

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0669.01 Debbie Haskins x2045

SENATE BILL 13-227

SENATE SPONSORSHIP

Carroll and Hudak, Aguilar, Cadman, Giron, Guzman, Harvey, Heath, Jahn, Jones, Kerr, King, Morse, Newell, Nicholson, Roberts, Schwartz, Todd, Ulibarri

HOUSE SPONSORSHIP

Landgraf, Buck, Gardner, Humphrey, Lebsock, Melton, Mitsch Bush, Navarro, Priola, Rankin, Saine, Schafer, Stephens, Vigil, Wilson, Young

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Legislative Council

A BILL FOR AN ACT

101 **CONCERNING METHODS TO PROTECT THE VICTIM OF A SEXUAL**
102 **ASSAULT IN CASES WHERE A CHILD WAS CONCEIVED AS A RESULT**
103 **OF THE SEXUAL ASSAULT, AND, IN CONNECTION THEREWITH,**
104 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

If a child was conceived as a result of an act that led to the parent's conviction for sexual assault or a conviction in which the underlying

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 19, 2013

SENATE
Amended 2nd Reading
April 18, 2013

factual basis was sexual assault, the parent who is the victim of the sexual assault (victim) may file a petition in juvenile court to prevent future contact with the parent who committed the sexual assault and to terminate the parent-child legal relationship of that parent. The court shall terminate the parent-child legal relationship if the court finds by clear and convincing evidence that:

- ! The parent was convicted of an act of sexual assault against the victim or convicted of a crime in which the underlying factual basis was sexual assault against the victim;
- ! The child was conceived as a result of that sexual assault or crime; and
- ! Termination of the parent-child legal relationship is in the best interests of the child.

The bill creates a rebuttable presumption that terminating the parental rights of the parent who committed the act of sexual assault or crime is in the best interests of the child.

After a petition has been filed, the court may appoint a guardian ad litem to represent the child's best interests in the proceeding.

The victim shall not be required to appear in the presence of the other parent, and the victim's and the child's whereabouts shall be kept confidential.

A person whose parental rights are terminated under the bill has:

- ! No right to allocation of parental responsibilities for the child, including any right to parenting time or decision-making;
- ! No right to inheritance from the child; and
- ! No right to notice of, or standing to object to, the adoption of the child.

A person whose parental rights are terminated is not relieved of any obligation to pay child support unless waived by the victim. In such cases, the court shall order the payments to be made through the child support registry or a court escrow to avoid the need for any contact between the parties.

The victim shall be entitled, upon request, to a no-contact protection order issued against the person whose parental rights are terminated that prohibits the person from having any contact with either the victim or the child.

Termination of the parent-child legal relationship pursuant to the bill is an independent basis for termination of parental rights, and the court need not make any of the considerations or findings described in other statutes for termination of the parent-child legal relationship. The bill also states that nothing in the bill prohibits the termination of parental rights by the court using other grounds under the "Colorado Children's Code" in cases that do not meet the criteria set forth in the bill.

Amends the criminal statutes on sexual assault, unlawful sexual

contact, sexual assault on a child by one in a position of trust, and sexual assault on a client by a psychotherapist to specify the loss of rights under the bill.

A task force on children conceived by rape is created to study and make recommendations for protecting rape victims and for addressing parental rights in cases in which there are allegations that a sexual assault has occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. The bill specifies the membership of the task force, what it should study, and the time frame for the task force to report to certain legislative committees of the general assembly. The statutory authority for the task force repeals January 1, 2014.

The portions of the bill that allow the court to terminate parental rights and that make conforming amendments to the criminal law statutes on sexual assault apply to acts or offenses committed on or after July 1, 2013.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-103, **amend**
3 (112); and **add** (29.3) and (96.5) as follows:

4 **19-1-103. Definitions.** As used in this title or in the specified
5 portion of this title, unless the context otherwise requires:

6 (29.3) "CONVICTED" OR "CONVICTION", AS USED IN SECTION
7 19-5-105.5, MEANS A PLEA OF GUILTY ACCEPTED BY THE COURT,
8 INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED
9 SENTENCE UNDER SECTION 18-1.3-102, C.R.S., A VERDICT OF GUILTY BY
10 A JUDGE OR JURY, OR A PLEA OF NO CONTEST ACCEPTED BY THE COURT, OR
11 HAVING RECEIVED A DISPOSITION AS A JUVENILE OR HAVING BEEN
12 ADJUDICATED A JUVENILE DELINQUENT BASED ON THE COMMISSION OF
13 ANY ACT THAT CONSTITUTES SEXUAL ASSAULT, AS DEFINED IN
14 SUBSECTION (96.5) OF THIS SECTION.

