

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0297.01 Jane Ritter x4342

SENATE BILL 21-066

SENATE SPONSORSHIP

Lee,

HOUSE SPONSORSHIP

Michaelson Jenet,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING JUVENILE DIVERSION PROGRAMS.**

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://leg.colorado.gov>.)

The bill makes several changes and clarifications to current juvenile diversion programs (diversion), including:

- Establishing another category of diversion that is pre-arrest, and therefore allowing funding at the school and law enforcement levels;
- Clarifying the division of criminal justice in the department of public safety's (division) authority over all programs funded with diversion money;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 24, 2021

- Clarifying that diversion funding may be allocated to entities other than district attorneys' offices;
- Requiring eligibility criteria for diversion be made public;
- Establishing that a juvenile is eligible to divert if the juvenile meets the eligibility criteria;
- Clarifying that an approved validated assessment tool may be used for decisions on the length of supervision and necessary services;
- Clarifying that a risk screening tool is only to be used to inform the level and intensity of supervision;
- Establishing a clear process for data collection so the division can properly evaluate its diversion programs;
- Creating a clearer process and role for the division in the allocation process; and
- Creating a mandatory set-aside of 20% for a competitive grant process managed by the division for community-based diversion programs that include restorative justice practices.

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

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3 **SECTION 1.** In Colorado Revised Statutes, **amend** 19-2-202 as
 4 follows:

5 **19-2-202. Responsible agencies.** The department of human
 6 services is the single state agency responsible for the oversight of the
 7 administration of juvenile programs and the delivery of services for
 8 juveniles and their families in this state. In addition, the department of
 9 human services is responsible for juvenile parole. The state judicial
 10 department is responsible for the oversight of juvenile probation. The
 11 department of public safety is responsible for the oversight of community
 12 diversion programs AND PROGRAMS FUNDED THROUGH THE ALLOCATION
 13 AUTHORIZED IN SECTION 19-2-303 (2). The state agencies described in this
 14 section shall jointly oversee the application by judicial districts of the
 15 placement criteria established by the working group ~~as provided in~~

1 PURSUANT TO section 19-2-212.

2 **SECTION 2.** In Colorado Revised Statutes, 19-2-303, **amend**
3 (1)(a), (2), (4), (5), and (6)(a); and **add** (3)(d.5), (4.5), and (9) as follows:

4 **19-2-303. Juvenile diversion program - authorized - report -**
5 **allocation of money - legislative declaration - definitions.** (1) (a) In
6 order to more fully implement the stated objectives of this title 19, the
7 general assembly declares its intent to establish a juvenile diversion
8 program that ~~when possible~~ integrates restorative justice practices to
9 provide community-based alternatives to the formal court system ~~that will~~
10 TO reduce juvenile crime and recidivism and improve positive juvenile
11 outcomes, change juvenile offenders' behavior and attitudes, promote
12 juvenile offenders' accountability, recognize and support the rights of
13 victims, heal the harm to relationships and the community caused by
14 juvenile crime, and reduce the costs within the juvenile justice system.

15 (2) The division of criminal justice of the department of public
16 safety is authorized to establish and administer a juvenile diversion
17 program that seeks to divert youth from the juvenile justice system and
18 ~~when possible integrates~~ INTEGRATE restorative justice practices. ~~In order~~
19 To effectuate the program, the division shall allocate money ~~to~~ WITHIN
20 each judicial district and may contract with district attorneys' offices,
21 governmental units, and nongovernmental agencies for reasonable and
22 necessary expenses and services to serve each judicial district to divert
23 juveniles and provide services, if warranted, for eligible juveniles through
24 community-based programs providing an alternative to ENTRY INTO THE
25 FORMAL LEGAL SYSTEM, a petition filed pursuant to section 19-2-512, or
26 an adjudicatory hearing pursuant to ~~section 19-3-505~~ SECTION 19-2-804.

27 (3) For purposes of this section:

1 (d.5) "RESTORATIVE JUSTICE" HAS THE SAME MEANING AS SET
2 FORTH IN SECTION 19-1-103.

