIPATION FOR VICTIMS AND COMMUNITIES IMPACTED BY CRIME, AND
26 ETHICAL STANDARDS FOR RESTORATIVE JUSTICE PRACTICES. The
27 restorative justice coordinating council shall support the development of
28 restorative justice programs, serve as a central repository for information,
29 assist in the development and provision of related education and training,
30 and provide technical assistance to entities engaged in or wishing to
31 develop restorative justice programs.

32 (b) IN ORDER TO ASSESS THE EFFICACY OF RESTORATIVE JUSTICE
33 PRACTICES IN PROVIDING SATISFACTION TO PARTICIPANTS, THE COUNCIL
34 SHALL DEVELOP A UNIFORM RESTORATIVE JUSTICE SATISFACTION
35 EVALUATION BY SEPTEMBER 1, 2013. THE EVALUATION MUST BE A
36 THOROUGH EVALUATION BASED ON RESEARCH PRINCIPLES. THE
37 EVALUATION MUST ULTIMATELY STUDY EACH TYPE OF RESTORATIVE
38 PRACTICE FUNDED BY HOUSE BILL 13-1254, ENACTED IN 2013. THE



1 INITIAL EVALUATION, TO BE COMPLETED BY SEPTEMBER 1, 2013, SHALL
2 FOCUS ON THE PILOT PROJECT CREATED IN SECTION 19-2-510.5. THE
3 EVALUATION MUST INCLUDE COMPARISON GROUPS OF CASES WITH
4 OFFENDERS AND JUVENILES WHO PARTICIPATE IN RESTORATIVE PRACTICES
5 AND OFFENDERS AND JUVENILES WHO DO NOT AND COMPARISON GROUPS
6 OF OTHER POSSIBLE PARTICIPANT GROUPS WHO PARTICIPATE IN
7 RESTORATIVE JUSTICE PRACTICES OR THOSE WHO DO NOT. THE
8 EVALUATION MUST IDENTIFY AND ADDRESS OUTCOMES, INCLUDING BUT
9 NOT LIMITED TO CHANGES IN RECIDIVISM RATES OVER NOT LESS THAN A
10 THREE-YEAR PERIOD, INCLUDING THE PERIOD OF PARTICIPATION, CHANGES
11 IN ATTITUDES OR KNOWLEDGE, SATISFACTION WITH OUTCOMES FOR ALL
12 PARTICIPANT GROUPS, AND IMPACT ON JUVENILES' OR OFFENDERS' ABILITY
13 TO POSITIVELY PARTICIPATE IN SOCIETY BY STAYING IN SCHOOL,
14 MAINTAINING WORK, OR OTHER IDENTIFIED IMPACTS. THE EVALUATION
15 SHALL INCORPORATE PRE-PRACTICE AND POST-PRACTICE MEASURES FOR
16 ALL PARTICIPANTS.

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

20 (II) THE DATABASE MUST CONSIST OF THE FOLLOWING
21 INFORMATION:

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

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

26 (C) THE BACKGROUND, TRAINING, AND RESTORATIVE JUSTICE
27 EXPERIENCE OF THE FACILITATORS IN THE RESTORATIVE JUSTICE PROGRAM
28 AND ANY VOLUNTEERS UTILIZED BY THE PROGRAM.

29 (d) THE COUNCIL SHALL COLLECT INFORMATION REGARDING
30 RESTORATIVE JUSTICE PRACTICES IN THE STATE AND SHALL REPORT TO THE
31 JUDICIARY COMMITTEES OF THE SENATE AND HOUSE REPRESENTATIVES, OR
32 ANY SUCCESSOR COMMITTEES, BY JANUARY 31, 2014. THE REPORT MUST
33 INCLUDE INFORMATION ON THE NUMBER OF CASES IN WHICH RESTORATIVE
34 JUSTICE WAS CONSIDERED, USED, AND NOT USED, INCLUDING THE REASONS
35 FOR THE DECISION REGARDING WHETHER TO USE THE CONSIDERED
36 PRACTICE OR NOT, THE DEMOGRAPHIC INFORMATION OF THE INDIVIDUALS
37 PARTICIPATING, A DESCRIPTION OF THE RESTORATIVE JUSTICE PRACTICES,
38 IF USED, AND THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE
39 SATISFACTION EVALUATION WHEN IT IS COMPLETED. THE INFORMATION
40 MUST ALSO IDENTIFY THE COURT EMPLOYING THE RESTORATIVE JUSTICE
41 PRACTICES, BY THE OUTCOME AS MEASURED BY THE OUTCOME MEASURES

1 IDENTIFIED IN THE UNIFORM RESTORATIVE JUSTICE EVALUATION OF THE
2 RESTORATIVE JUSTICE PRACTICES, AND BY THE POINT IN THE CRIMINAL OR
3 JUVENILE JUSTICE PROCESS IN WHICH RESTORATIVE JUSTICE WAS
4 CONSIDERED OR USED.

