

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 13-0396.01 Michael Dohr x4347

HOUSE BILL 13-1254

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A BILL FOR AN ACT

101 **CONCERNING RESTORATIVE JUSTICE, AND, IN CONNECTION**
102 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

Under current law, restorative justice victim-offender conferences must be initiated by the victim. The bill modifies the requirement of victim initiation in some instances to permit district attorney or offender initiation. There is a restorative justice coordinating council established in the state court administrator's office; the bill adds:

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.

- ! A member of the parole board;
- ! A representative from the department of corrections;
- ! A representative from a statewide organization representing victims; and
- ! A restorative justice practitioner.

The restorative justice coordinating council shall develop a uniform restorative justice satisfaction evaluation. The council shall collect information regarding all existing restorative justice programs and practices and report that data to the house and senate judiciary committees by January 31, 2014.

The bill creates a pilot project for restorative justice programs in 4 judicial districts. At each site, if a juvenile who is under 18 years of age and could be charged in the petition with a misdemeanor and has not been previously charged or who has not participated in the pilot project, the district attorney shall assess the juvenile's suitability for restorative justice. The district attorney may also refer any juvenile who is charged with a class 3, 4, 5, or 6 felony and has not been previously charged or who has not participated in the pilot project. If the district attorney determines that the juvenile is a suitable candidate for the restorative justice program, the district attorney may offer the juvenile an opportunity to participate in the restorative justice program. If the juvenile agrees to participate, the district attorney shall not file charges pending completion of the program. If the juvenile fails to complete the program, the district attorney may file a petition against the juvenile. The pilot project sites must annually report to the division of criminal justice in the department of public safety certain information on the pilot projects. The division of criminal justice shall prepare an annual report based on the information received.

The bill creates a \$10 surcharge on all crimes to support a restorative justice fund. The fund will be used to defray the costs of restorative justice programs and administrative costs of the restorative justice coordinating council.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-901, **amend** (3)
 3 (o.5) as follows:

4 **18-1-901. Definitions.** (3) (o.5) "Restorative justice practices"
 5 means practices that emphasize repairing the harm caused to victims and
 6 the community by offenses. Restorative justice practices include
 7 ~~victim-initiated~~ victim-offender conferences, family group conferences,

1 circles, community conferences, and other similar victim-centered
2 practices. Restorative justice practices are facilitated meetings attended
3 voluntarily by the victim or victim's representatives, the victim's
4 supporters, the offender, and the offender's supporters and may include
5 community members. By engaging the parties to the offense in voluntary
6 dialogue, restorative justice practices provide an opportunity for the
7 offender to accept responsibility for the harm caused to the victim and
8 community, promote victim healing, and enable the participants to agree
9 on consequences to repair the harm, to the extent possible, including but
10 not limited to apologies, community service, reparation, restoration, and
11 counseling. Restorative justice practices may be used in addition to any
12 other conditions, consequences, or sentence imposed by the court.

13 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-204, **amend**
14 (2) (a) (III.5) as follows:

15 **18-1.3-204. Conditions of probation - interstate compact**
16 **probation transfer cash fund - creation.** (2) (a) When granting
17 probation, the court may, as a condition of probation, require that the
18 defendant:

19 (III.5) Participate in restorative justice practices, as defined in
20 section 18-1-901 (3) (o.5), if available in the jurisdiction, ~~requested by the~~
21 ~~victim who has been informed about restorative justice practices pursuant~~
22 ~~to section 24-4.1-303 (11) (g), C.R.S.,~~ and the defendant is
23 determined suitable by a designated restorative justice practices
24 facilitator. ~~IF A DEFENDANT WANTS TO PARTICIPATE IN RESTORATIVE~~
25 ~~JUSTICE PRACTICES, THE DEFENDANT MUST MAKE THE REQUEST TO THE~~
26 ~~DISTRICT ATTORNEY OR THE LAW ENFORCEMENT AGENCY ADMINISTERING~~
27 ~~THE PROGRAM AND MAY NOT MAKE THE REQUEST TO THE VICTIM. IF~~

