

CHAPTER 327

CRIMINAL LAW AND PROCEDURE**HOUSE BILL 94-1253**

BY REPRESENTATIVES Kerns, DeGette, Adkins, Allen, Armstrong, Berry, Blue, Clarke, Eisenach, Epps, Fleming, Friednash, George, Gordon, Greenwood, Hagedorn, Kaufman, Keller, Kreutz, Lawrence, Linkhart, Lyle, Mattingly, Morrison, Nichol, Pierson, Reeser, Reeves, Rupert, Snyder, Strom, Taylor, Tucker, Williams, and Wright;
also SENATORS Feeley, Bishop, Casey, Hopper, Mares, Mendez, Peterson, L. Powers, Ruddick, Tanner, Weissmann, and Wham.

AN ACT**CONCERNING STATUTORY PROVISIONS TO REDUCE THE INCIDENCE OF DOMESTIC VIOLENCE.**

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

SECTION 1. 18-6-800.3, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-6-800.3. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Domestic violence" means ~~the infliction or threat of infliction of any bodily injury or harmful physical contact or the destruction of property or threat thereof~~ AN ACT OR THREATENED ACT OF VIOLENCE UPON A PERSON WITH WHOM THE ACTOR IS OR HAS BEEN INVOLVED IN AN INTIMATE RELATIONSHIP. DOMESTIC VIOLENCE ALSO INCLUDES ANY OTHER CRIME AGAINST A PERSON OR FELONY CRIME AGAINST PROPERTY OR ANY MUNICIPAL ORDINANCE VIOLATION AGAINST A PERSON, BUT NOT AGAINST PROPERTY, WHEN USED as a method of coercion, control, ~~revenge, or~~ punishment, ~~upon~~ INTIMIDATION, OR REVENGE DIRECTED AGAINST a person with whom the actor is OR HAS BEEN involved in an intimate relationship.

(2) "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of a THE SAME child regardless of whether the persons have been married or have lived together at any time.

SECTION 2. 18-6-801 (1), Colorado Revised Statutes, 1986 Repl. Vol., as

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

amended, is amended, and the said 18-6-801 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

18-6-801. Domestic violence - sentencing. (1) (a) In addition to any sentence which is imposed upon a person for violation of any criminal law under this title, any person who is convicted of any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), OR ANY CRIME AGAINST PROPERTY, WHETHER OR NOT SUCH CRIME IS A FELONY, WHEN SUCH CRIME IS USED AS A METHOD OF COERCION, CONTROL, PUNISHMENT, INTIMIDATION, OR REVENGE DIRECTED AGAINST A PERSON WITH WHOM THE ACTOR IS OR HAS BEEN INVOLVED IN AN INTIMATE RELATIONSHIP, shall be ordered to complete ~~an evaluation according to the standards promulgated~~ A TREATMENT PROGRAM WHICH IS CERTIFIED in accordance with section ~~18-6-803 prior to sentencing~~ 18-6-802. IF AN INTAKE EVALUATION CONDUCTED BY A CERTIFIED TREATMENT PROGRAM PROVIDER DISCLOSES THAT SENTENCING TO A TREATMENT PROGRAM WOULD BE INAPPROPRIATE, THE PERSON SHALL BE REFERRED BACK TO THE COURT FOR ALTERNATIVE DISPOSITION.

(b) THE COURT MAY ORDER AN EVALUATION TO BE CONDUCTED PRIOR TO SENTENCING IF AN EVALUATION WOULD ASSIST THE COURT IN DETERMINING AN APPROPRIATE SENTENCE. THE PERSON ORDERED TO UNDERGO SUCH EVALUATION SHALL BE REQUIRED TO PAY THE COST OF THE EVALUATION. If such evaluation recommends treatment, and if the court so finds, the person shall be ordered to complete a treatment program which is certified in accordance with section 18-6-802.

(c) Nothing in this subsection (1) shall preclude the court from ordering ~~such~~ DOMESTIC VIOLENCE treatment in any appropriate case.

(3) A PERSON CHARGED WITH THE COMMISSION OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), SHALL NOT BE ENTITLED TO PLEAD GUILTY OR PLEAD NOLO CONTENDERE TO AN OFFENSE WHICH DOES NOT INCLUDE THE DOMESTIC VIOLENCE DESIGNATION REQUIRED IN SECTION 16-21-103, C.R.S., UNLESS THE PROSECUTING ATTORNEY MAKES A GOOD FAITH REPRESENTATION ON THE RECORD THAT SUCH ATTORNEY WOULD NOT BE ABLE TO ESTABLISH THAT THE PERSON AND THE ALLEGED VICTIM WERE CURRENTLY OR FORMERLY INVOLVED IN AN INTIMATE RELATIONSHIP IF THE DEFENDANT WERE BROUGHT TO TRIAL ON THE ORIGINAL DOMESTIC VIOLENCE OFFENSE AND UPON SUCH A FINDING BY THE COURT. THE PROSECUTING ATTORNEY'S RECORD AND THE COURT'S FINDINGS SHALL SPECIFY THE RELATIONSHIP IN THE ALLEGED DOMESTIC VIOLENCE CASE WHICH THE PROSECUTING ATTORNEY IS NOT ABLE TO PROVE BEYOND A REASONABLE DOUBT AND THE REASONS THEREFOR. UNDER NO CIRCUMSTANCES SHALL THE COURT WAIVE OR APPROVE OF A WAIVER OF A FINDING OF DOMESTIC VIOLENCE WHEN THE FACTS OF THE CASE INDICATE SUCH A BASIS.

(4) NO PERSON ACCUSED OR CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), SHALL BE ELIGIBLE FOR HOME DETENTION IN THE HOME OF THE VICTIM PURSUANT TO SECTION 17-26-128 OR 17-27.8-102, C.R.S., OR FOR DEFERRED PROSECUTION PURSUANT TO SECTION 16-7-401, C.R.S. NOTHING IN THIS SUBSECTION (4) IS INTENDED TO PROHIBIT A COURT FROM ORDERING A DEFERRED SENTENCE FOR A PERSON ACCUSED OR

CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

(5) BEFORE GRANTING PROBATION, THE COURT SHALL CONSIDER THE SAFETY OF THE VICTIM AND THE VICTIM'S CHILDREN IF PROBATION IS GRANTED.

(6) NOTHING IN THIS SECTION SHALL PRECLUDE THE ABILITY OF A MUNICIPALITY TO ENACT CONCURRENT ORDINANCES.

