

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

UNEDITED  
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DRAFT

LLS NO. 13-0396.01 Michael Dohr x4347

HOUSE BILL

HOUSE SPONSORSHIP

Lee,

SENATE SPONSORSHIP

Newell,

SHORT TITLE: "Restorative Justice"

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;

*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.

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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  
9 practices. Restorative justice practices are facilitated meetings attended

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

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

13 **18-1.3-204. Conditions of probation - interstate compact**  
14 **probation transfer cash fund - creation.** (2) (a) When granting  
15 probation, the court may, as a condition of probation, require that the  
16 defendant:

17 (III.5) Participate in restorative justice practices, as defined in  
18 section 18-1-901 (3) (o.5), if available in the jurisdiction, requested by  
19 THE DISTRICT ATTORNEY OR THE DEFENDANT OR REQUESTED BY the victim  
20 who has been informed about restorative justice practices pursuant to  
21 section 24-4.1-303 (11) (g), C.R.S., and the defendant is determined  
22 suitable by a designated restorative justice practices facilitator. IF  
23 REQUESTED BY THE DEFENDANT OR DISTRICT ATTORNEY, A  
24 VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED AFTER THE  
25 VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND OFFERED THE  
26 OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT STATEMENT.  
27 IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM OFFENDER CONFERENCE

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

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

18 **19-1-103. Definitions.** As used in this title or in the specified  
19 portion of this title, unless the context otherwise requires:

20 (44) "Diversion" means a decision made by a person with  
21 authority or a delegate of that person that results in specific official action  
22 of the legal system not being taken in regard to a specific juvenile or child  
23 and in lieu thereof providing individually designed services by a specific  
24 program. The goal of diversion is to prevent further involvement of the  
25 juvenile or child in the formal legal system. Diversion of a juvenile or  
26 child may take place either at the prefiling level as an alternative to the  
27 filing of a petition pursuant to section 19-2-512 or at the postadjudication

1 level as an adjunct to probation services following an adjudicatory  
2 hearing pursuant to section 19-3-505 or a disposition as a part of  
3 sentencing pursuant to section 19-2-907. "Services", as used in this  
4 subsection (44), includes but is not limited to diagnostic needs  
5 assessment, restitution programs, community service, job training and  
6 placement, specialized tutoring, constructive recreational activities,  
7 general counseling and counseling during a crisis situation, and follow-up  
8 activities. Services may include restorative justice practices as defined in  
9 section 18-1-901 (3) (o.5), C.R.S., ~~as requested by the victim, after being~~  
10 ~~informed about restorative justice practices pursuant to section~~  
11 ~~24-4.1-303 (11) (g), C.R.S.,~~ and as deemed suitable by the probation  
12 department or a designated restorative justice practices facilitator.  
13 RESTORATIVE JUSTICE PRACTICES, INCLUDING VICTIM-OFFENDER  
14 CONFERENCES, MAY BE REQUESTED BY THE VICTIM, AFTER BEING  
15 INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO  
16 SECTION 24-4.1-303 (11) (g), C.R.S., THE JUVENILE, OR DISTRICT  
17 ATTORNEY. ~~Such practices may include victim-offender conferences, if~~  
18 ~~requested by the victim.~~ Restorative justice practices shall be conducted  
19 by facilitators 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), and (2) (l) 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 SHALL INCLUDE  
10 A PRE-CONFERENCE QUESTIONNAIRE TO ESTABLISH A BASELINE AND A  
11 POST-CONFERENCE QUESTIONNAIRE THAT IS SUITABLE TO ADMINISTER TO  
12 RESTORATIVE JUSTICE PARTICIPANTS, INCLUDING COMMUNITY MEMBERS,  
13 VICTIMS, AND OFFENDERS.

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

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

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

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

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

26 (d) (I) THE COUNCIL SHALL COLLECT INFORMATION REGARDING  
27 RESTORATIVE JUSTICE PRACTICES IN THE STATE AND SHALL REPORT TO THE

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

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

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

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

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

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

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

26 (l) A RESTORATIVE JUSTICE PRACTITIONER APPOINTED BY THE  
27 EXECUTIVE DIRECTOR OF THE JUDICIAL DEPARTMENT.

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

3           **19-2-510.5. Restorative justice pilot project - definitions -**  
4 **repeal.** (1) THE GENERAL ASSEMBLY FINDS THAT:

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

9           (b) JUVENILE OFFENDING IS OFTEN OPPORTUNISTIC BEHAVIOR,  
10 WHICH IS OUTGROWN;

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

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

16           (e) THE JUVENILE JUSTICE SYSTEM SHOULD INCORPORATE  
17 EVIDENCE-BASED PRACTICES DERIVED FROM THE PILOT PROJECT'S  
18 RESEARCH AND DATA;

19           (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS  
20 SECTION:

