

# SCAN OF ORIGINAL

## MEMORANDUM

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TO: Whom it May Concern

FROM: Linda Sanders, *Your Affiant*, State of Colorado, USA  
279 W. Jamison Cir. #53, Littleton CO 80120  
Telephone: 720 922 9443

RE: Case No. 98 CR 215 – People v. Harmon Wilfred (Criminal Procedure)  
Case No. 89 DR 477 – Wilfred v. Wilfred (Marriage Dissolution)

DATE: March 19, 2007

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### *Your Affiant:*

My name is Linda Sanders. I am over the age of 21, a resident of Arapahoe County, State of Colorado, United States, and state under the Penalty of Perjury, under the Laws of the United States, 28 USC 1746, that the following statements, and attached exhibits, are accurate, true and complete to the best of my knowledge.

I am a certified Paralegal under the laws of the state of Colorado with 16 years experience in all venues of law - State, Federal, Civil, Criminal, Appellate, and Administrative. My Colorado registered company, Equity Solutions, provides paralegal support, legal research, and investigations for law firms and individual pro se clients. The results of my research and investigations for the cases cited above are as follows:

### INTRODUCTION:

This memorandum will address the contradictions between the charges brought in the above-referenced case and the record against Harmon Wilfred. This memorandum will also provide the legal authority that voids the above-referenced record.

### FACTS:

The Colorado Bureau of Investigation<sup>1</sup> and subsequently, the Federal Bureau of Investigation, has a record on Mr. Wilfred purporting a history with a charge of alleged Failure to Appear, referencing a charge of Domestic Violence. The Failure to Appear Offence Date is listed as May 30, 2000. It is identified as Arapahoe County, Colorado arrest # 0006783, attached as *Exhibit 1*. When investigating the records pertaining to the May 30, 2000 incident, I discovered that the charge of Domestic Violence is reported in error. The correct charge for that date (May 30, 2000) is for Failure to Appear on August 8, 1997. See Court Docket Record, *Exhibit 2*. That failure to appear on August 8, 1997 was dismissed on May 30, 2000 because Mr. Wilfred promised to appear to address

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<sup>1</sup> 690 Kipling Street, #3000, Denver CO 80215 (303-239-4208)

questions regarding his financial status under Rule 69, re: Financial Examination in a Family Court Civil Action number 89 DR 477, (Sandra Wilfred v. Harmon Wilfred).

In fact, the record shows that there is not now, nor has there ever been, a charge of Domestic Violence served or brought against Mr. Wilfred.

The Charging Document on record referenced by the Colorado Bureau of Investigation relating to Arrest # 0006783 pertains to charges brought on January 14, 1998, and is attached as *Exhibit 3*. It must be noted that this charging document has nothing to do with a “failure to appear to answer to charges of domestic violence” as suggested by the erroneous record on file with the Colorado Bureau of Investigation and also with the Federal Bureau of Investigation<sup>2</sup>. An examination of the Charging Document dated January 14, 1998 reveals that it charges Mr. Wilfred with 2 *counts*<sup>3</sup>, but also cites 4 statutes. Two of the statutes are *charges* – and two of the statutes are merely *citations to sentencing laws* that have nothing to do with the charges identified in the “Information/Charging Document”. The exact language of the criminal charges are attached *Exhibit 4* and the citations are attached as *Exhibit 5*. A review of the two irrelevant *citations* explains how the Colorado Bureau of Investigation and the Federal Bureau of Investigation received false information regarding “domestic violence” regarding Mr. Wilfred. The citations are NOT crimes – but their appearance on the Information/charging document as “Domestic Violence” serves to create confusion and to provide police authorities with a pretext for arresting Mr. Wilfred should he ever appear in the relative jurisdiction again. If anyone had looked up the citations – it would have been impossible to characterize these statutes as “crimes” being charged.

