

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0973.04 Michael Dohr

HOUSE BILL 10-1413

HOUSE SPONSORSHIP

Levy and May, Carroll T.

SENATE SPONSORSHIP

Newell and Lundberg,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING JUVENILES WHO ARE TRIED AS ADULTS.**

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>.)

For purposes of authorizing a district attorney to directly file charges in district court against a juvenile (direct file), the bill changes the minimum age of the defendant from 14 to 16 years, except in the case of first degree murder, second degree murder, or a sex offense. At least 14 days prior to filing the charges in district court, the district attorney must file the charges in juvenile court with a notice of decision on direct file. The bill lists the criteria that the district attorney must consider in

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.

determining whether to direct file charges against a juvenile. The district attorney must submit a written statement listing the criteria the district attorney relied upon in deciding to direct file.

The bill permits a juvenile convicted in district court of a class 2 felony nonsex offense to be sentenced to the youthful offender system.

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

2 **SECTION 1.** 19-2-517, Colorado Revised Statutes, is
3 **REPEALED AND REENACTED, WITH AMENDMENTS, to read:**

4 **19-2-517. Direct filing.** (1) A JUVENILE MAY BE CHARGED BY
5 THE DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY
6 INDICTMENT ONLY IF:

7 (a) THE JUVENILE IS SIXTEEN YEARS OF AGE OR OLDER AT THE TIME
8 OF THE COMMISSION OF THE ALLEGED OFFENSE AND:

9 (I) IS ALLEGED TO HAVE COMMITTED A CLASS 1 OR CLASS 2
10 FELONY; OR

11 (II) IS ALLEGED TO HAVE COMMITTED A FELONY ENUMERATED AS
12 A CRIME OF VIOLENCE PURSUANT TO SECTION 18-1.3-406, C.R.S.; OR

13 (III) IS ALLEGED TO HAVE COMMITTED A FELONY OFFENSE
14 DESCRIBED IN PART 1 OF ARTICLE 12 OF TITLE 18, C.R.S., EXCEPT FOR THE
15 POSSESSION OF A HANDGUN BY A JUVENILE, AS SET FORTH IN SECTION
16 18-12-108.5, C.R.S.; OR

17 (IV) IS ALLEGED TO HAVE USED, OR POSSESSED AND THREATENED
18 THE USE OF, A DEADLY WEAPON DURING THE COMMISSION OF A FELONY
19 OFFENSE AGAINST A PERSON DESCRIBED IN ARTICLE 3 OF TITLE 18, C.R.S.;
20 OR

21 (V) IS ALLEGED TO HAVE COMMITTED VEHICULAR HOMICIDE, AS
22 DESCRIBED IN SECTION 18-3-106, C.R.S., VEHICULAR ASSAULT, AS
23 DESCRIBED IN SECTION 18-3-205, C.R.S., OR FELONIOUS ARSON, AS

1 DESCRIBED IN PART 1 OF ARTICLE 4 OF TITLE 18, C.R.S.; OR

2 (VI) IS ALLEGED TO HAVE COMMITTED A CLASS 3 FELONY, OR
3 SEXUAL ASSAULT AS DESCRIBED IN SECTION 18-3-402 (1) (d), C.R.S., OR
4 SECTION 18-3-403 (1) (e), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000,
5 AND THE JUVENILE, WITHIN THE TWO PREVIOUS YEARS, HAS BEEN
6 ADJUDICATED A JUVENILE DELINQUENT FOR AN ACT THAT CONSTITUTES A
7 FELONY; OR

8 (VII) IS ALLEGED TO HAVE COMMITTED A DELINQUENT ACT THAT
9 CONSTITUTES A FELONY, AND IS DETERMINED TO BE AN HABITUAL
10 JUVENILE OFFENDER. FOR PURPOSES OF THIS SECTION, "HABITUAL
11 JUVENILE OFFENDER" IS DEFINED IN SECTION 19-1-103 (61).

