

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

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

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

Judiciary
Appropriations

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.

SENATE
Am ended 2nd Reading
May 11, 2010

HOUSE
3rd Reading Unam ended
May 3, 2010

HOUSE
Am ended 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3 **REPEALED AND REENACTED, WITH AMENDMENTS, to read:**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 FELONY, AND IS
10 DETERMINED TO BE AN HABITUAL JUVENILE OFFENDER. FOR PURPOSES OF
11 THIS SECTION, "HABITUAL JUVENILE OFFENDER" IS DEFINED IN SECTION
12 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 YEARS OF AGE OR OLDER AT THE
5 TIME OF THE COMMISSION OF THE ALLEGED OFFENSE, HAS ALLEGEDLY
6 COMMITTED A FELONY, AND HAS PREVIOUSLY BEEN SUBJECT TO
7 PROCEEDINGS IN DISTRICT COURT AS A RESULT OF A DIRECT FILING
8 PURSUANT TO THIS SECTION OR A TRANSFER PURSUANT TO SECTION
9 19-2-518; EXCEPT THAT:

10 (I) IF THE JUVENILE IS FOUND NOT GUILTY IN DISTRICT COURT OF
11 THE PRIOR FELONY OR ANY LESSER INCLUDED OFFENSE, THE SUBSEQUENT
12 CHARGE SHALL BE REMANDED BACK TO THE JUVENILE COURT; AND

13 (II) IF THE JUVENILE IS CONVICTED IN DISTRICT COURT IN THE
14 PRIOR CASE 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, THE SUBSEQUENT CHARGE MAY BE REMANDED BACK TO THE
18 JUVENILE COURT.

19 (2) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-2-518,
20 AFTER FILING CHARGES IN THE JUVENILE COURT BUT PRIOR TO THE TIME
21 THAT THE JUVENILE COURT CONDUCTS A TRANSFER HEARING, THE
22 DISTRICT ATTORNEY MAY FILE THE SAME OR DIFFERENT CHARGES AGAINST
23 THE JUVENILE BY DIRECT FILING OF AN INFORMATION IN THE DISTRICT
24 COURT OR BY INDICTMENT PURSUANT TO THIS SECTION. UPON SAID FILING
25 OR INDICTMENT IN THE DISTRICT COURT, THE JUVENILE COURT SHALL NO
26 LONGER HAVE JURISDICTION OVER PROCEEDINGS CONCERNING SAID
27 CHARGES.

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

4 (I) THE SERIOUSNESS OF THE OFFENSE AND WHETHER THE
5 PROTECTION OF THE COMMUNITY REQUIRES RESPONSE OR CONSEQUENCE
6 BEYOND THAT AFFORDED BY THIS ARTICLE;

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

9 (III) WHETHER THE ALLEGED OFFENSE WAS AGAINST PERSONS OR
10 PROPERTY, GREATER WEIGHT BEING GIVEN TO OFFENSES AGAINST
11 PERSONS;

12 (IV) THE AGE OF THE JUVENILE, AND THE MATURITY OF THE
13 JUVENILE AS DETERMINED BY CONSIDERATIONS OF THE JUVENILE'S HOME,
14 ENVIRONMENT, EMOTIONAL ATTITUDE, AND PATTERN OF LIVING;

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

16 (VI) THE LIKELIHOOD OF REHABILITATION OF THE JUVENILE BY USE
17 OF THE SENTENCING OPTIONS AVAILABLE IN THE JUVENILE AND DISTRICT
18 COURTS;

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

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

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

25 (X) WHETHER THE JUVENILE USED, OR POSSESSED AND
26 THREATENED THE USE OF, A DEADLY WEAPON IN THE COMMISSION OF A
27 DELINQUENT ACT.

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

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

20 (b) AFTER THE FILING OF THE NOTICE OF CONSIDERATION OF
21 DIRECT FILE, THE JUVENILE SHALL HAVE FOURTEEN DAYS TO PROVIDE TO
22 THE DISTRICT ATTORNEY ANY AND ALL INFORMATION THE JUVENILE
23 REQUESTS THE DISTRICT ATTORNEY TO CONSIDER RELATING TO THE
24 FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION IN MAKING THE
25 DECISION WHETHER TO DIRECT FILE CHARGES. THE DISTRICT ATTORNEY
26 SHALL NOT DIRECT FILE CHARGES UNTIL THE FOURTEEN-DAY PERIOD FOR
27 CONSIDERATION HAS PASSED. NOTHING IN THIS SECTION SHALL REQUIRE

1 THE DISTRICT ATTORNEY TO EXTEND THE PERIOD FOR CONSIDERATION;
2 NOR SHALL ANYTHING IN THIS SECTION PROHIBIT THE DISTRICT ATTORNEY
3 FROM AGREEING WITH THE JUVENILE'S COUNSEL OF RECORD TO EXTEND
4 THE PERIOD FOR CONSIDERATION. FURTHER, NOTHING IN THIS SECTION
5 SHALL PRECLUDE THE DISTRICT ATTORNEY FROM DIRECT FILING THE
6 CHARGES AFTER THE EXPIRATION OF THE PERIOD FOR CONSIDERATION.

