

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 6, 2014  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB14-1162 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 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 (a.7) "PETITIONER" MEANS A VICTIM OF SEXUAL ASSAULT WHO  
25 FILES A PETITION FOR TERMINATION OF THE PARENT-CHILD LEGAL  
26 RELATIONSHIP OF THE OTHER PARENT AS PROVIDED IN THIS SECTION.

1 (a.8) "RESPONDENT" MEANS A PERSON AGAINST WHOM A PETITION  
2 FOR TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS FILED AS  
3 PROVIDED IN THIS SECTION.

4 (b) "Sexual assault" has the same meaning as defined in section  
5 19-1-103 (96.5).

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

8 (3) If a child was conceived as a result of an act that led to the  
9 parent's conviction for sexual assault or for a conviction in which the  
10 underlying factual basis was sexual assault, the victim of the sexual  
11 assault or crime may file a petition in the juvenile court to prevent future  
12 contact with the parent who committed the sexual assault and to terminate  
13 the parent-child legal relationship of the parent who committed the sexual  
14 assault or crime.

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

16 (a) The ~~other parent~~ RESPONDENT was convicted on or after July  
17 1, 2013, of an act of sexual assault against the ~~victim~~ PETITIONER or  
18 convicted of a crime in which the underlying factual basis was sexual  
19 assault against the ~~victim~~ PETITIONER;

20 (b) A child was conceived as a result of the act of sexual assault  
21 or crime described under paragraph (a) of this subsection (4); and

22 (c) Termination of the parent-child legal relationship of the ~~other~~  
23 ~~parent~~ RESPONDENT with the child is in the best interests of the child.

24 (4.5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS  
25 SECTION, THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE  
26 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE  
27 PURPOSE OF THE PROCEEDING IS WHETHER TO TERMINATE THE  
28 PARENT-CHILD LEGAL RELATIONSHIP OF THE RESPONDENT. THE  
29 PETITIONER SHALL HAVE THE RESPONDENT PERSONALLY SERVED WITH A  
30 COPY OF THE SUMMONS OR NOTIFIED THROUGH NOTICE BY PUBLICATION  
31 CONSISTENT WITH THE STATUTORY PROVISIONS FOR NOTICE IN SECTION  
32 19-3-503 AND PURSUANT TO THE COLORADO RULES OF CIVIL PROCEDURE,  
33 UNLESS THE RESPONDENT APPEARS VOLUNTARILY OR WAIVES SERVICE.  
34 UPON REQUEST, THE COURT SHALL PROTECT THE WHEREABOUTS OF THE  
35 PETITIONER AND MUST IDENTIFY THE PETITIONER AND THE CHILD IN THE  
36 SUMMONS BY INITIALS.

37 (5) After a petition has been filed pursuant to this section, the  
38 court ~~may~~ SHALL appoint a guardian ad litem, who must be an attorney,  
39 to represent the child's best interests in the proceeding. ~~A~~ THE petitioner  
40 ~~has~~ AND THE RESPONDENT HAVE the right to be represented by legal  
41 counsel in proceedings under this section. ~~and has~~ THE PETITIONER AND  
42 THE RESPONDENT EACH HAVE the right to seek the appointment of legal

1 counsel if ~~the petitioner~~ HE OR SHE is unable financially to secure legal  
2 counsel on his or her own. THE COURT SHALL WAIVE FILING FEES FOR AN  
3 INDIGENT PETITIONER.

