

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

INTRODUCED

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.

- 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:*

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

4 **19-1-103. Definitions.** As used in this title 19 or in the specified
 5 portion of this title 19, unless the context otherwise requires:

6 (44) (a) "Diversion" means a decision made by a person with
 7 authority, or a delegate of that person, that results in specific official
 8 action of the legal system not being taken in regard to a specific juvenile,
 9 ~~or child~~ and in lieu thereof OF providing or referring the juvenile ~~or child~~
 10 to an individually designed program or activity, if necessary, provided by
 11 district attorneys' offices, governmental units, ~~or~~ nongovernmental units,
 12 OR INDIVIDUALS. The goal of diversion is to prevent further involvement
 13 of the juvenile ~~or child~~ in the formal legal system.

14 (b) Diversion of a juvenile ~~or child~~ may take place either at the
 15 prefiling level, EITHER PRE-ARREST, AS DEFINED IN SUBSECTION (44)(c) OF

1 THIS SECTION, OR as an alternative to the filing of a petition pursuant to
2 section 19-2-512, or postfiling as an alternative to adjudication. Services
3 may include restorative justice practices as defined in subsection (94.1)
4 of this section.

5 (c) "PRE-ARREST DIVERSION" MEANS DIVERSION PRIOR TO AN
6 OFFICIAL ACTION OF THE LEGAL SYSTEM. PRE-ARREST DIVERSION MAY NOT
7 RESULT IN ANY TYPE OF SUPERVISION, FORMAL PROCESSING, OR TRACKING
8 OF THE JUVENILE IN THE LEGAL SYSTEM.

9 **SECTION 2.** In Colorado Revised Statutes, **amend** 19-2-202 as
10 follows:

11 **19-2-202. Responsible agencies.** The department of human
12 services is the single state agency responsible for the oversight of the
13 administration of juvenile programs and the delivery of services for
14 juveniles and their families in this state. In addition, the department of
15 human services is responsible for juvenile parole. The state judicial
16 department is responsible for the oversight of juvenile probation. The
17 department of public safety is responsible for the oversight of community
18 diversion programs AND PROGRAMS FUNDED THROUGH THE ALLOCATION
19 AUTHORIZED IN SECTION 19-2-303 (2). The state agencies described in this
20 section shall jointly oversee the application by judicial districts of the
21 placement criteria established by the working group ~~as provided in~~
22 PURSUANT TO section 19-2-212.

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

25 **19-2-303. Juvenile diversion program - authorized - report -**
26 **allocation of money - legislative declaration - definitions.** (1) (a) In
27 order to more fully implement the stated objectives of this title 19, the

1 general assembly declares its intent to establish a juvenile diversion
2 program that ~~when possible~~ integrates restorative justice practices to
3 provide community-based alternatives to the formal court system ~~that will~~
4 TO reduce juvenile crime and recidivism and improve positive juvenile
5 outcomes, change juvenile offenders' behavior and attitudes, promote
6 juvenile offenders' accountability, recognize and support the rights of
7 victims, heal the harm to relationships and the community caused by
8 juvenile crime, and reduce the costs within the juvenile justice system.

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

21 (3) For purposes of this section:

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

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

25 (a) On and after January 1, 2021, conduct a risk screening using
26 a risk screening tool selected pursuant to section 24-33.5-2402 (1)(c) for
27 all juveniles referred to the district attorney pursuant to section 19-2-510

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

22 (a.5) USE THE RESULTS OF THE RISK SCREENING TO INFORM
23 ELIGIBILITY FOR PARTICIPATION IN A JUVENILE DIVERSION PROGRAM.

24 (b) ~~Use the results of the risk screening to inform:~~

25 ~~(I) Eligibility for participation in a juvenile diversion program;~~

26 ~~(II) The level and intensity of supervision for juvenile diversion;~~

27 ~~(III) The length of supervision for juvenile diversion; and~~

1 ~~(IV) What services, if any, may be offered to the juvenile.~~
2 ~~Professionals involved with the juvenile's needs, treatment, and service~~
3 ~~planning, including district attorneys, public defenders, probation, and~~
4 ~~state and local governmental entities, such as the departments of human~~
5 ~~or social services, may collaborate to provide appropriate diversion~~
6 ~~services. in jurisdictions where they are not currently available.~~

7 (c) Not deny diversion to a juvenile based on the juvenile's:

8 (I) Ability to pay;

9 (II) Previous or current involvement with the departments of
10 human or social services;

11 (III) Age, race or ethnicity, gender, or sexual orientation; or

12 (IV) Legal representation;

13 (d) Align the juvenile diversion program's policies and practices
14 with evidence-based practices and with the definition of "diversion"
15 pursuant to section 19-1-103; ~~(44)~~; and

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

18 (f) ESTABLISH AND MAKE PUBLIC ANY ELIGIBILITY CRITERIA FOR
19 PARTICIPATION IN A JUVENILE DIVERSION PROGRAM AND USE THE RESULTS
20 OF THE RISK SCREENING TO MAKE DECISIONS ON ELIGIBILITY CRITERIA.

