



# The Colorado Success Story

## Colorado Enacts Series of Reforms to Keep More Youth in the Juvenile System

Over the past three years, the Colorado legislature has stepped up to become a leader in reform efforts on behalf of youth in the adult system by enacting a series of important improvements to their transfer laws. In 2008, the legislature passed S.B. 08-066, and then in 2009 Colorado passed House Bill 09-1122. In 2010, the Colorado legislature went further still with the passage of its most comprehensive transfer reform bill yet. House Bill 10-1413, enacted with bipartisan support, raises the minimum age of a youth against whom a prosecutor may directly file charges in adult court from 14 years to 16 years, except in the case of first-degree murder, second-degree murder, or a sex offense. Children under 16 who have not been accused of one of the enumerated offenses can now only be moved to adult court using a judicial waiver. This bill also increases the number of offenses for which convicted juveniles are eligible for sentencing to the YOS. Lastly, the bill includes two changes directly related to prosecutors. First, it creates guidelines prosecutors must follow prior to directly filing charges against a juvenile in adult court and requires prosecutors to submit a written statement listing the criteria relied upon in deciding to direct file. Second, it provides that prosecutors must file a notice of consideration of direct file with the juvenile court at least 14 days prior to filing the charges in district court and the juvenile must be given a chance to provide new information for the prosecutor's consideration.<sup>1</sup>

March 2011

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## ***References***

<sup>1</sup> S.B. 08-066, 66th Gen. Assem., 2d Reg. Sess. (Colo. 2008); H.B. 09-1122, 67th Gen. Assem., Reg. Sess. (Colo. 2009); H.B. 10-1413, 67th Gen. Assem., 2d Reg. Sess. (Co. 2010)

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 10-1413

BY REPRESENTATIVE(S) Levy and May, Carroll T., Court, Ferrandino, Fischer, Kagan, Labuda, McFadyen, Merrifield, Middleton, Nikkel, Pace, Pommer, Ryden, Schafer S., Solano, Stephens, Todd, Tyler, Vigil, Weissmann;

also SENATOR(S) Newell and Lundberg, Boyd, Foster, Heath, Hodge, Hudak, Shaffer B., Steadman, Tochtrop.

CONCERNING JUVENILES WHO ARE TRIED AS ADULTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 19-2-517, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**19-2-517. Direct filing.** (1) A JUVENILE MAY BE CHARGED BY THE DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT ONLY IF:

(a) THE JUVENILE IS SIXTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE COMMISSION OF THE ALLEGED OFFENSE AND:

(I) IS ALLEGED TO HAVE COMMITTED A CLASS 1 OR CLASS 2 FELONY;

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

OR

(II) IS ALLEGED TO HAVE COMMITTED A FELONY ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION 18-1.3-406, C.R.S.; OR

(III) IS ALLEGED TO HAVE COMMITTED A FELONY OFFENSE DESCRIBED IN PART 1 OF ARTICLE 12 OF TITLE 18, C.R.S., EXCEPT FOR THE POSSESSION OF A HANDGUN BY A JUVENILE, AS SET FORTH IN SECTION 18-12-108.5, C.R.S.; OR

(IV) IS ALLEGED TO HAVE USED, OR POSSESSED AND THREATENED THE USE OF, A DEADLY WEAPON DURING THE COMMISSION OF A FELONY OFFENSE AGAINST A PERSON DESCRIBED IN ARTICLE 3 OF TITLE 18, C.R.S.; OR

(V) IS ALLEGED TO HAVE COMMITTED VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106, C.R.S., VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205, C.R.S., OR FELONIOUS ARSON, AS DESCRIBED IN PART 1 OF ARTICLE 4 OF TITLE 18, C.R.S.; OR

(VI) IS ALLEGED TO HAVE COMMITTED A CLASS 3 FELONY, OR SEXUAL ASSAULT AS DESCRIBED IN SECTION 18-3-402 (1) (d), C.R.S., OR SECTION 18-3-403 (1) (e), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, AND THE JUVENILE, WITHIN THE TWO PREVIOUS YEARS, HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR AN ACT THAT CONSTITUTES A FELONY; OR

(VII) IS ALLEGED TO HAVE COMMITTED A FELONY, AND IS DETERMINED TO BE AN HABITUAL JUVENILE OFFENDER. FOR PURPOSES OF THIS SECTION, "HABITUAL JUVENILE OFFENDER" IS DEFINED IN SECTION 19-1-103 (61).

