

**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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**HOUSE SPONSORSHIP**

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**SENATE SPONSORSHIP**

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**A BILL FOR AN ACT**

101 **CONCERNING RESTORATIVE JUSTICE.**

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**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.

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

1 DEFENDANT, DISTRICT ATTORNEY, OR LAW ENFORCEMENT AGENCY, A  
2 VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED AFTER THE  
3 VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND OFFERED THE  
4 OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT STATEMENT.  
5 IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM OFFENDER CONFERENCE  
6 MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE,  
7 AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT STATEMENT. To be  
8 eligible for restorative justice practices, the defendant shall not have been  
9 convicted of unlawful sexual behavior as defined in section 16-22-102  
10 (9), C.R.S., a crime in which the underlying factual basis involves  
11 domestic violence, as defined in section 18-6-800.3 (1), stalking as  
12 defined in section 18-3-602, or violation of a protection order as defined  
13 in section 18-6-803.5. Any statements made during a restorative justice  
14 conference shall be confidential and shall not be used as a basis for  
15 charging or prosecuting the defendant unless the defendant commits a  
16 chargeable offense during the conference. Failure to complete the  
17 requirements arising from a restorative justice conference may be  
18 considered a violation of probation. Nothing in this subparagraph (III.5)  
19 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 RESTORATIVE JUSTICE PRACTICES, INCLUDING VICTIM-OFFENDER  
19 CONFERENCES, MAY BE REQUESTED BY THE VICTIM, AFTER BEING  
20 INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO  
21 SECTION 24-4.1-303 (11) (g), C.R.S., THE JUVENILE, LAW ENFORCEMENT  
22 AGENCY, OR DISTRICT ATTORNEY. IF A JUVENILE WANTS TO PARTICIPATE  
23 IN RESTORATIVE JUSTICE PRACTICES, THE JUVENILE MUST MAKE THE  
24 REQUEST TO THE DISTRICT ATTORNEY OR THE LAW ENFORCEMENT AGENCY  
25 ADMINISTERING THE PROGRAM AND MAY NOT MAKE THE REQUEST TO THE  
26 VICTIM. ~~Such practices may include victim-offender conferences, if~~  
27 ~~requested by the victim.~~ Restorative justice practices shall be conducted

1 by facilitators recommended by the district attorney.

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

4 **19-2-213. Restorative justice coordinating council -**  
5 **establishment - membership - repeal.** (1) (a) A council to provide  
6 assistance and education related to restorative justice programs is hereby  
7 established. The council shall be known as the "restorative justice  
8 coordinating council" and shall be established in the state judicial  
9 department within the office of the state court administrator. To the extent  
10 that resources permit, the restorative justice coordinating council shall  
11 support the development of restorative justice programs, serve as a central  
12 repository for information, assist in the development and provision of  
13 related education and training, and provide technical assistance to entities  
14 engaged in or wishing to develop restorative justice programs.

15 (b) IN ORDER TO ASSESS THE EFFICACY OF RESTORATIVE JUSTICE  
16 PRACTICES IN PROVIDING SATISFACTION TO PARTICIPANTS, THE COUNCIL  
17 SHALL DEVELOP A UNIFORM RESTORATIVE JUSTICE SATISFACTION  
18 EVALUATION BY SEPTEMBER 1, 2013. THE EVALUATION SHALL INCLUDE  
19 A PRE-CONFERENCE QUESTIONNAIRE TO ESTABLISH A BASELINE AND A  
20 POST-CONFERENCE QUESTIONNAIRE THAT IS SUITABLE TO ADMINISTER TO  
21 RESTORATIVE JUSTICE PARTICIPANTS, INCLUDING COMMUNITY MEMBERS,  
22 VICTIMS, AND OFFENDERS.

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

26 (II) THE DATABASE MUST CONSIST OF THE FOLLOWING  
27 INFORMATION:

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

2 (B) THE TYPES OF RESTORATIVE JUSTICE PRACTICES USED IN THE  
3 PROGRAM AND THE COSTS AND FEES ASSOCIATED WITH THE PRACTICES;  
4 AND

5 (C) THE BACKGROUND, TRAINING, AND RESTORATIVE JUSTICE  
6 EXPERIENCE OF THE FACILITATORS IN THE RESTORATIVE JUSTICE  
7 PROGRAM.

