

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0674.01 Richard Sweetman x4333

SENATE BILL 17-051

SENATE SPONSORSHIP

Fields and Gardner,

HOUSE SPONSORSHIP

Foote,

Senate Committees

Judiciary
State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE RIGHTS OF CRIME VICTIMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes various amendments to statutes concerning the rights of crime victims, including the following:

The definition of "crime" is amended to include:

- ! Failure to stop at the scene of an accident that results in serious bodily injury of another person;
- ! Violation of a protection order issued against a person charged with stalking; and
- ! Posting a private image for harassment or for pecuniary

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
February 16, 2017

gain.

The definition of "critical stages" is amended to include any full board review hearing.

The definition of "modification of sentence" is amended to include a resentencing following a probation revocation hearing or a request for early termination of probation.

The bill creates a victim's right:

- ! To be heard at any court proceeding at which the court considers a request for progression from a person accused or convicted of a crime against the victim and who is in the custody of the state mental health hospital. "Progression" includes off-grounds supervised or unsupervised privileges, community placement, conditional release, unconditional discharge, or a special furlough.
- ! To be informed of the results of a probation or parole revocation hearing; and
- ! 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.

The bill requires a district attorney's office, if practicable, to inform a victim of any pending motion to sequester the victim from a critical stage in the case.

Unless a victim requests otherwise, the district attorney shall inform each victim of the right to receive information from the state mental health hospital concerning the custody and release of a person convicted of a crime against the victim and ordered by a court into the hospital's care, including how the victim may request notification from the hospital.

Upon the written request of a victim, the Colorado mental health institute at Pueblo or the Colorado mental health institute at Fort Logan shall notify the victim of certain information regarding any person who was charged with or convicted of a crime against the victim.

The bill requires the juvenile parole board to report additional information concerning juvenile parole hearings.

The court shall inform the probation department before any hearing regarding any request by a probationer for early termination of probation or any change in the terms and conditions of probation.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-4.1-302, **amend**
3 (1)(cc.6), (1)(hh), (2)(j.5), (2)(m), and (3.5); and **add** (1)(mm) as follows:

4 **24-4.1-302. Definitions.** As used in this part 3, and for no other

1 purpose, including the expansion of the rights of any defendant:

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

5 (cc.6) Failure to stop at the scene of an accident, in violation of
6 section 42-4-1601, ~~C.R.S.~~, where the accident results in the death OR
7 SERIOUS BODILY INJURY of another person;

8 (hh) Violation of a protection order issued under section
9 18-1-1001 ~~C.R.S.~~, against a person charged with committing sexual
10 assault in violation of section 18-3-402, ~~C.R.S.~~; sexual assault on a child
11 in violation of section 18-3-405, ~~C.R.S.~~; sexual assault on a child by one
12 in a position of trust in violation of section 18-3-405.3, ~~C.R.S.~~; or sexual
13 assault on a client by a psychotherapist in violation of section 18-3-405.5,
14 ~~C.R.S.~~; OR STALKING IN VIOLATION OF SECTION 18-3-602;

15 (mm) POSTING A PRIVATE IMAGE FOR HARASSMENT IN VIOLATION
16 OF SECTION 18-7-107 OR POSTING A PRIVATE IMAGE FOR PECUNIARY GAIN
17 IN VIOLATION OF SECTION 18-7-108.

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

20 (j.5) Any court-ordered modification of the terms and conditions
21 of probation as described in section 18-1.3-204 ~~C.R.S.~~ OR 19-2-925 and
22 as outlined in section 24-4.1-303 (13.5)(a);

23 (m) Any parole application hearing AND FULL PAROLE BOARD
24 REVIEW HEARING;

25 (3.5) "Modification of sentence" means an action taken by the
26 court to modify the length, terms, or conditions of an offender's sentence
27 pursuant to rule 35 (a) or (b) of the Colorado rules of criminal procedure;

1 A RESENTENCING FOLLOWING A PROBATION REVOCATION HEARING; OR A
2 REQUEST FOR EARLY TERMINATION OF PROBATION. AS USED IN THIS
3 SUBSECTION (3.5), "action taken by the court" includes an order by the
4 court modifying an offender's sentence upon review of the written motion
5 without a hearing but does not include an order denying a motion to
6 modify a sentence without a hearing.

