

HB1162_L.009

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB14-1162 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, amend 19-5-105.5
4 as follows:

5 **19-5-105.5. Termination of parent-child legal relationship**
6 **upon a finding that the child was conceived as a result of sexual**
7 **assault - legislative declaration - definitions.** (1) The general assembly
8 hereby declares that the purpose of this statute is to protect the victim of
9 a sexual assault and to protect the child conceived as a result of that
10 sexual assault by ~~terminating~~ CREATING A PROCESS TO SEEK TERMINATION
11 OF the parental rights of the perpetrator of the sexual assault and by
12 issuing protective orders preventing future contact between the parties.
13 The general assembly further declares that this section creates civil
14 remedies and is not created to punish the perpetrator but rather to protect
15 the interests of the child and the victim of a sexual assault.

16 (2) As used in this section, unless the context otherwise requires:

17 (a) "Convicted" or "conviction" has the same meaning as defined
18 in section 19-1-103 (29.3).

19 (a.5) "DISABILITY" MEANS:

20 (I) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY
21 LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES; OR

22 (II) A RECORD OF A PHYSICAL OR MENTAL IMPAIRMENT THAT
23 SUBSTANTIALLY LIMITED A MAJOR LIFE ACTIVITY.

24 (b) "Sexual assault" has the same meaning as defined in section
25 19-1-103 (96.5).

26 (c) "Victim" has the same meaning as defined in section 19-1-103
27 (112) (b).

28 (3) If a child was conceived as a result of an act that led to the
29 parent's conviction for sexual assault or for a conviction in which the
30 underlying factual basis was sexual assault, the victim of the sexual
31 assault or crime may file a petition in the juvenile court to prevent future
32 contact with the parent who committed the sexual assault and to terminate
33 the parent-child legal relationship of the parent who committed the sexual
34 assault or crime.

35 (4) The verified petition filed under this section must allege that:

36 (a) The other parent was convicted on or after July 1, 2013, of an
37 act of sexual assault against the victim or convicted of a crime in which



1 the underlying factual basis was sexual assault against the victim;
2 (b) A child was conceived as a result of the act of sexual assault
3 or crime described under paragraph (a) of this subsection (4); and
4 (c) Termination of the parent-child legal relationship of the other
5 parent with the child is in the best interests of the child.
6 (4.5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS
7 SECTION, THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE
8 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE
9 PURPOSE OF THE PROCEEDING IS WHETHER TO TERMINATE THE
10 PARENT-CHILD LEGAL RELATIONSHIP OF THE PERSON AGAINST WHOM THE
11 PETITION IS FILED. THE PETITIONER SHALL HAVE THE RESPONDENT
12 PERSONALLY SERVED WITH A COPY OF THE SUMMONS OR NOTIFIED
13 THROUGH NOTICE BY PUBLICATION CONSISTENT WITH THE STATUTORY
14 PROVISIONS FOR NOTICE IN SECTION 19-3-503 AND PURSUANT TO THE
15 COLORADO RULES OF CIVIL PROCEDURE, UNLESS THE RESPONDENT
16 APPEARS VOLUNTARILY OR WAIVES SERVICE. THE COURT SHALL PROTECT
17 THE WHEREABOUTS OF THE PETITIONER AND MUST IDENTIFY THE
18 PETITIONER AND THE CHILD IN THE SUMMONS BY INITIALS.
19 (5) After a petition has been filed pursuant to this section, the
20 court may appoint a guardian ad litem, who must be an attorney, to
21 represent the child's best interests in the proceeding. ~~A~~ THE petitioner ~~has~~
22 AND THE RESPONDENT HAVE the right to be represented by legal counsel
23 in proceedings under this section. ~~and has~~ THE PETITIONER AND THE
24 RESPONDENT EACH HAVE the right to seek the appointment of legal
25 counsel if ~~the petitioner~~ HE OR SHE is unable financially to secure legal
26 counsel on his or her own. THE COURT SHALL WAIVE FILING FEES FOR
27 INDIGENT PETITIONERS.
28 (b) THE COURT WILL WORK TO ENSURE THAT A PETITIONER OR A
29 RESPONDENT WHO HAS A DISABILITY HAS EQUAL ACCESS TO PARTICIPATE
30 IN THE PROCEEDING. IF THE PETITIONER OR RESPONDENT HAS A
31 DISABILITY, HE OR SHE HAS THE RIGHT TO REQUEST REASONABLE
32 ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THE PROCEEDING; EXCEPT
33 THAT THE DISABILITY OF THE PETITIONER, THE RESPONDENT, OR THE CHILD
34 SHALL NOT BE THE CAUSE FOR THE UNNECESSARY DELAY OF THE PROCESS.
35 THE COURT SHALL PRESUME THAT A PETITIONER OR A RESPONDENT WITH
36 A DISABILITY IS LEGALLY COMPETENT AND ABLE TO UNDERSTAND AND
37 PARTICIPATE IN THE PROCEEDING UNLESS THE PETITIONER OR RESPONDENT
38 IS DETERMINED TO BE AN INCAPACITATED PERSON, AS DEFINED IN SECTION
39 15-14-102 (5), C.R.S.
40 (6) In any proceeding held under this section, THE COURT MAY
41 GRANT PROTECTIVE MEASURES IN THE COURTROOM AS REQUESTED BY THE



1 VICTIM, INCLUDING BUT NOT LIMITED TO ALLOWING the victim is ~~not~~
2 ~~required~~ to NOT appear in the presence of the other parent, and SO LONG
3 AS THESE MEASURES DO NOT VIOLATE DUE PROCESS. The victim's and the
4 child's whereabouts must be kept confidential.

