

COLORADO VICTIMS' RIGHTS LAWS¹

Constitution

Article II, Section 16a – Rights of Crime Victims

Any person who is a victim of a criminal act, or such person's designee, legal guardian, or surviving immediate family members if such person is deceased, shall have the right to be heard when relevant, informed, and present at all critical stages of the criminal justice process. All terminology, including the term "critical stages", shall be defined by the General Assembly.

Statutes

§ 24-4.1-108 – Awarding Compensation

(1) A person is entitled to an award of compensation under this part 1 if:

(a) The person is a victim or a dependent of a victim or a successor in interest under the "Colorado Probate Code"¹ of a victim of a compensable crime which was perpetrated on or after July 1, 1982, and which resulted in a loss;

(b) The appropriate law enforcement officials were notified of the perpetration of the crime allegedly causing the death of or injury to the victim within seventy-two hours after its perpetration, unless the board finds good cause exists for the failure of notification;

(c) The applicant has cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant or the board has found good cause exists for the failure to cooperate;

(d) Repealed by Laws 1989, H.B.1302, § 3.

(e) The death of or injury to the victim was not substantially attributable to his wrongful act or substantial provocation of his assailant; and

¹ Not intended to be exhaustive

(f) The application for an award of compensation under this part 1 is filed with the board within one year of the date of injury to the victim or within such further extension of time as the board, for good cause shown, allows. For purposes of this paragraph (f), “good cause” may include but is not limited to circumstances in which a crime has remained unsolved for more than one year.

(1.5) A person is entitled to an award of compensation for property damage under this part 1 if:

(a) The person is a victim of a compensable crime which was perpetrated on or after July 1, 1983, and which resulted in property damage;

(b) The appropriate law enforcement officials were notified of the perpetration of the crime causing property damage within seventy-two hours after its perpetration, unless the board finds good cause exists for the failure of notification;

(c) The applicant has cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant or the board has found good cause exists for the failure to cooperate; and

(d) The application for an award of compensation for property damage under this part 1 is filed with the board within six months of the date of property damage or within such further extension of time as the board, for good cause shown, allows.

(2) The board may waive any of the requirements set forth in this section, or the limitations set forth in section 24-4.1-109(1), or order a denial or reduction of an award if, in the interest of justice, it is so required.

(3) Upon a finding by the board that compensation should be awarded, the board shall submit a statement of award to the court administrator who shall remit payment in accordance with the statement of award.

(4) Consistent with approved standards established pursuant to section 24-4.1-117.3(3) for the administration of crime victim compensation funds, the board may develop policies to ensure that primary victims are compensated and to ensure that available moneys in the fund are not exceeded.

§ 24-4.1-301 – Legislative declaration

The general assembly hereby finds and declares that the full and voluntary cooperation of victims of and witnesses to crimes with state and local law enforcement agencies as to such crimes is imperative for the general effectiveness and well-being of the criminal justice system of this state. It is the intent of this part 3, therefore, to assure that all victims of and witnesses to crimes are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded criminal defendants.

§ 24-4.1-302 – Definitions

As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following offenses, acts, and violations as defined by the statutes of the state of Colorado, whether committed by an adult or a juvenile:

- (a) Murder in the first degree, in violation of section 18-3-102, C.R.S.;
- (b) Murder in the second degree, in violation of section 18-3-103, C.R.S.;
- (c) Manslaughter, in violation of section 18-3-104, C.R.S.;
- (d) Criminally negligent homicide, in violation of section 18-3-105, C.R.S.;
- (e) Vehicular homicide, in violation of section 18-3-106, C.R.S.;
- (f) Assault in the first degree, in violation of section 18-3-202, C.R.S.;
- (g) Assault in the second degree, in violation of section 18-3-203, C.R.S.;
- (h) Assault in the third degree, in violation of section 18-3-204, C.R.S.;
- (i) Vehicular assault, in violation of section 18-3-205, C.R.S.;
- (j) Menacing, in violation of section 18-3-206, C.R.S.;
- (k) (Deleted by Laws 1995, H.B.95-1070, § 22, eff. July 1, 1995.)
- (l) First degree kidnapping, in violation of section 18-3-301, C.R.S.;
- (m) Second degree kidnapping, in violation of section 18-3-302, C.R.S.;
- (n)(I) Sexual assault, in violation of section 18-3-402, C.R.S.; or
 - (II) Sexual assault in the first degree, in violation of section 18-3-402, C.R.S., as it existed prior to July 1, 2000;
- (o) Sexual assault in the second degree, in violation of section 18-3-403, C.R.S., as it existed prior to July 1, 2000;
- (p)(I) Unlawful sexual contact, in violation of section 18-3-404, C.R.S.; or
 - (II) Sexual assault in the third degree, in violation of section 18-3-404, C.R.S., as it existed prior to July 1, 2000;
- (q) Sexual assault on a child, in violation of section 18-3-405, C.R.S.;

