

## CHAPTER 165

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**CRIMINAL LAW AND PROCEDURE**

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SENATE BILL 06-177

BY SENATOR(S) Veiga, Groff, Grossman, Mitchell, and Williams;  
also REPRESENTATIVE(S) Larson, and Todd.

**AN ACT**

**CONCERNING MODIFICATIONS TO THE STATUTORY REQUIREMENTS OF PART 3 OF ARTICLE 4.1 OF  
TITLE 24, COLORADO REVISED STATUTES.**

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

**SECTION 1.** The introductory portion to 24-4.1-302 (1) and 24-4.1-302 (1) (ee), Colorado Revised Statutes, are amended, and the said 24-4.1-302 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, 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 offenses, ACTS, AND VIOLATIONS as defined by the statutes of the state of Colorado, whether committed by an adult or a juvenile:

(bb.3) ANY CRIME IDENTIFIED BY LAW ENFORCEMENT PRIOR TO THE FILING OF CHARGES AS DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;

(bb.7) AN ACT IDENTIFIED BY A DISTRICT ATTORNEY IN A FORMAL CRIMINAL CHARGE AS DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;

(ee) Retaliation against a witness or victim, in violation of section 18-8-706, C.R.S.; ~~or~~

(ee.3) INTIMIDATING A WITNESS OR A VICTIM, IN VIOLATION OF SECTION 18-8-704, C.R.S.;

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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.*

(ee.7) AGGRAVATED INTIMIDATION OF A WITNESS OR A VICTIM, IN VIOLATION OF SECTION 18-8-705, C.R.S.;

(gg) INDECENT EXPOSURE, IN VIOLATION OF SECTION 18-7-302, C.R.S.; OR

(hh) VIOLATION OF A PROTECTION ORDER ISSUED UNDER SECTION 18-1-1001, C.R.S., AGAINST A PERSON CHARGED WITH COMMITTING SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402, C.R.S.; SEXUAL ASSAULT ON A CHILD, IN VIOLATION OF SECTION 18-3-405, C.R.S.; SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, IN VIOLATION OF SECTION 18-3-405.3, C.R.S.; OR SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, IN VIOLATION OF SECTION 18-3-405.5, C.R.S.

**SECTION 2.** 24-4.1-302 (2) (k.5), (2) (k.7), and (2) (p), Colorado Revised Statutes, are amended, and the said 24-4.1-302 (2) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, 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:

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

(a.5) THE DECISION NOT TO FILE CHARGES AGAINST A PERSON ACCUSED OF A CRIME;

(e.5) ANY SUBPOENA FOR RECORDS CONCERNING THE VICTIM'S MEDICAL HISTORY, MENTAL HEALTH, EDUCATION, OR VICTIM'S COMPENSATION;

(k.5) The ~~request for~~ change of venue or transfer of probation supervision from one jurisdiction to another;

(k.7) The request for any release from probation supervision prior to the expiration of the ~~original~~ DEFENDANT'S sentence;

(p) The transfer to or placement of a person convicted of a crime in a non-secured facility; ~~and~~

(r) ANY PETITION BY A SEX OFFENDER TO TERMINATE SEX OFFENDER REGISTRATION; AND

(s) THE EXECUTION OF AN OFFENDER IN A CAPITAL CASE.

**SECTION 3.** 24-4.1-302, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION 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:

(1.2) "COLD CASE" MEANS A FELONY CRIME REPORTED TO LAW ENFORCEMENT THAT HAS REMAINED UNSOLVED FOR OVER ONE YEAR AFTER THE CRIME WAS INITIALLY REPORTED TO LAW ENFORCEMENT AND FOR WHICH THE APPLICABLE

STATUTE OF LIMITATIONS HAS NOT EXPIRED.

**SECTION 4.** 24-4.1-302.5 (1) (b), (1) (c), (1) (g), (1) (h), (1) (i.5), (1) (j.5), (1) (k), (1) (t), and (1) (u), Colorado Revised Statutes, are amended, and the said 24-4.1-302.5 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, 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 of and present for all critical stages of the criminal justice process as specified in section 24-4.1-302 (2); EXCEPT THAT THE VICTIM SHALL HAVE THE RIGHT TO BE INFORMED OF, WITHOUT BEING PRESENT FOR, THE CRITICAL STAGES DESCRIBED IN SECTION 24-4.1-302 (2) (a), (2) (a.5), (2) (e.5), (2) (k.3), (2) (n), (2) (p), AND (2) (q).