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

7 (g) A victim's advocate within the judicial department with
8 restorative justice experience who shall be appointed by the state court
9 administrator; and

10 (i) A REPRESENTATIVE FROM THE STATE BOARD OF PAROLE
11 APPOINTED BY THE CHAIR OF THE PAROLE BOARD;

12 (j) A REPRESENTATIVE FROM THE JUVENILE PAROLE BOARD
13 APPOINTED BY THE CHAIR OF THE JUVENILE PAROLE BOARD;

14 (k) A REPRESENTATIVE FROM THE DEPARTMENT OF CORRECTIONS
15 APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
16 CORRECTIONS;

17 (l) A REPRESENTATIVE FROM A NONGOVERNMENT STATEWIDE
18 ORGANIZATION REPRESENTING VICTIMS APPOINTED BY THE EXECUTIVE
19 DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY; AND

20 (m) A RESTORATIVE JUSTICE PRACTITIONER APPOINTED BY THE
21 CHIEF JUSTICE OF THE COLORADO SUPREME COURT.

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

24 **19-2-510.5. Restorative justice pilot project - legislative**
25 **declaration - definitions - repeal.** (1)(a) THE GENERAL ASSEMBLY FINDS
26 THAT:

27 (I) JUVENILES WHO COMMIT CRIMES AND CAUSE HARM SHOULD BE
28 CONFRONTED WITH AND HELD ACCOUNTABLE FOR THEIR OFFENDING
29 BEHAVIOR AND GIVEN OPPORTUNITIES TO TAKE RESPONSIBILITY FOR THEIR
30 ACTIONS BY ENGAGING IN BEHAVIORS THAT RESTORE OR ASSIST IN
31 RESTORING THE HARM CAUSED TO THEIR VICTIMS AND COMMUNITY;

32 (II) BY INVOLVING JUVENILES IN RESTORATIVE JUSTICE PRACTICES,
33 THEY CAN UNDERSTAND THE EFFECTS OF THEIR CONDUCT IN HUMAN
34 TERMS; AND

35 (III) THE JUVENILE JUSTICE SYSTEM SHOULD INCORPORATE, TO THE
36 EXTENT PRACTICAL, EVIDENCE-BASED PRACTICES DERIVED FROM THE
37 PILOT PROJECT'S RESEARCH AND DATA.

38 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
39 SECTION:

40 (I) ESTABLISH A PILOT PROGRAM TO FACILITATE AND ENCOURAGE
41 DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM TO

1 RESTORATIVE JUSTICE PRACTICES TO PROVIDE DATA TO ASSESS THE
2 EFFICACY OF RESTORATIVE JUSTICE TO REDUCE RECIDIVISM, TO ASSIST IN
3 RESTORING THE HARM CAUSED TO VICTIMS AND THE COMMUNITY, TO
4 INCREASE VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION
5 WITH CRIMINAL JUSTICE INTERVENTION, AND TO REDUCE COST AND
6 ENHANCE THE COLLECTION OF RESTITUTION; AND

7 (II) FACILITATE AND ENCOURAGE DIVERSION OF JUVENILES FROM
8 THE JUVENILE JUSTICE SYSTEM WHEN DIVERSION MAY PREVENT JUVENILES
9 FROM COMMITTING ADDITIONAL CRIMINAL ACTS, RESTORE VICTIMS OF
10 CRIME, FACILITATE THE JUVENILES' ABILITY TO PAY RESTITUTION TO
11 VICTIMS OF CRIME, AND REDUCE THE NUMBER OF CASES IN THE JUVENILE
12 JUSTICE SYSTEM. RESTORATIVE JUSTICE PRACTICES MUST ENSURE THAT
13 VICTIMS OF CRIME ARE NOT SUBJECT TO FURTHER HARM AND SHALL
14 ENSURE THE ACCOUNTABILITY OF JUVENILES FOR THE HARM THEY HAVE
15 CAUSED.