- (r) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.;
- (s) Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.;
- (t) Robbery, in violation of section 18-4-301, C.R.S.;
- (u) Aggravated robbery, in violation of section 18-4-302, C.R.S.;
- (v) Aggravated robbery of controlled substances, in violation of section 18-4-303, C.R.S.;
- (w) Repealed by Laws 1995, H.B.95-1212, § 64, eff. May 31, 1995.
- (x) Incest, in violation of section 18-6-301, C.R.S.;
- (y) Aggravated incest, in violation of section 18-6-302, C.R.S.;
- (z) Child abuse, in violation of section 18-6-401, C.R.S.;
- (aa) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.;
- (bb) Crimes against at-risk adults or at-risk juveniles, in violation of section 18-6.5-103, C.R.S.;
- (bb.3) Any crime identified by law enforcement prior to the filing of charges as domestic violence, as defined in section 18-6-800.3 (1), C.R.S.;
- (bb.7) An act identified by a district attorney in a formal criminal charge as domestic violence, as defined in section 18-6-800.3 (1), C.R.S.;
- (cc) Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3(1), C.R.S., pursuant to section 18-6-801(1), C.R.S.;
- (cc.1) Stalking, in violation of section 18-9-111(4), C.R.S.;
- (cc.3) A bias-motivated crime, in violation of section 18-9-121, C.R.S.;
- (cc.5) Careless driving, in violation of section 42-4-1402, C.R.S., that results in the death of another person;
- (cc.6) Failure to stop at the scene of an accident, in violation of section 42-4-1601, C.R.S., where the accident results in the death of another person;
- (dd) Any criminal attempt, as described in section 18-2-101, C.R.S., any conspiracy, as described in section 18-2-201, C.R.S., any criminal solicitation, as described in section 18-2-301, C.R.S., and any accessory to a crime, as described in section 18-8-105, C.R.S., involving any of the crimes specified in this subsection (1);

- (ee) Retaliation against a witness or victim, in violation of section 18-8- 706, C.R.S.;
- (ee.3) Intimidating a witness or a victim, in violation of section 18-8-704, C.R.S.;
- (ee.7) Aggravated intimidation of a witness or a victim, in violation of section 18-8-705.;
- (ff) Tampering with a witness or victim, in violation of section 18-8-707, C.R.S.
- (gg) Indecent exposure, in violation of section 18-7-302, C.R.S.;
- (hh) Violation of a protection order issued under section 18-1-1001, C.R.S., against a person charged with committing sexual assault, in violation of section 18-3-402, C.R.S.; sexual assault on a child, in violation of section 18-3-405, C.R.S.; sexual assault on a child by one in position of trust, in violation of section 18-3-405.3, C.R.S.; sexual assault on a child by a psychotherapist, in violation of 18-3-405.5, C.R.S.
- (ii) Trafficking in adults, in violation of section 18-3-501, C.R.S.; or trafficking in children, in violation of section 18-3-502, C.R.S.;
- (jj) First degree burglary, in violation of section 18-4-202, C.R.S.; or
- (kk) Retaliation against a judge, in violation of section 18-8-615, C.R.S.; or retaliation against a juror, in violation of section 18-8-706.5, C.R.S.

(1.2) "Cold case" means a felony crime reported to law enforcement that has remained unsolved for over one year after the crime was initially reported to law enforcement and for which the applicable statute of limitations has not expired.

(1.3) "Correctional facility" means any private or public entity providing correctional services to offenders pursuant to a court order including, but not limited to a county jail, a community corrections provider, the division of youth corrections, and the department of corrections.

(1.5) "Correctional official" means any employee of a correctional facility.

(2) "Critical stages" means the following stages of the criminal justice process:

- (a) The filing of charges against a person accused of a crime;
- (a.5) The decision not to file charges against a person accused of a crime;
- (b) The preliminary hearing;
- (c) Any bond reduction or modification hearing in which the request is made:
 - (I) For a bond lower than the scheduled or customary amount for the specific charge;

- (II) For a change in the type or condition of a bond;
 - (III) For an alternative to a bond; or
 - (IV) To appear without posting of a bond;
- (d) The arraignment of a person accused of a crime;
 - (e) Any hearing on motions concerning evidentiary matters or pre-plea or post-plea relief;
 - (e.5) Any subpoena for records concerning the victim's medical history, mental health, education, or victim's compensation;
 - (f) Any disposition of the complaint or charges against the person accused;
 - (g) The trial;
 - (h) Any sentencing hearing;
 - (i) Any appellate review or appellate decision;
 - (j) Any subsequent modification of the sentence;
 - (k) Any probation revocation hearing;
 - (k.3) The filing of any complaint, summons, or warrant by the probation department for failure to report to probation or because the location of a person convicted of a crime is unknown;
 - (k.5) The change of venue or transfer of probation supervision from one jurisdiction to another;
 - (k.7) The request for any release from probation supervision prior to the expiration of the defendant's sentence;
 - (l) Any attack on a judgment or conviction;
 - (m) Any parole application hearing;
 - (n) The parole, release, or discharge from imprisonment of a person convicted of a crime;
 - (o) Any parole revocation hearing;
 - (p) The transfer to or placement of a person convicted of a crime in a non-secured facility;
and
 - (q) The transfer, release, or escape of a person charged with or convicted of a crime from any state hospital.

