

## CHAPTER 341

---

**CRIMINAL LAW AND PROCEDURE**

---

**HOUSE BILL 13-1254**

BY REPRESENTATIVE(S) 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;  
also SENATOR(S) Newell, Aguilar, Giron, Guzman, Heath, Hudak, Jones, Kefalas, Kerr, Tochtrop, Todd, Ulibarri, Morse.

**AN ACT**

**CONCERNING RESTORATIVE JUSTICE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, 18-1-901, **amend** (3) (o.5) as follows:

**18-1-901. Definitions.** (3) (o.5) "Restorative justice practices" means practices that emphasize repairing the harm caused to victims and the community by offenses. Restorative justice practices include ~~victim-initiated~~ victim-offender conferences, family group conferences, circles, community conferences, and other similar victim-centered practices. Restorative justice practices are facilitated meetings attended voluntarily by the victim or victim's representatives, the victim's supporters, the offender, and the offender's supporters and may include community members. By engaging the parties to the offense in voluntary dialogue, restorative justice practices provide an opportunity for the offender to accept responsibility for the harm caused to the victim and community, promote victim healing, and enable the participants to agree on consequences to repair the harm, to the extent possible, including but not limited to apologies, community service, reparation, restoration, and counseling. Restorative justice practices may be used in addition to any other conditions, consequences, or sentence imposed by the court.

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

**18-1.3-204. Conditions of probation - interstate compact probation transfer**

---

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

**cash fund - creation.** (2) (a) When granting probation, the court may, as a condition of probation, require that the defendant:

(III.5) Participate in restorative justice practices, as defined in section 18-1-901 (3) (o.5), if available in the jurisdiction, ~~requested by the victim who has been informed about restorative justice practices pursuant to section 24-4.1-303 (11) (g), C.R.S.~~; and the defendant is determined suitable by a designated restorative justice practices facilitator. IF A DEFENDANT WANTS TO PARTICIPATE IN RESTORATIVE JUSTICE PRACTICES, THE DEFENDANT MUST MAKE THE REQUEST TO THE DISTRICT ATTORNEY OR THE LAW ENFORCEMENT AGENCY ADMINISTERING THE PROGRAM AND MAY NOT MAKE THE REQUEST TO THE VICTIM. IF REQUESTED BY THE DEFENDANT, DISTRICT ATTORNEY, OR LAW ENFORCEMENT AGENCY, A VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED AFTER THE VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND OFFERED THE OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM OFFENDER CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT STATEMENT. To be eligible for restorative justice practices, the defendant shall not have been convicted of unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), stalking as defined in section 18-3-602, or violation of a protection order as defined in section 18-6-803.5. Any statements made during a restorative justice conference shall be confidential and shall not be used as a basis for charging or prosecuting the defendant unless the defendant commits a chargeable offense during the conference. Failure to complete the requirements arising from a restorative justice conference may be considered a violation of probation. Nothing in this subparagraph (III.5) shall be construed to require a victim to participate in RESTORATIVE JUSTICE PRACTICES OR a restorative justice victim-offender conference.

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

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

(44) "Diversion" means a decision made by a person with authority or a delegate of that person that results in specific official action of the legal system not being taken in regard to a specific juvenile or child and in lieu thereof providing individually designed services by a specific program. The goal of diversion is to prevent further involvement of the juvenile or child in the formal legal system. Diversion of a juvenile or child may take place either at the pre-filing level as an alternative to the filing of a petition pursuant to section 19-2-512 or at the postadjudication level as an adjunct to probation services following an adjudicatory hearing pursuant to section 19-3-505 or a disposition as a part of sentencing pursuant to section 19-2-907. "Services", as used in this subsection (44), includes but is not limited to diagnostic needs assessment, restitution programs, community service, job training and placement, specialized tutoring, constructive recreational activities, general counseling and counseling during a crisis situation, and follow-up activities. Services may include restorative justice practices as defined in section 18-1-901 (3) (o.5), C.R.S., ~~as requested by the victim, after being informed about restorative justice practices pursuant to section 24-4.1-303 (11) (g), C.R.S.~~; and as

deemed suitable by the probation department or a designated restorative justice practices facilitator. ~~Such practices may include victim-offender conferences, if requested by the victim.~~ Restorative justice practices shall be conducted by facilitators recommended by the district attorney.