5 (6.5) A PERSON AGAINST WHOM A PETITION HAS BEEN FILED MAY
6 ADMIT PARENTAGE OR MAY REQUEST GENETIC TESTING OR OTHER TESTS
7 OF INHERITED CHARACTERISTICS TO CONFIRM PATERNITY. THE TEST
8 RESULTS SHALL BE ADMITTED INTO EVIDENCE AS PROVIDED IN SECTION
9 13-25-126, C.R.S. THE FINAL COSTS FOR GENETIC TESTS OR OTHER TESTS
10 OF INHERITED CHARACTERISTICS SHALL BE ASSESSED AGAINST THE
11 NONPREVAILING PARTY ON THE PARENTAGE ISSUE.

12 (6.7) THE COURT SHALL HEAR A PETITION TO TERMINATE THE
13 PARENT-CHILD LEGAL RELATIONSHIP NO MORE THAN ONE HUNDRED
14 TWENTY DAYS AFTER SERVICE OF THE PETITION OR FROM THE FIRST
15 APPEARANCE DATE, WHICHEVER IS LATER, UNLESS BOTH PARTIES CONSENT
16 TO AN EXTENSION OR THE COURT FINDS GOOD CAUSE TO EXTEND THE
17 HEARING BEYOND ONE HUNDRED TWENTY DAYS.

18 (7) The court shall terminate the parent-child legal relationship of
19 the person against whom the petition is filed if the court finds by clear
20 and convincing evidence, AND STATES THE REASONS FOR ITS DECISION,
21 that:

22 (a) The parent was convicted on or after July 1, 2013, of an act of
23 sexual assault against the victim or was convicted of a crime in which the
24 underlying factual basis was sexual assault against the victim;

25 (b) A child was conceived as a result of that act of sexual assault
26 or crime AS EVIDENCED BY THE RESPONDENT ADMITTING PARENTAGE OR
27 GENETIC TESTING ESTABLISHING THE PATERNITY; and

28 (c) Termination of the parent-child legal relationship is in the best
29 interests of the child. There is a rebuttable presumption that terminating
30 the parental rights of the parent who committed the act of sexual assault
31 or crime is in the best interests of the child. THE COURT SHALL NOT
32 PRESUME THAT HAVING ONLY ONE REMAINING PARENT IS CONTRARY TO
33 THE CHILD'S BEST INTERESTS.

34 (7.3) IF THE CHILD IS AN INDIAN CHILD, THE COURT SHALL ENSURE
35 COMPLIANCE WITH THE FEDERAL "INDIAN CHILD WELFARE ACT", 25
36 U.S.C. SEC. 1901 ET SEQ., AND THE PROVISIONS OF SECTION 19-1-126.

37 (7.5) IF THE COURT DENIES THE PETITION TO TERMINATE THE
38 PARENT-CHILD LEGAL RELATIONSHIP, THEN THE COURT SHALL ARTICULATE
39 ITS REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE
40 PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO
41 ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL



1 RESPONSIBILITIES BETWEEN THE PARTIES, INCLUDING BUT NOT LIMITED TO
2 AN ORDER TO NOT ALLOCATE PARENTAL RESPONSIBILITIES TO THE OTHER
3 PARENT. IN ISSUING ANY ORDER ALLOCATING PARENTAL RESPONSIBILITIES,
4 INCLUDING THE DUTY OF SUPPORT, GUARDIANSHIP, AND PARENTING TIME
5 PRIVILEGES WITH THE CHILD OR ANY OTHER MATTER, THE COURT SHALL
6 DETERMINE WHETHER THE ORDER IS IN THE BEST INTERESTS OF THE CHILD
7 BASED ON A PREPONDERANCE OF THE EVIDENCE.

8 (8) (a) A person whose parental rights are terminated in
9 accordance with this section has:

10 (I) No right to allocation of parental responsibilities, including
11 parenting time and decision-making responsibilities for the child;

12 (II) No right of inheritance from the child; and

13 (III) No right to notification of, or standing to object to, the
14 adoption of the child.

15 (b) Termination of parental rights under subsection (7) of this
16 section does not relieve the person of any obligation to pay child support
17 or birth-related costs unless waived by the victim. In cases in which child
18 support obligations are not waived, and THE COURT, AS INFORMED BY THE
19 WISHES OF THE PETITIONER, SHALL DETERMINE IF ENTERING AN ORDER TO
20 PAY CHILD SUPPORT IS IN THE BEST INTERESTS OF THE CHILD. If the court
21 orders the person to pay child support, the court shall order the payments
22 to be made through the child support registry to avoid the need for any
23 contact between the parties AND ORDER THAT THE PAYMENTS BE TREATED
24 AS A NONDISCLOSURE OF INFORMATION CASE. If the victim's parent-child
25 legal relationship to the child is terminated after the entry of a child
26 support order against the person who was convicted, the court shall
27 modify the child support order accordingly.

28 (9) The person whose parent-child legal relationship has been
29 terminated in accordance with this section has no right to make medical
30 treatment decisions or any other decisions on behalf of the child.

