

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2023

COUNCIL BILL NO. CB23-1620
COMMITTEE OF REFERENCE:
Safety, Housing, Education & Homelessness

A BILL

For an ordinance creating a new article VIII of Chapter 14 of the Denver Revised Municipal Code to provide increased protection of victim's rights in municipal courts within the City and County of Denver and to align the Code with the requirements of HB 23-1222 for municipalities that prosecute criminal acts of domestic violence.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Chapter 14 of the Denver Revised Municipal Code, concerning the County Court, is hereby amended by adding a new Article VIII, to read as follows:

ARTICLE VIII. MUNICIPAL VICTIM RIGHTS ACT

Sec. 14-150. Legislative declaration.

The Denver City Council hereby finds and declares that the full and voluntary cooperation of victims of and witnesses to crimes with state and local law enforcement agencies as to such crimes is imperative for the general effectiveness and well-being of the criminal justice system of this City and County of Denver. It is the intent of this Article VIII, therefore, to assure that all victims of and witnesses to crimes are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded criminal defendants.

Sec. 14-151. Definitions.

Words and phrases used in this article shall have the following meaning respectively ascribed to them:

(1) *Crime*, for purposes of this Article VIII, means any of the following offenses as defined by the Denver Revised Municipal Code, as amended:

(a) Any crime identified by law enforcement prior to the filing of charges as domestic violence, as defined in section 14-68(a).

(b) Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 14-68(a).

(c) Any crime, the underlying factual basis of which includes a bias-motivated offense, as defined in sections 1-14 and 14-71.

(d) Any crime, the underlying factual basis of which includes a sexually-motivated offense, as defined in sections 1-14 and 14-71.

(e) Any crime, the underlying factual basis of which includes an offense against an at-risk person, as defined in sections 1-14 and 14-71.

(f) Any crime, the underlying factual basis of which includes an assault on a law enforcement officer, as defined in sections 1-14 and 14-71.

(g) Assault as defined in sections 38-93.

(h) Other wrongs to minors as defined in section 34-46.

(i) Threats as defined in section 38-92.

(j) Indecent exposure as defined in section 38-157.1.

(2) *Correctional facility* means any private or public entity providing correctional services to offenders pursuant to a court order including, but not limited to a city jail, a county jail, a community corrections provider, the division of youth services, and the department of corrections.

(3) *Critical stage* of the criminal justice process has the same meaning as set forth in section 24-4.1-302(2), C.R.S., as amended, and also includes:

(a) Any modification of the sentence pursuant to Colorado Rule of Municipal Procedure 235 or any other provision of state or federal law.

(b) Any hearing held pursuant to C.R.S. sections 24-72-708.

(c) Any action taken by the court to modify the length, terms, or conditions of the mandatory protection issued pursuant to section 14-33(f)(2). As used in this subsection (3), an “action taken by the court” includes an order by the court modifying or terminating a mandatory protection order upon review of a verbal or written motion without a hearing but does not include an order denying a motion to modify or terminate a mandatory protection order without a hearing.

(4) *Modification of sentence* means an action taken by the court to modify the length, terms, or conditions of an offender's sentence pursuant to rule 235(a) or (b) of the Colorado Rules of Municipal Procedure; a resentencing following a probation revocation hearing; or a request for early termination of probation. As used in this subsection (5), an “action taken by the court” includes an order by the court modifying an offender's sentence upon review of the written motion without a hearing but does not include an order denying a motion to modify a sentence without a hearing.

(5) *Police department* means the Denver Police Department.

(6) *Victim* has the same meaning as set forth in C.R.S section 24-4.1-302(5).

(7) *Victim's immediate family* has the same meaning as set forth in C.R.S. section 24-4.1-302(6).

(8) *Witness* has the same meaning as set forth in C.R.S. section 24-4.1-302(7).

Sec. 14-152. Rights afforded to victims.

(a) In order to preserve and protect a victim's rights to justice and due process, the police department, the city attorney, the court, and the probation department are responsible for ensuring that each victim of a crime, as specified in section 14-151(1), has the following rights:

(1) The right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.

(2) The right to be informed of and be present by appearing in person, by phone, virtually by audio or video, or similar technology for all critical stages of the criminal justice process as specified in section 14-151(3); except that the victim shall have the right to be informed of, without being present for critical stages described in C.R.S. sections 24-4.1-302(2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p), (2)(q), (2)(r), and (2)(u).

(3) The right to receive a free copy of the general offense report from the police department; except that the release of a document associated with the investigation is at the discretion of the police department based on the status of the case or security and safety concerns in a correctional facility. The general offense report must contain, at a minimum, the victim's name, the offender's name, the date of the crime, the charges, and a summary of the incident so the victim has sufficient detail to help the victim with, including but not limited to, insurance claims, employer intercession, protection orders, and landlord-tenant notification. The police department may redact the names of other victims involved in the incident who are not related to the victim requesting the report and any personal identifying information, including but not limited to social security numbers, driver's license numbers, telephone numbers, e-mail addresses, and physical addresses related to parties or witnesses in the case. The police department shall notify the city attorney of the information the victim received in the general offense report and when it was provided to the victim. The city attorney shall provide this information to any defendant involved in the case through the discovery process.

