

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chair of Committee

\_\_\_\_\_  
Date

April 13, 2022

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB22-049 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 3, strike line 21 and substitute "(2)(n),  
2 (2)(p), (2)(q), **(2)(r)**, and (2)(u);".

3 Page 11, strike lines 14 through 17 and substitute:

4 "(14.5) (a.5) A PARTY ISSUING A SUBPOENA PURSUANT TO RULE 17  
5 OF THE COLORADO RULES OF CRIMINAL PROCEDURE FOR THE PRODUCTION  
6 OF THE PRIVILEGED RECORDS OF A VICTIM PURSUANT TO SECTION  
7 13-90-107 OR A SUBPOENA REQUESTING THE COMPENSATION RECORDS OF  
8 A VICTIM PURSUANT TO SECTION 24-4.1-107.5 SHALL FILE WITH THE  
9 COURT AND SERVE ON ANY OPPOSING PARTY:

10 (I) A COPY OF THE SUBPOENA;

11 (II) A CERTIFICATE STATING THAT THE PARTY HAS A GOOD-FAITH  
12 BELIEF THAT THERE IS A LAWFUL BASIS FOR ISSUING THE SUBPOENA;

13 (III) A COPY OF THE WRITTEN NOTICE SERVED ON RECIPIENTS THAT  
14 ADVISES THAT A PARTY MAY NOT RELEASE RECORDS UNTIL THE COURT  
15 ORDERS THE RELEASE OF THE RECORDS AT A HEARING AND THAT A PARTY  
16 MAY ONLY PROVIDE THE RECORDS TO THE COURT IF THE COURT ORDERS  
17 THE PARTY TO RELEASE THE RECORDS; AND

18 (IV) A MOTION STATING THE PARTY'S LAWFUL BASIS FOR THE  
19 SUBPOENA AND, IF SUBJECT TO A CLAIM OF PRIVILEGE PURSUANT TO  
20 SECTION 13-90-107, A GOOD-FAITH CLAIM THAT THE VICTIM HAS  
21 EXPRESSLY OR IMPLIEDLY WAIVED ANY PRIVILEGE TO ALLOW THE COURT  
22 TO PROPERLY RECEIVE THE RECORDS."

23 Page 11, strike line 27 and substitute "COURT SHALL QUASH ANY  
24 SUBPOENA AND SHALL NOT RECEIVE ANY RECORDS PROTECTED BY  
25 PRIVILEGE PURSUANT TO SECTION 13-90-107 UNLESS THE COURT FINDS,  
26 BASED UPON EVIDENCE, THAT A VICTIM EXPRESSLY OR IMPLIEDLY WAIVED

1 THE STATUTORY PRIVILEGE. IN CONSIDERING WHETHER TO RECEIVE AND  
2 RELEASE ANY RECORDS RELATING TO THE VICTIM, THE COURT SHALL  
3 DETERMINE WHETHER:".

4 Page 12, strike lines 1 through 5.

5 Page 12, after line 21 insert:

6 "(III) IF AFTER THE HEARING, THE COURT ORDERS THE PRODUCTION  
7 OF RECORDS, THE COURT SHALL ENTER ORDERS TO SET A TIMELINE OF NO  
8 LESS THAN SEVEN DAYS FOR THE PARTY TO ARRANGE PRODUCTION OF THE  
9 RECORDS TO THE COURT; EXCEPT THAT THE COURT MAY ORDER  
10 PRODUCTION IN LESS THAN SEVEN DAYS TO AVOID THE DELAY OF A JURY  
11 TRIAL.".

12 Page 14, lines 19 and 20, strike "PROVIDE VICTIM NOTIFICATIONS  
13 PURSUANT TO PART 3 OF ARTICLE 4.1 OF TITLE 24,".

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