31 (9.5) THE COURT MAY ORDER THE PERSON WHOSE PARENT-CHILD
32 LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE MEDICAL AND
33 FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS APPROPRIATE,
34 AND WITH THE PETITIONER IN A WAY THAT PROTECTS THE CHILD FROM
35 KNOWING THE NAME OF THE PERSON. FOR TERMINATIONS ENTERED UNDER
36 THIS SECTION AND SECTION 19-5-105.7, THE STATE COURT
37 ADMINISTRATOR SHALL ESTABLISH A UNIFORM PROCESS TO DETERMINE
38 HOW THE INFORMATION IS COLLECTED, WHO CAN ACCESS IT, WHEN IT CAN
39 BE ACCESSED, AND HOW IT IS STORED. THE COURT MAY ORDER THAT A
40 PERSON'S FAILURE TO COMPLY WITH THE REQUEST FOR INFORMATION IN A
41 TIMELY MANNER CONSTITUTES CONTEMPT OF COURT.

1 (10) ~~The victim is entitled, upon request, to a no-contact~~
2 ~~protection order issued against the person whose parental rights are~~
3 ~~terminated prohibiting the person from having any contact with either the~~
4 ~~victim or the child~~ THE JUVENILE COURT HAS ORIGINAL CONCURRENT
5 JURISDICTION TO ISSUE A TEMPORARY OR PERMANENT CIVIL PROTECTION
6 ORDER PURSUANT TO SECTION 13-14-104.5 OR 13-14-106, C.R.S.

7 (11) Termination of the parent-child legal relationship pursuant
8 to subsection (7) of this section is an independent basis for termination of
9 parental rights, and the court need not make any of the considerations or
10 findings described in section ~~19-5-105, 19-5-103.5, or 19-3-604~~
11 ~~19-3-604, 19-5-103.5, OR 19-5-105.~~

12 (12) Nothing in this section prohibits the termination of parental
13 rights by the court using the criteria described in section ~~19-5-105,~~
14 ~~19-5-103.5, or 19-3-604~~ 19-3-604, 19-5-103.5, OR 19-5-105.

15 **SECTION 2.** In Colorado Revised Statutes, **repeal** 14-10-124.3
16 as follows:

17 **14-10-124.3. Stay of proceedings - criminal charges of**
18 **allegations of sexual assault.** ~~If criminal charges alleging an act of~~
19 ~~sexual assault, as defined in section 19-1-103 (96.5), C.R.S., are brought~~
20 ~~against the parent of a child alleging that a child was conceived as a result~~
21 ~~of the alleged sexual assault committed by that parent against the parent~~
22 ~~who is the alleged victim of the sexual assault, the court shall issue an~~
23 ~~automatic stay of any civil domestic proceedings under this article or of~~
24 ~~any paternity proceedings under the "Uniform Parentage Act", article 4~~
25 ~~of title 19, C.R.S., involving both the child and the parent who is the~~
26 ~~alleged perpetrator. The stay shall not be lifted until there is a final~~
27 ~~disposition of the criminal charges. In any future domestic proceedings~~
28 ~~under this article or any paternity proceedings under the "Uniform~~
29 ~~Parentage Act", article 4 of title 19, C.R.S., continued after the final~~
30 ~~disposition of the criminal charges, any denial of parenting time by the~~
31 ~~victim of the alleged sexual assault while the criminal charges were~~
32 ~~pending shall not be used in any way against the victim.~~

33 **SECTION 3.** In Colorado Revised Statutes, **repeal** 19-4-105.7 as
34 follows:

35 **19-4-105.7. Stay of paternity proceedings - criminal charges**
36 **of allegations of sexual assault.** ~~If criminal charges alleging an act of~~
37 ~~sexual assault, as defined in section 19-1-103 (96.5), are brought against~~
38 ~~a presumed or possible parent who is the subject of an action to determine~~
39 ~~paternity alleging that a child was conceived as a result of that sexual~~
40 ~~assault committed by that presumed or possible parent against the parent~~
41 ~~who is the alleged victim of the sexual assault, the court shall issue an~~



1 ~~automatic stay of any paternity proceedings under this article involving~~
2 ~~both the child and the presumed or possible parent who is the alleged~~
3 ~~perpetrator. The stay shall not be lifted until there is a final disposition of~~
4 ~~the criminal charges. In any future paternity proceedings under this article~~
5 ~~that are continued after the final disposition of the criminal charges, any~~
6 ~~denial of parenting time by the victim of the alleged sexual assault while~~
7 ~~the criminal charges were pending shall not be used in any way against~~
8 ~~the victim.~~

9 **SECTION 4.** In Colorado Revised Statutes, add 19-5-105.7 as
10 follows:

11 **19-5-105.7. Termination of parent-child legal relationship in**
12 **a case of an allegation that a child was conceived as a result of sexual**
13 **assault but in which no conviction occurred - legislative declaration**
14 **- definitions.**

15 (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE
16 PURPOSE OF THIS STATUTE IS TO PROTECT A PERSON WHO ALLEGES THAT
17 SHE OR HE IS A VICTIM OF SEXUAL ASSAULT AND TO PROTECT A CHILD
18 CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT BY CREATING A
19 PROCESS TO SEEK TERMINATION OF THE PARENTAL RIGHTS OF THE
20 PERPETRATOR OF THE SEXUAL ASSAULT AND BY ISSUING PROTECTIVE
21 ORDERS PREVENTING FUTURE CONTACT BETWEEN THE PARTIES. THE
22 GENERAL ASSEMBLY FURTHER DECLARES THAT THIS SECTION CREATES
23 CIVIL REMEDIES AND IS NOT CREATED TO PUNISH THE PERPETRATOR BUT
24 RATHER TO PROTECT THE INTERESTS OF THE PETITIONER AND THE CHILD.
25 THE GENERAL ASSEMBLY CREATES THIS SECTION TO ADDRESS THE
26 PROCEDURES IN CASES WHERE THERE ARE ALLEGATIONS OF SEXUAL
27 ASSAULT BUT IN WHICH A CONVICTION DID NOT OCCUR.

