



**Fact Sheet: SB 20-088**

**EVIDENTIARY RULES WHEN A DEFENDANT INTERFERES WITH A WITNESS**

**Bill Concept:**

In U.S. law, hearsay testimony\* is generally inadmissible in court, but exceptions exist and laws vary by state.

Criminal defendants sometimes wrongfully prevent witnesses from testifying, thinking they will benefit because the knowledge that a witness has cannot be presented except by the witness herself.

Federal Rule of Evidence 804(b)(6) allows a witness's statements to be admitted without in-person testimony if the court finds a witness is unavailable due to the opposing party's wrongdoing. The criminal justice systems in 49 other states are consistent with this federal rule of evidence. Only Colorado does not automatically allow hearsay evidence when the opposing party has prevented a witness from testifying.

This bill will make the practice in Colorado courts consistent with the rest of the country.

\*Hearsay testimony occurs when a witness asserts as fact a statement that the witness heard from someone else. Hearsay puts the opposing party at a disadvantage because they cannot cross-examine the source of the statement.

**Rationale:**

Colorado Victims for Justice is a volunteer organization of crime victims and their families. We work to make the Colorado criminal justice system fairer for everyone.

Crime victims are also witnesses. In our collective experience, we have seen a variety of methods by which criminal defendants and their allies attempt to keep witnesses out of the courtroom. The most extreme method is murder. Less extreme but more common is intimidation. We have even been lied to and advised not to appear by persons who misrepresented themselves.

These tactics sometimes succeed in keeping damning evidence out of court. Put simply, the current system rewards barbarism and dishonesty!

Overhauling this aspect of the Colorado criminal justice system is long overdue.

**Recommendation:**

Members of Colorado Victims for Justice urge the General Assembly to pass this bill without delay.

**Contact:** Ray Harlan, Chairman, 303-755-4322, (cell) 303-903-8666, rayha2@icloud.com



Landon Gates <landon.gates@gmail.com>

**Fwd: For Rhonda in the SB20-88 hearing**

1 message

Landon Gates <landon@capitolfocusllc.com>  
To: Landon Gates <landon.gates@gmail.com>

Mon, Feb 10, 2020 at 2:36 PM

Landon Gates  
Capitol Focus LLC  
970.218.0284  
Sent from my iPhone

Begin forwarded message:

**From:** Sterling Harris <sterling@coloradocrimevictims.org>  
**Date:** February 10, 2020 at 1:06:46 PM MST  
**To:** Landon Gates <Landon@capitolfocusllc.com>  
**Subject:** For Rhonda in the SB20-88 hearing

*Hi Senator,  
Sterling can't stay for  
your bill to be heard this  
afternoon but we  
wanted to provide you  
with this statement of  
support if you want to use  
it as part of the hearing.*

Hi Landon,

Here is the email of support that we talked about giving Rhonda since we can't have someone testify tonight.

\*\*\*\*\*

Dear Senator Fields,

Please accept this message of support from the Colorado Organization for Victim Assistance (COVA) on SB20-88. We applaud this effort to make hearsay automatically admissible if the defendant prevented the witness from testifying. We've heard too many instances where defendants went to extreme lengths to prevent witnesses from testifying. It is unconscionable that present law does not allow statements to police to be used as evidence when witnesses are killed or intimidated into not testifying. COVA urges members of the Senate Judiciary Committee to pass SB20-088 to bring our state in line with the rest of the nation.

Sincerely,

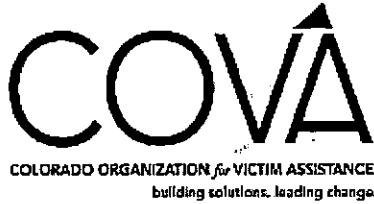
J

Sterling Harris

Chief Deputy Director

*She/her/hers*

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