(4) The right to be informed when a person accused or convicted of a crime committed against the victim is released or discharged from a correctional facility, escapes from a correctional facility, or absconds from probation.

(5) The right to be heard at any critical stage of the criminal justice process, as defined

1 in section 14-151(3).

2 (6) If a victim is unavailable to be present for a critical stage and the victim wishes to be
3 heard, the right to request that the court arrange and provide the means for the victim to be heard,
4 which may include, but need not be limited to, appearing by phone, virtually by video or audio, or
5 similar technology.

6 a. For purposes of this paragraph (6), "unavailable" means that the victim is
7 physically unable to attend the court hearing, may sustain a financial hardship to attend the court
8 hearing, is concerned for their safety if they attend the court hearing, may suffer significant
9 emotional impact by attending the hearing, or is unavailable for other good cause.

10 b. The victim shall notify the city attorney that the victim is unavailable to attend
11 the court hearing. The city attorney's office shall then inform the court that the victim, due to the
12 victim's unavailability, is requesting the court to arrange for and provide the means to address the
13 court, which must include but need not be limited to appearing by phone, virtually by video or
14 audio, or similar technology. The city attorney shall inform the victim of the available options to
15 appear remotely.

16 c. This paragraph (6) applies to a victim who is incarcerated or otherwise being
17 held in a correctional facility but is limited to participation by telephone or appearing virtually by
18 video or audio, or similar technology.

19 (7) The right to consult with the city attorney after any crime committed against the
20 victim has been charged, prior to any post-filing diversion offer, prior to any disposition of the
21 case, or prior to any trial of the case, and the right to be informed of the final disposition of the
22 case. The right to consult with the city attorney must include an explanation of the possibility that
23 the defendant may not serve the defendant's entire sentence in a correctional facility because the
24 defendant may receive good time credits or earned time while incarcerated.

25 (8) The right to be informed if the city attorney grants early termination to an offender
26 participating in a diversion program and the date of termination from the diversion program.

27 (9) The right to be informed by the police department, prior to the filing of charges with
28 the court, or by the city attorney, after the filing of charges with the court, of the status of any case
29 concerning a crime committed against the victim, and any scheduling changes or cancellations, if
30 such changes or cancellations are known in advance.

31 (10) The right to be present at the sentencing hearing and to inform the city attorney and
32 the court, in writing by a victim impact statement and by an oral statement, of the harm that the
33 victim has sustained as a result of the crime, with the determination of whether the victim makes

1 written input or oral input, or both, to be made at the sole discretion of the victim.

2 (11) The right to have the court determine the amount, if any, of restitution to be paid to a
3 victim pursuant to section 14-62 by any person convicted of committing a crime against such
4 victim for the actual pecuniary damages that resulted from the commission of the crime.

5 (12) The right to be informed of the victim's right to pursue a civil judgment against any
6 person convicted of a crime committed against the victim for any damages incurred by the victim
7 as a result of the commission of the crime regardless of whether the court has ordered such
8 person to make restitution to the victim.

9 (13) The right to be informed of any proceeding at which any postconviction release from
10 confinement in a correctional facility is being considered for any person convicted of a crime
11 committed against the victim and the right to be present by appearing in person, by phone, or
12 virtually by video or audio, or similar technology, and heard at any such proceeding or to provide
13 written information.

14 (14) The right, at the discretion of the city attorney, to view all or a portion of the
15 presentence report of the probation department.

16 (15) The right, upon request, to obtain any incident recording or body-worn camera as
17 described in C.R.S. section 24-31-902.

18 (16) The right to promptly receive any property that belongs to a victim and that is being
19 held by the city attorney or the police department unless there are evidentiary reasons for the
20 retention of such property.

21 (17) The right to be informed of the availability of and the application process for financial
22 assistance and community services for victims, the immediate families of victims, and witnesses,
23 including crisis intervention services, victim compensation funds, victim assistance resources,
24 legal resources, mental health services, social services, medical resources, rehabilitative services,
25 financial assistance services, and the U-visa certification process.

26 (18) The right to be informed about the possibility of restorative justice practices, as
27 defined in C.R.S. section 18-1-901(3)(o.5).

28 (19) The right to be informed about the steps that can be taken by a victim or witness in
29 the event of intimidation or harassment by a defendant accused or convicted of a crime committed
30 against the victim or by any person acting on behalf of the defendant, including information
31 regarding protection services.

32 (20) The right to be provided with appropriate employer intercession services to
33 encourage the victim's employer to cooperate with the criminal justice system in order to minimize

1 the loss of employment, pay, or other benefits resulting from a victim's court appearances or other
2 required meetings with criminal justice officials.

3 (21) The right to be assured that, in any criminal proceeding, the court, the prosecutor,
4 and other law enforcement officials will take appropriate action to achieve a swift and fair
5 resolution of the case.

6 (22) The right to be provided, whenever practicable, with a secure waiting area during
7 court proceedings that does not require a victim or a witness to be seen or to be in close proximity
8 to the person accused or convicted of a crime committed against the victim or such person's
9 family or friends.

10 (23) The right to be informed when a person convicted of a crime committed against the
11 victim is placed in or transferred to a less secure correctional facility.

12 (24) The right to be informed of the results of a probation revocation hearing.