1 REQUESTED BY THE DEFENDANT, DISTRICT ATTORNEY, OR LAW
2 ENFORCEMENT AGENCY, A VICTIM-OFFENDER CONFERENCE MAY ONLY BE
3 CONDUCTED AFTER THE VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY
4 AND OFFERED THE OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM
5 IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM
6 OFFENDER CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM
7 SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A
8 VICTIM-IMPACT STATEMENT. To be eligible for restorative justice
9 practices, the defendant shall not have been convicted of unlawful sexual
10 behavior as defined in section 16-22-102 (9), C.R.S., a crime in which the
11 underlying factual basis involves domestic violence, as defined in section
12 18-6-800.3 (1), stalking as defined in section 18-3-602, or violation of a
13 protection order as defined in section 18-6-803.5. Any statements made
14 during a restorative justice conference shall be confidential and shall not
15 be used as a basis for charging or prosecuting the defendant unless the
16 defendant commits a chargeable offense during the conference. Failure
17 to complete the requirements arising from a restorative justice conference
18 may be considered a violation of probation. Nothing in this subparagraph
19 (III.5) shall be construed to require a victim to participate in RESTORATIVE
20 JUSTICE PRACTICES OR a restorative justice victim-offender conference.

21 **SECTION 3.** In Colorado Revised Statutes, 19-1-103, **amend**
22 (44) as follows:

23 **19-1-103. Definitions.** As used in this title or in the specified
24 portion of this title, unless the context otherwise requires:

25 (44) "Diversion" means a decision made by a person with
26 authority or a delegate of that person that results in specific official action
27 of the legal system not being taken in regard to a specific juvenile or child

1 and in lieu thereof providing individually designed services by a specific
2 program. The goal of diversion is to prevent further involvement of the
3 juvenile or child in the formal legal system. Diversion of a juvenile or
4 child may take place either at the prefiling level as an alternative to the
5 filing of a petition pursuant to section 19-2-512 or at the postadjudication
6 level as an adjunct to probation services following an adjudicatory
7 hearing pursuant to section 19-3-505 or a disposition as a part of
8 sentencing pursuant to section 19-2-907. "Services", as used in this
9 subsection (44), includes but is not limited to diagnostic needs
10 assessment, restitution programs, community service, job training and
11 placement, specialized tutoring, constructive recreational activities,
12 general counseling and counseling during a crisis situation, and follow-up
13 activities. Services may include restorative justice practices as defined in
14 section 18-1-901 (3) (o.5), C.R.S., ~~as requested by the victim, after being~~
15 ~~informed about restorative justice practices pursuant to section~~
16 ~~24-4.1-303 (11) (g), C.R.S.~~, and as deemed suitable by the probation
17 department or a designated restorative justice practices facilitator. ■ ■
18 ~~Such practices may include victim-offender conferences, if requested by~~
19 ~~the victim.~~ Restorative justice practices shall be conducted by facilitators
20 recommended by the district attorney.

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

23 **19-2-213. Restorative justice coordinating council -**
24 **establishment - membership - repeal.** (1) (a) A council to provide
25 assistance and education related to restorative justice programs is hereby
26 established. The council shall be known as the "restorative justice
27 coordinating council" and shall be established in the state judicial

1 department within the office of the state court administrator. To the extent
2 that resources permit, the restorative justice coordinating council shall
3 support the development of restorative justice programs, serve as a central
4 repository for information, assist in the development and provision of
5 related education and training, and provide technical assistance to entities
6 engaged in or wishing to develop restorative justice programs.

