

VRA CHANGES 2017 Legislative Session

(Effective Date: 8-9-17)

NEW CRIMES: C.R.S. §24-4.1-302(1)

- **C.R.S. §24-4.1-302(1)(cc.6)** Failure to stop at the scene of an accident that results in serious bodily injury, 14-4-1601
- **C.R.S. §24-4.1-302(1)(hh)** Violation of a criminal protection order issued against a person charged with stalking (18-3-602)
- **C.R.S. §24-4.1-302(1)(mm)** Posting a private image for harassment or pecuniary gain, 18-7-107 and 18-7-108

NEW CRITICAL STAGES:

- **C.R.S. §24-4.1-302(2)** Full Parole Board Hearing
- **C.R.S. §24-4.1-302(3.5)** Resentencing following a probation revocation hearing and request for early termination of probation

MODIFIED CRITICAL STAGE: C.R.S. §24-4.1-302(3.5)

"Modification of sentence" was restricted to an action taken by the court to modify the length, terms, or conditions of an offender's sentence pursuant to rule 35 (a) or (b) of the Colorado rules of criminal procedure. It now includes a resentencing following a probation revocation hearing and a request for early termination of probation.

NEW RIGHTS: C.R.S. §24-4.1-302.5

- **C.R.S. §24-4.1-302.5(1)(j.2)** The right to be informed of any request for progression from the state mental health hospital on behalf of a person in its custody as a result of a criminal case involving the victim, and the right to be heard at any hearing which a court considered such a request. "Request for progression" includes any request for off-grounds or unsupervised privileges, community placement, conditional release, unconditional discharge, or a special furlough.
- **C.R.S. §24-4.1-302.5(1)(q.5)** The right to be informed of the results of a probation revocation hearing
- **C.R.S. §24-4.1-302.5(1)(q.5)** The right to be informed of the results of a parole revocation hearing
- **C.R.S. §24-4.1-302.5(1)(aa)** The right to be informed of the decision by the Governor to commute or pardon a person convicted of a crime against the victim before such information is publically disclosed

- ***C.R.S. §24-4.1-302.5(1)(j.5)(III)*** The right to be heard by phone or similar technology by the community corrections board when the victim is otherwise unavailable

NEW PROCEDURES: Law Enforcement

- ***C.R.S. §24-4.1-303(10)(b)(III)*** The right to be informed by Law Enforcement of how the victim may request notification of the offender's change of status from jail.

NEW PROCEDURES: DA's Offices

- ***C.R.S. §24-4.1-303(3.5)*** The District Attorney's Office, if practicable, shall inform the victim of any pending motion or decision by the District Attorney's Office to sequester the victim from a critical stage in the case. The District Attorney's Office shall inform the Court of the victim's position on the motion or the District Attorney's decision, if any. If the victim has objected, then the Court, before granting the sequestration order, shall state in writing or on the record that the victim's objection was considered and state the basis for the Court's decision.
- ***C.R.S. §24-4.1-303(12)(g) and (g.5)*** The right to be informed by the District Attorney's Office of how the victim may request notification of the offender's change of status from DOC, probation, or the state mental health hospital.
- ***C.R.S. §24-4.1-303(12)(j)*** The right to be informed by the District Attorney's Office of a request for progression from the state mental health hospital for an offender in its custody.

NEW PROCEDURES: Probation

- ***C.R.S. §24-4.1-303(13.5)(a)(III)*** For victims who have opted into probation related notifications, probation shall inform victims of the victim's right to be present and heard at a hearing for early termination. The probation department shall also inform the victim of the result of such hearing. If a hearing is not scheduled and the court has reviewed a written motion for early termination of probation and is considering granting the motion without a hearing, the court shall inform the probation department and the district attorney's office, and the probation department shall notify and receive input from the victim to give to the court before the court rules on the motion. If the court has reviewed and denied such a request without a hearing, the probation department is not required to notify the victim regarding the filing of or ruling on the request.
- ***C.R.S. §24-4.1-303(13.5)(a)(IV)*** For victims who have opted into probation related notifications, probation shall inform victims of the victim's right to be present and heard at a hearing at a probation revocation hearing in which the probationer's sentence may be reconsidered or modified. The probation department shall also inform the victim of

the result of such hearing. If a hearing is not scheduled and the court has reviewed a written motion for modification of sentence and is considering granting the motion without a hearing, the court shall inform the probation department and the district attorney's office, and the probation department shall notify and receive input from the victim to give to the court before the court rules on the motion. If the court has reviewed and denied the written motion without a hearing, the probation department is not required to notify the victim regarding the filing of or ruling on the motion.

