

**NEW DIRECT FILE LAW
2012 LEGISLATIVE SESSION**



House Bill 12-1271

Limitations on Direct File

Effective April 20, 2012

Reformed Colorado's direct file statute, **C.R.S. §19-2-517**, which previously gave prosecutors unilateral discretion to file charges against certain 14 to 17 year old youth in adult criminal court.

1. Eligibility. The law still permits prosecutors to directly file charges in adult criminal court but narrowed the scope of youth eligible for direct filing to:
 - 16 to 17 year old youth at the time of the alleged crime
[12-15 year old youth can still end up in adult court through judicial transfer but their case must be reviewed by a juvenile court judge]
 - Class 1 or 2 felonies (can be direct filed without prior juvenile adjudications)
 - Violent sex offense (can be direct filed without prior juvenile adjudications)
 - Class 3 or lower crimes of violence IF youth has a prior felony juvenile adjudication or has previously been direct filed on another case
 - Other sex offenses IF youth has a prior felony juvenile adjudication or has previously been direct filed on another case
[16-17 year old youth accused of other offenses can still end up in adult court through judicial transfer but their case must be reviewed by a juvenile court judge]

2. Judicial Review. Youth who are direct filed in adult court now have the right to a **REVERSE TRANSFER HEARING** to transfer the case to juvenile court.
 - The motion to transfer the case to juvenile court must be filed at or before the time to request a preliminary hearing
 - The reverse transfer hearing shall occur with the preliminary hearing
 - The district attorney may file a response no later than 14 days prior to hearing
 - The court will determine whether the juvenile and the community will be better served by proceedings in adult criminal or juvenile court
 - The court must consider a list of 11 factors in making its decision, including the maturity of the youth and the seriousness of the offense

3. Sentencing. If the case remains in adult criminal court after a reverse transfer hearing and the youth is convicted by plea or trial new sentencing provisions apply:
 - Youth will not be subject to mandatory minimum sentencing provisions under the crime of violence statute [this does not apply to convictions for class 1 felonies or indeterminate sentences on sex offense convictions]
 - Youth convicted of a felony offense that is not eligible for direct file may be sentenced as a juvenile or as an adult
 - Youth convicted of misdemeanor offense(s) only must be adjudicated as a juvenile and sentenced as a juvenile

4. Juvenile Record. If the youth is sentenced as a juvenile, the felony conviction must be converted to a juvenile adjudication.