

# The Rights of Crime Victims in Colorado

## The Role and Responsibilities of the Probation Department



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by Kim Branham  
VRA Specialist

**Colorado Department of Public Safety**  
**Division of Criminal Justice**

## BACKGROUND

In 1982, President Ronald Reagan formed a Presidential Task Force to study the treatment of crime victims in America and the criminal justice process. After a long and arduous study, the Task Force concluded that the treatment of crime victims in America was a “national disgrace”. One of the Task Force recommendations was to amend the Sixth Amendment of the United States Constitution to include specific rights for crime victims.

Shortly after the publication of the Task Force report, a coalition of leaders from victim assistance organizations met in Washington D.C. to discuss a strategy for a national constitutional amendment. A decision was made to seek amendments to state constitutions from at least 37 of the states prior to introducing a federal constitutional amendment. To date, 33 states have passed a constitutional amendment for victims’ rights.

In 1991, the Colorado General Assembly unanimously voted to place a Constitutional Amendment before the people in November of 1992. During the 1992 legislative session, the General Assembly drafted and passed the enabling legislation for the Constitutional Amendment. This legislation was to become effective upon the anticipated passage of the Constitutional Amendment.

On November 3, 1992, voters overwhelmingly passed a Constitutional Amendment (known as the “Victim Rights Act” or “VRA”) concerning crime victims which read:

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.<sup>1</sup>

The enabling legislation went into effect upon the proclamation of Governor Roy Romer on January 14, 1993. The legislature made a strong statement as to victim rights in its 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*

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<sup>1</sup> Colorado Constitution Article II, Sec. 16a

*agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded criminal defendants.<sup>2</sup>*

The VRA may logically be divided into four important parts:

- 1) Crimes covered by the VRA;
- 2) The critical stages to which the VRA applies;
- 3) The rights afforded to crime victims at the critical stages; and
- 4) The procedures set forth for complying with victim rights.

In every crime where a victim is involved, the Probation Department should ask four important questions: Is this a crime covered by the VRA?; Is this a critical stage covered by the VRA?; If this crime is covered under the VRA, what are my responsibilities to the victim?; and what are the consequences for not providing a victim with their rights?

The following highlights sections of the VRA that apply directly to the Probation Department as well as sections of the VRA that identify victim rights that impact the Probation Department and sections that apply to all agencies in the criminal justice system (such as the definition of “victim” and the methods by which VRA information can be communicated to the victim).

#### **KEY:**

- **Highlighted Sections: Probation Department responsibilities and related Victim Rights and relevant definitions**
- **Notes concerning critical stages and rights about which the Probation Department should be aware (even if it does not have a direct responsibility for such critical stages/rights) and recommended practices (not necessarily mandated by statute)**

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<sup>2</sup> C.R.S. § 24-4.1-301

**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.*

**Source: L. 84:** Entire part added, p. 654, § 3, effective May 14.

**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 amendment, L. 95, p. 1256, § 22, effective 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.;
- (s.3) Invasion of privacy for sexual gratification, in violation of section 18-3-405.6, 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.
- (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) (I) Stalking, in violation of section 18-3-602, C.R.S.;
- (II) Stalking, in violation of section 18-9-111 (4), C.R.S. as it existed prior to August 11, 2010;
- (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 or serious bodily injury 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, C.R.S.;
- (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 a position of trust, in violation of section 18-3-405.3, C.R.S.; sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S., or stalking in violation of section 18-3-602, C.R.S.;
- (ii) Human trafficking in violation of section 18-3-503, C.R.S., or 18-3-504, C.R.S.;
- (jj) First degree burglary, in violation of section 18-4-202, C.R.S.;
- (kk) Retaliation against a judge, in violation of section 18-8-615, C.R.S.; Retaliation against a prosecutor, in violation of section 18-8-616, C.R.S.; or retaliation against a juror, in violation of section 18-8-706.5, C.R.S.

(ll) Child Prostitution, in violation of section 18-7-401, 18-7-402, C.R.S.; procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.; pimping of a child, in violation of section 18-7-405, C.R.S.; inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.; or patronizing a prostituted child, in violation of section 18-7-406, C.R.S.

(mm) Posting a private image for harassment in violation of section 18-7-107, C.R.S., or posting a private image for pecuniary gain in violation of section 18-7-108, 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;

(a.7) The decision to enter into a diversion agreement pursuant to section 18-1.3-101 C.R.S.