3 (4) District attorneys' offices or their designees shall:

4 (a) On and after January 1, 2021, conduct a risk screening using
5 a risk screening tool selected pursuant to section 24-33.5-2402 (1)(c) for
6 all juveniles referred to the district attorney pursuant to section 19-2-510
7 unless THE JUVENILE IS CURRENTLY COMMITTED OR ON PAROLE, a
8 determination has already been made to divert the juvenile, OR the district
9 attorney declines to file charges, dismisses the case, or charges the
10 juvenile with a class 1 or class 2 felony. The district attorney's office shall
11 conduct the risk screening or contract with an alternative agency that has
12 been formally designated by the district attorney's office to conduct the
13 screening, in which case the results of the screening must be made
14 available to the district attorney's office. The entity conducting the
15 screening shall make the results of the risk screening available to the
16 ~~youth~~ JUVENILE and family. All individuals using the risk screening tool
17 must receive training on the appropriate use of the tool. The risk
18 screening tool is ~~to be used to inform about~~ FOR INFORMING decisions
19 about diversion. The risk screening tool and any information obtained
20 from a juvenile in the course of any screening, including any admission,
21 confession, or incriminating evidence, obtained from a juvenile in the
22 course of any screening or assessment in conjunction with proceedings
23 ~~under~~ PURSUANT TO this section or made in order to participate in a
24 diversion or restorative justice program is not admissible into evidence in
25 any adjudicatory hearing in which the juvenile is accused and is not
26 subject to subpoena or any other court process for use in any other
27 proceeding or for any other purpose.

1 (a.5) USE THE RESULTS OF THE RISK SCREENING TO INFORM
2 ELIGIBILITY FOR PARTICIPATION IN A JUVENILE DIVERSION PROGRAM AND
3 THE LEVEL AND INTENSITY OF SUPERVISION FOR JUVENILE DIVERSION.

4 (b) ~~Use the results of the risk screening to inform:~~
5 ~~(I) Eligibility for participation in a juvenile diversion program;~~
6 ~~(II) The level and intensity of supervision for juvenile diversion;~~
7 ~~(III) The length of supervision for juvenile diversion; and~~
8 ~~(IV) What services, if any, may be offered to the juvenile.~~
9 ~~Professionals involved with the juvenile's needs, treatment, and service~~
10 ~~planning, including district attorneys, public defenders, probation, and~~
11 ~~state and local governmental entities, such as the departments of human~~
12 ~~or social services, may collaborate to provide appropriate diversion~~
13 ~~services. in jurisdictions where they are not currently available.~~

14 (c) Not deny diversion to a juvenile based on the juvenile's:
15 (I) Ability to pay;
16 (II) Previous or current involvement with the departments of
17 human or social services;
18 (III) Age, race or ethnicity, gender, or sexual orientation, OR
19 GENDER IDENTITY; OR or

20 (IV) Legal representation;
21 (d) Align the juvenile diversion program's policies and practices
22 with evidence-based practices and with the definition of "diversion"
23 pursuant to section 19-1-103; ~~(44)~~; and

24 (e) Collect and submit data to the division of criminal justice
25 pursuant to subsection (5) of this section.

26 (f) ESTABLISH AND MAKE PUBLIC ANY ELIGIBILITY CRITERIA FOR
27 PARTICIPATION IN A JUVENILE DIVERSION PROGRAM AND USE THE RESULTS

1 OF THE RISK SCREENING TO MAKE DECISIONS ON ELIGIBILITY CRITERIA.

2 (4.5) DIVERSION PROGRAMS MAY USE THE RESULTS OF AN
3 APPROVED VALIDATED ASSESSMENT TOOL TO INFORM:

4 (a) THE LEVEL AND INTENSITY OF SUPERVISION FOR JUVENILE
5 DIVERSION;

6 (b) THE LENGTH OF SUPERVISION FOR JUVENILE DIVERSION; AND

7 (c) WHAT SERVICES, IF ANY, MAY BE OFFERED TO THE JUVENILE.