12 (b) THE JUVENILE IS FOURTEEN OR FIFTEEN YEARS OF AGE AT THE
13 TIME OF THE COMMISSION OF THE ALLEGED OFFENSE AND:

14 (I) IS ALLEGED TO HAVE COMMITTED MURDER IN THE FIRST
15 DEGREE, AS DESCRIBED IN SECTION 18-3-102, C.R.S., OR MURDER IN THE
16 SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-103, C.R.S.; OR

17 (II) IS ALLEGED TO HAVE COMMITTED SEXUAL ASSAULT UNDER
18 THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-402 (5) (a), C.R.S.; OR

19 (III) IS ALLEGED TO HAVE COMMITTED ANY SEXUAL OFFENSE THAT
20 IS ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION
21 18-1.3-406, C.R.S.; OR

22 (IV) IS ALLEGED TO HAVE COMMITTED ANY SEXUAL OFFENSE
23 CLASSIFIED AS A CLASS 3 FELONY, OR SEXUAL ASSAULT AS DESCRIBED IN
24 SECTION 18-3-402 (1) (d), C.R.S., OR SECTION 18-3-403 (1) (e), C.R.S., AS
25 IT EXISTED PRIOR TO JULY 1, 2000, AND THE JUVENILE, WITHIN THE TWO
26 PREVIOUS YEARS, HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR
27 AN ACT THAT CONSTITUTES A FELONY; OR

1 (V) IS ALLEGED TO HAVE COMMITTED ANY FELONY SEXUAL
2 OFFENSE AND IS DETERMINED TO BE AN HABITUAL JUVENILE OFFENDER.

3 (c) THE JUVENILE IS FOURTEEN OR FIFTEEN YEARS OF AGE AT THE
4 TIME OF THE COMMISSION OF THE ALLEGED OFFENSE, IS ALLEGED TO HAVE
5 COMMITTED ANY FELONY, AND IS CURRENTLY SERVING A SENTENCE AS A
6 RESULT OF A DIRECT FILING PURSUANT TO THIS SECTION OR A TRANSFER
7 PURSUANT TO SECTION 19-2-518; EXCEPT THAT, IF A JUVENILE IS FOUND
8 NOT GUILTY IN THE DISTRICT COURT OF THE PRIOR FELONY OR ANY LESSER
9 INCLUDED OFFENSE, THE SUBSEQUENT CHARGE SHALL BE REMANDED BACK
10 TO THE JUVENILE COURT.

11 (2) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-2-518,
12 AFTER FILING CHARGES IN THE JUVENILE COURT BUT PRIOR TO THE TIME
13 THAT THE JUVENILE COURT CONDUCTS A TRANSFER HEARING, THE
14 DISTRICT ATTORNEY MAY FILE THE SAME OR DIFFERENT CHARGES AGAINST
15 THE JUVENILE BY DIRECT FILING OF AN INFORMATION IN THE DISTRICT
16 COURT OR BY INDICTMENT PURSUANT TO THIS SECTION. UPON SAID FILING
17 OR INDICTMENT IN THE DISTRICT COURT, THE JUVENILE COURT SHALL NO
18 LONGER HAVE JURISDICTION OVER PROCEEDINGS CONCERNING SAID
19 CHARGES.

20 (3) (a) IN DETERMINING WHETHER TO FILE CHARGES IN DISTRICT
21 COURT PURSUANT TO THIS SECTION, THE DISTRICT ATTORNEY SHALL FIRST
22 CONSIDER THE FOLLOWING CRITERIA:

23 (I) THE SERIOUSNESS OF THE OFFENSE AND WHETHER THE
24 PROTECTION OF THE COMMUNITY REQUIRES RESPONSE OR CONSEQUENCE
25 BEYOND THAT AFFORDED BY THIS ARTICLE;

26 (II) WHETHER THE ALLEGED OFFENSE WAS COMMITTED IN AN
27 AGGRESSIVE, VIOLENT, PREMEDITATED, OR WILLFUL MANNER;

1 (III) WHETHER THE ALLEGED OFFENSE WAS AGAINST PERSONS OR
2 PROPERTY, GREATER WEIGHT BEING GIVEN TO OFFENSES AGAINST
3 PERSONS;

4 (IV) THE AGE OF THE JUVENILE, AND THE MATURITY OF THE
5 JUVENILE AS DETERMINED BY CONSIDERATIONS OF THE JUVENILE'S HOME,
6 ENVIRONMENT, EMOTIONAL ATTITUDE, AND PATTERN OF LIVING;

7 (V) THE RECORD AND PREVIOUS HISTORY OF THE JUVENILE;

8 (VI) THE LIKELIHOOD OF REHABILITATION OF THE JUVENILE BY USE
9 OF THE SENTENCING OPTIONS AVAILABLE IN THE JUVENILE AND DISTRICT
10 COURTS;