(b) The preliminary hearing;

(c) Any court action involving a bond reduction or modification at which the following occurs:

(A) A bond is set lower than the scheduled or customary amount for the specific charge, including any adjustments made by the court to the amount of bond to correspond to the specific charge to which the defendant pled guilty or for which the defendant was convicted, if the adjusted bond is lower than the scheduled or customary amount for the specific charge;

(B) A change in the type of bond;

(C) A modification to a condition of bond;

(D) A defendant is permitted to appear without posting a bond;

(E) In a case involving a capital offense, the court grants the defendant's motion for admission to bail pursuant to section 16-4-101 (3), C.R.S.; or

(F) For jurisdictions that do not have a bond schedule or customary amount for bond, a bond is modified to a lower amount than that set at the initial bond hearing.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (c), the following shall not constitute a bond reduction or modification:

(A) The initial setting of a bond, whether set by the court at the first appearance or by another entity authorized to do so by the court prior to the first appearance;

(B) The setting of a new bond upon the filing of charges by the district attorney, so long as the bond is set at or above the scheduled or customary amount for the specific charge filed; and

(C) For nonbailable offenses pursuant to section 16-4-101, C.R.S., the subsequent setting of a bond by the court.

(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 or resentencing hearing; **\*A critical stage that is not the direct responsibility of the Probation Department; however, a defendant can be re-sentenced at a probation revocation hearing. Victims should be advised that a defendant can be re-sentenced at a probation revocation hearing. A victim has the right to be heard by the Court at any sentencing or modification of the defendant's sentence.**

(i) Any appellate review or appellate decision;

(j) Any modification of the sentence pursuant to rule 35 (a) or 35 9b) of the Colorado Rules of Criminal Procedure or any other provision of state or federal law;

(j.5) Any court-ordered modification of the terms and conditions of probation as described in section 18-1.3-204, C.R.S., and as outlined in section 24-4.1-303(13.5)(a);

(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 and full parole board review 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 nonsecured facility;
- (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;
- (r.3) Effective after November 1, 2017: (I) Except as provided in Subsection (2)(r.3)(II) of this section, any hearing concerning a petition for expungement as described in section 19-1-306.
  - (II) The entry of an order of expungement is not a critical stage if:
    - (A) The case resulted in a not guilty verdict at trial;
    - (B) The case was dismissed in its entirety;
    - (C) The juvenile completed a sentence for a petty offense, any drug petty offense, any level 1 or level 2 drug misdemeanor, or a class 2 or a class 3 misdemeanor offense not involving unlawful sexual behavior as defined in section 16-22-109(9), domestic violence as described in section 18-6-800.3, or a crime that is crime listed under section 24-4.1-302(1); or
    - (D) The juvenile completed a sentence for a municipal offense not involving domestic violence as described in 18-6-800.3.
- (s) The execution of an offender in a capital case; and
- (t) A hearing held pursuant to section 18-1-414(2)(b), C.R.S.
- (u) The decision, whether by court order, stipulation of parties, or otherwise to conduct post 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; a resentencing following a probation

revocation hearing; or a request for early termination of probation. As used in this subsection (3.5), "action taken by the court" includes an order by the court modifying the 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, 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, legal guardian, 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).

**Source:** L. 84: Entire part added, p. 654, § 3, effective May 14. L. 87: (2) amended, p. 1581, § 35, effective July 10. L. 92: Entire section amended, p. 415, § 2, effective January 14, 1993. L. 93: (1)(k) and (1)(w) amended, p. 1653, § 53, effective July 1. L. 95: (1)(w) repealed, p. 1110, § 64, effective May 31; IP(1), (1)(bb), (1)(cc), (2)(c), (2)(e), (2)(l), and (5) amended and (1)(dd) added, p. 1402, § 4, effective July 1; (1)(k) and (1)(bb) amended, p. 1256, § 22, effective July 1. L. 97: (1)(cc) and (1)(dd) amended and (1)(cc.1), (1)(cc.3), (1)(cc.5), (1)(cc.6), (2)(k.3), (2)(k.5), and (2)(k.7) added, pp. 1560, 1561, §§ 4, 5, effective July 1. L. 99: (1)(cc.1) amended, p. 794, § 2, effective July 1. L. 2000: (1)(cc.6) amended and (1)(ee), (1)(ff), (1.3), and (1.5) added, pp. 241, 240, §§ 4, 3, effective March 29; (1)(n), (1)(o), and (1)(p) amended, p. 707, § 34, effective July 1. L. 2005: (1)(cc.3) amended, p. 1501, § 6, effective July 1. L. 2006: IP(1), (1)(ee), (2)(k.5), (2)(k.7), and (2)(p) amended and (1)(bb.3), (1)(bb.7), (1)(ee.3), (1)(ee.7), (1)(gg), (1)(hh), (1.2), (2)(a.5), (2)(e.5), (2)(r), and (2)(s) added, pp. 643, 644, §§ 1, 2, 3, effective July 1. L. 2007: (2)(l) amended, p. 839, § 1, effective May 14. L. 2008: (2)(c) amended, p. 325, § 1, effective April 7; (2)(r)