7 **SECTION 2.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
8 (1)(d)(VII), (1)(d)(VIII), and (1)(j); and **add** (1)(d)(IX), (1)(j.5)(III),
9 (1)(j.5)(IV), (1)(j.5)(V), (1)(j.5)(VI), (1)(q.5), and (1)(aa) as follows:

10 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
11 order to preserve and protect a victim's rights to justice and due process,
12 each victim of a crime has the following rights:

- 13 (d) The right to be heard at any court proceeding:
- 14 (VII) Involving a subpoena for records concerning the victim's
15 medical history, mental health, education, or victim compensation, or any
16 other records that are privileged pursuant to section 13-90-107; ~~C.R.S.~~;
17 ~~or~~
- 18 (VIII) Involving a petition for expungement as described in
19 section 19-1-306 (5)(a); ~~C.R.S.~~ OR
- 20 (IX) UPON REQUEST OF THE VICTIM, AT WHICH THE COURT
21 CONSIDERS A REQUEST FOR PROGRESSION FROM A PERSON ACCUSED OR
22 CONVICTED OF A CRIME AGAINST THE VICTIM AND WHO IS IN THE CUSTODY
23 OF THE STATE MENTAL HEALTH HOSPITAL. FOR PURPOSES OF THIS
24 SUBSECTION (1), "REQUEST FOR PROGRESSION" INCLUDES ANY REQUEST
25 FOR OFF-GROUNDS SUPERVISED OR UNSUPERVISED PRIVILEGES,
26 COMMUNITY PLACEMENT, CONDITIONAL RELEASE, UNCONDITIONAL
27 DISCHARGE, OR A SPECIAL FURLOUGH.

1 (j) The right to be informed, upon written request from the victim,
2 of any proceeding at which any postconviction release from confinement
3 in a secure state correctional facility is being considered for any person
4 convicted of a crime against the victim and the right to be heard at any
5 such proceeding or to provide written information thereto. For purposes
6 of this subsection (1), "proceeding" means reconsideration of sentence,
7 a parole hearing, A FULL PAROLE BOARD REVIEW, commutation of
8 sentence, or consideration for placement in the specialized program
9 developed by the department of corrections pursuant to section
10 17-34-102. ~~C.R.S.~~

11 (j.5) (III) FOR PURPOSES OF THIS SUBSECTION (1)(j.5), IF A VICTIM
12 OR A VICTIM'S DESIGNEE IS UNAVAILABLE TO BE PRESENT FOR A
13 PROCEEDING TO CONSIDER AN OFFENDER FOR A DIRECT SENTENCE OR
14 TRANSITIONAL REFERRAL TO COMMUNITY CORRECTIONS AS DESCRIBED IN
15 SUBSECTION (1)(j.5)(I) OF THIS SECTION, AND THE VICTIM OR THE VICTIM'S
16 DESIGNEE WISHES TO ADDRESS THE COMMUNITY CORRECTIONS BOARD,
17 THE VICTIM OR THE VICTIM'S DESIGNEE SHALL NOTIFY THE COMMUNITY
18 CORRECTIONS BOARD WITHIN A REASONABLE TIME THAT THE VICTIM IS
19 UNAVAILABLE TO ATTEND THE PROCEEDING BUT WOULD LIKE TO MAKE A
20 STATEMENT. WITHIN ITS RESOURCES, THE COMMUNITY CORRECTIONS
21 BOARD SHALL ARRANGE FOR AND PROVIDE THE MEANS FOR THE VICTIM TO
22 ADDRESS THE BOARD, WHICH MEANS MAY INCLUDE, BUT NEED NOT BE
23 LIMITED TO, APPEARING BY PHONE OR VIA SIMILAR TECHNOLOGY.