4 (b) THE COURT WILL WORK TO ENSURE THAT A PETITIONER OR A  
5 RESPONDENT WHO HAS A DISABILITY HAS EQUAL ACCESS TO PARTICIPATE  
6 IN THE PROCEEDING. IF THE PETITIONER OR RESPONDENT HAS A  
7 DISABILITY, HE OR SHE HAS THE RIGHT TO REQUEST REASONABLE  
8 ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THE PROCEEDING; EXCEPT  
9 THAT THE DISABILITY OF THE PETITIONER, THE RESPONDENT, OR THE CHILD  
10 MUST NOT BE THE CAUSE FOR THE UNNECESSARY DELAY OF THE PROCESS.  
11 THE COURT SHALL PRESUME THAT A PETITIONER OR A RESPONDENT WITH  
12 A DISABILITY IS LEGALLY COMPETENT AND ABLE TO UNDERSTAND AND  
13 PARTICIPATE IN THE PROCEEDING UNLESS THE PETITIONER OR RESPONDENT  
14 IS DETERMINED TO BE AN INCAPACITATED PERSON, AS DEFINED IN SECTION  
15 15-14-102 (5), C.R.S.

16 (6) In any proceeding held under this section, THE COURT MAY  
17 GRANT PROTECTIVE MEASURES IN THE COURTROOM AS REQUESTED BY THE  
18 PETITIONER, INCLUDING BUT NOT LIMITED TO ALLOWING the ~~victim is not~~  
19 ~~required~~ PETITIONER to NOT appear in the presence of the ~~other parent and~~  
20 RESPONDENT, SO LONG AS THESE MEASURES DO NOT VIOLATE DUE  
21 PROCESS. The ~~victim's~~ PETITIONER'S and the child's whereabouts must be  
22 kept confidential.

23 (6.5) A RESPONDENT MAY ADMIT PARENTAGE OR MAY REQUEST  
24 GENETIC TESTING OR OTHER TESTS OF INHERITED CHARACTERISTICS TO  
25 CONFIRM PATERNITY. THE TEST RESULTS MUST BE ADMITTED INTO  
26 EVIDENCE AS PROVIDED IN SECTION 13-25-126, C.R.S. THE FINAL COSTS  
27 FOR GENETIC TESTS OR OTHER TESTS OF INHERITED CHARACTERISTICS  
28 MUST BE ASSESSED AGAINST THE NONPREVAILING PARTY ON THE  
29 PARENTAGE ISSUE.

30 (6.7) THE COURT SHALL HEAR A PETITION TO TERMINATE THE  
31 PARENT-CHILD LEGAL RELATIONSHIP NO MORE THAN ONE HUNDRED  
32 TWENTY DAYS AFTER SERVICE OF THE PETITION OR FROM THE FIRST  
33 APPEARANCE DATE, WHICHEVER IS LATER, UNLESS BOTH PARTIES CONSENT  
34 TO AN EXTENSION OR THE COURT FINDS GOOD CAUSE TO EXTEND THE  
35 HEARING BEYOND ONE HUNDRED TWENTY DAYS.

36 (7) The court shall terminate the parent-child legal relationship of  
37 the ~~person against whom the petition is filed~~ RESPONDENT if the court  
38 finds by clear and convincing evidence, AND STATES THE REASONS FOR ITS  
39 DECISION, that:

40 (a) The ~~parent~~ RESPONDENT was convicted on or after July 1,  
41 2013, of an act of sexual assault against the ~~victim~~ PETITIONER or was

1 convicted of a crime in which the underlying factual basis was sexual  
2 assault against the ~~victim~~ PETITIONER;

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

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

12 (7.3) IF THE CHILD IS AN INDIAN CHILD, THE COURT SHALL ENSURE  
13 COMPLIANCE WITH THE FEDERAL "INDIAN CHILD WELFARE ACT", 25  
14 U.S.C. SEC. 1901 ET SEQ., AND THE PROVISIONS OF SECTION 19-1-126.

15 (7.5) IF THE COURT DENIES THE PETITION TO TERMINATE THE  
16 PARENT-CHILD LEGAL RELATIONSHIP, THEN THE COURT SHALL ARTICULATE  
17 ITS REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE  
18 PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO  
19 ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL  
20 RESPONSIBILITIES BETWEEN THE PARTIES, INCLUDING BUT NOT LIMITED TO  
21 AN ORDER TO NOT ALLOCATE PARENTAL RESPONSIBILITIES TO THE  
22 RESPONDENT. IN ISSUING ANY ORDER ALLOCATING PARENTAL  
23 RESPONSIBILITIES, INCLUDING THE DUTY OF SUPPORT, GUARDIANSHIP, AND  
24 PARENTING TIME PRIVILEGES WITH THE CHILD OR ANY OTHER MATTER, THE  
25 COURT SHALL DETERMINE WHETHER THE ORDER IS IN THE BEST INTERESTS  
26 OF THE CHILD BASED ON A PREPONDERANCE OF THE EVIDENCE.