28 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
29 REQUIRES:

30 (a) "CONVICTION" HAS THE SAME MEANING AS DEFINED IN SECTION
31 19-1-103 (29.3).

32 (b) "SEXUAL ASSAULT" HAS THE SAME MEANING AS DEFINED IN
33 SECTION 19-1-103 (96.5).

34 (3) THE PERSON WHO ALLEGES THAT SHE OR HE IS A VICTIM OF
35 SEXUAL ASSAULT AND WHO ALLEGES THAT A CHILD WAS CONCEIVED AS A
36 RESULT OF A SEXUAL ASSAULT IN WHICH A CONVICTION DID NOT OCCUR
37 MAY FILE A PETITION IN THE JUVENILE COURT TO PREVENT FUTURE
38 CONTACT WITH THE PARENT WHO ALLEGEDLY COMMITTED THE SEXUAL
39 ASSAULT AND TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP OF
40 THE PARENT WHO ALLEGEDLY COMMITTED THE SEXUAL ASSAULT.

41 (4) THE VERIFIED PETITION FILED UNDER THIS SECTION MUST
ALLEGE THAT:



1 (a) THE OTHER PERSON COMMITTED AN ACT OF SEXUAL ASSAULT
2 AGAINST THE PETITIONER;
3 (b) THE OTHER PERSON HAS NOT BEEN CONVICTED FOR THE ACT OF
4 SEXUAL ASSAULT;
5 (c) A CHILD WAS CONCEIVED AS A RESULT OF THE ACT OF SEXUAL
6 ASSAULT AS DESCRIBED UNDER PARAGRAPH (a) OF THIS SUBSECTION (4);
7 AND
8 (d) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF
9 THE OTHER PARENT WITH THE CHILD IS IN THE BEST INTERESTS OF THE
10 CHILD. THE COURT SHALL NOT PRESUME THAT HAVING ONLY ONE
11 REMAINING PARENT IS CONTRARY TO THE CHILD'S BEST INTERESTS.
12 (5) (a) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS
13 SECTION, THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE
14 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE
15 PURPOSE OF THE PROCEEDING IS TO DETERMINE WHETHER TO TERMINATE
16 THE PARENT-CHILD LEGAL RELATIONSHIP OF THE PERSON AGAINST WHOM
17 THE PETITION IS FILED. THE PETITIONER SHALL HAVE THE RESPONDENT
18 PERSONALLY SERVED WITH A COPY OF THE SUMMONS OR NOTIFIED
19 THROUGH NOTICE BY PUBLICATION CONSISTENT WITH THE STATUTORY
20 PROVISIONS FOR NOTICE IN SECTION 19-3-503 AND PURSUANT TO THE
21 COLORADO RULES OF CIVIL PROCEDURE, UNLESS THE RESPONDENT
22 APPEARS VOLUNTARILY OR WAIVES SERVICE. THE COURT SHALL PROTECT
23 THE WHEREABOUTS OF THE PETITIONER AND MUST IDENTIFY THE
24 PETITIONER AND THE CHILD IN THE SUMMONS BY INITIALS.
25 (b) THE COURT WILL WORK TO ENSURE THAT A PETITIONER OR A
26 RESPONDENT WHO HAS A DISABILITY HAS EQUAL ACCESS TO PARTICIPATE
27 IN THE PROCEEDING. IF THE PETITIONER OR RESPONDENT HAS A
28 DISABILITY, HE OR SHE HAS THE RIGHT TO REQUEST REASONABLE
29 ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THE PROCEEDING; EXCEPT
30 THAT THE DISABILITY OF THE PETITIONER, THE RESPONDENT, OR THE CHILD
31 SHALL NOT BE THE CAUSE FOR THE UNNECESSARY DELAY OF THE PROCESS.
32 THE COURT SHALL PRESUME THAT A PETITIONER OR A RESPONDENT WITH
33 A DISABILITY IS LEGALLY COMPETENT AND ABLE TO UNDERSTAND AND
34 PARTICIPATE IN THE PROCEEDING UNLESS THE PETITIONER OR RESPONDENT
35 IS DETERMINED TO BE AN INCAPACITATED PERSON, AS DEFINED IN SECTION
36 15-14-102 (5), C.R.S.
37 (6) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION,
38 THE COURT MAY APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN
39 ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE
40 PROCEEDING. THE PETITIONER AND THE RESPONDENT HAVE THE RIGHT TO
41 BE REPRESENTED BY LEGAL COUNSEL IN PROCEEDINGS UNDER THIS



1 SECTION. THE PETITIONER AND THE RESPONDENT EACH HAVE THE RIGHT
2 TO SEEK THE APPOINTMENT OF LEGAL COUNSEL IF HE OR SHE IS UNABLE
3 FINANCIALLY TO SECURE LEGAL COUNSEL ON HIS OR HER OWN. THE COURT
4 SHALL WAIVE FILING FEES FOR INDIGENT PETITIONERS.