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

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

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

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

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

(A) THE LOCATION OF THE RESTORATIVE JUSTICE PROGRAM;

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

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

(d) (I) THE COUNCIL SHALL COLLECT INFORMATION REGARDING RESTORATIVE JUSTICE PRACTICES IN THE STATE AND SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE REPRESENTATIVES BY JANUARY 31, 2014. THE REPORT MUST INCLUDE INFORMATION ON THE NUMBER OF CASES IN WHICH RESTORATIVE JUSTICE WAS CONSIDERED, USED, AND NOT USED, INCLUDING THE DEMOGRAPHIC INFORMATION OF THE INDIVIDUALS, A DESCRIPTION OF THE RESTORATIVE JUSTICE PRACTICES USED, AND THE RESULTS OF THE UNIFORM RESTORATIVE JUSTICE SATISFACTION EVALUATION. THE INFORMATION MUST ALSO BE IDENTIFIED BY THE COURT EMPLOYING THE RESTORATIVE JUSTICE PRACTICES, BY

THE OUTCOME OF THE RESTORATIVE JUSTICE PRACTICES, AND BY THE POINT IN THE CRIMINAL OR JUVENILE JUSTICE PROCESS IN WHICH RESTORATIVE JUSTICE WAS CONSIDERED OR USED.

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

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

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

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

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

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

(l) THREE RESTORATIVE JUSTICE PRACTITIONERS APPOINTED BY THE STATE COURT ADMINISTRATOR; AND

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

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

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

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

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

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

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

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

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

(I) ESTABLISH A PILOT PROGRAM TO FACILITATE AND ENCOURAGE DIVERSION OF JUVENILES FROM THE JUVENILE JUSTICE SYSTEM TO RESTORATIVE JUSTICE PRACTICES, BOTH TO PROVIDE DATA TO ASSESS THE EFFICACY OF RESTORATIVE JUSTICE TO REDUCE RECIDIVISM, TO ASSIST IN REPAIRING THE HARM CAUSED TO VICTIMS AND THE COMMUNITY, INCREASE VICTIM, OFFENDER, AND COMMUNITY MEMBER SATISFACTION, AND REDUCE COST; AND TO PROMOTE THE RESTORATIVE JUSTICE PRINCIPLES OF RECONCILIATION, RESPONSIBILITY, REINTEGRATION, RESPECT, RELATIONSHIP-BUILDING, AND RESTITUTION; AND

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

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

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

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

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

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

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

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

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

(VII) THE NUMBER OF VICTIMS WHO:

- (A) WERE CONTACTED FOR PARTICIPATION;
- (B) PARTICIPATED;
- (C) SUBMITTED VICTIM IMPACT STATEMENTS;
- (D) SENT A SURROGATE; OR
- (E) DECLINED TO PARTICIPATE IN A RESTORATIVE JUSTICE PROGRAM.

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

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

(3)(a) THE PILOT PROJECT AND EXISTING SITES MUST IMPLEMENT A RESTORATIVE JUSTICE PROGRAM THAT REQUIRES THE DISTRICT ATTORNEY, PRIOR TO FILING CHARGES, TO ASSESS IF THE JUVENILE IS SUITABLE FOR PARTICIPATION IN THE RESTORATIVE JUSTICE PILOT PROGRAM BASED ON THE CONSIDERATIONS SET FORTH IN SECTION 19-2-512 (2). IF THE ASSESSMENT DETERMINES THE JUVENILE IS SUITABLE, THE DISTRICT ATTORNEY, AFTER CONSULTATION WITH THE VICTIM IN A VICTIMS' RIGHTS ACT CRIME, MAY OFFER THE JUVENILE PREFILING DIVERSION TO A PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES. IF THE JUVENILE ACCEPTS PARTICIPATION IN THE PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY SHALL NOT FILE THE PETITION. THE DISTRICT ATTORNEY SHALL PLACE THE JUVENILE IN A DIVERSION PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, AND THE JUVENILE SHALL PAY A FEE OF ONE HUNDRED TWENTY-FIVE DOLLARS, BUT THE FEE MAY BE REDUCED ON SLIDING SCALE BASED ON INCOME CONSISTENT WITH GUIDELINES USED TO DETERMINE ELIGIBILITY FOR APPOINTMENT OF COUNSEL. IF THE JUVENILE SUCCESSFULLY COMPLETES THE PROGRAM, THE DISTRICT ATTORNEY SHALL NOT FILE A PETITION AGAINST THE JUVENILE FOR THE ALLEGED CRIMES THAT LED TO PARTICIPATION IN THE PROGRAM. IF THE JUVENILE IS CHARGED WITH A NEW OFFENSE WHILE IN THE PROGRAM OR DOES NOT SUCCESSFULLY COMPLETE THE PROGRAM UTILIZING RESTORATIVE JUSTICE PRACTICES, THE DISTRICT ATTORNEY MAY INITIATE A PETITION AGAINST THE JUVENILE AND SHALL PROCEED AS AUTHORIZED IN THIS ARTICLE. ANY STATEMENTS MADE DURING THE CONFERENCE ARE CONFIDENTIAL AND MAY NOT BE USED AS A BASIS FOR CHARGING OR PROSECUTING THE DEFENDANT UNLESS THE DEFENDANT COMMITS A CHARGEABLE OFFENSE DURING THE CONFERENCE. EACH PARTICIPANT IN THE RESTORATIVE JUSTICE PROGRAM SHALL COMPLETE THE UNIFORM RESTORATIVE JUSTICE SATISFACTION EVALUATION.

