

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the
First Regular Session
of the Seventieth General Assembly of the State of Colorado (2015) ***

TITLE 24. GOVERNMENT - STATE
ADMINISTRATION

ARTICLE 4.2. ASSISTANCE TO VICTIMS OF AND WITNESSES TO CRIMES
AND AID TO LAW ENFORCEMENT ACT

C.R.S. 24-4.2-101 (2015)

24-4.2-101. Victims and witnesses assistance and law enforcement board -
creation

(1) There is hereby created in each judicial district a victims and witnesses assistance and law enforcement board, referred to in this article as the "board". Each board shall be composed of five members to be appointed by the chief judge of the judicial district. In making such appointments, the chief judge shall consider whether an appointee represents or belongs to an organization, public or private, which might reasonably be anticipated to be a recipient of moneys pursuant to this article. In multicounty judicial districts, to the extent possible, members shall fairly reflect the population of the judicial district. The board shall designate one of its members as chairman.

(2) The term of office of each member of the board shall be three years; except that, of those members first appointed, one shall be appointed for a one-year term, two for two-year terms, and two for three-year terms. All vacancies, except through the expiration of term, shall be filled for the unexpired term only. Each member may be reappointed once and serve two consecutive terms. A person may be reappointed to the board thereafter if it has been at least one year since such person served on the board.

(3) Members of the board shall receive no compensation.

HISTORY: Source: L. 84: Entire article added, p. 661, § 22, effective July 1.L. 90: (2) amended, p. 1181, § 4, effective July 1.

Cross references: For elections, see title 1; for peace officers and firefighters, see article 5 of title 29; for state engineer, see article 80 of title 37; for state chemist, see part 4 of article 1 of title 25; for offenses against government, see article 8 of title 18; for the "Uniform Records Retention Act", see article 17 of title 6.

Cross references: For constitutional provisions relating to the rights of crime victims, see [section 16a of article II of the Colorado constitution](#); for the "Colorado Victim and Witness Protection Act of 1984", see part 7 of article 8 of title 18; for compensation to crime victims, see parts 1 and 2 of article 4.1 of this title; for rights of victims of and witnesses to crimes, see part 3 of article 4.1 of this title.

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C.R.S. 24-4.2-102 (2015)

24-4.2-102. District attorney to assist board

The district attorney and his legal and administrative staff shall assist the board in the performance of its duties pursuant to this article.

HISTORY: Source: L. 84: Entire article added, p. 662, § 22, effective July 1.

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C.R.S. 24-4.2-103 (2015)

24-4.2-103. Victims and witnesses assistance and law enforcement fund -
control of fund

(1) The victims and witnesses assistance and law enforcement fund is hereby established in the office of the court administrator of each judicial district and is referred to in this article as the "fund". The fund shall consist of all moneys paid as a surcharge as provided in [section 24-4.2-104](#).

(1.5) In addition to the moneys paid into the fund pursuant to subsection (1) of this section, the fund shall consist of moneys paid pursuant to [section 17-27-104 \(4\) \(b\) \(IV\)](#), C.R.S.

(2) All moneys deposited in the fund shall be deposited in an interest-bearing account which would be a legal investment for the state treasurer. All interest earned by moneys in the fund shall be credited to the fund.

(3) At the conclusion of each fiscal year, all moneys remaining in the fund shall remain in the fund for allocation as originally designated under [section 24-4.2-105](#).

(4) All moneys deposited in the fund shall be used solely for the purposes designated in [section 24-4.2-105](#); except that the district attorney may use up to an aggregate of ten percent of the total amount of moneys in the fund for administrative costs incurred pursuant to this article and for preparation of victim impact statements required pursuant to [section 16-11-102 \(1\)](#), C.R.S. The board shall determine the manner of reimbursement for preparation of victim impact statements and the method of establishing

actual costs for such preparation.

(5) The priority use for moneys in the fund created in this section shall be for the implementation of the rights afforded to crime victims pursuant to [section 24-4.1-302.5](#) and the provision of the services and programs delineated in [sections 24-4.1-303](#), [24-4.1-304](#), and [24-4.2-105 \(4\)](#) related to all crimes as defined by [section 24-4.1-302 \(1\)](#).

(6) Repealed.