and (2)(s) amended and (2)(t) added, p. 1513, § 3, effective May 28. **L. 2010:** (1)(cc.1) amended, (HB 10-1233), ch. 88, p. 296, § 7, effective August 11. **L. 2011** (1)(s.3) added, (HB11-1303), ch. 264, p. 1164, §55, effective July 1, 2012. **L. 2012:** (1)(gg), (2)(s), (2)(t), and (5) amended and (1)(ii), (1)(jj), (1)(kk), (2)(u), and (3.5) added, (HB 12-1053), ch. 244, p. 1151, §1, effective August 8. **L. 2013:** (2)(a.7) added (HB13-1156), ch.336 p. 1958 §7, effective August 7; (2)(r.3) added, (HB13-1082) ch. 238, p. 1157, §2, effective August 7. **L. 2014:** (1)(ii) amended, (HB 14-1273), ch. 282, pp. 1157, 1158, §§ 23, 26, effective July 1; (1)(ii), (1)(jj), (2)(j), and (5) amended and (1)(II) and (2)(j.5) added, (HB14-1148), ch. 95, p. 347, §1, effective August 6. **L. 2015:** (1)(kk) amended, (HB15-1229), ch. 239, p.885, §3, effective May 29. **L. 2016:** (2)(h) amended (SB 16-181), ch. 353, p.1452, §6, effective June 10. **L. 2017:** (1.3) amended, (HB 17-1329), ch. 381, p. 1981, §52, effective June 6. (1)(cc.6), (1)(hh), (2)(j.5), (2)(m), and (3.5) amended and (1)(mm) added, (SB 17-51), ch. 155, p. 527, §1, effective August 9; (2)(r.3) amended, (HB17-1204), ch. 206, p. 784, §6, effective November 1.

**Editor's note:** (1) Amendments to subsection (1)(bb) by House Bill 95-1070 and House Bill 95-1346 were harmonized.

(2) Section 11 of chapter 165, Session Laws of Colorado 2006, provides that the act amending the introductory portion to subsection (1) and subsections (1)(ee), (2)(k.5), (2)(k.7) and (2)(p) and enacting subsections (1)(bb.3), (1)(bb.7), (1)(ee.3), (1)(ee.7), (1)(gg), (1)(hh), (1.2), (2)(a.5), (2)(e.5), (2)(r), and (2)(s) applies to offenses committed on or after July 1, 2006.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (2)(r) and (2)(s) and enacting subsection (2)(t), see section 1 of chapter 322, Session Laws of Colorado 2008.

**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)(a.7), (2) (e.5), (2) (k.3), (2) (n), (2) (p), (2) (q), and (2) (u);

(b.5) Repealed.

(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) and (2.5).

(b.9) The right to receive a free copy of the initial incident report from the investigating law enforcement agency; except that the release of a document associated with the investigation is at the discretion of the law enforcement agency based on the status of the case or security and safety concerns in a correctional facility, local jail, or private contract prison as defined in section 17-1-102, C.R.S.;

(c) (I) Except as otherwise provided in subparagraph (1)(c)(II) of this section:

(A) The right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from county jail; **\*If a defendant is serving a jail sentence during the probation period, the victim should be informed that he or she needs to contact the jail and make a verbal request of the jail to be informed of the defendant's release.**

(B) The right to be informed 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 or resentenced;

(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. or section 19-2-707, C.R.S.;

(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. **\*The defendant can be re-sentenced and/or have his or her sentence modified at a probation revocation hearing. If the victim is present and wishes to address the Court, it is recommended that the representative from the Probation Department inform the Court of the victim's presence and desire to speak (in the event that a deputy district attorney is not present, the Court inquires as to the victim's presence and desire to be heard, and/or if the deputy district attorney is not aware of the victim's presence/desire to be heard by the Court).**

(VIII) Involving a petition for expungement as described in section 19-1-306(5), 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 (I) 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, the department of corrections, or the Division of Youth Services in the Department of Human Services, but is limited to participation by phone.