13 (25) The right to be informed of any rights which the victim has pursuant to the
14 constitution of the United States or the state of Colorado.

15 (26) The right to be informed of the process for enforcing compliance with this article
16 pursuant to C.R.S. section 13-10-104.5(4).

17 (27) The right to prevent any party at any court proceeding from compelling testimony
18 regarding the current address, telephone number, place of employment, or other locating
19 information of the victim unless the victim consents or the court orders disclosure upon a finding
20 that a reasonable and articulable need for the information exists. Any proceeding conducted by
21 the court concerning whether to order disclosure shall be held *in camera*.

22 (28) The right to have the city attorney, police department, or the probation department
23 make all reasonable efforts to exclude or redact a victim's or witness's social security number from
24 a criminal justice document or record created or compiled as a result of a criminal investigation
25 when the document or record is released to anyone other than the victim, the defense attorney of
26 record, the defense attorney's agent, or a criminal justice agency.

27 (29) The right to be notified of how to request protection of their address.

28 (30) The right to receive a copy of the victim impact statement form from the city
29 attorney's office.

30 (31) The right to be notified of a hearing concerning any motion filed for or petition for
31 sealing of records described in C.R.S. section 24-72-708, filed by a defendant in the criminal case
32 who was charged or convicted for a crime as described in section 14-15(2).

33 (32) The right to be informed of the existence of a criminal protection order issued

pursuant to section 14-33(f)(2) and, upon request of the victim, information about provisions of the protection order that may be added or modified, and the process for requesting such an addition or modification.

(b) Nothing in this section shall be construed to imply that any victim who is incarcerated by any correctional facility has a right to be released to attend any hearing or that a correctional facility has any duty to transport such incarcerated victim to any hearing.

Sec. 14-153. Procedures for ensuring rights of victims.

(a) The Police Department shall protect the rights of victims of crimes specified in section 14-151(1) by ensuring:

(1) That the address, telephone number, place of employment, or other personal information of such victim or members of such victim's immediate family is kept confidential.

(2) That all reasonable attempts are made to protect any victim or the victim's immediate family from harm, harassment, intimidation, or retaliation arising from cooperating in the reporting, investigation, and prosecution of a crime.

(3) That reasonable efforts are made to minimize contact between the victim and victim's immediate family and the defendant and the relatives of the defendant before, during, and immediately after judicial proceedings. Whenever possible, a waiting area shall be provided that is separate in both proximity and sight from that of the defendant, the defendant's relatives, and any defense witnesses.

(4) That, when a victim's property is no longer needed for evidentiary reasons and upon the request of the victim, such property is returned to the victim within five working days unless the property is contraband or subject to nuisance abatement or forfeiture proceedings.

(5) That each victim is informed as to the availability of the following services:

a. Follow-up support for the victim and the victim's immediate family in order to ensure that the necessary assistance is received by such persons;

b. Services for child victims and elderly victims, and services for victims who are persons with disabilities, which are directed to the special needs of such victims;

c. Referral to special counseling facilities and community service agencies by providing the names and telephone numbers of such facilities or agencies, whether public or private, which provide such services as crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, financial assistance, and other support services;

d. Transportation and household assistance to promote the participation of any

1 victim or the victim's immediate family in the criminal proceedings;

2 e. Assistance in dealing with creditors and credit reporting agencies to deal with
3 any financial setbacks caused by the commission of a crimes;

4 f. Interpretation services and information printed in languages other than the
5 English language;

6 g. Childcare services to enable a victim or the victim's immediate family to give
7 testimony or otherwise participate in the prosecution of a criminal proceeding; and

8 h. The existence of a criminal protection order pursuant to section 14-33(f)(2)
9 and, upon request of the victim, information about provisions of the protection order that may be
10 added or modified and the process for requesting such an addition or modification.

11 (6) That, after the initial contact, the victim is promptly given the following information in
12 writing:

13 a. A statement of the victim's rights as enumerated in this article;

14 b. Information concerning the availability of victim assistance, medical, and
15 emergency services;

16 c. Information concerning the availability of compensatory benefits pursuant to
17 article 4.1 of Title 24 of the Colorado Revised Statutes and the name, address, and telephone
18 number of any person to contact to obtain such benefits;

19 d. The availability of protection for the victim from the person accused of
20 committing a crime against the victim, including protective court orders; and

21 e. The right of a victim to request a copy of the police report and other
22 documents related to the case, including the right to receive a free copy of the general offense
23 report. The release of any documents associated with the investigation is at the discretion of the
24 police department based on the status of the case.

25 (7) That, in a case of an alleged sex offense that has not resulted in a conviction or plea
26 of guilty or when a police report or a medical report is filed pursuant to C.R.S. section 12-240-
27 139(1)(b):

28 a. The victim is notified at least sixty days prior to the destruction of the forensic
29 medical evidence; and

30 b. The forensic medical evidence is retained for an additional ten years when a
31 victim objects to destruction of the evidence after receiving notice pursuant to this subsection (7).

32 (b) The Denver City Attorney's Office shall protect the rights of victims of crimes
33 specified in section 14-151(1) by ensuring:

1 (1) That, if practicable, the victim is informed of any pending motion that may
2 substantially delay the prosecution. The city attorney shall inform the court of the victim's position
3 on the motion, if any. If the victim objects, the court shall state in writing or on the record prior to
4 granting any delay that the objection was considered.