15 (96.5) "SEXUAL ASSAULT", AS USED IN SECTION 19-5-105.5,
16 MEANS:

1 (a) "SEXUAL ASSAULT" AS DEFINED IN SECTION 18-3-402, C.R.S.;

2 (b) "UNLAWFUL SEXUAL CONTACT" AS DEFINED IN SECTION
3 18-3-404, C.R.S.;

4 (c) "SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST"
5 AS DEFINED IN SECTION 18-3-405.3, C.R.S.;

6 (d) "SEXUAL ASSAULT ON A CHILD, AS DEFINED IN SECTION
7 18-3-405, C.R.S.; OR

8 (e) "SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST" AS
9 DEFINED IN SECTION 18-3-405.5 C.R.S.

10 (112)(a) "Victim", as used in article 2 of this title, means the party
11 immediately and directly aggrieved by the juvenile, that party's spouse,
12 the party's parent, sibling, or child who is living with the party, a victim
13 compensation board that has paid a victim compensation claim, a person
14 or entity who has suffered losses because of a contractual relationship
15 with such party, including, but not limited to, an insurer, or because of
16 liability under section 14-6-110, C.R.S., or, in the absence of any of the
17 above, the state.

18 (b) "VICTIM", AS USED IN SECTION 19-5-105.5, MEANS ANY
19 NATURAL PERSON AGAINST WHOM A CRIME OF SEXUAL ASSAULT OR A
20 CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT
21 HAS BEEN PERPETRATED OR IS ALLEGED TO HAVE BEEN PERPETRATED.

22 **SECTION 2.** In Colorado Revised Statutes, 19-5-101, **amend** (1)
23 (b) and (1) (c); and **add** (1) (d) as follows:

24 **19-5-101. Termination of the parent-child legal relationship.**

25 (1) The juvenile court may, upon petition, terminate the parent-child
26 legal relationship between a parent or parents, or a possible parent or
27 parents, and a child in:

- 1 (b) Proceedings under section 19-5-105; ~~or~~
- 2 (c) Proceedings under section 19-5-203 (1) (d), (1) (e), (1) (f), (1)
- 3 (j), and (1) (k); OR
- 4 (d) PROCEEDINGS UNDER SECTION 19-5-105.5.

5 **SECTION 3.** In Colorado Revised Statutes, **add** 19-5-105.5 as
6 follows:

7 **19-5-105.5. Termination of parent-child legal relationship**
8 **upon a finding that the child was conceived as a result of sexual**
9 **assault - legislative declaration - definitions. (1) THE GENERAL**

10 **ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS STATUTE IS TO**
11 **PROTECT THE VICTIM OF A SEXUAL ASSAULT AND TO PROTECT THE CHILD**
12 **CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT BY TERMINATING THE**
13 **PARENTAL RIGHTS OF THE PERPETRATOR OF THE SEXUAL ASSAULT AND BY**
14 **ISSUING PROTECTIVE ORDERS PREVENTING FUTURE CONTACT BETWEEN**
15 **THE PARTIES. THE GENERAL ASSEMBLY FURTHER DECLARES THAT THIS**
16 **SECTION CREATES CIVIL REMEDIES AND IS NOT CREATED TO PUNISH THE**
17 **PERPETRATOR BUT RATHER TO PROTECT THE INTERESTS OF THE CHILD AND**
18 **THE VICTIM OF A SEXUAL ASSAULT.**

19 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "CONVICTED" OR "CONVICTION" HAS THE SAME MEANING AS
22 DEFINED IN SECTION 19-1-103 (29.3).

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

25 (c) "VICTIM" HAS THE SAME MEANING AS DEFINED IN SECTION
26 19-1-103 (112) (b).

27 (3) IF A CHILD WAS CONCEIVED AS A RESULT OF AN ACT THAT

1 LED TO THE PARENT'S CONVICTION FOR SEXUAL ASSAULT OR FOR A
2 CONVICTION IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL
3 ASSAULT, THE VICTIM OF THE SEXUAL ASSAULT OR CRIME MAY FILE A
4 PETITION IN THE JUVENILE COURT TO PREVENT FUTURE CONTACT WITH THE
5 PARENT WHO COMMITTED THE SEXUAL ASSAULT AND TO TERMINATE THE
6 PARENT-CHILD LEGAL RELATIONSHIP OF THE PARENT WHO COMMITTED THE
7 SEXUAL ASSAULT OR CRIME.

