



Legislative Council Staff

Research Note

Version: Final

Date: 5/23/2017

Bill Number

Senate Bill 17-051

Sponsors

**Senators Fields & Gardner
Representative Foote**

Short Title

**Revisions To Victims' Rights
Laws**

Research Analyst

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Status

This research note reflects the final version of the bill, which becomes effective August 9, 2017, assuming no referendum petition is filed.

Background

Colorado law affords specified rights to victims of certain crimes. Crimes covered by the victims' rights statutes include murder; manslaughter; criminally negligent homicide; vehicular homicide; assault; menacing; kidnapping; sexual assault; unlawful sexual contact; sexual assault on a child, including by a person in a position of trust or by a psychotherapist; invasion of privacy for sexual gratification; robbery and aggravated robbery; aggravated robbery of controlled substances; incest and aggravated incest; child abuse; crimes against at-risk adults or at-risk juveniles; domestic violence; stalking; bias-motivated crimes; careless driving; failure to stop at the scene of an accident; retaliation, intimidation, aggravated intimidation, or tampering of a witness; indecent exposure; violation of a protection order issued in relation to certain sexual offenses; human trafficking; first degree burglary; retaliation against a judge or juror; offenses relating to child prostitution; or attempt of, conspiracy to commit, or solicitation of any of the above crimes.

Provisions of the bill concern the right to be heard at specified court proceedings and the right to provide a written victim impact statement relating to placing an offender in a community corrections facility or program. Other rights afforded by law include, among others, the right to be treated with fairness, respect, and dignity; to be informed of all "critical stages" of the criminal justice process; to be present at specified critical stages in the criminal justice process; to be free from intimidation, harassment, or abuse; to be informed of the status of the case and any scheduling changes or cancellations, if known in advance; to prepare a victim impact statement and to be present and/or heard at the sentencing hearing; to have the court determine restitution and

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to be informed of the right to pursue a civil judgment against the person convicted of the crime; to prevent any party at any court proceeding from compelling testimony regarding a victim's address, telephone number, place of employment, or other locating information; to be informed when a person who is accused or convicted of a crime is released from the custody of the county jail; and to be informed of and heard regarding any reconsideration of a sentence, parole, or commutation of sentence hearing. All of the rights afforded to victims are provided in Section 24-4.1-302.5, C.R.S.

Existing law requires law enforcement agencies, prosecutorial agencies, judicial agencies, and correctional agencies to follow certain procedures to ensure the rights of victims, including victim notification and consultation requirements. Agencies are also required to provide certain information to victims.

Senate Action

Senate Judiciary Committee (February 1, 2017). At the hearing, the committee heard testimony in favor of the bill from representatives of the Department of Public Safety, the Colorado Organization for Victim Assistance, the Colorado Attorney General's Office, the Colorado District Attorneys' Council, the Rocky Mountain Victim Law Center, and the Colorado Coalition Against Domestic Violence, and two private citizens. The committee heard testimony in opposition to the bill from a representative of the Office of the State Public Defender.

The committee adopted amendment L.001. The amendment clarifies that provisions of the bill apply to full parole board review; clarifies requirements of the community corrections board to hear statements from victims unable to attend a proceeding; requires courts to explain decisions where a victim is sequestered from a critical stage in a case; requires the probation department to notify a victim of certain post-sentencing matters; requires district attorneys to inform victims of requested progressions by offenders who are in the custody of the state mental health hospital; requires victims to be notified and have an opportunity to provide input to a court that is considering release of an offender, in certain circumstances, without a hearing; and removes from the bill certain provisions relating to victim notification, generally.

The committee referred the bill, as amended, to the Senate State Affairs Committee.

Senate State Affairs Committee (February 13, 2017). The committee referred the bill to the Senate Committee of the Whole.

Senate second reading (February 16, 2017). The Senate adopted the Senate Judiciary Committee report and passed the bill on second reading.

Senate third reading (February 17, 2017). The Senate adopted amendment L.004, which makes a technical change to the bill, and passed the bill, as amended, on third reading.

Senate consideration of House Amendments (April 6, 2017). The Senate concurred with House amendments, and repassed the bill.

House Action

House Judiciary Committee (March 28, 2017). At the hearing, the committee heard testimony in favor of the bill from representatives of the Department of Public Safety, the Colorado Organization for Victim Assistance, the Colorado Attorney General's Office, the Colorado District

Attorneys' Council, the Rocky Mountain Victim Law Center, and the Colorado Coalition Against Domestic Violence, as well as a private citizen. The committee heard testimony in opposition to the bill from a representative of the Colorado Criminal Defense Bar.

The committee adopted amendments L.005, L.006, and L.007. Amendment L.005 creates a victim's right to be informed of a request for progression from the state mental health hospital, clarifies persons in the state hospital's custody about whom a victim has a right to receive information, and makes other clarifying amendments. Amendment L.006 clarifies that certain provisions apply to adjudicated juveniles. Amendment L.007 requires victim notification for certain decisions by both the parole board and the Governor.

The committee referred the bill, as amended, to the House Committee of the Whole.

House second reading (April 4, 2017). The House adopted the House Judiciary Committee report and amendment L.009. Amendment L.009 requires district attorneys' offices, if practicable, to inform victims of a district attorney's decision to sequester the victim from any critical stage in a case, and to inform the court of the victim's position on the district attorney's decision. The House passed the bill, as amended, on second reading.

House third reading (April 5, 2017). The House passed the bill on third reading with no amendments.

Relevant Research

Colorado Department of Public Safety, Division of Criminal Justice, Victims Rights Act Compliance Program webpage: <http://dcj.ovp.state.co.us/home/victim-rights>.