11 (VII) THE INTEREST OF THE COMMUNITY IN THE IMPOSITION OF A
12 PUNISHMENT COMMENSURATE WITH THE GRAVITY OF THE OFFENSE;

13 (VIII) THE IMPACT OF THE OFFENSE ON THE VICTIM;

14 (IX) WHETHER THE JUVENILE WAS PREVIOUSLY COMMITTED TO
15 THE DEPARTMENT OF HUMAN SERVICES FOLLOWING AN ADJUDICATION FOR
16 A DELINQUENT ACT THAT CONSTITUTES A FELONY; AND

17 (X) WHETHER THE JUVENILE USED, OR POSSESSED AND
18 THREATENED THE USE OF, A DEADLY WEAPON IN THE COMMISSION OF A
19 DELINQUENT ACT.

20 (b) THE AMOUNT OF WEIGHT GIVEN TO EACH OF THE FACTORS
21 LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (3) IS DISCRETIONARY WITH
22 THE DISTRICT ATTORNEY. THE INSUFFICIENCY OF ANY FACTOR OR SET OF
23 FACTORS SHALL NOT PRECLUDE THE DISTRICT ATTORNEY FROM CHARGING
24 BY DIRECT FILING, SO LONG AS THE DISTRICT ATTORNEY IS SATISFIED THAT
25 THE INFORMATION AVAILABLE SUPPORTS THE DECISION.

26 (4) (a) IF, AFTER OR CONTEMPORANEOUSLY WITH THE FILING OF A
27 DELINQUENCY PETITION AND AFTER INITIAL CONSIDERATION OF THE

1 FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION, THE DISTRICT
2 ATTORNEY BELIEVES THE CASE MAY BE APPROPRIATE FOR CHARGING BY
3 DIRECT FILING, THE DISTRICT ATTORNEY SHALL FILE WITH THE JUVENILE
4 COURT, WITH A COPY TO THE JUVENILE'S COUNSEL OF RECORD, OR TO THE
5 JUVENILE IF THE JUVENILE HAS WAIVED COUNSEL OR IF THERE IS NO
6 COUNSEL OF RECORD, A NOTICE OF CONSIDERATION OF DIRECT FILE. NO
7 LATER THAN FORTY-EIGHT HOURS AFTER THE FILING OF THE NOTICE OF
8 CONSIDERATION, THE JUVENILE COURT SHALL READVISE THE JUVENILE OF
9 HIS OR HER RIGHT TO COUNSEL. IF THE JUVENILE HAS PREVIOUSLY WAIVED
10 HIS OR HER RIGHT TO COUNSEL, THE JUVENILE SHALL HAVE AN
11 OPPORTUNITY TO WITHDRAW SUCH WAIVER.

12 (b) AFTER THE FILING OF THE NOTICE OF CONSIDERATION OF
13 DIRECT FILE, THE JUVENILE SHALL HAVE FOURTEEN DAYS TO PROVIDE TO
14 THE DISTRICT ATTORNEY ANY AND ALL INFORMATION THE JUVENILE
15 REQUESTS THE DISTRICT ATTORNEY TO CONSIDER RELATING TO THE
16 FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION IN MAKING THE
17 DECISION WHETHER TO DIRECT FILE CHARGES. THE DISTRICT ATTORNEY
18 SHALL NOT DIRECT FILE CHARGES UNTIL THE FOURTEEN-DAY PERIOD FOR
19 CONSIDERATION HAS PASSED. NOTHING IN THIS SECTION SHALL REQUIRE
20 THE DISTRICT ATTORNEY TO EXTEND THE PERIOD FOR CONSIDERATION;
21 NOR SHALL ANYTHING IN THIS SECTION PROHIBIT THE DISTRICT ATTORNEY
22 FROM AGREEING WITH THE JUVENILE'S COUNSEL OF RECORD TO EXTEND
23 THE PERIOD FOR CONSIDERATION. FURTHER, NOTHING IN THIS SECTION
24 SHALL PRECLUDE THE DISTRICT ATTORNEY FROM DIRECT FILING THE
25 CHARGES AFTER THE EXPIRATION OF THE PERIOD FOR CONSIDERATION.

26 (c) THE JUVENILE COURT SHALL NOT ACCEPT A PLEA OF GUILTY
27 DURING THE PERIOD FOR CONSIDERATION OF DIRECT FILE UNLESS THE PLEA
28 IS ENTERED WITH THE AGREEMENT OF THE DISTRICT ATTORNEY.