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

10 (a) THE OTHER PARENT WAS CONVICTED ON OR AFTER JULY 1,
11 2013, OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR CONVICTED
12 OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL
13 ASSAULT AGAINST THE VICTIM;

14 (b) A CHILD WAS CONCEIVED AS A RESULT OF THE ACT OF SEXUAL
15 ASSAULT OR CRIME DESCRIBED UNDER PARAGRAPH (a) OF THIS
16 SUBSECTION (4); AND

17 (c) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF
18 THE OTHER PARENT WITH THE CHILD IS IN THE BEST INTERESTS OF THE
19 CHILD.

20 (5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION,
21 THE COURT MAY APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN
22 ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE
23 PROCEEDING. A PETITIONER HAS THE RIGHT TO BE REPRESENTED BY LEGAL
24 COUNSEL IN PROCEEDINGS UNDER THIS SECTION AND HAS THE RIGHT TO
25 SEEK THE APPOINTMENT OF LEGAL COUNSEL IF THE PETITIONER IS UNABLE
26 FINANCIALLY TO SECURE LEGAL COUNSEL ON HIS OR HER OWN.

27 (6) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE VICTIM IS

1 NOT REQUIRED TO APPEAR IN THE PRESENCE OF THE OTHER PARENT, AND
2 THE VICTIM'S AND THE CHILD'S WHEREABOUTS MUST BE KEPT
3 CONFIDENTIAL.

4 (7) THE COURT SHALL TERMINATE THE PARENT-CHILD LEGAL
5 RELATIONSHIP OF THE PERSON AGAINST WHOM THE PETITION IS FILED IF
6 THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

7 (a) THE PARENT WAS CONVICTED ON OR AFTER JULY 1, 2013, OF AN
8 ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR WAS CONVICTED OF A
9 CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT
10 AGAINST THE VICTIM;

11 (b) A CHILD WAS CONCEIVED AS A RESULT OF THAT ACT OF SEXUAL
12 ASSAULT OR CRIME; AND

13 (c) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS
14 IN THE BEST INTERESTS OF THE CHILD. THERE IS A REBUTTABLE
15 PRESUMPTION THAT TERMINATING THE PARENTAL RIGHTS OF THE PARENT
16 WHO COMMITTED THE ACT OF SEXUAL ASSAULT OR CRIME IS IN THE BEST
17 INTERESTS OF THE CHILD.

18 (8) (a) A PERSON WHOSE PARENTAL RIGHTS ARE TERMINATED IN
19 ACCORDANCE WITH THIS SECTION HAS:

20 (I) NO RIGHT TO ALLOCATION OF PARENTAL RESPONSIBILITIES,
21 INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR
22 THE CHILD;

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

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

26 (b) TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (7) OF
27 THIS SECTION DOES NOT RELIEVE THE PERSON OF ANY OBLIGATION TO PAY

1 CHILD SUPPORT OR BIRTH-RELATED COSTS UNLESS WAIVED BY THE VICTIM.
2 IN CASES IN WHICH CHILD SUPPORT OBLIGATIONS ARE NOT WAIVED AND
3 THE COURT ORDERS THE PERSON TO PAY CHILD SUPPORT, THE COURT
4 SHALL ORDER THE PAYMENTS TO BE MADE THROUGH THE CHILD SUPPORT
5 REGISTRY OR A COURT ESCROW TO AVOID THE NEED FOR ANY CONTACT
6 BETWEEN THE PARTIES.

7 (9) THE PERSON WHOSE PARENT-CHILD LEGAL RELATIONSHIP HAS
8 BEEN TERMINATED IN ACCORDANCE WITH THIS SECTION HAS NO RIGHT TO
9 MAKE MEDICAL TREATMENT DECISIONS OR ANY OTHER DECISIONS ON
10 BEHALF OF THE CHILD.

11 (10) THE VICTIM IS ENTITLED, UPON REQUEST, TO A NO-CONTACT
12 PROTECTION ORDER ISSUED AGAINST THE PERSON WHOSE PARENTAL
13 RIGHTS ARE TERMINATED PROHIBITING THE PERSON FROM HAVING ANY
14 CONTACT WITH EITHER THE VICTIM OR THE CHILD.

15 (11) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP
16 PURSUANT TO SUBSECTION (7) OF THIS SECTION IS AN INDEPENDENT BASIS
17 FOR TERMINATION OF PARENTAL RIGHTS, AND THE COURT NEED NOT MAKE
18 ANY OF THE CONSIDERATIONS OR FINDINGS DESCRIBED IN SECTIONS
19 19-5-105, 19-5-103.5, OR 19-3-604.

20 (12) NOTHING IN THIS SECTION PROHIBITS THE TERMINATION OF
21 PARENTAL RIGHTS BY THE COURT USING THE CRITERIA DESCRIBED IN
22 SECTION 19-5-105, 19-5-103.5, OR 19-3-604.

