

## CHAPTER 129

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**GOVERNMENT - STATE**

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**SENATE BILL 09-047**

BY SENATOR(S) Newell, Boyd, Carroll M., Foster, Gibbs, Groff, Heath, Hodge, Hudak, Isgar, Morse, Romer, Sandoval, Schwartz, Shaffer B., Tapia, Tochtrop, Williams;  
also REPRESENTATIVE(S) Roberts, Casso, Gardner B., King S., Labuda, Looper, Marostica, Ryden, Schafer S., Todd.

**AN ACT**

**CONCERNING THE OVERSIGHT OF CRIME VICTIM SERVICES, AND, IN CONNECTION THEREWITH, CREATING THE CRIME VICTIM SERVICES ADVISORY BOARD AND REPEALING THE VICTIMS COMPENSATION AND ASSISTANCE COORDINATING COMMITTEE AND THE VICTIMS ASSISTANCE AND LAW ENFORCEMENT ADVISORY BOARD.**

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

**SECTION 1.** Part 1 of article 4.1 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-4.1-117.3. Crime victim services advisory board - creation - duties.**

(1) THERE IS HEREBY CREATED IN THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY THE CRIME VICTIM SERVICES ADVISORY BOARD, REFERRED TO IN THIS SECTION AS THE "ADVISORY BOARD". THE ADVISORY BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, REFERRED TO IN THIS SECTION AS THE "EXECUTIVE DIRECTOR", AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE.

(2) (a) THE ADVISORY BOARD SHALL CONSIST OF AT LEAST SEVENTEEN MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR, INCLUDING BUT NOT LIMITED TO:

(I) A JUDGE;

(II) AN ELECTED DISTRICT ATTORNEY, THE ASSISTANT DISTRICT ATTORNEY, OR A

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

CHIEF DEPUTY DISTRICT ATTORNEY;

(III) A MEMBER OF A CRIME VICTIM COMPENSATION BOARD CREATED IN SECTION 24-4.1-103;

(IV) A MEMBER OF A LOCAL VICTIMS AND WITNESSES ASSISTANCE AND LAW ENFORCEMENT BOARD CREATED IN SECTION 24-4.2-101;

(V) AN ADMINISTRATOR OF CRIME VICTIM COMPENSATION FROM A DISTRICT ATTORNEY'S OFFICE;

(VI) AN ADMINISTRATOR OF VICTIMS AND WITNESSES ASSISTANCE FROM A DISTRICT ATTORNEY'S OFFICE;

(VII) A REPRESENTATIVE OF A STATEWIDE VICTIMS' ORGANIZATION;

(VIII) A JUDICIAL DISTRICT ADMINISTRATOR OR JUDICIAL DISTRICT REPRESENTATIVE;

(IX) A REPRESENTATIVE OF A DOMESTIC VIOLENCE PROGRAM;

(X) A REPRESENTATIVE OF A SEXUAL ASSAULT PROGRAM;

(XI) A SHERIFF OR SHERIFF'S REPRESENTATIVE;

(XII) A POLICE CHIEF OR POLICE REPRESENTATIVE;

(XIII) A DEPUTY DISTRICT ATTORNEY;

(XIV) A VICTIM OF A CRIME OF VIOLENCE; AND

(XV) THREE MEMBERS OF THE COMMUNITY AT LARGE.

(b) THE EXECUTIVE DIRECTOR MAY CONSIDER GEOGRAPHIC DIVERSITY WHEN MAKING APPOINTMENTS TO THE ADVISORY BOARD.

(c) THE TERM OF OFFICE FOR EACH MEMBER OF THE ADVISORY BOARD SHALL BE THREE YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED, SIX MEMBERS SHALL BE APPOINTED TO SERVE ONE-YEAR TERMS AND SIX MEMBERS SHALL BE APPOINTED TO SERVE TWO-YEAR TERMS.

(d) MEMBERS OF THE ADVISORY BOARD SHALL SERVE AT THE PLEASURE OF THE EXECUTIVE DIRECTOR OR UNTIL THE MEMBER NO LONGER SERVES IN THE POSITION FOR WHICH HE OR SHE WAS APPOINTED TO THE ADVISORY BOARD, AT WHICH TIME A VACANCY SHALL BE DEEMED TO EXIST ON THE ADVISORY BOARD. IF A VACANCY ARISES ON THE ADVISORY BOARD, THE EXECUTIVE DIRECTOR SHALL APPOINT AN APPROPRIATE PERSON TO SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.