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

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

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

22 (5) UPON THE DIRECT FILING OF CHARGES IN THE DISTRICT COURT
23 PURSUANT TO THIS SECTION, THE DISTRICT ATTORNEY SHALL FILE A
24 WRITTEN STATEMENT LISTING THE SPECIFIC FACTORS SET FORTH IN
25 SUBSECTION (3) OF THIS SECTION UPON WHICH THE DECISION TO DIRECT
26 FILE WAS BASED.

27 (6) (a) IF A JUVENILE IS CONVICTED FOLLOWING THE FILING OF

1 CRIMINAL CHARGES BY INFORMATION OR INDICTMENT IN THE DISTRICT
2 COURT PURSUANT TO THIS SECTION, THE DISTRICT JUDGE SHALL SENTENCE
3 THE JUVENILE AS FOLLOWS:

4 (I) AS AN ADULT; OR

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

9 (A) A CLASS 1 FELONY;

10 (B) ANY SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301 OR
11 18-6-302, C.R.S., OR PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.; OR

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

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

22 (b) THE DISTRICT COURT JUDGE MAY SENTENCE A JUVENILE
23 PURSUANT TO THE PROVISIONS OF THIS ARTICLE IF THE JUVENILE IS
24 CONVICTED OF A LESSER INCLUDED OR NONENUMERATED OFFENSE FOR
25 WHICH CRIMINAL CHARGES COULD NOT HAVE BEEN ORIGINALLY FILED BY
26 INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS
27 SECTION.

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

4 (a) SECTION 19-2-908 (1) (a), REGARDING MANDATORY SENTENCE
5 OFFENDERS;

6 (b) SECTION 19-2-908 (1) (b), REGARDING REPEAT JUVENILE
7 OFFENDERS;

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

10 (d) SECTION 19-2-601, REGARDING AGGRAVATED JUVENILE
11 OFFENDERS.

12 (8) THE COURT IN ITS DISCRETION MAY APPOINT A GUARDIAN AD
13 LITEM FOR A JUVENILE CHARGED BY THE DIRECT FILING OF AN
14 INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO
15 THIS SECTION.

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

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

20 **19-2-518. Transfers.** (1) (d) (II) In cases in which criminal
21 charges are transferred to the district court pursuant to the provisions of
22 this section, the judge of the district court may sentence to the youthful
23 offender system created in section 18-1.3-407, C.R.S., any juvenile who
24 would otherwise be sentenced pursuant to the provisions of subparagraph
25 (I) of this paragraph (d); except that a juvenile shall be ineligible for
26 sentencing to the youthful offender system if the juvenile is convicted of:

27 (B) ~~A class 2 felony as a result of a plea agreement in cases where~~

1 ~~the juvenile is charged with a class 1 felony;~~

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

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

8 ~~(d.5) Notwithstanding the provisions of subparagraph (H) of~~
9 ~~paragraph (d) of this subsection (1), a juvenile who is charged with first~~
10 ~~degree murder as described in section 18-3-102(1)(b), C.R.S., and pleads~~
11 ~~guilty to a class 2 felony as a result of a plea agreement is eligible for~~
12 ~~sentencing to the youthful offender system if the juvenile would be~~
13 ~~eligible for sentencing to the youthful offender system for a conviction of~~
14 ~~the felony underlying the charge of first degree murder as described in~~
15 ~~section 18-3-102(1)(b), C.R.S.~~

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

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

25 **16-11-102. Presentence or probation investigation.** (1.8) Upon
26 the request of either the prosecution or the defense, each presentence
27 report prepared regarding a youthful offender, as defined in section

1 18-1.3-407, C.R.S., who is eligible for sentencing to the youthful offender
2 system pursuant to section 18-1.3-407.5, 19-2-517 (3) (6), or 19-2-518 (1)
3 (d) (II), ~~or (1) (d.5)~~, C.R.S., shall include a determination by the warden
4 of the youthful offender system whether the youthful offender is
5 acceptable for sentencing to the youthful offender system. When making
6 a determination, the warden shall consider the nature and circumstances
7 of the crime, the circumstances and criminal history of the youthful
8 offender, the available bed space in the youthful offender system, and any
9 other appropriate considerations.

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

12 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within
13 the limitations of the applicable statute pertaining to sentencing and
14 subject to the provisions of this title, the trial court has the following
15 alternatives in entering judgment imposing a sentence:

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

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

22 **18-1.3-407. Sentences - youthful offenders - legislative**
23 **declaration - powers and duties of district court - authorization for**
24 **youthful offender system - powers and duties of department of**
25 **corrections - definitions.** (1) (b) It is the further intent of the general
26 assembly in enacting this section that female and male offenders who are
27 eligible for sentencing to the youthful offender system pursuant to section

1 18-1.3-407.5 or section 19-2-517 ~~(3)~~ (6) or 19-2-518 (1) (d) (II), ~~or (1)~~
2 ~~(d.5)~~, C.R.S., receive equitable treatment in sentencing, particularly in
3 regard to the option of being sentenced to the youthful offender system.
4 Accordingly, it is the general assembly's intent that necessary measures
5 be taken by the department of corrections to establish separate housing
6 for female and male offenders who are sentenced to the youthful offender
7 system without compromising the equitable treatment of either.