(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; **\*See above comments concerning the right of the victim to be heard by the Court at sentencing.**

(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; **\*It is recommended that victims be informed if the restitution owed by the defendant is converted to a civil judgment at the end of the defendant's probation.**

**(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 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, a full board review, commutation of sentence, or consideration for placement in the specialized program developed by the Department of Corrections pursuant to section 17-34-102, C.R.S.

(j.2) The right to be informed of any request for progression from the state mental health hospital on behalf of a person in its custody as a result of a criminal case involving the victim, and the right to be heard at any hearing during which a court considers such a request. For purpose of this subsection (1)(j.2), "request for progression" includes any request for off-grounds or unsupervised privileges, community placement, conditional release, unconditional discharge, or a special furlough.

**(j.3) The right to be notified of a referral of an offender to community corrections; \*Depending on the Judicial District, the Probation Department could be the agency informing the victim of a referral to community corrections in the event that it is a possible direct sentence to community corrections and the Probation Department is working on the PSI.**

(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 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.

(III) For purpose of this subsection (1)(j.5), if a victim or a victims designee is unavailable to be present for proceedings to consider an offender for a direct sentence or transitional referral to community corrections as described in (1)(j.5)(I) of this section, and the victim or the victims designee wishes to address the community corrections board, the victim or the victims designee shall notify the community corrections board within reasonable time that the victim is unavailable to attend the proceeding but would like to make a statement. Within its resources, the community corrections board shall arrange for and provide the means for the victim to address the board, which means may include, but not limited to, appearing by phone or similar technology.

(IV) For purposes of this section (1)(j.5), "unavailable" means that the victim or the victim's designee is physically unable to attend the proceeding, may sustain a financial hardship to attend the proceeding, is concerned for his or her safety if he

or she attend the proceeding, may suffer significant emotional impact by attending the proceeding, or is unavailable for other good cause.

(V) This subsection (1)(j.5) applies to a victim who is incarcerated or otherwise being held in a local county jail, the department of corrections, or the division of youth corrections in the department of human services but is limited to participation by phone or similar technology.

(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; **\*This is at the discretion of the district attorney, and it is not the responsibility of the Probation Department to make a determination as to whether the victim can view all or a portion of the PSI.**

(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;

(1.5) 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.; which includes victim-offender conferences.

(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 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;

(q.5) The right to be informed of the results of a probation or parole revocation hearing;

(r) The right to be informed 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 testing for a sexually transmitted infection that is ordered and performed pursuant to section 18-3-415, 25-4-408 (6), or 25-4-412, C.R.S. ; **\*The Court can designate the District Attorney's Office or the Probation Department to disclose the results of court ordered HIV testing pursuant to the statute identified above.**

(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; and

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

(z) The right to be notified of a hearing concerning a petition for sealing of records described in section 24-72-308 filed by a defendant in the criminal case whose crime falls under section 24-4.1-302(1).

**(aa) The right to be informed of the governor’s decision to commute or pardon a person convicted of a crime against the victim before such information is publicly disclosed.**

(1.6) The right to be informed of the existence of a criminal protection order under 18-1-1001, C.R.S., or section 19-2-707, C.R.S., and, upon request of the victim, information about the 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) (a) 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. This provision does not require a criminal justice agency to proactively locate victims of crimes that occurred before 1993.

(b) If an arrest is made for a crime committed before 1993 that was previously unsolved, the appropriate criminal justice agency shall notify the crime victim of all future critical stages.