(b) THE JUVENILE IS FOURTEEN OR FIFTEEN YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE ALLEGED OFFENSE AND:

(I) IS ALLEGED TO HAVE COMMITTED MURDER IN THE FIRST DEGREE, AS DESCRIBED IN SECTION 18-3-102, C.R.S., OR MURDER IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-103, C.R.S.; OR

(II) IS ALLEGED TO HAVE COMMITTED SEXUAL ASSAULT UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-402 (5) (a), C.R.S.; OR

(III) IS ALLEGED TO HAVE COMMITTED ANY SEXUAL OFFENSE THAT IS ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION 18-1.3-406, C.R.S.; OR

(IV) IS ALLEGED TO HAVE COMMITTED ANY SEXUAL OFFENSE CLASSIFIED AS A CLASS 3 FELONY, OR SEXUAL ASSAULT AS DESCRIBED IN SECTION 18-3-402 (1) (d), C.R.S., OR SECTION 18-3-403 (1) (e), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, AND THE JUVENILE, WITHIN THE TWO PREVIOUS YEARS, HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR AN ACT THAT CONSTITUTES A FELONY; OR

(V) IS ALLEGED TO HAVE COMMITTED ANY FELONY SEXUAL OFFENSE AND IS DETERMINED TO BE AN HABITUAL JUVENILE OFFENDER.

(c) THE JUVENILE IS FOURTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE COMMISSION OF THE ALLEGED OFFENSE, HAS ALLEGEDLY COMMITTED A FELONY, AND HAS PREVIOUSLY BEEN SUBJECT TO PROCEEDINGS IN DISTRICT COURT AS A RESULT OF A DIRECT FILING PURSUANT TO THIS SECTION OR A TRANSFER PURSUANT TO SECTION 19-2-518; EXCEPT THAT:

(I) IF THE JUVENILE IS FOUND NOT GUILTY IN DISTRICT COURT OF THE PRIOR FELONY OR ANY LESSER INCLUDED OFFENSE, THE SUBSEQUENT CHARGE SHALL BE REMANDED BACK TO THE JUVENILE COURT; AND

(II) IF THE JUVENILE IS CONVICTED IN DISTRICT COURT IN THE PRIOR CASE OF A LESSER INCLUDED OR NONENUMERATED OFFENSE FOR WHICH CRIMINAL CHARGES COULD NOT HAVE BEEN ORIGINALLY FILED BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION, THE SUBSEQUENT CHARGE MAY BE REMANDED BACK TO THE JUVENILE COURT.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-2-518, AFTER FILING CHARGES IN THE JUVENILE COURT BUT PRIOR TO THE TIME THAT THE JUVENILE COURT CONDUCTS A TRANSFER HEARING, THE DISTRICT ATTORNEY MAY FILE THE SAME OR DIFFERENT CHARGES AGAINST THE JUVENILE BY DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO THIS SECTION. UPON SAID FILING OR INDICTMENT IN THE DISTRICT COURT, THE JUVENILE COURT SHALL NO LONGER HAVE JURISDICTION OVER PROCEEDINGS CONCERNING SAID CHARGES.

(3) (a) IN DETERMINING WHETHER TO FILE CHARGES IN DISTRICT COURT PURSUANT TO THIS SECTION, THE DISTRICT ATTORNEY SHALL FIRST CONSIDER THE FOLLOWING CRITERIA:

(I) THE SERIOUSNESS OF THE OFFENSE AND WHETHER THE PROTECTION OF THE COMMUNITY REQUIRES RESPONSE OR CONSEQUENCE BEYOND THAT AFFORDED BY THIS ARTICLE;

(II) WHETHER THE ALLEGED OFFENSE WAS COMMITTED IN AN AGGRESSIVE, VIOLENT, PREMEDITATED, OR WILLFUL MANNER;

(III) WHETHER THE ALLEGED OFFENSE WAS AGAINST PERSONS OR PROPERTY, GREATER WEIGHT BEING GIVEN TO OFFENSES AGAINST PERSONS;