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

- (I) IS LESS THAN EIGHTEEN YEARS OF AGE;
- (II) HAS NOT BEEN PREVIOUSLY ADJUDICATED FOR AN OFFENSE THAT WOULD BE

A FELONY IF COMMITTED BY AN ADULT AND HAS NOT PREVIOUSLY PARTICIPATED IN THE PILOT PROJECT ESTABLISHED BY THIS SECTION; AND

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

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

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

(4) BEFORE IMPLEMENTING A RESTORATIVE JUSTICE PILOT PROJECT, EACH JUDICIAL DISTRICT SHALL, IN CONSULTATION WITH THE COUNCIL, ESTABLISH GUIDELINES TO BE FOLLOWED FOR SUCH PROJECT. SUCH GUIDELINES SHALL INCLUDE: A FRONT-END ASSESSMENT OF THE OFFENDER, THE CRIME, VICTIM IMPACT, AND THE BEST METHODOLOGY TO INVOLVE VICTIMS; CONSIDERATION FOR SERVICES AND PROGRAMMATIC SUPPORT AVAILABLE; AND A THOROUGH AND APPROPRIATE EVALUATION OF THE PILOT PROJECT.

(5) THE RESTORATIVE JUSTICE PILOT PROJECT SITES SHALL RECEIVE FUNDS FROM THE RESTORATIVE JUSTICE SURCHARGE FUND CREATED IN SECTION 18-25-101 (3), C.R.S.

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

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

**19-2-512. Petition initiation.** (2) If the petition is the first juvenile petition filed against the juvenile in any jurisdiction and is initiated in a jurisdiction that has restorative justice practices available, the district attorney or his or her designee may determine whether a juvenile is suitable for restorative justice practices. ~~In making a determination of whether the juvenile is suitable for restorative justice practices, the district attorney shall first determine whether the victim, having been informed about restorative justice practices pursuant to section 24-4.1-303 (11) (g), C.R.S., is requesting consideration of restorative justice practices as an alternative to formal prosecution. Upon such request, The district attorney shall consider WHETHER THE VICTIM, HAVING BEEN INFORMED ABOUT RESTORATIVE JUSTICE PRACTICES PURSUANT TO SECTION 24-4.1-303 (11) (g), C.R.S., IS REQUESTING CONSIDERATION OF RESTORATIVE JUSTICE PRACTICES AS AN ALTERNATIVE TO FORMAL PROSECUTION; THE SERIOUSNESS OF THE CRIME; THE CRIME'S IMPACT ON THE VICTIM; THE BEST METHODOLOGY TO INVOLVE THE VICTIM; whether the juvenile accepts responsibility for, expresses remorse for, and is willing to repair the harm caused by his or her actions; and whether the juvenile's parent or legal guardian is willing to support the juvenile in the process; AND OTHER PROGRAMMATIC SUPPORT AVAILABLE. If requested by the victim, restorative justice practices may be utilized as part of this process.~~ If a juvenile wants to participate in restorative justice practices, the juvenile must make the request to the district attorney or the law enforcement agency administering the program and may not make the request to the victim. If requested by the juvenile, restorative justice practices may only be conducted after the victim is consulted by the district attorney and offered an opportunity to participate or submit a

VICTIM IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM-OFFENDER CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT STATEMENT. The district attorney may offer dismissal of charges as an option for the successful completion of these and any other conditions imposed and designed to address the harm done to the victim and the community by the offender, subject to approval by the court.