**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. L. 2011: (1)(l.5) added, (HB 11-1032), ch. 296, p/ 1408, § 19, effective August 10. L. 2012: (1)(b), (1)(c)(II), (1)(d)(V), (1)(d)(VII), (1)(d.5), (1)(w), (1)(x), (1)(y), (1.6), and (4) added, (HB 12-1053), ch. 244, p. 1152, §2, effective August 8. L. 2013: (1)(b) amended, (HB13-1156), ch. 336, p. 1958, §8, effective August 7; (1)(d)(VI) and (1)(d)(VII) amended and (1)(d)(VIII) added, (HB 13-1082), ch. 238, p.1157, §3, effective August 7; (1)(l.5) amended, (HB 13-1254), ch. 341, p. 1990, §11, effective August 7. L. 2014: (1)(b.9) and (1)(z) added and (1)(d.5)(IV) and (4) amended, (HB 14-1148), ch. 95, P. 348, §2, effective August 6. L. 2015: (1)(z) amended, (SB 15-264), ch. 259, p. 958, §61, effective August 5. L. 2016: (1) (d)(IV) amended (SB 2016-181), ch. 353, p.1452, §7, effective June 10; IP(1) and (1)(u) amended, (SB 16-146), ch. 230, p. 919, §16, effective July 1; (1)(j) amended, (SB 16-180), ch 352, p. 1445, §5, effective August 10. L. 2017:

(1)(d.5)(IV) amended, (HB 17-1329), ch. 381, p. 1981, §53, effective June 6; (1)(j) amended and (1)(j.2), (1)(j.5)(III), (1)(j.5)(IV), (1)(j.5)(V), (1)(q.5), and (1)(aa) added, (SB 17-051), ch. 155, p. 525, §2, effective August 9; (1)(d)(VIII) amended, (HB 17-1204), ch. 206, p. 785, §7, effective November 1.

**Editor's note:** Section 11 of chapter 165, Session Laws of Colorado 2006, provides that the act amending subsections (1)(b), (1)(c), (1)(g), (1)(h), (1)(i.5), (1)(j.5), (1)(k), (1)(t), and (1)(u) and enacting subsections (1)(b.5), (1)(j.3), and (1)(v) applies to offenses committed on or after July 1, 2006.

**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.

(3) For the legislative declaration in SB 16-180, see section 1 of chapter 352, Session Laws of Colorado 2016.

### **24-4.1-303. Procedures for assuring 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.

(3.5) The District Attorney's Office, if practicable, shall inform the victim of any pending motion or decision by the District Attorney's Office to sequester the victim from a critical stage in the case. The District Attorney shall inform the Court of the victim's position on the motion or the District Attorney's decision, if any. If the victim has objected, then the Court, before granting the sequestration order, shall state in writing or on the record that the victim's objection was considered and state the basis for the Court's decision.

(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 participate 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 such 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, and further notification that may be required pursuant to section 24-4.1-302.5(1)(c);

(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 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;

(b.5) Any critical stage described in section 24-4.1-302 (2) (r.3) relating to a hearing concerning a petition for the expungement of juvenile records, which records concern an offense committed by the juvenile against the victim;

- (b.7) Any hearing concerning a petition for sealing of records as described in section 24-72-702 that was filed by a defendant in the criminal case and whose crime falls under section 24-4.1-302(1). The notification should be made using the last known contact information that is available for the victim;
  - (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; and
  - (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) (0.5), C.R.S. which includes victim-offender conferences;
  - (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 the right to view the victim impact statement; and
  - (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 or resentencing 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 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; except that a district attorney is not required to inform each victim of a resentencing following a probation revocation hearing or a requests for early termination of probation. For both probation revocation hearings and request for early termination, it is the responsibility of the probation department to notify the victim if the victim has requested post-sentencing notification.

(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 regards 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;

(g.5) The right to receive information from the state mental hospital concerning the custody and release of an offender who was ordered by the court into the hospitals custody pursuant to subsection (14.2) 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 court proceedings by the district attorney's office that filed and prosecuted the charges resulting in the entry of 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.

(j) The right to be informed of a request for progression from the state mental health hospital on behalf of a person in its custody as a result of a criminal case involving 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, including notifications of the victim's right to be present and heard at the hearing and notification of the results of such a hearing pursuant to section 24-4.1-302.5 (1)(d) if a hearing is not scheduled and the court has reviewed a written motion for early termination of probation and is considering granting the motion without a hearing, the court shall inform the probation department and the district attorney's office, and the probation department shall notify and receive input from the victim to give to the court before the court rules on the motion. If the court has reviewed and denied such a request without a hearing, the probation department is not required to notify the victim regarding the filing of or ruling on the request.