HISTORY: Source: L. 84: Entire article added, p. 662, § 22, effective July 1.L. 85: (1) amended, p. 795, § 1, effective July 1.L. 92: (5) added, p. 427, § 6, effective January 14, 1993.L. 95: (5) amended, p. 1406, § 7, effective July 1.L. 96: (1.5) added, p. 133, § 2, effective July 1.L. 2003: (6) added, p. 1542, § 1, effective May 1.L. 2015: (6) repealed, ([SB 15-264](#)), [ch. 259](#), [p. 958](#), [§ 63](#), effective August 5.

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C.R.S. 24-4.2-104 (2015)

24-4.2-104. Surcharges levied on criminal actions and traffic offenses

(1) (a) (I) A surcharge equal to thirty-seven percent of the fine imposed for each felony, misdemeanor, or class 1 or class 2 misdemeanor traffic offense, or a surcharge of one hundred sixty-three dollars for felonies, seventy-eight dollars for misdemeanors, forty-six dollars for class 1 misdemeanor traffic offenses, and thirty-three dollars for class 2 misdemeanor traffic offenses,

whichever amount is greater, except as otherwise provided in paragraph (b) of this subsection (1), is hereby levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided in [section 18-1.3-102, C.R.S.](#), which criminal action is charged pursuant to state statute, or upon each petition alleging that a child is delinquent that results in a finding of guilty pursuant to part 8 of article 2 of title 19, C.R.S., or a deferral of adjudication pursuant to [section 19-2-709, C.R.S.](#) These surcharges shall be paid to the clerk of the court by the defendant. Each clerk shall transmit the moneys to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(II) (A) In addition to any other surcharge provided for in this section, a surcharge of one thousand three hundred dollars shall be levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided in [section 18-1.3-102, C.R.S.](#), which criminal action is charged pursuant to the statutes listed in sub-subparagraph (B) of this subparagraph (II). These surcharges shall be paid to the clerk of the court by the defendant. Any moneys collected by the clerk pursuant to this subparagraph (II) shall be transmitted to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(B) The surcharge in sub-subparagraph (A) of this subparagraph (II) shall apply to charges brought pursuant to the following sections: 18-3-305, 18-3-402, 18-3-403, as it existed prior to July 1, 2000, [18-3-404](#), [18-3-405](#), [18-3-405.3](#), [18-3-405.5](#), [18-3-503](#), [18-3-504](#), [18-6-301](#), [18-6-302](#), [18-6-403](#), [18-6-404](#), [18-7-302](#), [18-7-402](#), [18-7-405](#), [18-7-405.5](#), and [18-7-406, C.R.S.](#), or any attempt to commit any of these crimes.

(C) (Deleted by amendment, L. 93, p. 2054, § 5, effective June 9, 1993.)

(b) (I) A surcharge shall be levied against a penalty assessment imposed for a violation of a class A or class B traffic infraction or class 1 or class 2 misdemeanor traffic offense pursuant to [section 42-4-1701, C.R.S.](#) The amount of such surcharge shall be one half of the amount specified in the penalty and surcharge schedule in [section 42-4-1701 \(4\), C.R.S.](#), or, if no

amount is specified, thirty-seven percent of the penalty imposed. All moneys collected by the department of revenue pursuant to this subparagraph (I) shall be transmitted to the court administrator of the judicial district in which the infraction occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district as provided in [section 42-1-217, C.R.S.](#) Surcharges paid to the clerk of the court pursuant to this subparagraph (I) shall be transmitted to the court administrator of the judicial district in which the offense was committed for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(II) A surcharge shall be levied against all penalty assessments issued pursuant to [section 33-6-104, C.R.S.](#), in an amount equal to thirty-seven percent of the penalty imposed. Any moneys collected by the division of parks and wildlife pursuant to this subparagraph (II) shall be transmitted to the court administrator of the judicial district in which the offense was committed for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(c) All calculated surcharge amounts resulting in dollars and cents shall be rounded down to the nearest whole dollar. The surcharge levied by this section may not be suspended or waived by the court unless the court determines that the defendant is indigent.

(d) The surcharges levied pursuant to this subsection (1) are separate and distinct from costs levied pursuant to [section 24-4.1-119](#) for the crime victim compensation fund.