5 (7) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE COURT
6 MAY GRANT PROTECTIVE MEASURES IN THE COURTROOM AS REQUESTED
7 BY THE PETITIONER, INCLUDING BUT NOT LIMITED TO ALLOWING THE
8 PETITIONER TO NOT APPEAR IN THE PRESENCE OF THE OTHER PARENT SO
9 LONG AS THESE MEASURES DO NOT VIOLATE DUE PROCESS. THE
10 PETITIONER'S AND THE CHILD'S WHEREABOUTS MUST BE KEPT
11 CONFIDENTIAL.

12 (8) A PERSON AGAINST WHOM A PETITION HAS BEEN FILED MAY
13 ADMIT PARENTAGE OR MAY REQUEST GENETIC TESTING OR OTHER TESTS
14 OF INHERITED CHARACTERISTICS TO CONFIRM PATERNITY. THE TEST
15 RESULTS SHALL BE ADMITTED INTO EVIDENCE AS PROVIDED IN SECTION
16 13-25-126, C.R.S. THE FINAL COSTS FOR GENETIC TESTS OR OTHER TESTS
17 OF INHERITED CHARACTERISTICS SHALL BE ASSESSED AGAINST THE
18 NONPREVAILING PARTY ON THE PARENTAGE ISSUE.

19 (9) THE COURT SHALL HEAR A PETITION TO TERMINATE THE
20 PARENT-CHILD LEGAL RELATIONSHIP NO MORE THAN ONE HUNDRED
21 TWENTY DAYS AFTER SERVICE OF THE PETITION OR FROM THE FIRST
22 APPEARANCE DATE, WHICHEVER IS LATER, UNLESS BOTH PARTIES CONSENT
23 TO AN EXTENSION OR THE COURT FINDS GOOD CAUSE TO EXTEND THE
24 HEARING BEYOND ONE HUNDRED TWENTY DAYS.

25 (10) (a) THE COURT SHALL TERMINATE THE PARENT-CHILD LEGAL
26 RELATIONSHIP OF THE PERSON AGAINST WHOM THE PETITION IS FILED IF
27 THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

28 (I) A SEXUAL ASSAULT AGAINST THE PETITIONER OCCURRED;

29 (II) THE SEXUAL ASSAULT WAS PERPETRATED BY THE
30 RESPONDENT;

31 (III) A CHILD WAS CONCEIVED AS A RESULT OF THAT ACT OF
32 SEXUAL ASSAULT AS EVIDENCED BY THE RESPONDENT ADMITTING
33 PARENTAGE OR GENETIC TESTING ESTABLISHING THE PATERNITY;

34 (IV) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS
35 IN THE BEST INTERESTS OF THE CHILD.

36 (b) IF THE CHILD IS AN INDIAN CHILD, THE COURT SHALL ENSURE
37 COMPLIANCE WITH THE FEDERAL "INDIAN CHILD WELFARE ACT", 25
38 U.S.C. SEC. 1901 ET SEQ., AND THE PROVISIONS OF SECTION 19-1-126.

39 (11) IF THE COURT DENIES THE PETITION TO TERMINATE THE
40 PARENT-CHILD LEGAL RELATIONSHIP, THE COURT SHALL ARTICULATE ITS
41 REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE



1 PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO
2 ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL
3 RESPONSIBILITIES BETWEEN THE PETITIONER AND THE OTHER PARENT,
4 INCLUDING BUT NOT LIMITED TO AN ORDER TO NOT ALLOCATE PARENTAL
5 RESPONSIBILITIES TO THE OTHER PARENT. IN ISSUING ANY ORDER
6 ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING THE DUTY OF
7 SUPPORT, GUARDIANSHIP, AND PARENTING TIME PRIVILEGES WITH THE
8 CHILD OR ANY OTHER MATTER, THE COURT SHALL DETERMINE WHETHER
9 THE ORDER IS IN THE BEST INTERESTS OF THE CHILD BASED ON A
10 PREPONDERANCE OF THE EVIDENCE.

11 (12) (a) A PERSON WHOSE PARENTAL RIGHTS ARE TERMINATED IN
12 ACCORDANCE WITH THIS SECTION HAS:

13 (I) NO RIGHT TO ALLOCATION OF PARENTAL RESPONSIBILITIES,
14 INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR
15 THE CHILD;

16 (II) NO RIGHT OF INHERITANCE FROM THE CHILD; AND

17 (III) NO RIGHT TO NOTIFICATION OF, OR STANDING TO OBJECT TO,
18 THE ADOPTION OF THE CHILD.

19 (b) TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (10)
20 OF THIS SECTION DOES NOT RELIEVE THE RESPONDENT OF ANY OBLIGATION
21 TO PAY CHILD SUPPORT OR BIRTH-RELATED COSTS UNLESS WAIVED BY THE
22 PETITIONER. IN CASES IN WHICH CHILD SUPPORT OBLIGATIONS ARE NOT
23 WAIVED, THE COURT, AS INFORMED BY THE WISHES OF THE PETITIONER,
24 SHALL DETERMINE IF ENTERING AN ORDER TO PAY CHILD SUPPORT IS IN
25 THE BEST INTERESTS OF THE CHILD. IF THE COURT ORDERS THE PERSON TO
26 PAY CHILD SUPPORT, THE COURT SHALL ORDER THE PAYMENTS TO BE
27 MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID THE NEED FOR
28 ANY CONTACT BETWEEN THE PARTIES AND ORDER THAT THE PAYMENTS BE
29 TREATED AS A NONDISCLOSURE OF INFORMATION CASE. IF THE
30 PETITIONER'S PARENT-CHILD LEGAL RELATIONSHIP TO THE CHILD IS
31 TERMINATED AFTER THE ENTRY OF A CHILD SUPPORT ORDER AGAINST THE
32 PERSON WHO WAS CONVICTED, THE COURT SHALL MODIFY THE CHILD
33 SUPPORT ORDER ACCORDINGLY.

