

YOUR CONSTITUTIONAL RIGHTS AS A CRIME VICTIM

As a crime victim, you may have experienced injury, loss, confusion, and a disruption of your life. Feelings of shock, disbelief, fear, vulnerability, anger and frustration may occur. Having information and an understanding about the criminal justice system may be helpful to you at this time. The Victim Rights Amendment states: *Any person who is a victim of a criminal act or such person's designee, legal guardian, or surviving immediate family members if such person is deceased, shall have the right to be heard when relevant, informed and present at all critical stages of the criminal justice process, unless the court or the District Attorney determines that the exclusion of the victim is necessary to protect the defendant's right to a fair trial or the confidentiality of juvenile proceedings. All terminology, including the term "critical stages" shall be defined by the general assembly.* (Article II, Section 16A Colo. State Constitution.)

Crimes Covered by the Victim Rights Act

The Constitution of the State of Colorado and the laws of the state C.R.S. § 24-4.1-302 (1) guarantee certain rights to victims of the following crimes:

- Murder;
 - Manslaughter;
 - Criminally negligent homicide and vehicular homicide;
 - Assault;
 - Menacing;
 - Kidnapping;
 - Sexual Assault;
 - Incest and aggravated incest;
 - Crimes related to child prostitution;
 - Child abuse;
 - Sexual exploitation of children;
 - Trafficking in adults or children
 - Crimes against at-risk adults/juveniles;
 - Indecent Exposure;
 - Invasion of privacy for sexual gratification
 - Violation of a criminal protection order issued against a person charged with sexual assault;
 - Robbery; aggravated, aggravated of a controlled substance;
 - First degree burglary;
 - 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;
 - Stalking;
 - Ethnic intimidation or bias motivated crime;
 - Retaliation against a victim, witness, judge, prosecutor or juror;
 - Tampering with a victim or witness;
 - Intimidation and aggravated intimidation of a victim or witness; and
 - Any criminal attempt, conspiracy, criminal solicitation, or accessory involving the crimes specified above.
- If a victim is deceased or incapacitated, these rights may be exercised by the victim's spouse, parent, child, sibling, grandparent, grandchild, 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 or not filing charges;
- The preliminary hearing;
- *Bond reduction or modification hearing;
- Arraignment hearing;
- Motions hearing;
- Any subpoena for a victim's mental health, medical, education or victim compensation records;
- *Disposition of the complaint or charges against the person accused;
- The trial;
- *Sentencing hearing;
- Post-conviction DNA testing 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;
- The change of venue or transfer of probation supervision;
- Request for release from probation supervision prior to the expiration of the defendant's sentence;
- Attack on a judgment or conviction;
- Parole application hearing;
- Parole, release, discharge, or permanent transfer from imprisonment of a person convicted of a crime;
- Parole revocation hearing;
- Transfer/placement of a person convicted of a crime in a non-secured facility;
- Transition of a person convicted of a crime from a residential facility to a non-residential setting;
- Transfer, release, or escape of a person charged with or convicted of a crime from any state hospital;
- Any hearing set concerning a petition for the sealing of records in the case.

- Any court-ordered modification of the terms and conditions of probation.
- Any petition by a sex offender to terminate sex offender registration; and
- The execution of an offender in a capital case.
- The death of an offender while in custody or while under the jurisdiction of the State of Colorado concerning the crime;

*In addition to the right to be informed and present, the victim also has a right to be heard at hearings on bond reduction or modification, at hearings requesting modification to the “no contact” provision of a criminal protection order, at hearings concerning subpoenas for victim’s privileged records, of the disposition of a case (i.e. acceptance of a negotiated plea), and at sentencing, including the date, time and location of any hearing for modification of a sentence.

The Victim Rights Act

The following is a summary of the rights guaranteed by the Victim Rights Act (VRA). For a complete listing of your rights, please refer to Colorado Revised Statutes § 24-4.1-301 through § 24-4.1-304 or you may contact the D.A.’s office at (970)252-4260.

Victims of crime must request notification, in writing, for post sentencing critical stages.

