

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

ENGROSSED

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

LLS NO. 19-0645.01 Jacob Baus x2173

HOUSE BILL 19-1064

HOUSE SPONSORSHIP

Sullivan and Baisley,

SENATE SPONSORSHIP

Foote and Cooke,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ELIMINATING REQUIREMENTS THAT VICTIMS MUST OPT**
102 **IN TO EFFECT THEIR RIGHTS IN CRIMINAL PROCEEDINGS, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 eliminates requirements that victims must opt in to effect their rights in criminal proceedings involving their alleged offender or offender.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 26, 2019

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-8-115, **amend**
3 (4)(i)(II) as follows:

4 **16-8-115. Release from commitment after verdict of not guilty**
5 **by reason of insanity or not guilty by reason of impaired mental**
6 **condition.** (4) (i) (II) Upon the filing of a petition pursuant to this
7 ~~paragraph (i)~~ SUBSECTION (4)(i), the court shall set a date for a hearing on
8 the petition. The defendant shall notify the local law enforcement agency
9 with which the defendant is required to register and the prosecuting
10 attorney for the jurisdiction in which the local law enforcement agency is
11 located of the filing of the petition and the hearing date. ~~Upon the victim's~~
12 ~~request,~~ The court shall notify the victim of the filing of the petition and
13 the hearing date. At the hearing, the court shall give opportunity to the
14 victim to provide written or oral testimony. If the court enters an order
15 discontinuing the defendant's duty to register, the defendant shall send a
16 copy of the order to the local law enforcement agency and the Colorado
17 bureau of investigation.

18 **SECTION 2.** In Colorado Revised Statutes, 16-8-118, **amend**
19 (2)(d)(II) as follows:

20 **16-8-118. Temporary removal for treatment and**
21 **rehabilitation.** (2) (d) (II) Upon the filing of a petition pursuant to this
22 ~~paragraph (d)~~ SUBSECTION (2)(d), the court shall set a date for a hearing
23 on the petition. The defendant shall notify the local law enforcement
24 agency with which the defendant is required to register and the
25 prosecuting attorney for the jurisdiction in which the local law
26 enforcement agency is located of the filing of the petition and the hearing
27 date. ~~Upon the victim's request,~~ The court shall notify the victim of the

1 filing of the petition and the hearing date. At the hearing, the court shall
2 give opportunity to the victim to provide written or oral testimony. If the
3 court enters an order discontinuing the defendant's duty to register, the
4 defendant shall send a copy of the order to the local law enforcement
5 agency and the Colorado bureau of investigation.

6 **SECTION 3.** In Colorado Revised Statutes, 17-2-214, **amend** (2)
7 as follows:

8 **17-2-214. Right to attend parole hearings.** (2) (a) In the case of
9 any offenses ~~against the person, as specified in article 3 of title 18,~~
10 ~~C.R.S., DESCRIBED IN SECTION 24-4.1-302 (1) OR SECTION 16-22-102 (9),~~
11 notice of any parole proceeding ~~shall~~ **MUST** be sent by the department of
12 corrections, working in cooperation with the board, to any victim of the
13 crime or relative of the victim, if the victim has died, at least sixty days
14 before the hearing. Such notice ~~shall~~ **MUST** be sent to the last address in
15 the possession of the department of corrections or the board, and the
16 victim of the crime or relative of the victim, if the victim has died, has the
17 duty to keep the department of corrections or the board informed of his
18 or her most current address.

19 (b) In the case of any offenses other than offenses ~~against the~~
20 ~~person as specified in article 3 of title 18, C.R.S., DESCRIBED IN~~
21 ~~SUBSECTION (2)(a) OF THIS SECTION,~~ notice of any parole proceeding ~~shall~~
22 **MUST** be sent by the department of corrections, working in cooperation
23 with the board, ~~only~~ upon request OF THE VICTIM to the department of
24 corrections or the board, to any victim of the crime or relative of a victim,
25 if the victim has died, who makes such a request at least sixty days before
26 the hearing. Such notice shall be sent to the last address in the possession
27 of the department of corrections or the board, and the victim of the crime

1 or relative of the victim, if the victim has died, has the duty to keep the
2 department of corrections or the board informed of his or her most current
3 address.

4 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
5 (1)(c)(I), (1)(j), (1)(q), and (1)(r); and **repeal** (1)(b.5) as follows:

6 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
7 order to preserve and protect a victim's rights to justice and due process,
8 each victim of a crime has the following rights:

9 ~~(b.5) The right to be informed of and present for the critical stages~~
10 ~~described in section 24-4.1-302 (2)(k) to (2)(q) and (2)(s), upon the~~
11 ~~written request of the victim; except that the victim shall have the right~~
12 ~~to be informed of the critical stage described in section 24-4.1-302 (2)(l)~~
13 ~~without submitting a written request for notification;~~

14 (c) (I) Except as otherwise provided in ~~subparagraph (H) of this~~
15 ~~paragraph (c)~~ SUBSECTION (1)(c)(II) OF THIS SECTION:

16 (A) The right to be informed ~~upon request by the victim~~, when a
17 person who is accused or convicted of a crime against the victim is
18 released or discharged from county jail;

19 (B) The right to be informed ~~upon written request by the victim~~,
20 when a person who is accused or convicted of a crime against the victim
21 is released or discharged from custody other than county jail, is paroled,
22 escapes from a secure or nonsecure correctional facility or program, or
23 absconds from probation or parole.

24 (j) The right to be informed ~~upon written request from the victim~~,
25 of any proceeding at which any postconviction release from confinement
26 in a secure state correctional facility is being considered for any person
27 convicted of a crime against the victim and the right to be heard at any

1 such proceeding or to provide written information thereto. For purposes
2 of this subsection (1), "proceeding" means reconsideration of sentence,
3 a parole hearing, a full parole board review, commutation of sentence, or
4 consideration for placement in the specialized program developed by the
5 department of corrections pursuant to section 17-34-102.

6 (q) The right to be informed ~~upon written request by the victim,~~
7 when a person convicted of a crime against the victim is placed in or
8 transferred to a less secure public or private correctional facility or
9 program;

10 (r) The right to be informed ~~upon written request by the victim,~~
11 when a person who is or was charged with or convicted of a crime against
12 the victim escapes or is permanently or conditionally transferred or
13 released from any public hospital, private hospital, or state hospital;

14 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-303, **amend**
15 (10)(b)(III), (10)(b)(IV), (12)(g), (12)(g.5), (14) introductory portion,
16 (14.1) introductory portion, and (14.2) introductory portion as follows:

17 **24-4.1-303. Procedures for ensuring rights of victims of**
18 **crimes.** (10) (b) As soon as available, the law enforcement agency shall
19 give to each victim, as appropriate, the following information:

20 (III) Unless such information would be inconsistent with the
21 requirements of the investigation, information as to whether a suspect has
22 been taken into custody and, if known, whether the suspect has been
23 released, any conditions imposed upon such release, and ~~information as~~
24 ~~to how the victim may request~~ further notification THAT MAY BE
25 REQUIRED pursuant to section 24-4.1-302.5 (1)(c);


26 (IV) The law enforcement agency shall provide the victim in a
27 cold case information concerning any change in the status of the case. In

1 addition, ~~upon the written request of the victim~~, the law enforcement
2 agency shall provide an update at least annually to the victim concerning
3 the status of a cold case involving one or more crimes for which the
4 criminal statute of limitations is longer than three years.

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

7 (g) The right to receive information from correctional officials
8 concerning the imprisonment and release of a person convicted of a crime
9 against the victim pursuant to subsection (14) of this section; ~~including~~
10 ~~how the victim may request notification from correctional facilities;~~

11 (g.5) The right to receive information from the state mental health
12 hospital concerning the custody and release of an offender who was
13 ordered by a court into the hospital's custody pursuant to subsection
14 (14.2) of this section; ~~including how the victim may request notification~~
15 ~~from the hospital;~~

16 

17 (14) Upon receipt of a written victim impact statement as
18 provided in section 24-4.1-302.5 (1)(j.5), the department of corrections
19 shall include the statement with any referral made by the department of
20 corrections or a district court to place an offender in a public or private
21 community corrections facility or program. ~~Upon written request of a~~
22 ~~victim, the~~ THE department of corrections or the public or private local
23 corrections authorities shall notify the victim of the following information
24 regarding any person who was charged with or convicted of a crime
25 against the victim:

26 (14.1) ~~Upon the written request of a victim, the~~ THE Colorado
27 mental health institute at Pueblo, or the Colorado mental health institute

1 at Fort Logan, as may be applicable, shall notify the victim of the
2 following information regarding any person who was charged with or
3 convicted of a crime against the victim:

4 (14.2) Upon receipt of a written statement as provided in section
5 24-4.1-302.5 (1)(j.5), the department of human services, division of youth
6 ~~corrections~~ SERVICES, shall include the statement with any referral made
7 by the department of human services or a district court to place an
8 offender in a public or private community corrections facility or program.
9 ~~Upon written request of the victim, the~~ THE department of human services
10 and any state hospital shall notify the victim of the following information
11 regarding any person who was charged with or adjudicated of a crime
12 against the victim:

13 **SECTION 6. Appropriation.** For the 2019-20 state fiscal year,
14 \$784,542 is appropriated to the department of corrections. This
15 appropriation is from the general fund and is based on an assumption that
16 the department will require an additional 9.1 FTE. To implement this act,
17 the department may use this appropriation as follows:

18	Executive director's office subprogram	
19	Personal services	\$459,475 (9.1 FTE)
20	Operating expenses	\$18,592
21	Leased space	\$240,000
22	Start-up costs	\$47,030
23	Inspector general subprogram	
24	Operating expenses	\$250
25	Superintendents subprogram	
26	Start-up costs	\$13,050
27	Communications subprogram	

1	Operating expenses	\$4,095
2	Training subprogram	
3	Operating expenses	\$250
4	Information systems subprogram	
5	Operating expenses	\$1,800.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.