

We are sorry to learn you have been a victim of a crime. As a victim, you may have experienced injury, loss, confusion, and a disruption of your life. Feelings of shock, disbelief, fear, vulnerability, anger, and frustration may result. Having information and an understanding about the criminal justice system may be helpful to you at this time.

Once a crime is reported, a person who is a victim of crime becomes part of the criminal justice system. It can be a confusing and sometimes frustrating experience. There are victim/witness advocates throughout Colorado to provide support and assistance to victims during the process. This brochure has been prepared to assist you in understanding your rights and to answer commonly asked questions.

Crimes Covered by the Victim Rights Act

The Colorado Constitution and the laws of the state [C.R.S. § 24-4.1-302(1)] guarantee certain rights to the victims of the following criminal acts, offenses and violations:

- murder — 1st and 2nd degree;
- manslaughter;
- criminally negligent homicide and vehicular homicide;
- assault — 1st, 2nd, 3rd degree, vehicular;
- menacing;
- kidnapping — 1st and 2nd degree;
- sexual assault — 1st, 2nd, 3rd degree, unlawful sexual contact, on a child, on a child by one in a position of trust, on a client by a psychotherapist;
- robbery — aggravated, aggravated of a controlled substance;
- incest and aggravated incest;
- child abuse;
- sexual exploitation of children;
- domestic violence;
- crimes against at-risk adults or at-risk juveniles;
- crimes for which the underlying foundation has been determined to be domestic violence;
- careless driving that results in the death of another person;
- failure to stop at the scene of an accident that results in the death of another person;
- indecent exposure;
- violation of a protection order against a person charged with committing sexual assault;
- sexual assault on a child, including by a person in a position of trust;
- sexual assault on a client by a psychotherapist;
- harassment by stalking;
- ethnic intimidation;
- intimidating a witness or a victim, or aggravated intimidation of a witness or a victim;
- retaliation against or tampering with a victim/witness; and
- any criminal attempt, conspiracy, criminal solicitation, or accessory involving any of the crimes specified above.

If the victim is deceased or incapacitated, these rights may be exercised by the victim's spouse, parent, child, sibling, grandparent, significant other, or other lawful representative.

Critical Stages

A victim's rights are related to certain "critical stages" in the criminal justice process. These stages include:

- filing of charges;
- the decision not to file charges against a person accused of a crime;
- preliminary hearing;
- *any bond reduction or modification hearing;
- arraignment hearing;
- motions hearing;
- *disposition of the complaint or charges against the person accused;
- trial;
- any subpoena for records concerning the victim's medical history, mental health, education, or victim's compensation;
- *sentencing hearing;
- appellate review or appellate decision;
- sentence reconsideration;
- probation revocation hearing;
- the filing of a complaint, summons, or warrant by probation for failure to report or because location of a person convicted of a crime is unknown;
- change of venue or transfer of probation supervision from one jurisdiction or location to another;
- request for release from probation supervision prior to the expiration of the defendant's original sentence;
- attack of a judgment or conviction;
- parole application hearing;
- parole, release, or discharge from imprisonment of a person convicted of a crime;
- parole revocation hearing;
- transfer to or placement of a person convicted of a crime in a non-secured facility;
- transfer, release, or escape of a person charged with or convicted of a crime from any state hospital.
- any petition by a sex offender to terminate sex offender registration; and
- the execution of an offender in a capital case.

* In addition to the right to be informed and present, the victim also has a right to be heard at hearings on bond reduction; disposition of the case, such as acceptance of a negotiated plea; and sentencing, including modification of sentence. The victim also has a right to provide input to the court regarding continuances.

The Victim Rights Act

The following is a summary of the rights guaranteed by the Victim Rights Act (for a complete listing of your rights, please refer to C.R.S. §§ 24-4.1-101 through 24-4.1-304):

- to be treated with fairness, respect, and dignity;
- to be informed of and present for all "critical stages" of the criminal justice process except that the victim shall have the right to be informed of, without being present for, the critical stages including: the decision not to file charges against a person accused of a crime, (2)(a.5), (2)(e.5), the filing of any

complaint, summons, or warrant by the probation department for failure to report to probation or because the location of a person convicted of a crime is unknown; the parole, release, or discharge from imprisonment of a person convicted of a crime; the transfer to or placement of a person convicted of a crime in a non-secured facility, and the transfer, release, or escape of a person charged with or convicted of a crime from any state hospital.