1 (d) THE DISTRICT ATTORNEY IS ENCOURAGED TO PROVIDE THE
2 JUVENILE'S COUNSEL OF RECORD AN OPPORTUNITY TO MEET TO DISCUSS
3 ANY AND ALL INFORMATION RELEVANT TO THE FACTORS SET FORTH IN
4 SUBSECTION (3) OF THIS SECTION BEFORE A DECISION TO DIRECT FILE
5 OCCURS. HOWEVER, THE LACK OF ANY SUCH MEETING SHALL NOT
6 REQUIRE AN EXTENSION OF THE PERIOD FOR CONSIDERATION.

7 (e) AT THE DISCRETION OF THE DISTRICT ATTORNEY, THE
8 PROVISIONS OF THIS SUBSECTION (4) SHALL NOT APPLY TO CHARGES FOR
9 FIRST DEGREE MURDER AS DESCRIBED IN SECTION 18-3-102, C.R.S.,
10 SECOND DEGREE MURDER, AS DESCRIBED IN SECTION 18-3-103, C.R.S., OR
11 ANY SEXUAL OFFENSE THAT IS ELIGIBLE FOR DIRECT FILE PURSUANT TO
12 SUBSECTION (1) OF THIS SECTION.

13 (5) UPON THE DIRECT FILING OF CHARGES IN THE DISTRICT COURT
14 PURSUANT TO THIS SECTION, THE DISTRICT ATTORNEY SHALL FILE A
15 WRITTEN STATEMENT LISTING THE SPECIFIC FACTORS SET FORTH IN
16 SUBSECTION (3) OF THIS SECTION UPON WHICH THE DECISION TO DIRECT
17 FILE WAS BASED.

18 (6) (a) IF A JUVENILE IS CONVICTED FOLLOWING THE FILING OF
19 CRIMINAL CHARGES BY INFORMATION OR INDICTMENT IN THE DISTRICT
20 COURT PURSUANT TO THIS SECTION, THE DISTRICT JUDGE SHALL SENTENCE
21 THE JUVENILE AS FOLLOWS:

22 (I) AS AN ADULT; OR
23 (II) TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF
24 CORRECTIONS IN ACCORDANCE WITH SECTION 18-1.3-407, C.R.S.; EXCEPT
25 THAT A JUVENILE SHALL BE INELIGIBLE FOR SENTENCING TO THE
26 YOUTHFUL OFFENDER SYSTEM IF THE JUVENILE IS CONVICTED OF:

27 (A) A CLASS 1 FELONY;
28 (B) ANY SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301 OR

1 18-6-302, C.R.S., OR PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.; OR

2 (C) A SECOND OR SUBSEQUENT OFFENSE, IF THE JUVENILE
3 RECEIVED A SENTENCE TO THE DEPARTMENT OF CORRECTIONS OR TO THE
4 YOUTHFUL OFFENDER SYSTEM FOR THE PRIOR OFFENSE; OR

5 (III) PURSUANT TO THE PROVISIONS OF THIS ARTICLE, IF THE
6 JUVENILE IS LESS THAN SIXTEEN YEARS OF AGE AT THE TIME OF
7 COMMISSION OF THE CRIME AND IS CONVICTED OF AN OFFENSE OTHER
8 THAN A CLASS 1 OR CLASS 2 FELONY, A CRIME OF VIOLENCE AS DEFINED
9 UNDER SECTION 18-1.3-406, C.R.S., OR AN OFFENSE DESCRIBED IN
10 SUBPARAGRAPH (V) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS
11 SECTION AND THE JUDGE MAKES A FINDING OF SPECIAL CIRCUMSTANCES.

12 (b) THE DISTRICT COURT JUDGE MAY SENTENCE A JUVENILE
13 PURSUANT TO THE PROVISIONS OF THIS ARTICLE IF THE JUVENILE IS
14 CONVICTED OF A LESSER INCLUDED OR NONENUMERATED OFFENSE FOR
15 WHICH CRIMINAL CHARGES COULD NOT HAVE BEEN ORIGINALLY FILED BY
16 INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS
17 SECTION.

18 (7) IN THE CASE OF A PERSON WHO IS SENTENCED AS A JUVENILE
19 PURSUANT TO SUBSECTION (6) OF THIS SECTION, THE FOLLOWING
20 PROVISIONS SHALL APPLY:

21 (a) SECTION 19-2-908(1)(a), REGARDING MANDATORY SENTENCE
22 OFFENDERS;

23 (b) SECTION 19-2-908 (1) (b), REGARDING REPEAT JUVENILE
24 OFFENDERS;

25 (c) SECTION 19-2-908 (1) (c), REGARDING VIOLENT JUVENILE
26 OFFENDERS; AND

27 (d) SECTION 19-2-601, REGARDING AGGRAVATED JUVENILE
28 OFFENDERS.