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

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

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

24 (g) A victim's advocate within the judicial department with  
25 restorative justice experience who shall be appointed by the state court  
26 administrator; and

27 (i) A REPRESENTATIVE FROM THE STATE BOARD OF PAROLE

1 APPOINTED BY THE CHAIR OF THE PAROLE BOARD;

2 (j) A REPRESENTATIVE FROM THE DEPARTMENT OF CORRECTIONS  
3 APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
4 CORRECTIONS;

5 (k) A REPRESENTATIVE FROM A NONGOVERNMENT STATEWIDE  
6 ORGANIZATION REPRESENTING VICTIMS APPOINTED BY THE EXECUTIVE  
7 DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY; ■

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

10 (m) A REPRESENTATIVE OF THE JUVENILE PAROLE BOARD  
11 APPOINTED BY THE CHAIR OF THE JUVENILE PAROLE BOARD.

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

14 **19-2-510.5. Restorative justice pilot project - definitions -**  
15 **repeal.** (1) THE GENERAL ASSEMBLY FINDS THAT:

16 (a) JUVENILES SHOULD BE CONFRONTED WITH AND HELD  
17 ACCOUNTABLE FOR THEIR OFFENDING BEHAVIOR AND GIVEN  
18 OPPORTUNITIES TO TAKE RESPONSIBILITY FOR THEIR ACTIONS BY MAKING  
19 AMENDS TO THE VICTIM AND COMMUNITY;

20 (b) JUVENILE OFFENDING IS OFTEN OPPORTUNISTIC BEHAVIOR,  
21 WHICH IS OUTGROWN;

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

24 (d) BY INVOLVING JUVENILES IN FACE-TO-FACE MEETINGS WITH  
25 THEIR VICTIMS OR A SURROGATE VICTIM, THEY CAN UNDERSTAND THE  
26 EFFECTS OF THEIR CONDUCT IN HUMAN TERMS;

27 (e) THE JUVENILE JUSTICE SYSTEM SHOULD INCORPORATE



1 EVIDENCE-BASED PRACTICES DERIVED FROM THE PILOT PROJECT'S  
2 RESEARCH AND DATA;

3 (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS  
4 SECTION:

5 (I) ESTABLISH A PILOT PROGRAM TO FACILITATE AND ENCOURAGE  
6 DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM TO  
7 RESTORATIVE JUSTICE PRACTICES, BOTH TO PROVIDE DATA TO ASSESS THE  
8 EFFICACY OF RESTORATIVE JUSTICE TO REDUCE RECIDIVISM, INCREASE  
9 VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION, AND  
10 REDUCE COST; AND TO PROMOTE THE RESTORATIVE JUSTICE PRINCIPLES OF  
11 RECONCILIATION, RESPONSIBILITY, REINTEGRATION, RESPECT,  
12 RELATIONSHIP-BUILDING, AND RESTITUTION; AND

13 (II) FACILITATE AND ENCOURAGE DIVERSION OF JUVENILES FROM  
14 THE JUVENILE JUSTICE SYSTEM WHEN DIVERSION MAY PREVENT JUVENILES  
15 FROM COMMITTING ADDITIONAL CRIMINAL ACTS, RESTORE VICTIMS OF  
16 CRIME, FACILITATE THE JUVENILES' ABILITY TO PAY RESTITUTION TO  
17 VICTIMS OF CRIME, AND REDUCE THE NUMBER OF CASES IN THE JUVENILE  
18 JUSTICE SYSTEM. RESTORATIVE JUSTICE SHOULD ENSURE ACCOUNTABILITY  
19 WHILE ALLOWING JUVENILES TO AVOID THE COLLATERAL CONSEQUENCES  
20 ASSOCIATED WITH CRIMINAL CHARGES AND CONVICTIONS.

21 (2) (a) THERE SHALL BE A RESTORATIVE JUSTICE PILOT PROJECT.  
22 THE PILOT PROJECT CONSISTS OF TWO NEW RESTORATIVE JUSTICE  
23 PROGRAMS IN THE TENTH AND NINETEENTH JUDICIAL DISTRICT AND TWO  
24 EXISTING RESTORATIVE JUSTICE PROGRAMS IN THE TWELFTH AND  
25 TWENTIETH JUDICIAL DISTRICTS.