34 (13) THE PERSON WHOSE PARENT-CHILD LEGAL RELATIONSHIP HAS
35 BEEN TERMINATED IN ACCORDANCE WITH THIS SECTION HAS NO RIGHT TO
36 MAKE MEDICAL TREATMENT DECISIONS OR ANY OTHER DECISIONS ON
37 BEHALF OF THE CHILD.

38 (14) THE COURT MAY ORDER THE PERSON WHOSE PARENT-CHILD
39 LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE MEDICAL AND
40 FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS APPROPRIATE,
41 AND WITH THE PETITIONER IN A WAY THAT PROTECTS THE CHILD FROM

1 KNOWING THE NAME OF THE PERSON. THE SHARING OF INFORMATION MUST
2 BE CONSISTENT WITH THE UNIFORM PROCESS ESTABLISHED BY THE STATE
3 COURT ADMINISTRATOR AS PROVIDED IN SECTION 19-5-105.5 (9.5). THE
4 COURT MAY ORDER THAT A PERSON'S FAILURE TO COMPLY WITH THE
5 REQUEST FOR INFORMATION IN A TIMELY MANNER CONSTITUTES
6 CONTEMPT OF COURT.

7 (15) THE JUVENILE COURT HAS ORIGINAL CONCURRENT
8 JURISDICTION TO ISSUE A TEMPORARY OR PERMANENT CIVIL PROTECTION
9 ORDER PURSUANT TO SECTION 13-14-104.5 OR 13-14-106, C.R.S.

10 (16) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP
11 PURSUANT TO SUBSECTION (10) OF THIS SECTION IS AN INDEPENDENT BASIS
12 FOR TERMINATION OF PARENTAL RIGHTS, AND THE COURT NEED NOT MAKE
13 ANY OF THE CONSIDERATIONS OR FINDINGS DESCRIBED IN SECTION
14 19-3-604, 19-5-103.5, OR 19-5-105.

15 (17) NOTHING IN THIS SECTION PROHIBITS THE TERMINATION OF
16 PARENTAL RIGHTS BY THE COURT USING THE CRITERIA DESCRIBED IN
17 SECTION 19-3-604, 19-5-103.5, OR 19-5-105.

18 **SECTION 5.** In Colorado Revised Statutes, **amend** 19-5-102 as
19 follows:

20 **19-5-102. Venue.** (1) A petition for relinquishment of the
21 parent-child relationship shall be filed in the county where the child
22 resides or in the county where the petitioner resides. If a child placement
23 agency is involved, the petition may be filed in the county where the
24 child placement agency is located.

25 (2) A PETITION FOR TERMINATION OF THE PARENT-CHILD LEGAL
26 RELATIONSHIP PURSUANT TO SECTION 19-5-105.5 OR SECTION 19-5-105.7
27 MUST BE FILED IN THE COUNTY WHERE THE CHILD RESIDES OR IN THE
28 COUNTY WHERE THE PETITIONER RESIDES.

29 **SECTION 6.** In Colorado Revised Statutes, 19-5-105, **amend**
30 (3.1) (a) (IV) as follows:

31 **19-5-105. Proceeding to terminate parent-child legal**
32 **relationship.** (3.1) The court may order the termination of the other birth
33 parent's parental rights upon a finding that termination is in the best
34 interests of the child and that there is clear and convincing evidence of
35 one or more of the following:

36 (a) That the parent is unfit. In considering the fitness of the child's
37 parent, the court shall consider, but shall not be limited to, the following:

38 (IV) A history of violent behavior that demonstrates that the
39 individual is unfit to maintain a parent-child relationship with the minor,
40 WHICH MAY INCLUDE AN INCIDENCE OF SEXUAL ASSAULT, AS DEFINED IN
41 SECTION 19-1-103 (96.5), THAT RESULTED IN THE CONCEPTION OF THE



1 CHILD;

2 **SECTION 7.** In Colorado Revised Statutes, 14-10-124, **amend**
3 (1.5) (a) introductory portion, (1.5) (b) introductory portion, (4) (a)
4 introductory portion, (4) (b), (4) (d), and (4) (e); and **add** (1.3) (c), (4) (a)
5 (III), and (4) (a) (IV) as follows:

6 **14-10-124. Best interests of child. (1.3) Definitions.** For
7 purposes of this section and section 14-10-129 (2) (c), unless the context
8 otherwise requires:

9 (c) "SEXUAL ASSAULT" HAS THE SAME MEANING AS SET FORTH IN
10 SECTION 19-1-103 (96.5), C.R.S.