27 (8) (a) A ~~person~~ RESPONDENT whose parental rights are terminated  
28 in accordance with this section has:

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

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

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

34 (b) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-3-608,  
35 termination of parental rights under subsection (7) of this section does not  
36 relieve the ~~person~~ RESPONDENT of any obligation to pay child support or  
37 birth-related costs unless waived by the ~~victim~~ PETITIONER. In cases in  
38 which child support obligations are not waived, ~~and~~ THE COURT, AS  
39 INFORMED BY THE WISHES OF THE PETITIONER, SHALL DETERMINE IF  
40 ENTERING AN ORDER TO PAY CHILD SUPPORT IS IN THE BEST INTERESTS OF  
41 THE CHILD. IF the court orders the ~~person~~ RESPONDENT to pay child

1 support, the court shall order the payments to be made through the child  
2 support registry to avoid the need for any contact between the parties AND  
3 ORDER THAT THE PAYMENTS BE TREATED AS A NONDISCLOSURE OF  
4 INFORMATION CASE. If the ~~victim's~~ PETITIONER'S parent-child legal  
5 relationship to the child is terminated after the entry of a child support  
6 order against the ~~person who was convicted~~ RESPONDENT, the court shall  
7 modify the child support order accordingly.

8 (9) ~~The person~~ A RESPONDENT whose parent-child legal  
9 relationship has been terminated in accordance with this section has no  
10 right to make medical treatment decisions or any other decisions on  
11 behalf of the child.

12 (9.5) THE COURT MAY ORDER A RESPONDENT WHOSE  
13 PARENT-CHILD LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE  
14 MEDICAL AND FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS  
15 APPROPRIATE, AND WITH THE PETITIONER. FOR TERMINATIONS ENTERED  
16 UNDER THIS SECTION AND SECTION 19-5-105.7, THE STATE COURT  
17 ADMINISTRATOR SHALL ESTABLISH A UNIFORM PROCESS TO DETERMINE  
18 HOW THE INFORMATION IS COLLECTED, WHO CAN ACCESS IT, WHEN IT CAN  
19 BE ACCESSED, AND HOW IT IS STORED. THE COURT MAY ORDER THAT A  
20 RESPONDENT'S FAILURE TO COMPLY WITH THE REQUEST FOR INFORMATION  
21 IN A TIMELY MANNER CONSTITUTES CONTEMPT OF COURT.

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

28 (11) Termination of the parent-child legal relationship pursuant  
29 to subsection (7) of this section is an independent basis for termination of  
30 parental rights, and the court need not make any of the considerations or  
31 findings described in section ~~19-5-105, 19-5-103.5, or 19-3-604~~  
32 19-3-604, 19-5-103.5, OR 19-5-105.

33 (12) Nothing in this section prohibits the termination of parental  
34 rights by the court using the criteria described in section ~~19-5-105,~~  
35 ~~19-5-103.5, or 19-3-604~~ 19-3-604, 19-5-103.5, OR 19-5-105.