26 (b) THE PILOT PROJECT SITES DESCRIBED IN PARAGRAPH (a) OF  
27 THIS SUBSECTION (2) MUST PROVIDE TO THE DIVISION OF CRIMINAL JUSTICE

1 IN THE DEPARTMENT OF PUBLIC SAFETY THE FOLLOWING INFORMATION  
2 BASED ON THE PREVIOUS YEAR BY JULY 1, 2014, AND JULY 1, EACH YEAR  
3 THEREAFTER:

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

6 (II) THE NUMBER OF JUVENILES IN THE JURISDICTION'S JUVENILE  
7 JUSTICE SYSTEM WHO MET THE CRITERIA IN PARAGRAPH (b) OF  
8 SUBSECTION (3) OF THIS SECTION;

9 (III) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE  
10 RESTORATIVE JUSTICE PROGRAM, INCLUDING DEMOGRAPHIC INFORMATION  
11 CONSISTING OF THE JUVENILE'S AGE, RACE, AND GENDER;

12 (IV) THE NUMBER OF JUVENILES PARTICIPATING IN THE  
13 RESTORATIVE JUSTICE PROGRAM WHO REACHED AN AGREEMENT TO REPAIR  
14 THE HARM AND SUCCESSFULLY COMPLETED THE RESTORATIVE JUSTICE  
15 PROGRAM AND THE NUMBER OF JUVENILES WHO DID NOT COMPLETE THE  
16 RESTORATIVE JUSTICE PROGRAM AND THE REASON FOR NONCOMPLETION;

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

20 (VI) THE NUMBER OF JUVENILES WHO PARTICIPATED IN THE  
21 RESTORATIVE JUSTICE PROGRAM AND HAD A SUBSEQUENT JUVENILE  
22 PETITION FILED AGAINST HIM OR HER IN THE SAME OR ANOTHER JUDICIAL  
23 DISTRICT WITHIN ONE YEAR; AND

24 (VII) THE NUMBER OF VICTIMS WHO:

25 (A) WERE CONTACTED FOR PARTICIPATION;

26 (B) PARTICIPATED;

27 (C) SUBMITTED VICTIM IMPACT STATEMENTS;

1 (D) SENT A SURROGATE; OR

2 (E) DECLINED TO PARTICIPATE IN A RESTORATIVE JUSTICE  
3 PROGRAM.

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

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

11 (3) (a) THE PILOT PROJECT AND EXISTING SITES MUST IMPLEMENT  
12 A RESTORATIVE JUSTICE PROGRAM THAT REQUIRES THE DISTRICT  
13 ATTORNEY, PRIOR TO FILING CHARGES, TO ASSESS IF THE JUVENILE IS  
14 SUITABLE FOR PARTICIPATION IN THE RESTORATIVE JUSTICE PILOT  
15 PROGRAM BASED ON THE CONSIDERATIONS SET FORTH IN SECTION  
16 19-2-512 (2). IF THE ASSESSMENT DETERMINES THE JUVENILE IS SUITABLE,  
17 THE DISTRICT ATTORNEY MAY OFFER THE JUVENILE PREFILING DIVERSION  
18 TO A PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES. IF THE  
19 JUVENILE ACCEPTS PARTICIPATION IN THE PROGRAM UTILIZING  
20 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL NOT  
21 FILE THE PETITION. ONCE THE JUVENILE ACCEPTS PARTICIPATION IN THE  
22 PROGRAM, THE PROVISIONS OF PART 3 OF ARTICLE 4.1 OF TITLE 24, C.R.S.,  
23 APPLY AND THE RESTORATIVE JUSTICE PROVIDER SHALL COMPLY WITH THE  
24 PROVISIONS OF PART 3 OF ARTICLE 4.1 OF TITLE 24, C.R.S. THE DISTRICT  
25 ATTORNEY SHALL PLACE THE JUVENILE IN A DIVERSION PROGRAM  
26 UTILIZING RESTORATIVE JUSTICE PRACTICES, AND THE JUVENILE SHALL  
27 PAY A FEE OF ONE HUNDRED TWENTY-FIVE DOLLARS, BUT THE FEE MAY BE

1 REDUCED ON SLIDING SCALE BASED ON INCOME CONSISTENT WITH  
2 GUIDELINES USED TO DETERMINE ELIGIBILITY FOR APPOINTMENT OF  
3 COUNSEL. IF THE JUVENILE SUCCESSFULLY COMPLETES THE PROGRAM, THE  
4 DISTRICT ATTORNEY SHALL NOT FILE A PETITION AGAINST THE JUVENILE  
5 FOR THE ALLEGED CRIMES THAT LED TO PARTICIPATION IN THE PROGRAM.  
6 IF THE JUVENILE IS CHARGED WITH A NEW OFFENSE WHILE IN THE  
7 PROGRAM OR DOES NOT SUCCESSFULLY COMPLETE THE PROGRAM  
8 UTILIZING RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY  
9 MAY INITIATE A PETITION AGAINST THE JUVENILE AND SHALL PROCEED AS  
10 AUTHORIZED IN THIS ARTICLE. ANY STATEMENTS MADE DURING THE  
11 CONFERENCE ARE CONFIDENTIAL AND MAY NOT BE USED AS A BASIS FOR  
12 CHARGING OR PROSECUTING THE DEFENDANT UNLESS THE DEFENDANT  
13 COMMITS A CHARGEABLE OFFENSE DURING THE CONFERENCE. EACH  
14 PARTICIPANT IN THE RESTORATIVE JUSTICE PROGRAM SHALL COMPLETE  
15 THE UNIFORM RESTORATIVE JUSTICE SATISFACTION EVALUATION.

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

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

19 (II) HAS NOT BEEN PREVIOUSLY ADJUDICATED FOR AN OFFENSE  
20 THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT AND HAS NOT  
21 PREVIOUSLY PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS  
22 SECTION; AND

23 (III) COULD BE CHARGED IN A PETITION ONLY WITH THE  
24 FOLLOWING CRIMES:

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

27 (B) A CLASS 3, 4, 5, OR 6 FELONY, IF CHARGED AGAINST AN ADULT

1 AND THE DISTRICT ATTORNEY SELECTS THE JUVENILE FOR PARTICIPATION  
2 IN THE PROGRAM.

3 (4) THE RESTORATIVE JUSTICE PILOT PROJECTS SITES SHALL HAVE  
4 PRIORITY IN RECEIVING FUNDS FROM THE RESTORATIVE JUSTICE  
5 SURCHARGE FUND CREATED IN SECTION 18-25-101 (3), C.R.S.

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

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

9 **19-2-512. Petition initiation.** (2) If the petition is the first  
10 juvenile petition filed against the juvenile in any jurisdiction and is  
11 initiated in a jurisdiction that has restorative justice practices available,  
12 the district attorney or his or her designee may determine whether a  
13 juvenile is suitable for restorative justice practices. ~~In making a~~  
14 ~~determination of whether the juvenile is suitable for restorative justice~~  
15 ~~practices, the district attorney shall first determine whether the victim,~~  
16 ~~having been informed about restorative justice practices pursuant to~~  
17 ~~section 24-4.1-303 (11) (g), C.R.S., is requesting consideration of~~  
18 ~~restorative justice practices as an alternative to formal prosecution. Upon~~  
19 ~~such request,~~ The district attorney shall consider WHETHER THE VICTIM,  
20 HAVING BEEN INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES  
21 PURSUANT TO SECTION 24-4.1-303 (11) (g), C.R.S., IS REQUESTING  
22 CONSIDERATION OF RESTORATIVE JUSTICE PRACTICES AS AN ALTERNATIVE  
23 TO FORMAL PROSECUTION; whether the juvenile accepts responsibility for,  
24 expresses remorse for, and is willing to repair the harm caused by his or  
25 her actions; and whether the juvenile's parent or legal guardian is willing  
26 to support the juvenile in the process. ~~If requested by the victim,~~  
27 ~~restorative justice practices may be utilized as part of this process. IF A~~

1 JUVENILE WANTS TO PARTICIPATE IN RESTORATIVE JUSTICE PRACTICES,  
2 THE JUVENILE MUST MAKE THE REQUEST TO THE DISTRICT ATTORNEY OR  
3 THE LAW ENFORCEMENT AGENCY ADMINISTERING THE PROGRAM AND MAY  
4 NOT MAKE THE REQUEST TO THE VICTIM. IF REQUESTED BY THE JUVENILE,  
5 RESTORATIVE JUSTICE PRACTICES MAY ONLY BE CONDUCTED AFTER THE  
6 VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND OFFERED AN  
7 OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT STATEMENT.  
8 IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM-OFFENDER CONFERENCE  
9 MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE,  
10 AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT STATEMENT. The district  
11 attorney may offer dismissal of charges as an option for the successful  
12 completion of these and any other conditions imposed and designed to  
13 address the harm done to the victim and the community by the offender,  
14 subject to approval by the court.

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

17 **19-2-706. Advisement.** (1) At the first appearance before the  
18 court after the filing of a petition, the juvenile and his or her parents,  
19 guardian, or other legal custodian shall be advised by the court of their  
20 constitutional and legal rights as set forth in rule 3 of the Colorado rules  
21 of juvenile procedure. Such advisement shall include the possibility of  
22 restorative justice practices, including victim-offender conferences if  
23 ~~applicable~~ IF RESTORATIVE JUSTICE PRACTICES ARE AVAILABLE IN THE  
24 JURISDICTION. The advisement regarding restorative justice practices does  
25 not establish any right to restorative justice practices on behalf of the  
26 juvenile. ~~and failure to provide an advisement regarding restorative~~  
27 ~~justice practices does not constitute any legal error by the court.~~

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

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

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

15           **19-2-905. Presentence investigation.** (4) Prior to sentencing a  
16 juvenile who was adjudicated for an offense that would be a felony or  
17 misdemeanor not contained in title 42, C.R.S., if committed by an adult,  
18 the court ~~upon the request of the victim,~~ may order the juvenile to  
19 participate in an assessment to determine whether the juvenile would be  
20 suitable for participation in restorative justice practices that would be a  
21 part of the juvenile's sentence; except that the court may not order  
22 participation in a restorative justice practice if the juvenile was  
23 adjudicated a delinquent for unlawful sexual behavior, as defined in  
24 section 16-22-102 (9), C.R.S., a crime in which the underlying factual  
25 basis involves domestic violence, as defined in section 18-6-800.3 (1),  
26 C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a  
27 protection order as defined in section 18-6-803.5, C.R.S. If the court

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

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

## 22 **ARTICLE 25**

### 23 **Restorative Justice Surcharge**

24 **18-25-101. Restorative justice surcharge - definitions.**

25 (1) EACH PERSON WHO IS CONVICTED OF A CRIME AND EACH JUVENILE  
26 ADJUDICATED OF A CRIME SHALL BE REQUIRED TO PAY A TEN DOLLAR  
27 SURCHARGE TO THE CLERK OF THE COURT FOR THE JUDICIAL DISTRICT IN



1 WHICH THE CONVICTION OCCURS.

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

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

9 (b) NINETY-FIVE PERCENT SHALL BE TRANSFERRED TO THE STATE  
10 TREASURER, WHO SHALL CREDIT THE SAME TO THE RESTORATIVE JUSTICE  
11 SURCHARGE FUND CREATED PURSUANT TO SUBSECTION (3) OF THIS  
12 SECTION.

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

21 (b) THE JUDICIAL DEPARTMENT SHALL ESTABLISH GUIDELINES FOR  
22 THE DISTRIBUTION OF THE MONEYS FROM THE FUND TO ASSIST IN  
23 DEFRAYING THE COSTS OF RESTORATIVE JUSTICE PROGRAMS, INCLUDING  
24 BUT NOT LIMITED TO PROCEDURES FOR PROGRAMS TO USE IN APPLYING TO  
25 THE JUDICIAL DEPARTMENT FOR MONEYS FROM THE FUND.

26 (c) THE JUDICIAL DEPARTMENT SHALL NOT EXPEND ANY MONEYS  
27 UNTIL THE FUND HAS ENOUGH MONEY TO PAY THE EXPENSES NECESSARY

1 TO ADMINISTER THE FUND.

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

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

13 (5) AS USED IN THIS SECTION, "CONVICTED" AND "CONVICTION"  
14 MEAN A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF  
15 GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION  
16 18-1.3-102, A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO  
17 CONTEST ACCEPTED BY THE COURT.

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

20 **24-4.1-302.5. Rights afforded to victims.** (1) In order to  
21 preserve and protect a victim's rights to justice and due process, each  
22 victim of a crime shall have the following rights:

23 (1.5) The right to be informed about the possibility of restorative  
24 justice practices, as defined in section 18-1-901 (3) (o.5), C.R.S., WHICH  
25 INCLUDES VICTIM-OFFENDER CONFERENCES;

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

1           **24-4.1-303. Procedures for ensuring rights of victims of**  
2 **crimes.** (11) The district attorney shall inform a victim of the following:

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

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