



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 22-0391	Date:	June 2, 2022
Prime Sponsors:	Sen. Fields; Gardner Rep. Tipper; Carver	Bill Status:	Signed into Law
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Bill Topic: VICTIM RIGHTS ACT

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes several changes the Victim's Rights Act including adding two crimes to the act, updating the rights afforded to victims, and updating procedures to ensure the rights of victims. Starting in FY 2022-23, the bill increases state and local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Summary of Legislation

The bill makes several changes the Victim's Rights Act (VRA) including adding two crimes to the act, updating the rights afforded to victims, and updating procedures to ensure the rights of victims, as described below.

Additional VRA crimes. The bill adds first degree arson and criminal invasion of privacy to the VRA.

Victim's rights. The bill provides the victim the right to:

- appear in person, phone, or virtually for all the critical stages of the criminal justice process;
- receive an unredacted initial incident report with the victim's name, offender's name, date of the crime, the charges, and summary of the incident;
- be heard in court proceedings involving a request to decrease bond and any application to the court for the issuance of a subpoena for records that are personal or confidential to a victim;
- consult with the prosecution prior to any prefile or postfiling diversion offer;
- receive an explanation from the prosecution of the possibility that the defendant may not serve their entire sentence due to good time credits; and
- be informed if a district attorney grants early termination to an offender participating in a diversion program and the date of termination.

Deceased crime victims. The bill allows one or more people from the victim's immediate family to represent the interests of the victim. The representatives have the right to be informed of, present, or heard in court proceedings.

Victim's information. The bill requires all correctional officers to keep victim information confidential.

Victim notifications. The bill makes several changes to victim notifications. First, district attorneys do not have to inform the victim of a motion that is denied because it is insufficient or defendant is not entitled to relief. Second, Community Corrections within the Department of Public Safety must notify the victim, upon request, of an offender's request for early termination of a direct sentence to Community Corrections. Third, the Division of Probation in the Judicial Department must notify the victim, upon request, of any complaint, summons, or warrant filed by the division. Fourth, law enforcement agencies must only provide the victim information on the status of a cold case upon the victim's request. Finally, the Juvenile Parole Board must notify a victim of any scheduled juvenile parole hearing and any discharge from juvenile parole, and no longer has to give a notification for any escape and recapture of a juvenile or any placement change.

Subpoena to produce records. The bill requires parties who are issuing a subpoena for the production of privileged records of a victim to file with the court and serve any opposing party:

- a copy of the subpoena;
- a certificate stating that the party has a good-faith belief that there is a lawful basis for issuing the subpoena;
- a copy of the written noticed served that advises that a party may not release the records until the court orders the release; and
- a motion stating the party's lawful basis for the subpoena.

The court may order a subpoena if it finds that a victim has waived their statutory privilege. The bill requires the court to provide a victim or their designee with translation or interpretation services during the hearing, if requested.

Defendant presence in sentencing. The bill requires the defendant to be present during the sentencing hearing to hear the victim's Victim Impact Statement unless the court excludes the defendant.

State Expenditures

Starting in FY 2022-23, the bill increases state workload in the Judicial Department, independent Judicial agencies representing indigent offenders, the Department of Corrections, the Department of Public Safety, and the Department of Human Services, as described below.

Judicial Department. Starting in FY 2022-23, workload to the trial courts, Division of Probation, and the IT section within the Judicial Department will increase as described below.

- **Trial courts – additional hearings.** Workload to the trial courts will increase to hold additional hearings on subpoenas and bonds. The fiscal note assume that subpoena hearings are not required and that any increase will be minimal. For bond hearings, it is unknown how many modifications to bond are set without a hearing, therefore an exact impact cannot be determined. If additional resources are necessary, the fiscal note assumes costs will be addressed through the annual budget process.
- **Trial courts – victim’s rights.** Costs within the trial courts will increase to ensure that victims have the right to be present and heard during the trial. The fiscal note assumes that most courts already make accommodations to allow a victim to participate virtually and any increase in costs will be minimal to the courts (see Information Technology section below). Finally, the fiscal note assumes that courts are currently providing interpretation services.
- **Probation – victim notifications.** By adding two crimes to the VRA, the number of notifications the Division of Probation must send out will increase. In the last five years, there have been an average of 15 cases per year sentenced to probation for first degree arson and 79 cases per year sentenced for contributing to the delinquency of a minor. Assuming a 23 percent opt-in rate for notifications, probation will send monthly notifications for 94 cases.

In addition to the new crimes, the bill also requires probation to notify victims of all complaints, summons, or warrants filed, not just those where the offender failed to report to probation or the location of the offender is unknown. The average number of complaints, summons, or warrants issued for reasons other than failure to report or location unknown was 1,074 cases per year. Assuming an opt-in rate of 23 percent, probation will issue 247 notifications.

- **Information technology.** Costs and workload within the IT section of the Judicial Department will increase to ensure victims have virtual options to attend court. According to the department, about 80 percent of hearing spaces can accommodate virtual attendance. However, the department is in the middle of upgrading IT infrastructure, which includes expanding and upgrading the equipment needed for remote court hearings. Initial funding has been requested through the budget process with FY 2021-22 supplemental funding recently approved by the Joint Budget Committee. Therefore, the fiscal note assumes no appropriation is required through this bill. In addition, workload to the IT section will increase to update the case management system and other systems to allow for increased notifications.
- **Independent judicial agencies representing indigent offenders.** Starting in FY 2022-23, to the extent the bill results in longer hearings, costs and workload to the Office of the Public Defender and the Office of Alternative Defense Counsel will increase. The fiscal note assumes that any increase in appropriations will be requested through the annual budget process.

Department of Corrections. Starting in FY 2022-23, costs in the Department of Corrections (DOC) will increase to ensure that victims have remote options during parole hearings. The Parole Board currently has limited remote options. If additional features are needed (e.g. breakout rooms), costs in the DOC will increase to ensure these features are available. In addition, to the extent the bill increases the work to notify additional victims, workload will increase. No change in DOC appropriations is required.

Department of Public Safety. Starting in FY 2022-23, workload in the Department of Public Safety will increase to send notifications to victims when an offender requests early termination from Community Corrections. The fiscal note assumes that there will be 114 eligible VRA cases that would meet this requirement and need notification. The increase in notifications can be accomplished within existing appropriations.

Department of Human Services. Starting in FY 2022-23, workload within the Department of Human Services will increase to update policies. This can be accomplished within existing appropriations.

Local Government

District attorneys. Starting in FY 2022-23, workload and costs to district attorney offices will increase to ensure that victim's rights of the two new crimes under the VRA are realized and to attend additional court hearings for subpoenas and bonds. In addition, district attorney offices may have to update paperwork and brochures for the new rights and crimes added to the VRA. District attorney offices are funded by counties.

Law enforcement. Starting in FY 2022-23, workload to local law enforcement will decrease to only notify victims of cold cases if the victim opt-ins.

Effective Date

This bill was signed into law by the Governor and took effect on May 6, 2022.

State and Local Government Contacts

Corrections
Information Technology
Sheriffs

District Attorneys
Judicial

Human Services
Public Safety