- To be treated with fairness, respect, dignity;
- To be informed of all critical stages of the criminal justice process;
- To be present at specified critical stages in the criminal justice process (post sentence critical stages are included only when a victim has opted in to request that information);
- To request, upon turning 18 years of age, to be the point of contact for victim notification;
- To request that the court, within its resources, arrange and provide for the victim and the victim's designee to provide input beyond a victim impact statement in the event that the victim or his or her designee is unable to attend a critical stage of the criminal justice process;
- To be free from intimidation, harassment, or abuse;
- To be informed about what steps can be taken if there is any intimidation or harassment by a person accused or convicted of a crime or anyone acting on that person’s behalf;
- To be informed about available protection services to include the existence of a criminal protection order, and how to request protection of an address;
- To be present and heard regarding bond reduction or modification, acceptance of a plea agreement, sentencing, or modification of a sentence;
- To consult with the DA 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 the sentencing hearing (The defendant will have the right to view this Victim Impact Statement);
- To have the court determine restitution and to be informed of the right to pursue a civil judgment against the person convicted of the crime;
- To prevent any party at any court proceeding from compelling testimony regarding a victim’s address, telephone number, place of employment or other locating information;
- To request agencies to use reasonable efforts to request social security number redacted;
- To receive a prompt return of property when it is no longer needed as evidence;
- To be informed of the availability of financial assistance/community services;
- To be provided with 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 know if a subpoena is requested for a victim’s records and to be heard before the ruling is made on the subpoena;
- To be notified of the referral of an offender to community corrections and to provide a written impact statement to the community corrections board ;
- Upon written request, to be informed when a person accused or convicted of a crime is released from custody, has a change of venue or transfer of probation supervision from one jurisdiction to another, paroled, escapes or absconds from probation or parole, is permanently transferred from or released from the custody of the county jail, and when the offender is transferred from a residential facility to a nonresidential setting;
- 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;
- Upon written request, to be informed/ heard regarding any reconsideration of sentence, parole or commutation of sentence;
- To be notified of any motion filed by probation to modify the terms and conditions of probation;
- To request notification of future critical stages of a crime committed prior to 1993 whose offender is arrested for the crime or is still serving a sentence for the crime.
- The right, at the discretion of the DA, to view all or a portion of the pre-sentence report from the probation department;
- To be informed of the results of any court-ordered HIV testing;
- To be notified of a decision to conduct post-conviction DNA testing for the purposes of establishing the innocence of the offender;
- To be informed of the availability of restorative justice practices;
- To be informed of any rights which the victim has pursuant to the Constitution of the U.S. or the State of Colorado; and
- To be informed of the process for enforcing compliance with the VRA.

Victim's Responsibilities include:

- Keep appropriate criminal justice authorities informed of their or their representative's current name, address, and telephone number, and any changes in this information; and
- Provide a written request to the appropriate agency if they want to be notified of information regarding the post-sentencing process. Forms can be obtained from the DA Office, Probation Dept., Dept. of Corrections, the Division of Youth Corrections, or the local jail.
- For victims of cold cases for which the crime has a statute of limitations of longer than 3 years, to request in writing an annual update in the status of the case;
- Provide a written request for notification of the release of a person accused or convicted of a crime from the county jail;
- To request notification by the court of a defendant's petition to stop sex offender registration; and
- To request that correctional officials keep their address, telephone, place of employment and other personal information confidential.

If you feel your rights have not been provided, you must first attempt to seek compliance at the local level. This may include but not limited to:

- Contacting the person you feel has not provided you with your rights, verbal or in writing, and explain specifically what has not been done;
- Seeking assistance from your victim advocate, 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

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

Andi Martin, VRA Specialist, DCJ,
700 Kipling Street, Ste 1000, Denver, CO 80215
(303) 239-4497
1-888-282-1080 *Toll-Free outside Denver Metro*
Or andi.martin@cdps.state.co.us

Helpful Definitions:

Arraignment: Court hearing when a defendant pleads guilty/not guilty after a prelim hearing.

Bond: Money/property that is promised/given to the Court to make sure a defendant will come back to court after getting out of jail.

Victim Compensation (CVC): A program to help pay for medical, funeral, therapy, lost wages for victims of violent crime. A police report must be made. To apply, call (970) 252-4266.

Continuance: When a court hearing is delayed.

Defendant: A person who is accused of a crime.

Disposition: A case is resolved without a trial.

Filing of Charges: Presentation of written charges to the Clerk. This document is called a complaint.

No Contact: A condition of bond that means a defendant cannot have contact with a victim directly, by phone, letter, or through a third person.

Plea Negotiations: A defendant pleads guilty to a lesser charge in return for a sentence less than if convicted of all charges at trial.

Preliminary Hearing: A hearing to determine if there is enough evidence to go to trial. This is the first hearing when witnesses may have to testify.

Pretrial Conference: A hearing where the defendant pleads guilty/ not guilty (County Court).

Probation: Court-ordered supervision for a period of time under conditions which may include jail, useful public service, and/or completion for programs of rehabilitation.

Restitution: After conviction, a defendant may be ordered to pay the victim for financial losses specific to state statute.

Sentence: The penalty which is given by a judge to a defendant upon conviction of a crime.

Subpoena: An order to come to court, which is personally delivered or mailed to the witness.

Trial: An examination of issues or fact and law before a judge or jury. Evidence is presented to determine whether or not the defendant is guilty of committing a specific crime.

You may qualify for assistance from the Victim Compensation Fund (CVC). For more information contact the DA's Office at (970) 252-4266.