21 (4.5) DIVERSION PROGRAMS MAY USE THE RESULTS OF AN
22 APPROVED VALIDATED ASSESSMENT TOOL TO INFORM:

23 (a) THE LEVEL AND INTENSITY OF SUPERVISION FOR JUVENILE
24 DIVERSION;

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

26 (c) WHAT SERVICES, IF ANY, MAY BE OFFERED TO THE JUVENILE.
27 PROFESSIONALS INVOLVED WITH THE JUVENILE'S NEEDS, TREATMENT, AND

1 SERVICE PLANNING, INCLUDING DISTRICT ATTORNEYS, PUBLIC DEFENDERS,
2 PROBATION, AND STATE AND LOCAL GOVERNMENTAL ENTITIES, SUCH AS
3 THE STATE DEPARTMENT OF HUMAN SERVICES AND COUNTY DEPARTMENTS
4 OF HUMAN OR SOCIAL SERVICES, NONGOVERNMENTAL AGENCIES, AND
5 INDIVIDUALS COLLABORATING TO PROVIDE APPROPRIATE DIVERSION
6 SERVICES.

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

- 15 (a) (I) Demographic data on age, race or ethnicity, and gender;
- 16 (b) (II) Risk screening conducted;
- 17 (c) (III) Risk level as determined by the risk screening or, if no
18 screening was completed, the reason why ~~the~~ A screening was not
19 completed;
- 20 (d) (IV) Offense;
- 21 (e) (V) Diversion status;
- 22 (f) (VI) Service participation;
- 23 (g) (VII) Program completion data;
- 24 (VIII) REFERRAL TO RESTORATIVE JUSTICE SERVICES;
- 25 (h) (IX) Child welfare involvement; and
- 26 (i) (X) Identifying data necessary to track the long-term outcomes
27 of diverted juveniles.

1 (b) NOTWITHSTANDING THE REQUIREMENTS OF SECTION 19-1-303
2 TO THE CONTRARY, ON OR BEFORE AUGUST 1, 2021, AND CONTINUING
3 EVERY AUGUST 1 THEREAFTER, EACH DISTRICT ATTORNEY SHALL REPORT
4 TO THE DIVISION OF CRIMINAL JUSTICE THE NAME AND DEMOGRAPHIC
5 DATA FOR ANY JUVENILE WHO WAS GRANTED JUVENILE DIVERSION FOR A
6 TICKET, SUMMONS, OR OFFENSE SINCE THE DATE OF THE PREVIOUS REPORT.
7 THE DEMOGRAPHIC DATA MUST INCLUDE AGE, RACE AND ETHNICITY, AND
8 GENDER. THE REPORTS MUST COVER THE STATE FISCAL YEARS FROM JULY
9 1 THROUGH JUNE 30.

10 (c) ON OR BEFORE AUGUST 1, 2021, AND EVERY AUGUST 1
11 THEREAFTER, EACH AGENCY THAT RECEIVES DIVERSION MONEY PURSUANT
12 TO SUBSECTION (7) OF THIS SECTION SHALL REPORT ON THE NUMBER OF
13 JUVENILES WHO WERE SCREENED FOR ELIGIBILITY FOR DIVERSION SINCE
14 THE DATE OF THE PREVIOUS REPORT BUT SUBSEQUENTLY REJECTED. THE
15 REPORT MUST INCLUDE, AT A MINIMUM, DEMOGRAPHIC DATA SUCH AS
16 AGE, RACE AND ETHNICITY, AND GENDER. THE REPORTS MUST COVER THE
17 STATE FISCAL YEARS FROM JULY 1 THROUGH JUNE 30.

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

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

27 (b) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF

1 PUBLIC SAFETY SHALL REEVALUATE ANY INSTRUMENT APPROVED
2 PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION AT LEAST ONCE EVERY
3 THREE YEARS.