#### INCONSISTENTENCIES IN CHARGING DOCUMENT:

The Charging Document’s case caption [*Exhibit 3*] in this case appears to have been deliberately and incorrectly customized to cite C.R.S. 18-6-801 and C.R.S. 16-21-103. The first statute (18-6-801) pertains only to sentencing after a conviction and the second statute (16-21-103) pertains to registration of convicted offenders of sexual abuse. No such charges – let alone convictions have ever taken place against Mr. Wilfred. The erroneous citation of these statutes has resulted in reporting false information against Mr. Wilfred. The only entity that could voluntarily correct the erroneous information is the El Paso County District Attorney. However, it was the El Paso County District Attorney’s Office that made the “mistake” in the first instance and requests to that office for a correction have not been fruitful due to what Mr. Wilfred describes as long standing political animosity between himself and the El Paso County District Attorney’s office. Mr. Wilfred blew the whistle on the El Paso County District Attorney’s alleged deliberate

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<sup>2</sup> One agency supplies the other – duplicating errors, if any. Here, the agency records mix up a failure to appear for an examination of financial status with an old – now void – charge of “extortion” and a violation of a “child custody” matter.

<sup>3</sup> Mr. Wilfred was involved in a contentious divorce in El Paso County Colorado where he made an offer through a professional mediator for equal custody of the children and an equal property settlement negotiated and drafted by the mediator. Her description of that written interaction to authorities resulted in the over-blown charge of “extortion.” Because Mr. Wilfred was a whistleblower against the El Paso County District Attorney in 1994-1995 for covering up the embezzlement of funds from its own county pension fund, his ex-wife’s complaints were exploited to serve the goal of revenge by the District Attorney’s office.

cover-up of an embezzlement scheme in 1994 and 1995 involving the El Paso County Pension Fund that when reported to the local FBI office by Mr. Wilfred, resulted in the imprisonment of the Pension Fund Administrator and the firing and fining of the County Treasurer and certain other pension fund board members. The only way Mr. Wilfred can vindicate his name against these erroneous citations on the charging document is to prove that no final disposition was ever entered for such crimes. That proof is provided by the Colorado Bureau of Investigation record, *Exhibit 1*.

*CONVICTIONS:*

Mr. Wilfred was never convicted as charged. He suffers only a judgment in a *civil* matter for unpaid child support.

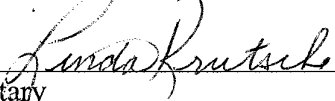
*STATUTE OF LIMITATIONS:*

The charges brought against Mr. Wilfred, (C.R.S. 18-3-207(1) and C.R.S. 18-3-304(2)) cited above, are expired, pursuant to C.R.S. 24-60-501. Additionally, the Speedy Trial statute has precluded prosecuting on the charges brought under 98 CR 215, Rule 48, Uniform Rules of Criminal Procedure, State of Colorado.

Signed:   
Linda Sanders March 19, 2007

State of Colorado  
County of Arapahoe

The foregoing Memorandum was sworn to and subscribed before me, a Notary for the State of Colorado, on March 19, 2007. Witness my Hand and Official Seal.

 Commission Expires: 3/3/2010  
Notary Commission Expires

HDR/2101983481141  
DATN/ISIS000300001912813698348115

ATTENTION: ISIS000300001912813698348115  
COLORADO BUREAU OF INVESTIGATION - CRIME INFORMATION CENTER  
590 KIPLING STREET, #3000, DENVER, COLORADO 80215 303/239-4208

THIS IDENTIFICATION RECORD, FOR LAWFUL USE ONLY, SUMMARIZES INFORMATION SENT TO THE CBI BY FINGERPRINT CONTRIBUTORS IN COLORADO. WHERE THE DISPOSITION IS NOT SHOWN OR FURTHER EXPLANATION OF A CHARGE OR DISPOSITION IS DESIRED, CONTACT THE AGENCY THAT FURNISHED THE FINGERPRINTS. ONLY THE COURT OR DISTRICT ATTORNEY IN WHOSE OFFICE A FINAL DISPOSITION OCCURRED CAN PROVIDE A CERTIFIED COPY OF THAT DISPOSITION. STATE LAW GOVERNS ACCESS TO SEALED RECORDS. UNLESS FINGERPRINTS ACCOMPANIED YOUR INQUIRY, WE CANNOT GUARANTEE THIS RECORD RELATES TO THE PERSON IN WHOM YOU HAVE AN INTEREST. BECAUSE ADDITIONS AND DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