7 (b) IN ORDER TO ASSESS THE EFFICACY OF RESTORATIVE JUSTICE
8 PRACTICES IN PROVIDING SATISFACTION TO PARTICIPANTS, THE COUNCIL
9 SHALL DEVELOP A UNIFORM RESTORATIVE JUSTICE SATISFACTION
10 EVALUATION BY SEPTEMBER 1, 2013. THE EVALUATION MUST BE BASED
11 ON RESEARCH PRINCIPLES. THE EVALUATION SHALL INCLUDE A
12 PRE-CONFERENCE QUESTIONNAIRE TO ESTABLISH A BASELINE AND A
13 POST-CONFERENCE QUESTIONNAIRE THAT IS SUITABLE TO ADMINISTER TO
14 RESTORATIVE JUSTICE PARTICIPANTS, INCLUDING COMMUNITY MEMBERS,
15 PARTICIPATING VICTIMS, AND OFFENDERS.

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

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

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

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

24 AND

25 (C) THE BACKGROUND, TRAINING, AND RESTORATIVE JUSTICE
26 EXPERIENCE OF THE FACILITATORS IN THE RESTORATIVE JUSTICE
27 PROGRAM.

1 (d) (I) THE COUNCIL SHALL COLLECT INFORMATION REGARDING
2 RESTORATIVE JUSTICE PRACTICES IN THE STATE AND SHALL REPORT TO THE
3 JUDICIARY COMMITTEES OF THE SENATE AND HOUSE REPRESENTATIVES BY
4 JANUARY 31, 2014. THE REPORT MUST INCLUDE INFORMATION ON THE
5 NUMBER OF CASES IN WHICH RESTORATIVE JUSTICE WAS CONSIDERED,
6 USED, AND NOT USED, INCLUDING THE DEMOGRAPHIC INFORMATION OF
7 THE INDIVIDUALS, A DESCRIPTION OF THE RESTORATIVE JUSTICE PRACTICES
8 USED, AND THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE
9 SATISFACTION EVALUATION. THE INFORMATION MUST ALSO BE IDENTIFIED
10 BY THE COURT EMPLOYING THE RESTORATIVE JUSTICE PRACTICES, BY THE
11 OUTCOME OF THE RESTORATIVE JUSTICE PRACTICES, AND BY THE POINT IN
12 THE CRIMINAL OR JUVENILE JUSTICE PROCESS IN WHICH RESTORATIVE
13 JUSTICE WAS CONSIDERED OR USED.

14 (II) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.

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

17 (g) A victim's advocate within the judicial department with
18 restorative justice experience who shall be appointed by the state court
19 administrator; ~~and~~

20 (i) A REPRESENTATIVE FROM THE STATE BOARD OF PAROLE
21 APPOINTED BY THE CHAIR OF THE PAROLE BOARD;

22 (j) A REPRESENTATIVE FROM THE DEPARTMENT OF CORRECTIONS
23 APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
24 CORRECTIONS;

25 (k) A REPRESENTATIVE FROM A NONGOVERNMENT STATEWIDE
26 ORGANIZATION REPRESENTING VICTIMS APPOINTED BY THE EXECUTIVE
27 DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY; ■

1 (l) THREE RESTORATIVE JUSTICE PRACTITIONERS APPOINTED BY
2 THE EXECUTIVE DIRECTOR OF THE JUDICIAL DEPARTMENT; AND

3 (m) A REPRESENTATIVE OF THE JUVENILE PAROLE BOARD
4 APPOINTED BY THE CHAIR OF THE JUVENILE PAROLE BOARD.

5 SECTION 5. In Colorado Revised Statutes, add 19-2-510.5 as
6 follows:

7 19-2-510.5. Restorative justice pilot project - definitions -
8 repeal. (1) THE GENERAL ASSEMBLY FINDS THAT:

9 (a) JUVENILES SHOULD BE CONFRONTED WITH AND HELD
10 ACCOUNTABLE FOR THEIR OFFENDING BEHAVIOR AND GIVEN
11 OPPORTUNITIES TO TAKE RESPONSIBILITY FOR THEIR ACTIONS BY MAKING
12 AMENDS TO THE VICTIM AND COMMUNITY;

13 (b) JUVENILE OFFENDING IS OFTEN OPPORTUNISTIC BEHAVIOR,
14 WHICH IS OUTGROWN;