1 (8) THE COURT IN ITS DISCRETION MAY APPOINT A GUARDIAN AD
2 LITEM FOR A JUVENILE CHARGED BY THE DIRECT FILING OF AN
3 INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO
4 THIS SECTION.

5 (9) THE OFFENSES DESCRIBED IN THIS SECTION SHALL INCLUDE
6 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT SUCH OFFENSES.

7 **SECTION 2.** 19-2-518 (1) (d) (II) (B), (1) (d) (II) (C), (1) (d) (II)
8 (D), (1) (d.5), and (5), Colorado Revised Statutes, are amended to read:

9 **19-2-518. Transfers.** (1) (d) (II) In cases in which criminal
10 charges are transferred to the district court pursuant to the provisions of
11 this section, the judge of the district court may sentence to the youthful
12 offender system created in section 18-1.3-407, C.R.S., any juvenile who
13 would otherwise be sentenced pursuant to the provisions of subparagraph
14 (I) of this paragraph (d); except that a juvenile shall be ineligible for
15 sentencing to the youthful offender system if the juvenile is convicted of:

16 (B) ~~A class 2 felony as a result of a plea agreement in cases where~~
17 ~~the juvenile is charged with a class 1 felony;~~

18 (C) ~~A class 2 felony and the juvenile has one or more prior~~
19 ~~convictions for a crime of violence, as defined in section 18-1.3-406,~~
20 ~~C.R.S., or prior adjudications for an offense that would constitute a crime~~
21 ~~of violence if committed by an adult;~~

22 (D) ~~A class 2 felony and the juvenile is sixteen years of age or~~
23 ~~older;~~

24 (d.5) ~~Notwithstanding the provisions of subparagraph (H) of~~
25 ~~paragraph (d) of this subsection (1), a juvenile who is charged with first~~
26 ~~degree murder as described in section 18-3-102(1)(b), C.R.S., and pleads~~
27 ~~guilty to a class 2 felony as a result of a plea agreement is eligible for~~
28 ~~sentencing to the youthful offender system if the juvenile would be~~

1 eligible for sentencing to the youthful offender system for a conviction of
2 the felony underlying the charge of first degree murder as described in
3 section 18-3-102 (1) (b), C.R.S.

4 (5) When an action has been remanded to the juvenile court
5 pursuant to section 19-2-517 (1) (a) (IV) (c) and the prosecution seeks
6 waiver of jurisdiction pursuant to this section, the court's findings from
7 the prior transfer hearing regarding the factor listed in paragraph (c) of
8 subsection (4) of this section shall establish prima facie evidence that to
9 retain jurisdiction in juvenile court would be contrary to the best interests
10 of the juvenile or of the community.

11 **SECTION 3.** 16-11-102 (1.8), Colorado Revised Statutes, is
12 amended to read:

13 **16-11-102. Presentence or probation investigation.** (1.8) Upon
14 the request of either the prosecution or the defense, each presentence
15 report prepared regarding a youthful offender, as defined in section
16 18-1.3-407, C.R.S., who is eligible for sentencing to the youthful offender
17 system pursuant to section 18-1.3-407.5, 19-2-517 (3) (6), or 19-2-518 (1)
18 (d) (II), ~~or (1) (d.5)~~, C.R.S., shall include a determination by the warden
19 of the youthful offender system whether the youthful offender is
20 acceptable for sentencing to the youthful offender system. When making
21 a determination, the warden shall consider the nature and circumstances
22 of the crime, the circumstances and criminal history of the youthful
23 offender, the available bed space in the youthful offender system, and any
24 other appropriate considerations.

25 **SECTION 4.** 18-1.3-104 (1) (h) (I), Colorado Revised Statutes,
26 is amended to read:

27 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within
28 the limitations of the applicable statute pertaining to sentencing and

1 subject to the provisions of this title, the trial court has the following
2 alternatives in entering judgment imposing a sentence:

3 (h) (I) If the defendant is eligible pursuant to section 18-1.3-407.5
4 or section 19-2-517 ~~(3)~~ (6), C.R.S., the defendant may be sentenced to the
5 youthful offender system in accordance with section 18-1.3-407.