- (r) Any petition by a sex offender to terminate sex offender registration; and
- (s) The execution of an offender in a capital case;
- (t) A hearing held pursuant to section 18-1-414 (2) (b), C.R.S.; and
- (u) The decision, whether by court order, stipulation of the parties, or otherwise to conduct postconviction DNA testing to establish the actual innocence of the person convicted of a crime against the victim; the results of any such postconviction DNA testing; and court proceedings initiated based on the result of the postconviction DNA testing. An inmate's written or oral request for such testing is not a "critical stage".

(3) "Lawful representative" means any person who is designated by the victim or appointed by the court to act in the best interests of the victim.

(3.5) "Modification of sentence" means an action taken by the court to modify the length, terms, or conditions of an offender's sentence pursuant to rule 35 (a) or (b) of the Colorado rules of criminal procedure. Action taken by the court includes an order by the court modifying an offender's sentence upon review of the written motion without a hearing but does not include an order denying a motion to modify a sentence without a hearing.

(4) "Significant other" means any person who is in a family-type living arrangement with a victim and who would constitute a spouse of the victim if the victim and such person were married.

(5) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct, criminal episode, or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, grandchild, significant other, or other lawful representative. For purposes of notification under this part 3, any person under the age of eighteen years is considered incapacitated, unless that person is legally emancipated. It is the intent of the general assembly that this definition of the term "victim" shall apply only to this part 3 and shall not be applied to any other provision of the laws of the state of Colorado that refer to the term "victim".

(6) "Victim's immediate family" means the spouse, any child by birth or adoption, any stepchild, the parent, the stepparent, a sibling, a legal guardian, significant other, or a lawful representative of the victim.

(7) "Witness" means any natural person:

- (a) Having knowledge of the existence or nonexistence of facts relating to any crime;
- (b) Whose declaration under oath is received or has been received as evidence for any purpose;

(c) Who has reported any crime to any peace officer, correctional officer, or judicial officer;

(d) Who has been served with a subpoena issued under the authority of any court in this state, of any other state, or of the United States; or

(e) Who would be believed by any reasonable person to be an individual described in paragraph (a), (b), (c), or (d) of this subsection (7).

§ 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:

(a) The right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process;

(b) The right to be informed of and present for all critical stages of the criminal justice process as specified in section 24-4.1-302(2); except that the victim shall have the right to be informed of, without being present for, the critical stages described in section 24-4.1-302(2) (a), (2)(a.5), (2)(e.5), (2)(k.3), (2)(n), (2)(p), (2)(q), and (2)(u);

(b.5) The right to be informed of and present for the critical stages described in section 24-4.1-302(2)(k) to (2)(q) and (2)(s), upon the written request of the victim; except that the victim shall have the right to be informed of the critical stage described in section 24-4.1-302(2)(l) without submitting a written request for notification;

(b.7) For a victim of a sex offense, the right to be informed of the filing of a petition by the perpetrator of the offense to terminate sex offender registration pursuant to section 16-22-113(2)(c), C.R.S.;

(c)(I) Except as otherwise provided in subparagraph (II) of this paragraph (c):

(A) The right to be informed, upon request by the victim, when a person who is accused or convicted of a crime against the victim is released or discharged from county jail;

(B) The right to be informed, upon written request by the victim, when a person who is accused or convicted of a crime against the victim is released or discharged from custody other than county jail, is paroled, escapes from a secure or nonsecure correctional facility or program, or absconds from probation or parole.

(II) With respect to the release, discharge, or permanent transfer of a person from a county jail or correctional facility, the provisions of subparagraph (I) of this paragraph (c) shall apply when the person released, discharged, or permanently transferred is no longer within the care and control of the supervising law

enforcement or correctional agency. The provisions of subparagraph (I) of this paragraph (c) shall not apply to the temporary transfer of the care and control of a person from a county jail or a correctional facility by the supervising law enforcement or correctional agency to another equally or more secure county jail or correctional facility, so long as the person will return to the care and control of the transferring supervisory agency.

(d) The right to be heard at any court proceeding:

(I) Involving the defendant's bond as specified in section 24-4.1-302(2)(c);

(II) At which the court accepts a plea of nolo contendere;

(III) At which the court accepts a negotiated plea agreement;

(IV) At which a person accused or convicted of a crime against the victim is sentenced;

(V) At which the sentence of a person accused or convicted of a crime against the victim is modified;

(VI) At which the defendant requests a modification of the no contact provision of the mandatory criminal protection order under section 18-1-1001, C.R.S., or section 19-2-707, C.R.S.; or

(VII) Involving a subpoena for records concerning the victim's medical history, mental health, education, or victim compensation, or any other records that are privileged pursuant to section 13-90-107, C.R.S.;

(d.5)(I) If a victim or a victim's designee is unavailable to be present for the critical stages described in paragraph (d) of this subsection (1) and the victim or the victim's designee wishes to address the court, the right to request that the court, within the court's resources, arrange and provide the means for the victim and the victim's designee to provide input to the court beyond a written victim impact statement.