23 **SECTION 4. In Colorado Revised Statutes, add 14-10-124.3 as**
24 **follows:**

25 **14-10-124.3. Stay of proceedings - criminal charges of**
26 **allegations of sexual assault. If CRIMINAL CHARGES ALLEGING AN ACT OF**
27 **SEXUAL ASSAULT, AS DEFINED IN SECTION 19-1-103 (96.5), C.R.S., ARE**

1 BROUGHT AGAINST THE PARENT OF A CHILD ALLEGING THAT A CHILD WAS
2 CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT COMMITTED
3 BY THAT PARENT AGAINST THE PARENT WHO IS THE ALLEGED VICTIM OF
4 THE SEXUAL ASSAULT, THE COURT SHALL ISSUE AN AUTOMATIC STAY OF
5 ANY CIVIL DOMESTIC PROCEEDINGS UNDER THIS ARTICLE OR OF ANY
6 PATERNITY PROCEEDINGS UNDER THE "UNIFORM PARENTAGE ACT",
7 ARTICLE 4 OF TITLE 19, C.R.S., INVOLVING BOTH THE CHILD AND THE
8 PARENT WHO IS THE ALLEGED PERPETRATOR. THE STAY SHALL NOT BE
9 LIFTED UNTIL THERE IS A FINAL DISPOSITION OF THE CRIMINAL CHARGES.
10 IN ANY FUTURE DOMESTIC PROCEEDINGS UNDER THIS ARTICLE OR ANY
11 PATERNITY PROCEEDINGS UNDER THE "UNIFORM PARENTAGE ACT",
12 ARTICLE 4 OF TITLE 19, C.R.S., CONTINUED AFTER THE FINAL DISPOSITION
13 OF THE CRIMINAL CHARGES, ANY DENIAL OF PARENTING TIME BY THE
14 VICTIM OF THE ALLEGED SEXUAL ASSAULT WHILE THE CRIMINAL CHARGES
15 WERE PENDING SHALL NOT BE USED IN ANY WAY AGAINST THE VICTIM.

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

18 **19-4-105.7. Stay of paternity proceedings - criminal charges**
19 **of allegations of sexual assault. IF CRIMINAL CHARGES ALLEGING AN ACT**
20 **OF SEXUAL ASSAULT, AS DEFINED IN SECTION 19-1-103 (96.5), C.R.S., ARE**
21 **BROUGHT AGAINST A PRESUMED OR POSSIBLE PARENT WHO IS THE SUBJECT**
22 **OF AN ACTION TO DETERMINE PATERNITY ALLEGING THAT A CHILD WAS**
23 **CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT COMMITTED BY THAT**
24 **PRESUMED OR POSSIBLE PARENT AGAINST THE PARENT WHO IS THE**
25 **ALLEGED VICTIM OF THE SEXUAL ASSAULT, THE COURT SHALL ISSUE AN**
26 **AUTOMATIC STAY OF ANY PATERNITY PROCEEDINGS UNDER THIS ARTICLE**
27 **INVOLVING BOTH THE CHILD AND THE PRESUMED OR POSSIBLE PARENT**

1 WHO IS THE ALLEGED PERPETRATOR. THE STAY SHALL NOT BE LIFTED
2 UNTIL THERE IS A FINAL DISPOSITION OF THE CRIMINAL CHARGES. IN ANY
3 FUTURE PATERNITY PROCEEDINGS UNDER THIS ARTICLE THAT ARE
4 CONTINUED AFTER THE FINAL DISPOSITION OF THE CRIMINAL CHARGES,
5 ANY DENIAL OF PARENTING TIME BY THE VICTIM OF THE ALLEGED SEXUAL
6 ASSAULT WHILE THE CRIMINAL CHARGES WERE PENDING SHALL NOT BE
7 USED IN ANY WAY AGAINST THE VICTIM.

8 **SECTION 6.** In Colorado Revised Statutes, 18-3-402, **add** (7) as
9 follows:

10 **18-3-402. Sexual assault.** (7) A PERSON WHO IS CONVICTED ON OR
11 AFTER JULY 1, 2013, OF A SEXUAL ASSAULT UNDER THIS SECTION, UPON
12 CONVICTION, HAS NO RIGHT:

13 (a) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING
14 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD
15 CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

16 (b) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF
17 THE COMMISSION OF THAT OFFENSE; AND

18 (c) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE
19 ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF
20 THAT OFFENSE.