16 (2) (a) THERE SHALL BE A RESTORATIVE JUSTICE PILOT PROJECT.
17 THE PILOT PROJECT CONSISTS OF TWO NEW RESTORATIVE JUSTICE
18 PROGRAMS IN THE TENTH AND NINETEENTH JUDICIAL DISTRICTS AND TWO
19 EXISTING RESTORATIVE JUSTICE PROGRAMS IN THE TWELFTH AND
20 TWENTIETH JUDICIAL DISTRICTS.

21 (b) THE PILOT PROJECT SITES DESCRIBED IN PARAGRAPH (a) OF
22 THIS SUBSECTION (2) MUST PROVIDE TO THE DIVISION OF CRIMINAL JUSTICE
23 IN THE DEPARTMENT OF PUBLIC SAFETY THE FOLLOWING INFORMATION
24 BASED ON THE PREVIOUS YEAR BY JULY 1, 2014, AND BY EACH JULY 1
25 THEREAFTER:

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

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

31 (III) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE
32 RESTORATIVE JUSTICE PROGRAM, INCLUDING DEMOGRAPHIC INFORMATION
33 CONSISTING OF THE JUVENILE'S AGE, RACE, AND GENDER AND EACH
34 CHARGE AT ARREST;

35 (IV) THE NUMBER OF JUVENILES PARTICIPATING IN THE
36 RESTORATIVE JUSTICE PROGRAM WHO REACHED AN AGREEMENT TO REPAIR
37 THE HARM AND SUCCESSFULLY COMPLETED THE RESTORATIVE JUSTICE
38 PROGRAM AND THE NUMBER OF JUVENILES WHO DID NOT COMPLETE THE
39 RESTORATIVE JUSTICE PROGRAM AND THE REASON FOR NONCOMPLETION;

40 (V) THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE
41 SATISFACTION EVALUATION DEVELOPED PURSUANT TO SECTION 19-2-213



1 (1) (b);
2 (VI) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE
3 RESTORATIVE JUSTICE PROGRAM AND HAD A SUBSEQUENT ARREST OR
4 JUVENILE PETITION FILED AGAINST HIM OR HER IN THE SAME OR ANOTHER
5 JUDICIAL DISTRICT WITHIN THREE YEARS; AND
6 (VII) THE NUMBER OF VICTIMS WHO:
7 (A) PARTICIPATED; OR
8 (B) SUBMITTED VICTIM IMPACT STATEMENTS OR PARTICIPATED IN
9 OTHER WAYS USING RESTORATIVE JUSTICE PRACTICES;
10 (c) (I) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A
11 REPORT BASED ON THE INFORMATION IT RECEIVES PURSUANT TO
12 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2014.
13 (II) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A REPORT
14 THAT INCLUDES A SUMMARY OF THE PILOT PROJECT SITES AND THE
15 EXISTING SITES BASED ON THE INFORMATION IT RECEIVES PURSUANT TO
16 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2015.
17 (3) (a) THE PILOT PROJECT AND EXISTING SITES MUST IMPLEMENT
18 A RESTORATIVE JUSTICE PROGRAM THAT REQUIRES THE DISTRICT
19 ATTORNEY, PRIOR TO FILING CHARGES, TO ASSESS IF THE JUVENILE IS
20 SUITABLE FOR PARTICIPATION IN THE RESTORATIVE JUSTICE PILOT
21 PROGRAM BASED ON THE CONSIDERATIONS SET FORTH IN SECTION
22 19-2-512(2). IF THE ASSESSMENT DETERMINES THE JUVENILE IS SUITABLE,
23 THE DISTRICT ATTORNEY MAY OFFER THE JUVENILE PREFILING DIVERSION
24 TO A PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES. IF THE
25 JUVENILE ACCEPTS PARTICIPATION IN THE PROGRAM UTILIZING
26 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL NOT
27 FILE THE PETITION. THE DISTRICT ATTORNEY SHALL PLACE THE JUVENILE
28 IN A DIVERSION PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES,
29 AND THE JUVENILE SHALL PAY A FEE OF ONE HUNDRED TWENTY-FIVE
30 DOLLARS, BUT THE FEE MAY BE REDUCED ON SLIDING SCALE BASED ON
31 INCOME CONSISTENT WITH GUIDELINES USED TO DETERMINE ELIGIBILITY
32 FOR APPOINTMENT OF COUNSEL. IF THE JUVENILE SUCCESSFULLY
33 COMPLETES THE PROGRAM, THE DISTRICT ATTORNEY SHALL NOT FILE A
34 PETITION AGAINST THE JUVENILE FOR THE ALLEGED CRIMES THAT LED TO
35 PARTICIPATION IN THE PROGRAM. IF THE JUVENILE IS CHARGED WITH A
36 NEW OFFENSE WHILE IN THE PROGRAM OR DOES NOT SUCCESSFULLY
37 COMPLETE THE PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, THE
38 DISTRICT ATTORNEY MAY INITIATE A PETITION AGAINST THE JUVENILE AND
39 PROCEED AS AUTHORIZED IN THIS ARTICLE. ANY STATEMENTS MADE
40 DURING THE RESTORATIVE JUSTICE CONFERENCE ARE CONFIDENTIAL AND
41 MAY NOT BE USED AS A BASIS FOR CHARGING OR PROSECUTING THE