(II) For purposes of this paragraph (d.5), "unavailable" means that the victim or the victim's designee is physically unable to attend the court hearing, may sustain a financial hardship to attend the court hearing, is concerned for his or her safety if he or she attends the court hearing, may suffer significant emotional impact by attending the hearing, or is unavailable for other good cause.

(III) The victim or the victim's designee shall notify the district attorney within a reasonable time that he or she is unavailable to attend the court hearing. The district attorney's office shall then inform the court that the victim or the victim's designee, due to his or her unavailability, is requesting the court to arrange for and provide the means to address the court, which may include but need not be limited to appearing by phone or similar technology. The district attorney shall

inform the victim or the victim's designee of the court's decision regarding an alternate arrangement.

(IV) This paragraph (d.5) applies to a victim who is incarcerated or otherwise being held in a local county jail or the department of corrections, but is limited to participation by telephone.

(e) The right to consult with the prosecution after any crime against the victim has been charged, prior to any disposition of the case, or prior to any trial of the case, and the right to be informed of the final disposition of the case;

(f) The right to be informed by local law enforcement agencies, prior to the filing of charges with the court, or by the district attorney, after the filing of charges with the court, of the status of any case concerning a crime against the victim, and any scheduling changes or cancellations, if such changes or cancellations are known in advance;

(g) The right to be present at the sentencing hearing, including any hearing conducted pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S., for cases involving class 1 felonies, of any person convicted of a crime against such victim, and to inform the district attorney and the court, in writing, by a victim impact statement, and by an oral statement, of the harm that the victim has sustained as a result of the crime, with the determination of whether the victim makes written input or oral input, or both, to be made at the sole discretion of the victim;

(h) The right to have the court determine the amount, if any, of restitution to be paid to a victim pursuant to part 6 of article 1.3 of title 18, C.R.S., by any person convicted of a crime against such victim for the actual pecuniary damages that resulted from the commission of the crime;

(i) The right to be informed of the victim's right to pursue a civil judgment against any person convicted of a crime against the victim for any damages incurred by the victim as a result of the commission of the crime regardless of whether the court has ordered such person to make restitution to the victim;

(i.5) Deleted by Laws 2006, Ch. 165, § 4, eff. July 1, 2006.

(j) The right to be informed, upon written request from the victim, of any proceeding at which any postconviction release from confinement in a secure state correctional facility is being considered for any person convicted of a crime against the victim and the right to be heard at any such proceeding or to provide written information thereto. For purposes of this subsection (1), "proceeding" means reconsideration of sentence, a parole hearing, or commutation of sentence.

(j.3) The right to be notified of a referral of an offender to community corrections;

(j.5)(I) The right to provide a written victim impact statement that will be included with any referral made by the department of corrections or a district court to place an offender in a community corrections facility or program. A community corrections board may

allow a victim to provide an oral statement to the community corrections board when an offender is being considered for a direct sentence to community corrections and may place reasonable limits on the victim's oral statement..

(II) For purposes of this paragraph (j.5), the victim shall have the right to provide a separate oral statement to the community corrections board considering a transitional referral, but the board shall have discretion to place reasonable parameters on the victim's oral statement. If a community corrections board denies the offender's referral to community corrections, the victim's right under this subparagraph (II) to provide an oral statement shall not take effect.

(j.7) The right, at the discretion of the district attorney, to view all or a portion of the presentence report of the probation department;

(k) The right to promptly receive any property that belongs to a victim and that is being held by a prosecutorial or law enforcement agency unless there are evidentiary reasons for the retention of such property;

(l) The right to be informed of the availability of financial assistance and community services for victims, the immediate families of victims, and witnesses, which assistance and community services shall include, but shall not be limited to, crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, and financial assistance services, and the right to be informed about the application process for such services;

(l.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.

(m) The right to be informed about what steps can be taken by a victim or a witness, including information regarding protection services, in case there is any intimidation or harassment by a person accused or convicted of a crime against the victim, or any other person acting on behalf of the accused or convicted person;

(n) The right to be provided with appropriate employer intercession services to encourage the victim's employer to cooperate with the criminal justice system in order to minimize the loss of employment, pay, or other benefits resulting from a victim's court appearances or other required meetings with criminal justice officials;

(o) The right to be assured that in any criminal proceeding the court, the prosecutor, and other law enforcement officials will take appropriate action to achieve a swift and fair resolution of the proceedings;

(p) The right to be provided, whenever practicable, with a secure waiting area during court proceedings that does not require a victim or a witness to be seen or to be in close proximity to the person accused or convicted of a crime against the victim or such person's family or friends;

(q) The right to be informed, upon written request by the victim, when a person convicted of a crime against the victim is placed in or transferred to a less secure public or private correctional facility or program;

(r) The right to be informed, upon written request by the victim, when a person who is or was charged with or convicted of a crime against the victim escapes or is permanently or conditionally transferred or released from any public hospital, private hospital, or state hospital;

(s) The right to be informed of any rights which the victim has pursuant to the constitution of the United States or the state of Colorado;

(t) The right to be informed of the process for enforcing compliance with this article pursuant to section 24-4.1-303 (17);

(u) The right to be informed of the results of any HIV testing that is ordered and performed pursuant to section 18-3-415, C.R.S.;