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

38 **14-10-124.3. Stay of proceedings - criminal charges of**  
39 **allegations of sexual assault.** ~~If criminal charges alleging an act of~~  
40 ~~sexual assault, as defined in section 19-1-103 (96.5), C.R.S., are brought~~  
41 ~~against the parent of a child alleging that a child was conceived as a result~~

1 of the alleged sexual assault committed by that parent against the parent  
2 who is the alleged victim of the sexual assault, the court shall issue an  
3 automatic stay of any civil domestic proceedings under this article or of  
4 any paternity proceedings under the "Uniform Parentage Act", article 4  
5 of title 19, C.R.S., involving both the child and the parent who is the  
6 alleged perpetrator. The stay shall not be lifted until there is a final  
7 disposition of the criminal charges. In any future domestic proceedings  
8 under this article or any paternity proceedings under the "Uniform  
9 Parentage Act", article 4 of title 19, C.R.S., continued after the final  
10 disposition of the criminal charges, any denial of parenting time by the  
11 victim of the alleged sexual assault while the criminal charges were  
12 pending shall not be used in any way against the victim.

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

15 **19-4-105.7. Stay of paternity proceedings - criminal charges**  
16 **of allegations of sexual assault.** If criminal charges alleging an act of  
17 sexual assault, as defined in section 19-1-103 (96.5), are brought against  
18 a presumed or possible parent who is the subject of an action to determine  
19 paternity alleging that a child was conceived as a result of that sexual  
20 assault committed by that presumed or possible parent against the parent  
21 who is the alleged victim of the sexual assault, the court shall issue an  
22 automatic stay of any paternity proceedings under this article involving  
23 both the child and the presumed or possible parent who is the alleged  
24 perpetrator. The stay shall not be lifted until there is a final disposition of  
25 the criminal charges. In any future paternity proceedings under this article  
26 that are continued after the final disposition of the criminal charges, any  
27 denial of parenting time by the victim of the alleged sexual assault while  
28 the criminal charges were pending shall not be used in any way against  
29 the victim.

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

32 **19-5-105.7. Termination of parent-child legal relationship in**  
33 **a case of an allegation that a child was conceived as a result of sexual**  
34 **assault but in which no conviction occurred - legislative declaration**  
35 **- definitions.** (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE  
36 PURPOSE OF THIS STATUTE IS TO PROTECT A PERSON IN A CASE WHERE IT  
37 IS DETERMINED THAT HE OR SHE IS A VICTIM OF SEXUAL ASSAULT BUT IN  
38 WHICH NO CONVICTION OCCURRED AND TO PROTECT A CHILD CONCEIVED  
39 AS A RESULT OF THAT SEXUAL ASSAULT BY CREATING A PROCESS TO SEEK  
40 TERMINATION OF THE PARENTAL RIGHTS OF THE PERPETRATOR OF THE  
41 SEXUAL ASSAULT AND BY ISSUING PROTECTIVE ORDERS PREVENTING

1 FUTURE CONTACT BETWEEN THE PARTIES. THE GENERAL ASSEMBLY  
2 FURTHER DECLARES THAT THIS SECTION CREATES CIVIL REMEDIES AND IS  
3 NOT CREATED TO PUNISH THE PERPETRATOR BUT RATHER TO PROTECT THE  
4 INTERESTS OF THE PETITIONER AND THE CHILD. THE GENERAL ASSEMBLY  
5 CREATES THIS SECTION TO ADDRESS THE PROCEDURES IN CASES WHERE  
6 THERE ARE ALLEGATIONS OF SEXUAL ASSAULT BUT IN WHICH A  
7 CONVICTION DID NOT OCCUR.

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
9 REQUIRES:

10 (a) "CONVICTION" HAS THE SAME MEANING AS DEFINED IN SECTION  
11 19-1-103 (29.3).

12 (b) "PETITIONER" MEANS A PERSON WHO ALLEGES THAT HE OR SHE  
13 IS A VICTIM OF SEXUAL ASSAULT AND WHO FILES A PETITION FOR  
14 TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF THE OTHER  
15 PARENT AS PROVIDED IN THIS SECTION.

16 (c) "RESPONDENT" MEANS A PERSON AGAINST WHOM A PETITION  
17 FOR TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS FILED AS  
18 PROVIDED IN THIS SECTION.

19 (d) "SEXUAL ASSAULT" HAS THE SAME MEANING AS DEFINED IN  
20 SECTION 19-1-103 (96.5).