5 (2) That, if practicable, the victim is informed of any pending motion or decision by the
6 city attorney to sequester the victim from any critical stage in the case. The city attorney shall
7 inform the court of the victim's position on the motion or the city attorney's decision, if any. If a
8 victim is sequestered, the city attorney must undertake best efforts to prioritize the timing of the
9 victim's testimony and minimize the amount of time the victim is sequestered from the critical
10 stages of the case.

11 (3) That, after a case has been filed, unless inconsistent with the requirements of
12 investigative activities, the victim is consulted, if practicable, concerning the reduction of charges,
13 negotiated pleas, diversion, dismissal, or other disposition. The city attorney shall explain to the
14 victim the possibility that the defendant may not serve the defendant's entire sentence in jail
15 because the defendant may receive good time credits or earned time while incarcerated. Failure
16 to comply with this paragraph (3) does not invalidate any decision, agreement, or disposition. This
17 paragraph (3) shall not be construed as a restriction on or delegation of the city attorney's
18 authority under the constitution, the laws of this state, the Charter, or the Denver Revised
19 Municipal Code.

20 (4) That all reasonable attempts are made to protect any victim or the victim's
21 immediate family from harm, harassment, intimidation, or retaliation arising from cooperating in
22 the reporting, investigation, and prosecution of a crime. The city attorney shall provide reasonable
23 efforts to minimize contact between the victim and the victim's immediate family and the defendant
24 and the relatives of the defendant before, during, and immediately after judicial proceedings.
25 Whenever possible, a waiting area shall be provided that is separate in both proximity and sight
26 from that of the defendant, the defendant's relatives, and any defense witnesses.

27 (5) That a victim or an individual designated by the victim may be present at all critical
28 stages of a criminal proceeding regarding any crime committed against such victim unless the
29 court or the city attorney determines that exclusion of the victim is necessary to protect the
30 defendant's right to a fair trial or the confidentiality of juvenile proceedings. If the victim is present,
31 the court, at the victim's request, may permit the presence of an individual or court facility dog, as
32 defined in C.R.S. section 16-10-404, to provide support to the victim.

33 a. A victim may be present at the phase of the trial at which the defendant is

determined to be guilty or not guilty and may be heard at such phase of the trial if called to testify by the city attorney, defense, or court if any such statement would be relevant.

b. The court shall make all reasonable efforts to accommodate the victim upon the return of a verdict by the jury. If the court is informed by the city attorney that the victim is en route to the courtroom for the reading of the verdict, the court shall state on the record that it has considered the information provided by the city attorney prior to the return of the verdict by the jury.

(6) That, when a victim's property is no longer needed for evidentiary reasons and upon the request of the victim, such property is returned to the victim within five working days unless the property is contraband or subject to nuisance abatement or forfeiture proceedings.

(7) That, when a victim submits a U-visa certification form pursuant to part 4 of article 4.1 of Title 24 of the Colorado Revised Statutes, said certification form is timely executed and signed within the appropriate completion deadlines, pursuant to C.R.S. section 24-4.1-402, and with due consideration given to relevant factors, pursuant to C.R.S. section 24-4.1-403.

(8) That each victim is informed as to the availability of the following services:

a. Follow-up support for the victim and the victim's immediate family in order to ensure that the necessary assistance is received by such persons;

b. Services for child victims and elderly victims, and services for victims who are persons with disabilities, which are directed to the special needs of such victims;

c. Referral to special counseling facilities and community service agencies by providing the names and telephone numbers of such facilities or agencies, whether public or private, which provide such services as crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, financial assistance, and other support services;

d. Transportation and household assistance to promote the participation of any victim or the victim's immediate family in the criminal proceedings;

e. Assistance in dealing with creditors and credit reporting agencies to deal with any financial setbacks caused by the commission of a crimes;

f. Interpretation services and information printed in languages other than the English language;

g. Childcare services to enable a victim or the victim's immediate family to give testimony or otherwise participate in the prosecution of a criminal proceeding; and

h. The existence of a criminal protection order pursuant to section 14-33(f)(2)

1 and, upon request of the victim, information about provisions of the protection order that may be
2 added or modified and the process for requesting such an addition or modification.

3 (9) That the victim is informed of the following:

4 a. The filing of a case against the person accused of committing any of the
5 crimes specified in section 14-151(1) against the victim, including an explanation of the charges
6 when necessary;

7 b. Any of the critical stages as defined in section 14-151(3) of a criminal
8 proceeding relating to a person accused of a crime against the victim; except that the city attorney
9 shall not be obligated to inform the victim of any appellate review undertaken by the attorney
10 general's office;

11 c. Any critical stage as defined in section 14-151(3) relating to a hearing
12 concerning a petition for the expungement of juvenile records, which records concern a crime
13 committed by the juvenile against the victim;

14 d. Any motion filed, unless the motion is denied because the motion is either
15 insufficient or the defendant is not entitled to relief, or any hearing concerning a motion or petition
16 for sealing of records as described in C.R.S. section 24-72-708, that was filed by a defendant in
17 the criminal case and whose crime falls under section 14-151(1). The notification should be made
18 using the last known contact information that is available for the victim;