(IV) Any probation revocation or modification hearing regarding the person at which the person's sentence may be reconsidered or modified and any changes in the scheduling of the hearings, including notification of the victim's right to be present and heard at the hearing and notification of the results of such a hearing pursuant to section 24-4.1-302.5(1)(d). If a hearing is not scheduled and the court has reviewed a written motion for modification of sentence and is considering granting the motion without a hearing, the court shall inform the probation department and the district attorney's office, and the probation department shall notify and receive input from the victim to give to the court before the court rules on the motion. If the court has reviewed and denied the written motion without a hearing, the probation department is not required to notify the victim regarding the filing of or ruling on the motion.

(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 or 19-2-925, 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 **probationer** that results in an increase in the supervision level by the probation department.

(b) Repealed.

(IX) Any court-ordered modification of the terms and conditions of probation as described in section 18-1.3-204 or 19-2-925, C.R.S.;

(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 or full parole board reviews regarding the person and any changes in the scheduling of such hearings, including notification of the victim's right to be present and heard at 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) Repealed;

(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; and

(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.

(j) Any decision by the parole board and any decision by the governor to commute the sentence of the person or pardon the person; and

(k) The date, time, and location of a scheduled execution.

(14.1) The Colorado mental health institute at Pueblo, or the Colorado mental health institute of Fort Logan, as may be applicable, 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 the person resides;

(b) Any release of the person on furlough or other program, in advance of such release;

(c) Any other transfer or release from the state hospital;

(d) Any escape by the person and any subsequent recapture of the person; and

(e) The death of the person while in custody or while under the jurisdiction of the state.

(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, division of youth corrections, 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. 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 adjudicated 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) Repealed

(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 governor to commute the sentence of such person or pardon the 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; and

(h) The death of such person while in custody or while under the jurisdiction of the state.

(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.

(j) Any placement change that occurs during the person's parole that may affect the victim's safety, as determined by the division of youth services.

(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 adjudicated 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, any change in the scheduling of such a hearing in advance of the hearing, the victim's right to be present and heard at such hearings, the results of such hearing, any parole decision to release the person, and the terms and conditions of any such release;

(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 services; 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 testing for a sexually transmitted infection that is ordered and performed pursuant to section 18-3-415, 24-4-408(6), or 24-4-412, C.R.S., to any victim of a sexual offense in the case where such testing was ordered. Disclosure of diagnostic test results must comply with the requirements of section 24-4-410(2), C.R.S. **\*The Court can designate the District Attorney's Office or the Probation Department to disclose the results of court ordered HIV testing pursuant to the statute identified above.**

(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. **\*At a probation revocation hearing, the Court may ask the Probation Department representative whether the victim is present and wished to be heard.**

(14.5) (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 the facts that the victim has expressly or impliedly waived the victim's statutory privilege specified in section 13-90-107, C.R.S.

(14.5)(c) The Court shall inform the Probation Department and the District Attorney's Office before any hearing regarding and request by a probationer for early termination of probation or any change in the terms and conditions of probation.

(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. **\*The Court or its designee (such as the District Attorney's Office) can be a resource for the Probation Department as to the obtaining of victim information.**

(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 be 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 such 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.