(b.5) THE RIGHT TO BE INFORMED OF AND PRESENT FOR THE CRITICAL STAGES DESCRIBED IN SECTION 24-4.1-302 (2)(k) TO (2)(s), UPON THE WRITTEN REQUEST OF THE VICTIM;

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c):

(A) 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 COUNTY JAIL;

(B) THE RIGHT TO BE INFORMED, UPON WRITTEN REQUEST BY THE VICTIM, WHEN A PERSON WHO IS ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM IS RELEASED OR DISCHARGED FROM CUSTODY OTHER THAN COUNTY JAIL, IS PAROLED, ESCAPES FROM A SECURE OR NONSECURE CORRECTIONAL FACILITY OR PROGRAM, OR ABSCONDOS FROM PROBATION OR PAROLE.

(II) WITH RESPECT TO THE RELEASE OR DISCHARGE OF A PERSON FROM A COUNTY JAIL OR CORRECTIONAL FACILITY, THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL APPLY WHEN THE PERSON RELEASED OR DISCHARGED IS NO LONGER WITHIN THE CARE AND CONTROL OF THE SUPERVISING LAW ENFORCEMENT OR CORRECTIONAL AGENCY. THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL NOT APPLY TO THE TEMPORARY TRANSFER OF THE CARE AND CONTROL OF A PERSON FROM A COUNTY JAIL OR A CORRECTIONAL FACILITY BY THE SUPERVISING LAW ENFORCEMENT OR CORRECTIONAL AGENCY TO ANOTHER EQUALLY OR MORE SECURE COUNTY JAIL OR CORRECTIONAL FACILITY, SO LONG AS THE PERSON WILL RETURN TO THE CARE AND CONTROL OF THE TRANSFERRING SUPERVISORY AGENCY.

(g) The right to be present at the sentencing hearing, including any hearing conducted pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S., for cases involving class 1 felonies, of any person convicted of a crime against such victim, and to inform the district attorney ~~or~~ AND the court, in writing, by a victim impact

statement, ~~or~~ AND ~~in person~~ by an oral statement, of the harm that the victim has sustained as a result of the crime, WITH THE DETERMINATION OF WHETHER THE VICTIM MAKES WRITTEN INPUT OR ORAL INPUT, OR BOTH, TO BE MADE AT THE SOLE DISCRETION OF THE VICTIM;

(h) The right to have the court determine the amount, if any, of restitution to be paid to a victim pursuant to ~~article 18.5 of title 16~~ PART 6 OF ARTICLE 1.3 OF TITLE 18, C.R.S., by any person convicted of a crime against such victim for 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.3) THE RIGHT TO BE NOTIFIED OF A REFERRAL OF AN OFFENDER TO COMMUNITY CORRECTIONS;

(j.5) (I) The right to provide a written VICTIM IMPACT statement, AN ORAL VICTIM IMPACT STATEMENT, OR BOTH, 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.

(II) FOR PURPOSES OF THIS PARAGRAPH (j.5), THE COMMUNITY CORRECTIONS BOARD CONSIDERING THE REFERRAL SHALL HAVE DISCRETION TO DETERMINE WHETHER A VICTIM MAY PROVIDE A SEPARATE ORAL STATEMENT TO THE BOARD AND TO PLACE REASONABLE PARAMETERS ON THE PROVISION OF AN ORAL STATEMENT BY THE VICTIM. IF A COMMUNITY CORRECTIONS BOARD DENIES THE OFFENDER'S REFERRAL TO COMMUNITY CORRECTIONS, THE VICTIM'S RIGHT UNDER THIS SUBPARAGRAPH (II) TO PROVIDE AN ORAL STATEMENT AT THE DISCRETION OF THE BOARD SHALL NOT TAKE EFFECT.

(k) The right to promptly receive any property ~~belonging~~ THAT BELONGS to a victim ~~which~~ AND THAT is being held by a prosecutorial or law enforcement agency unless there are evidentiary reasons for the retention of such property;

(t) The right to be informed of the process for enforcing compliance with this article pursuant to section 24-4.1-303 (17); ~~and~~

(u) The right to be informed of the results of any HIV testing that is ordered and performed pursuant to section 18-3-415, C.R.S.; AND

(v) THE RIGHT TO PREVENT ANY PARTY AT ANY COURT PROCEEDING FROM COMPELLING TESTIMONY REGARDING THE CURRENT ADDRESS, TELEPHONE NUMBER, PLACE OF EMPLOYMENT, OR OTHER LOCATING INFORMATION OF THE VICTIM UNLESS THE VICTIM CONSENTS OR THE COURT ORDERS DISCLOSURE UPON A FINDING THAT A REASONABLE AND ARTICULABLE NEED FOR THE INFORMATION EXISTS. ANY PROCEEDING CONDUCTED BY THE COURT CONCERNING WHETHER TO ORDER DISCLOSURE SHALL BE IN CAMERA.

**SECTION 5.** 24-4.1-303 (9) (f), Colorado Revised Statutes, is amended to read:

**24-4.1-303. Procedures for assuring rights of victims of crimes.** (9) The district attorney and any law enforcement agency shall inform each victim as to the availability of the following services:

(f) ~~Translation~~ INTERPRETATION services and information printed in languages other than the English language; and

**SECTION 6.** 24-4.1-303 (10) (b) (II), Colorado Revised Statutes, is amended, and the said 24-4.1-303 (10) (b) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

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

(II) The file number of the case and the name, business address, and business telephone number of any law enforcement officer assigned to investigate the case; ~~and~~

(IV) THE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE VICTIM IN A COLD CASE INFORMATION CONCERNING ANY CHANGE IN THE STATUS OF THE CASE. IN ADDITION, UPON THE WRITTEN REQUEST OF THE VICTIM, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE AN UPDATE AT LEAST ANNUALLY TO THE VICTIM CONCERNING THE STATUS OF A COLD CASE INVOLVING ONE OR MORE CRIMES FOR WHICH THE CRIMINAL STATUTE OF LIMITATIONS IS LONGER THAN THREE YEARS.

(V) ANY FINAL DECISION NOT TO FILE MISDEMEANOR CHARGES AGAINST A PERSON ACCUSED OF COMMITTING ANY CRIME SPECIFIED IN SECTION 24-4.1-302 (1) AGAINST THE VICTIM UNLESS LAW ENFORCEMENT AND THE DISTRICT ATTORNEY'S OFFICE IN A JUDICIAL DISTRICT HAVE DEVELOPED A POLICY SPECIFYING THE MANNER IN WHICH TO INFORM VICTIMS OF DECISIONS NOT TO FILE CHARGES IN A CASE.

**SECTION 7.** 24-4.1-303 (11) (a), (11) (b), and (11) (d), Colorado Revised Statutes, are amended to read:

**24-4.1-303.** Procedures for assuring rights of victims of crimes. (11) The district attorney shall inform a victim of the following:

(a) 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; OR A FINAL DECISION NOT TO FILE FELONY CHARGES AGAINST A PERSON FOR WHOM LAW ENFORCEMENT HAS REQUESTED, PURSUANT TO SECTION 16-21-103 (2) (a), C.R.S., THE FILING OF CHARGES FOR ANY OF THE CRIMES SPECIFIED IN SECTION 24-4.1-302 (1) COMMITTED AGAINST THE VICTIM UNLESS LAW ENFORCEMENT AND THE DISTRICT ATTORNEY'S OFFICE IN A JUDICIAL DISTRICT HAVE DEVELOPED A POLICY SPECIFYING THE MANNER IN WHICH TO INFORM VICTIMS OF DECISIONS NOT TO FILE CHARGES IN A CASE.

(b) Any of the critical stages specified in section 24-4.1-302 (2) (a) TO (2) (j) AND (2) (l) of a criminal proceeding relating to a person accused of a crime against the victim; EXCEPT THAT THE DISTRICT ATTORNEY SHALL NOT BE OBLIGATED TO INFORM

THE VICTIM OF ANY APPELLATE REVIEW UNDERTAKEN BY THE ATTORNEY GENERAL'S OFFICE.

(d) The date, time, and place of ~~at~~ ANY OF THE critical stages SPECIFIED IN SECTION 24-4.1-302 (2) (a) TO (2) (j) AND (2) (l) of the proceeding;

**SECTION 8.** 24-4.1-303 (13.5) (a) (III), (13.5) (a) (V), (13.5) (a) (VI), and (13.5) (a) (VII), Colorado Revised Statutes, are amended, and the said 24-4.1-303 (13.5) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**24-4.1-303. Procedures for assuring rights of victims of crimes.** (13.5) (a) Following a sentence to probation and upon the written request of a victim, the probation department shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

(III) Any REQUEST FOR release of the person in advance of the ~~originally~~ PERSON'S imposed sentence or period of probation;

(V) Any change of venue ~~jurisdiction~~, or transfer of probation supervision from one jurisdiction to another;

(VI) Any complaint, summons, or warrant filed by the probation department for failure to report to probation or because the location of a person convicted of a crime is unknown; ~~and~~

(VII) The death of the person while under the jurisdiction of the probation department; AND

(VIII) CONCERNING DOMESTIC VIOLENCE CASES, ANY CONDUCT BY THE DEFENDANT THAT RESULTS IN AN INCREASE IN THE SUPERVISION LEVEL BY THE PROBATION DEPARTMENT.

**SECTION 9.** The introductory portion to 24-4.1-303 (14), Colorado Revised Statutes, is amended to read:

**24-4.1-303. Procedures for assuring rights of victims of crimes.** (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 public or private 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 public or private local corrections authorities shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

**SECTION 10.** 24-4.1-303 (14.7) and (15), Colorado Revised Statutes, 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.** (14.2) UPON RECEIPT OF A WRITTEN STATEMENT AS PROVIDED IN SECTION 24-4.1-302.5 (1) (j.5), THE DEPARTMENT OF HUMAN SERVICES AND ANY STATE HOSPITAL SHALL NOTIFY THE VICTIM OF THE FOLLOWING INFORMATION REGARDING ANY PERSON WHO WAS CHARGED WITH OR CONVICTED OF A CRIME AGAINST THE VICTIM:

(a) THE INSTITUTION IN WHICH SUCH PERSON IS INCARCERATED OR OTHERWISE BEING HELD;

(b) THE PROJECTED DATE OF SUCH PERSON'S RELEASE FROM CONFINEMENT;

(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;

(d) ANY SCHEDULED PAROLE HEARINGS REGARDING SUCH PERSON AND ANY CHANGES IN THE SCHEDULING OF SUCH HEARINGS;

(e) ANY ESCAPE BY SUCH PERSON OR TRANSFER OR RELEASE FROM ANY STATE HOSPITAL, A DETENTION FACILITY, A CORRECTIONAL FACILITY, A COMMUNITY CORRECTIONAL FACILITY, OR OTHER PROGRAM, AND ANY SUBSEQUENT RECAPTURE OF SUCH PERSON;

(f) ANY DECISION BY THE PAROLE BOARD TO RELEASE SUCH PERSON OR ANY DECISION BY THE GOVERNOR TO COMMUTE THE SENTENCE OF SUCH PERSON OR PARDON 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 THE PERSON, AND ANY CONDITIONS ATTACHED TO 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.

(14.7) (a) The court or its designee shall ensure that victim information be provided to any entity responsible for victim notification after the defendant is sentenced.

(b) THE COURT SHALL NOTIFY THE VICTIM OF PETITIONS FILED BY SEX OFFENDERS TO CEASE SEX OFFENDER REGISTRATION PURSUANT TO SECTION 16-22-113 (2) (c), C.R.S.

(15) (a) Unless specifically stated otherwise, the requirements of this section to provide information to the victim may be satisfied by either written or oral communication with the victim or the victim's designee. The person responsible for providing such information shall do so in a timely manner and advise the victim or the victim's designee of any significant changes in such information. The victim or the victim's designee shall keep appropriate criminal justice authorities informed of the name, address, and telephone number of the person to whom such information should be provided, and any changes of such name, address, and telephone number.

(b) AN AGENCY THAT IS REQUIRED TO NOTIFY A VICTIM UNDER THIS PART 3 SHALL MAKE REASONABLE ATTEMPTS TO CONTACT THE VICTIM OR THE VICTIM'S DESIGNEE BY MAIL AND BY TELEPHONE. IF THE VICTIM OR THE VICTIM'S DESIGNEE DOES NOT PROVIDE THE AGENCY WITH A FORWARDING ADDRESS AND TELEPHONE NUMBER AND THE AGENCY IS UNABLE TO LOCATE THE VICTIM OR THE VICTIM'S DESIGNEE AFTER REASONABLE ATTEMPTS HAVE BEEN MADE TO CONTACT THE VICTIM OR THE VICTIM'S DESIGNEE, THE AGENCY SHALL BE DEEMED TO HAVE MET ITS OBLIGATION UNDER THIS PART 3 AND SHALL NOT BE REQUIRED TO NOTIFY THE VICTIM OR VICTIM'S DESIGNEE UNTIL THE VICTIM OR VICTIM'S DESIGNEE PROVIDES THE AGENCY WITH THE CURRENT ADDRESS AND TELEPHONE OF THE VICTIM AND THE NAME OF THE VICTIM'S CURRENT DESIGNEE, IF APPLICABLE.

(c) Any duties ~~which~~ THAT are required to be performed by the district attorney pursuant to this part 3 may be performed by a designee of the district attorney.

**SECTION 11. Effective date - applicability.** This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

**SECTION 12. 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: April 24, 2006