24 (IV) FOR PURPOSES OF THIS SUBSECTION (1)(j.5), "UNAVAILABLE"
25 MEANS THE VICTIM OR THE VICTIM'S DESIGNEE IS PHYSICALLY UNABLE TO
26 ATTEND THE PROCEEDING, MAY SUSTAIN A FINANCIAL HARDSHIP TO
27 ATTEND THE PROCEEDING, IS CONCERNED FOR HIS OR HER SAFETY IF HE OR

1 SHE ATTENDS THE PROCEEDING, MAY SUFFER SIGNIFICANT EMOTIONAL
2 IMPACT BY ATTENDING THE PROCEEDING, OR IS UNAVAILABLE FOR OTHER
3 GOOD CAUSE.

4 (V) THIS SUBSECTION (1)(j.5) APPLIES TO A VICTIM WHO IS
5 INCARCERATED OR OTHERWISE BEING HELD IN A LOCAL COUNTY JAIL, THE
6 DEPARTMENT OF CORRECTIONS, OR THE DIVISION OF YOUTH CORRECTIONS
7 IN THE DEPARTMENT OF HUMAN SERVICES BUT IS LIMITED TO
8 PARTICIPATION BY PHONE OR SIMILAR TECHNOLOGY.

9 (q.5) THE RIGHT TO BE INFORMED OF THE RESULTS OF A PROBATION
10 OR PAROLE REVOCATION HEARING;

11 (aa) THE RIGHT TO BE INFORMED OF THE GOVERNOR'S DECISION TO
12 COMMUTE OR PARDON A PERSON CONVICTED OF A CRIME AGAINST THE
13 VICTIM BEFORE SUCH INFORMATION IS PUBLICLY DISCLOSED.

14 **SECTION 3.** In Colorado Revised Statutes, 24-4.1-303, **amend**
15 (9)(g), (10)(b)(III), (12)(f)(I), (12)(g), (12)(h), (13.5)(a)(III),
16 (13.5)(a)(IV), (13.5)(a)(V), (13.5)(a)(VIII), (13.5)(a)(IX), (14)(c), (14)(d),
17 (14)(h), (14.2) introductory portion, (14.2)(e), (14.2)(f), (14.2)(g),
18 (14.2)(h), (14.2)(i), and (14.3)(a); **repeal** (14.2)(d); and **add** (3.5),
19 (12)(g.5), (12)(j), (14)(j), (14)(k), (14.1), (14.2)(j), and (14.5)(c) as
20 follows:

21 **24-4.1-303. Procedures for ensuring rights of victims of**
22 **crimes.** (3.5) THE DISTRICT ATTORNEY'S OFFICE, IF PRACTICABLE, SHALL
23 INFORM THE VICTIM OF ANY PENDING MOTION TO SEQUESTER THE VICTIM
24 FROM A CRITICAL STAGE IN THE CASE. THE DISTRICT ATTORNEY SHALL
25 INFORM THE COURT OF THE VICTIM'S POSITION ON THE MOTION, IF ANY. IF
26 THE VICTIM HAS OBJECTED, THEN THE COURT, BEFORE GRANTING THE
27 SEQUESTRATION ORDER, SHALL STATE IN WRITING OR ON THE RECORD

1 THAT THE VICTIM'S OBJECTION WAS CONSIDERED AND STATE THE BASIS
2 FOR THE COURT'S DECISION.

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

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

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

10 (III) Unless such information would be inconsistent with the
11 requirements of the investigation, information as to whether a suspect has
12 been taken into custody and, if known, whether the suspect has been
13 released, ~~and~~ any conditions imposed upon such release, AND
14 INFORMATION AS TO HOW THE VICTIM MAY REQUEST FURTHER
15 NOTIFICATION PURSUANT TO SECTION 24-4.1-302.5 (1)(c);

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

18 (f) (I) The date, time, and location of any hearing for modification
19 of a sentence pursuant to rule 35 (a) or rule 35 (b) of the Colorado rules
20 of criminal procedure or any provision of state or federal law; EXCEPT
21 THAT A DISTRICT ATTORNEY IS NOT REQUIRED TO INFORM EACH VICTIM OF
22 A RESENTENCING FOLLOWING A PROBATION REVOCATION HEARING OR A
23 REQUEST FOR EARLY TERMINATION OF PROBATION. FOR BOTH PROBATION
24 REVOCATION HEARINGS AND REQUESTS FOR EARLY TERMINATION, IT IS
25 THE RESPONSIBILITY OF THE PROBATION DEPARTMENT TO NOTIFY THE
26 VICTIM IF THE VICTIM HAS REQUESTED POST-SENTENCING NOTIFICATION.