COLORADO STATE ID #: 1254046 FBI#: 85887NB9 MULTI STATE OFFENDER

NAME(S) USED: WILFRED, HARMON LYNN  
052600 WILFRED, HARMON

PHYSICAL: W M 509 175 BRO/BLU SKIN:

DATE(S) OF BIRTH: 052949

PLACE(S) OF BIRTH: KY

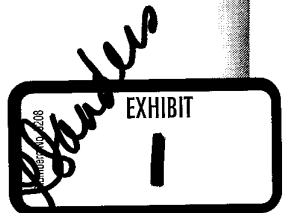
SOCIAL SECURITY NO(S): 283484497

COMMENTS: APIS LIVESTCAN MASTER

ORI / CONTRIBUTOR	NAME / DATE	CHARGE /
ARREST# / CASE#	/ MNU	DISPOSITION
CO0210100	WILFRED,	CRIMES AGAINST PERSON-SEE MIS
COLORADO SPRINGS PO	HARMON LYNN	VIOLATION OF CUSTODY
LICE DEPARTMENT	DATE - 04/05/00	FELONY
ARREST # 200006134	MNU:OA-860194	ITEM #001/004
CO0210100	WILFRED,	EXTORTION
COLORADO SPRINGS PO	HARMON LYNN	CRIMINAL EXTORTION
LICE DEPARTMENT	DATE - 04/05/00	FELONY
ARREST # 200006134	MNU:OA-860194	ITEM #002/004
CODPD0000	WILFRED,	FUGITIVE OTHER JURISDICTION
PD DENVER	HARMON	ARAPAHOE COUNTY
ARREST # 1202940	DATE - 05/26/00	MISDEMEANOR
		ITEM #003/004
CO0030000	WILFRED,	FAILURE TO APPEAR-SEE MIS
ARAPAHOE COUNTY SHE	HARMON LYNN	DOMESTIC VIOLENCE
RIFF - CENTENNIAL	DATE - 05/30/00	OFFENSE DATE: 05/30/00
ARREST # 0006783		ITEM #004/004



ADDITIONAL



INTEGRATED COLORADO ONLINE NETWORK (ICON)

Status: WISS CLSD District Court, Arapahoe County  
 Case #: 1989 DR 000477 Div/Room: 404 Type: Dissolution of Marriage  
 WILFRED, SANDRA A and WILFRED, HARMON L

Case File Date: 3/03/1989 Case Close Date: 12/27/2000 Appealed: N  
 Confidential Intermediary.....:

Judicial Off....:	Bar #	Name			
Alt Jud Officer:	012024	JUANITA LEAH RICE			
	000000				
	Description		Stat Date	Time	Rm/D
Trial.....:				0:00	
Next Schd Event:				0:00	
Last Schd Event:	Review		HELD 7/23/2001	6:30 A	
Last Event.....:	Order		n/a 5/23/2002		

Attorney(s).....: Y +

Decree.....:	Date:
Child Support Order:	Date:
Maintenance Order...:	Date:
Paid Through.....:	
Mediation.....: Y	
Response Filed.....:	Date:
Service.....: RS	Date: 11/22/1999
Waiver.....:	Date:
IV-D Case.....: N	
Children.....: N	

----- PARTIES -----

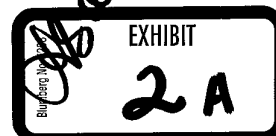
PARTY	ROL	STS	NAME	ATTORNEY	ROL
PET	1		WILFRED, SANDRA A	EDINBURG, ELAINE G	AAC
RSP	1		WILFRED, HARMON L	SEGALL, STEVEN MARTIN et al	AAC