15 (c) INVOLVEMENT WITH THE JUVENILE JUSTICE SYSTEM CAN BE
16 DETRIMENTAL TO JUVENILES AND SHOULD BE PREVENTED WHEN POSSIBLE;

17 (d) BY INVOLVING JUVENILES IN RESTORATIVE JUSTICE PRACTICES,
18 THEY CAN BETTER UNDERSTAND THE EFFECTS OF THEIR CONDUCT IN
19 HUMAN TERMS;

20 (e) THE JUVENILE JUSTICE SYSTEM SHOULD INCORPORATE
21 EVIDENCE-BASED PRACTICES DERIVED FROM THE PILOT PROJECT'S
22 RESEARCH AND DATA;

23 (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
24 SECTION:

25 (I) ESTABLISH A PILOT PROGRAM TO FACILITATE AND ENCOURAGE
26 DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM TO
27 RESTORATIVE JUSTICE PRACTICES, BOTH TO PROVIDE DATA TO ASSESS THE

1 EFFICACY OF RESTORATIVE JUSTICE TO REDUCE RECIDIVISM, TO ASSIST IN
2 REPAIRING THE HARM CAUSED TO VICTIMS AND THE COMMUNITY,
3 INCREASE VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION,
4 AND REDUCE COST; AND TO PROMOTE THE RESTORATIVE JUSTICE
5 PRINCIPLES OF RECONCILIATION, RESPONSIBILITY, REINTEGRATION,
6 RESPECT, RELATIONSHIP-BUILDING, AND 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 SHOULD ENSURE ACCOUNTABILITY
13 WHILE ALLOWING JUVENILES TO AVOID THE COLLATERAL CONSEQUENCES
14 ASSOCIATED WITH CRIMINAL CHARGES AND CONVICTIONS.

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

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

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

27 (II) THE NUMBER OF JUVENILES IN THE JURISDICTION'S JUVENILE

1 JUSTICE SYSTEM WHO MET THE CRITERIA IN PARAGRAPH (b) OF
2 SUBSECTION (3) OF THIS SECTION;

3 (III) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE
4 RESTORATIVE JUSTICE PROGRAM, INCLUDING DEMOGRAPHIC INFORMATION
5 CONSISTING OF THE JUVENILE'S AGE, RACE, AND GENDER, AND EACH
6 CHARGE AT ARREST;

7 (IV) THE NUMBER OF JUVENILES PARTICIPATING IN THE
8 RESTORATIVE JUSTICE PROGRAM WHO REACHED AN AGREEMENT TO REPAIR
9 THE HARM AND SUCCESSFULLY COMPLETED THE RESTORATIVE JUSTICE
10 PROGRAM AND THE NUMBER OF JUVENILES WHO DID NOT COMPLETE THE
11 RESTORATIVE JUSTICE PROGRAM AND THE REASON FOR NONCOMPLETION;

12 (V) THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE
13 SATISFACTION EVALUATION DEVELOPED PURSUANT TO SECTION 19-2-213
14 (1) (b);

15 (VI) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE
16 RESTORATIVE JUSTICE PROGRAM AND HAD A SUBSEQUENT ARREST OR
17 JUVENILE PETITION FILED AGAINST HIM OR HER IN THE SAME OR ANOTHER
18 JUDICIAL DISTRICT WITHIN ONE YEAR; AND

19 (VII) THE NUMBER OF VICTIMS WHO:

20 (A) WERE CONTACTED FOR PARTICIPATION;

21 (B) PARTICIPATED;

22 (C) SUBMITTED VICTIM IMPACT STATEMENTS;

23 (D) SENT A SURROGATE; OR

24 (E) DECLINED TO PARTICIPATE IN A RESTORATIVE JUSTICE
25 PROGRAM.

26 (c) (I) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A
27 REPORT BASED ON THE INFORMATION IT RECEIVES PURSUANT TO

1 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2014.

2 (II) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A REPORT
3 THAT INCLUDES A SUMMARY OF THE PILOT PROJECT SITES AND THE
4 EXISTING SITES BASED ON THE INFORMATION IT RECEIVES PURSUANT TO
5 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2015.