(e) THE EXECUTIVE DIRECTOR SHALL APPOINT THE INITIAL MEMBERS OF THE ADVISORY BOARD ON OR BEFORE AUGUST 1, 2009. THE EXECUTIVE DIRECTOR MAY REAPPOINT A PERSON TO SERVE AN UNLIMITED NUMBER OF CONSECUTIVE TERMS.

THE EXECUTIVE DIRECTOR SHALL ANNUALLY APPOINT A CHAIRPERSON OF THE ADVISORY BOARD WHO SHALL PRESIDE OVER THE ADVISORY BOARD'S MEETINGS.

(f) MEMBERS OF THE ADVISORY BOARD SHALL SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED FOR ACTUAL TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(3) THE ADVISORY BOARD'S POWERS AND DUTIES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(a) TO DEVELOP AND REVISE, WHEN NECESSARY, STANDARDS FOR THE ADMINISTRATION OF THE CRIME VICTIM COMPENSATION FUND ESTABLISHED IN SECTION 24-4.1-117 IN EACH JUDICIAL DISTRICT AND THE VICTIMS AND WITNESSES ASSISTANCE AND LAW ENFORCEMENT FUND ESTABLISHED IN SECTION 24-4.2-103 IN EACH JUDICIAL DISTRICT, AND TO DEVELOP, REVISE WHEN NECESSARY, AND IMPOSE SANCTIONS FOR VIOLATING THESE STANDARDS;

(b) TO REVIEW, PURSUANT TO SECTION 24-4.1-303 (17), ANY REPORTS OF NONCOMPLIANCE WITH THIS ARTICLE;

(c) TO DISTRIBUTE PROFITS FROM CRIME PURSUANT TO SECTION 24-4.1-201;

(d) TO ADVISE AND MAKE RECOMMENDATIONS TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY CONCERNING THE AWARD OF GRANTS PURSUANT TO SECTIONS 24-33.5-506 AND 24-33.5-507; AND

(e) TO ESTABLISH SUBCOMMITTEES OF THE ADVISORY BOARD FROM WITHIN THE MEMBERSHIP OF THE ADVISORY BOARD, WHICH SUBCOMMITTEES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) A STANDARDS SUBCOMMITTEE THAT SHALL MAKE RECOMMENDATIONS TO THE ADVISORY BOARD CONCERNING THE DEVELOPMENT AND REVISION, WHEN NECESSARY, OF STANDARDS AND SANCTIONS FOR THE VIOLATION OF STANDARDS TO ASSIST THE ADVISORY BOARD IN IMPLEMENTING PARAGRAPH (a) OF THIS SUBSECTION (3); AND

(II) A VICTIM RIGHTS SUBCOMMITTEE THAT SHALL REVIEW, PURSUANT TO SECTION 24-4.1-303 (17), ANY REPORTS OF NONCOMPLIANCE WITH THIS ARTICLE TO ASSIST THE ADVISORY BOARD IN IMPLEMENTING PARAGRAPH (b) OF THIS SUBSECTION (3).

(4) THE ADVISORY BOARD SHALL NOT RELEASE TO THE PUBLIC ANY RECORDS SUBMITTED TO OR GENERATED BY THE ADVISORY BOARD OR A SUBCOMMITTEE OF THE ADVISORY BOARD FOR THE PURPOSES OF THE ADVISORY BOARD'S OR THE SUBCOMMITTEE'S REVIEW, PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION, OF A REPORT OF NONCOMPLIANCE WITH THIS ARTICLE UNTIL THE REPORT OF NONCOMPLIANCE HAS BEEN REVIEWED AND RESOLVED BY THE ADVISORY BOARD. THE ADVISORY BOARD SHALL REDACT ALL VICTIM-IDENTIFYING INFORMATION FROM ANY DOCUMENT RELEASED TO THE PUBLIC.