NEW PROCEDURES: Department of Corrections

- **C.R.S. §24-4.1-303(14)(d)** Adds responsibility for DOC to inform registered victims of Full Board Parole Reviews including the victim's right to be present and heard at such hearings.
- **C.R.S. §24-4.1-303(14)(j)** Adds responsibility for DOC to inform registered victims of a decision by the parole board and a decision by the governor to commute or pardon an offender.
- **C.R.S. §24-4.1-303(14)(k)** Adds responsibility for DOC to inform registered victims of the date, time and place of a scheduled execution.

NEW PROCEDURES: The Court

- **C.R.S. §24-4.1-303(14.5)(c)** Adds a responsibility to the Court to inform the DA's Office and Probation Department of a request by a probationer for early termination of probation or a request for any change in the terms and conditions of probation.

AMENDED RIGHT: C.R.S. §24-4.1-303(9)

The district attorney and any law enforcement agency shall inform each victim as to the availability of the following services:

- Old Right
*(g) Child care services to enable a victim or the victim's immediate family to give testimony or otherwise **cooperate** in the prosecution of a criminal proceeding;*
- Amended Right
*(g) Child care services to enable a victim or the victim's immediate family to give testimony or otherwise **participate** in the prosecution of a criminal proceeding;*

CLARIFIED PROCEDURES:

- **C.R.S. §24-4.1-303(12)(f)(I)** DA's offices are not required to inform victims of resentencings following probation revocation hearings or requests for early termination

of probation. Notification for revocation hearings and hearings for early termination are the responsibility of the probation department if the victim has requested probation notification.

- **C.R.S. §24-4.1-303(13.5)(a)(V)** The juvenile statute reference was added to this section clarifying that the probation department will inform victims who have opted in to notification with notice of a motion filed by the probation department requesting permission from the court to modify terms and conditions of probation for juvenile probationers in addition to adult probationers.
- **C.R.S. §24-4.1-303(13.5)(a)(IX)** The juvenile statute reference was added to this section clarifying that the probation department will inform victims who have opted in to notification with notice of any court ordered modification of the terms and conditions of probation for juvenile probationers in addition to adult probationers.
- **C.R.S. §24-4.1-303(13.5)(a)(VII)** The word “defendant” was changed to “probationer.”
- **C.R.S. §24-4.1-303(14)(c)** Clarifies that DOC’s notification of the release of an offender includes notification of the offender’s “statutory discharge.”
- **C.R.S. §24-4.1-303(14.1)** The state mental health hospital VRA responsibilities were moved to a new own section in the statute. Previous to this change, the hospital’s VRA responsibilities were grouped with the Division of Youth Corrections and the Juvenile Parole Board. The hospital’s responsibilities did not change.
- **C.R.S. §24-4.1-303(14.2) and (14.3)** Responsibilities between the Juvenile Parole Board (JPB) and Division of Youth Corrections (DYC) were clarified and duplication of responsibilities was deleted.
 - DYC is no longer responsible to inform victims of scheduled parole hearings; rather, the JPB has this responsibility.
 - DCY will inform victims of a release from parole supervision.
 - DYC is no longer responsible to inform victims of a decision by the JPB to release the juvenile; rather, the JPB has this responsibility.
 - DYC is now responsible to inform victims of any change that occurs during the person’s parole that may affect the victim’s safety, as determined by DYC.
 - JPB is now responsible to inform victims of the results of a JPB hearing, the Board’s decision to release a person, and the terms and conditions of a release.
 - The word “convicted” was changed to “adjudicated.”