6 (3) (a) THE PILOT PROJECT AND EXISTING SITES MUST IMPLEMENT
7 A RESTORATIVE JUSTICE PROGRAM THAT REQUIRES THE DISTRICT
8 ATTORNEY, PRIOR TO FILING CHARGES, TO ASSESS IF THE JUVENILE IS
9 SUITABLE FOR PARTICIPATION IN THE RESTORATIVE JUSTICE PILOT
10 PROGRAM BASED ON THE CONSIDERATIONS SET FORTH IN SECTION
11 19-2-512 (2). IF THE ASSESSMENT DETERMINES THE JUVENILE IS SUITABLE,
12 THE DISTRICT ATTORNEY, AFTER CONSULTATION WITH THE VICTIM IN A
13 VICTIMS' RIGHTS ACT CRIME, MAY OFFER THE JUVENILE PREFILING
14 DIVERSION TO A PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES. IF
15 THE JUVENILE ACCEPTS PARTICIPATION IN THE PROGRAM UTILIZING
16 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL NOT
17 FILE THE PETITION. THE DISTRICT ATTORNEY SHALL PLACE THE JUVENILE
18 IN A DIVERSION PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES,
19 AND THE JUVENILE SHALL PAY A FEE OF ONE HUNDRED TWENTY-FIVE
20 DOLLARS, BUT THE FEE MAY BE REDUCED ON SLIDING SCALE BASED ON
21 INCOME CONSISTENT WITH GUIDELINES USED TO DETERMINE ELIGIBILITY
22 FOR APPOINTMENT OF COUNSEL. IF THE JUVENILE SUCCESSFULLY
23 COMPLETES THE PROGRAM, THE DISTRICT ATTORNEY SHALL NOT FILE A
24 PETITION AGAINST THE JUVENILE FOR THE ALLEGED CRIMES THAT LED TO
25 PARTICIPATION IN THE PROGRAM. IF THE JUVENILE IS CHARGED WITH A
26 NEW OFFENSE WHILE IN THE PROGRAM OR DOES NOT SUCCESSFULLY
27 COMPLETE THE PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, THE

1 DISTRICT ATTORNEY MAY INITIATE A PETITION AGAINST THE JUVENILE AND
2 SHALL PROCEED AS AUTHORIZED IN THIS ARTICLE. ANY STATEMENTS
3 MADE DURING THE CONFERENCE ARE CONFIDENTIAL AND MAY NOT BE
4 USED AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT UNLESS
5 THE DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE
6 CONFERENCE. EACH PARTICIPANT IN THE RESTORATIVE JUSTICE PROGRAM
7 SHALL COMPLETE THE UNIFORM RESTORATIVE JUSTICE SATISFACTION
8 EVALUATION.

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

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

12 (II) HAS NOT BEEN PREVIOUSLY ADJUDICATED FOR AN OFFENSE
13 THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT AND HAS NOT
14 PREVIOUSLY PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS
15 SECTION; 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) BEFORE IMPLEMENTING A RESTORATIVE JUSTICE PILOT
24 PROJECT, EACH JUDICIAL DISTRICT SHALL, IN CONSULTATION WITH THE
25 COUNCIL, ESTABLISH GUIDELINES TO BE FOLLOWED FOR SUCH PROJECT.
26 SUCH GUIDELINES SHALL INCLUDE: A FRONT-END ASSESSMENT OF THE
27 OFFENDER, THE CRIME, VICTIM IMPACT, AND THE BEST METHODOLOGY TO

1 INVOLVE VICTIMS; CONSIDERATION FOR SERVICES AND PROGRAMMATIC
2 SUPPORT AVAILABLE; AND A THOROUGH AND APPROPRIATE EVALUATION
3 OF THE PILOT PROJECT.

4 (5) THE RESTORATIVE JUSTICE PILOT PROJECT SITES SHALL
5 RECEIVE FUNDS FROM THE RESTORATIVE JUSTICE SURCHARGE FUND
6 CREATED IN SECTION 18-25-101 (3), C.R.S.