(IV) THE AGE OF THE JUVENILE, AND THE MATURITY OF THE JUVENILE AS DETERMINED BY CONSIDERATIONS OF THE JUVENILE'S HOME, ENVIRONMENT, EMOTIONAL ATTITUDE, AND PATTERN OF LIVING;

(V) THE RECORD AND PREVIOUS HISTORY OF THE JUVENILE;

(VI) THE LIKELIHOOD OF REHABILITATION OF THE JUVENILE BY USE OF THE SENTENCING OPTIONS AVAILABLE IN THE JUVENILE AND DISTRICT COURTS;

(VII) THE INTEREST OF THE COMMUNITY IN THE IMPOSITION OF A PUNISHMENT COMMENSURATE WITH THE GRAVITY OF THE OFFENSE;

(VIII) THE IMPACT OF THE OFFENSE ON THE VICTIM;

(IX) WHETHER THE JUVENILE WAS PREVIOUSLY COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES FOLLOWING AN ADJUDICATION FOR A DELINQUENT ACT THAT CONSTITUTES A FELONY; AND

(X) WHETHER THE JUVENILE USED, OR POSSESSED AND THREATENED THE USE OF, A DEADLY WEAPON IN THE COMMISSION OF A DELINQUENT ACT.

(b) THE AMOUNT OF WEIGHT GIVEN TO EACH OF THE FACTORS LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (3) IS DISCRETIONARY WITH THE DISTRICT ATTORNEY. THE INSUFFICIENCY OF ANY FACTOR OR SET OF FACTORS SHALL NOT PRECLUDE THE DISTRICT ATTORNEY FROM CHARGING

BY DIRECT FILING, SO LONG AS THE DISTRICT ATTORNEY IS SATISFIED THAT THE INFORMATION AVAILABLE SUPPORTS THE DECISION.

(4) (a) IF, AFTER OR CONTEMPORANEOUSLY WITH THE FILING OF A DELINQUENCY PETITION AND AFTER INITIAL CONSIDERATION OF THE FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION, THE DISTRICT ATTORNEY BELIEVES THE CASE MAY BE APPROPRIATE FOR CHARGING BY DIRECT FILING, THE DISTRICT ATTORNEY SHALL FILE WITH THE JUVENILE COURT, WITH A COPY TO THE JUVENILE'S COUNSEL OF RECORD, OR TO THE JUVENILE IF THE JUVENILE HAS WAIVED COUNSEL OR IF THERE IS NO COUNSEL OF RECORD, A NOTICE OF CONSIDERATION OF DIRECT FILE. NO LATER THAN FORTY-EIGHT HOURS AFTER THE FILING OF THE NOTICE OF CONSIDERATION, THE JUVENILE COURT SHALL READVICE THE JUVENILE OF HIS OR HER RIGHT TO COUNSEL. IF THE JUVENILE HAS PREVIOUSLY WAIVED HIS OR HER RIGHT TO COUNSEL, THE JUVENILE SHALL HAVE AN OPPORTUNITY TO WITHDRAW SUCH WAIVER.

(b) AFTER THE FILING OF THE NOTICE OF CONSIDERATION OF DIRECT FILE, THE JUVENILE SHALL HAVE FOURTEEN DAYS TO PROVIDE TO THE DISTRICT ATTORNEY ANY AND ALL INFORMATION THE JUVENILE REQUESTS THE DISTRICT ATTORNEY TO CONSIDER RELATING TO THE FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION IN MAKING THE DECISION WHETHER TO DIRECT FILE CHARGES. THE DISTRICT ATTORNEY SHALL NOT DIRECT FILE CHARGES UNTIL THE FOURTEEN-DAY PERIOD FOR CONSIDERATION HAS PASSED. NOTHING IN THIS SECTION SHALL REQUIRE THE DISTRICT ATTORNEY TO EXTEND THE PERIOD FOR CONSIDERATION; NOR SHALL ANYTHING IN THIS SECTION PROHIBIT THE DISTRICT ATTORNEY FROM AGREEING WITH THE JUVENILE'S COUNSEL OF RECORD TO EXTEND THE PERIOD FOR CONSIDERATION. FURTHER, NOTHING IN THIS SECTION SHALL PRECLUDE THE DISTRICT ATTORNEY FROM DIRECT FILING THE CHARGES AFTER THE EXPIRATION OF THE PERIOD FOR CONSIDERATION.