Source: L. 84: Entire part added, p. 655, § 3, effective May 14. L. 87: (1)(i.5) added, p. 922, § 1, effective July 1. L. 92: Entire section amended, p. 421, § 4, effective January 14, 1993. L. 94: IP(14) amended, p. 2693, § 229, effective July 1. L. 95: (3) to (5), (10)(a)(I), (11)(a), (11)(b), IP(14), (14)(c), (14)(e), (14)(g), and (14)(h) amended and (14.5) added, p. 1404, § 6, effective July 1. L. 97: (13.5) added, p. 1562, § 7, effective July 1. L. 2000: (2), (6), and IP(14) amended and (14.3) and (14.7) added, p. 241, § 6, effective March 29. L. 2001: (13.5) amended, p. 32, § 2, effective August 8. L. 2002: (13.5)(b) repealed, p. 123, § 1, effective August 7. L. 2006: (9)(f), (10)(b)(II), (11)(a), (11)(b), (11)(d), (13.5)(a)(III), (13.5)(a)(V), (13.5)(a)(VI), (13.5)(a)(VII), IP(14), (14.7), and (15) amended and (10)(b)(IV), (10)(b)(V), (13.5)(a)(VIII), and (14.2) added, pp. 646, 647, 648, §§ 5, 6, 7, 8, 9, 10, effective July 1. L. 2007: IP(14.2) amended, p. 840, § 4, effective May 14. L. 2008: (11)(a.5) added, p. 327, § 3, effective April 7; (14.2)(g), (14.2)(h), and (14.3) amended and (14.2)(i) and (14.4) added, p. 1108, §§ 14, 15, effective July 1. L. 2009: (1), (9)(a), and (17) amended, (SB 09-047), ch.129, p. 557, § 6, effective July 1. L. 2011: (11)(e) and (11)(f) amended and (11)(g) added, (HB 11-1032), ch. 296, p. 1408, §20, effective August 10. L. 2012: (9)(f), (9)(g), IP (10)(a), (10)(a)(V), (11)(f), (11)(g), (12)(e), (12)(f), (13.5)(a)(V), IP (14), (14)(g), (14)(h), (14.5), and (15) amended and (9)(h), (11)(h), (11)(i), (12)(f.5), (12)(h), (12)(i), (13.5)(a)(V.5), (14)(i), and (18) added, (HB 12-1053), ch. 244, p. 1154, §3, effective August 8. L. 2013: (11)(b.5) added, (HB 13-1082), ch. 238, p. 1158, §4, effective August 7; (11)(g) amended (HB 13-1254), ch. 341, p. 1990, §12, effective August 7. L. 2014: (11)(b.7) and (13.5)(a)(IX) added, (HB14-1148), ch. 95, p. 349, §3, effective August 6. L. 2015: (11)(b.7) amended, (SB 15-264), ch. 259, p. 958, §62, effective August 5. L. 2016: (12)(c) amended, (SB 16-181), ch. 353, p. 1452, §8, effective June 10. (14.4) amended, (SB16-146), ch. 230, p. 920, §17, effective July 1. L. 2017: (14.3)(c) amended, (HB 17-1329), ch. 381, p. 1981, §54m effective June 6; (3.5), (12)(g.5), (12)(j), (14)(j), (14)(k), (14.1), (14.2)(j), and (14.5)(c) added, (9)(g), (10)(b)(III), (12)(f)(1), (12)(g), (12)(h), (13.5)(a), (14)(c), (14)(d), (14)(h), IP(14.2), (14.2)(e), (14.2)(f), (14.2)(g), (14.2)(h), (14.2)(i), IP (14.3)(a) amended, and (14)(f) and (14.2)(d) repealed, (SB 17-051), ch. 155, p. 529, §3, effective August 9.

**Editor's note:** Section 11 of chapter 165, Session Laws of Colorado 2006, provides that the act amending subsections (9)(f), (10)(b)(II), (11)(a), (11)(b), (11)(d), (13.5)(a)(III), (13.5)(a)(V), (13.5)(a)(VI), and (13.5)(a)(VII), the introductory portion to subsection (14), and subsections (14.7) and (15) and enacting subsections (10)(b)(IV), (10)(b)(V), (13.5)(a)(VIII), and (14.2) applies to offenses committed on or after July 1, 2006.

**Cross references:** For content of victim impact statements, see § 16-11-102 (1.5); for the right of victims to attend sentencing hearings and parole hearings, see §§ 16-11-601 and 17-2-214; for the issuance of protection orders against defendants, see § 18-1-1001; for restitution to victims of crime, see article 28 of title 17.

**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.

**Source:** L. 84: Entire part added, p. 656, § 3, effective May 14. L. 85: IP(1) amended, p. 1361, § 18, effective June 28. L. 92: IP(1) amended, p. 427, § 5, effective January 14, 1993.

**24-4.1-305. Disclosure by agent of defense-initiated victim outreach required - definition.**

(1) When any person attempting defense-initiated victim outreach contacts any victim of any crime, the person shall immediately provide full and unambiguous disclosure of:

(a) The person's legal name;

(b) The fact that the person is acting as an agent for the person accused of the crime or for the defense team of such person;

(2)(a) As used in this section, unless the context requires otherwise, “defense-initiated victim outreach” means any effort by the defense team, including but not limited to a victim liaison, victim outreach specialist, social worker, investigator, or other individual, to directly contact a victim or a victim’s family member on behalf of the defendant or defense counsel.

(b) The definition in paragraph (a) of this subsection (2) does not require the identified members of a defense team to comply with any guidelines or standards promulgated by any professional defense-initiated victim outreach organization.

Source: L. 2015: Entire section added, (HB 15-1218), ch. 155, p. 463, § 1, effective August 5.