27 (g) The right to receive information from correctional officials

1 concerning the imprisonment and release of a person convicted of a crime
2 against the victim pursuant to subsection (14) of this section, INCLUDING
3 HOW THE VICTIM MAY REQUEST NOTIFICATION FROM CORRECTIONAL
4 FACILITIES.

5 (g.5) THE RIGHT TO RECEIVE INFORMATION FROM THE STATE
6 MENTAL HEALTH HOSPITAL CONCERNING THE CUSTODY AND RELEASE OF
7 A PERSON CONVICTED OF A CRIME AGAINST THE VICTIM AND ORDERED BY
8 A COURT INTO THE HOSPITAL'S CARE PURSUANT TO SUBSECTION (14.2) OF
9 THIS SECTION, INCLUDING HOW THE VICTIM MAY REQUEST NOTIFICATION
10 FROM THE HOSPITAL.

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

14 (j) THE RIGHT TO BE INFORMED OF A REQUEST FOR PROGRESSION
15 FOR A PERSON WHO IS CHARGED WITH OR CONVICTED OF A CRIME AGAINST
16 THE VICTIM AND WHO IS IN THE CUSTODY OF THE STATE MENTAL HEALTH
17 HOSPITAL.

18 (13.5) (a) Following a sentence to probation and upon the written
19 request of a victim, the probation department shall notify the victim of the
20 following information regarding any person who was charged with or
21 convicted of a crime against the victim:

22 (III) Any request for release of the person in advance of the
23 person's imposed sentence or period of probation, INCLUDING
24 NOTIFICATION OF THE VICTIM'S RIGHT TO BE PRESENT AND HEARD AT THE
25 HEARING AND NOTIFICATION OF THE RESULTS OF SUCH A HEARING
26 PURSUANT TO SECTION 24-4.1-302.5 (1)(d). IF A HEARING IS NOT
27 SCHEDULED AND THE COURT HAS REVIEWED A WRITTEN MOTION FOR

1 EARLY TERMINATION OF PROBATION AND IS CONSIDERING GRANTING THE
2 MOTION WITHOUT A HEARING, THE COURT SHALL INFORM THE PROBATION
3 DEPARTMENT AND THE DISTRICT ATTORNEY'S OFFICE, AND THE PROBATION
4 DEPARTMENT SHALL NOTIFY AND RECEIVE INPUT FROM THE VICTIM TO
5 GIVE TO THE COURT BEFORE THE COURT RULES ON THE MOTION. IF THE
6 COURT HAS REVIEWED AND DENIED SUCH A REQUEST WITHOUT A HEARING,
7 THE PROBATION DEPARTMENT IS NOT REQUIRED TO NOTIFY THE VICTIM
8 REGARDING THE FILING OF OR RULING ON THE REQUEST.

9 (IV) Any probation revocation or modification hearing ~~regarding~~
10 ~~the person~~ AT WHICH THE PERSON'S SENTENCE MAY BE RECONSIDERED OR
11 MODIFIED and any changes in the scheduling of the hearings, INCLUDING
12 NOTIFICATION OF THE VICTIM'S RIGHT TO BE PRESENT AND HEARD AT THE
13 HEARING AND NOTIFICATION OF THE RESULTS OF SUCH A HEARING
14 PURSUANT TO SECTION 24-4.1-302.5 (1)(d). IF A HEARING IS NOT
15 SCHEDULED AND THE COURT HAS REVIEWED A WRITTEN MOTION FOR
16 MODIFICATION OF SENTENCE AND IS CONSIDERING GRANTING ANY PART OF
17 THE MOTION WITHOUT A HEARING, THE COURT SHALL INFORM THE
18 PROBATION DEPARTMENT AND THE DISTRICT ATTORNEY'S OFFICE, AND THE
19 PROBATION DEPARTMENT SHALL NOTIFY AND RECEIVE INPUT FROM THE
20 VICTIM TO GIVE TO THE COURT BEFORE THE COURT RULES ON THE MOTION.
21 IF THE COURT HAS REVIEWED AND DENIED THE WRITTEN MOTION WITHOUT
22 A HEARING, THE PROBATION DEPARTMENT IS NOT REQUIRED TO NOTIFY
23 THE VICTIM REGARDING THE FILING OF OR RULING ON THE MOTION.