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

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

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

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

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

**19-2-905. Presentence investigation.** (4) Prior to sentencing a juvenile who was adjudicated for an offense that would be a felony or misdemeanor not contained in title 42, C.R.S., if committed by an adult, the court ~~upon the request of the victim,~~ may order the juvenile to participate in an assessment to determine whether the juvenile would be suitable for participation in restorative justice practices that would be a part of the juvenile's sentence; except that the court may not order participation in a restorative justice practice if the juvenile was adjudicated a delinquent for unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S., stalking as defined in section 18-3-602, C.R.S., or violation of a protection order as defined in section 18-6-803.5, C.R.S. If the court orders a suitability assessment, the assessor shall provide the services for a fee of no more than forty dollars based on a sliding scale; however, the fee may be ~~waived by the court~~ REDUCED BY THE COURT BASED ON A SLIDING SCALE CONSISTENT WITH GUIDELINES USED TO DETERMINE ELIGIBILITY FOR APPOINTMENT OF COUNSEL. IF A JUVENILE WANTS TO PARTICIPATE IN RESTORATIVE JUSTICE PRACTICES, THE

JUVENILE MUST MAKE THE REQUEST TO THE DISTRICT ATTORNEY OR THE LAW ENFORCEMENT AGENCY ADMINISTERING THE PROGRAM AND MAY NOT MAKE THE REQUEST TO THE VICTIM. IF REQUESTED BY THE JUVENILE OR LAW ENFORCEMENT AGENCY, A VICTIM-OFFENDER CONFERENCE MAY ONLY BE CONDUCTED AFTER THE VICTIM IS CONSULTED BY THE DISTRICT ATTORNEY AND OFFERED AN OPPORTUNITY TO PARTICIPATE OR SUBMIT A VICTIM IMPACT STATEMENT. IF A VICTIM ELECTS NOT TO ATTEND, A VICTIM-OFFENDER CONFERENCE MAY BE HELD WITH A SUITABLE VICTIM SURROGATE OR VICTIM ADVOCATE, AND THE VICTIM MAY SUBMIT A VICTIM-IMPACT STATEMENT. If the juvenile participates in a restorative justice practices victim-offender conference, the facilitator shall provide these services for a fee of no more than one hundred twenty-five dollars based on a sliding scale; however, the fee may be waived by the court.

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

**ARTICLE 25**  
**Restorative Justice Surcharge**

**18-25-101. Restorative justice surcharge - definitions.** (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 DEFRAYING THE COSTS OF RESTORATIVE JUSTICE PROGRAMS, INCLUDING BUT NOT LIMITED TO PROCEDURES FOR PROGRAMS TO USE IN APPLYING TO THE JUDICIAL DEPARTMENT FOR MONEYS FROM THE FUND.

(c) THE JUDICIAL DEPARTMENT SHALL NOT EXPEND ANY MONEYS UNTIL THE FUND

HAS ENOUGH MONEY TO PAY THE EXPENSES NECESSARY TO ADMINISTER THE FUND.

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

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

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

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

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

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

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

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

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

**SECTION 13. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$20,629 and 0.3 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

- (a) \$17,992 and 0.3 FTE for general courts administration for personal services;
- (b) \$285 for general courts administration for operating expenses; and
- (c) \$2,352 for courthouse capital/infrastructure maintenance.

(2) In addition to any other appropriation, there is hereby appropriated, out of any

moneys in the restorative justice surcharge fund created in section 18-25-101 (3) (a), Colorado Revised Statutes, not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$12,263 and 0.2 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$12,073 and 0.2 FTE for general courts administration for personal services; and

(b) \$190 for general courts administration for operating expenses.

**SECTION 14. 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 7, 2013, if adjournment sine die is on May 8, 2013); 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2013