

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), and (2) (q);

(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 or discharge 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 or discharged 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; or
- (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.;
- (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 amendment, L. 2006, p. 645, § 4, effective 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, an oral victim impact statement, or both, 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.
- (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;

(m) The right to be informed about what steps can be taken by a victim or a witness 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.; and

(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.

(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.

Source: L. 92: Entire section added, p. 418, § 3, effective January 14, 1993. L. 94: (1)(i.5) added, p. 2042, § 25, effective July 1. L. 95: (1)(b), (1)(c), (1)(e), (1)(h), (1)(i.5), (1)(j), and (1)(p) to (1)(r) amended and (1)(j.5) added, p. 1403, § 5, effective July 1. L. 97: (1)(g) amended, p. 47, § 1, effective March 21; (1)(r) and (1)(s) amended and (1)(t) added, p. 1561, § 6, effective July 1. L. 2000: (1)(d), (1)(q), and (1)(r) amended and (1)(j.7) and (1)(u) added, p. 241, § 5, effective March 29; (1)(h) amended, p. 1051, § 21, effective September 1. L. 2002: (1)(g) amended, p. 1530, § 240, effective October 1. L. 2002, 3rd Ex. Sess.: (1)(g) amended, p. 34, § 31, effective July 12 and (1)(g) amended, p. 34, § 32, effective October 1. L. 2006: (1)(b), (1)(c), (1)(g), (1)(h), (1)(i.5), (1)(j.5), (1)(k), (1)(t), and (1)(u) amended and (1)(b.5), (1)(j.3), and (1)(v) added, p. 645, § 4, effective July 1. L. 2007: (1)(b.5) amended and (1)(b.7) added, pp. 839, 840, §§ 2, 3, effective May 14. L. 2008: (1)(d) amended, p. 326, § 2, effective April 7. L. 2009: (1)(j.5) amended, (HB 09-1181), ch. 76, p. 276, § 1, effective August 5.

Editor's note: Section 2 of chapter 276, Session Laws of Colorado 2009, provides that the act amending subsection (1)(j.5) applies to community corrections hearings held on or after August 5, 2009. The act was passed without a safety clause and the act, or portions thereof, may not take effect if the people exercise their right to petition under article V, section 1 (3) of the state constitution. For an explanation concerning the effective date, see page ix of this volume.

Cross references: (1) For the legislative declaration contained in the 2002 act amending subsection (1)(g), see section 1 of chapter 318, Session Laws of Colorado 2002.

(2) For the legislative declaration contained in the 2002 Third Extraordinary Session act amending subsection (1)(g), see section 16 of chapter 1, Session Laws of Colorado 2002, Third Extraordinary Session.

ANNOTATION

A victim's right to be present at all critical stages of the criminal justice process under § 16a of article II of the state constitution and subsection (1)(d) takes precedence over a party's right to sequester witnesses under C.R.E. 615. The father of a murder victim who testified in the defendant's trial was wrongly excluded from subsequent portions of the trial. *People v. Coney*, 98 P.3d 930 (Colo. App. 2004).

A victim's "right to be heard" under Colo. Const. art. II § 16a is limited by subsection (1)(d) to "any court proceeding which involves a bond reduction or modification, the acceptance of a negotiated plea agreement, or the sentencing of any person accused or convicted of a crime" against the victim. Gansz v. People, 888 P.2d 256 (Colo. 1995).

Colo. Const art. II § 16a authorizes the general assembly to define "all terminology". The enactment of subsection (1)(d) reflects a legislative determination as to when a victim's input would be relevant, and, therefore, when a right to be heard would be appropriate. Gansz v. People, 888 P.2d 256 (Colo. 1995).

Colo. Const. art. II § 16a does not grant an alleged crime victim standing or the right to contest a district attorney's decision to dismiss criminal charges or the right to appellate review of the order dismissing the charges, nor does that section and the enabling legislation under this section grant an alleged crime victim the right to be heard on a district attorney's motion to dismiss a criminal charge. Gansz v. People, 888 P.2d 256 (Colo. 1995).

Mother convicted of contributing to the delinquency of her minor son was required to pay restitution since he was the victim of the crime. People v. Miller, 830 P.2d 1092 (Colo. App. 1991).

The general assembly did not act improperly in limiting the proceedings in which a victim has the right to be heard. Since § 16a of article II of the state constitution grants the general assembly the power to define "critical stages" and "right to be heard", the constitution does not guarantee a victim the right to be heard at all stages of the trial. People v. Herron, 874 P.2d 435 (Colo. App. 1993).

In implementing § 16a of article II of the state constitution, the general assembly did not give victims the right to appeal a district attorney's decision to dismiss the charges. People v. Herron, 874 P.2d 435 (Colo. App. 1993).