24 (V) Any motion filed by the probation department requesting
25 permission from the court to modify the terms and conditions of probation
26 as described in section 18-1.3-204 ~~C.R.S.~~, OR 19-2-925 if the motion has
27 not been denied by the court without a hearing;

1 (VIII) Concerning domestic violence cases, any conduct by the
2 defendant PROBATIONER that results in an increase in the supervision level
3 by the probation department; and

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

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

15 (c) Any release of such person on furlough or work release or to
16 a community correctional facility or other program, OR STATUTORY
17 DISCHARGE in advance of such release;

18 (d) Any scheduled parole hearings OR FULL BOARD REVIEWS
19 regarding such THE person and any changes in the scheduling of such
20 hearings, INCLUDING NOTIFICATION OF THE VICTIM'S RIGHT TO BE PRESENT
21 AND HEARD AT SUCH HEARINGS;

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

24 (j) ANY DECISION BY THE PAROLE BOARD OR ANY DECISION BY THE
25 GOVERNOR TO COMMUTE THE SENTENCE OF THE PERSON OR PARDON THE
26 PERSON; AND

27 (k) THE DATE, TIME, AND LOCATION OF A SCHEDULED EXECUTION.

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(14.1) UPON THE WRITTEN REQUEST OF A VICTIM, THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO, OR THE COLORADO MENTAL HEALTH INSTITUTE AT 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. Upon written request of the victim, the department of human services and any state hospital shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

- ~~(d) Any scheduled parole hearings regarding such person and any changes in the scheduling of such hearings;~~
- (e) Any escape by ~~such~~ THE person or transfer or release from any

1 state hospital, a detention facility, a correctional facility, a community
2 correctional facility, PAROLE SUPERVISION, or other program, and any
3 subsequent recapture of ~~such~~ THE person;

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

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

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

12 (i) Any request by the department of human services to the
13 juvenile court to modify the sentence to commitment and any decision by
14 the juvenile court to modify the sentence to commitment; AND

15 (j) ANY PLACEMENT CHANGE THAT OCCURS DURING THE PERSON'S
16 PAROLE THAT MAY AFFECT THE VICTIM'S SAFETY, AS DETERMINED BY THE
17 DIVISION OF YOUTH CORRECTIONS.

18 (14.3) Upon receipt of a written statement from the victim, the
19 juvenile parole board shall notify the victim of the following information
20 regarding any person who was charged with or convicted of an offense
21 against the victim:

22 (a) Any scheduled juvenile parole hearings pursuant to sections
23 19-2-1002 and 19-2-1004 ~~C.R.S.~~, regarding the person, ~~and any changes~~
24 CHANGE in the scheduling of ~~the hearings~~ SUCH A HEARING in advance of
25 the hearing, THE VICTIM'S RIGHT TO BE PRESENT AND HEARD AT SUCH
26 HEARINGS, THE RESULTS OF ANY SUCH HEARING, ANY PAROLE DECISION TO
27 RELEASE THE PERSON, AND THE TERMS AND CONDITIONS OF ANY SUCH

1 RELEASE;

2 (14.5)(c) THE COURT SHALL INFORM THE PROBATION DEPARTMENT
3 AND THE DISTRICT ATTORNEY'S OFFICE BEFORE ANY HEARING REGARDING
4 ANY REQUEST BY THE PROBATIONER FOR EARLY TERMINATION OF
5 PROBATION OR ANY CHANGE IN THE TERMS AND CONDITIONS OF
6 PROBATION.

7 **SECTION 4. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2018 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.