

CHAPTER 296

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 19-1064

BY REPRESENTATIVE(S) Sullivan and Baisley, Bird, Buckner, Caraveo, Carver, Cutter, Duran, Froelich, Galindo, Gonzales-Gutierrez, Gray, Hansen, Hooton, Humphrey, Jackson, Jaquez Lewis, Kipp, Kraft-Tharp, Lontine, Melton, Michaelson Jenet, Mullica, Roberts, Saine, Sandridge, Singer, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Becker, McCluskie, Van Winkle;
also SENATOR(S) Foote and Cooke, Bridges, Crowder, Gardner, Ginal, Lee, Moreno, Pettersen, Priola, Smallwood, Sonnenberg, Story, Tate, Todd, Zenzinger.

AN ACT

CONCERNING ELIMINATING REQUIREMENTS THAT VICTIMS MUST OPT IN TO EFFECT THEIR RIGHTS IN CRIMINAL PROCEEDINGS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 16-8-115, **amend** (4)(i)(II) as follows:

16-8-115. Release from commitment after verdict of not guilty by reason of insanity or not guilty by reason of impaired mental condition. (4) (i) (II) Upon the filing of a petition pursuant to this ~~paragraph (i)~~ SUBSECTION (4)(i), the court shall set a date for a hearing on the petition. The defendant shall notify the local law enforcement agency with which the defendant is required to register and the prosecuting attorney for the jurisdiction in which the local law enforcement agency is located of the filing of the petition and the hearing date. ~~Upon the victim's request,~~ The court shall notify the victim of the filing of the petition and the hearing date. At the hearing, the court shall give opportunity to the victim to provide written or oral testimony. If the court enters an order discontinuing the defendant's duty to register, the defendant shall send a copy of the order to the local law enforcement agency and the Colorado bureau of investigation.

SECTION 2. In Colorado Revised Statutes, 16-8-118, **amend** (2)(d)(II) as follows:

16-8-118. Temporary removal for treatment and rehabilitation.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2) (d) (II) Upon the filing of a petition pursuant to this ~~paragraph (d)~~ SUBSECTION (2)(d), the court shall set a date for a hearing on the petition. The defendant shall notify the local law enforcement agency with which the defendant is required to register and the prosecuting attorney for the jurisdiction in which the local law enforcement agency is located of the filing of the petition and the hearing date. ~~Upon the victim's request,~~ The court shall notify the victim of the filing of the petition and the hearing date. At the hearing, the court shall give opportunity to the victim to provide written or oral testimony. If the court enters an order discontinuing the defendant's duty to register, the defendant shall send a copy of the order to the local law enforcement agency and the Colorado bureau of investigation.

SECTION 3. In Colorado Revised Statutes, 17-2-214, **amend** (2) as follows:

17-2-214. Right to attend parole hearings. (2) (a) In the case of any offenses ~~against the person, as specified in article 3 of title 18, C.R.S.,~~ DESCRIBED IN SECTION 24-4.1-302 (1) OR SECTION 16-22-102 (9), notice of any parole proceeding ~~shall~~ MUST be sent by the department of corrections, working in cooperation with the board, to any victim of the crime or relative of the victim, if the victim has died, at least sixty days before the hearing. Such notice ~~shall~~ MUST be sent to the last address in the possession of the department of corrections or the board, and the victim of the crime or relative of the victim, if the victim has died, has the duty to keep the department of corrections or the board informed of his or her most current address.

(b) In the case of any offenses other than offenses ~~against the person as specified in article 3 of title 18, C.R.S.,~~ DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, notice of any parole proceeding ~~shall~~ MUST be sent by the department of corrections, working in cooperation with the board, ~~only~~ upon request OF THE VICTIM to the department of corrections or the board, to any victim of the crime or relative of a victim, if the victim has died, who makes such a request at least sixty days before the hearing. Such notice shall be sent to the last address in the possession of the department of corrections or the board, and the victim of the crime or relative of the victim, if the victim has died, has the duty to keep the department of corrections or the board informed of his or her most current address.

SECTION 4. In Colorado Revised Statutes, 24-4.1-302.5, **amend** (1)(c)(I), (1)(j), (1)(q), and (1)(r); and **repeal** (1)(b.5) as follows:

24-4.1-302.5. Rights afforded to victims - definitions. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(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)(q) and (2)(s), upon the written request of the victim; except that the victim shall have the right to be informed of the critical stage described in section 24-4.1-302 (2)(l) without submitting a written request for notification;~~

(c) (I) Except as otherwise provided in ~~subparagraph (II) of this paragraph (c)~~ SUBSECTION (1)(c)(II) OF THIS SECTION:

(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 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 absconds from probation or parole.

(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, a full parole board review, commutation of sentence, or consideration for placement in the specialized program developed by the department of corrections pursuant to section 17-34-102.

(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 less secure public or private 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 public hospital, private hospital, or state hospital;

SECTION 5. In Colorado Revised Statutes, 24-4.1-303, **amend** (10)(b)(III), (10)(b)(IV), (12)(g), (12)(g.5), (14) introductory portion, (14.1) introductory portion, and (14.2) introductory portion as follows:

24-4.1-303. Procedures for ensuring 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:

(III) Unless such information would be inconsistent with the requirements of the investigation, information as to whether a suspect has been taken into custody and, if known, whether the suspect has been released, any conditions imposed upon such release, and ~~information as to how the victim may request~~ further notification THAT MAY BE REQUIRED pursuant to section 24-4.1-302.5 (1)(c);

(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.

(12) Unless a victim requests otherwise, the district attorney shall inform each victim of the following:

(g) The right to receive information from correctional officials concerning the imprisonment and release of a person convicted of a crime against the victim

pursuant to subsection (14) of this section; ~~including how the victim may request notification from correctional facilities;~~

(g.5) The right to receive information from the state mental health hospital concerning the custody and release of an offender who was ordered by a court into the hospital's custody pursuant to subsection (14.2) of this section; ~~including how the victim may request notification from the hospital;~~

(14) Upon receipt of a written victim impact 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~~ THE department of corrections 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:

(14.1) ~~Upon the written request of a victim, the~~ THE Colorado mental health institute at Pueblo, or the Colorado mental health institute at Fort Logan, as may be applicable, shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

(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, division of youth ~~corrections~~ SERVICES, shall include the statement with any referral made by the department of human services or a district court to place an offender in a public or private community corrections facility or program. ~~Upon written request of the victim, the~~ 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 adjudicated of a crime against the victim:

SECTION 6. Appropriation. For the 2019-20 state fiscal year, \$300,000 is appropriated to the department of public health and environment. This appropriation is from the general fund. The department may use this appropriation for the community crime victims grant program for direct services to crime victims, as defined in section 24-4.1-302 (5).

SECTION 7. Appropriation. For the 2019-20 state fiscal year, \$784,542 is appropriated to the department of corrections. This appropriation is from the general fund and is based on an assumption that the department will require an additional 9.1 FTE. To implement this act, the department may use this appropriation as follows:

Executive director's office subprogram

Personal services	\$459,475 (9.1 FTE)
Operating expenses	\$18,592
Leased space	\$240,000
Start-up costs	\$47,030

Inspector general subprogram

Operating expenses	\$250
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Superintendents subprogram

Start-up costs \$13,050

Communications subprogram

Operating expenses \$4,095

Training subprogram

Operating expenses \$250

Information systems subprogram

Operating expenses \$1,800

SECTION 8. 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: May 28, 2019