Date of Birth.....: 05/29/1949  
 Sex.....: Male  
 Race.....: Caucasian  
 Home Phone.....: (719) 475-9048  
 Height.....: 509  
 Weight.....: 175  
 Hair Color.....: Brown  
 Eye Color.....: Blue  
 Home Address.....: 31 N. TEJON #320  
 : COLO SPRINGS, CO

RSP 2 CITY SAVINGS BANK FSB

P ALLEN, SANDRA A

FILE DATE	EVENT DESCRIPTION	Event ID:	E-Filed:
12/14/1994	Case Closed Conversion Only	000014	E-Filed:
12/15/1994	(CNVA) Description not on file	000001	E-Filed:
	SANDRA A WILFRED		
	HARMON L WILFRED		
12/15/1994	(CNVB) Description not on file	000002	E-Filed:
12/15/1994	(CNVC) Description not on file	000003	E-Filed:



FILE DATE	SCHEDULED EVENT DESCRIPTION	SCHD DATE	TIME	ROOM	PRI
	Officer: JACK FREDERICK SMITH		Length: 15.00	Minute(s)	
	Status.: VACT-Vacated		Note..: ADVIS		
03/02/2000	Filing Other		Event ID: 000068	E-Filed: N	
FLG: 04/12/2000	ORDER TO ISSUE CITATIN SIGNED 1-31-00 BY JFS.				
	CONTEMPT CITATION ISSUED 3-2-00 BY SANDY KLOSS. SENT TO FAMILY SUPPORT.			/SLK	
04/12/2000	Minute Order (print)		Event ID: 000069	E-Filed: N	
	CASE WAS VACATED DUE TO NON SERVICE			/MH	
05/08/2000	Motion to Withdraw		Event ID: 000070	E-Filed: N	
	RSP/ WILFRED, HARMON L				
FROM EDWARD DALE PARRISH	OBO RESPONDENT			/JMJ	
05/08/2000	Notice Filed		Event ID: 000071	E-Filed: N	
	PET/ WILFRED, SANDRA A				
OF REQUEST TO WITHDRAW				/JMJ	
05/15/2000	Review	06/08/2000	06:35 AM	2	
	Officer: JACK FREDERICK SMITH		Length: 1.00	Hour(s)	
			Note..: MTNWDRAW		
05/16/2000	Motion		Event ID: 000073	E-Filed: N	
	TO DISMISS CONTEMPT CITATION WITHOUT PREJUDICE			/JMJ	
05/17/2000	Motion and Order		Event ID: 000072	E-Filed: N	
	PEOPLE'S MTN TO DISMISS CONTEMPT CITATION W/OUT PREJUDICE FILED IN DIV 2 TO JF S			/MH	
05/18/2000	Minute Order (print)		Event ID: 000079	E-Filed: N	
	MOTION				
	JDG:JF SMITH				
	ORDER: RE ORDER TO DISMISS CONTEMPT CITATION W/OUT PREJUDICE. THE CONTEMPT CITATION ISSUED 3/2/00 IS DISMISSED W/OUT PRUJUDICE				
	CC: DA CSE				
	MTN FILED			/MH	
<del>05/30/2000</del>	<del>Warrant Quashed</del>		<del>Event ID: 000074</del>	<del>E-Filed: N</del>	
	<del>Related Event WETA Warrant- Failure to Appear</del>		<del>08/08/1997</del>		
05/30/2000	Minute Order (print)		Event ID: 000075	E-Filed: N	
	FORTHWITH				
	JUDGE P SCHWARTZ				
	CLERK E VAN ALPHEN				
	PRESENT: DDA L BOWLING, RESPONDENT PRO-SE IN CUSTODY				
	ORDER: BENCH WARANT QUASHED. BOND SET AT \$750,000.000 PR. RESP IS TO APPEAR				
	<del>6-29-00 AT 3:00 IN DIV M</del>			/EVA	
05/30/2000	Filing Other		Event ID: 000076	E-Filed: N	
	BOND INFORMATION SHEET			/EVA	
05/30/2000	Hearing	05/30/2000	04:00 PM	M	
	Officer: PATRICIA ANN SCHWARTZ		Length: 1.00	Hour(s)	
	Status.: HELD-Hearing Held		Note..: FORTHWITH		
06/02/2000	Return of Service on Warrant		Event ID: 000077	E-Filed: N	
	Related Event WFTA Warrant- Failure to Appear			08/08/1997	
06/08/2000	Minute Order (print)		Event ID: 000078	E-Filed: N	
	MOTION				
	JUDGE JF SMITH				
	ORDER RE MOTION FOR LEAVE TO WITHDRAW				
	ORDER: THE COURT HEREBY ORDERS THAT EDWARD DALE PARRISH, P.C. BE PERMITTED TO WITHDRAW FROM THE WITHIN MATTER.				
	CC MARIA T. SCHAEFER, ESQ.				
	MOTION FILED			/DC	
06/12/2000	Rule 69 Hearing	06/29/2000	03:00 PM	M	
	Officer: PATRICIA ANN SCHWARTZ		Length: 1.00	Hour(s)	
	Status.: HELD-Hearing Held		Note..: RULE 69		

