

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated April 22, 2013)

Drafting Number: LLS 13-0669

Date: April 26, 2013

Prime Sponsor(s): Sen. Carroll; Hudak
Rep. Landgraf

Bill Status: House Appropriations

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TITLE: CONCERNING METHODS TO PROTECT THE VICTIM OF A SEXUAL ASSAULT IN CASES WHERE A CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures General Fund	Up to \$29,000	Up to \$20,000
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature, except that Sections 1 through 10 take effect on July 1, 2013.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

The *reengrossed bill, as amended by the House Judiciary Committee*, establishes a process for victims who conceive a child as a result of a sexual assault to file a petition with the court to:

- prevent future contact with the parent who committed the sexual assault; and
- terminate the legal parent-child relationship of the parent who committed the sexual assault.

Termination of parent-child relationship. The parent-child relationship shall be terminated if clear and convincing evidence shows that the parent was convicted of the sexual assault, the child was conceived a result of that sexual assault, and that termination of the relationship is in the best interests of the child. The bill sets forth the procedures for such filings and states that there is a rebuttable presumption that terminating the parent-child relationship is in the best interest of the child in cases of conception through sexual assault. Petitioners making such filings have the right to legal counsel and may request that counsel be appointed if they are unable to afford one. The new process applies to persons convicted of sexual assault on or after July 1, 2013.

Automatic stays of proceeding. The bill requires the court to issue a automatic stay of any paternity or civil domestic proceeding if criminal charges are brought alleging a sexual assault that resulted the conception of the child. The stay can only be lifted after final disposition of the criminal charges.

Other provisions. The process for the termination of the parent-child relationship created by the bill does not preclude the termination of the parental rights of a parent who commits sexual assault under the Colorado Children's Code, if the provisions of this bill are not applicable. A parent whose rights has been terminated under the bill is not relieved of any obligation for child support unless waived by the victim and has no right to:

- allocation of parenting time or decision-making;
- inheritance from the child; and
- notice of, or standing to object to, the adoption of the child.

Task force. The bill creates a task force on children conceived by rape to study various issues and to make recommendations for protecting rape victims. Among other things, the task force is to address how to handle parental rights cases in which there are allegations that a sexual assault has occurred and a child conceived was from the alleged assault, but no conviction or prosecution for the sexual assault has taken place. The task force is to have 17 members representing various stakeholders, experts, and organizations. Members serve without compensation, and the task force is required to meet during the 2013 legislative interim and make submit its report and recommendations to various legislative committees by December 1, 2013. The task force is repealed on January 1, 2014.

State Expenditures

The bill increases General Fund costs by up to \$29,000 in FY 2013-14 and up to \$20,000 in FY 2014-15 and beyond. Of these costs, \$9,000 is in the Department of Human Services (DHS) and up to \$20,000 is in the Judicial Branch, as discussed below.

Task force staff. The DHS will have one-time costs of \$9,000 for temporary staff to assist the task force, schedule and hold meetings, conduct research, and write the required report and recommendations. It is assumed that this staff will work 300 hours over a five-month period from July to December 2013 at a rate of \$30 per hour (300 hours x \$30/hour = \$9,000). The staff costs are based on the hourly equivalent of a General Professional IV.

Court workload. The courts will have additional cases under the bill to handle motions filed by victims of sexual assault and to terminate the parent-child relationship of affected parents. Based on national statistics and Colorado's share of the population, around 500 women in Colorado may conceive a child as a result of sexual assault each year. It is assumed that in about 33 percent of cases women choose to keep and raise the child (165 children), and in a smaller portion of these cases is there a conviction for sexual assault. Thus, the fiscal note assumes that between 50 and 100 filings under the bill will occur each year. This workload can be absorbed by the courts within existing appropriations to the Judicial Branch.

Court-appointed counsel. The Judicial Branch may have costs of up to \$20,000 per year beginning in FY 2013-14 for court-appointed counsel for petitioners under the bill. At this time, it is unknown how many petitioners will be unable to pay and will receive court-appointed counsel. Assuming 20 percent of cases require legal counsel to be appointed in the 50 to 100 cases estimated above, then there would be appointments in between 10 and 20 cases per year. At an average cost of \$1,000 per appointment, this may result in costs to the Judicial Branch of between \$10,000 and \$20,000 per year. Given these minimal costs and the uncertainty on the number of cases requiring appointments, it is assumed that these costs can be absorbed within existing appropriations. As more information on the number and costs of court-appointed counsel in these cases is known, if additional appropriations are required, they will be requested through the annual budget process.

Guardians ad litem. The Office of the Child's Representative may have to appoint additional guardians ad litem to represent the best interest of the child in proceedings under the bill. Any workload increase and costs are assumed to be minimal and can be absorbed within existing appropriations.

Local Government Impact

The bill requires representatives from various local government entities, including county departments of social services and district attorneys to be appointed to the task force. It is assumed that task force participation by such personnel will have a minimal impact on workload for the affected agencies.

State Appropriations

The reengrossed bill requires, and includes, a General Fund appropriation of \$9,000 to the Department of Human Services in FY 2013-14.

Departments Contacted

Human Services
Governor

Judicial
Counties

Law
District Attorneys