(v) The right to prevent any party at any court proceeding from compelling testimony regarding the current address, telephone number, place of employment, or other locating information of the victim unless the victim consents or the court orders disclosure upon a finding that a reasonable and articulable need for the information exists. Any proceeding conducted by the court concerning whether to order disclosure shall be in camera;

(w) The right to have the district attorney, a law enforcement agency, a probation department, a state or private correctional facility, the department of human services, or the Colorado mental health institute at Pueblo make all reasonable efforts to exclude or redact a victim's social security number or a witness' social security number from a criminal justice document or record created or compiled as a result of a criminal investigation when the document or record is released to anyone other than the victim, the defense attorney of record, the defense attorney's agent, or a criminal justice agency that has duties under this article;

(x) The right to be notified of how to request protection of their address pursuant to the Colorado rules of criminal procedure.

(y) The right to receive a copy of the victim impact statement form from the district attorney's office.

(1.6) The right to be informed of the existence of a criminal protection order under section 18-1-1001, C.R.S., or section 19-2-707, C.R.S., and, upon request of the victim, information about provisions that may be added or modified, and the process for requesting such an addition or modification.

(2) Subsection (1) of this section shall not be construed to imply that any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

(3) Municipalities and municipal courts shall be encouraged to adopt policies which afford the rights granted to crime victims pursuant to this section to crime victims at the municipal court level, to the extent the adoption of such policies is practicable in the particular municipality.

(4) If a victim contacts a criminal justice agency regarding a crime that occurred before 1993, and the offender who committed the crime is currently serving a sentence for the crime, the victim may request notification of any future critical stages of the criminal proceedings. In addition, if an arrest is made for a crime committed before 1993 that was previously unsolved, the victim of the crime may request notification of all future critical stages from the appropriate criminal justice agency. This provision does not require a criminal justice agency to proactively locate victims of crimes that occurred before 1993.

§ 24-4.1-303 – Procedures for ensuring rights of victims of crimes

(1) Law enforcement agencies, prosecutorial agencies, judicial agencies, and correctional agencies shall ensure that victims of crimes are afforded the rights described in section 24-4.1-302.5.

(2) Upon request of a victim, all correctional officials shall keep confidential the address, telephone number, place of employment, or other personal information of such victim or members of such victim's immediate family.

(3) The district attorney's office, if practicable, shall inform the victim of any pending motion that may substantially delay the prosecution. The district attorney shall inform the court of the victim's position on the motion, if any. If the victim has objected, the court shall state in writing or on the record prior to granting any delay that the objection was considered.

(4) After a crime has been charged, unless inconsistent with the requirements of investigative activities, the district attorney shall consult, where practicable, with the victim concerning the reduction of charges, negotiated pleas, diversion, dismissal, seeking of death penalty, or other disposition. Failure to comply with this subsection (4) shall not invalidate any decision, agreement, or disposition. This subsection (4) shall not be construed as a restriction on or delegation of the district attorney's authority under the constitution and laws of this state.

(5) All reasonable attempts shall be made to protect any victim or the victim's immediate family from harm, harassment, intimidation, or retaliation arising from cooperating in the reporting, investigation, and prosecution of a crime. Law enforcement officials and the district attorney shall provide reasonable efforts to minimize contact between the victim and the victim's immediate family and the defendant and the relatives of the defendant before, during, and immediately after a judicial proceeding. Whenever possible, a waiting area shall be provided that is separate in both proximity and sight from that of the defendant, the defendant's relatives, and any defense witnesses.

(6)(a) A victim or an individual designated by the victim may be present at all critical stages of a criminal proceeding regarding any crime against such victim unless the court or the district attorney determines that exclusion of the victim is necessary to protect the defendant's right to a fair trial or the confidentiality of juvenile proceedings. If the victim is present, the court, at the victim's request, may permit the presence of an individual to provide support to the victim.

(b) A victim may be present at the phase of the trial at which the defendant is determined to be guilty or not guilty and may be heard at such phase of the trial if called to testify by the district attorney, defense, or court if any such statement would be relevant.

(c) The court shall make all reasonable efforts to accommodate the victim upon the return of a verdict by the jury. If the court is informed by the district attorney that the victim is en route to the courtroom for the reading of the verdict, the court shall state on the record that it has considered the information provided by the district attorney prior to the return of the verdict by the jury.

(7) When a victim's property is no longer needed for evidentiary reasons, the district attorney or any law enforcement agency shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings.

(8) An employer may not discharge or discipline any victim or a member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding or for participating in the preparation of a criminal proceeding.