**SECTION 2.** 16-18.5-109 (3), Colorado Revised Statutes, is amended to read:

**16-18.5-109. Declined or unclaimed restitution.** (3) The amounts of restitution remaining undistributed pursuant to subsections (1) and (2) of this section shall be paid to the victims and witnesses assistance and law enforcement fund created pursuant to section 24-4.2-103, C.R.S., and to the crime victim compensation fund created pursuant to section 24-4.1-117, C.R.S., in the judicial district in which the crime occurred. The chair of the victims and witnesses assistance and law enforcement board, in consultation with the board, and the chair of the crime victim compensation board, in consultation with the board, in each judicial district shall designate on or before each December 1, starting December 1, 2000, how moneys received pursuant to this section shall be divided between the two funds during the next calendar year for that judicial district. If the chairs are unable to agree on a distribution, the ~~victims compensation and assistance coordinating committee~~ CRIME VICTIM SERVICES ADVISORY BOARD created pursuant to section 24-4.1-117.5 (2) (a) IN SECTION 24-4.1-117.3 (1), C.R.S., shall designate how the moneys shall be divided between the funds for that judicial district. If no designation is made, the payments shall be made to the victims and witnesses assistance and law enforcement fund.

**SECTION 3.** 24-1-128.6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-1-128.6. Department of public safety - creation - repeal.** (9) THE CRIME VICTIM SERVICES ADVISORY BOARD, CREATED PURSUANT TO SECTION 24-4.1-117.3, SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY.

**SECTION 4.** 24-4.1-108 (4), Colorado Revised Statutes, is amended to read:

**24-4.1-108. Awarding compensation.** (4) Consistent with approved standards ESTABLISHED PURSUANT TO SECTION 24-4.1-117.3 (3) for the administration of crime victim compensation funds, ~~created pursuant to section 24-4.1-117.5~~ the board may develop policies to ensure that primary victims are compensated and to ensure that available moneys in the ~~compensation~~ fund are not exceeded.

**SECTION 5.** 24-4.1-201 (1.5) (b) (I) and (1.5) (e) (III), Colorado Revised Statutes, are amended to read:

**24-4.1-201. Distribution of profits from crime - escrow account - civil suit by victim - definitions.** (1.5) (b) (I) Any person who contracts with a person convicted of a crime in this state, or such person's representative or assignee, for payment of any profits from the crime of which such person is convicted shall pay to the ~~victims assistance and law enforcement~~ CRIME VICTIM SERVICES advisory board ~~established pursuant to section 24-33.5-508~~ CREATED IN SECTION 24-4.1-117.3 (1), referred to in this part 2 as the "board", any money that would otherwise by terms of the contract be paid to the convicted person or such person's representatives or assignees. The board shall deposit the money in an escrow account for the benefit of any victim of the crime of which the person was convicted.

(e) (III) After notice and opportunity to be heard is provided, the court, by order of judgment, may assess the penalty described in this paragraph (e). All moneys

received from the payment of ~~such~~ THESE penalties shall be paid over to the ~~victims assistance and law enforcement advisory board~~. ~~created pursuant to section 24-33.5-508.~~

**SECTION 6.** 24-4.1-303 (1), (9) (a), and (17), Colorado Revised Statutes, are amended to read:

**24-4.1-303. Procedures for ensuring rights of victims of crimes.** (1) Law enforcement agencies, prosecutorial agencies, judicial agencies, and correctional agencies shall ~~assure~~ ENSURE that victims of crimes are afforded the rights described in section 24-4.1-302.5.

(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 ~~assure~~ ENSURE that the necessary assistance is received by such persons;

(17) Any affected person, except as provided in subsection (16) of this section, may enforce compliance with this article by notifying the ~~victims compensation and assistance coordinating committee~~ CRIME VICTIM SERVICES ADVISORY BOARD created pursuant to section 24-4.1-117.5 (2) (a) IN SECTION 24-4.1-117.3 (1) of any noncompliance with this article. ~~Such committee~~ THE CRIME VICTIM SERVICES ADVISORY BOARD shall review any ~~such~~ report of noncompliance, and, if the ~~committee~~ BOARD determines that ~~such~~ THE report of noncompliance has a basis in fact and cannot be resolved, the ~~committee~~ BOARD shall refer ~~such~~ THE report of noncompliance to the governor, who shall request that the attorney general file suit to enforce compliance with this article. ~~No~~ 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.