11 (1.5) **Allocation of parental responsibilities.** The court shall
12 determine the allocation of parental responsibilities, including parenting
13 time and decision-making responsibilities, in accordance with the best
14 interests of the child giving paramount consideration to the child's safety
15 and the physical, mental, and emotional conditions and needs of the child
16 as follows:

17 (a) **Determination of parenting time.** The court, upon the motion
18 of either party or upon its own motion, may make provisions for parenting
19 time that the court finds are in the child's best interests unless the court
20 finds, after a hearing, that parenting time by the party would endanger the
21 child's physical health or significantly impair the child's emotional
22 development. In addition to a finding that parenting time would endanger
23 the child's physical health or significantly impair the child's emotional
24 development, in any order imposing or continuing a parenting time
25 restriction the court shall enumerate the specific factual findings
26 supporting the restriction AND MAY ENUMERATE THE CONDITIONS THAT
27 THE RESTRICTED PARTY COULD FULFILL IN ORDER TO SEEK MODIFICATION
28 IN THE PARENTING PLAN. When a claim of child abuse or neglect, or
29 domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO A CLAIM
30 THAT THE CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT
31 has been made to the court, or the court has reason to believe that a party
32 has committed child abuse or neglect, or domestic violence, OR SEXUAL
33 ASSAULT WHERE THERE IS ALSO A CLAIM THAT THE CHILD WAS CONCEIVED
34 AS A RESULT OF THE SEXUAL ASSAULT, prior to determining parenting
35 time, the court shall follow the provisions of subsection (4) of this
36 section. In determining the best interests of the child for purposes of
37 parenting time, the court shall consider all relevant factors, including:

38 (b) **Allocation of decision-making responsibility.** The court,
39 upon the motion of either party or its own motion, shall allocate the
40 decision-making responsibilities between the parties based upon the best
41 interests of the child. In determining decision-making responsibility, the



1 court may allocate the decision-making responsibility with respect to each
2 issue affecting the child mutually between both parties or individually to
3 one or the other party or any combination thereof. When a claim of child
4 abuse or neglect or domestic violence has been made to the court, or the
5 court has reason to believe that a party has committed child abuse or
6 neglect, or domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO
7 A CLAIM THAT THE CHILD IN QUESTION WAS CONCEIVED AS A RESULT OF
8 THE SEXUAL ASSAULT, prior to allocating decision-making responsibility,
9 the court shall follow the provisions of subsection (4) of this section. In
10 determining the best interests of the child for purposes of allocating
11 decision-making responsibilities, the court shall consider, in addition to
12 the factors set forth in paragraph (a) of this subsection (1.5), all relevant
13 factors including:

14 (4) (a) When a claim of child abuse or neglect, or domestic
15 violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO A CLAIM THAT THE
16 CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT has been
17 made to the court, or the court has reason to believe that a party has
18 committed child abuse or neglect, or domestic violence, OR SEXUAL
19 ASSAULT THAT RESULTED IN THE CONCEPTION OF THE CHILD, prior to
20 allocating parental responsibilities, including parenting time and
21 decision-making responsibility, and prior to considering the factors set
22 forth in paragraphs (a) and (b) of subsection (1.5) of this section, the court
23 shall consider the following factors:

24 (III) WHETHER ONE OF THE PARTIES HAS COMMITTED AN ACT OF
25 SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE CHILD, WHICH
26 FACTOR MUST BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. IF
27 THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF
28 THE PARTIES HAS COMMITTED SEXUAL ASSAULT AND THE CHILD WAS
29 CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT, THEN IT IS NOT IN THE
30 BEST INTERESTS OF THE CHILD TO ALLOCATE SOLE OR SPLIT
31 DECISION-MAKING AUTHORITY TO THE PARTY FOUND TO HAVE COMMITTED
32 SEXUAL ASSAULT OR TO ALLOCATE MUTUAL DECISION-MAKING WITH
33 RESPECT TO ANY ISSUE OVER THE OBJECTION OF THE OTHER PARTY OR THE
34 LEGAL REPRESENTATIVE OF THE CHILD.

35 (IV) IF ONE OF THE PARTIES IS FOUND BY A PREPONDERANCE OF
36 THE EVIDENCE TO HAVE COMMITTED SEXUAL ASSAULT RESULTING IN THE
37 CONCEPTION OF THE CHILD, WHETHER IT IS IN THE BEST INTERESTS OF THE
38 CHILD TO PROHIBIT OR LIMIT THE PARENTING TIME OF THAT PARTY WITH
39 THE CHILD.

40
41 (b) The court shall consider the additional factors set forth in

1 paragraphs (a) and (b) of subsection (1.5) of this section in light of any
2 finding of child abuse or neglect, or domestic violence, OR SEXUAL
3 ASSAULT RESULTING IN THE CONCEPTION OF A CHILD pursuant to this
4 subsection (4).

5 (d) When the court finds by a preponderance of the evidence that
6 one of the parties has committed child abuse or neglect, or domestic
7 violence, OR SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE
8 CHILD, the court shall consider, as the primary concern, the safety and
9 well-being of the child and the abused party.

10 (e) When the court finds by a preponderance of the evidence that
11 one of the parties has committed child abuse or neglect, or domestic
12 violence, OR SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE
13 CHILD, in formulating or approving a parenting plan, the court shall
14 consider conditions on parenting time that ensure the safety of the child
15 and of the abused party. In addition to any provisions set forth in
16 subsection (7) of this section that are appropriate, the parenting plan in
17 these cases may include, but is not limited to, the following provisions:

18 (I) An order limiting contact between the parties to contact that
19 the court deems is safe and that minimizes unnecessary communication
20 between the parties;

21 (II) An order that requires the exchange of the child for parenting
22 time to occur in a protected setting determined by the court;

23 (III) An order for supervised parenting time;

24 (IV) An order restricting overnight parenting time;

25 (V) An order that restricts the party who has committed domestic
26 violence, SEXUAL ASSAULT, or child abuse or neglect from possessing or
27 consuming alcohol or controlled substances during parenting time or for
28 twenty-four hours prior to the commencement of parenting time;

29 (VI) An order directing that the address of the child or of any
30 party remain confidential; and

31 (VII) An order that imposes any other condition on one or more
32 parties that the court determines is necessary to protect the child, another
33 party, or any other family or household member of a party; AND

34 (VIII) AN ORDER THAT REQUIRES CHILD SUPPORT PAYMENTS TO BE
35 MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID THE NEED FOR
36 ANY RELATED CONTACT BETWEEN THE PARTIES AND AN ORDER THAT THE
37 PAYMENTS BE TREATED AS A NONDISCLOSURE OF INFORMATION CASE.