(1.5) Repealed.

(2) The provisions of [sections 18-1.3-701](#) and [18-1.3-702, C.R.S.](#), shall be applicable to the collection of costs levied pursuant to this section.

HISTORY: Source: L. 84: Entire article added, p. 662, § 22, effective July 1.L. 85: (1)(a) amended and (1)(b) R&RE, pp. 795, 796, § § 2, 3, effective July 1.L. 86: (1)(b)(I) amended, p. 1193, § 3, effective July 1.L. 87: (1) amended, p. 1497, § 7, effective July 1.L. 90: (1)(a) and (1)(c) amended, p. 1181, § 5, effective July 1.L. 91: (1)(a) and (1)(b)(I) amended, p. 241, § 1,

effective July 1.L. 93: (1)(a)(I) and (1)(a)(II) amended, pp. 2053, 2054, § § 4, 5, effective June 9.L. 94: (1)(b)(I) amended, p. 2555, § 52, effective January 1, 1995.L. 96: (1)(a)(I) amended, p. 1695, § 36, effective January 1, 1997.L. 97: (1)(a)(II)(B) amended, p. 1547, § 21, effective July 1.L. 2000: (1)(a)(II)(B) amended, p. 707, § 35, effective July 1.L. 2002: (1)(a)(I), (1)(a)(II)(A), and (2) amended, p. 1530, § 241, effective October 1.L. 2003: (1)(a)(I), (1)(a)(II)(A), and (1)(b)(I) amended, p. 1542, § 2, effective May 1.L. 2007: (1)(a)(I), (1)(a)(II)(A), and (1)(b)(I) amended and (1.5) added, p. 1112, § 3, effective July 1.L. 2010: (1)(a)(II)(B) amended, [\(SB 10-140\)](#), ch. 156, p. 540, § 12, effective April 21.L. 2014: (1)(a)(II)(B) amended, [\(HB 14-1273\)](#), ch. 282, p. 1157, § 24, effective July 1.

Editor's note: Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2008. (See L. 2007, p. 1112.)

Cross references: (1) For additional costs imposed on criminal actions and traffic offenses, see [§ 24-4.1-119](#); for additional costs levied on alcohol- and drug-related traffic offenses, see [§ § 42-4-1301 \(7\)\(d\) and \(7\)\(g\)](#), [42-4-1301.4 \(5\)](#), and [43-4-402](#).

(2) For the legislative declaration contained in the 2002 act amending subsections (1)(a)(I), (1)(a)(II)(A), and (2), see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

Assessment of surcharges pursuant to subsection (1)(a)(II) does not violate the prohibition against ex post facto laws since the statute's effective date predates the date of the offenses with which the defendant was charged. *People v. Bowring*, 902 P.2d 911 (Colo. App. 1995).

Imposition of two surcharges for conviction does not violate the prohibition against double jeopardy. The surcharge created by subsection (1)(a)(II)(A) and the surcharge created by [§ 18-21-103 \(1\)\(c\)](#) may both be applied to the conviction for second degree sexual assault. *People v. Thien Van Vo*, 932

P.2d 849 (Colo. App. 1996).

Costs are not a form of punishment but are essentially civil and are not traditionally considered to be punishment, and the imposition of costs generally does not serve the goals of retribution and deterrence. *People v. Howell*, 64 P.3d 894 (Colo. App. 2002); *People v. McQuarrie*, 66 P.3d 181 (Colo. App. 2002).

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C.R.S. 24-4.2-105 (2015)

24-4.2-105. Allocation of moneys from fund - application for grants - disbursements

(1) Thirteen percent of the aggregate amount of the moneys in the fund, after payment of the expenses specified in [section 24-4.2-103 \(4\)](#), shall be deposited with the state treasurer to the credit of the fund created pursuant to [section 24-33.5-506](#).

(2) Not less than eighty-five percent of the net aggregate of the fund remaining after the deduction of the amounts specified in subsection (1) of this section shall be allocated for the purchase of victims and witnesses services pursuant to subsection (4) of this section, and the remaining moneys may be allocated to the police departments, sheriffs' departments, and district attorneys for the purposes specified in subsection (3) of this section.