6 **SECTION 5.** 18-1.3-407 (1) (b) and (2) (a) (I) and the
7 introductory portion to 18-1.3-407 (2.1) (a), Colorado Revised Statutes,
8 are amended to read:

9 **18-1.3-407. Sentences - youthful offenders - legislative**
10 **declaration - powers and duties of district court - authorization for**
11 **youthful offender system - powers and duties of department of**
12 **corrections - definitions.** (1) (b) It is the further intent of the general
13 assembly in enacting this section that female and male offenders who are
14 eligible for sentencing to the youthful offender system pursuant to section
15 18-1.3-407.5 or section 19-2-517 ~~(3)~~ (6) or 19-2-518 (1) (d) (II), ~~or (1)~~
16 ~~(d.5)~~, C.R.S., receive equitable treatment in sentencing, particularly in
17 regard to the option of being sentenced to the youthful offender system.
18 Accordingly, it is the general assembly's intent that necessary measures
19 be taken by the department of corrections to establish separate housing
20 for female and male offenders who are sentenced to the youthful offender
21 system without compromising the equitable treatment of either.

22 (2) (a) (I) A juvenile may be sentenced to the youthful offender
23 system created pursuant to this section under the circumstances set forth
24 in section 19-2-517 ~~(3)(a)(II) or (3)(a.5)~~ (6) (a) (II) or 19-2-518 (1) (d)
25 (II), ~~or (1)(d.5)~~, C.R.S. A young adult offender may be sentenced to the
26 youthful offender system created pursuant to this section under the
27 circumstances set forth in section 18-1.3-407.5. In order to sentence a
28 juvenile or young adult offender to the youthful offender system, the

1 court shall first impose upon such person a sentence to the department of
2 corrections in accordance with section 18-1.3-401. The court shall
3 thereafter suspend such sentence conditioned on completion of a sentence
4 to the youthful offender system, including a period of community
5 supervision. The court shall impose any such sentence to the youthful
6 offender system for a determinate period of not fewer than two years nor
7 more than six years; except that a juvenile or young adult offender
8 convicted of a class 2 felony may be sentenced for a determinate period
9 of up to seven years. In imposing such sentence, the court shall grant
10 authority to the department of corrections to place the offender under a
11 period of community supervision for a period of not fewer than six
12 months and up to twelve months any time after the date on which the
13 offender has twelve months remaining to complete the determinate
14 sentence. The court may award an offender sentenced to the youthful
15 offender system credit for presentence confinement; except that such
16 credit shall not reduce the offender's actual time served in the youthful
17 offender system to fewer than two years. The court shall have a
18 presentence investigation conducted before sentencing a juvenile or
19 young adult offender pursuant to this section. Upon the request of either
20 the prosecution or the defense, the presentence report shall include a
21 determination by the warden of the youthful offender system whether the
22 offender is acceptable for sentencing to the youthful offender system.
23 When making a determination, the warden shall consider the nature and
24 circumstances of the crime; the age, circumstances, and criminal history
25 of the offender; the available bed space in the youthful offender system;
26 and any other appropriate considerations.

27 (2.1) (a) As originally enacted, this section applied only to
28 offenses committed by juveniles on or after September 13, 1993. For

1 purposes of extending the availability of sentencing options, a juvenile
2 who meets the criteria set forth in section 19-2-517 ~~(3)~~ (6) (a) (II), C.R.S.,
3 may be sentenced to the youthful offender system pursuant to this section,
4 under the following circumstances:

5 **SECTION 6. Act subject to petition - effective date -**
6 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
7 following the expiration of the ninety-day period after final adjournment
8 of the general assembly (August 11, 2010, if adjournment sine die is on
9 May 12, 2010); except that, if a referendum petition is filed pursuant to
10 section 1 (3) of article V of the state constitution against this act or an
11 item, section, or part of this act within such period, then the act, item,
12 section, or part shall not take effect unless approved by the people at the
13 general election to be held in November 2010 and shall take effect on the
14 date of the official declaration of the vote thereon by the governor.

15 (2) (a) Except as otherwise provided in paragraph (b) of this
16 subsection (2), the provisions of this act shall apply to the filing of
17 charges on or after the effective date of this act.

18 (b) Section 19-2-517 (6) and (7), Colorado Revised Statutes, as
19 enacted in section 1 of this act shall apply to persons sentenced on or after
20 the effective date of this act.