21 **SECTION 7.** In Colorado Revised Statutes, 18-3-404, **add** (4) as
22 follows:

23 **18-3-404. Unlawful sexual contact.** (4) A PERSON WHO IS
24 CONVICTED ON OR AFTER JULY 1, 2013, OF UNLAWFUL SEXUAL CONTACT
25 UNDER THIS SECTION, UPON CONVICTION, HAS NO RIGHT:

26 (a) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING
27 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD

1 CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

2 (b) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF
3 THE COMMISSION OF THAT OFFENSE; AND

4 (c) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE
5 ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF
6 THAT OFFENSE.

7 **SECTION 8.** In Colorado Revised Statutes, 18-3-405.3, **add** (5)
8 as follows:

9 **18-3-405.3. Sexual assault on a child by one in a position of**
10 **trust.** (5) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF
11 SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST UNDER THIS
12 SECTION, UPON CONVICTION, HAS NO RIGHT:

13 (a) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING
14 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD
15 CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

16 (b) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF
17 THE COMMISSION OF THAT OFFENSE; AND

18 (c) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE
19 ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF
20 THAT OFFENSE.

21 **SECTION 9.** In Colorado Revised Statutes, 18-3-405, **add** (4) as
22 follows:

23 **18-3-405. Sexual assault on a child.** (4) A PERSON WHO IS
24 CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL ASSAULT ON A CHILD
25 UNDER THIS SECTION, UPON CONVICTION, HAS NO RIGHT:

26 (a) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING
27 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD

1 CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;
2 (b) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF
3 THE COMMISSION OF THAT OFFENSE; AND
4 (c) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE
5 ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF
6 THAT OFFENSE.

7 **SECTION 10.** In Colorado Revised Statutes, 18-3-405.5, **add** (5)
8 as follows:

9 **18-3-405.5. Sexual assault on a client by a psychotherapist.**
10 (5) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL
11 ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST UNDER THIS SECTION, UPON
12 CONVICTION, HAS NO RIGHT:

- 13 (a) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING
14 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD
15 CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;
- 16 (b) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF
17 THE COMMISSION OF THAT OFFENSE; AND
- 18 (c) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE
19 ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF
20 THAT OFFENSE.

21 **SECTION 11.** In Colorado Revised Statutes, **add** part 5 to article
22 1 of title 26 as follows:

23 PART 5

24 TASK FORCE ON CHILDREN CONCEIVED BY RAPE

25 **26-1-501. Task force on children conceived by rape -**
26 **legislative declaration - creation - duties - report - repeal of part.**

27 (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND

1 DECLARES THAT:

2 (I) SECTION 19-5-105.5, C.R.S., ADDRESSES THE INTERESTS OF THE
3 PARTIES AFFECTED AND CREATES A PROCESS TO TERMINATE THE
4 PARENTAL RIGHTS OF A PERPETRATOR OF SEXUAL ASSAULT IN
5 CIRCUMSTANCES IN WHICH A PARENT WAS CONVICTED OF AN ACT OF
6 SEXUAL ASSAULT AGAINST THE VICTIM OR CONVICTED OF A CRIME IN
7 WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST
8 THE VICTIM AND A CHILD WAS CONCEIVED AS A RESULT OF THAT SEXUAL
9 ASSAULT OR CRIME;

10 (II) MANY SEXUAL ASSAULTS ARE NOT REPORTED OR PROSECUTED
11 OR DO NOT RESULT IN A CONVICTION, AND IN SUCH CASES, THERE IS STILL
12 A NEED TO PROTECT THE INTERESTS OF THE VICTIM FROM FUTURE
13 CONTACT WITH THE ALLEGED PERPETRATOR WHILE BALANCING THE DUE
14 PROCESS RIGHTS OF THE ALLEGED PERPETRATOR; AND

15 (III) THERE REMAIN UNRESOLVED AND DIFFICULT POLICY ISSUES
16 RELATED TO THE PARENTAL RIGHTS OF THE PARTIES IN THE
17 CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a)
18 IN WHICH A CONVICTION OCCURRED AND ALSO IN THOSE CIRCUMSTANCES
19 DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) IN WHICH A
20 CONVICTION DID NOT OCCUR AND THAT DO NOT QUALIFY FOR THE PROCESS
21 AFFORDED IN SECTION 19-5-105.5, C.R.S.

22 (b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT WOULD BE
23 BENEFICIAL TO CONVENE A TASK FORCE OF EXPERTS TO REVIEW AND
24 EVALUATE THE PROCESS IN SECTION 19-5-105.5, C.R.S., AND TO STUDY
25 THE ISSUES ASSOCIATED WITH PARENTAL RIGHTS IN CASES IN WHICH THERE
26 ARE ALLEGATIONS THAT A SEXUAL ASSAULT OCCURRED, A CONVICTION OF
27 OR PROSECUTION FOR SEXUAL ASSAULT HAS NOT OCCURRED, AND A CHILD

1 HAS BEEN CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT. IT
2 IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TASK FORCE MAKE
3 RECOMMENDATIONS ON FUTURE LEGISLATION TO ADDRESS THESE
4 CONCERNS.