(2.5) (a) The board shall not accept, evaluate, or approve any application

requesting grants of money from the fund submitted by, or on behalf of, any state agency, including local offices of such agencies; except that:

(I) The court administrator of each judicial district may apply for grants of moneys for the purpose of collecting all moneys assessed by the courts, including moneys owed pursuant to this article, and collecting and disbursing restitution owed to victims of crime; and

(II) The local probation department may apply for grants of moneys for the purpose of implementing the rights of victims established pursuant to article 4.1 of this title.

(b) The state judicial department shall study alternative methods for funding the collection of restitution owed to victims of crime.

(3) The board shall accept and evaluate applications from the law enforcement agencies listed in subsection (2) of this section requesting grants of moneys for the following purposes, including, but not limited to, purchase of equipment, training programs, and additional personnel. Such moneys shall not be used for defraying the costs of routine and ongoing operating expenses.

(4) The board is authorized to enter into contracts for the purchase and coordination of victims and witnesses assistance services with persons or agencies which the board deems appropriate. Victims and witnesses assistance services may be used for the following:

(a) Provision of services for early crisis intervention;

(b) Provision of telephone lines for victims and witnesses assistance;

(c) Referral of victims to appropriate social service and victim compensation programs and assistance in filling out forms for compensation;

(c.5) Assistance programs for victims and their families;

(d) Education of victims and witnesses about the operation of the criminal justice system;

- (e) Assistance in prompt return of the victims' property;
- (f) Notification to the victim of the progress of the investigation, the defendant's arrest, subsequent bail determinations, and the status of the case;
- (g) Intercession with the employers or creditors of victims or witnesses;
- (h) Assistance to the elderly and to persons with disabilities in arranging transportation to and from court;
- (i) Provision of translator services;
- (j) Coordination of efforts to assure that victims have a secure place to wait before testifying;
- (k) Provision of counseling or assistance during court appearances when appropriate;
- (l) Protection from threats of harm and other forms of intimidation; and
- (m) Special advocate services.

(4.3) (a) Moneys allocated for the purposes specified in subsections (3) and (4) of this section shall only be used for the purchases of equipment, training programs, additional personnel, and victims and witnesses services that are directly related to the implementation of the rights afforded to crime victims pursuant to [section 24-4.1-302.5](#) and the provision of services delineated pursuant to [sections 24-4.1-303](#) and [24-4.1-304](#).

(b) Equipment that may be purchased with such moneys includes technical equipment directly related to the immediate individual physical safety of crime victims.

(c) Grants of moneys may be approved for registration fees and expenses for lodging, travel, and meals for those in-state training programs specifically directed toward delivery of services to crime victims and for the

actual cost of providing the necessary staff training directly related to the implementation of the rights afforded to crime victims pursuant to [section 24-4.1-302.5](#) and the provision of services delineated pursuant to [sections 24-4.1-303](#) and [24-4.1-304](#). Nothing in this subsection (4.3) shall preclude volunteer board members from receiving reimbursement for actual and necessary expenses incurred at in-state training programs held pursuant to this paragraph (c). Expenses for lodging, travel, and meals which may be reimbursed pursuant to this paragraph (c) shall not exceed the state government expense reimbursement guidelines.

(4.7) A requesting agency or person shall acknowledge in writing that such agency or person has read and understands the rights afforded to crime victims pursuant to [section 24-4.1-302.5](#) and the services delineated pursuant to [sections 24-4.1-303](#) and [24-4.1-304](#). Such written acknowledgment shall be attached to such requesting agency's or person's application for moneys pursuant to this section. The board shall not accept for evaluation any application for a grant of moneys pursuant to this section until the requesting agency or person provides the board with such written acknowledgment.

(5) The board shall specify levels and types of services to be provided pursuant to this section and shall review expenditures in accord with these standards.

(6) Upon a finding by the board that a disbursement shall be made from the fund, the board shall submit a written request for payment to the court administrator who shall remit payment in accordance with the request.

(7) For purposes of this section:

(a) "Victim" and "witness" mean "victim" and "witness" as defined in [section 24-4.1-302](#).

(b) "Special advocate services" means the services offered to aid victims who are children, including, but not limited to, court-appointed special advocate (CASA) programs, sexual assault treatment and prevention programs, community-based youth and family servicing programs, gang alternative programs, school-based intervention and prevention programs,

big brother and big sister programs offering aid to children who are victims, restitution programs, partners programs offering aid to children who are victims, and child abuse treatment programs.