*Handwritten:* Orders

**EXHIBIT**  
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DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO

CASE NO. 89DR477 DIVISION M

INFORMATION REGARDING BOND

PEOPLE OF THE STATE OF COLORADO, PLAINTIFF,

v. Harman Wilfred, DEFENDANT.

CHARGES: ETA for Rule 69

BOND AMOUNT: \$750,000

TYPE OF BOND:  P.R.  CASH/PROPERTY/SURETY  CASH ONLY

CONDITIONS OF BOND:

CO-SIGNED BY: \_\_\_\_\_

PRETRIAL RELEASE SUPERVISION

OTHER: Resp may leave State of Colorado and U.S.A. while on bond

BOND TO BE APPLIED TO:  RESTITUTION  FINE  FEES  COSTS

BOND DISCHARGED

SURETY RELEASED BONDSMAN/SURETY: \_\_\_\_\_

OTHER: \_\_\_\_\_

RETURNABLE IN DIVISION M ON 6-29-00 AT 11<sup>00</sup> a.m./p.m.

5-30-00  
DATE

[Signature]  
~~DEPARTMENT CLERK/BAILIFF~~  
Magistrate



20  
EXHIBIT  
2c

DISTRICT COURT, EL PASO COUNTY, COLORADO  
Case No. 98CR 215 Division 9

INFORMATION DOMESTIC VIOLENCE C.R.S 18-6-801 and 16-21-103  
FILED IN DISTRICT COURT  
EL PASO COUNTY, COLORADO

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,

JAN 14 1998 EC

v.

HARMON LYNN WILFRED, Defendant(s).

The District Attorney, representing the People of the State of Colorado, accuses the Defendant of committing the following offense(s):

COUNT ONE: CRIMINAL EXTORTION (F-4)

Between November 22, 1997 and December 5, 1997, HARMON LYNN WILFRED did unlawfully, feloniously and without legal authority and with the intent to induce DEARNA WILFRED against her will to perform an act and to refrain from performing a lawful act, make a substantial threat to confine and restrain, DANIELLE MARIE WILFRED and ISSAC ARTHUR WILFRED, and HARMON LYNN WILFRED did threaten to cause the results by performing and causing an unlawful act to be performed; In violation of Colorado Revised Statutes 18-3-207(1), as amended, Criminal Extortion (F-4)

COUNT TWO: VIOLATION OF CUSTODY (F-5)

On or about October 15, 1997, HARMON LYNN WILFRED did unlawfully, knowingly and feloniously violate an order of a District Court and Juvenile Court of the State of Colorado, to-wit: Case Number 97DR3393, dated October 15, 1997 and October 20, 1997, granting the custody of DANIELLE MARIE WILFRED and ISSAC ARTHUR WILFRED, a child under the age of eighteen years to DEARNA WILFRED, with the intent to deprive the said lawful custodian of the custody of the child; In violation of Colorado Revised Statutes 18-3-304(2), as amended, Violation of Custody (F-5)





Page 2  
INFORMATION  
People v. Wilfred

Case No. 98CR

Each foregoing offense was committed in, and is triable in, El Paso County, Colorado.

