

Colorado Children's Code Authorizes Restorative Justice Conferences for Adjudicated Youth (Part I of 2)

BY JOSHUA WACHTEL

On March 31, 2008, Colorado Governor Bill Ritter signed into law House Bill 08-1117, which authorizes the use of restorative justice (RJ) in the state's Children's Code and gives Colorado the legislative edge among states that sanction the use of RJ. The bill passed 63-1 in the House and 33-0 in the Senate.

Upon signing the bill, Governor Ritter said, "By making juvenile offenders take responsibility for the consequences of their actions, we can teach them that the decisions they make, both good and bad, will affect the course of their life. Repairing the harm that someone has caused can be the thing that matters most in the criminal justice system." Added Ritter, "As a former prosecutor, I've seen too many people start out committing minor crimes as juveniles and escalate to committing serious crimes as adults. We must do everything we can to intervene early and break this cycle."

The law, sponsored by State Representative Michael Merrifield in the House and by State Senator John Morse in the Senate, gives judges the authority to offer accused young offenders the legal option to voluntarily participate in RJ processes. The law encodes a well-defined definition of restorative justice and practices:

" 'Restorative Justice' means those practices that emphasize repairing the harm to the victim and the community caused by criminal acts. Restorative justice practices may include victim-offender conferences attended voluntarily by the victim, a victim advocate, the offender, community members, and supporters of the victim or the offender that provide an opportunity for the offender to accept re-

sponsibility for the harm caused to those affected by the crime and to participate in setting consequences to repair the harm. Consequences recommended by the participants may include, but need not be limited to, apologies, community service, restoration, and counseling. The selected consequences are incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants."



(L-R) Colorado youth RJ bill author Pete Lee, Governor Bill Ritter, Representative Michael Merrifield and Senator John Morse, at the bill-signing ceremony

Said Merrifield, "My constituents in Colorado Springs and especially in Manitou Springs came and showed me what was taking place in the school system and in the judicial system for juveniles. There were great results — fewer suspensions and dropouts — and they were keeping kids out of the criminal system. They asked if they could do it on a statewide basis and said it would be a great thing for Colorado."

Merrifield said he believes the new law will allow RJ to do in Colorado what it does wherever it is used. "It cuts down on recidivism; it gives kids a second chance; it gives victims a chance to come to closure; and it gives offenders opportunities to acknowledge their crimes and to make amends. Hence, it is restorative."

In 2007 Merrifield sponsored the first state law in Colorado to address restorative justice. HB 07-1127 strongly encouraged existing district juvenile services planning committees to "consider programs with restorative justice components..." It also established a nine-member statewide restorative justice council, composed of representatives appointed by the departments of public safety, education, human services and the judiciary, the division of youth corrections, two representatives of private NGOs working to develop and implement RJ, and a district attorney with juvenile experience.

Tom Quinn, state director of Probation Services and a member of the statewide restorative justice council, said he testified in favor of HB 08-1117 and that he believes the law is a step in the right direction. "The law allows judges to offer RJ during advisement if applicable, and probation decides if the offender is suitable. This has been going on, but the law puts the imprimatur of the legislature behind it. It says, 'This is a priority,' and it moves RJ into the forefront of judges' and reviewers' minds."

Added Quinn, "RJ is not standardized in Colorado, and it's not happening in all areas. One thing I do think will happen is that in different districts — Colorado has 22 — prosecutors and judges will exchange information. For example, at meetings of prosecutors across the state, they'll say, 'What are you doing?' The law will help get things started and increase options for RJ."

RJ in Colorado has developed at the grassroots level, both in the primary population center in Colorado known

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as the Front Range region, which extends north and south along I-25 from Denver, the capital and largest city in the state, and also in other smaller cities like Alamosa and Salida.