SECTION 3. Part 8 of article 6 of title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

18-6-801.6. Domestic violence - summons and complaint. ANY PERSON COMPLETING OR PREPARING A SUMMONS, COMPLAINT, SUMMONS AND COMPLAINT, INDICTMENT, INFORMATION, OR APPLICATION FOR AN ARREST WARRANT SHALL INDICATE ON THE FACE OF SUCH DOCUMENT WHETHER THE FACTS FORMING THE BASIS OF THE ALLEGED CRIMINAL ACT, IF PROVEN, COULD CONSTITUTE DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1).

SECTION 4. 18-6-803.5 (2) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 18-6-803.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-6-803.5. Crime of violation of a restraining order - penalty - peace officers' duties. (2) (a) Violation of a restraining order is a class ~~3~~ 2 misdemeanor; ~~when the court order violated has been issued pursuant to section 13-6-107, C.R.S., sections 14-4-101 to 14-4-104, C.R.S., the portions of section 14-10-108, C.R.S., authorizing the restraining and enjoining of any person from threatening, beating, striking, or assaulting any other person or requiring a person to leave certain premises and refrain from entering or remaining on such premises, rule 365 of the Colorado rules of county court civil procedure, any protective order issued pursuant to title 19, C.R.S., or a municipal ordinance which provides for an order to issue which restrains any person from threatening, molesting, or injuring any person, or entering or remaining on the premises. However, when it is plead and proven that the violator has been previously convicted within seven years under this section, the offense is a class 1 misdemeanor.~~ EXCEPT THAT, IF THE RESTRAINED PERSON HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THIS SECTION OR A FORMER VERSION OF THIS SECTION OR AN ANALOGOUS MUNICIPAL ORDINANCE, OR IF THE RESTRAINING ORDER IS ISSUED PURSUANT TO SECTION 18-1-1001, THE VIOLATION IS A CLASS 1 MISDEMEANOR.

(b) A PRIOR CONVICTION NEED NOT BE PLED OR PROVEN AT TRIAL. THE EXISTENCE OF A PRIOR CONVICTION SHALL BE A MATTER FOR THE COURT TO DETERMINE AT SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION IS ESTABLISHED BY A CERTIFIED COPY OF A JUDGMENT OF CONVICTION FROM THE COURT IN WHICH THE CONVICTION OCCURRED.

(c) Nothing in this ~~subsection (2)~~ SECTION shall preclude the ability of a municipality to enact concurrent ordinances. Any sentence imposed ~~pursuant to this subsection (2)~~ FOR A VIOLATION OF THIS SECTION shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing

of the restraining order.

~~(3) Violation of a restraining order is a class 1 misdemeanor when the court order violated has been issued pursuant to section 18-1-1001. Any sentence imposed pursuant to this subsection (3) shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing of the restraining order.~~

(a) WHENEVER A RESTRAINING ORDER IS ISSUED, THE PROTECTED PERSON SHALL BE PROVIDED WITH A COPY OF SUCH ORDER. A PEACE OFFICER SHALL USE EVERY REASONABLE MEANS TO ENFORCE A RESTRAINING ORDER.

(b) A PEACE OFFICER SHALL ARREST, OR, IF AN ARREST WOULD BE IMPRACTICAL UNDER THE CIRCUMSTANCES, SEEK A WARRANT FOR THE ARREST OF A RESTRAINED PERSON WHEN THE PEACE OFFICER HAS INFORMATION AMOUNTING TO PROBABLE CAUSE THAT:

(I) THE RESTRAINED PERSON HAS VIOLATED OR ATTEMPTED TO VIOLATE ANY PROVISION OF A RESTRAINING ORDER; AND

(II) THE RESTRAINED PERSON HAS BEEN PROPERLY SERVED WITH A COPY OF THE RESTRAINING ORDER OR THE RESTRAINED PERSON HAS RECEIVED ACTUAL NOTICE OF THE EXISTENCE AND SUBSTANCE OF SUCH ORDER.

(c) THE ARREST AND DETENTION OF A RESTRAINED PERSON IS GOVERNED BY APPLICABLE CONSTITUTIONAL AND APPLICABLE STATE RULES OF CRIMINAL PROCEDURE. THE RESTRAINED PERSON SHALL BE TAKEN TO THE NEAREST JAIL OR DETENTION FACILITY UTILIZED BY THE PEACE OFFICER. THIS PARAGRAPH (c) SHALL NOT BE CONSTRUED TO LIMIT THE DISCRETION OF THE JAIL OR DETENTION FACILITY STAFF CONCERNING THE MANAGEMENT OF OVERCROWDING. THE PROSECUTING ATTORNEY SHALL MAKE ALL REASONABLE EFFORTS TO CONTACT THE PROTECTED PARTY UPON THE ARREST OF THE RESTRAINED PERSON AND SHALL PRESENT THE INVESTIGATIVE REPORTS AND CRIMINAL HISTORY OF THE RESTRAINED PERSON TO THE COURT AT THE TIME OF THE FIRST APPEARANCE OF THE RESTRAINED PERSON BEFORE THE COURT.

(d) THE ARRESTING AGENCY ARRESTING THE RESTRAINED PERSON SHALL FORWARD TO THE ISSUING COURT A COPY OF SUCH AGENCY'S REPORT, A LIST OF WITNESSES TO THE VIOLATION, AND, IF APPLICABLE, A LIST OF ANY CHARGES FILED OR REQUESTED AGAINST THE RESTRAINED PERSON. THE AGENCY SHALL GIVE A COPY OF THE AGENCY'S REPORT, WITNESS LIST, AND CHARGING LIST TO THE PROTECTED PARTY. THE AGENCY SHALL DELETE THE ADDRESS AND TELEPHONE NUMBER OF A WITNESS FROM THE LIST SENT TO THE COURT UPON REQUEST OF SUCH WITNESS, AND SUCH ADDRESS AND TELEPHONE NUMBER SHALL NOT THEREAFTER BE MADE AVAILABLE TO ANY PERSON, EXCEPT LAW ENFORCEMENT OFFICIALS AND THE PROSECUTING AGENCY, WITHOUT ORDER OF THE COURT.

(6) (a) A PEACE OFFICER IS AUTHORIZED TO USE EVERY REASONABLE MEANS TO PROTECT THE ALLEGED VICTIM OR THE ALLEGED VICTIM'S CHILDREN TO PREVENT FURTHER VIOLENCE. SUCH PEACE OFFICER MAY TRANSPORT, OR OBTAIN TRANSPORTATION FOR, THE ALLEGED VICTIM TO SHELTER. UPON THE REQUEST OF THE PROTECTED PERSON, THE PEACE OFFICER MAY ALSO TRANSPORT THE MINOR CHILD OF THE PROTECTED PERSON, WHO IS NOT AN EMANCIPATED MINOR, TO THE SAME SHELTER

IF SUCH SHELTER IS WILLING TO ACCEPT THE CHILD, WHETHER OR NOT THERE IS A CUSTODY ORDER OR AN ORDER FOR THE CARE AND CONTROL OF THE CHILD AND WHETHER OR NOT THE OTHER PARENT OBJECTS. A PEACE OFFICER WHO TRANSPORTS A MINOR CHILD OVER THE OBJECTION OF THE OTHER PARENT SHALL NOT BE HELD LIABLE FOR ANY DAMAGES WHICH MAY RESULT FROM INTERFERENCE WITH THE CUSTODY, CARE, AND CONTROL OF OR ACCESS TO A MINOR CHILD IN COMPLYING WITH THIS SUBSECTION (6).

(b) FOR PURPOSES OF THIS SUBSECTION (6), "SHELTER" MEANS A BATTERED WOMEN'S SHELTER, A FRIEND'S OR FAMILY MEMBER'S HOME, OR SUCH OTHER SAFE HAVEN AS MAY BE DESIGNATED BY THE PROTECTED PERSON AND WHICH IS WITHIN A REASONABLE DISTANCE FROM THE LOCATION AT WHICH THE PEACE OFFICER FOUND THE VICTIM.

SECTION 5. Part 8 of article 6 of title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

18-6-803.6. Duties of peace officers and prosecuting agencies - preservation of evidence. (1) WHEN A PEACE OFFICER DETERMINES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A CRIME OR OFFENSE INVOLVING DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), HAS BEEN COMMITTED, THE OFFICER SHALL, WITHOUT UNDUE DELAY, ARREST THE PERSON SUSPECTED OF ITS COMMISSION AND CHARGE THE PERSON WITH THE APPROPRIATE CRIME OR OFFENSE.

(2) IF A PEACE OFFICER RECEIVES COMPLAINTS OF DOMESTIC VIOLENCE FROM TWO OR MORE OPPOSING PERSONS, THE OFFICER SHALL EVALUATE EACH COMPLAINT SEPARATELY TO DETERMINE IF A CRIME HAS BEEN COMMITTED BY ONE OR MORE PERSONS. IN DETERMINING WHETHER A CRIME HAS BEEN COMMITTED BY ONE OR MORE PERSONS, THE OFFICER SHALL CONSIDER THE FOLLOWING:

- (a) ANY PRIOR COMPLAINTS OF DOMESTIC VIOLENCE;
- (b) THE RELATIVE SEVERITY OF THE INJURIES INFLICTED ON EACH PERSON;
- (c) THE LIKELIHOOD OF FUTURE INJURY TO EACH PERSON; AND
- (d) THE POSSIBILITY THAT ONE OF THE PERSONS ACTED IN SELF-DEFENSE.

(3) (a) A PEACE OFFICER IS AUTHORIZED TO USE EVERY REASONABLE MEANS TO PROTECT THE ALLEGED VICTIM OR THE ALLEGED VICTIM'S CHILDREN TO PREVENT FURTHER VIOLENCE. SUCH PEACE OFFICER MAY TRANSPORT, OR OBTAIN TRANSPORTATION FOR, THE ALLEGED VICTIM TO SHELTER. UPON THE REQUEST OF THE PROTECTED PERSON, THE PEACE OFFICER MAY ALSO TRANSPORT THE MINOR CHILD OF THE PROTECTED PERSON, WHO IS NOT AN EMANCIPATED MINOR, TO THE SAME SHELTER IF SUCH SHELTER IS WILLING TO ACCEPT THE CHILD, WHETHER OR NOT THERE IS A CUSTODY ORDER OR AN ORDER FOR THE CARE AND CONTROL OF THE CHILD AND WHETHER OR NOT THE OTHER PARENT OBJECTS. A PEACE OFFICER WHO TRANSPORTS A MINOR CHILD OVER THE OBJECTION OF THE OTHER PARENT SHALL NOT BE HELD LIABLE FOR ANY DAMAGES WHICH MAY RESULT FROM INTERFERENCE WITH THE CUSTODY, CARE, AND CONTROL OF OR ACCESS TO A MINOR CHILD IN COMPLYING WITH

THIS SUBSECTION (3).

(b) FOR PURPOSES OF THIS SUBSECTION (3), "SHELTER" MEANS A BATTERED WOMEN'S SHELTER, A FRIEND'S OR FAMILY MEMBER'S HOME, OR SUCH OTHER SAFE HAVEN AS MAY BE DESIGNATED BY THE PROTECTED PERSON AND WHICH IS WITHIN A REASONABLE DISTANCE FROM THE LOCATION AT WHICH THE PEACE OFFICER FOUND THE VICTIM.

(4) (a) THE ARRESTING AGENCY SHALL MAKE REASONABLE EFFORTS TO COLLECT AND PRESERVE ANY PERTINENT EVIDENCE UNTIL THE TIME OF FINAL DISPOSITION OF THE MATTER, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(I) ANY DISPATCH TAPE RECORDING RELATING TO THE EVENT;

(II) ANY ON-SCENE VIDEO OR AUDIO TAPE RECORDINGS;

(III) ANY MEDICAL RECORDS OF TREATMENT OF THE ALLEGED VICTIM OR THE DEFENDANT; AND

(IV) ANY OTHER RELEVANT PHYSICAL EVIDENCE OR WITNESS STATEMENTS.

(b) HOWEVER, IN THE ABSENCE OF BAD FAITH, ANY FAILURE TO COLLECT OR PRESERVE ANY EVIDENCE LISTED HEREIN SHALL NOT BE GROUNDS TO DISMISS THE MATTER.

(5) A PEACE OFFICER SHALL NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTING PURSUANT TO THIS SECTION IF THE PEACE OFFICER ACTS IN GOOD FAITH AND WITHOUT MALICE.

18-6-803.9. Assaults and deaths related to domestic violence - report. THE COLORADO BUREAU OF INVESTIGATION SHALL PREPARE A REPORT BY NOVEMBER 1, 1995, AND BY NOVEMBER 1 OF EACH YEAR THEREAFTER, TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON THE NUMBER OF ASSAULTS RELATED TO AND THE NUMBER OF DEATHS CAUSED DIRECTLY BY DOMESTIC VIOLENCE, INCLUDING, BUT NOT LIMITED TO, HOMICIDES OF VICTIMS, SELF-DEFENSE KILLINGS OF ALLEGED PERPETRATORS, AND INCIDENTAL KILLINGS OF CHILDREN, PEACE OFFICERS, PERSONS AT WORK, NEIGHBORS, AND BYSTANDERS IN THE COURSE OF EPISODES OF DOMESTIC VIOLENCE.

SECTION 6. 13-6-104 (4), Colorado Revised Statutes, 1987 Repl. Vol., is repealed as follows:

13-6-104. Original civil jurisdiction. (4) ~~The county court shall have concurrent original jurisdiction with the district court to require peace bonds pursuant to section 16-13-401, C.R.S.~~

SECTION 7. 13-90-107 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-90-107. Who may not testify without consent. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve

it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(k) (I) A PRIVATE VICTIM'S ADVOCATE SHALL NOT BE EXAMINED AS TO ANY COMMUNICATION MADE TO SUCH VICTIM'S ADVOCATE BY A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., IN PERSON OR THROUGH THE MEDIA OF WRITTEN RECORDS OR REPORTS WITHOUT THE CONSENT OF THE VICTIM.

(II) FOR PURPOSES OF THIS PARAGRAPH (k), A "PRIVATE VICTIM'S ADVOCATE" MEANS A PERSON AT A BATTERED WOMEN'S SHELTER OR COMPARABLE COMMUNITY-BASED ADVOCACY PROGRAM FOR VICTIMS OF DOMESTIC VIOLENCE:

(A) WHOSE PRIMARY FUNCTION IS TO RENDER ADVICE, COUNSEL, OR ASSIST VICTIMS OF DOMESTIC OR FAMILY VIOLENCE; AND

(B) WHO HAS UNDERGONE NOT LESS THAN FIFTEEN HOURS OF TRAINING AS A VICTIM'S ADVOCATE; AND

(C) WHO SUPERVISES EMPLOYEES OF THE PROGRAM, ADMINISTERS THE PROGRAM, OR WORKS UNDER THE DIRECTION OF A SUPERVISOR OF THE PROGRAM.

SECTION 8. 14-4-102 (2) (d) (II), (4), and (7), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended, and the said 14-4-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

14-4-102. Restraining orders to prevent domestic abuse. (2) A temporary or permanent restraining order to prevent domestic abuse may include:

(d) (II) If temporary care and control is awarded, the order may include parenting time rights for the other party involved AND ANY CONDITIONS OF SUCH PARENTING TIME, INCLUDING THE SUPERVISION OF SUCH PARENTING TIME BY A THIRD PARTY WHO AGREES ON THE RECORD TO THE TERMS OF THE SUPERVISED PARENTING TIME AND ANY COSTS ASSOCIATED WITH SUPERVISED PARENTING TIME, IF NECESSARY. IF THE RESTRAINED PARTY IS UNABLE TO PAY THE ORDERED COSTS, THE COURT SHALL NOT PLACE SUCH RESPONSIBILITY WITH PUBLICLY FUNDED AGENCIES. IF THE COURT FINDS THAT THE SAFETY OF ANY CHILD OR THE PROTECTED PARTY CANNOT BE ENSURED WITH ANY FORM OF PARENTING TIME REASONABLY AVAILABLE, THE COURT MAY DENY PARENTING TIME.

(4) A temporary restraining order to prevent domestic abuse may be issued only if the issuing judge finds that an imminent danger exists to the life or health of one or more persons. IN DETERMINING WHETHER AN IMMINENT DANGER EXISTS TO THE LIFE OR HEALTH OF ONE OR MORE PERSONS, THE JUDGE SHALL CONSIDER WHEN THE MOST RECENT INCIDENT OF DOMESTIC ABUSE OCCURRED AS WELL AS ALL OTHER RELEVANT EVIDENCE CONCERNING THE SAFETY AND PROTECTION OF THE PERSONS SEEKING THE RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE. HOWEVER, THE COURT SHALL NOT DENY A PETITIONER THE RELIEF REQUESTED SOLELY BECAUSE OF A LAPSE IN TIME BETWEEN AN ACT OF DOMESTIC ABUSE AND THE FILING OF THE PETITION FOR A RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE.

(7) The return date of the citation INITIALLY ENTERED shall be set not more than

fourteen days after the issuance of the temporary restraining order to prevent domestic abuse and the citation. IF THE PETITIONER IS UNABLE TO SERVE THE DEFENDANT IN THAT PERIOD, THE COURT SHALL EXTEND THE TEMPORARY RESTRAINING ORDER PREVIOUSLY ISSUED, CONTINUE THE SHOW CAUSE HEARING, AND ISSUE AN ALIAS CITATION STATING THE DATE AND TIME TO WHICH THE HEARING IS CONTINUED. THE PETITIONER MAY THEREAFTER REQUEST ADDITIONAL CONTINUANCES, AS NEEDED, IF THE PETITIONER HAS STILL BEEN UNABLE TO SERVE THE DEFENDANT.

(13) A COURT SHALL NOT GRANT A MUTUAL RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE FOR THE PROTECTION OF OPPOSING PARTIES UNLESS EACH PARTY HAS MET HIS OR HER BURDEN OF PROOF AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION AND THE COURT MAKES SEPARATE AND SUFFICIENT FINDINGS OF FACT TO SUPPORT THE ISSUANCE OF THE MUTUAL RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE FOR THE PROTECTION OF OPPOSING PARTIES. NO PARTY MAY WAIVE THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (13).

(14) THIS SECTION SHALL NOT APPLY TO ANY CLAIM OF DOMESTIC ABUSE AGAINST AN UNEMANCIPATED MINOR. SUCH CLAIMS SHALL BE ADDRESSED BY THE JUVENILE COURT PURSUANT TO THE "COLORADO CHILDREN'S CODE", TITLE 19, C.R.S.

SECTION 9. 14-4-102 (7.5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

14-4-102. Restraining orders to prevent domestic abuse. (7.5) (c) ANY PERSON AGAINST WHOM A TEMPORARY RESTRAINING ORDER IS ISSUED PURSUANT TO THIS SECTION, WHICH TEMPORARY RESTRAINING ORDER EXCLUDES SUCH PERSON FROM A SHARED RESIDENCE, SHALL BE ENTITLED TO AVAIL HIMSELF OR HERSELF OF THE FORCIBLE ENTRY AND DETAINER REMEDIES AVAILABLE PURSUANT TO ARTICLE 40 OF TITLE 13, C.R.S. HOWEVER, SUCH PERSON SHALL NOT BE ENTITLED TO RETURN TO THE RESIDENCE UNTIL SUCH TIME AS A VALID WRIT OF RESTITUTION IS EXECUTED, FILED WITH THE COURT ISSUING THE RESTRAINING ORDER, AND THE RESTRAINING ORDER IS MODIFIED ACCORDINGLY. A LANDLORD WHOSE LESSEE HAS BEEN EXCLUDED FROM A RESIDENCE PURSUANT TO THE TERMS OF A RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE IS ALSO ENTITLED TO AVAIL HIMSELF OR HERSELF OF THE REMEDIES AVAILABLE PURSUANT TO ARTICLE 40 OF TITLE 13, C.R.S.

SECTION 10. 14-4-104, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-4-104. Duties of peace officers - enforcement of restraining orders and emergency protection orders. ~~(1) A peace officer shall use every reasonable means to enforce an order of any court issued pursuant to section 14-4-102, 14-4-103, or 13-6-107, C.R.S. A peace officer shall also carry out any duties prescribed in section 14-4-102 (7.5). Whenever there is exhibited to any duly authorized sheriff or police officer an emergency protection order or a certified copy of a restraining order issued by any district or county court, as provided for in section 14-4-102, 14-4-103, or 13-6-107, C.R.S., restraining and enjoining any person from threatening, molesting, injuring, or contacting any other person, or requiring the person to remove himself from certain premises and to refrain from entering or remaining near or upon the premises thereafter, and whenever the copy of the~~

emergency protection order or restraining order shows, under signature of the person so serving, that a copy of the order has been properly served upon the person named in the order or the person named in the order has received actual notice of the existence and substance of such order, and whenever the sheriff or police officer has probable cause to believe that the alleged violator has been threatening, molesting, or injuring any person, or entering or remaining on the premises in violation of the order, it is the duty of the sheriff or police officer to arrest the alleged violator and take him immediately before the court issuing the emergency protection order or restraining order or, if that court is not in session, to the nearest jail until the convening of the next session of the court, but in no event to exceed seventy-two hours unless extended for good cause shown by the issuing court, to await further action for the violation. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section if he acts in good faith and without malice.

~~(2)(a) Whenever a police officer arrests a party for a violation of an emergency protection order or restraining order issued pursuant to section 14-4-102, 14-4-103, or 13-6-107, C.R.S., it is the duty of the officer to inform the party protected by the emergency protection order or restraining order that the aggrieved party has the right to initiate contempt proceedings against the alleged violator in the court which issued the original order.~~

~~(b) When an officer makes an arrest for the violation of an emergency protection order or restraining order issued pursuant to section 14-4-102, 14-4-103, or 13-6-107, C.R.S., he shall advise the court orally or in writing of the nature of the alleged violation at the alleged violator's first court appearance. If the court is satisfied that probable cause exists to believe that a violation has been committed, the court shall advise the alleged violator of his rights concerning contempt proceedings.~~

~~(c) If the matter is not resolved at first appearance, bail shall be set and a return date shall be fixed. If a contempt proceeding has not been filed by the first appearance, the return date shall be set on the next regular court day following the first appearance. If a contempt proceeding is not filed by the return date, the defendant shall be released from the bail requirement. THE DUTIES OF PEACE OFFICERS ENFORCING RESTRAINING ORDERS ISSUED PURSUANT TO SECTION 14-4-102 OR 14-4-103 SHALL BE IN ACCORDANCE WITH SECTION 18-6-803.5, C.R.S., AND ANY RULES ADOPTED BY THE COLORADO SUPREME COURT PURSUANT TO SAID SECTION.~~

SECTION 11. 14-11-101, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

14-11-101. Foreign decrees - how handled. (1) Upon the docketing in a court of competent jurisdiction in this state of exemplified copies of all the written pleadings and court orders, judgments, and decrees in a case of divorce, separate maintenance, or annulment, or for support of minor children or a spouse, OR FOR A RESTRAINING ORDER OR OTHER COURT ORDER ISSUED FOR THE PROTECTION OF A PARTY OR PARTIES, or for a combination of the same entered in any court of competent jurisdiction in any other state or jurisdiction having reciprocal provisions for a like enforcement of orders, judgments, or decrees entered in the state of Colorado and upon obtaining jurisdiction by personal service of process as provided by the Colorado rules of civil procedure, said court in this state shall have jurisdiction over the subject matter and of the person in like manner as if the original suit or

action had been commenced in this state, and is empowered to amend, modify, set aside, and make new orders as the court may find necessary and proper so as to do justice and equity to all parties to the action according to the public policy of this state, and has the same right, power, and authority to enter orders for temporary alimony, support money, and attorneys' fees as in similar actions originating in this state.

(2) The courts of this state in cases of dissolution of marriage, legal separation, or declaration of invalidity of marriage, or for support of minor children or a spouse, OR FOR THE PROTECTION OF A PARTY OR PARTIES BY MEANS OF A RESTRAINING ORDER, HOWEVER STYLED OR DESIGNATED, or for any combination of the same, where the action originated in this state, have the power to enforce the decrees, judgments, and orders of other states or jurisdictions made pursuant to statutes similar to this statute, or to amend the same, or to enter new orders to the same extent and in the same manner as though such decrees, judgments, and orders were entered in the courts of this state.

SECTION 12. 16-3-105, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-3-105. Release by arresting authority. (1.5) NO PERSON ARRESTED FOR ANY CRIME OR OFFENSE, THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., SHALL BE RELEASED AT THE SCENE OF THE ALLEGED CRIME PURSUANT TO SUBSECTION (1) OF THIS SECTION.

SECTION 13. 16-3-402, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-3-402. Right to communicate with attorney and family. (2.5) IF THE VICTIM IS ABLE TO DEMONSTRATE THROUGH THE USE OF CALLER I.D. OR OTHER CREDIBLE EVIDENCE THAT THE INCARCERATED DEFENDANT HAS CALLED THE VICTIM FROM THE JAIL OR CORRECTIONAL FACILITY IN VIOLATION OF THE RESTRAINING ORDER ISSUED PURSUANT TO SECTION 18-1-1001, C.R.S., OR IN VIOLATION OF ANY OTHER VALID RESTRAINING ORDER OR EMERGENCY PROTECTION ORDER IN EFFECT, THEN THE DEFENDANT SHALL NOT BE ENTITLED TO FURTHER TELEPHONE CALLS EXCEPT TO SUCH DEFENDANT'S ATTORNEY, WHICH CALLS SHALL BE PLACED BY A JAIL OR CORRECTIONAL FACILITY STAFF MEMBER. IF THE DEFENDANT WAS ARRESTED FOR VIOLATING AN ORDER NOT TO CONTACT CERTAIN FAMILY MEMBERS, THE RIGHT TO CONTACT THOSE FAMILY MEMBERS BY TELEPHONE SHALL BE PROHIBITED, AND THE JAIL OR CORRECTIONAL FACILITY STAFF SHALL PLACE ALL OUTGOING TELEPHONE CALLS THAT THE DEFENDANT WISHES TO MAKE WHICH ARE NOT IDENTIFIED IN THE RESTRAINING ORDER AS PROHIBITED.

SECTION 14. 16-4-103 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

16-4-103. Fixing of bail and conditions of bail bond. (2) A condition of every bail bond, and the only condition for a breach of which a surety or security on the bail bond may be subjected to forfeiture, is that the released person appear to answer the charge against ~~him~~ SUCH PERSON at a place and upon a date certain and at any place

or upon any date to which the proceeding is transferred or continued. Further conditions of every bail bond shall be that the released person not commit any felony while at liberty on such bail bond and that the court in which the action is pending have the power to revoke the release of the defendant, to increase the bail bond, or to change any bail bond condition if it is shown that a competent court has found probable cause to believe that the defendant has committed a class 1, 2, 3, or 4 felony while released pending adjudication of a prior felony charge. A FURTHER CONDITION OF EVERY BAIL BOND IN CASES OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., SHALL BE THAT THE RELEASED PERSON ACKNOWLEDGE THE RESTRAINING ORDER AS PROVIDED IN SECTION 18-1-1001 (5), C.R.S. In addition, the judge may impose such additional conditions upon the conduct of the defendant as will, in the judge's opinion, render it more likely that the defendant will fulfill the other bail bond conditions. These additional conditions may include submission of the defendant to the supervision of some qualified person or organization. Any defendant whose bail bond is revoked or increased under an order entered pursuant to this section and who remains in custody must be tried on the charges on which the bail bond has been increased or revoked within ninety days after such order or within six months after his THE DEFENDANT'S arraignment on such charges, whichever date is earlier.

SECTION 15. 16-7-401 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

16-7-401. Deferred prosecution. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 18-6-801 (4), C.R.S., in any case, the court may, prior to trial or entry of a plea of guilty and with the consent of the defendant and the prosecution, order the prosecution of the offense to be deferred for a period not to exceed two years; except that the period of deferred prosecution may be extended for an additional time up to one hundred eighty days if the failure to pay the amounts specified in subsection (2) of this section is the sole condition of supervision which has not been fulfilled, because of inability to pay, and the defendant has shown a future ability to pay. During that time, the court may place the defendant under the supervision of the probation department and may require the defendant to undergo counseling or treatment for his THE DEFENDANT'S mental condition, or for alcohol or drug abuse, or for both such conditions.

SECTION 16. 16-11-102 (1.5), Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11-102. Presentence or probation investigation. (1.5) A victim impact statement may include the following:

(e.5) AN EVALUATION OF THE VICTIM'S AND THE VICTIM'S CHILDREN'S SAFETY IF PROBATION IS GRANTED;

SECTION 17. 16-11-204 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

16-11-204. Conditions of probation. (2) (a) When granting probation, the court may, as a condition of probation, require that the defendant:

~~(a)~~ (I) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip ~~him~~ THE DEFENDANT for suitable employment;

~~(b)~~ (II) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose. In any case where inpatient psychiatric treatment is indicated, the court shall proceed in accordance with article 10 of title 27, C.R.S., and require the defendant to comply with the recommendation of the professional person in charge of the evaluation required pursuant to section 27-10-105 or 27-10-106, C.R.S.

~~(c)~~ (III) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;

~~(d)~~ (IV) Support the defendant's dependents and meet other family responsibilities, including arranging and fulfilling a payment plan for current child support, child support arrearages, and child support debt due under a court or administrative order through any delegate child support enforcement unit that may have a child support case with the defendant;

~~(e)~~ (V) Pay reasonable costs of the court proceedings or costs of supervision of probation, or both. When the payment of costs of court or probation supervision is a condition of probation, the court shall fix the amount thereof, which shall not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance. The probation supervision fee shall be fifty dollars, if the charge is a misdemeanor or petty offense, including traffic offenses. If the charge is a felony, the fee shall be twenty dollars per month and shall be according to the length of ordered probation.

~~(e.5)~~ (VI) Pay any fines or fees imposed by the court;

~~(f)~~ (VII) Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the court or probation officer;

~~(g)~~ (VIII) Refrain from excessive use of alcohol or any unlawful use of controlled substances, as defined in section 12-22-303 (7), C.R.S., or of any other dangerous or abusable drug without a prescription;

~~(h)~~ (IX) Report to a probation officer at reasonable times as directed by the court or the probation officer;

~~(i)~~ (X) Permit the probation officer to visit ~~him~~ THE DEFENDANT at reasonable times at ~~his~~ THE DEFENDANT'S home and elsewhere;

~~(j)~~ (XI) Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer;

~~(k)~~ (XII) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;

~~(k.5)~~ (XIII) Be subject to home detention as defined in section 17-26-128 (1.1),

C.R.S.;

(XIV) BE RESTRAINED FROM CONTACT WITH THE VICTIM OR THE VICTIM'S FAMILY MEMBERS IN CASES IN WHICH THE DEFENDANT WAS CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDED AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;

(XV) Satisfy any other conditions reasonably related to his THE DEFENDANT'S rehabilitation and the purposes of probation.

(b) WHEN GRANTING PROBATION, IN ADDITION TO THE CONSIDERATION OF THE PROVISIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE COURT SHALL ORDER AS A CONDITION OF PROBATION IN CASES IN WHICH THE DEFENDANT WAS CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDED AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., THAT THE DEFENDANT:

(I) COMPLY WITH EXISTING COURT ORDERS REGARDING FAMILY SUPPORT;

(II) COMPLY WITH ANY EXISTING COURT ORDERS CONCERNING A PROCEEDING TO DETERMINE PATERNITY, CUSTODY, PARENTING TIME, OR SUPPORT;

(III) COMPLY WITH THE TERMS OF ANY RESTRAINING ORDER IN EFFECT AGAINST THE DEFENDANT DURING THE PROBATION PERIOD;

(IV) REFRAIN FROM POSSESSING A FIREARM, DESTRUCTIVE DEVICE, OR OTHER DANGEROUS WEAPON, UNLESS GRANTED WRITTEN PERMISSION BY THE COURT OR PROBATION OFFICER WHICH SHALL NOT BE GRANTED IN SUCH DOMESTIC VIOLENCE CASES UNLESS:

(A) IT IS REQUIRED BY THE DEFENDANT'S EMPLOYMENT; AND

(B) THE COURT FINDS THAT THE DEFENDANT'S POSSESSION OF THE WEAPON DOES NOT ENDANGER THE VICTIM OR THE VICTIM'S CHILDREN; AND

(C) THE WEAPON IS STORED AWAY FROM THE HOME AND THE YARD SURROUNDING THE HOME.

SECTION 18. 16-13-401, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

16-13-401. Recognizance to prevent offense. ~~(1) When complaint is made by the district attorney or by any private person to any judge of a court of record that a person has threatened or is about to commit a breach of the peace or an offense against the person or property of another, the judge shall examine under oath the complainant and any witnesses who may be produced and reduce the complaint and the testimony of the witnesses to writing and cause it to be subscribed and sworn to.~~

~~(2) If the judge is satisfied that there is reason to believe that such offense will be committed, he shall issue a warrant requiring the proper officer to whom it is directed forthwith to apprehend the person complained of and bring him before the judge or~~

~~before some other judge having jurisdiction. When the person complained of is brought before the judge, if the allegations of the complaint are controverted, the testimony produced on both sides shall be heard. If it appears to the judge that there is no probable cause to fear the commission of the offense, the person complained of shall be discharged. If, however, the judge finds that there is probable cause to believe that the offense will be committed, the person complained of shall be required to give a recognizance, with sufficient sureties in such sum as the judge directs, to keep the peace towards all people of this state, and especially towards the person against whom or whose property there is reason to fear the offense may be committed, for such time, not exceeding twelve months, as the judge orders. But the person complained of shall not be bound over to appear in court unless he is charged with some offense for which he could be held to answer.~~

~~(3) If a person ordered to give recognizance complies with the order, he shall be discharged, but if he refuses or neglects so to do the judge shall commit him to jail during the period for which he was required to give recognizance or until he so gives recognizance. A person committed for failing to give recognizance may be discharged by any judge upon giving recognizance as ordered.~~

~~(4) Every recognizance taken in accordance with this section shall be filed by the clerk of the court in the court records, and upon a breach of the condition of the recognizance, the district attorney shall proceed forthwith to prosecute and realize upon it.~~

~~(5) If the person complained of is discharged after hearing because no probable cause is found, and the judge is of the opinion that the complaint was commenced maliciously and without reasonable cause on the part of the complainant, he may give judgment against the complainant for the costs of the proceedings and the reasonable attorney fees of the person complained of. When the person complained of is required to give recognizance, the judge may enter judgment against him for the costs of the proceedings including reasonable attorney fees.~~

~~(6) A proceeding to prevent an offense under this section shall not be dismissed because of any informality or insufficiency of the complaint or other document in the proceeding, but the same may be amended by the judge to conform to the truth in the case.~~

SECTION 19. 16-21-102, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

16-21-102. "Offender" defined. EXCEPT AS OTHERWISE PROVIDED IN SECTION 16-21-103, for the purposes of this article, "offender" means any person charged as an adult with a felony, a class 1 misdemeanor, or a misdemeanor pursuant to section 42-4-1202, C.R.S., OR A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDED AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.

SECTION 20. 16-21-103 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 16-21-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-21-103. Information on offenders - required. (1) A law enforcement agency, when requesting the filing of any criminal case, shall submit to the district attorney the arresting agency's name, the offender's full name and date of birth, the charge or charges being requested, INCLUDING WHETHER THE FACTUAL BASIS FOR SUCH CHARGE OR CHARGES INCLUDES AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., the investigating agency's case number, the date of arrest and the arrest number, and any relevant information about the offender's affiliation or association with gangs or gang activities. A LAW ENFORCEMENT AGENCY, WHEN REQUESTING THE FILING OF ANY CRIMINAL CASE THE FACTUAL BASIS OF WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., WHETHER SUCH OFFENSE IS A FELONY, MISDEMEANOR, PETTY OFFENSE, OR VIOLATION OF A MUNICIPAL ORDINANCE, SHALL SUBMIT TO THE PROSECUTING ATTORNEY THE INFORMATION SET FORTH IN THIS SUBSECTION (1). UNDER CIRCUMSTANCES IN WHICH THE LAW ENFORCEMENT AGENCY ISSUES A COMPLAINT, SUMMONS, OR SUMMONS AND COMPLAINT DIRECTLY, THE AGENCY SHALL IDENTIFY ON THE FACE OF SUCH DOCUMENT WHETHER THE FACTUAL BASIS FOR THE CHARGE OR CHARGES INCLUDES AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.

(3) Upon issuance of a warrant of arrest, the court shall notify the sheriff of the county in which such court is located of the issuance of such warrant. When the court withdraws, cancels, quashes, or otherwise renders a warrant of arrest invalid, the court shall immediately notify the criminal justice information system network operated by the bureau of such action in a manner which is consistent with procedures established jointly by the state court administrator and the director of the bureau. The court shall report the final disposition of any offender to the bureau in a form which is electronically consistent with procedures established jointly by the state court administrator and the director of the bureau and shall include the information provided in subsection (2) of this section, and the charges filed by the district attorney, WHETHER THE FACTUAL BASIS OF THE CHARGES INCLUDES AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., AND WHETHER SUCH DESIGNATION NEEDS TO BE ADDED OR ELIMINATED FROM THE SYSTEM BASED UPON THE COURT'S FINDINGS. THE COURT SHALL ELIMINATE THE DESIGNATION OF DOMESTIC VIOLENCE IF THE DEFENDANT IS FOUND NOT GUILTY OF THE ALLEGED CRIME OR IF THE CASE IS DISMISSED. The report sent to the bureau shall also include the disposition of each charge and the court case number and shall be submitted within seventy-two hours after the final disposition; except that such time period shall not include Saturdays, Sundays, and legal holidays.

(6) THE INFORMATION AVAILABLE THROUGH THE CRIMINAL JUSTICE INFORMATION SYSTEM NETWORK ESTABLISHED PURSUANT TO THIS ARTICLE SHALL BE MADE AVAILABLE TO ANY SENTENCING COURT, PROBATION OFFICE, OR OTHER PRETRIAL SERVICES AGENCY PREPARING A REPORT ON DOMESTIC VIOLENCE CASES AS SOON AS SUCH COURT, OFFICE, OR AGENCY HAS THE NECESSARY COMPUTER SYSTEM IN PLACE.

SECTION 21. Article 21 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-21-105. Applicability of article to municipal courts - local law enforcement. (1) THE PROVISIONS OF THIS ARTICLE CONCERNING THE DUTY OF A LAW ENFORCEMENT AGENCY TO IDENTIFY ON THE FACE OF A COMPLAINT, SUMMONS,

OR SUMMONS AND COMPLAINT WHETHER THE FACTUAL BASIS OF THE CHARGE OR CHARGES BEING FILED INCLUDE AN ACT OF DOMESTIC VIOLENCE SHALL APPLY TO LOCAL LAW ENFORCEMENT AGENCIES.

(2) THE PROVISIONS OF THIS ARTICLE CONCERNING THE DUTY OF A COURT TO NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM NETWORK OPERATED BY THE BUREAU CONCERNING ACTIONS INVOLVING CRIMES IN WHICH THE CHARGE OR CHARGES INCLUDE AN ACT OF DOMESTIC VIOLENCE SHALL APPLY TO MUNICIPAL COURTS.

SECTION 22. 17-26-128 (11), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-26-128. Employment of county prisoners. (11) A prisoner who has been convicted of one of the crimes of violence as defined in section 16-11-309 (2), C.R.S., who has been convicted of a sex offense as defined in sections 16-13-202 (5) and 18-3-411, C.R.S., WHO HAS BEEN CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH WAS FOUND BY THE COURT TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., or who has been convicted of a class 1 misdemeanor in which a deadly weapon is used shall not be eligible for home detention pursuant to this section.

SECTION 23. 17-27.8-102 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-27.8-102. Authority of sentencing courts to utilize home detention programs. (1) (d) AN OFFENDER WHO HAS BEEN CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH WAS FOUND BY THE COURT TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., SHALL NOT BE ELIGIBLE FOR HOME DETENTION PURSUANT TO THIS ARTICLE.

SECTION 24. 18-1-1001 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 18-1-1001 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

18-1-1001. Restraining order against defendant. (3) The provisions of the restraining order issued pursuant to this section may be continued by the court after sentencing if the court deems such action reasonable and necessary. In addition, nothing in this section shall preclude the defendant from applying to the court at any time for modification or dismissal of such order or the district attorney from applying to the court at any time for further orders, additional provisions under the restraining order, or modification or dismissal of the same. UPON MOTION OF THE DISTRICT ATTORNEY, OR ON THE COURT'S MOTION TO PROTECT THE ALLEGED VICTIM, THE COURT MAY, IN CASES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), ENTER ANY OF THE FOLLOWING FURTHER ORDERS AGAINST THE DEFENDANT:

(a) AN ORDER TO VACATE OR STAY AWAY FROM THE HOME OF THE VICTIM AND TO STAY AWAY FROM ANY OTHER LOCATION WHERE THE VICTIM IS LIKELY TO BE FOUND;

(b) AN ORDER TO REFRAIN FROM CONTACT OR DIRECT OR INDIRECT

COMMUNICATION WITH THE VICTIM;

(c) AN ORDER PROHIBITING POSSESSION OR CONTROL OF FIREARMS OR OTHER WEAPONS;

(d) AN ORDER PROHIBITING POSSESSION OR CONSUMPTION OF ALCOHOL OR CONTROLLED SUBSTANCES; AND

(e) ANY OTHER ORDER THE COURT DEEMS APPROPRIATE TO PROTECT THE SAFETY OF THE ALLEGED VICTIM.

(5) BEFORE A DEFENDANT IS RELEASED ON BAIL PURSUANT TO ARTICLE 4 OF TITLE 16, C.R.S., THE COURT SHALL, IN CASES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), STATE THE TERMS OF THE RESTRAINING ORDER ISSUED PURSUANT TO THIS SECTION, INCLUDING ANY ADDITIONAL PROVISIONS ADDED PURSUANT TO SUBSECTION (3) OF THIS SECTION, TO THE DEFENDANT ON THE RECORD AND THE COURT SHALL FURTHER REQUIRE THE DEFENDANT TO ACKNOWLEDGE THE RESTRAINING ORDER AS A CONDITION OF ANY BOND FOR THE RELEASE OF THE DEFENDANT. THE PROSECUTING ATTORNEY SHALL, IN SUCH DOMESTIC VIOLENCE CASES, NOTIFY THE ALLEGED VICTIM, THE COMPLAINANT, AND THE PROTECTED PERSON OF THE ORDER IF SUCH PERSONS ARE NOT PRESENT AT THE TIME THE RESTRAINING ORDER IS ISSUED.

(6) THE DEFENDANT OR, IN CASES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), THE PROSECUTING ATTORNEY MAY REQUEST A HEARING BEFORE THE COURT TO MODIFY THE TERMS OF A RESTRAINING ORDER ISSUED PURSUANT TO THE SECTION. UPON SUCH A REQUEST, THE COURT SHALL SET A HEARING AND THE PROSECUTING ATTORNEY SHALL SEND NOTICE OF THE HEARING TO THE DEFENDANT AND THE ALLEGED VICTIM. AT THE HEARING THE COURT SHALL REVIEW THE TERMS OF THE RESTRAINING ORDER AND ANY FURTHER ORDERS ENTERED AND SHALL CONSIDER THE MODIFICATIONS, IF ANY, REQUESTED BY THE DEFENDANT OR THE PROSECUTING ATTORNEY.

SECTION 25. 24-4.1-302.5 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(i.5) IN A CASE OF DOMESTIC VIOLENCE, AS THAT TERM IS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., THE RIGHT TO BE INFORMED OF THE VIOLATION OF ANY CONDITION OF PROBATION AND THE RIGHT TO RECEIVE COPIES OF ALL PROBATION REPORTS TO THE COURT AND NOTICE OF PROBATION REVOCATION HEARINGS;

SECTION 26. 24-33.5-412 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-412. Functions of bureau - legislative review. (1) The bureau has the following authority:

(n) TO CARRY OUT THE DUTIES OF MAINTAINING INFORMATION RELATED TO CRIMES INVOLVING ACTS OF DOMESTIC VIOLENCE IN THE CRIMINAL JUSTICE INFORMATION SYSTEM NETWORK AS DESCRIBED IN ARTICLE 21 OF TITLE 16, C.R.S.

SECTION 27. Effective date - applicability. This act shall take effect July 1, 1994, and shall apply to orders entered on or after said date.

SECTION 28. 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: June 3, 1994