(9) The district attorney and any law enforcement agency shall inform each victim as to the availability of the following services:

(a) Follow-up support for the victim and the victim's immediate family in order to ensure that the necessary assistance is received by such persons;

(b) Services for child victims and elderly victims, and services for victims who are persons with disabilities, which are directed to the special needs of such victims;

(c) Referral to special counseling facilities and community service agencies by providing the names and telephone numbers of such facilities or agencies, whether public or private, which provide such services as crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, financial assistance, and other support services;

(d) Transportation and household assistance to promote the participation of any victim or the victim's immediate family in the criminal proceedings;

(e) Assistance in dealing with creditors and credit reporting agencies to deal with any financial setbacks caused by the commission of a crime;

(f) Interpretation services and information printed in languages other than the English language;

(g) Child care services to enable a victim or the victim's immediate family to give testimony or otherwise cooperate in the prosecution of a criminal proceeding; and

(h) The existence of a criminal protection order under section 18-1-1001, C.R.S., or section 19-2-707, C.R.S., and, upon request of the victim, information about provisions

that may be added or modified and the process for requesting such an addition or modification.

(10)(a) After the initial contact between a victim and a law enforcement agency responsible for investigating a crime, the agency shall promptly give the victim the following information in writing:

(I) A statement of the victim's rights as enumerated in this article;

(II) Information concerning the availability of victim assistance, medical, and emergency services;

(III) Information concerning the availability of compensatory benefits pursuant to this article and the name, address, and telephone number of any person to contact to obtain such benefits;

(IV) The availability of protection for the victim from the person accused of committing a crime against the victim, including protective court orders; and

(V) The right of a victim to request a copy of the law enforcement report and other documents related to the case, including the right to receive a free copy of the initial incident report. The release of any documents associated with the investigation is at the discretion of the law enforcement agency based on the status of the case.

(b) As soon as available, the law enforcement agency shall give to each victim, as appropriate, the following information:

(I) The business address and business telephone number of the office of the district attorney;

(II) The file number of the case and the name, business address, and business telephone number of any law enforcement officer assigned to investigate the case;

(III) Unless such information would be inconsistent with the requirements of the investigation, information as to whether a suspect has been taken into custody and, if known, whether the suspect has been released and any conditions imposed upon such release;

(IV) The law enforcement agency shall provide the victim in a cold case information concerning any change in the status of the case. In addition, upon the written request of the victim, the law enforcement agency shall provide an update at least annually to the victim concerning the status of a cold case involving one or more crimes for which the criminal statute of limitations is longer than three years.

(V) Any final decision not to file misdemeanor charges against a person accused of committing any crime specified in section 24-4.1-302(1) against the victim

unless law enforcement and the district attorney's office in a judicial district have developed a policy specifying the manner in which to inform victims of decisions not to file charges in a case.

(11) The district attorney shall inform a victim of the following:

(a) The filing of charges against a person accused of committing any of the crimes specified in section 24-4.1-302(1) against the victim, including an explanation of the charges when necessary; or a final decision not to file felony charges against a person for whom law enforcement has requested, pursuant to section 16-21-103(2)(a), C.R.S., the filing of charges for any of the crimes specified in section 24-4.1-302(1) committed against the victim unless law enforcement and the district attorney's office in a judicial district have developed a policy specifying the manner in which to inform victims of decisions not to file charges in a case;

(a.5) The charges to be filed, prior to filing of the charges, if the most serious charge to be filed is lower than the most serious charge for which the individual was arrested and the filing of the lower charge may result in the court issuing a new, lower bond;

(b) Any of the critical stages specified in section 24-4.1-302(2)(a) to (2)(j) and (2)(l) of a criminal proceeding relating to a person accused of a crime against the victim; except that the district attorney shall not be obligated to inform the victim of any appellate review undertaken by the attorney general's office;

(c) The assignment of any case regarding a crime against the victim, including the file number of such case and, if available, the name, business address, and business telephone number of any deputy district attorney assigned to the case, and the court room to which the case is assigned;

(d) The date, time, and place of any of the critical stages specified in section 24-4.1-302(2)(a) to (2)(j) and (2)(l) of the proceeding;

(e) The availability of benefits pursuant to this article and the name, address, and telephone number of any person to contact to obtain such benefits;

(f) The availability of transportation to and from any court proceeding for any victim, except as provided in section 24-4.1-302.5(2);

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

(h) The right to complete a written victim impact statement. The victim has the option to complete the statement on a form provided by the district attorney's office. The district attorney shall inform the victim that the defendant has a right to view the victim impact statement;

(i) The availability of the district attorney to seek a court order to protect a victim's residential address.

(12) Unless a victim requests otherwise, the district attorney shall inform each victim of the following:

(a) The function of a presentence report, including the name and telephone number of the probation office preparing any such report regarding a person convicted of a crime against the victim, and the right of a victim, or a member of the victim's immediate family, to make a victim impact statement pursuant to this article;

(b) The defendant's right to view the presentence report and the victim impact statement;

(c) The date, time, and location of any sentencing hearing;

(d) The right of the victim, or a member of the victim's immediate family, to attend and to express an opinion at the sentencing hearing as to the appropriateness of any sentence proposed to the court for consideration;

(e) Any sentence imposed;

(f)(I) The date, time, and location of any hearing for modification of a sentence pursuant to rule 35 (a) or rule 35 (b) of the Colorado rules of criminal procedure or any provision of state or federal law.

(II) If a hearing is not scheduled and the court has reviewed a written motion for modification of sentence and is considering granting any part of the motion without a hearing, the court shall inform the district attorney, and the district attorney shall notify and receive input from the victim to give to the court before the court rules on the motion.