21 (3) THE PERSON WHO ALLEGES THAT HE OR SHE IS A VICTIM OF  
22 SEXUAL ASSAULT AND WHO ALLEGES THAT A CHILD WAS CONCEIVED AS A  
23 RESULT OF A SEXUAL ASSAULT IN WHICH A CONVICTION DID NOT OCCUR  
24 MAY FILE A PETITION IN THE JUVENILE COURT TO PREVENT FUTURE  
25 CONTACT WITH THE PARENT WHO ALLEGEDLY COMMITTED THE SEXUAL  
26 ASSAULT AND TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP OF  
27 THE PARENT WHO ALLEGEDLY COMMITTED THE SEXUAL ASSAULT.

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

30 (a) THE RESPONDENT COMMITTED AN ACT OF SEXUAL ASSAULT  
31 AGAINST THE PETITIONER;

32 (b) THE RESPONDENT HAS NOT BEEN CONVICTED FOR THE ACT OF  
33 SEXUAL ASSAULT;

34 (c) A CHILD WAS CONCEIVED AS A RESULT OF THE ACT OF SEXUAL  
35 ASSAULT AS DESCRIBED UNDER PARAGRAPH (a) OF THIS SUBSECTION (4);  
36 AND

37 (d) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF  
38 THE RESPONDENT WITH THE CHILD IS IN THE BEST INTERESTS OF THE CHILD.

39 (5) (a) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS  
40 SECTION, THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE  
41 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE

1 PURPOSE OF THE PROCEEDING IS TO DETERMINE WHETHER TO TERMINATE  
2 THE PARENT-CHILD LEGAL RELATIONSHIP OF THE RESPONDENT. THE  
3 PETITIONER SHALL HAVE THE RESPONDENT PERSONALLY SERVED WITH A  
4 COPY OF THE SUMMONS OR NOTIFIED THROUGH NOTICE BY PUBLICATION  
5 CONSISTENT WITH THE STATUTORY PROVISIONS FOR NOTICE IN SECTION  
6 19-3-503 AND PURSUANT TO THE COLORADO RULES OF CIVIL PROCEDURE,  
7 UNLESS THE RESPONDENT APPEARS VOLUNTARILY OR WAIVES SERVICE.  
8 UPON REQUEST, THE COURT SHALL PROTECT THE WHEREABOUTS OF THE  
9 PETITIONER AND MUST IDENTIFY THE PETITIONER AND THE CHILD IN THE  
10 SUMMONS BY INITIALS.

11 (b) THE COURT WILL WORK TO ENSURE THAT A PETITIONER OR A  
12 RESPONDENT WHO HAS A DISABILITY HAS EQUAL ACCESS TO PARTICIPATE  
13 IN THE PROCEEDING. IF THE PETITIONER OR RESPONDENT HAS A  
14 DISABILITY, HE OR SHE HAS THE RIGHT TO REQUEST REASONABLE  
15 ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THE PROCEEDING; EXCEPT  
16 THAT THE DISABILITY OF THE PETITIONER, THE RESPONDENT, OR THE CHILD  
17 MUST NOT BE THE CAUSE FOR THE UNNECESSARY DELAY OF THE PROCESS.  
18 THE COURT SHALL PRESUME THAT A PETITIONER OR A RESPONDENT WITH  
19 A DISABILITY IS LEGALLY COMPETENT AND ABLE TO UNDERSTAND AND  
20 PARTICIPATE IN THE PROCEEDING UNLESS THE PETITIONER OR RESPONDENT  
21 IS DETERMINED TO BE AN INCAPACITATED PERSON, AS DEFINED IN SECTION  
22 15-14-102 (5), C.R.S.

23 (6) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION,  
24 THE COURT SHALL APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN  
25 ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE  
26 PROCEEDING. THE PETITIONER AND THE RESPONDENT HAVE THE RIGHT TO  
27 BE REPRESENTED BY LEGAL COUNSEL IN PROCEEDINGS UNDER THIS  
28 SECTION. THE PETITIONER AND THE RESPONDENT EACH HAVE THE RIGHT  
29 TO SEEK THE APPOINTMENT OF LEGAL COUNSEL IF HE OR SHE IS UNABLE  
30 FINANCIALLY TO SECURE LEGAL COUNSEL ON HIS OR HER OWN. THE COURT  
31 SHALL WAIVE FILING FEES FOR AN INDIGENT PETITIONER.