5 (2) THERE IS HEREBY CREATED THE TASK FORCE ON CHILDREN
6 CONCEIVED BY RAPE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE",
7 WHICH SHALL MEET DURING THE INTERIM AFTER THE FIRST REGULAR
8 SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY.

9 (3) THE TASK FORCE SHALL STUDY AND MAKE RECOMMENDATIONS
10 TO THE GENERAL ASSEMBLY CONCERNING PROTECTIONS FOR RAPE VICTIMS
11 AND CONCERNING PARENTAL RIGHTS OF THE PARTIES INVOLVED IN CASES
12 INVOLVING CONVICTIONS AND IN CASES IN WHICH THERE ARE
13 ALLEGATIONS THAT A SEXUAL ASSAULT OCCURRED, A CONVICTION OF OR
14 PROSECUTION FOR SEXUAL ASSAULT HAS NOT OCCURRED, AND A CHILD
15 HAS BEEN CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT.
16 THE TASK FORCE STUDY MUST INCLUDE BUT IS NOT LIMITED TO THE
17 FOLLOWING ISSUES:

18 (a) WHETHER A PROCESS FOR ADDRESSING THE PARENTAL RIGHTS
19 OF BOTH PARENTS IN CASES INVOLVING CONVICTIONS FOR SEXUAL
20 ASSAULT AND IN CASES INVOLVING ALLEGATIONS OF SEXUAL ASSAULT
21 WHERE THERE WERE NO CONVICTIONS IS MORE APPROPRIATELY
22 ADDRESSED BY DISTRICT COURTS PURSUANT TO ARTICLE 10 OF TITLE 14,
23 C.R.S., OR BY JUVENILE COURTS PURSUANT TO ARTICLE 5 OF TITLE 19,
24 C.R.S. THE TASK FORCE MUST CONDUCT AN ANALYSIS THAT INCLUDES,
25 BUT IS NOT LIMITED TO, THE ADVANTAGES AND DISADVANTAGES OF EACH
26 APPROACH, WHETHER THERE IS A POTENTIAL FOR UNINTENDED
27 CONSEQUENCES FROM EITHER APPROACH, THE FISCAL IMPACT TO THE

1 STATE, COUNTY DEPARTMENTS OF SOCIAL SERVICES, AND THE JUDICIAL
2 BRANCH TO STAFF THE DIFFERENT APPROACHES, AND THE IMPACT OF EACH
3 APPROACH ON THE PARTIES, THE STATE, THE COUNTY DEPARTMENTS OF
4 SOCIAL SERVICES, AND THE JUDICIAL BRANCH.

5 (b) WHAT MECHANISMS AND DUE PROCESS PROTECTIONS CAN BE
6 ESTABLISHED FOR THE COURT TO LIMIT OR TERMINATE PARENTAL RIGHTS,
7 MAKE DECISIONS ABOUT ALLOCATION OF RIGHTS AND RESPONSIBILITIES OF
8 THE PARENTS, AND ISSUE PROTECTIVE NO-CONTACT ORDERS;

9 (c) WHAT BURDEN OF PROOF SHOULD BE USED BY THE COURT IN
10 MAKING THE FINDINGS IN PARAGRAPH (b) OF THIS SUBSECTION (3);

11 (d) THE UNIQUE CONSIDERATIONS AND CHALLENGES THAT ARE
12 PRESENTED BY CASES INVOLVING DOMESTIC VIOLENCE;

13 (e) THE UNIQUE CONSIDERATIONS AND CHALLENGES THAT ARE
14 PRESENTED BY CASES WHERE THE PERSON WHO COMMITTED OR IS
15 ALLEGED TO HAVE COMMITTED THE SEXUAL ASSAULT IS A WOMAN AND
16 THE WOMAN BECOMES IMPREGNATED AND CONCEIVES A CHILD;

17 (f) HOW PARENTAL RIGHTS SHOULD BE DETERMINED AND
18 ADDRESSED THROUGH DEPENDENCY OR NEGLECT PROCEEDINGS IN THE
19 JUVENILE JUSTICE SYSTEM;

20 (g) HOW PARENTAL RESPONSIBILITIES SHOULD BE ALLOCATED IN
21 DOMESTIC RELATIONS CASES BROUGHT UNDER ARTICLE 10 OF TITLE 14,
22 C.R.S.;