19 e. The assignment of any case regarding a crime against the victim, including
20 the file number of such case and, if available, the name, business address, and business
21 telephone number of any assistant city attorney assigned to the case, and the courtroom to which
22 the case is assigned;

23 f. The date, time, and place of any critical stage;

24 g. The availability of benefits pursuant to article 4.1 of Title 24 of the Colorado
25 Revised Statutes and the name, address, and telephone number of any person to contact to
26 obtain such benefits;

27 h. The availability of transportation to and from any court proceeding for any
28 victim, except as provided in section 14-152(b);

29 i. The availability of restorative justice practices, as defined in C.R.S. section
30 18-1-901(3)(o.5), which includes victim-offender conferences;

31 j. The right to complete a written victim impact statement. The victim has the
32 option to complete the statement on a form provided by the city attorney's office. The city attorney
33 shall inform the victim that the defendant has a right to view the victim impact statement; and

1 k. The availability of the city attorney to seek a court order to protect a victim's
2 residential address.

3 (10) Unless a victim requests otherwise, that the victim is informed of the following:

4 a. The function of a presentence report, including the name and telephone
5 number of the probation office preparing any such report regarding a person convicted of
6 committing a crime against the victim, and the right of a victim, or a member of the victim's
7 immediate family, to make a victim impact statement pursuant to this article;

8 b. The defendant's right to view the presentence report and the victim impact
9 statement;

10 c. The date, time, and location of any sentencing or resentencing hearing;

11 d. The right of the victim, or a member of the victim's immediate family, to attend
12 and to express an opinion at the sentencing hearing as to the appropriateness of any sentence
13 proposed to the court for consideration;

14 e. Any sentence imposed;

15 f. The date, time, and location of any hearing for modification of sentence;
16 except that a city attorney is not required to inform each victim of a resentencing following a
17 probation revocation hearing or a request for early termination of probation. For both probation
18 revocation hearings and requests for early termination, it is the responsibility of the probation
19 department to notify the victim if the victim has requested post-sentencing notification.

20 1. If a hearing for modification of sentence is not scheduled and the court
21 has reviewed a written motion for modification of sentence and is considering granting any part of
22 the motion without a hearing, the court shall inform the city attorney, and the city attorney shall
23 notify and receive input from the victim to give to the court before the court rules on the motion.

24 2. If the court has reviewed and denied the written motion without a
25 hearing, the city attorney is not required to notify the victim regarding the filing of or ruling on the
26 motion.

27 3. This paragraph (f) does not modify the probation department's
28 responsibility to notify a victim that has opted to receive notifications described in section 14-
29 153(d).

30 g. Any motion to modify the terms and conditions of an unsupervised deferred
31 sentence for which the city attorney's office is the monitoring agency. The procedures for notifying
32 victims outlined in subparagraphs 1. and 2. of paragraph f of this subsection apply to the city
33 attorney and the court with regard to a motion contemplated in this paragraph g.

1 h. The right to receive information from the probation department, pursuant to
2 section 14-153(d), regarding a person convicted of committing a crime against the victim.

3 i. The decision, whether by court order, stipulation of the parties, or otherwise,
4 to conduct postconviction DNA testing to establish the actual innocence of the person convicted of
5 a crime against the victim. If court proceedings are initiated based on the results of the
6 postconviction DNA testing, the victim shall be notified of the court proceedings by the city
7 attorney's office that prosecuted the charges resulting in the entry of the judgment of conviction
8 challenged by the defendant. If the attorney general's office is the agency that decides to conduct
9 postconviction DNA testing, the attorney general's office is responsible for notifying the victim.

10 (11) If a person convicted of committing a crime against the victim seeks appellate review
11 or attacks the conviction or sentence, that the victim is informed of the status of the case and of
12 the decision of the court.

13 (c) The Court shall protect the rights of victims of crimes specified in section 14-151(1)
14 by ensuring:

15 (1) That, if practicable, the victim is informed of any pending motion or decision by the
16 city attorney to sequester the victim from a critical stage in the case. If the city attorney informs the
17 court that the victim has objected, then the court, before granting the sequestration order, shall
18 state in writing or on the record that the victim's objection was considered and state the basis for
19 the court's decision.

20 (2) That a victim may be present at all critical stages of a criminal proceeding, as
21 defined in section 14-151(3), regarding any crime, as specified in section 14-151(1), committed
22 against such victim unless the court or the city attorney determines that exclusion of the victim is
23 necessary to protect the defendant's right to a fair trial or the confidentiality of juvenile
24 proceedings. If the victim is present, the court, at the victim's request, may permit the presence of
25 an individual or court facility dog, as defined in C.R.S. section 16-10-404, to provide support to the
26 victim.

27 a. A victim may be present at the phase of the trial at which the defendant is
28 determined to be guilty or not guilty and may be heard at such phase of the trial and if called to
29 testify by the city attorney, defense, or court if any such statement would be relevant.

30 b. The court shall make all reasonable efforts to accommodate the victim upon
31 the return of a verdict by the jury. If the court is informed by the city attorney that the victim is en
32 route to the courtroom for the reading of the verdict, the court shall state on the record that it has
33 considered the information provided by the city attorney prior to the return of the verdict by the

1 jury.