(c) THE JUVENILE COURT SHALL NOT ACCEPT A PLEA OF GUILTY DURING THE PERIOD FOR CONSIDERATION OF DIRECT FILE UNLESS THE PLEA IS ENTERED WITH THE AGREEMENT OF THE DISTRICT ATTORNEY.

(d) THE DISTRICT ATTORNEY IS ENCOURAGED TO PROVIDE THE JUVENILE'S COUNSEL OF RECORD AN OPPORTUNITY TO MEET TO DISCUSS ANY AND ALL INFORMATION RELEVANT TO THE FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION BEFORE A DECISION TO DIRECT FILE

OCCURS. HOWEVER, THE LACK OF ANY SUCH MEETING SHALL NOT REQUIRE AN EXTENSION OF THE PERIOD FOR CONSIDERATION.

(e) AT THE DISCRETION OF THE DISTRICT ATTORNEY, THE PROVISIONS OF THIS SUBSECTION (4) SHALL NOT APPLY TO CHARGES FOR FIRST DEGREE MURDER AS DESCRIBED IN SECTION 18-3-102, C.R.S., SECOND DEGREE MURDER, AS DESCRIBED IN SECTION 18-3-103, C.R.S., OR ANY SEXUAL OFFENSE THAT IS ELIGIBLE FOR DIRECT FILE PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(5) UPON THE DIRECT FILING OF CHARGES IN THE DISTRICT COURT PURSUANT TO THIS SECTION, THE DISTRICT ATTORNEY SHALL FILE A WRITTEN STATEMENT LISTING THE SPECIFIC FACTORS SET FORTH IN SUBSECTION (3) OF THIS SECTION UPON WHICH THE DECISION TO DIRECT FILE WAS BASED.

(6) (a) IF A JUVENILE IS CONVICTED FOLLOWING THE FILING OF CRIMINAL CHARGES BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION, THE DISTRICT JUDGE SHALL SENTENCE THE JUVENILE AS FOLLOWS:

(I) AS AN ADULT; OR

(II) TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF CORRECTIONS IN ACCORDANCE WITH SECTION 18-1.3-407, C.R.S.; EXCEPT THAT A JUVENILE SHALL BE INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE JUVENILE IS CONVICTED OF:

(A) A CLASS 1 FELONY;

(B) ANY SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301 OR 18-6-302, C.R.S., OR PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S.; OR

(C) A SECOND OR SUBSEQUENT OFFENSE, IF THE JUVENILE RECEIVED A SENTENCE TO THE DEPARTMENT OF CORRECTIONS OR TO THE YOUTHFUL OFFENDER SYSTEM FOR THE PRIOR OFFENSE; OR

(III) PURSUANT TO THE PROVISIONS OF THIS ARTICLE, IF THE JUVENILE IS LESS THAN SIXTEEN YEARS OF AGE AT THE TIME OF COMMISSION OF THE CRIME AND IS CONVICTED OF AN OFFENSE OTHER THAN A CLASS 1 OR CLASS 2 FELONY, A CRIME OF VIOLENCE AS DEFINED UNDER SECTION

18-1.3-406, C.R.S., OR AN OFFENSE DESCRIBED IN SUBPARAGRAPH (V) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND THE JUDGE MAKES A FINDING OF SPECIAL CIRCUMSTANCES.

(b) THE DISTRICT COURT JUDGE MAY SENTENCE A JUVENILE PURSUANT TO THE PROVISIONS OF THIS ARTICLE IF THE JUVENILE IS CONVICTED OF A LESSER INCLUDED OR NONENUMERATED OFFENSE FOR WHICH CRIMINAL CHARGES COULD NOT HAVE BEEN ORIGINALLY FILED BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION.

(7) IN THE CASE OF A PERSON WHO IS SENTENCED AS A JUVENILE PURSUANT TO SUBSECTION (6) OF THIS SECTION, THE FOLLOWING PROVISIONS SHALL APPLY:

(a) SECTION 19-2-908 (1) (a), REGARDING MANDATORY SENTENCE OFFENDERS;

(b) SECTION 19-2-908 (1) (b), REGARDING REPEAT JUVENILE OFFENDERS;

(c) SECTION 19-2-908 (1) (c), REGARDING VIOLENT JUVENILE OFFENDERS; AND

(d) SECTION 19-2-601, REGARDING AGGRAVATED JUVENILE OFFENDERS.