7 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2015.

8 **SECTION 6.** In Colorado Revised Statutes, 19-2-512, **amend** (2)
9 as follows:

10 **19-2-512. Petition initiation.** (2) If the petition is the first
11 juvenile petition filed against the juvenile in any jurisdiction and is
12 initiated in a jurisdiction that has restorative justice practices available,
13 the district attorney or his or her designee may determine whether a
14 juvenile is suitable for restorative justice practices. ~~In making a~~
15 ~~determination of whether the juvenile is suitable for restorative justice~~
16 ~~practices, the district attorney shall first determine whether the victim,~~
17 ~~having been informed about restorative justice practices pursuant to~~
18 ~~section 24-4.1-303 (11) (g), C.R.S., is requesting consideration of~~
19 ~~restorative justice practices as an alternative to formal prosecution. Upon~~
20 ~~such request,~~ The district attorney shall consider WHETHER THE VICTIM,
21 HAVING BEEN INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES
22 PURSUANT TO SECTION 24-4.1-303 (11) (g), C.R.S., IS REQUESTING
23 CONSIDERATION OF RESTORATIVE JUSTICE PRACTICES AS AN ALTERNATIVE
24 TO FORMAL PROSECUTION; THE SERIOUSNESS OF THE CRIME; THE CRIME'S
25 IMPACT ON THE VICTIM; THE BEST METHODOLOGY TO INVOLVE THE
26 VICTIM; whether the juvenile accepts responsibility for, expresses remorse
27 for, and 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 support the
2 juvenile in the process; AND OTHER PROGRAMMATIC SUPPORT AVAILABLE.
3 ~~If requested by the victim, restorative justice practices may be utilized as~~
4 ~~part of this process.~~ IF A JUVENILE WANTS TO PARTICIPATE IN
5 RESTORATIVE JUSTICE PRACTICES, THE JUVENILE MUST MAKE THE REQUEST
6 TO THE DISTRICT ATTORNEY OR THE LAW ENFORCEMENT AGENCY
7 ADMINISTERING THE PROGRAM AND MAY NOT MAKE THE REQUEST TO THE
8 VICTIM. IF REQUESTED BY THE JUVENILE, RESTORATIVE JUSTICE PRACTICES
9 MAY ONLY BE CONDUCTED AFTER THE VICTIM IS CONSULTED BY THE
10 DISTRICT ATTORNEY AND OFFERED AN OPPORTUNITY TO PARTICIPATE OR
11 SUBMIT A VICTIM IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO
12 ATTEND, A VICTIM-OFFENDER CONFERENCE MAY BE HELD WITH A
13 SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM
14 MAY SUBMIT A VICTIM-IMPACT STATEMENT. The district attorney may
15 offer dismissal of charges as an option for the successful completion of
16 these and any other conditions imposed and designed to address the harm
17 done to the victim and the community by the offender, subject to approval
18 by the court.

19 **SECTION 7.** In Colorado Revised Statutes, 19-2-706, **amend** (1)
20 as follows:

21 **19-2-706. Advisement.** (1) At the first appearance before the
22 court after the filing of a petition, the juvenile and his or her parents,
23 guardian, or other legal custodian shall be advised by the court of their
24 constitutional and legal rights as set forth in rule 3 of the Colorado rules
25 of juvenile procedure. Such advisement shall include the possibility of
26 restorative justice practices, including victim-offender conferences if
27 ~~applicable~~ IF RESTORATIVE JUSTICE PRACTICES ARE AVAILABLE IN THE

1 JURISDICTION. The advisement regarding restorative justice practices does
2 not establish any right to restorative justice practices on behalf of the
3 juvenile. ~~and failure to provide an advisement regarding restorative~~
4 ~~justice practices does not constitute any legal error by the court.~~

5 **SECTION 8.** In Colorado Revised Statutes, 19-2-708, **amend** (2)
6 as follows:

