



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 12-0247
Prime Sponsor(s): Rep. Gardner B.
 Sen. Giron

Date: January 25, 2012
Bill Status: House Judiciary
Fiscal Analyst: Hillary Smith (303-866-3277)

TITLE: CONCERNING THE VICTIMS' RIGHTS ACT.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures General Fund	Potential increase	
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: August 7, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: The workload of district attorneys will increase and their offices may require additional FTE in the future.		

Summary of Legislation

The Colorado Constitution and state law specify the rights and notifications that are due to victims of certain crimes. This bill makes the following changes to state law concerning victims' rights:

- adds trafficking in adults, trafficking in children, first degree burglary, retaliation against a judge, and retaliation against a juror to the list of 44 crimes currently covered by the victims' right statute (Victims' Rights Act);
- expands the definition of "victim" to include a grandchild;
- requires agencies responsible for criminal justice records to use reasonable efforts to redact the social security numbers of victims and witnesses;
- adds electronic communication as a method of notifying a victim;
- clarifies which public records a victim has the right to be informed about; and
- clarifies when a victim must be notified of sentence modification matters, including probation modifications or the modification of a protection order.

Victims' rights. In addition, the bill specifies that a victim has the right to:

- have his or her address and social security number redacted;
- be informed about protection services;

- know when the defendant is permanently transferred from county jail;
- know if a subpoena is requested for his or her records and to be heard before the ruling is made on the subpoena;
- be informed when the offender is transferred to a nonresidential setting;
- to request that the court make reasonable arrangements for the victim to provide input beyond a victim impact statement in the event that the victim is unable to attend a critical stage of the criminal justice process;
- be notified of a decision to conduct and the results of postconviction DNA testing for the purposes of establishing the innocence of the offender; and
- to request, upon turning 18 years of age, to be the point of contact for victim notification.

A victim of a crime that was committed prior to 1993 whose offender is arrested for the crime or is still serving a sentence for the crime may request notification at future critical stages. Finally, the bill removes the victim's option of providing an oral victim impact statement when the offender is referred to community corrections; under the bill, the victim may continue to provide a written victim impact statement. In situations in which an offender is being considered for a direct sentence to community corrections, the victim has a right to make an oral statement to the community corrections board.

Victim's presence at a trial. The bill also changes the standard for when a victim is not allowed to be present at the trial of the defendant. Under current law, the victim or an individual designated by the victim may be present at all critical stages of the criminal proceeding 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. This bill specifies that a court may prohibit a victim from being present if it finds by clear and convincing evidence that the victim's presence (or the presence of the victim's immediate family or designee) would violate the defendant's right to a fair trial.

State Expenditures

Judicial Branch. The redaction requirements of the bill may increase workload for the trial courts within the Judicial Branch, but no new appropriations are required. According to the Judicial Branch, there were 500 cases filed under the additional violations to be added to the Victims' Rights Act in the past year. The State Court Administrator's Office and the courts already redact personally identifying information from data that is electronically available, but may need to spend additional time redacting information from paper files. The effect of the additional redaction responsibilities is expected to be minimal and can be absorbed within existing resources. In addition, the notification requirements related to sentence modifications are also absorbable within existing resources.

It is already current practice for the courts to make alternative arrangements for a victim to provide input in the event that he or she cannot attend court proceedings. The bill's requirement that victims have the right to request such accommodations has the potential to delay court proceedings, but the overall effect will not differ greatly from the current situation.

Office of the State Public Defender. The Office of the State Public Defender will need to review all documents to ensure that victim information is redacted prior to sharing the documents with a defendant. Currently, the office does not redact such information. The addition of new offenses to the Victim Rights' Act also has the potential to increase victim involvement and related attorney workloads. The exact increase in workload from these new requirements cannot be estimated at this time and will be addressed during the regular budget process.

Office of the Child's Representative. The Office of the Child's Representative may need to increase the appointments of guardians ad litem to protect minor victims' privileged information. However, this need depends on the court's decision to appoint a guardian ad litem in criminal cases concerning offenses covered by the Victims' Rights Act and on the frequency of requests for privileged information. The potential increase in appointments of guardians ad litem cannot be estimated at this time.

Local Government Impact

The bill's notification requirements will increase workload for district attorneys. However, the effect will vary based on the size and resources of each district attorney's office. Smaller jurisdictions, which represent roughly half of the judicial districts in the state, may require up to 0.5 in additional FTE in order to fulfill the new responsibilities of the bill.

Departments Contacted

Corrections	County Clerks
District Attorneys	Human Services
Law	Judicial
Office of the Alternate Defense Counsel	Office of the Child's Representative
Public Safety	