21           (I) ESTABLISH A PILOT PROGRAM TO FACILITATE AND ENCOURAGE  
22 DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM TO  
23 RESTORATIVE JUSTICE PRACTICES, BOTH TO PROVIDE DATA TO ASSESS THE  
24 EFFICACY OF RESTORATIVE JUSTICE TO REDUCE RECIDIVISM, INCREASE  
25 VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION, AND  
26 REDUCE COST; AND TO PROMOTE THE RESTORATIVE JUSTICE PRINCIPLES OF  
27 RECONCILIATION, RESPONSIBILITY, REINTEGRATION, RESPECT,



1 RELATIONSHIP-BUILDING, AND RESTITUTION; AND

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

10 (2) (a) THERE SHALL BE A RESTORATIVE JUSTICE PILOT PROJECT.  
11 THE PILOT PROJECT CONSISTS OF TWO NEW RESTORATIVE JUSTICE  
12 PROGRAMS IN THE TENTH AND NINETEENTH JUDICIAL DISTRICT AND TWO  
13 EXISTING RESTORATIVE JUSTICE PROGRAMS IN THE TWELFTH AND  
14 TWENTIETH JUDICIAL DISTRICTS.

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

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

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

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

1 (IV) THE NUMBER OF JUVENILES PARTICIPATING IN THE  
2 RESTORATIVE JUSTICE PROGRAM WHO REACHED AN AGREEMENT TO REPAIR  
3 THE HARM AND SUCCESSFULLY COMPLETED THE RESTORATIVE JUSTICE  
4 PROGRAM AND THE NUMBER OF JUVENILES WHO DID NOT COMPLETE THE  
5 RESTORATIVE JUSTICE PROGRAM AND THE REASON FOR NONCOMPLETION;

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

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

13 (VII) THE NUMBER OF VICTIMS WHO:  
14 (A) WERE CONTACTED FOR PARTICIPATION;  
15 (B) PARTICIPATED;  
16 (C) SUBMITTED VICTIM IMPACT STATEMENTS;  
17 (D) SENT A SURROGATE; OR  
18 (E) DECLINED TO PARTICIPATE IN A RESTORATIVE JUSTICE  
19 PROGRAM.

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

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

27 (3) (a) THE PILOT PROJECT AND EXISTING SITES MUST IMPLEMENT

1 A RESTORATIVE JUSTICE PROGRAM THAT REQUIRES THE DISTRICT  
2 ATTORNEY, PRIOR TO FILING CHARGES, TO ASSESS IF THE JUVENILE IS  
3 SUITABLE FOR PARTICIPATION IN THE RESTORATIVE JUSTICE PILOT  
4 PROGRAM \_\_\_\_\_ BASED ON THE CONSIDERATIONS SET FORTH IN SECTION  
5 19-2-512 (2). IF THE ASSESSMENT DETERMINES THE JUVENILE IS SUITABLE,  
6 THE DISTRICT ATTORNEY MAY OFFER THE JUVENILE PREFILING DIVERSION  
7 TO A PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES. IF THE  
8 JUVENILE ACCEPTS PARTICIPATION IN THE PROGRAM UTILIZING  
9 RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL NOT  
10 FILE THE PETITION. THE DISTRICT ATTORNEY SHALL PLACE THE JUVENILE  
11 IN A DIVERSION PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES,  
12 AND THE JUVENILE SHALL PAY A FEE OF ONE HUNDRED TWENTY-FIVE  
13 DOLLARS, BUT THE FEE MAY BE REDUCED ON SLIDING SCALE BASED ON  
14 INCOME CONSISTENT WITH GUIDELINES USED TO DETERMINE ELIGIBILITY  
15 FOR APPOINTMENT OF COUNSEL. IF THE JUVENILE SUCCESSFULLY  
16 COMPLETES THE PROGRAM, THE DISTRICT ATTORNEY SHALL NOT FILE A  
17 PETITION AGAINST THE JUVENILE FOR THE ALLEGED CRIMES THAT LED TO  
18 PARTICIPATION IN THE PROGRAM. IF THE JUVENILE IS CHARGED WITH A  
19 NEW OFFENSE WHILE IN THE PROGRAM OR DOES NOT SUCCESSFULLY  
20 COMPLETE THE PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, THE  
21 DISTRICT ATTORNEY MAY INITIATE A PETITION AGAINST THE JUVENILE AND  
22 SHALL PROCEED AS AUTHORIZED IN THIS ARTICLE. ANY STATEMENTS  
23 MADE DURING THE CONFERENCE ARE CONFIDENTIAL AND MAY NOT BE  
24 USED AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT UNLESS  
25 THE DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE  
26 CONFERENCE. EACH PARTICIPANT IN THE RESTORATIVE JUSTICE PROGRAM  
27 SHALL COMPLETE THE UNIFORM RESTORATIVE JUSTICE SATISFACTION

1 EVALUATION.

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

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

5 (II) HAS NOT BEEN PREVIOUSLY ADJUDICATED FOR AN OFFENSE  
6 THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT AND HAS NOT  
7 PREVIOUSLY PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS  
8 SECTION; AND