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

17 **SECTION 9.** In Colorado Revised Statutes, 19-2-905, **amend** (4)
18 as follows:

19 **19-2-905. Presentence investigation.** (4) Prior to sentencing a
20 juvenile who was adjudicated for an offense that would be a felony or
21 misdemeanor not contained in title 42, C.R.S., if committed by an adult,
22 the court ~~upon the request of the victim,~~ may order the juvenile to
23 participate in an assessment to determine whether the juvenile would be
24 suitable for participation in restorative justice practices that would be a
25 part of the juvenile's sentence; except that the court may not order
26 participation in a restorative justice practice if the juvenile was
27 adjudicated a delinquent for unlawful sexual behavior, as defined in

1 section 16-22-102 (9), C.R.S., a crime in which the underlying factual
2 basis involves domestic violence, as defined in section 18-6-800.3 (1),
3 C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a
4 protection order as defined in section 18-6-803.5, C.R.S. If the court
5 orders a suitability assessment, the assessor shall provide the services for
6 a fee of no more than forty dollars based on a sliding scale; however, the
7 fee may be ~~waived by the court~~ REDUCED BY THE COURT BASED ON A
8 SLIDING SCALE CONSISTENT WITH GUIDELINES USED TO DETERMINE
9 ELIGIBILITY FOR APPOINTMENT OF COUNSEL. IF A JUVENILE WANTS TO
10 PARTICIPATE IN RESTORATIVE JUSTICE PRACTICES, THE JUVENILE MUST
11 MAKE THE REQUEST TO THE DISTRICT ATTORNEY OR THE LAW
12 ENFORCEMENT AGENCY ADMINISTERING THE PROGRAM AND MAY NOT
13 MAKE THE REQUEST TO THE VICTIM. IF REQUESTED BY THE JUVENILE OR
14 LAW ENFORCEMENT AGENCY, A VICTIM-OFFENDER CONFERENCE MAY
15 ONLY BE CONDUCTED AFTER THE VICTIM IS CONSULTED BY THE DISTRICT
16 ATTORNEY AND OFFERED AN OPPORTUNITY TO PARTICIPATE OR SUBMIT A
17 VICTIM IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A
18 VICTIM-OFFENDER CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM
19 SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A
20 VICTIM-IMPACT STATEMENT. If the juvenile participates in a restorative
21 justice practices victim-offender conference, the facilitator shall provide
22 these services for a fee of no more than one hundred twenty-five dollars
23 based on a sliding scale; however, the fee may be waived by the court.

24 **SECTION 10.** In Colorado Revised Statutes, **add** article 25 to
25 title 18 as follows:

26 **ARTICLE 25**

27 **Restorative Justice Surcharge**

1 **18-25-101. Restorative justice surcharge - definitions.**

2 (1) EACH PERSON WHO IS CONVICTED OF A CRIME AND EACH JUVENILE
3 ADJUDICATED OF A CRIME SHALL BE REQUIRED TO PAY A TEN DOLLAR
4 SURCHARGE TO THE CLERK OF THE COURT FOR THE JUDICIAL DISTRICT IN
5 WHICH THE CONVICTION OCCURS.

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

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

13 (b) NINETY-FIVE PERCENT SHALL BE TRANSFERRED TO THE STATE
14 TREASURER, WHO SHALL CREDIT THE SAME TO THE RESTORATIVE JUSTICE
15 SURCHARGE FUND CREATED PURSUANT TO SUBSECTION (3) OF THIS
16 SECTION.

17 (3) (a) THERE IS CREATED IN THE STATE TREASURY THE
18 RESTORATIVE JUSTICE SURCHARGE FUND THAT CONSISTS OF MONEYS
19 RECEIVED BY THE STATE TREASURER PURSUANT TO THIS SECTION. THE
20 MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
21 GENERAL ASSEMBLY TO THE JUDICIAL DEPARTMENT FOR DISTRIBUTION TO
22 JUDICIAL DISTRICTS THAT OFFER RESTORATIVE JUSTICE PROGRAMS AND TO
23 THE RESTORATIVE JUSTICE COORDINATING COUNCIL FOR ADMINISTRATIVE
24 EXPENSES.