23 (h) HOW TO ADDRESS THE VISITATION RIGHTS OF GRANDPARENTS
24 OF THE CHILD IN THESE CIRCUMSTANCES;

25 (i) HOW THE RIGHTS OF PARENTS AND CHILDREN ARE AFFECTED BY
26 THE FEDERAL "INDIAN CHILD WELFARE ACT", 25 U.S.C., CHAPTER 21;

27 (j) THE NECESSITY OF OBTAINING CONSENT FROM BOTH

1 BIOLOGICAL PARENTS TO THE ADOPTION OF THE CHILD AND HOW TO
2 OBTAIN THAT CONSENT;

3 (k) WHETHER AND HOW TO ALLOW A BIRTH PARENT TO
4 RELINQUISH THE CHILD THROUGH AN EXPEDITED RELINQUISHMENT
5 PROCEDURE FOR A CHILD UNDER ONE YEAR OF AGE AND SEEK THE
6 TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF THE OTHER
7 PARENT WHO IS ALLEGED TO BE THE PERPETRATOR OF SEXUAL ASSAULT SO
8 THAT THE CHILD MAY LEGALLY BE AVAILABLE FOR ADOPTION;

9 (l) WITH RESPECT TO THE ALLEGED PERPETRATOR'S PARENTAL
10 RIGHTS, THE ADVANTAGES AND DISADVANTAGES OF AND COMPARISONS
11 OF:

12 (I) NOT ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING
13 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, TO A PARENT
14 ALLEGED OR FOUND TO BE A PERPETRATOR; OR

15 (II) NOT ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING
16 PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, TO A PARENT
17 ALLEGED OR FOUND TO BE A PERPETRATOR, AND LEAVING THE PARENT'S
18 OBLIGATION TO PROVIDE CHILD SUPPORT FOR THE CHILD INTACT; OR

19 (III) TERMINATING ALL PARENTAL RIGHTS AND RESPONSIBILITIES
20 OF A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR, INCLUDING NOT
21 ALLOCATING PARENTAL RESPONSIBILITIES REGARDING PARENTING TIME
22 AND DECISION-MAKING RESPONSIBILITIES, AND TERMINATING ALL
23 OBLIGATIONS TO PROVIDE CHILD SUPPORT FOR THE CHILD;

24 (m) THE FEASIBILITY OF ALLOWING THE VICTIM TO EXERCISE
25 PARENTAL CHOICE ABOUT WHETHER THE OBLIGATIONS FOR CHILD SUPPORT
26 OF THE OTHER PARENT ARE LEFT INTACT OR ARE ELIMINATED, INCLUDING
27 BALANCING THE RIGHTS OF THE CHILD TO BE FINANCIALLY SUPPORTED

1 WITH THE VICTIM'S CHOICE TO WAIVE CHILD SUPPORT, AND INCLUDING AN
2 EXAMINATION OF WHETHER SUCH A CHOICE CAN BE WAIVED IN
3 CIRCUMSTANCES IN WHICH THE CHILD WOULD QUALIFY FOR PUBLIC
4 ASSISTANCE BENEFITS; AND

5 (n) THE RESOURCES AND TRAINING NEEDED TO TRAIN DOMESTIC
6 RELATIONS STAFF IN THE JUDICIAL BRANCH WHO WORK WITH THE PARTIES
7 AND THE COSTS ASSOCIATED WITH PROVIDING RESOURCES AND TRAINING.

8 (4) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS
9 FINDINGS AND RECOMMENDATIONS TO THE SPONSORS AND CO-SPONSORS
10 OF SENATE BILL 13-227, ENACTED IN 2013, AND TO THE JUDICIARY
11 COMMITTEE OF THE SENATE AND TO THE JUDICIARY COMMITTEE OF THE
12 HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR
13 BEFORE DECEMBER 1, 2013. UPON REQUEST OF A MEMBER OF THE TASK
14 FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE PREPARED AND
15 ATTACHED TO THE FINAL REPORT OF FINDINGS AND RECOMMENDATIONS.