- the victim may request, in writing, to be informed of and present for the critical stages.
- to be free from intimidation, harassment, or abuse; and to have the right to be informed about what steps can be taken if there is any intimidation or harassment by a person accused or convicted of the crime or anyone acting on the person's behalf;
- to be given appropriate employer intercession services regarding court appearances and meetings with criminal justice officials;
- to be assured that in any criminal proceeding the court, the prosecutor, and other law enforcement officials will take appropriate action to achieve a swift and fair resolution of the proceedings;
- whenever practicable, to have a safe, secure waiting area during court proceedings;
- to be told when the person accused of or convicted of the crime is released from custody other than the county jail, is paroled, if they escape from a correctional facility or program, or if they run away from their probation or parole;
- if requested in writing, to be informed of heard at any reconsideration of sentence, parole hearing, or commutation of sentence;
- to be present and heard regarding bond reduction, continuances, acceptance of plea negotiations, case disposition, sentencing, or modification of sentence;
- to consult with the district attorney prior to any disposition of the case or before the case goes to trial and to be informed of the final disposition of the case;
- to be informed of the status of the case and any scheduling changes or cancellations, if known in advance;
- to prepare a Victim Impact Statement and to be present and/or heard at sentencing, this is a decision that the victim makes for him or herself;
- to have restitution ordered and to be informed of the right to pursue a civil judgment against the person convicted of the crime;
- to receive a prompt return of property when it is no longer needed as evidence;
- to be notified of a referral of an offender to community corrections;
- to provide a written or oral Victim Impact 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;
- to the Community Corrections Board that is considering a referral shall decide whether a victim may provide an oral statement to the board and what limits might be put on what can be said by the victim. The Board makes the decision whether or not there will be a referral to Community Corrections, if there is no referral then the victim does not

- have the opportunity to make an oral statement;
- to be informed of the availability of financial assistance and community services;
- upon written request, to be informed when a person convicted of a crime against the victim is placed in or transferred to a less-secure correctional facility or program or is permanently or conditionally transferred to or released from any state hospital;
- the right, at the discretion of the district attorney, to view all or a portion of the presentence report of the probation department;
- to promptly receive any property that belongs to a victim and that is being held by a prosecutorial or law enforcement agency unless there are evidentiary reasons for the retention of such property;
- to be informed of the results of any court-ordered HIV testing;
- to be informed of any rights that the victim has pursuant to the Constitution of the United States or the State of Colorado;
- to be informed of the process for enforcing compliance with the Victim Rights Act; and
- to prevent any party at any court proceeding from compelling testimony regarding the current address, telephone number, place of employment, or other locating information for the victim unless the victim consents or the court orders disclosure.

Agency Responsibilities

Law Enforcement's Responsibilities

Law enforcement agencies have the responsibility to provide the victim written information about:

- community services such as crisis intervention services, victim assistance resources, legal resources, mental health services, financial services, and other support services;
- the availability of financial resources such as victim compensation and how to apply for those benefits;
- the law enforcement agency shall provide the victim in a cold case information concerning any change in the status of the case. And, upon written request, the law enforcement agency shall provide an update to the victim on the cold case once a year, for crimes for which the criminal statute of limitations, meaning the amount of time you have to file the case, is longer than three years;
- any final decision not to file misdemeanor charges against a person accused of committing a crime against the victim unless there is a policy regarding how to inform the victim of the decision not to file charges;
- the availability of protective court orders in order to obtain protection from the person accused of committing the crime;
- the availability of public records related to the case;
- status of the case, prior to the filing of charges;
- translation services, assistance in dealing with creditors due to financial setbacks caused by the crime, and childcare to enable a victim to cooperate with the prosecution.

In addition, law enforcement agencies are required to:

- provide the victim with the business address and telephone

- number of the district attorney's office, file number of the case, and the name, business address, and telephone number of any law enforcement officer assigned to investigate the case; and
- keep the victim informed as to whether a suspect has been taken into custody and, if known, whether the suspect has been released from custody and any conditions imposed on the suspect.

District Attorney's Responsibilities District attorneys' offices have the responsibility to:

- inform the victim that charges have been filed including an explanation of those charges;
- inform the victim that they decided not to file felony charges against a person;
- unless there is a policy in place specifying the way victims are informed of decisions not to file charges in non-felony cases, the District Attorney's office does not have to inform victims that charges are not going to be filed;
- inform the victim of appropriate critical stages and the date, time, and place of all critical stages in the court proceedings, but they are not obligated to inform the victim of any appellate review, meaning looking at the case after it has been decided by a court, undertaken by Attorney General's office;
- tell the victim of the assignment of the case, including the deputy district attorney handling the case and the court to which the case is assigned;
- inform the victim of any pending motion that may substantially delay the prosecution and inform the court of the victim's position on the motion;
- inform the victim of the availability of any benefits and/or transportation to and from court; and
- inform the victim of any scheduling changes or cancellations, if such changes or cancellations are known in advance.

In addition, the District Attorney shall:

- consult, where practicable, with the victim concerning the reduction of charges, negotiated pleas, dismissal, or other dispositions;
- minimize contact between the victim and defendant before, during, and immediately after a judicial proceeding;
- facilitate prompt return of a victim's property when it is no longer needed as evidence;
- provide the victim with the victim impact statement that is given to the Court;
- inform the victim of the function of a presentence report and the name and telephone number of the probation office preparing the report, as well as the defendant's right to view the presentence report and victim impact statement;
- explain the victim's right to attend and express an opinion at the sentencing hearing where punishment is decided;
- inform the victim of any hearing for reconsideration and modification of a sentence; and
- provide information from correctional officials concerning the imprisonment and release of a person convicted of a crime.

Court's Responsibilities

- The courts have the responsibility to:
- state on the record a victim objection about any motion that may substantially delay the prosecution prior to granting any

delay that the objection was considered;

- determine that a victim may be present at all critical stages of a criminal proceeding unless exclusion of the victim is necessary;
- allow the victim to be heard at any court proceeding which involves the following: a bond reduction or modification, the acceptance of a negotiated plea agreement, or the sentencing of any person accused or convicted of a crime against the victim;
- inform the victim of the results of any court-ordered HIV testing;
- notify the victim of petitions filed by sex offenders to cease sex offender registration;
- make all reasonable efforts to accommodate the victim upon the return of a verdict by the jury;
- decide the amount, if any, of restitution to be paid to a victim by any person convicted of a crime; and
- provide victim information to any entity responsible for victim notification after the defendant is sentenced.

Department of Corrections Responsibilities

Upon written request of the victim, the Department of Corrections, the Department of Human Services, and any state hospital shall:

- keep the victim's address, telephone number, place of employment and other personal information confidential; and
- notify the victim of: the place where the person is incarcerated or being held; protected date of the person's release from confinement; give the victim advance notice of any release of a person on furlough, work release, or community correctional facility; any scheduled parole hearing or changes in the schedule of the hearing; any escape, transfer, or release from a facility or program and subsequent recapture; the transfer to a non-secured facility, any release or discharge from confinement of the person and conditions attached to the release; and the death of a person while in custody.

Probation Department Responsibilities

Upon written request of the victim, the Probation Department shall:

- provide the victim with the location and telephone number of the Probation Department responsible for the supervision of the person;
- notify the victim of the date of the person's termination from probation supervision;
- notify the victim of any request for release of the person in advance of the person's imposed sentence or period of probation;
- notify the victim of the date of a probation revocation or modification hearing;
- advise the victim of any change of venue, or transfer of probation supervision from one jurisdiction to another;
- notify the victim of any complaint, summons, or warrant filed by the Probation Department for failure to report to probation or because location of the person is unknown;
- notify the victim of the death of a person while under the jurisdiction of the Probation Department; and
- in domestic violence cases, any conduct by the defendant that results in an increase in the supervision level by the Probation Department.

Victim Responsibilities

Victims have the following responsibilities:

- keeping appropriate criminal justice authorities informed of the name, address, and telephone number of the person who should be provided information, and any changes in this information and
- providing a written request if the victim wants to be notified of information regarding the post-sentence process. Forms can be obtained from the District Attorney's Office, Probation Department, Department of Corrections, and the Division of Youth Corrections.
- An agency that is required to notify a victim shall make reasonable attempts to contact the victim or the victim's designee (meaning person the victim selects to be his or her representative) by mail and by telephone. If there is no forwarding address and phone number provided to the agency, the agency has to make reasonable attempts to contact the victim, but it is the victim's or his designee's responsibility to keep current personal contact information with the agency.

The Process for Ensuring Your Victim Rights

Colorado state law provides that affected persons may enforce compliance with the provisions of the Colorado Constitution and the Victim Rights Act by notifying the Victims' Compensation and Assistance Coordinating Committee (Coordinating Committee) at:

**Colorado Department of Public Safety
Division of Criminal Justice
700 Kipling St., #1000, Denver, CO 80215-5865
303-239-4442, 888-282-1080 (toll free)**

Resources

Victim Compensation

Victims of crime often need financial assistance as a result of the crime. A victim may apply for compensation for costs related to medical expenses; lost employment; mental health treatment; burial expenses; the loss of medically necessary devices such as eyeglasses or hearing aids; the loss of support to dependents; and damage to home security devices such as doors, windows, and locks. Each judicial district has a Victim Compensation Fund, and persons convicted of a crime pay into this fund. Contact your local District Attorney's Office for information on how to apply for Victim Compensation.

Statewide Resources Your local community has resources to provide you with support and assistance. A good place to start is with your victim advocate located at either the police department or sheriff's office, the district attorney's office, probation office, or a community service provider.
Colorado Organization for Victim Assistance (COVA)
Colorado Coalition Against Sexual Assault (CCASA)
Colorado Coalition Against Domestic Violence (CCADV)

This brochure is published as a customer service by the Colorado Judicial Branch, with information from the Colorado Organization for Victim Assistance. For more information, call the Victim Services Coordinator at the State Court Administrator's Office in Denver, 303-861-1111 or 800-888-0001.

Answers To Your Questions About

Victims' and Witnesses' Rights



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