(III) If the court has reviewed and denied the written motion without a hearing, the district attorney is not required to notify the victim regarding the filing of or ruling on the motion.

(IV) This paragraph (f) does not modify the probation department's responsibility to notify a victim that has opted to receive notifications described in subsection (13.5) of this section.

(f.5) Any motion to modify the terms and conditions of an unsupervised deferred sentence for which the district attorney's office is the monitoring agency. The procedures for notifying victims outlined in subparagraphs (I) and (II) of paragraph (f) of this subsection (12) apply to the district attorney and the court with regard to this motion.

(g) The right to receive information from correctional officials concerning the imprisonment and release of a person convicted of a crime against the victim pursuant to subsection (14) of this section.

(h) The right to receive information from the probation department concerning information outlined in subsection (13.5) of this section regarding a person convicted of a crime against the victim; and

(i) The decision, whether by court order, stipulation of the parties, or otherwise, to conduct postconviction DNA testing to establish the actual innocence of the person convicted of a crime against the victim. If court proceedings are initiated based on the results of the postconviction DNA testing, the victim shall be notified of the court proceedings by the district attorney's office that filed and prosecuted the charges resulting in the entry of the judgment of conviction challenged by the defendant. If the attorney general's office is the agency that decides to conduct postconviction DNA testing, the attorney general's office is responsible for notifying the victim.

(13) If a person convicted of a crime against the victim seeks appellate review or attacks the conviction or sentence, the district attorney or the office of the attorney general, whichever is appropriate, shall inform the victim of the status of the case and of the decision of the court.

(13.5)(a) Following a sentence to probation and upon the written request of a victim, the probation department shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

(I) The location and telephone number of the probation department responsible for the supervision of the person;

(II) The date of the person's termination from probation supervision;

(III) Any request for release of the person in advance of the person's imposed sentence or period of probation;

(IV) Any probation revocation or modification hearing regarding the person and any changes in the scheduling of the hearings;

(V) Any motion filed by the probation department requesting permission from the court to modify the terms and conditions of probation as described in section 18-1.3-204, C.R.S., if the motion has not been denied by the court without a hearing;

(V.5) Any change of venue, transfer of probation supervision from one jurisdiction to another, or interstate compact transfer of probation supervision;

(VI) Any complaint, summons, or warrant filed by the probation department for failure to report to probation or because the location of a person convicted of a crime is unknown;

(VII) The death of the person while under the jurisdiction of the probation department; and

(VIII) Concerning domestic violence cases, any conduct by the defendant that results in an increase in the supervision level by the probation department.

(b) Repealed by Laws 2002, Ch. 47, § 1, eff. Aug. 7, 2002.

(14) Upon receipt of a written victim impact statement as provided in section 24-4.1-302.5(1)(j.5), the department of corrections shall include the statement with any referral made by the department of corrections or a district court to place an offender in a public or private community corrections facility or program. Upon written request of a victim, the department of corrections or the public or private local corrections authorities shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

- (a) The institution in which such person is incarcerated or otherwise being held;
- (b) The projected date of such person's release from confinement;
- (c) Any release of such person on furlough or work release or to a community correctional facility or other program, in advance of such release;
- (d) Any scheduled parole hearings regarding such person and any changes in the scheduling of such hearings;
- (e) Any escape by such person or transfer or release from any state hospital, a detention facility, a correctional facility, a community correctional facility, or other program, and any subsequent recapture of such person;
- (f) Any decision by the parole board to release such person or any decision by the governor to commute the sentence of such person or pardon such person;
- (g) The transfer to or placement in a nonsecured facility of a person convicted of a crime, any release or discharge from confinement of the person, and any conditions attached to the release;
- (h) The death of the person while in custody or while under the jurisdiction of the state of Colorado concerning the crime; and
- (i) The transition of the person from a residential facility to a nonresidential setting.

(14.2) Upon receipt of a written statement as provided in section 24-4.1-302.5(1)(j.5), the department of human services shall include the statement with any referral made by the department of human services or a district court to place an offender in a public or private community corrections facility or program. Upon written request of the victim, the department of human services and any state hospital shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

- (a) The institution in which such person is incarcerated or otherwise being held;
- (b) The projected date of such person's release from confinement;
- (c) Any release of such person on furlough or work release or to a community correctional facility or other program, in advance of such release;

(d) Any scheduled parole hearings regarding such person and any changes in the scheduling of such hearings;

(e) Any escape by such person or transfer or release from any state hospital, a detention facility, a correctional facility, a community correctional facility, or other program, and any subsequent recapture of such person;

(f) Any decision by the parole board to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

(g) The transfer to or placement in a nonsecured facility of a person convicted of a crime, any release or discharge from confinement of the person, and any conditions attached to the release;

(h) The death of such person while in custody or while under the jurisdiction of the state of Colorado concerning the crime; and

(i) Any request by the department of human services to the juvenile court to modify the sentence to commitment and any decision by the juvenile court to modify the sentence to commitment.