38 **SECTION 8.** In Colorado Revised Statutes, 14-10-129, **add** (2.5)
39 as follows:

40 **14-10-129. Modification of parenting time.** (2.5) (a) WHEN THE
41 COURT RESTRICTS A PARTY'S PARENTING TIME PURSUANT TO SECTION



1 19-5-105.5, C.R.S., OR SECTION 19-5-105.7, C.R.S., OR SECTION
2 14-10-124, THE COURT SHALL DETERMINE WHETHER THERE ARE
3 CONDITIONS THAT THE RESTRICTED PARTY COULD FULFILL IN ORDER TO
4 SEEK MODIFICATION OF THE PARENTING TIME. IF THE COURT DEEMS THAT
5 SUCH CONDITIONS EXIST, THE COURT SHALL ENUMERATE THOSE
6 CONDITIONS IN THE PARENTING TIME PLAN.

7 (b) WHEN A PARTY WHOSE PARENTING TIME HAS BEEN RESTRICTED
8 PURSUANT TO SECTION 19-5-105.5, C.R.S., OR SECTION 19-5-105.7,
9 C.R.S., OR SECTION 14-10-124, CLAIMS TO HAVE FULFILLED ANY
10 CONDITIONS REQUIRED BY THE COURT FOR MODIFICATION OF PARENTING
11 TIME, AS ATTESTED TO IN AN AFFIDAVIT REGARDING FULFILLMENT OF SUCH
12 CONDITIONS AND ACCOMPANIED BY ANY DOCUMENTATION IN SUPPORT OF
13 THE AFFIDAVIT, THAT PARTY MAY FILE A MOTION FOR MODIFICATION OF
14 PARENTING TIME. IF THE COURT FINDS GROUNDS TO HOLD A HEARING ON
15 THE MATTER, THE COURT SHALL MAKE FINDINGS ON THE RECORD AS TO
16 WHETHER OR NOT THE RESTRICTED PARTY HAS SATISFACTORILY FULFILLED
17 THE COURT'S CONDITIONS. THE COURT MAY MODIFY THE PARENTING PLAN
18 WHEN THE COURT FINDS ON THE RECORD THAT:

19 (I) THE RESTRICTED PARTY HAS FULFILLED THE CONDITIONS SET
20 FORTH BY THE COURT TO THE SATISFACTION OF THE COURT;

21 (II) MODIFICATION OF THE RESTRICTED PARTY'S PARENTING TIME
22 WOULD SERVE THE BEST INTERESTS OF THE CHILD; AND

23 (III) MODIFICATION OF THE RESTRICTED PARTY'S PARENTING TIME
24 WOULD NOT ENDANGER THE CHILD OR THE OTHER PARTY.

25 (c) IF THE COURT FINDS THAT THE RESTRICTED PARTY HAS NOT
26 FULFILLED THE CONDITIONS SET FORTH BY THE COURT, THE COURT SHALL
27 ENUMERATE ANY REMAINING OR ADDITIONAL CONDITIONS THE
28 RESTRICTED PARTY MUST FULFILL FOR THE COURT TO CONSIDER A
29 SUBSEQUENT MOTION TO MODIFY PARENTING TIME. NO SUBSEQUENT
30 MOTION FOR MODIFICATION OF PARENTING TIME MAY BE FILED BY THAT
31 PARTY UNTIL HE OR SHE CAN DEMONSTRATE TO THE COURT THAT THE
32 CONDITIONS SET FORTH BY THE COURT IN THE PARENTING TIME PLAN HAVE
33 BEEN SATISFIED.

34 (d) ANY SUBSEQUENT MOTION FOR MODIFICATION OF PARENTING
35 TIME BY THE RESTRICTED PARTY AND ANY SUBSEQUENT COURT HEARING
36 ON MODIFICATION OF THE RESTRICTED PARTY'S PARENTING TIME SHALL
37 FOLLOW THE PROCEDURES SET FORTH IN PARAGRAPH (b) OR PARAGRAPH
38 (c) OF THIS SUBSECTION (2.5).

39 **SECTION 9.** In Colorado Revised Statutes, 19-1-103, **amend**
40 (96.5) introductory portion as follows:

41 **19-1-103. Definitions.** As used in this title or in the specified



1 portion of this title, unless the context otherwise requires:
2 (96.5) "Sexual assault", as used in ~~section 19-5-105.5~~ SECTIONS
3 19-5-105, 19-5-105.5, AND 19-5-105.7, means:
4 **SECTION 10. Effective date - applicability.** (1) This act takes
5 effect July 1, 2014.
6 (2) Sections 1 through 3 of this act apply to convictions occurring
7 on or after July 1, 2013.
8 (3) Sections 4 through 7 of this act apply to acts occurring on or
9 after July 1, 2014.
10 **SECTION 11. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety."

** ** ** ** **