2 (3) That the results of any testing for a sexually transmitted infection, that is ordered and
3 performed pursuant to C.R.S. sections 18-3-415, 25-4-408(6), or 25-4-412, are disclosed to any
4 victim in a case in which the testing was ordered. Disclosure of diagnostic test results must
5 comply with the requirements of C.R.S. section 25-4-410(2).

6 (4) That, at any critical stage specified in section 14-151(3), the court inquires whether
7 the victim is present and wishes to address the court. The court shall advise the victim of their
8 right to address the court regarding issues relevant to the case.

9 (5) That any party issuing a subpoena pursuant to rule 17 of the Colorado Rules of
10 Criminal Procedure for the production of the privileged records of a victim pursuant to C.R.S.
11 section 13-90-107 or a subpoena requesting the compensation records of a victim pursuant to
12 C.R.S. section 24-4.1-107.5, files with the court and serves on any opposing party:

- 13 a. A copy of the subpoena;
- 14 b. A certificate stating that the party has a good-faith belief that there is a lawful
15 basis for issuing the subpoena;
- 16 c. A copy of the written notice served on recipients that advises that a party may
17 not release records until the court orders the release of the records at a hearing and that a party
18 may only provide the records to the court if the court orders the party to release the records; and
- 19 d. A motion stating the party's lawful basis for the subpoena and, if subject to a
20 claim of privilege pursuant to C.R.S. section 13-90-107, a good-faith claim that the victim has
21 expressly or impliedly waived any privilege to allow the court to properly receive the records.

22 (6) That, after considering all relevant evidence at a proceeding specified in C.R.S.
23 section 24-4.1-302.5(1)(d)(VII), the court shall quash any subpoena and shall not receive any
24 records protected by privilege pursuant to C.R.S. section 13-90-107 unless the court finds, based
25 upon evidence, that a victim expressly or impliedly waived the statutory privilege.

26 a. In considering whether to receive and release any records relating to the
27 victim, the court shall determine whether:

- 28 1. There is a reasonable likelihood that the subpoenaed records exists;
- 29 2. The subpoenaed records are evidentiary and relevant;
- 30 3. The subpoenaed records cannot be reasonably procured in advance of
31 the trial despite due diligence;
- 32 4. The party cannot properly prepare for trial without production and
33 inspection of the subpoenaed records, and failure to inspect the subpoenaed records in advance

1 may unreasonably delay the trial; and

2 5. The application to review the subpoenaed records is made in good
3 faith.

4 b. If the court conducts a hearing on the application for the issuance of
5 subpoenaed records, the court shall proceed only after input from the victim, unless the victim is
6 unavailable and the court finds that the city attorney notified the victim or made all reasonable
7 efforts to notify the victim.

8 c. If after the hearing, the court orders the production of records, the court shall
9 enter orders to set a timeline of no less than seven days for the party to arrange production of the
10 records to the court; except that the court may order production in less than seven days to avoid
11 the delay of a jury trial.

12 (7) That, before any hearing regarding any request by the probationer for early
13 termination of probation or any change in the terms and conditions of probation, the court informs
14 the probation department and the city attorney's office.

15 (8) That the court provides the victim with translation or interpretation services as
16 needed during all critical stages of the hearing.

17 (9) That the court requires the defendant to be present by appearing in person, by
18 phone, or virtually by audio or video, or similar technology, during the sentencing hearing to hear
19 the victim's impact statement, unless the court excludes the defendant for good cause.

20 (10) That the court or its designee ensures that victim information be provided to any
21 entity responsible for victim notification after the defendant is sentenced. The court shall notify the
22 victim of petitions or motions filed to cease sex offender registration pursuant to C.R.S. sections
23 16-22-103(5) and 16-22-113(2) and (2.5).

24 (d) Denver County Court Probation shall protect the rights of victims by ensuring that,
25 following a sentence to probation and upon the written request of a victim, the victim is notified of
26 the following information regarding any person who was charged with or convicted of a crime, as
27 specified in section 14-151(1), against the victim:

28 (1) The location and telephone number of the probation department responsible for the
29 supervision of the person;

30 (2) The date of the person's termination from probation supervision;

31 (3) Any request for release of the person in advance of the person's imposed sentence
32 or period of probation, including notification of the victim's right to be present and heard at the
33 hearing and notification of the results of such a hearing. If a hearing is not scheduled and the court

1 has reviewed a written motion for early termination of probation and is considering granting the
2 motion without a hearing, the court shall inform the probation department and the city attorney's
3 office, and the probation department shall notify and receive input from the victim to give to the
4 court before the court rules on the motion. If the court has reviewed and denied such a request
5 without a hearing, the probation department is not required to notify the victim regarding the filing
6 of or ruling on the request.

7 (4) Any probation revocation or modification hearing at which the person's sentence
8 may be reconsidered or modified and any changes in the scheduling of the hearings, including
9 notification of the victim's right to be present and heard at the hearing and notification of the
10 results of such a hearing. If a hearing is not scheduled and the court has reviewed a written
11 motion for modification of sentence and is considering granting any part of the motion without a
12 hearing, the court shall inform the probation department and the city attorney's office, and the
13 probation department shall notify and receive input from the victim to give to the court before the
14 court rules on the motion. If the court has reviewed and denied the written motion without a
15 hearing, the probation department is not required to notify the victim regarding the filing of or ruling
16 on the motion.