8 (2) (a) (I) A juvenile may be sentenced to the youthful offender
9 system created pursuant to this section under the circumstances set forth
10 in section 19-2-517 ~~(3)(a)(II) or (3)(a.5)~~ (6) (a) (II) or 19-2-518 (1) (d)
11 (II), ~~or (1)(d.5)~~, C.R.S. A young adult offender may be sentenced to the
12 youthful offender system created pursuant to this section under the
13 circumstances set forth in section 18-1.3-407.5. In order to sentence a
14 juvenile or young adult offender to the youthful offender system, the
15 court shall first impose upon such person a sentence to the department of
16 corrections in accordance with section 18-1.3-401. The court shall
17 thereafter suspend such sentence conditioned on completion of a sentence
18 to the youthful offender system, including a period of community
19 supervision. The court shall impose any such sentence to the youthful
20 offender system for a determinate period of not fewer than two years nor
21 more than six years; except that a juvenile or young adult offender
22 convicted of a class 2 felony may be sentenced for a determinate period
23 of up to seven years. In imposing such sentence, the court shall grant
24 authority to the department of corrections to place the offender under a
25 period of community supervision for a period of not fewer than six
26 months and up to twelve months any time after the date on which the
27 offender has twelve months remaining to complete the determinate

1 sentence. The court may award an offender sentenced to the youthful
2 offender system credit for presentence confinement; except that such
3 credit shall not reduce the offender's actual time served in the youthful
4 offender system to fewer than two years. The court shall have a
5 presentence investigation conducted before sentencing a juvenile or
6 young adult offender pursuant to this section. Upon the request of either
7 the prosecution or the defense, the presentence report shall include a
8 determination by the warden of the youthful offender system whether the
9 offender is acceptable for sentencing to the youthful offender system.
10 When making a determination, the warden shall consider the nature and
11 circumstances of the crime; the age, circumstances, and criminal history
12 of the offender; the available bed space in the youthful offender system;
13 and any other appropriate considerations.

14 (2.1) (a) As originally enacted, this section applied only to
15 offenses committed by juveniles on or after September 13, 1993. For
16 purposes of extending the availability of sentencing options, a juvenile
17 who meets the criteria set forth in section 19-2-517 ~~(3)~~ (6) (a) (II), C.R.S.,
18 may be sentenced to the youthful offender system pursuant to this section,
19 under the following circumstances:

20 **SECTION 6. Appropriation - adjustments to the 2010 long bill**
21 **- legislative intent.** (1) In addition to any other appropriation, there is
22 hereby appropriated, out of any moneys in the general fund not otherwise
23 appropriated, to the department of human services, for allocation to the
24 division of youth corrections, for the purchase of contract placements , for
25 the fiscal year beginning July 1, 2010, the sum of three hundred
26 seventy-one thousand eight hundred eighty dollars (\$371,880), or so
27 much thereof as may be necessary, for the implementation of this act.

1 (2) In addition to any other appropriation, there is hereby
2 appropriated, out of any moneys in the general fund not otherwise
3 appropriated, to the department of corrections, institutions, for the
4 youthful offender system subprogram, for the fiscal year beginning July
5 1, 2010, the sum of one hundred thirty-five thousand six hundred
6 seventy-eight dollars (\$135,678), or so much thereof as may be necessary,
7 for the implementation of this act.

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

14 (4) It is the intent of the general assembly that the general fund
15 appropriation for the implementation of this act shall be derived from
16 savings generated from the implementation of the provisions of House
17 Bill 10-1360, as enacted during the second regular session of the
18 sixty-seventh general assembly.

19 **SECTION 7. Act subject to petition - effective date -**
20 **applicability.** (1) Except as otherwise provided in subsection (2) of this
21 section, this act shall take effect at 12:01 a.m. on the day following the
22 expiration of the ninety-day period after final adjournment of the general
23 assembly (August 11, 2010, if adjournment sine die is on May 12, 2010);
24 except that, if a referendum petition is filed pursuant to section 1 (3) of
25 article V of the state constitution against this act or an item, section, or
26 part of this act within such period, then the act, item, section, or part shall
27 not take effect unless approved by the people at the general election to be

1 held in November 2010 and shall take effect on the date of the official
2 declaration of the vote thereon by the governor.

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

4 (a) The final fiscal estimate for House Bill 10-1360, as determined
5 from the appropriations enacted in said bill, shows a net reduction in the
6 amount of general fund revenues appropriated for state fiscal year
7 2010-11, that is equal to or greater than amount of the general fund
8 appropriation made for the implementation of this act for state fiscal year
9 2010-11, as reflected in section 6 of this act; and

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

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

15 (3) (a) Except as otherwise provided in paragraph (b) of this
16 subsection (3), 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.