JEANNE M. SMITH, #11053, DISTRICT ATTORNEY

*Laura D. Poff* 5896  
By: Deputy District Attorney

AFFIDAVIT

El Paso County, Colorado

(See the Supplemental Affidavit filed with this information if an arrest warrant is requested)

I, PAYTON PATTERSON 417 as investigating peace officer, state under oath that I have personal knowledge that each offense set forth in this information was committed as charged.

Agency COLORADO SPRINGS POLICE DEPARTMENT  
Agency Case No. 9736998

*Payton Patterson 417A*  
Affiant

On this date, I witnessed the affiant sign this affidavit and swear under oath to the truth of the statements it contains.

SEAL )

01-08-98  
Date

*Deborah J. Gross*  
Notary Public  
My commission expires: 10-17-00

*Standen*  
EXHIBIT  
36

First Charge:

18-3-207. Criminal extortion - aggravated extortion.

(1) A person commits criminal extortion if:

(a) The person, without legal authority and with the intent to induce another person against that other person's will to perform an act or to refrain from performing a lawful act, makes a substantial threat to confine or restrain, cause economic hardship or bodily injury to, or damage the property or reputation of, the threatened person or another person; and

(b) The person threatens to cause the results described in paragraph (a) of this subsection (1) by:

(I) Performing or causing an unlawful act to be performed; or

(II) Invoking action by a third party, including but not limited to, the state or any of its political subdivisions, whose interests are not substantially related to the interests pursued by the person making the threat.

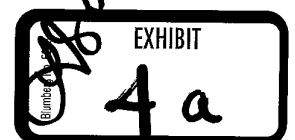
Second Charge:

18-3-304. Violation of custody order or order relating to parental responsibilities.

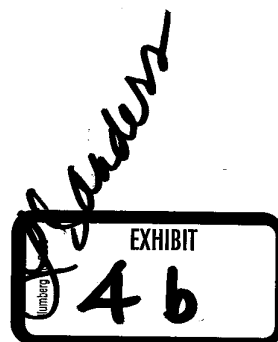
(1) Except as otherwise provided in subsection (2.5) of this section, any person, including a natural or foster parent, who, knowing that he or she has no privilege to do so or heedless in that regard, takes or entices any child under the age of eighteen years from the custody or care of the child's parents, guardian, or other lawful custodian or person with parental responsibilities with respect to the child commits a class 5 felony.

(2) Except as otherwise provided in subsection (2.5) of this section, any parent or other person who violates an order of any district or juvenile court of this state, granting the custody of a child or parental responsibilities with respect to a child under the age of eighteen years to any person, agency, or institution, with the intent to deprive the lawful custodian or person with parental responsibilities of the custody or care of a child under the age of eighteen years, commits a class 5 felony.

(2.5) Any person who, in the course of committing the offenses described in subsections (1) and (2) of this section, removes a child under the age of eighteen years from this country commits a class 4 felony.



(3) It shall be an affirmative defense either that the offender reasonably believed that his conduct was necessary to preserve the child from danger to his welfare, or that the child, being at the time more than fourteen years old, was taken away at his own instigation without enticement and without purpose to commit a criminal offense with or against the child.



18-6-801. Domestic violence - sentencing.

(1) (a) In addition to any sentence that is imposed upon a person for violation of any criminal law under this title, any person who is convicted of 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 18-6-800.3 (1), or any crime against property, whether or not such crime is a felony, when such crime is used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship, shall be ordered to complete a treatment program and a treatment evaluation that conform with the standards adopted by the domestic violence management treatment board as required by section 16-11.8-104, C.R.S. If an intake evaluation conducted by an approved treatment program provider discloses that sentencing to a treatment program would be inappropriate, the person shall be referred back to the court for alternative disposition.