17 (5) Any motion filed by the probation department requesting permission from the court
18 to modify the terms and conditions of probation as described in C.R.S. section 18-1.3-204 or 19-
19 2.5-1108, if the motion has not been denied by the court without a hearing;

20 (6) Any change of venue, transfer of probation supervision from one jurisdiction to
21 another, or interstate compact transfer of probation supervision;

22 (7) Any complaint, summons, or warrant filed by the probation department;

23 (8) The death of the person while under the jurisdiction of the probation department;

24 (9) Concerning domestic violence cases, any conduct by the probationer that results in
25 an increase in the supervision level by the probation department; and

26 (10) Any court-ordered modification of the terms and conditions of probation as described
27 in C.R.S. section 18-1.3-204 or 19-2.5-1108.

28
29 **Section 2.** Section 14-33 of the Denver Revised Municipal Code is hereby amended by
30 adding the language underlined and deleting the language stricken, to read as follows:

31 **Sec. 14-33. Right to appearance on bond.**

32 (f) *Domestic violence bonds.* Ordinance violations that allege a factual basis of
33 domestic violence, as defined in section 14-68(a), shall not be on the bond schedule.

(1) The court shall consider the following factors in determining bond in any case with an underlying factual basis of domestic violence, as defined in section 14-68(a) cases:

- a.(1) Those listed in paragraph (d) of this section;
- b.(2) Written communications from the arresting officers and other witnesses, if any;
- c.(3) Prior domestic violence incidents; and
- d.(4) Prior violations of no contact or restraining orders.

(2) Mandatory protection order. In any case filed with the court, the underlying factual basis of which includes an act of domestic violence as defined in section 14-68(a), the court shall issue and, pursuant to C.R.S. section 16-4-105(4), the defendant shall acknowledge in court and in writing, a protection order that meets the minimum standards required pursuant to C.R.S. sections 18-1-1001(3) and 18-1-1001(5) prior to release as a condition of any bond.

(3) Firearms relinquishment. The court shall order the relinquishment of any firearm or ammunition in the defendant's immediate possession or control, pursuant to C.R.S. section 16-4-105(4.1) and 18 U.S.C. § 922.

Section 3. Section 14-62 of the Denver Revised Municipal Code is hereby amended by adding the language underlined and deleting the language stricken, to read as follows:

Sec. 14-62. Restitution and costs.

Every order of conviction shall include consideration of restitution pursuant to C.R.S. section 18-1.3-603, as amended. ~~A defendant who has been granted probation may be required, so far as possible and upon such reasonable terms as the court may impose, to make restitution or reparation to any aggrieved person for actual damage or loss caused by the offense for which the conviction was had.~~ The defendant may also be required to give fingerprints to the police department and to pay the court costs.

Section 4. Section 14-68 of the Denver Revised Municipal Code is hereby amended by adding the language underlined and deleting the language stricken, to read as follows:

Sec. 14-68. Domestic violence; sentencing.

(a) *Definitions.*

(1) *Domestic violence* means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship.

1 a. _____ "Domestic violence" also includes any other crime against a person, or
2 against property, including an animal, or any municipal ordinance violation against a person, or
3 against property, including an animal, when used as a method of coercion, control, punishment,
4 intimidation, or revenge directed against a person with whom the actor is or has been involved in
5 an intimate relationship.

6 b. _____ Pursuant to section C.R.S. section 13-10-104.5(3) "domestic violence" is a
7 misdemeanor for purposes of complying with 18 U.S.C. § 921 *et seq.*

8 (b) ~~Domestic violence; sentencing~~ Prosecution. In any case filed with the court, the
9 underlying factual basis of which includes an act of domestic violence, the city attorney who
10 initially meets with the victim after the charges are filed should make a reasonable effort to remain
11 the prosecuting attorney throughout the proceeding. Failure to comply with this subsection (b)
12 does not invalidate any decision, agreement, or disposition in the case. This subsection (b) shall
13 not be construed as a restriction on or delegation of the city attorney's authority under the
14 constitution, the laws of this state, the Charter, or the Denver Revised Municipal Code.

15 (c) Guilty or nolo contendere pleas. A person charged with the commission of a crime,
16 the underlying factual basis of which includes an act of domestic violence, shall not be entitled to
17 plead guilty or nolo contendere to an offense which does not include the domestic violence
18 designation required in C.R.S. section 16-21-103, unless the city attorney makes a good faith
19 representation on the record that the city attorney would not be able to establish a prima facie
20 case if the defendant were brought to trial on the domestic violence offense and upon such a
21 finding by the court.

22 (1) The city attorney's record and the court's findings shall specify the elements
23 of the alleged domestic violence case which the city attorney is not able to prove beyond a
24 reasonable doubt and the reasons therefor.

25 (2) No court shall accept a plea of guilty or nolo contendere to an offense which
26 does not include the domestic violence designation required in C.R.S. section 16-21-103, when
27 the facts of the case indicate that the underlying factual basis includes an act of domestic
28 violence, unless there is a good faith representation by the city attorney as required in this
29 subsection 14-68(c).