8 PROFESSIONALS INVOLVED WITH THE JUVENILE'S NEEDS, TREATMENT, AND
9 SERVICE PLANNING, INCLUDING DISTRICT ATTORNEYS, PUBLIC DEFENDERS,
10 PROBATION, AND STATE AND LOCAL GOVERNMENTAL ENTITIES, SUCH AS
11 THE STATE DEPARTMENT OF HUMAN SERVICES AND COUNTY DEPARTMENTS
12 OF HUMAN OR SOCIAL SERVICES, NONGOVERNMENTAL AGENCIES, AND
13 INDIVIDUALS COLLABORATING TO PROVIDE APPROPRIATE DIVERSION
14 SERVICES.

15 (5) (a) The division of criminal justice, in collaboration with
16 district attorneys or diversion program directors who accept formula
17 money and programs providing juvenile diversion services, shall establish
18 minimum data collection requirements and outcome measures that each
19 district attorney's office, governmental unit, and nongovernmental agency
20 shall collect and submit annually for all juveniles referred to the district
21 attorney pursuant to section 19-2-510. ~~including, but not limited to~~ THE
22 DATA SUMMARY MUST INCLUDE, AT A MINIMUM:

23 ~~(a)~~ (I) Demographic data on age, race or ethnicity, and gender,
24 SEXUAL ORIENTATION, AND GENDER IDENTITY;

25 ~~(b)~~ (II) Risk screening conducted;

26 ~~(c)~~ (III) Risk level as determined by the risk screening or, if no
27 screening was completed, the reason why ~~the~~ A screening was not

1 completed;
2 (d) (IV) Offense;
3 (e) (V) Diversion status;
4 (f) (VI) Service participation AND WHETHER THE SERVICE WAS
5 PROVIDED BY COMMUNITY PARTNERS OR IN-HOUSE;
6 (g) (VII) Program completion data;
7 (VIII) REFERRAL TO RESTORATIVE JUSTICE SERVICES;
8 (h) (IX) Child welfare involvement; and
9 (i) (X) Identifying data necessary to track the long-term outcomes
10 of diverted juveniles.

11 (b) NOTWITHSTANDING THE REQUIREMENTS OF SECTION 19-1-303
12 TO THE CONTRARY, ON OR BEFORE AUGUST 1, 2021, AND CONTINUING
13 EVERY AUGUST 1 THEREAFTER, EACH DISTRICT ATTORNEY SHALL REPORT
14 TO THE DIVISION OF CRIMINAL JUSTICE THE NAME AND DEMOGRAPHIC
15 DATA FOR ANY JUVENILE WHO WAS GRANTED JUVENILE DIVERSION FOR A
16 TICKET, SUMMONS, OR OFFENSE SINCE THE DATE OF THE PREVIOUS REPORT.
17 THE DEMOGRAPHIC DATA MUST INCLUDE AGE, RACE AND ETHNICITY,
18 GENDER, SEXUAL ORIENTATION, AND GENDER IDENTITY. THE REPORTS
19 MUST COVER THE STATE FISCAL YEARS FROM JULY 1 THROUGH JUNE 30.

20 (c) ON OR BEFORE AUGUST 1, 2021, AND EVERY AUGUST 1
21 THEREAFTER, EACH AGENCY THAT RECEIVES DIVERSION MONEY PURSUANT
22 TO SUBSECTION (7) OF THIS SECTION SHALL REPORT ON THE NUMBER OF
23 JUVENILES WHO WERE SCREENED FOR ELIGIBILITY FOR DIVERSION SINCE
24 THE DATE OF THE PREVIOUS REPORT BUT SUBSEQUENTLY REJECTED. THE
25 REPORT MUST INCLUDE, AT A MINIMUM, DEMOGRAPHIC DATA SUCH AS
26 AGE, RACE AND ETHNICITY, GENDER, SEXUAL ORIENTATION, AND GENDER
27 IDENTITY. THE REPORTS MUST COVER THE STATE FISCAL YEARS FROM JULY

1 1 THROUGH JUNE 30.

2 (6) (a) IN COLLABORATION WITH THE DIVISION OF CRIMINAL
3 JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, each program providing
4 services ~~under~~ PURSUANT TO this section shall develop objectives and
5 report progress toward such objectives as required by rules promulgated
6 by the director.

7 (9) (a) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF
8 PUBLIC SAFETY SHALL REVIEW, AND APPROVE IF APPROPRIATE, ANY
9 ASSESSMENT INSTRUMENT FOR USE PURSUANT TO SUBSECTION (4.5) OF
10 THIS SECTION.