(b) The court may order a treatment evaluation to be conducted prior to sentencing if a treatment evaluation would assist the court in determining an appropriate sentence. The person ordered to undergo such evaluation shall be required to pay the cost of the treatment evaluation. If such treatment evaluation recommends treatment, and if the court so finds, the person shall be ordered to complete a treatment program that conforms with the standards adopted by the domestic violence management board as required by section 16-11.8-104, C.R.S.

(c) Nothing in this subsection (1) shall preclude the court from ordering domestic violence treatment in any appropriate case.

(2) Subsection (1) of this section shall not apply to persons sentenced to the department of corrections.

(3) A person charged with the commission of a crime, the underlying factual basis of which includes an act of domestic violence as defined in section 18-6-800.3 (1), shall not be entitled to plead guilty or plead nolo contendere to an offense which does not include the domestic violence designation required in section 16-21-103, C.R.S., unless the prosecuting attorney makes a good faith representation on the record that such attorney would not be able to establish a prima facie case that the person and the alleged victim were currently or formerly involved in an intimate relationship if the defendant were brought to trial on the original domestic violence offense and upon such a finding by the court. The prosecuting attorney's record and the court's findings shall specify the relationship in the alleged domestic violence case



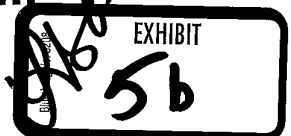
which the prosecuting attorney is not able to prove beyond a reasonable doubt and the reasons therefor. No court shall accept a plea of guilty or nolo contendere to an offense which does not include the domestic violence designation required in section 16-21-103, C.R.S., when the facts of the case indicate that the underlying factual basis includes an act of domestic violence as defined in section 18-6-800.3 (1) unless there is a good faith representation by the prosecuting attorney that he or she would be unable to establish a prima facie case if the defendant were brought to trial on the original offense.

(4) No person accused or convicted of a 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 18-6-800.3 (1), shall be eligible for home detention in the home of the victim pursuant to section 18-1.3-105 or 18-1.3-106 or for deferred prosecution pursuant to section 18-1.3-101. Nothing in this subsection (4) is intended to prohibit a court from ordering a deferred sentence for a person accused or convicted of a 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 18-6-800.3 (1).

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

(6) Nothing in this section shall preclude the ability of a municipality to enact concurrent ordinances.

(7) In the event a person is convicted in this state on or after July 1, 2000, of any offense which would otherwise be a misdemeanor, 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 18-6-800.3 (1), and that person has been three times previously convicted, upon charges separately brought and tried and arising out of separate and distinct criminal episodes, of a felony or misdemeanor or municipal ordinance violation, the underlying factual basis of which was found by the court on the record to include an act of domestic violence, the prosecuting attorney may petition the court to adjudge the person an habitual domestic violence offender, and such person shall be convicted of a class 5 felony. If the person is adjudged an habitual domestic violence offender, the court shall sentence the person pursuant to the presumptive range set forth in section 18-1.3-401 for a class 5 felony. The former convictions and judgments shall be set forth in apt words in the indictment or information.



16-21-103. Information on offenders required - duties of law enforcement agencies - court.

(1) (a) For purposes of this section, unless the context otherwise requires:

(I) "Act of domestic violence" has the same meaning as set forth in section 18-6-800.3 (1), C.R.S.

(II) "Arrest number" means a number that shall be assigned by the arresting agency to an arrest of the arrestee.

(III) "Bureau" means the Colorado bureau of investigation.

(III.3) "CICJIS" means the Colorado integrated criminal justice information system program, as defined in section 16-20.5-102.

(III.5) "Electronic signature" means information transferred from one agency to another through CICJIS, including but not limited to warrants, mittimus, judgments, and plea agreements.

(III.7) "ICON" means the integrated Colorado online network, as defined in section 16-20.5-102.

(IV) "Sexual offense" means crimes described in article 3 of title 18, C.R.S., and crimes described in articles 6 and 7 of title 18, C.R.S.

(V) "State identification number" means the number assigned to an offender by the bureau based on fingerprint identification.