16 (5) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING
17 MEMBERS:

18 (a) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

19 (I) A REPRESENTATIVE OF A STATEWIDE SEXUAL ASSAULT
20 COALITION;

21 (II) A REPRESENTATIVE OF A STATEWIDE DOMESTIC VIOLENCE
22 COALITION;

23 (III) AN EXPERT IN THE FEDERAL "INDIAN CHILD WELFARE ACT",
24 25 U.S.C., CHAPTER 21;

25 (IV) A REPRESENTATIVE FROM A CHILDREN'S ADVOCACY CENTER
26 OR STATEWIDE ORGANIZATION REPRESENTING CHILDREN'S ADVOCACY
27 CENTERS;

1 (V) A REPRESENTATIVE OF A STATEWIDE DISABILITY RIGHTS
2 ORGANIZATION;

3 (VI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT
4 ADVOCATES ON BEHALF OF CRIME VICTIMS;

5 (b) A REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES
6 WHO IS FAMILIAR WITH CHILD WELFARE, ADOPTION SERVICES, AND CHILD
7 SUPPORT ENFORCEMENT APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
8 DEPARTMENT OF HUMAN SERVICES;

9 (c) A REPRESENTATIVE FROM THE OFFICE OF THE CHILD'S
10 REPRESENTATIVE APPOINTED BY THE CHIEF JUSTICE OF THE COLORADO
11 SUPREME COURT;

12 (d) A REPRESENTATIVE FROM THE JUDICIAL BRANCH APPOINTED BY
13 THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

14 (e) A REPRESENTATIVE OF THE ATTORNEY GENERAL'S OFFICE
15 APPOINTED BY THE STATE ATTORNEY GENERAL;

16 (f) A REPRESENTATIVE OF COUNTY DEPARTMENTS OF SOCIAL
17 SERVICES WHO WORKS IN CHILD PROTECTIVE SERVICES APPOINTED BY
18 COLORADO COUNTIES, INC.;

19 (g) AN ATTORNEY WHO REPRESENTS A COUNTY AND WHO IS
20 APPOINTED BY THE ASSOCIATION THAT REPRESENTS COUNTY HUMAN
21 SERVICES DIRECTORS IN COLORADO;

22 (h) A REPRESENTATIVE FROM THE FAMILY LAW SECTION OF THE
23 COLORADO BAR ASSOCIATION WHO IS FAMILIAR WITH FAMILY LAW AND
24 ADOPTION LAW APPOINTED BY THE COLORADO BAR ASSOCIATION;

25 (i) A REPRESENTATIVE FROM THE JUVENILE LAW SECTION OF THE
26 COLORADO BAR ASSOCIATION APPOINTED BY THE COLORADO BAR
27 ASSOCIATION;

1 (j) A REPRESENTATIVE FROM THE CRIMINAL LAW SECTION OF THE
2 COLORADO BAR ASSOCIATION WHO IS A CRIMINAL DEFENSE ATTORNEY
3 APPOINTED BY THE COLORADO BAR ASSOCIATION;

4 (k) A REPRESENTATIVE APPOINTED BY THE COLORADO DISTRICT
5 ATTORNEYS' COUNCIL; AND

6 (l) A PERSON WHO IS A SURVIVOR OF A SEXUAL ASSAULT
7 APPOINTED BY A STATEWIDE ORGANIZATION THAT ADVOCATES ON BEHALF
8 OF SEXUAL ASSAULT VICTIMS.

9 (6) THE APPOINTING AUTHORITIES SHALL MAKE ALL
10 APPOINTMENTS TO THE TASK FORCE ON OR BEFORE JUNE 15, 2013.

11 (7) (a) THE FIRST MEETING OF THE TASK FORCE SHALL OCCUR NO
12 LATER THAN JULY 20, 2013. THE TASK FORCE SHALL MEET AT LEAST FOUR
13 TIMES.

14 (b) THE TASK FORCE'S MEETINGS SHALL BE PUBLIC MEETINGS.

15 (c) THE MEMBERS OF THE TASK FORCE SHALL ELECT A CHAIR AND
16 A VICE-CHAIR FROM ITS MEMBERSHIP.

17 (8) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND
18 PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE
19 TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE
20 TASK FORCE.

21 (9) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT
22 COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR
23 EXPENSES.

24 (10) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF
25 LEGISLATIVE LEGAL SERVICES SHALL NOT PROVIDE STAFF SUPPORT TO THE
26 TASK FORCE.

27 (11) THIS PART 5 IS REPEALED, EFFECTIVE JANUARY 1, 2014.

1 **SECTION 12. Appropriation.** In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys in the
3 general fund not otherwise appropriated, to the department of human
4 services, for the fiscal year beginning July 1, 2013, the sum of \$9,000, or
5 so much thereof as may be necessary, for allocation to the division of
6 child welfare, administration, for the provision of assistance to the task
7 force on children conceived by rape that is created by this act.

8 **SECTION 13. Effective date - applicability.** (1) Except as
9 otherwise provided in this section, this act takes effect upon passage.

10 (2) Sections 1 through 10 of this act take effect July 1, 2013, and
11 apply to convictions occurring on or after said date.

12 **SECTION 14. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.