4 **SECTION 4.** In Colorado Revised Statutes, 19-2-303, **amend** (7)
5 as follows:

6 **19-2-303. Juvenile diversion program - authorized - report -**
7 **allocation of money - legislative declaration - definitions.** (7) ~~A~~
8 ~~formula must be established for the purpose of allocating money to~~ THE
9 FORMULA ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE IN THE
10 DEPARTMENT OF PUBLIC SAFETY MUST BE USED TO ALLOCATE MONEY
11 WITHIN each judicial district in the state of Colorado for juvenile
12 diversion programs. ~~The executive director of the department of public~~
13 ~~safety is authorized to accept and expend on behalf of the state any funds,~~
14 ~~grants, gifts, or donations from any private or public source for the~~
15 ~~purpose of providing restorative justice programs; except that no gift,~~
16 ~~grant, or donation shall be accepted if the conditions attached to it require~~
17 ~~the expenditure thereof in a manner contrary to law.~~ THE DIVISION OF
18 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL REVIEW
19 THE FORMULA EVERY THREE YEARS. ON OR BEFORE JULY 1, 2023, TWENTY
20 PERCENT OF THE TOTAL ALLOCATION MUST BE SET ASIDE FOR
21 COMMUNITY-BASED PRE-ARREST OR POST-ARREST DIVERSION PROGRAMS.
22 THE DIVISION OF CRIMINAL JUSTICE SHALL AWARD THE MONEY BASED ON
23 A COMPETITIVE GRANT PROCESS THAT IS ESTABLISHED AND MANAGED BY
24 THE DIVISION OF CRIMINAL JUSTICE. THE DIVISION OF CRIMINAL JUSTICE
25 SHALL PRIORITIZE FUNDING FOR PROGRAMS THAT INCLUDE RESTORATIVE
26 JUSTICE PRACTICES. THE DIVISION OF CRIMINAL JUSTICE SHALL
27 DISTRIBUTE, BY THE ESTABLISHED FORMULA, THE REMAINING EIGHTY

1 PERCENT OF THE TOTAL ALLOCATION. THE DIVISION OF CRIMINAL JUSTICE
2 MAY CONTRACT WITH DISTRICT ATTORNEYS' OFFICES, GOVERNMENTAL
3 UNITS, AND NONGOVERNMENTAL AGENCIES FOR REASONABLE AND
4 NECESSARY EXPENSES FOR SERVICES TO SERVE EACH JUDICIAL DISTRICT
5 TO UTILIZE IN DIVERTING JUVENILES AND TO PROVIDE SERVICES, IF
6 WARRANTED, FOR ELIGIBLE JUVENILES THROUGH COMMUNITY-BASED
7 PROGRAMS THAT PROVIDE AN ALTERNATIVE TO ENTRY INTO THE FORMAL
8 LEGAL SYSTEM, A PETITION FILED PURSUANT TO SECTION 19-2-512, OR AN
9 ADJUDICATORY HEARING HELD PURSUANT TO SECTION 19-2-804.

10 **SECTION 5.** In Colorado Revised Statutes, 20-1-113, **amend** (4)
11 as follows:

12 **20-1-113. Reporting of criminal proceedings involving public**
13 **school students.** (4) Notwithstanding ~~the provisions of section 19-1-303~~
14 (5), ~~C.R.S.~~, commencing August 1, 2015, and continuing every August
15 1 every year thereafter, each district attorney shall report to the division
16 of criminal justice IN THE DEPARTMENT OF PUBLIC SAFETY the name of
17 any student who was granted ~~pre-file~~ juvenile or adult diversion for a
18 ticket, summons, or offense that occurred at a public elementary school,
19 middle or junior high school, or high school; in a school vehicle; or at a
20 school activity or sanctioned event. In addition to the full name of the
21 student, the district attorney shall report the student's date of birth, race,
22 ethnicity, and gender and the arrest or incident report number, as recorded
23 by a law enforcement agency. Information, including expunged record
24 information, released by a district attorney to the division of criminal
25 justice pursuant to this section must only be used for research purposes
26 related to school discipline.

27 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-503, **add**

1 (1)(r.5) as follows:

2 **24-33.5-503. Duties of division.** (1) The division has the
3 following duties:

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

7 **SECTION 7. Effective date.** This act takes effect upon passage;
8 except that section 4 of this act takes effect July 1, 2023.

9 **SECTION 8. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety.