

**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**

---

**HOUSE SPONSORSHIP**

**Lee**, Buck, Buckner, Court, Duran, Exum, Fischer, Foote, Ginal, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lebsock, Levy, May, McCann, McLachlan, Melton, Mitsch Bush, Moreno, Pabon, Peniston, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Tyler, Vigil, Williams, Young

**SENATE SPONSORSHIP**

**Newell**,

---

**House Committees**

Judiciary  
Appropriations

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING RESTORATIVE JUSTICE.**

---

**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:

- ! A member of the parole board;
- ! A representative from the department of corrections;

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 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,  
8 circles, community conferences, and other similar victim-centered

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

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

14 **18-1.3-204. Conditions of probation - interstate compact**  
15 **probation transfer cash fund - creation.** (2) (a) When granting  
16 probation, the court may, as a condition of probation, require that the  
17 defendant:

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

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

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

22 **19-1-103. Definitions.** As used in this title or in the specified  
23 portion of this title, unless the context otherwise requires:

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

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

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

22 **19-2-213. Restorative justice coordinating council -**  
23 **establishment - membership - repeal.** (1) (a) A council to provide  
24 assistance and education related to restorative justice programs is hereby  
25 established. The council shall be known as the "restorative justice  
26 coordinating council" and shall be established in the state judicial  
27 department within the office of the state court administrator. To the extent

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

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

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

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

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

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

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

27 (d) (I) THE COUNCIL SHALL COLLECT INFORMATION REGARDING

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

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

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

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

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

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

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

27 (l) THREE RESTORATIVE JUSTICE PRACTITIONERS APPOINTED BY

1 THE EXECUTIVE DIRECTOR OF THE JUDICIAL DEPARTMENT; AND

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

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

6 **19-2-510.5. Restorative justice pilot project - definitions -**  
7 **repeal.** (1) THE GENERAL ASSEMBLY FINDS THAT:

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

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

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

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

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

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

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



1 REPAIRING THE HARM CAUSED TO VICTIMS AND THE COMMUNITY,  
2 INCREASE VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION,  
3 AND REDUCE COST; AND TO PROMOTE THE RESTORATIVE JUSTICE  
4 PRINCIPLES OF RECONCILIATION, RESPONSIBILITY, REINTEGRATION,  
5 RESPECT, RELATIONSHIP-BUILDING, AND RESTITUTION; AND

6 (II) FACILITATE AND ENCOURAGE DIVERSION OF JUVENILES FROM  
7 THE JUVENILE JUSTICE SYSTEM WHEN DIVERSION MAY PREVENT JUVENILES  
8 FROM COMMITTING ADDITIONAL CRIMINAL ACTS, RESTORE VICTIMS OF  
9 CRIME, FACILITATE THE JUVENILES' ABILITY TO PAY RESTITUTION TO  
10 VICTIMS OF CRIME, AND REDUCE THE NUMBER OF CASES IN THE JUVENILE  
11 JUSTICE SYSTEM. RESTORATIVE JUSTICE SHOULD ENSURE ACCOUNTABILITY  
12 WHILE ALLOWING JUVENILES TO AVOID THE COLLATERAL CONSEQUENCES  
13 ASSOCIATED WITH CRIMINAL CHARGES AND CONVICTIONS.

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

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

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

26 (II) THE NUMBER OF JUVENILES IN THE JURISDICTION'S JUVENILE  
27 JUSTICE SYSTEM WHO MET THE CRITERIA IN PARAGRAPH (b) OF

1 SUBSECTION (3) OF THIS SECTION;

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

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

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

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

18 (VII) THE NUMBER OF VICTIMS WHO:

19 (A) WERE CONTACTED FOR PARTICIPATION;

20 (B) PARTICIPATED;

21 (C) SUBMITTED VICTIM IMPACT STATEMENTS;

22 (D) SENT A SURROGATE; OR

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

25 (c) (I) THE DIVISION OF CRIMINAL JUSTICE SHALL PREPARE A  
26 REPORT BASED ON THE INFORMATION IT RECEIVES PURSUANT TO  
27 PARAGRAPH (b) OF THIS SUBSECTION (2) BY DECEMBER 1, 2014.

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

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

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

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

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

11 (II) HAS NOT BEEN PREVIOUSLY ADJUDICATED FOR AN OFFENSE  
12 THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT AND HAS NOT  
13 PREVIOUSLY PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS  
14 SECTION; AND

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

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

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

22 (4) BEFORE IMPLEMENTING A RESTORATIVE JUSTICE PILOT  
23 PROJECT, EACH JUDICIAL DISTRICT SHALL, IN CONSULTATION WITH THE  
24 COUNCIL, ESTABLISH GUIDELINES TO BE FOLLOWED FOR SUCH PROJECT.  
25 SUCH GUIDELINES SHALL INCLUDE: A FRONT-END ASSESSMENT OF THE  
26 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. Act subject to petition - effective date.** This act  
11 takes effect at 12:01 a.m. on the day following the expiration of the  
12 ninety-day period after final adjournment of the general assembly (August  
13 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a  
14 referendum petition is filed pursuant to section 1 (3) of article V of the  
15 state constitution against this act or an item, section, or part of this act  
16 within such period, then the act, item, section, or part will not take effect  
17 unless approved by the people at the general election to be held in  
18 November 2014 and, in such case, will take effect on the date of the  
19 official declaration of the vote thereon by the governor.