

**FINAL
FISCAL NOTE**

Drafting Number: LLS 12-0247	Date: June 25, 2012
Prime Sponsor(s): Rep. Gardner B. Sen. Giron	Bill Status: Signed into Law
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TITLE: CONCERNING THE VICTIMS' RIGHTS ACT.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures General Fund		
FTE Position Change		
Effective Date: The bill was signed into law by the Governor on June 4, 2012, and takes effect August 8, 2012, assuming 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' Rights Act (VRA);
- 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 social security number redacted;
- be notified of how to request protection of his or her address;
- be informed about protection services;

- be informed of the existence of a criminal protection order and receive information about the modification of such orders;
- 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;
- 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;
- 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
- 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. In addition, 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.

Finally, under the current Crime Victim Compensation Act, an application for an award of victim compensation must be filed with a crime victim compensation board within one year of the date of injury to the victim, although the deadline may be extended for good cause. This bill specifies that if a crime has remained unsolved for more than one year, this fact qualifies as "good cause" for a deadline extension.

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 VRA in the past year. The State Court Administrator's Office and the courts already redact personally identifying information from data that are electronically available to the public, but may need to spend additional time redacting information from paper files. In addition, the branch will be required to redact the social security numbers of victims and witnesses from files in the electronic Government Agency Access System, which is available to over 13,000 users from state and local agencies. Currently, such information is not redacted. The access system contains a significant amount of confidential information, and users must agree to maintain this confidentiality and to only use the information for official business.

The bill also creates a new level of file access outside of the branch's current scheme. Court staff would have to be trained to differentiate between files that may be accessed by parties and attorneys of record (as under the current system), and files that, because they contain social security numbers, may only be accessed by attorneys of record, but not by defendants or other parties such

as witnesses. The effect of the additional redaction and training responsibilities is expected to be minimal and can be absorbed within existing resources. 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 addition of new offenses to the VRA has the potential to increase victim involvement and related attorney workloads. The exact increase in workload from these new requirements is unknown, but is not expected to require additional appropriations at this time.

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 VRA and on the frequency of requests for privileged information. The potential increase in appointments of guardians ad litem cannot be estimated at this time, but is expected to be minimal.

Department of Corrections. A victim incarcerated within the Department of Corrections has the right to request the court to make reasonable arrangements for him or her to provide input beyond a victim input statement. Because this input is limited to participation by telephone, any needed arrangements can be accomplished within existing appropriations, as the department already allows telephone participation in other situations.

Department of Human Services. The Department of Human Services may need to align its policies to ensure that social security numbers are redacted from all documents specified by the bill. Because the department generally redacts such information already, it can accomplish its policy review and any needed changes within existing appropriations.

Local Government Impact

The bill's notification and redaction 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 FTE in additional staff in order to fulfill the new responsibilities of the bill.

Departments Contacted

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