30 (d) ~~Domestic violence; Probation, treatment, and sentencing.~~

31 (1) No person accused or convicted of a crime, the underlying factual basis of which has
32 been found by the court on the record to include an act of domestic violence, shall be eligible for
33 home detention in the home of the victim.

1 (2) Before granting probation, the court shall consider the safety of the victim and the
2 victim's children if probation is granted.

3 (3) In addition to any sentence that is imposed, a defendant convicted of a crime, the
4 underlying factual basis of which is found by the court on the record to include an act of domestic
5 violence, the court shall order the defendant to refrain from possessing or purchasing any firearm
6 or ammunition in accordance with the provisions of C.R.S. section 18-6-801(8).

7 (4) If the court places any person on probation who is convicted of any crime, the
8 underlying factual basis of which has been found by the court on the record to include an act of
9 domestic violence, the person shall be ordered, as a condition of probation, to complete a
10 treatment evaluation and treatment program that has been approved by the state domestic
11 violence offender management board or other similar board created by statutes of the state.
12 Nothing in this section shall preclude the court from ordering such treatment in any appropriate
13 case. Conditions of probation shall be consistent with the conditions described in C.R.S. section
14 18-1.3-204(2).

15 (5) Nothing in this subsection is intended to prohibit a court from ordering a deferred
16 sentence for a person accused or convicted of a crime, the underlying factual basis of which has
17 been found by the court on the record to include an act of domestic violence.

18 (e2) *Habitual domestic violence offender.* Any municipal violation that includes an act of
19 domestic violence is a class 1 offense if the defendant, at the time of sentencing, has been
20 previously convicted of two (2) or more prior offenses that included an act of domestic violence
21 and that were separately brought and tried and arising out of separate criminal episodes.

22 (1)-a. The prior convictions must be set forth in a special allegation filed by the prosecuting
23 attorney. For the purposes of this section, "conviction" includes any federal, state, or municipal
24 conviction for a felony, misdemeanor, or municipal ordinance violation.

25 (2)-b. For trials in cases alleging that the defendant is a habitual domestic violence
26 offender pursuant to this subsection (2), the trier of fact shall determine whether an offense
27 charged includes an act of domestic violence.

28 (3)-c. Following a conviction for an offense which underlying factual basis includes an act
29 of domestic violence:

30 a1. If any prior conviction included a determination by a jury or was admitted by
31 the defendant that the offense included an act of domestic violence, the court shall proceed to
32 sentencing without further findings as to that prior conviction by the jury or by the court, if no jury
33 trial was had;

1 b2. For any prior conviction in which the factual basis was found by the court to
2 include an act of domestic violence, but did not include a finding of domestic violence by a jury or
3 that was not admitted by the defendant, the trial court shall proceed to a sentencing stage of the
4 proceedings. The prosecution shall present evidence to the trier of fact that the prior conviction
5 included an act of domestic violence. The prosecution has the burden of proof beyond a
6 reasonable doubt.

7 c3. At the sentencing stage, ~~referenced in paragraph 2 of this sub-subsection c.~~
8 the following applies:

9 1. i. A finding of domestic violence made by a court at the time of the prior
10 conviction constitutes prima facie evidence that the crime involved domestic violence;

11 2. ii. Evidence of the prior conviction is admissible through the use of
12 certified documents under seal, or the court may take judicial notice of a prior conviction;

13 3. iii. Evidence admitted at the guilt stage of the trial, including testimony of
14 the defendant and other acts admitted at trial, may be considered by the finder of fact.

15 (4) d. Any person convicted as an habitual domestic violence offender under this
16 subsection (2) for a third or subsequent domestic violence offense shall, for each offense, be
17 sentenced in accordance with the provisions of section 1-14 of this Code.

18 (f) Additional responsibilities of the court. In any case filed with the court, the underlying
19 factual basis of which includes an act of domestic violence as defined in section 14-68(a), the
20 court shall:

21 (1) Search the Colorado Crime Information Center Database and the National Crime
22 Information Center database to determine if the defendant has a history of domestic violence.

23 (2) Report or cause to be reported the alleged violation to the Colorado Bureau of
24 Investigation created in C.R.S. section 24-33.5-401 and enter the information into the Colorado
25 Crime Information Center Database and the National Crime Information Center database.

26
27 **Section 5.** Section 1-14 of the Denver Revised Municipal Code is hereby amended by adding the
28 language underlined and deleting the language stricken, to read as follows:

29 Sec. 1-14. Offenses classified.

30 (a) Class 1 offenses.

31 (2) Class 1 offenses shall include the following:

32 g. Habitual domestic violence offender, as set forth in section 14-68~~(b)(2)~~(e).

1 COMMITTEE APPROVAL DATE: November 1, 2023
2 MAYOR-COUNCIL DATE: November 7, 2023 by Consent
3 PASSED BY THE COUNCIL: _____
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;
10 _____
11 PREPARED BY: Marley Bordovsky, Assistant City Attorney DATE: November 9, 2023
12 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
13 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.
16 Kerry Tipper, Denver City Attorney
17 BY: _____, Assistant City Attorney DATE: _____