



**Colorado District Attorneys' Council (CDAC)**

**SUPPORT HB 16-1027 – CRIMINAL DEPOSITION FOR AT-RISK PERSONS**

***WHY DO WE  
NEED THIS  
FOR  
VULNERABLE  
VICTIMS?***

- HB 1027 acknowledges the legislature's long-held view since 1991 that at-risk persons are far more susceptible than the general population to the adverse long-term effects of crimes, are more vulnerable to, and disproportionately damaged by, crime because they are less able to protect themselves.
- The bill strengthens current law and protects vulnerable persons by preserving at-risk victims' and witnesses' relevant testimonial evidence for use in later proceedings in the unforeseen situations where they are unavailable to testify at a subsequent hearing.
- The bill ensures those who prey on at-risk elders cannot benefit through case delay and witness unavailability due to frailty or debilitating illness, cognitive deficiency (e.g. dementia) or even death.

***HOW DOES IT  
GET DONE?***

- The bill requires a motion for a deposition to be filed 14 days in advanced of the deposition and scheduled by a court to take place within that period, if determined important enough and requested by the prosecutor.
- The bill allows all parties to be properly prepared for a deposition by extending the current filing timeframe – from 3 days to 14 days. The prosecutor can request an immediate deposition (to take place sooner than 14 days) for good cause shown.
- For "at-risk elders" (persons 70 years and older), a deposition motion is mandatorily granted and held without further findings or the requirement for medically-based reasons, recognizing the heightened status of this group of vulnerable adults based on age alone.
- For "at-risk adults" (person 18 years and older with a disability), a motion requesting a deposition can be rebutted by the defense, and not granted if the court finds that by not holding a deposition, it will not prevent injustice.

***HOW ARE THE  
ACCUSED  
PROTECTED?***

- The bill preserves a defendant's constitutional rights at confrontation and does not alter the requirement that notice of the scheduled deposition be provided nor changes the defendant's or his or her attorney's right to cross-examine the vulnerable victim or witness.
- The bill does not change current law requiring a victim or witness to testify at a hearing if they are available to do so. A victim's or witness's testimony at a subsequent hearing may still be impeached through transcripts if it differs from the deposition.