(8) THE COURT IN ITS DISCRETION MAY APPOINT A GUARDIAN AD LITEM FOR A JUVENILE CHARGED BY THE DIRECT FILING OF AN INFORMATION IN THE DISTRICT COURT OR BY INDICTMENT PURSUANT TO THIS SECTION.

(9) THE OFFENSES DESCRIBED IN THIS SECTION SHALL INCLUDE ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT SUCH OFFENSES.

**SECTION 2.** 19-2-518 (1) (d) (II) (B), (1) (d) (II) (C), (1) (d) (II) (D), (1) (d.5), and (5), Colorado Revised Statutes, are amended to read:

**19-2-518. Transfers.** (1) (d) (II) In cases in which criminal charges are transferred to the district court pursuant to the provisions of this section, the judge of the district court may sentence to the youthful offender system

created in section 18-1.3-407, C.R.S., any juvenile who would otherwise be sentenced pursuant to the provisions of subparagraph (I) of this paragraph (d); except that a juvenile shall be ineligible for sentencing to the youthful offender system if the juvenile is convicted of:

~~(B) A class 2 felony as a result of a plea agreement in cases where the juvenile is charged with a class 1 felony;~~

~~(C) A class 2 felony and the juvenile has one or more prior convictions for a crime of violence, as defined in section 18-1.3-406, C.R.S., or prior adjudications for an offense that would constitute a crime of violence if committed by an adult;~~

~~(D) A class 2 felony and the juvenile is sixteen years of age or older;~~

~~(d.5) Notwithstanding the provisions of subparagraph (II) of paragraph (d) of this subsection (1), a juvenile who is charged with first degree murder as described in section 18-3-102 (1) (b), C.R.S., and pleads guilty to a class 2 felony as a result of a plea agreement is eligible for sentencing to the youthful offender system if the juvenile would be eligible for sentencing to the youthful offender system for a conviction of the felony underlying the charge of first degree murder as described in section 18-3-102 (1) (b), C.R.S.~~

(5) When an action has been remanded to the juvenile court pursuant to section 19-2-517 (1) ~~(a) (IV)~~ (c) and the prosecution seeks waiver of jurisdiction pursuant to this section, the court's findings from the prior transfer hearing regarding the factor listed in paragraph (c) of subsection (4) of this section shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the juvenile or of the community.

**SECTION 3.** 16-11-102 (1.8), Colorado Revised Statutes, is amended to read:

**16-11-102. Presentence or probation investigation.** (1.8) Upon the request of either the prosecution or the defense, each presentence report prepared regarding a youthful offender, as defined in section 18-1.3-407, C.R.S., who is eligible for sentencing to the youthful offender system pursuant to section 18-1.3-407.5, 19-2-517 ~~(3)~~ (6), or 19-2-518 (1) (d) (II),

~~or (1) (d.5)~~; C.R.S., shall include a determination by the warden of the youthful offender system whether the youthful offender is acceptable for sentencing to the youthful offender system. When making a determination, the warden shall consider the nature and circumstances of the crime, the circumstances and criminal history of the youthful offender, the available bed space in the youthful offender system, and any other appropriate considerations.

**SECTION 4.** 18-1.3-104 (1) (h) (I), Colorado Revised Statutes, is amended to read:

**18-1.3-104. Alternatives in imposition of sentence.** (1) Within the limitations of the applicable statute pertaining to sentencing and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(h) (I) If the defendant is eligible pursuant to section 18-1.3-407.5 or section 19-2-517 ~~(3)~~ (6), C.R.S., the defendant may be sentenced to the youthful offender system in accordance with section 18-1.3-407.

**SECTION 5.** 18-1.3-407 (1) (b) and (2) (a) (I) and the introductory portion to 18-1.3-407 (2.1) (a), Colorado Revised Statutes, are amended to read:

**18-1.3-407. Sentences - youthful offenders - legislative declaration - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections - definitions.** (1) (b) It is the further intent of the general assembly in enacting this section that female and male offenders who are eligible for sentencing to the youthful offender system pursuant to section 18-1.3-407.5 or section 19-2-517 ~~(3)~~ (6) or 19-2-518 (1) (d) (II), ~~or (1) (d.5)~~; C.R.S., receive equitable treatment in sentencing, particularly in regard to the option of being sentenced to the youthful offender system. Accordingly, it is the general assembly's intent that necessary measures be taken by the department of corrections to establish separate housing for female and male offenders who are sentenced to the youthful offender system without compromising the equitable treatment of either.