(c) "Court-Appointed Special Advocate" or "CASA" means a trained volunteer appointed by the court pursuant to the provisions of part 2 of article 1 of title 19, C.R.S., in a district to aid the court by providing independent and objective information as directed by the court, regarding children involved in actions brought pursuant to this title.

HISTORY: Source: L. 84: Entire article added, p. 662, § 22, effective July 1.L. 88: (4)(c.5) added, p. 892, § 1, effective July 1.L. 90: (1) amended, p. 1181, § 6, effective July 1.L. 91: (4)(k), (4)(l), and (7) amended and (4)(m) added, p. 242, § 2, effective July 1.L. 93: (4)(h) amended, p. 1653, § 54, effective July 1.L. 94: (2) and (3) amended and (2.5), (4.3), and (4.7) added, p. 1243, § 1, effective May 22.L. 95: (4.7) amended, p. 1103, § 36, effective May 31.L. 96: (7)(c) amended, p. 1094, § 5, effective May 23; (2.5)(b) amended, p. 1265, § 178, effective August 7.L. 97: (2.5)(a) amended, p. 1562, § 8, effective July 1.L. 2003: (7)(b) amended, p. 755, § 7, effective March 25.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (2.5)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.

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C.R.S. 24-4.2-106 (2015)

24-4.2-106. Court administrator custodian of fund - disbursements

The court administrator of each judicial district shall be the custodian of the fund, and all disbursements from the fund shall be paid by him upon written authorization of the board.

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C.R.S. 24-4.2-107 (2015)

24-4.2-107. Regulations

In the performance of its functions, the board, pursuant to article 4 of this title, may promulgate rules and regulations prescribing the procedures to be followed in the making, filing, and evaluation of grant applications, criteria for evaluation, fiscal procedures including proper investment of moneys in the fund, and any other regulations necessary for the administration of this article.

HISTORY: Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

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C.R.S. 24-4.2-108 (2015)

24-4.2-108. Report of grants and expenditures

(1) Each victims and witnesses assistance and law enforcement board and each crime victim compensation board shall submit a report to the executive director of the department of public safety by such date each year as shall be specified by the executive director of the department of public safety, detailing the amount of funds granted to agencies or individuals pursuant to this article and article 4.1 of this title, the number and types of agencies applying for grants, and the projects and services for which such grants were made.

(2) The division of criminal justice in the department of public safety shall report annually to the crime victim services advisory board created in [section 24-4.1-117.3 \(1\)](#) on all grants made and contracts entered into pursuant to this article. The crime victim services advisory board may review the grants and contracts to determine the existence of any conflicts of interest involving members of boards, recipients, or contracting parties.

(3) (Deleted by amendment, L. 99, p. 686, § 3, effective August 4, 1999.)

HISTORY: Source: L. 84: Entire article added, p. 664, § 22, effective July 1.L. 90: (1) amended, p. 1182, § 7, effective July 1.L. 94: (3) added, p. 1244, § 2, effective May 22.L. 97: (2) amended, p. 1559, § 2, effective July 1.L. 99: (2) and (3) amended, p. 686, § 3, effective August 4.L. 2009: (2) amended, ([SB 09-047](#)), [ch. 129](#), [p. 557](#), § 7, effective July 1.

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C.R.S. 24-4.2-109 (2015)

24-4.2-109. County, city, city and county, or municipality not preempted

Nothing in this article shall preclude a home rule county, city, city and county, or municipality from enacting provisions to provide funds for law enforcement agencies and victims and witnesses assistance programs through charges assessed on fines imposed for violation of local ordinances.

HISTORY: Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

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C.R.S. 24-4.2-110 (2015)

24-4.2-110. Applicability

The surcharge specified in [section 24-4.2-104](#) shall apply to offenses committed on or after January 1, 1985.

HISTORY: Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

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C.R.S. 24-4.2-111 (2015)

24-4.2-111. Repeal of article. (Repealed)

HISTORY: Source: L. 84: Entire article added, p. 664, § 22, effective July
1.L. 88: Entire section repealed, p. 320, § 3, effective July 1.