

# Answers to Your Questions About Victims' and Witnesses' Rights



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Colorado Judicial Branch

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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:

- 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, 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;
- 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;
- Harassment by stalking;
- Ethnic intimidation; 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;
- Preliminary hearing;
- \*Any bond reduction or modification hearing;
- Arraignment hearing;
- Motions hearing;
- \*Disposition of the complaint or charges against the person accused;
- Trial;
- \*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;
- Request for change of venue or transfer of probation supervision;
- Request for release from probation supervision prior to the expiration of 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;  
and
- Transfer, release, or escape of a person charged with or convicted of a crime from any state hospital.

\* 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 complaint, such as acceptance of a negotiated plea; and a sentencing. 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;
- 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;
- Upon request, to be informed when a person accused or convicted of the crime is released from custody, is paroled, escapes, or absconds from probation or parole;
- Upon written request, to be informed of and 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, or sentencing;
- 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;
- 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 the property when it is no longer needed as evidence;
- 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 or released from any state hospital;
- To be informed of any rights that the victim has pursuant to the Constitution of the United States or the State of Colorado; and
- To be informed of the process for enforcing compliance with the Victim Rights Act.

## **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 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; and
- 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 of the filing of charges and provide an explanation of the charges;
- inform the victim of appropriate critical stages and the date, time, and place of all critical stages in the court proceedings;
- 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; and
- 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.

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 for evidentiary reasons;
- provide the victim with a 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; and
- inform the victim of any hearing for reconsideration and modification of a sentence.

### ***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; and
- determine the amount, if any, of restitution to be paid to a victim by any person convicted of a crime.

### ***Department of Corrections Responsibilities***

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

- keep confidential certain information, such as address, telephone number, place of employment, or other personal information about the victim; and
- notify the victim of: the institution in which the person is incarcerated; protected date of the person's release from confinement; any release of a person on furlough, work release, or community correctional facility (in advance); any scheduled parole hearing; any escape, transfer, or release; the transfer to a non-secured facility; 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;
- advise the victim of the release of the person in advance of the originally imposed sentence;
- notify the victim of the date of a probation revocation or modification hearing;
- advise the victim of any change of venue or jurisdiction;
- 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; and
- notify the victim of the death of a person while under the jurisdiction of 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 Department of Youth Corrections.

## **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).

### **What to do if you feel your rights have not been provided:**

**You must first attempt to seek compliance at the local level. This may include but is not limited to:**

- contacting the person you feel has not provided you with your rights and explaining specifically what has not been done;
- seeking assistance from your victim advocates, or other supportive persons such as a counselor; and
- seeking assistance from the elected official or head of the agency you feel is not providing your rights.

Contacts may be verbal or in writing. Accurate records of your efforts to seek compliance at the local level will be helpful to you and to the Coordinating Committee should a formal request be filed.

**If all local efforts to obtain your rights have failed, you may request assistance from the Coordinating Committee by contacting:**

### **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 aides; 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.

Published by the Colorado Judicial Branch with information from the Colorado Organization for Victim Assistance. For further information, call the Victim Services Coordinator at the State Court Administrator's Office, (303) 861-1111 or (800) 888-0001.