(2) (a) (I) A juvenile may be sentenced to the youthful offender system created pursuant to this section under the circumstances set forth in

section 19-2-517 ~~(3) (a) (H) or (3) (a.5)~~ (6) (a) (II) or 19-2-518 (1) (d) (II), or ~~(1) (d.5)~~; C.R.S. A young adult offender may be sentenced to the youthful offender system created pursuant to this section under the circumstances set forth in section 18-1.3-407.5. In order to sentence a juvenile or young adult offender to the youthful offender system, the court shall first impose upon such person a sentence to the department of corrections in accordance with section 18-1.3-401. The court shall thereafter suspend such sentence conditioned on completion of a sentence to the youthful offender system, including a period of community supervision. The court shall impose any such sentence to the youthful offender system for a determinate period of not fewer than two years nor more than six years; except that a juvenile or young adult offender convicted of a class 2 felony may be sentenced for a determinate period of up to seven years. In imposing such sentence, the court shall grant authority to the department of corrections to place the offender under a period of community supervision for a period of not fewer than six months and up to twelve months any time after the date on which the offender has twelve months remaining to complete the determinate sentence. The court may award an offender sentenced to the youthful offender system credit for presentence confinement; except that such credit shall not reduce the offender's actual time served in the youthful offender system to fewer than two years. The court shall have a presentence investigation conducted before sentencing a juvenile or young adult offender pursuant to this section. Upon the request of either the prosecution or the defense, the presentence report shall include a determination by the warden of the youthful offender system whether the offender is acceptable for sentencing to the youthful offender system. When making a determination, the warden shall consider the nature and circumstances of the crime; the age, circumstances, and criminal history of the offender; the available bed space in the youthful offender system; and any other appropriate considerations.

(2.1) (a) As originally enacted, this section applied only to offenses committed by juveniles on or after September 13, 1993. For purposes of extending the availability of sentencing options, a juvenile who meets the criteria set forth in section 19-2-517 ~~(3)~~ (6) (a) (II), C.R.S., may be sentenced to the youthful offender system pursuant to this section, under the following circumstances:

**SECTION 6. Appropriation - adjustments to the 2010 long bill - legislative intent.** (1) In addition to any other appropriation, there is

hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to the division of youth corrections, for the purchase of contract placements, for the fiscal year beginning July 1, 2010, the sum of three hundred seventy-one thousand eight hundred eighty dollars (\$371,880), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, institutions, for the youthful offender system subprogram, for the fiscal year beginning July 1, 2010, the sum of one hundred thirty-five thousand six hundred seventy-eight dollars (\$135,678), or so much thereof as may be necessary, for the implementation of this act.

(3) For the implementation of this act, the general fund appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2010, to the department of corrections, management, external capacity subprogram, for payments to house state prisoners, is decreased by two hundred sixty-six thousand eight hundred three dollars (\$266,803).

(4) It is the intent of the general assembly that the general fund appropriation for the implementation of this act shall be derived from savings generated from the implementation of the provisions of House Bill 10-1360, as enacted during the second regular session of the sixty-seventh general assembly.

**SECTION 7. Act subject to petition - effective date - applicability.** (1) Except as otherwise provided in subsection (2) of this section, this act shall take 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 11, 2010, if adjournment sine die is on May 12, 2010); 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 shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act shall only take effect if:

(a) The final fiscal estimate for House Bill 10-1360, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for state fiscal year 2010-11, that is equal to or greater than the amount of the general fund appropriation made for the implementation of this act for state fiscal year 2010-11, as reflected in section 6 of this act; and

(b) House Bill 10-1360 is enacted at the second regular session of the sixty-seventh general assembly and becomes law; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2010, that the requirement set forth in paragraph (a) of this subsection (2) has been met.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), the provisions of this act shall apply to the filing of charges on or after the effective date of this act.

(b) Section 19-2-517 (6) and (7), Colorado Revised Statutes, as enacted in section 1 of this act shall apply to persons sentenced on or after the effective date of this act.

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO