

## CHAPTER 258

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**GOVERNMENT - STATE**

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**HOUSE BILL 95-1346**

BY REPRESENTATIVES Lawrence, Faatz, Allen, Armstrong, Berry, DeGette, Friednash, Hagedorn, Kaufman, Kerns, Kreutz, Lyle, Morrison, Schwarz, and Tucker;  
also SENATORS Blickensderfer and Perlmutter.

**AN ACT****CONCERNING CHANGES TO STATUTES AFFECTING VICTIMS' RIGHTS.**

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

**SECTION 1.** 24-4.1-102 (8), (9), and (10), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

**24-4.1-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(8) "Injury" means ~~actual bodily harm and, with respect to a victim,~~ IMPAIRMENT OF A PERSON'S PHYSICAL OR MENTAL CONDITION AND includes pregnancy.

(9) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes said relationships that are created as a result of adoption. IN ADDITION, "RELATIVE" INCLUDES ANY PERSON WHO HAS A FAMILY-TYPE RELATIONSHIP WITH A VICTIM.

(10) (a) "Victim" means ~~a person who suffers property damage as a result of a compensable crime; is killed or injured in this state as a result of a compensable crime perpetrated or attempted against him; is killed or injured in another state as a result of a compensable crime that began in this state; or is killed or injured in this state while attempting to assist a person against whom a compensable crime is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable man under the circumstances.~~ "Victim" also means any person who is a resident of the state of Colorado who is a victim of a crime which occurred outside of the state of Colorado, and the crime would be a compensable crime if it had

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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.*

~~occurred in the state of Colorado, and the place where the crime occurred is not a state which has a crime victim compensation program for which a resident of the state of Colorado would be eligible.~~ ANY OF THE FOLLOWING PERSONS WHO SUFFER PROPERTY DAMAGE, ECONOMIC LOSS, INJURY, OR DEATH AS A RESULT OF A COMPENSABLE CRIME PERPETRATED OR ATTEMPTED IN WHOLE OR IN PART IN THIS STATE:

(I) ANY PERSON AGAINST WHOM A COMPENSABLE CRIME IS PERPETRATED OR ATTEMPTED. SUCH PERSON SHALL BE REFERRED TO AS A "PRIMARY VICTIM".

(II) ANY PERSON WHO ATTEMPTS TO ASSIST OR ASSISTS A PRIMARY VICTIM;

(III) ANY PERSON WHO IS A RELATIVE OF A PRIMARY VICTIM.

(b) "VICTIM" ALSO MEANS A PERSON WHO SUFFERS INJURY OR DEATH, THE PROXIMATE CAUSE OF WHICH IS A COMPENSABLE CRIME PERPETRATED OR ATTEMPTED IN THE PERSON'S PRESENCE AGAINST A PRIMARY VICTIM.

(c) "VICTIM" ALSO MEANS A PERSON WHO IS A RESIDENT OF THIS STATE AND WHO IS A VICTIM OF A CRIME THAT OCCURRED OUTSIDE OF THIS STATE, WHERE THE CRIME WOULD BE A COMPENSABLE CRIME HAD IT OCCURRED IN THIS STATE AND WHERE THE STATE IN WHICH THE CRIME OCCURRED DOES NOT HAVE A CRIME VICTIM COMPENSATION PROGRAM FOR WHICH THE PERSON WOULD BE ELIGIBLE.

**SECTION 2.** 24-4.1-108, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-4.1-108. Awarding compensation.** (4) CONSISTENT WITH APPROVED STANDARDS 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 3.** 24-4.1-117.5 (2) (b) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-4.1-117.5. Standards for administration of funds - sanctions.** (2) (b) (I) A subcommittee of the coordinating committee created pursuant to paragraph (a) of this subsection (2) shall be appointed by the governor and shall consist of members representing each of the following positions:

(A) A ~~chairman~~ MEMBER of a crime victim compensation board;

(B) A ~~chairman~~ MEMBER of a victims and witnesses assistance and law enforcement board;

(C) A ~~court administrator~~ REPRESENTATIVE of a local judicial district;

(D) An administrator of crime victim compensation from a district attorney's office;

(E) An administrator of victims and witnesses assistance from a district attorney's office;

(F) A ~~district court~~ judge;

(G) An elected district attorney; and

(H) ~~The president of the Colorado organization for victim's assistance.~~ A REPRESENTATIVE OF A STATEWIDE VICTIM'S ORGANIZATION.

**SECTION 4.** The introductory portion to 24-4.1-302 (1) and 24-4.1-302 (1) (bb), (1) (cc), (2) (c), (2) (e), (2) (l), and (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-4.1-302 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**24-4.1-302. Definitions.** As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following ~~acts or omissions in violation of~~ OFFENSES AS DEFINED BY the statutes of the state of Colorado, WHETHER COMMITTED BY AN ADULT OR A JUVENILE:

(bb) Crimes against at-risk adults, in violation of section 18-6.5-103, C.R.S.; ~~or~~

(cc) 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), C.R.S., pursuant to section 18-6-801 (1), C.R.S.; OR

(dd) ANY CRIMINAL ATTEMPT, AS DESCRIBED IN SECTION 18-2-101, C.R.S., ANY CONSPIRACY, AS DESCRIBED IN SECTION 18-2-201, C.R.S., AND ANY CRIMINAL SOLICITATION, AS DESCRIBED IN SECTION 18-2-301, C.R.S., INVOLVING ANY OF THE CRIMES SPECIFIED IN THIS SUBSECTION (1).

(2) "Critical stages" means the following stages of the criminal justice process:

(c) Any bond reduction or modification hearing in which the request is made:

(I) For a bond lower than the scheduled or customary amount for the specific charge;

(II) FOR A CHANGE IN THE TYPE OR CONDITION OF A BOND;

(III) FOR AN ALTERNATIVE TO A BOND; OR

(IV) TO APPEAR WITHOUT POSTING OF A BOND;

(e) Any hearing on motions CONCERNING EVIDENTIARY MATTERS OR PRE-PLEA OR POST-PLEA RELIEF;

(l) Any attack ~~of~~ ON a judgment OR CONVICTION;

(5) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct, criminal episode, or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, significant other, or other lawful representative. FOR PURPOSES OF NOTIFICATION UNDER THIS PART 3, ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS IS CONSIDERED INCAPACITATED, UNLESS THAT PERSON IS LEGALLY EMANCIPATED. It is the intent of the general assembly that this definition of the term "victim" shall apply only to this part 3 and shall not be applied to any other provision of the laws of the state of Colorado ~~which~~ THAT refer to the term "victim".

**SECTION 5.** 24-4.1-302.5 (1) (b), (1) (c), (1) (e), (1) (h), (1) (i.5), (1) (j), (1) (p), (1) (q), and (1) (r), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-4.1-302.5 (1) is further 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:

(b) ~~The right to be informed, upon request, when a person who is accused or convicted of a crime against such victim is released from custody or has escaped;~~ THE RIGHT TO BE INFORMED OF AND PRESENT FOR ALL CRITICAL STAGES OF THE CRIMINAL JUSTICE PROCESS AS SPECIFIED IN SECTION 24-4.1-302 (2);

(c) ~~The right to be present for, and to be informed of, all critical stages of the criminal justice process;~~ THE RIGHT TO BE INFORMED, UPON REQUEST BY THE VICTIM, WHEN A PERSON WHO IS ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM IS RELEASED OR DISCHARGED FROM CUSTODY, IS PAROLED, ESCAPES FROM A SECURE OR NONSECURE CORRECTIONAL FACILITY OR PROGRAM, OR ABSCONDS FROM PROBATION OR PAROLE;

(e) The right to ~~confer~~ CONSULT with the prosecution after any crime against the victim has been charged, prior to any disposition of the case, or prior to any trial of the case, and the right to be informed of the final disposition of the case;

(h) The right to have the court ~~order~~ DETERMINE THE AMOUNT, IF ANY, OF restitution TO BE PAID to a victim ~~from~~ BY any person convicted of a crime against such victim for ~~any loss or injury which~~ THE ACTUAL PECUNIARY DAMAGES THAT resulted from the commission of the crime;

(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 SUBMITTED to the court and notice of probation revocation hearings;

(j) The right to be informed, UPON WRITTEN REQUEST FROM THE VICTIM, of any proceeding at which any postconviction release from confinement IN A SECURE STATE CORRECTIONAL FACILITY is being considered for any person convicted of a crime against the victim and the right to be heard at any such proceeding or to provide

written information thereto. FOR PURPOSES OF THIS SUBSECTION (1), "PROCEEDING" MEANS RECONSIDERATION OF SENTENCE, A PAROLE HEARING, OR COMMUTATION OF SENTENCE.

(j.5) THE RIGHT TO PROVIDE A WRITTEN STATEMENT THAT WILL BE INCLUDED WITH ANY REFERRAL MADE BY THE DEPARTMENT OF CORRECTIONS OR A DISTRICT COURT TO PLACE AN OFFENDER IN A COMMUNITY CORRECTIONS FACILITY OR PROGRAM;

(p) The right to be provided, whenever practicable, with a secure waiting area during court proceedings ~~which~~ THAT does not require a victim or a witness to be SEEN OR TO BE in close proximity to the person accused or convicted of a crime against the victim or such person's family OR friends; ~~or witnesses;~~

(q) The right to be informed, UPON WRITTEN REQUEST BY THE VICTIM, when a person convicted of a crime against the victim is placed in or transferred to a ~~minimum security facility or a community correctional facility~~ LESS SECURE CORRECTIONAL FACILITY OR PROGRAM;

(r) The right to be informed, UPON WRITTEN REQUEST BY THE VICTIM, when a person WHO IS OR WAS charged with or convicted of a crime against the victim ESCAPES OR is permanently or conditionally transferred or released from any state hospital; and

**SECTION 6.** 24-4.1-303 (3), (4), (5), (10) (a) (I), (11) (a), and (11) (b), the introductory portion to 24-4.1-303 (14), and 24-4.1-303 (14) (c), (14) (e), (14) (g), and (14) (h), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-4.1-303 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-4.1-303. Procedures for assuring rights of victims of crimes.** (3) The district attorney's office, if practicable, shall inform the victim of any pending motion that may substantially delay the prosecution. The district attorney shall inform the court of the victim's position on the motion, if any. If the victim has objected, ~~and~~ the court ~~grants the delay, the court~~ shall state in writing or on the record PRIOR TO GRANTING ANY DELAY that the objection was considered.

(4) After a crime has been charged, unless inconsistent with the requirements of investigative activities, the district attorney shall consult, where practicable, with the victim ~~regarding any decisions concerning the case, including decisions~~ concerning the reduction of charges, negotiated pleas, diversion, dismissal, SEEKING OF DEATH PENALTY, or other disposition. Failure to comply with this subsection (4) shall not invalidate any decision, agreement, or disposition. THIS SUBSECTION (4) SHALL NOT BE CONSTRUED AS A RESTRICTION ON OR DELEGATION OF THE DISTRICT ATTORNEY'S AUTHORITY UNDER THE CONSTITUTION AND LAWS OF THIS STATE.

(5) All reasonable attempts shall be made to protect any victim or ~~such~~ THE victim's immediate family from harm, harassment, intimidation, or retaliation arising from cooperating in the reporting, investigation, and prosecution of a crime. Law enforcement officials and the district attorney shall provide reasonable efforts to minimize contact between the victim and the victim's immediate family and the defendant and the relatives of the defendant before, during, and immediately after a

judicial proceeding. Whenever possible, a waiting area shall be provided ~~which~~ THAT is separate IN BOTH PROXIMITY AND SIGHT from that of the defendant, the defendant's relatives, and any defense witnesses.

(10) (a) After the initial contact between a victim and a law enforcement agency responsible for investigating a crime, such agency shall promptly give the victim the following information in writing:

(I) A statement ~~and explanation~~ of the victim's rights as enumerated in this article;

(11) The district attorney shall inform a victim of the following:

~~(a) Any of the critical stages of a criminal proceeding relating to a person accused of a crime against the victim;~~ THE FILING OF CHARGES AGAINST A PERSON ACCUSED OF COMMITTING ANY OF THE CRIMES SPECIFIED IN SECTION 24-4.1-302 (1) AGAINST THE VICTIM, INCLUDING AN EXPLANATION OF THE CHARGES WHEN NECESSARY;

~~(b) Any crimes with which the person accused of a crime against the victim has been charged, including an explanation when necessary;~~ ANY OF THE CRITICAL STAGES SPECIFIED IN SECTION 24-4.1-302 (2) OF A CRIMINAL PROCEEDING RELATING TO A PERSON ACCUSED OF A CRIME AGAINST THE VICTIM;

(14) UPON RECEIPT OF A WRITTEN STATEMENT AS PROVIDED IN SECTION 24-4.1-302.5 (1) (j.5), THE DEPARTMENT OF CORRECTIONS SHALL INCLUDE THE STATEMENT WITH ANY REFERRAL MADE BY THE DEPARTMENT OF CORRECTIONS OR A DISTRICT COURT TO PLACE AN OFFENDER IN A COMMUNITY CORRECTIONS FACILITY OR PROGRAM. Upon written request of a victim, the department of corrections, the department of human services, ANY STATE HOSPITAL, or the local corrections authorities shall notify ~~such~~ THE victim of the following information regarding any person WHO WAS CHARGED WITH OR convicted of ~~that~~ A crime against the victim:

(c) Any release of such person on furlough OR work release or to a community correctional facility or OTHER program, in advance of such release;

(e) Any escape by such person OR TRANSFER OR RELEASE from ANY STATE HOSPITAL, A DETENTION FACILITY, a correctional facility, ~~or~~ A community correctional facility, or OTHER program, and any subsequent recapture of such person;

(g) THE TRANSFER TO OR PLACEMENT IN A NONSECURED FACILITY OF A PERSON CONVICTED OF A CRIME, any release or discharge from confinement of ~~such~~ THE person, and any conditions attached to ~~such~~ THE release; and

(h) The death of such person WHILE IN CUSTODY OR WHILE UNDER THE JURISDICTION OF THE STATE OF COLORADO CONCERNING THE CRIME.

(14.5) AT ANY PROCEEDING SPECIFIED IN SECTION 24-4.1-302.5 (1) (d), THE COURT SHALL INQUIRE WHETHER THE VICTIM IS PRESENT AND WISHES TO ADDRESS THE COURT. THE COURT SHALL ADVISE THE VICTIM OF HIS OR HER RIGHT TO ADDRESS THE COURT REGARDING ISSUES RELEVANT TO THE CASE.

**SECTION 7.** 24-4.2-103 (5), Colorado Revised Statutes, 1988 Repl. Vol., as

amended, is amended to read:

**24-4.2-103. Victims and witnesses assistance and law enforcement fund - control of fund.** (5) 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 for the~~ AND THE provision of the services AND PROGRAMS delineated ~~pursuant to~~ IN sections 24-4.1-303, ~~and~~ 24-4.1-304, AND 24-4.2-105 (4) related to all crimes as defined by section 24-4.1-302 (1).

**SECTION 8.** 24-33.5-506 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-33.5-506. Victims assistance and law enforcement fund - creation.** (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 for the~~ AND THE provision of the services AND PROGRAMS delineated ~~pursuant to~~ IN sections 24-4.1-303, ~~and~~ 24-4.1-304, AND 24-4.2-105 (4) related to all crimes as defined by section 24-4.1-302 (1).

**SECTION 9.** 24-33.5-508 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**24-33.5-508. Advisory board.** (1) There is hereby created a victims assistance and law enforcement advisory board to advise the division concerning the evaluation of grant applications and administration of the fund. EFFECTIVE JULY 1, 1995, such board shall be composed of ~~five~~ SEVEN members appointed by the governor. The board shall at all times include not less than one member residing in a county west of the continental divide and one member who is a resident of the second judicial district.

**SECTION 10. Effective date.** This act shall take effect July 1, 1995.

**SECTION 11. 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 5, 1995