

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

ENGROSSED

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

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, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
April 30, 2010

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 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3 **REPEALED AND REENACTED, WITH AMENDMENTS, to read:**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

1 DESCRIBED IN SECTION 18-3-205, C.R.S., OR FELONIOUS ARSON, AS
2 DESCRIBED IN PART 1 OF ARTICLE 4 OF TITLE 18, C.R.S.; OR

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

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

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

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

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

20 (III) IS ALLEGED TO HAVE COMMITTED ANY SEXUAL OFFENSE THAT
21 IS ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION
22 18-1.3-406, C.R.S.; OR

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

1 AN ACT THAT CONSTITUTES A FELONY; OR

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

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

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

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

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

27 (II) WHETHER THE ALLEGED OFFENSE WAS COMMITTED IN AN

1 AGGRESSIVE, VIOLENT, PREMEDITATED, OR WILLFUL MANNER;

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

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

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

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

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

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

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

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

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

27 (4) (a) IF, AFTER OR CONTEMPORANEOUSLY WITH THE FILING OF A

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

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

27 (c) THE JUVENILE COURT SHALL NOT ACCEPT A PLEA OF GUILTY
28 DURING THE PERIOD FOR CONSIDERATION OF DIRECT FILE UNLESS THE PLEA

1 IS ENTERED WITH THE AGREEMENT OF THE DISTRICT ATTORNEY.

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

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

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

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

23 (I) AS AN ADULT; OR

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

28 (A) A CLASS 1 FELONY;

1 (B) ANY SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301 OR
2 18-6-302, C.R.S., OR PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.; OR

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

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

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

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

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

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

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

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

1 OFFENDERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within

1 the limitations of the applicable statute pertaining to sentencing and
2 subject to the provisions of this title, the trial court has the following
3 alternatives in entering judgment imposing a sentence:

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

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

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

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

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

28 (2.1) (a) As originally enacted, this section applied only to

1 offenses committed by juveniles on or after September 13, 1993. For
2 purposes of extending the availability of sentencing options, a juvenile
3 who meets the criteria set forth in section 19-2-517 ~~(3)~~ (6) (a) (II), C.R.S.,
4 may be sentenced to the youthful offender system pursuant to this section,
5 under the following circumstances:

6 **SECTION 6. Appropriation - adjustments to the 2010 long bill**

7 **- legislative intent.** (1) In addition to any other appropriation, there is
8 hereby appropriated, out of any moneys in the general fund not otherwise
9 appropriated, to the department of human services, for allocation to the
10 division of youth corrections, for the purchase of contract placements , for
11 the fiscal year beginning July 1, 2010, the sum of three hundred
12 seventy-one thousand eight hundred eighty dollars (\$371,880), or so
13 much thereof as may be necessary, for the implementation of this act.

14 (2) In addition to any other appropriation, there is hereby
15 appropriated, out of any moneys in the general fund not otherwise
16 appropriated, to the department of corrections, institutions, for the
17 youthful offender system subprogram, for the fiscal year beginning July
18 1, 2010, the sum of one hundred thirty-five thousand six hundred
19 seventy-eight dollars (\$135,678), or so much thereof as may be necessary,
20 for the implementation of this act.

21 (3) For the implementation of this act, the general fund
22 appropriation made in the annual general appropriation act for the fiscal
23 year beginning July 1, 2010, to the department of corrections,
24 management, external capacity subprogram, for payments to house state
25 prisoners, is decreased by two hundred sixty-six thousand eight hundred
26 three dollars (\$266,803).

27 (4) It is the intent of the general assembly that the general fund
28 appropriation for the implementation of this act shall be derived from

1 savings generated from the implementation of the provisions of House
2 Bill 10-1360, as enacted during the second regular session of the
3 sixty-seventh general assembly.

4 **SECTION 7. Act subject to petition - effective date -**
5 **applicability.** (1) Except as otherwise provided in subsection (2) of this
6 section, this act shall take effect at 12:01 a.m. on the day following the
7 expiration of the ninety-day period after final adjournment of the general
8 assembly (August 11, 2010, if adjournment sine die is on May 12, 2010);
9 except that, if a referendum petition is filed pursuant to section 1 (3) of
10 article V of the state constitution against this act or an item, section, or
11 part of this act within such period, then the act, item, section, or part shall
12 not take effect unless approved by the people at the general election to be
13 held in November 2010 and shall take effect on the date of the official
14 declaration of the vote thereon by the governor.

15 (2) This act shall only take effect if:

16 (a) The final fiscal estimate for House Bill 10-1360, as determined
17 from the appropriations enacted in said bill, shows a net reduction in the
18 amount of general fund revenues appropriated for state fiscal year
19 2010-11, that is equal to or greater than amount of the general fund
20 appropriation made for the implementation of this act for state fiscal year
21 2010-11, as reflected in section 6 of this act; and

22 (b) House Bill 10-1360 is enacted at the second regular session of
23 the sixty-seventh general assembly and becomes law; and

24 (c) The staff director of the joint budget committee files written
25 notice with the revisor of statutes no later than July 15, 2010, that the
26 requirement set forth in paragraph (a) of this subsection (2) has been met.

27 (3) (a) Except as otherwise provided in paragraph (b) of this
28 subsection (3), the provisions of this act shall apply to the filing of

1 charges on or after the effective date of this act.

2 (b) Section 19-2-517 (6) and (7), Colorado Revised Statutes, as

3 enacted in section 1 of this act shall apply to persons sentenced on or after

4 the effective date of this act.