**SECTION 7.** 24-4.2-108 (2), Colorado Revised Statutes, is amended to read:

**24-4.2-108. Report of grants and expenditures.** (2) The ~~board~~ DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY shall report annually to the ~~victims compensation and assistance coordinating committee established pursuant to section 24-4.1-117.5 (2) (a)~~ CRIME VICTIM SERVICES ADVISORY BOARD CREATED IN SECTION 24-4.1-117.3 (1) on all grants made and contracts entered into pursuant to this article. The ~~victims compensation and assistance coordinating committee~~ CRIME VICTIM SERVICES ADVISORY BOARD may review ~~such~~ THE grants and contracts to determine the existence of any conflicts of interest involving members of boards, recipients, or contracting parties.

**SECTION 8.** The introductory portion to 24-33.5-506 (1) and 24-33.5-506 (1) (b), (1) (d), and (3), Colorado Revised Statutes, are amended to read:

**24-33.5-506. Victims assistance and law enforcement fund - creation.** (1) There is hereby created in the state treasury a fund to be known as the victims assistance and law enforcement fund, referred to in this section and ~~sections 24-33.5-507 and 24-33.5-508~~ SECTION 24-33.5-507 as the "fund". The state treasurer shall credit to the fund all moneys deposited with the state treasurer

pursuant to section 24-4.2-105 (1) and voluntary victim assistance payments from inmates pursuant to article 24 of title 17, C.R.S. The general assembly shall make annual appropriations of the moneys in the fund to the division:

(b) For distribution as determined by the division, with recommendations from the ~~victims assistance and law enforcement~~ CRIME VICTIM SERVICES advisory board, created in ~~section 24-33.5-508~~ SECTION 24-4.1-117.3 (1) and referred to in this ~~subsection (1)~~ SECTION as the "advisory board", to the department of public safety, the department of corrections, the department of human services, and the office of the state court administrator to implement and coordinate statewide victim services. Subject to available appropriations, the amount of moneys distributed by the division to each agency each fiscal year shall be no less than the total of the amount distributed to the agency in the prior fiscal year minus any moneys budgeted for one-time projects or evaluations and minus any additional grant moneys that the agency received through the grant process described in section 24-33.5-507.

(d) For distribution by the division, based on recommendations from the advisory board, through the awarding of grants, ~~pursuant to section 24-33.5-507 to the state agencies listed in paragraphs (b) and (c) of this subsection (1), to other Colorado state criminal justice agencies to help implement constitutional and statutory requirements relating to the rights of crime victims, and to organizations whose primary purpose is to address issues related to crime victims to help implement and coordinate statewide or multijurisdictional victim programs and services.~~

(3) The priority use for moneys in the fund ~~created in this section~~ shall be for the implementation of the rights afforded to crime victims pursuant to section 24-4.1-302.5 and the provision of ~~the services and programs delineated in sections 24-4.1-303, 24-4.1-304, and 24-4.2-105 (4) related to all crimes as defined by section 24-4.1-302 (1), including the services of the victims' services coordinator pursuant to section 24-31-106~~ FOR CRIME VICTIMS. THE ADVISORY BOARD MAY SET ADDITIONAL PRIORITIES FOR THE USE OF MONEYS IN THE FUND.

**SECTION 9.** 24-33.5-507 (1) and (2), Colorado Revised Statutes, are amended to read:

**24-33.5-507. Application for grants - disbursements from fund.** (1) The division shall accept applications from agencies and organizations ~~specified in section 24-33.5-506 (1)~~ requesting grants of moneys for the following purposes, including, but not limited to, ~~purchase of equipment~~ THE PROVISION OF SERVICES, training programs, additional personnel, and EQUIPMENT AND operating expenses related to victim assistance and notification programs. The ~~victims assistance and law enforcement~~ CRIME VICTIM SERVICES advisory board created ~~pursuant to section 24-33.5-508~~ IN SECTION 24-4.1-117.3 (1) shall evaluate the applications and make recommendations to the division.

(2) ~~The executive director shall promulgate rules and regulations prescribing the procedures to be followed in the making, filing, and evaluation of grant applications, criteria for evaluation, and any other regulations necessary for administering the fund.~~

**SECTION 10. Repeal.** 24-4.1-117.5 and 24-33.5-508, Colorado Revised

Statutes, are repealed.

**SECTION 11. Effective date.** This act shall take effect July 1, 2009.

**SECTION 12. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 16, 2009