11 (b) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF
12 PUBLIC SAFETY SHALL REEVALUATE ANY INSTRUMENT APPROVED
13 PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION AT LEAST ONCE EVERY
14 THREE YEARS.

15 **SECTION 3.** In Colorado Revised Statutes, 19-2-303, **amend** (7)
16 as follows:

17 **19-2-303. Juvenile diversion program - authorized - report -**
18 **allocation of money - legislative declaration - definitions.** (7) ~~A~~
19 ~~formula must be established for the purpose of allocating money to~~ THE
20 FORMULA ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE IN THE
21 DEPARTMENT OF PUBLIC SAFETY MUST BE USED TO ALLOCATE MONEY
22 WITHIN each judicial district in the state of Colorado for juvenile
23 diversion programs. ~~The executive director of the department of public~~
24 ~~safety is authorized to accept and expend on behalf of the state any funds,~~
25 ~~grants, gifts, or donations from any private or public source for the~~
26 ~~purpose of providing restorative justice programs; except that no gift,~~
27 ~~grant, or donation shall be accepted if the conditions attached to it require~~

1 ~~the expenditure thereof in a manner contrary to law.~~ THE DIVISION OF
2 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL REVIEW
3 THE FORMULA EVERY THREE YEARS. THE DIVISION OF CRIMINAL JUSTICE
4 SHALL PRIORITIZE FUNDING FOR PROGRAMS THAT INCLUDE RESTORATIVE
5 JUSTICE PRACTICES. _____ THE DIVISION OF CRIMINAL JUSTICE MAY
6 CONTRACT WITH DISTRICT ATTORNEYS' OFFICES, GOVERNMENTAL UNITS,
7 AND NONGOVERNMENTAL AGENCIES FOR REASONABLE AND NECESSARY
8 EXPENSES FOR SERVICES TO SERVE EACH JUDICIAL DISTRICT TO UTILIZE IN
9 DIVERTING JUVENILES AND TO PROVIDE SERVICES, IF WARRANTED, FOR
10 ELIGIBLE JUVENILES THROUGH COMMUNITY-BASED PROGRAMS THAT
11 PROVIDE AN ALTERNATIVE TO ENTRY INTO THE FORMAL LEGAL SYSTEM, A
12 PETITION FILED PURSUANT TO SECTION 19-2-512, OR AN ADJUDICATORY
13 HEARING HELD PURSUANT TO SECTION 19-2-804.

14 **SECTION 4.** In Colorado Revised Statutes, 20-1-113, **amend** (4)
15 as follows:

16 **20-1-113. Reporting of criminal proceedings involving public**
17 **school students.** (4) Notwithstanding ~~the provisions of section 19-1-303~~
18 (5), ~~C.R.S.~~, commencing August 1, 2015, and continuing every August
19 1 every year thereafter, each district attorney shall report to the division
20 of criminal justice IN THE DEPARTMENT OF PUBLIC SAFETY the name of
21 any student who was granted ~~pre-file~~ juvenile or adult diversion for a
22 ticket, summons, or offense that occurred at a public elementary school,
23 middle or junior high school, or high school; in a school vehicle; or at a
24 school activity or sanctioned event. In addition to the full name of the
25 student, the district attorney shall report the student's date of birth, race,
26 ethnicity, and gender and the arrest or incident report number, as recorded
27 by a law enforcement agency. Information, including expunged record

1 information, released by a district attorney to the division of criminal
2 justice pursuant to this section must only be used for research purposes
3 related to school discipline.

4 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-503, **add**
5 (1)(r.5) as follows:

6 **24-33.5-503. Duties of division.** (1) The division has the
7 following duties:

8 (r.5) TO ADMINISTER THE JUVENILE DIVERSION PROGRAM CREATED
9 AND AUTHORIZED IN SECTION 19-2-303, INCLUDING THE ALLOCATION OF
10 MONEY FOR THE PROGRAM;

11 **SECTION 6. Effective date.** This act takes effect upon passage;
12 except that section 3 of this act takes effect July 1, 2023.

13 **SECTION 7. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.