Tim Turley, program manager, Denver Public Schools Prevention and Intervention Services, formerly chief probation officer for the Denver Juvenile Probation Office, said that over 10 years ago he started the first restorative justice probation department in the state. During his tenure, probation officers writing pre-sentencing reports on guilty young offenders determined whether to recommend restorative justice meetings for certain offenders, and these recommendations were often fed into sentencing conditions. The current law incorporates and authorizes a similar process, and goes a step further in that it requires judges, while reading youth their other legal rights, to tell youth and their families about the chance to participate in a restorative meeting at some point in the legal process.

Now Turley is promoting restorative justice in the Denver public school system, a sprawling district with over 130 schools in both urban and suburban neighborhoods. The program currently employs seven full-time RJ coordinators who facilitate restorative conferences and mediations in five high schools and two middle schools. RJ is seen as an alternative to traditional forms of school discipline with the potential to reduce suspensions and expulsions and to help resolve student/student and teacher/student conflicts. Turley believes the new state law formalizes the work that has already been taking place across the state in the field of restorative justice.

Beverly Title, another member of the statewide restorative justice council, is CEO of Teaching Peace, an organization based in Longmont, 35 miles north of Denver, which serves 150 offenders a year. Trained community volunteers (50 in all, 20 of whom are bilingual in English and

Spanish) conduct restorative conferences and also facilitate restorative circles in cases when there is mutual responsibility among participants for the crime, as in the peacemaking circles Teaching Peace has organized to deal with gang-related offenses in schools.

Title said that Longmont Chief of Police Mike Butler has a strong community policing philosophy, and that Longmont police are authorized at their discretion to divert cases from the criminal system and refer would-be offenders to restorative justice programs like Teaching Peace. Currently 87 percent of Teaching Peace's clients are referred directly by police, with only a small number of referrals coming from judges and local public schools.

Title believes Teaching Peace may start seeing more referrals coming from the courts now. "Before, people were doing RJ, but sometimes felt like they were operating on the fringe of legitimacy. The new law establishes RJ as part of the Children's Code. It legitimizes this as a diversion."

Colorado Springs and neighboring Manitou Springs, about 70 miles south of Denver in the Pikes Peak region, are making important contributions to RJ in the state. Pete Lee, an attorney running to represent his district in the State Senate, drafted HB 08-1117 and has actively fostered community justice initiatives for 30 years. Lee and his wife Lynn have volunteered for community and restorative justice initiatives, sat on the boards of community service organizations serving youth, and promoted the use of restorative justice. They both currently serve on the Manitou Springs Restorative Justice Council, along with the city prosecutor, a city councilman, the chief judge, the superintendent of schools, a local minister, the high school principal and a number of citizens — "a true community board," said Lee.

In drafting HB 08-1117, Lee said, "we worked with children's advocates, probation officers, public defenders, prosecutors, juvenile magistrates and victims. We tried to stay as close to the fundamental principles of restorative justice as possible." Last fall he met with youth magistrates and prosecutors to learn their concerns. The only question he got was from the district attorney, who needed to be assured that victim participation in the meetings would be voluntary, out of respect to victims and to ensure they wouldn't be re-victimized.

"Anyone who knows anything about restorative justice knows that it's completely voluntary," said Lee. "It's a victim-centered process. We need to respond to the needs of the victims. When you explain to the victim that the chief reason for the meeting is to facilitate their needs, they almost always agree to participate."

Lee said that in his experience victims generally want two things: "They want to know why they were victims. In most cases they discover it was purely opportunity, and that makes them feel better. They also want an apology; oftentimes they want tangible proof of remorse." Most conferences' written agreements include the requirement of a written apology, he added.

Lee also described the transformative potential for the offender "once they hear the victim describe the event. If they have any heart beating in their chest, or soul left in their body, they feel something," said Lee. He noted that in Manitou, 41 of 44 cases referred to restorative justice conferences for both children and adults ended in agreements that were fully completed by the offender.

Part two of this article will take a closer look at how restorative justice is being implemented in various programs in Colorado schools, court systems for youth and adults, and at the state youth detention facility. ☉