9 (III) COULD BE CHARGED IN A PETITION ONLY WITH THE  
10 FOLLOWING CRIMES:

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

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

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

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

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

22 **19-2-512. Petition initiation.** (2) If the petition is the first  
23 juvenile petition filed against the juvenile in any jurisdiction and is  
24 initiated in a jurisdiction that has restorative justice practices available,  
25 the district attorney or his or her designee may determine whether a  
26 juvenile is suitable for restorative justice practices. ~~In making a~~  
27 ~~determination of whether the juvenile is suitable for restorative justice~~

1 ~~practices, the district attorney shall first determine whether the victim,~~  
2 ~~having been informed about restorative justice practices pursuant to~~  
3 ~~section 24-4.1-303 (11) (g), C.R.S., is requesting consideration of~~  
4 ~~restorative justice practices as an alternative to formal prosecution. Upon~~  
5 ~~such request,~~ The district attorney shall consider WHETHER THE VICTIM,  
6 HAVING BEEN INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES  
7 PURSUANT TO SECTION 24-4.1-303 (11) (g), C.R.S., IS REQUESTING  
8 CONSIDERATION OF RESTORATIVE JUSTICE PRACTICES AS AN ALTERNATIVE  
9 TO FORMAL PROSECUTION; whether the juvenile accepts responsibility for,  
10 expresses remorse for, and is willing to repair the harm caused by his or  
11 her actions; and whether the juvenile's parent or legal guardian is willing  
12 to support the juvenile in the process. ~~If requested by the victim,~~  
13 ~~restorative justice practices may be utilized as part of this process.~~ IF  
14 REQUESTED BY THE JUVENILE, 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. The district attorney may offer dismissal of  
21 charges as an option for the successful completion of these and any other  
22 conditions imposed and designed to address the harm done to the victim  
23 and the community by the offender, subject to approval by the court.

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

26 **19-2-706. Advisement.** (1) At the first appearance before the  
27 court after the filing of a petition, the juvenile and his or her parents,

1 guardian, or other legal custodian shall be advised by the court of their  
2 constitutional and legal rights as set forth in rule 3 of the Colorado rules  
3 of juvenile procedure. Such advisement shall include the possibility of  
4 restorative justice practices, including victim-offender conferences if  
5 ~~applicable~~ IF RESTORATIVE JUSTICE PRACTICES ARE AVAILABLE IN THE  
6 JURISDICTION. The advisement regarding restorative justice practices does  
7 not establish any right to restorative justice practices on behalf of the  
8 juvenile. ~~and failure to provide an advisement regarding restorative~~  
9 ~~justice practices does not constitute any legal error by the court.~~

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

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

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

24 **19-2-905. Presentence investigation.** (4) Prior to sentencing a  
25 juvenile who was adjudicated for an offense that would be a felony or  
26 misdemeanor not contained in title 42, C.R.S., if committed by an adult,  
27 the court ~~upon the request of the victim,~~ may order the juvenile to

1 participate in an assessment to determine whether the juvenile would be  
2 suitable for participation in restorative justice practices that would be a  
3 part of the juvenile's sentence; except that the court may not order  
4 participation in a restorative justice practice if the juvenile was  
5 adjudicated a delinquent for unlawful sexual behavior, as defined in  
6 section 16-22-102 (9), C.R.S., a crime in which the underlying factual  
7 basis involves domestic violence, as defined in section 18-6-800.3 (1),  
8 C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a  
9 protection order as defined in section 18-6-803.5, C.R.S. If the court  
10 orders a suitability assessment, the assessor shall provide the services for  
11 a fee of no more than forty dollars based on a sliding scale; however, the  
12 fee may be ~~waived by the court~~ REDUCED BY THE COURT BASED ON A  
13 SLIDING SCALE CONSISTENT WITH GUIDELINES USED TO DETERMINE  
14 ELIGIBILITY FOR APPOINTMENT OF COUNSEL. IF REQUESTED BY THE  
15 JUVENILE, A VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED  
16 AFTER THE VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND  
17 OFFERED AN OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT  
18 STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM-OFFENDER  
19 CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR  
20 VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT  
21 STATEMENT. If the juvenile participates in a restorative justice practices  
22 victim-offender conference, the facilitator shall provide these services for  
23 a fee of no more than one hundred twenty-five dollars based on a sliding  
24 scale; however, the fee may be waived by the court.

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

27 **ARTICLE 25**

**Restorative Justice Surcharge**

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

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

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

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

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

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

(b) THE JUDICIAL DEPARTMENT SHALL ESTABLISH GUIDELINES FOR THE DISTRIBUTION OF THE MONEYS FROM THE FUND TO ASSIST IN



1     DEFRAYING THE COSTS OF RESTORATIVE JUSTICE PROGRAMS, INCLUDING  
2     BUT NOT LIMITED TO PROCEDURES FOR PROGRAMS TO USE IN APPLYING TO  
3     THE JUDICIAL DEPARTMENT FOR MONEYS FROM THE FUND.

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

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

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

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

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

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

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

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

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

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

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