(14.3) Upon receipt of a written statement from the victim, the juvenile parole board shall notify the victim of the following information regarding any person who was charged with or convicted of an offense against the victim:

(a) Any scheduled juvenile parole hearings pursuant to sections 19-2-1002 and 19-2-1004, C.R.S., regarding the person, and any changes in the scheduling of the hearings in advance of the hearing;

(b) Any escape by the person while serving juvenile parole and any subsequent recapture of the person;

(c) Any placement change that occurs during the period of parole that may impact the victim's safety or public safety as determined by the division of youth corrections; and

(d) Any discharge from juvenile parole.

(14.4) The court or its designee, pursuant to section 18-3-415, C.R.S., shall disclose the results of any HIV testing that is ordered and performed pursuant to section 18-3-415, C.R.S., to any victim of a sexual offense in the case in which the testing was ordered.

(14.5)(a) At any proceeding specified in section 24-4.1-302.5(1)(d), the court shall inquire whether the victim is present and wishes to address the court. The court shall advise the victim of his or her right to address the court regarding issues relevant to the case.

(b) At a proceeding specified in section 24-4.1-302.5(1)(d)(VII), involving a subpoena for records of a victim, the court shall ascertain whether the victim received notice from the district attorney's office of the subpoena. After considering all evidence relevant to

the subpoena, the court shall deny a request for a victim's records that are privileged pursuant to section 13-90-107, C.R.S., unless the court makes a finding supported by specific facts that a victim has expressly or impliedly waived the victim's statutory privilege specified in section 13-90-107, C.R.S.

(14.7)(a) The court or its designee shall ensure that victim information be provided to any entity responsible for victim notification after the defendant is sentenced.

(b) The court shall notify the victim of petitions filed by sex offenders to cease sex offender registration pursuant to section 16-22-113 (2)(c), C.R.S.

(15)(a) Unless specifically stated otherwise, the requirements of this section to provide information to the victim may be satisfied by either written, electronic, or oral communication with the victim or the victim's designee. The person responsible for providing the information shall do so in a timely manner and advise the victim or the victim's designee of any significant changes in the information. The victim or the victim's designee shall keep appropriate criminal justice authorities informed of the name, address, electronic mail address, if available, and telephone number of the person to whom the information should be provided, and any changes of the name, address, electronic mail address, and telephone number.

(a.5) A victim who turns eighteen years of age has the right to request notification from a criminal justice agency and to become the primary point of contact. The designee for the victim shall also continue to receive notifications if the designee has requested notification; except that the notifying agency has the discretion to notify only the victim if the victim so requests or if the agency deems that extenuating and documentable circumstances justify discontinuing notification to the victim's designee. The right of a victim's designee to address the court remains in effect even if the victim requests notification from a criminal justice agency.

(b) An agency that is required to notify a victim under this part 3 shall make reasonable attempts to contact the victim or the victim's designee by mail, electronic communication, if the victim or the victim's designee has provided an electronic mail address, and by telephone. If the victim or the victim's designee does not provide the agency with a forwarding address, electronic mail address, and telephone number and the agency is unable to locate the victim or the victim's designee after reasonable attempts have been made to contact the victim or the victim's designee, the agency shall be deemed to have met its obligation under this part 3 and shall not be required to notify the victim or victim's designee until the victim or victim's designee provides the agency with the current address, electronic mail address, if available, and telephone of the victim and the name of the victim's current designee, if applicable.

(c) An agency that is required to notify a victim under this part 3 may use an automated victim notification system.

(16) A defendant or person accused or convicted of a crime against the victim shall have no standing to object to any failure to comply with this article.

(17) Any affected person, except as provided in subsection (16) of this section, may enforce compliance with this article by notifying the crime victim services advisory board created in section 24-4.1-117.3(1) of any noncompliance with this article. The crime victim services advisory board shall review any report of noncompliance, and, if the board determines that the report of noncompliance has a basis in fact and cannot be resolved, the board shall refer the report of noncompliance to the governor, who shall request that the attorney general file suit to enforce compliance with this article. A person, corporation, or other legal entity shall not be entitled to claim or to receive any damages or other financial redress for any failure to comply with this article.

(18) The district attorney, a law enforcement agency, a probation department, a state or private correctional facility, the department of human services, or the Colorado mental health institute at Pueblo shall make all reasonable efforts to exclude or redact a victim's social security number or a witness' social security number from any criminal justice document or record created or compiled as a result of a criminal investigation when the document or record is released to anyone other than the victim, a criminal justice agency that has duties under this article, or the attorney for the defendant.

§ 24-4.1-304 – Child victim or witness – rights and services

(1) In addition to all rights afforded to a victim or witness under section 24-4.1-302.5, law enforcement agencies, prosecutors, and judges are encouraged to designate one or more persons to provide the following services on behalf of a child who is involved in criminal proceedings as a victim or a witness:

(a) To explain, in language understood by the child, all legal proceedings in which the child will be involved;

(b) To act, as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate in any court proceeding;

(c) To assist the child and the child's family in coping with the emotional impact of the crime and any subsequent criminal proceeding in which the child is involved;

(d) To advise the district attorney concerning the ability of a child witness to cooperate with the prosecution and concerning the potential effects of the proceeding on the child.