(b) The requirements of this section are intended to complement the rules of criminal procedure and shall not be interpreted to conflict with or supersede any such rules.

(2) (a) A law enforcement agency that requests the filing of any criminal case shall submit to the district attorney the arresting agency's name, the offender's full name and date of birth, the charge or charges being requested, the investigating agency's case number, and the date of arrest and the arrest number. In addition, the law enforcement agency shall submit to the district attorney any relevant information about the offender's affiliation or association with gangs or gang activities.

(b) In addition to the information described in paragraph (a) of this subsection (2), a law enforcement agency shall comply with the following procedures:

(I) When requesting the filing of any felony, misdemeanor, or petty offense, criminal charge, or a violation of a municipal ordinance, the factual basis of which includes an act of domestic violence or a



sexual offense, the law enforcement agency shall submit to the prosecuting attorney the information set forth in this subsection (2).

(II) If a law enforcement agency directly issues a complaint, summons, or summons and complaint for the charges described in subparagraph (I) of this paragraph (b), the agency shall identify on the face of such document whether the factual basis for the charge or charges includes an act of domestic violence or a sexual offense.

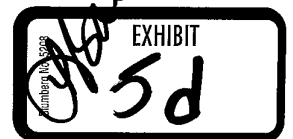
(3) A district attorney who files any criminal case with the court or who reports to the bureau a final disposition occurring in the district attorney's office shall submit the arresting agency's name, the offender's full name and date of birth, the investigating agency's case number, the date of arrest and the arrest number, and any other information that a law enforcement agency is required to submit in accordance with subsection (2) of this section.

(4) (a) Upon the issuance of a warrant of arrest, the court shall notify the sheriff of the county in which the court is located of the issuance of such warrant. When the court withdraws, cancels, quashes, or otherwise renders a warrant of arrest invalid, the court shall immediately notify the bureau of such action in a manner that is consistent with procedures established jointly by the state court administrator and the director of the bureau.

(b) When the court creates a new criminal case in ICON, the court shall electronically notify the bureau of such action and shall provide the bureau with the arresting agency's name, the arrest date, and the arrest number provided to the court in accordance with subsection (3) of this section. Thereafter, the bureau shall electronically notify the court of the state identification number, if any, assigned to the offender.

(c) The court shall report the final disposition concerning an offender to the bureau in a form that is electronically consistent with applicable law. The report shall be made within seventy-two hours after the final disposition, except that the time period shall not include Saturdays, Sundays, or legal holidays. The report shall include the information provided to the court in accordance with subsection (3) of this section, the disposition of each charge, and the court case number, and, with respect to any charge, the factual basis of which includes an act of domestic violence or a sexual offense, the court and the bureau shall comply with the following procedures:

(I) The court shall advise the bureau to reflect the change of the status of domestic violence or sexual offense if the defendant is found not guilty of the alleged crime or if the case is dismissed.



(II) The court shall specify that there is a change in the status of the charge originally submitted to the bureau in accordance with paragraph (b) of this subsection (4), based upon the court's findings.

(III) The bureau shall reflect the change of status but shall not delete or eliminate information concerning the original charge.

(5) (a) The bureau shall maintain the information it receives pursuant to this article and shall make such information immediately available electronically to the department of corrections and to any other criminal justice agency upon request.

(b) Upon receipt of the fingerprints required pursuant to this article, the bureau shall perform a complete search of the bureau's files to identify any prior criminal record that the offender may have. Upon the association of a unique state identification number with any such offender, the bureau shall report such number electronically to CICJIS, the submitting agency, and the district attorney with jurisdiction over the offense. Upon nonassociation, the bureau shall create a new state identification number and electronically report the number to CICJIS and the submitting agency. Upon receipt of the number, CICJIS shall electronically report the number to the court and the district attorney with jurisdiction over the offense.

(6) The information received by the bureau pursuant to this article shall be made available to any sentencing court, probation office, or other pretrial services agency preparing a report on domestic violence or sexual offense cases.