25 (b) THE JUDICIAL DEPARTMENT SHALL ESTABLISH GUIDELINES FOR
26 THE DISTRIBUTION OF THE MONEYS FROM THE FUND TO ASSIST IN
27 DEFRAYING THE COSTS OF RESTORATIVE JUSTICE PROGRAMS, INCLUDING

1 BUT NOT LIMITED TO PROCEDURES FOR PROGRAMS TO USE IN APPLYING TO
2 THE JUDICIAL DEPARTMENT FOR MONEYS FROM THE FUND.

3 (c) THE JUDICIAL DEPARTMENT SHALL NOT EXPEND ANY MONEYS
4 UNTIL THE FUND HAS ENOUGH MONEY TO PAY THE EXPENSES NECESSARY
5 TO ADMINISTER THE FUND.

6 (d) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
7 OF MONEYS IN THE FUND MUST BE CREDITED TO THE FUND. ANY MONEYS
8 NOT APPROPRIATED BY THE GENERAL ASSEMBLY MUST REMAIN IN THE
9 FUND AND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND
10 OF THE STATE AT THE END OF ANY FISCAL YEAR.

11 (4) THE COURT MAY WAIVE ALL OR ANY PORTION OF THE
12 SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION IF THE COURT
13 FINDS THAT A PERSON OR JUVENILE IS INDIGENT OR FINANCIALLY UNABLE
14 TO PAY ALL OR ANY PORTION OF THE SURCHARGE. THE COURT MAY WAIVE
15 ONLY THAT PORTION OF THE SURCHARGE THAT THE COURT FINDS THAT
16 THE PERSON OR JUVENILE IS FINANCIALLY UNABLE TO PAY.

17 (5) AS USED IN THIS SECTION, "CONVICTED" AND "CONVICTION"
18 MEAN A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF
19 GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION
20 18-1.3-102, A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO
21 CONTEST ACCEPTED BY THE COURT.

22 **SECTION 11.** In Colorado Revised Statutes, 24-4.1-302.5,
23 **amend** (1) and (1.5) as follows:

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

27 (1.5) The right to be informed about the possibility of restorative

1 justice practices, as defined in section 18-1-901 (3) (o.5), C.R.S., WHICH
2 INCLUDES VICTIM-OFFENDER CONFERENCES;

3 **SECTION 12.** In Colorado Revised Statutes, 24-4.1-303, **amend**
4 (11) (g) as follows:

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

7 (g) The availability of restorative justice practices, as defined in
8 section 18-1-901 (3) (o.5), C.R.S., WHICH INCLUDES VICTIM-OFFENDER
9 CONFERENCES;

10 **SECTION 13. Appropriation.** (1) In addition to any other
11 appropriation, there is hereby appropriated, out of any moneys in the
12 general fund, not otherwise appropriated, to the judicial department, for
13 the fiscal year beginning July 1, 2013, the sum of \$20,629 and 0.3 FTE,
14 or so much thereof as may be necessary, to be allocated for the
15 implementation of this act as follows:

16 (a) \$17,992 and 0.3 FTE for general courts administration for
17 personal services;

18 (b) \$285 for general courts administration for operating expenses;
19 and

20 (c) \$2,352 for courthouse capital/infrastructure maintenance.

21 (2) In addition to any other appropriation, there is hereby
22 appropriated, out of any moneys in the restorative justice surcharge fund
23 created in section 18-25-101 (3) (a), Colorado Revised Statutes, not
24 otherwise appropriated, to the judicial department, for the fiscal year
25 beginning July 1, 2013, the sum of \$12,263 and 0.2 FTE, or so much
26 thereof as may be necessary, to be allocated for the implementation of this
27 act as follows:

1 (a) \$12,073 and 0.2 FTE for general courts administration for
2 personal services; and

3 (b) \$190 for general courts administration for operating expenses.

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