1 DEFENDANT UNLESS THE DEFENDANT COMMITS A CHARGEABLE OFFENSE
2 DURING THE RESTORATIVE JUSTICE CONFERENCE. EACH PARTICIPANT IN
3 THE RESTORATIVE JUSTICE PROGRAM SHALL COMPLETE THE UNIFORM
4 RESTORATIVE JUSTICE SATISFACTION EVALUATION.

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

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

8 (II) HAS NOT PREVIOUSLY:

9 (A) BEEN ADJUDICATED FOR AN OFFENSE THAT WOULD BE A
10 FELONY IF COMMITTED BY AN ADULT;

11 (B) PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS
12 SECTION; OR

13 (C) BEEN ADJUDICATED FOR AN OFFENSE THAT WOULD BE AN
14 OFFENSE IDENTIFIED AS A CRIME IN SECTION 24-4.1-302 (1), C.R.S., IF
15 COMMITTED BY AN ADULT; AND

16 (III) COULD BE CHARGED IN A PETITION ONLY WITH THE
17 FOLLOWING CRIMES:

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

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

23 (4) THE RESTORATIVE JUSTICE PILOT PROJECT SITES SHALL HAVE
24 PRIORITY IN RECEIVING FUNDS FROM THE RESTORATIVE JUSTICE
25 SURCHARGE FUND CREATED IN SECTION 18-25-101 (3), C.R.S., AFTER A
26 ONE-HALF FULL TIME EQUIVALENT EMPLOYEE FOR THE RESTORATIVE
27 JUSTICE COORDINATING COUNCIL HAS BEEN FUNDED.

28 **SECTION 3.** In Colorado Revised Statutes, 19-2-706, **amend** (1)
29 as follows:

30 **19-2-706. Advisement.** (1) At the first appearance before the
31 court after the filing of a petition, the juvenile and his or her parents,
32 guardian, or other legal custodian shall be advised by the court of their
33 constitutional and legal rights as set forth in rule 3 of the Colorado rules
34 of juvenile procedure. Such advisement shall include the possibility of
35 restorative justice practices, including victim-offender conferences if
36 ~~applicable~~ IF RESTORATIVE JUSTICE PRACTICES ARE AVAILABLE IN THE
37 JURISDICTION. The advisement regarding restorative justice practices does
38 not establish any right to restorative justice practices on behalf of the
39 juvenile and failure to provide an advisement regarding restorative justice
40 practices does not constitute any legal error by the court.

41 **SECTION 4.** In Colorado Revised Statutes, 19-2-708, **amend** (2)

1 as follows:

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

12 **SECTION 5.** In Colorado Revised Statutes, 19-2-905, **amend** (4)
13 as follows:

