

CHAPTER 95

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 14-1148

BY REPRESENTATIVE(S) Fields, Court, Duran, Exum, Gardner, Ginal, Hullinghorst, Kraft-Tharp, Labuda, Lee, Melton, Pabon, Pettersen, Rosenthal, Schafer, Stephens, Tyler, Vigil, Williams, Young;
also SENATOR(S) Jahn, Aguilar, Crowder, Heath, Herpin, Johnston, Jones, Kefalas, Kerr, King, Newell, Nicholson, Rivera, Steadman, Tochtrop, Todd.

AN ACT**CONCERNING GUIDELINES FOR ENSURING THE RIGHTS OF VICTIMS OF CRIME TO PARTICIPATE IN THE CRIMINAL JUSTICE SYSTEM.**

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

SECTION 1. In Colorado Revised Statutes, 24-4.1-302, **amend** (1) (ii), (1) (jj), (2) (j), and (5); and **add** (1) (ll) and (2) (j.5) as follows:

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:

(ii) Trafficking in adults, in violation of section 18-3-501, C.R.S.; or trafficking in children, in violation of section 18-3-502, C.R.S.; OR COERCION OF INVOLUNTARY SERVITUDE, IN VIOLATION OF SECTION 18-3-503, C.R.S.;

(jj) First degree burglary, in violation of section 18-4-202, C.R.S.; ~~or~~

(ll) CHILD PROSTITUTION, IN VIOLATION OF SECTION 18-7-401, C.R.S.; SOLICITING FOR CHILD PROSTITUTION, IN VIOLATION OF SECTION 18-7-402, C.R.S.; PROCUREMENT OF A CHILD FOR SEXUAL EXPLOITATION, IN VIOLATION OF SECTION 18-6-404, C.R.S.; PIMPING OF A CHILD, IN VIOLATION OF SECTION 18-7-405, C.R.S.; INDUCEMENT OF CHILD PROSTITUTION, IN VIOLATION OF SECTION 18-7-405.5, C.R.S.; OR PATRONIZING A PROSTITUTED CHILD, IN VIOLATION OF SECTION 18-7-406, C.R.S.

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

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

(j) Any ~~subsequent~~ modification of the sentence PURSUANT TO RULE 35 (a) OR 35 (b) OF THE COLORADO RULES OF CRIMINAL PROCEDURE OR ANY OTHER PROVISION OF STATE OR FEDERAL LAW;

(j.5) ANY COURT-ORDERED MODIFICATION OF THE TERMS AND CONDITIONS OF PROBATION AS DESCRIBED IN SECTION 18-1.3-204, C.R.S., AND AS OUTLINED IN SECTION 24-4.1-303 (13.5) (a);

(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, LEGAL GUARDIAN, child, sibling, grandparent, grandchild, 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 that refer to the term "victim".

SECTION 2. In Colorado Revised Statutes, 24-4.1-302.5, **amend** (1) (d.5) (IV) and (4); and **add** (1) (b.9) and (1) (z) as follows:

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.9) THE RIGHT TO RECEIVE A FREE COPY OF THE INITIAL INCIDENT REPORT FROM THE INVESTIGATING LAW ENFORCEMENT AGENCY; EXCEPT THAT THE RELEASE OF A DOCUMENT ASSOCIATED WITH THE INVESTIGATION IS AT THE DISCRETION OF THE LAW ENFORCEMENT AGENCY BASED ON THE STATUS OF THE CASE OR SECURITY AND SAFETY CONCERNS IN A CORRECTIONAL FACILITY, LOCAL JAIL, OR PRIVATE CONTRACT PRISON AS DEFINED IN SECTION 17-1-102, C.R.S.;

(d.5) (IV) This paragraph (d.5) applies to a victim who is incarcerated or otherwise being held in a local county jail, ~~or~~ the department of corrections, OR THE DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES, but is limited to participation by telephone.

(z) THE RIGHT TO BE NOTIFIED OF A HEARING CONCERNING A PETITION FOR SEALING OF RECORDS DESCRIBED IN SECTION 24-72-308 FILED BY A DEFENDANT IN THE CRIMINAL CASE WHOSE CRIME FALLS UNDER SECTION 24-4.1-302 (1).

(4) (a) If a victim contacts a criminal justice agency regarding a crime that occurred before 1993, and the offender who committed the crime is currently serving a sentence for the crime, the victim may request notification of any future critical stages of the criminal proceedings. THIS PROVISION DOES NOT REQUIRE A CRIMINAL JUSTICE AGENCY TO PROACTIVELY LOCATE VICTIMS OF CRIMES THAT OCCURRED BEFORE 1993.

(b) ~~In addition, If an arrest is made for a crime committed before 1993 that was previously unsolved, the victim of the crime may request notification of all future critical stages from the appropriate criminal justice agency. This provision does not require a criminal justice agency to proactively locate victims of crimes that occurred before 1993~~ THE APPROPRIATE CRIMINAL JUSTICE AGENCY SHALL NOTIFY THE CRIME VICTIM OF ALL FUTURE CRITICAL STAGES.

SECTION 3. In Colorado Revised Statutes, 24-4.1-303, **add** (11) (b.7) and (13.5) (a) (IX) as follows:

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

(b.7) ANY HEARING CONCERNING A PETITION FOR SEALING OF RECORDS AS DESCRIBED IN SECTION 24-72-308 THAT WAS FILED BY A DEFENDANT IN THE CRIMINAL CASE AND WHOSE CRIME FALLS UNDER SECTION 24-4.1-302 (1). THE NOTIFICATION SHOULD BE MADE USING THE LAST KNOWN CONTACT INFORMATION THAT IS AVAILABLE FOR THE VICTIM.

(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:

(IX) ANY COURT-ORDERED MODIFICATION OF THE TERMS AND CONDITIONS OF PROBATION AS DESCRIBED IN SECTION 18-1.3-204, C.R.S.;

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 4, 2014