

HB1064 Updates

On May 28, 2019, HB-1064 went into effect. This bill eliminates the requirements that victims must “opt-in” to affect their post-sentencing rights, with the exception of probation.

What we know:

Victims will no longer have to opt in to:

- Receive notification that the offender is taken into custody, is released or discharged from jail, or escapes from a secure or non-secure correctional facility;
- Be informed that an offender is placed in or permanently transferred to a less secure facility;
- Receive notification that the offender has absconded from probation (all other probation VNOT remains opt-in);
- Be updated on the offender’s status while the offender is in Community Corrections;
- Be updated on the offender’s status while the offender is in DOC;
- Be updated on the offender’s status when the offender is sentenced to any state [mental health] hospital; and
- Be updated on the status of a cold case

DCJ staff have coordinated multiple meetings with staff from law enforcement, district attorney’s offices and post sentencing agencies to discuss how to implement HB-1064. DCJ is in the process of developing a Technical Assistance Document. Once it’s complete, it will be distributed to all agencies.

What can your agency do?

- Have conversations within your agency about how you’re going to implement the changes;
- Have conversations with collaborating agencies to determine how they can assist (i.e. victim contact information, referrals, distributing forms etc.);
- Create new brochures or update current brochure with inserts on the new VRA changes; or
- Develop new forms to help capture necessary victim information for notification

As of 10/22/19 update from DCJ

- DCJ legal counsel has advised that the bill is retroactive to 1/14/1993
 - Impacts: DOC has to contact 13,000 victims
 - SO- jail notifications- already have people in facilities- already notify upon release
 - Jails- example: people arrested before 5/29 and sentenced to jail- you’ll have to find victim and tell them they’ll be opted in when def. released.
 - PD/SO- cold cases- major impact
 - You determine what you consider to be a cold case
 - DCJ understands this may traumatize a victim who purposefully never opted in - not victim centered
 - DCJ asking legal counsel for what to do about cold cases- limbo right now
 - If victim initially opted out, that should still count- but if the victim never responded, was that their intent to opt out and should that count now? (unresolved until further guidance.)

COVA Blue Book Updates Additional to HB1064

Throughout- **HIV testing is now called STI testing**

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(mm) for harassment **or pecuniary gain**

a.7 **The decision to enter into a diversion agreement**

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(h) Any sentencing hearing **or resentencing hearing**

Page 29 (more detailed than pg. 11)

r.3 (I) Except as provided in subsection (2)(r.3)(II) any hearing concerning a **petition for expungement as described in section 19-1-306.**

(II) The entry of an order of expungement is not a critical stage if:

(A) The case resulted in a not guilty verdict at trial

(B) The case was dismissed in its entirety

(C) The juvenile completed a sentence for a petty offense, any drug petty offense, any level 1 or level 2 drug misdemeanor, or a class 2 or class 3 misdemeanor offense not involving unlawful sexual behavior as defined in section 16-22-109(9), domestic violence as described in section 18-6-800.3, or a crime that is listed under 24-4.1-302 (1) or

(D) The juvenile completed a sentence for a municipal offense not involving domestic violence as described in section 18-6-800.3