14 **19-2-905. Presentence investigation.** (4) Prior to sentencing a
15 juvenile who was adjudicated for an offense that would be a felony or
16 misdemeanor not contained in title 42, C.R.S., if committed by an adult,
17 the court ~~upon the request of the victim;~~ may order the juvenile to
18 participate in an assessment to determine whether the juvenile would be
19 suitable for participation in restorative justice practices that would be a
20 part of the juvenile's sentence; except that the court may not order
21 participation in a restorative justice practice if the juvenile was
22 adjudicated a delinquent for unlawful sexual behavior, as defined in
23 section 16-22-102 (9), C.R.S., a crime in which the underlying factual
24 basis involves domestic violence, as defined in section 18-6-800.3 (1),
25 C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a
26 protection order as defined in section 18-6-803.5, C.R.S., OR A CRIME
27 LISTED IN SECTION 24-4.1-302 (1), C.R.S. If the court orders a suitability
28 assessment, the assessor shall provide the services for a fee of no more
29 than forty dollars based on a sliding scale. ~~however, the fee may be~~
30 ~~waived by the court.~~ If the juvenile participates in a restorative justice
31 practices victim-offender conference, the facilitator shall provide these
32 services for a fee of no more than one hundred twenty-five dollars based
33 on a sliding scale; however, the fee may be waived OR REDUCED by the
34 court.

35 **SECTION 6.** In Colorado Revised Statutes, **add** article 25 to title
36 18 as follows:

37 ARTICLE 25

38 Restorative Justice Surcharge

39 **18-25-101. Restorative justice surcharge - definitions.**
40 (1) EACH PERSON WHO IS CONVICTED OF A CRIME AND EACH JUVENILE
41 ADJUDICATED OF A CRIME SHALL BE REQUIRED TO PAY A TEN DOLLAR



1 SURCHARGE TO THE CLERK OF THE COURT FOR THE JUDICIAL DISTRICT IN
2 WHICH THE CONVICTION OCCURS.

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

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

10 (b) THE REMAINDER SHALL BE TRANSFERRED TO THE STATE
11 TREASURER, WHO SHALL CREDIT THE SAME TO THE RESTORATIVE JUSTICE
12 SURCHARGE FUND CREATED PURSUANT TO SUBSECTION (3) OF THIS
13 SECTION.

14 (3) (a) THERE IS CREATED IN THE STATE TREASURY THE
15 RESTORATIVE JUSTICE SURCHARGE FUND THAT CONSISTS OF MONEYS
16 RECEIVED BY THE STATE TREASURER PURSUANT TO THIS SECTION. THE
17 MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
18 GENERAL ASSEMBLY TO THE JUDICIAL DEPARTMENT FIRST TO FUND A
19 FULL-TIME ADMINISTRATOR FOR THE JUVENILE JUSTICE COORDINATING
20 COUNCIL AND THEN FOR DISTRIBUTION TO JUDICIAL DISTRICTS THAT OFFER
21 RESTORATIVE JUSTICE PROGRAMS AND TO THE RESTORATIVE JUSTICE
22 COORDINATING COUNCIL FOR ADMINISTRATIVE EXPENSES.

23 (b) THE JUDICIAL DEPARTMENT SHALL ESTABLISH GUIDELINES FOR
24 THE DISTRIBUTION OF THE MONEYS FROM THE FUND TO ASSIST IN
25 DEFRAYING THE COSTS OF RESTORATIVE JUSTICE PROGRAMS, INCLUDING
26 BUT NOT LIMITED TO PROCEDURES FOR PROGRAMS TO USE IN APPLYING TO
27 THE JUDICIAL DEPARTMENT FOR MONEYS FROM THE FUND.

28 (c) THE JUDICIAL DEPARTMENT SHALL NOT EXPEND ANY MONEYS
29 UNTIL THE FUND HAS ENOUGH MONEY TO PAY THE EXPENSES NECESSARY
30 TO ADMINISTER THE FUND AND TO STAFF THE RESTORATIVE JUSTICE
31 COORDINATING COUNCIL.

32 (d) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
33 OF MONEYS IN THE FUND MUST BE CREDITED TO THE FUND. ANY MONEYS
34 NOT APPROPRIATED BY THE GENERAL ASSEMBLY MUST REMAIN IN THE
35 FUND AND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND
36 OF THE STATE AT THE END OF ANY FISCAL YEAR.

37 (4) THE COURT MAY WAIVE ALL OR ANY PORTION OF THE
38 SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION IF THE COURT
39 FINDS THAT A PERSON OR JUVENILE IS INDIGENT OR FINANCIALLY UNABLE
40 TO PAY ALL OR ANY PORTION OF THE SURCHARGE. THE COURT MAY WAIVE
41 ONLY THAT PORTION OF THE SURCHARGE THAT THE COURT FINDS THAT

1 THE PERSON OR JUVENILE IS FINANCIALLY UNABLE TO PAY.

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

7 **SECTION 7. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2014 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor."

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