

CHAPTER 58

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 17-1039

BY REPRESENTATIVE(S) Lee, Arndt, Becker K., Benavidez, Exum, Ginal, Hansen, Herod, Hooton, Kennedy, Lontine, McKean, Melton, Michaelson Jenet, Mitsch Bush, Pabon, Pettersen, Rosenthal, Weissman, Young, Duran; also SENATOR(S) Kagan, Court, Fenberg, Fields, Jones, Kefalas, Kerr, Merrifield, Tate, Todd, Williams A., Zenzinger.

AN ACT**CONCERNING COMMUNICATION ISSUES RELATED TO RESTORATIVE JUSTICE.**

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

SECTION 1. In Colorado Revised Statutes, 16-7-202, **amend** (1) as follows:

16-7-202. Presence of defendant. (1) If the offense charged is a felony, a level 1 drug misdemeanor, or a class 1 misdemeanor or if the maximum penalty for the offense charged is more than one year's imprisonment, the defendant must be personally present for arraignment; except that the court, for good cause shown, may accept a plea of not guilty made by an attorney representing the defendant without requiring the defendant to be personally present. In all prosecutions for lesser offenses, the defendant may appear by his or her attorney who may enter a plea on his or her behalf. If the defendant appears personally for a charge that is not in title 42, ~~C.R.S.~~, the court may advise the defendant of the possibility that restorative justice practices may be part of a sentence, if available in the jurisdiction. ~~and requested by the victim who has been informed about the restorative justice practices pursuant to section 24-4.1-303 (1)(g), C.R.S.~~

SECTION 2. In Colorado Revised Statutes, 16-11-102, **amend** (1.9) introductory portion; and **add** (1.9)(b.5) as follows:

16-11-102. Presentence or probation investigation. (1.9) Each presentence report ~~shall~~ **MUST** also:

(b.5) INDICATE WHETHER THE OFFENDER MEETS THE MINIMUM ELIGIBILITY REQUIREMENTS AS PROVIDED IN SECTIONS 18-1.3-104 (1)(b.5) AND 18-1.3-204 (2)(a)(III.5) FOR PARTICIPATION IN RESTORATIVE JUSTICE PRACTICES.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. In Colorado Revised Statutes, 16-7-301, **add** (2)(f) as follows:

16-7-301. Propriety of plea discussions and plea agreements. (2) The district attorney may agree to one or more of the following, depending upon the circumstances of the individual case:

(f) TO CONSENT TO AN ASSESSMENT FOR SUITABILITY FOR PARTICIPATION IN RESTORATIVE JUSTICE PRACTICES, INCLUDING VICTIM-OFFENDER CONFERENCES.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 20, 2017