32 (7) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE COURT  
33 MAY GRANT PROTECTIVE MEASURES IN THE COURTROOM AS REQUESTED  
34 BY THE PETITIONER, INCLUDING BUT NOT LIMITED TO ALLOWING THE  
35 PETITIONER TO NOT APPEAR IN THE PRESENCE OF THE RESPONDENT SO  
36 LONG AS THESE MEASURES DO NOT VIOLATE DUE PROCESS. THE  
37 PETITIONER'S AND THE CHILD'S WHEREABOUTS MUST BE KEPT  
38 CONFIDENTIAL.

39 (8) A RESPONDENT MAY ADMIT PARENTAGE OR MAY REQUEST  
40 GENETIC TESTING OR OTHER TESTS OF INHERITED CHARACTERISTICS TO  
41 CONFIRM PATERNITY. THE TEST RESULTS MUST BE ADMITTED INTO



1 EVIDENCE AS PROVIDED IN SECTION 13-25-126, C.R.S. THE FINAL COSTS  
2 FOR GENETIC TESTS OR OTHER TESTS OF INHERITED CHARACTERISTICS  
3 MUST BE ASSESSED AGAINST THE NONPREVAILING PARTY ON THE  
4 PARENTAGE ISSUE.

5 (9) THE COURT SHALL HEAR A PETITION TO TERMINATE THE  
6 PARENT-CHILD LEGAL RELATIONSHIP NO MORE THAN ONE HUNDRED  
7 EIGHTY DAYS AFTER SERVICE OF THE PETITION OR FROM THE FIRST  
8 APPEARANCE DATE, WHICHEVER IS LATER, UNLESS BOTH PARTIES CONSENT  
9 TO AN EXTENSION OR THE COURT FINDS GOOD CAUSE TO EXTEND THE  
10 HEARING BEYOND ONE HUNDRED EIGHTY DAYS.

11 (10) (a) THE COURT SHALL TERMINATE THE PARENT-CHILD LEGAL  
12 RELATIONSHIP OF THE RESPONDENT IF THE COURT FINDS BY CLEAR AND  
13 CONVINCING EVIDENCE THAT:

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

15 (II) THE SEXUAL ASSAULT WAS PERPETRATED BY THE  
16 RESPONDENT;

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

20 (IV) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS  
21 IN THE BEST INTERESTS OF THE CHILD. THE COURT SHALL NOT PRESUME  
22 THAT HAVING ONLY ONE REMAINING PARENT IS CONTRARY TO THE CHILD'S  
23 BEST INTERESTS.

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

27 (11) IF THE COURT DENIES THE PETITION TO TERMINATE THE  
28 PARENT-CHILD LEGAL RELATIONSHIP, THE COURT SHALL ARTICULATE ITS  
29 REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE  
30 PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO  
31 ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL  
32 RESPONSIBILITIES BETWEEN THE PETITIONER AND THE RESPONDENT,  
33 INCLUDING BUT NOT LIMITED TO AN ORDER TO NOT ALLOCATE PARENTAL  
34 RESPONSIBILITIES TO THE RESPONDENT. IN ISSUING ANY ORDER  
35 ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING THE DUTY OF  
36 SUPPORT, GUARDIANSHIP, AND PARENTING TIME PRIVILEGES WITH THE  
37 CHILD OR ANY OTHER MATTER, THE COURT SHALL DETERMINE WHETHER  
38 THE ORDER IS IN THE BEST INTERESTS OF THE CHILD BASED ON A  
39 PREPONDERANCE OF THE EVIDENCE.

40 (12) (a) A RESPONDENT WHOSE PARENTAL RIGHTS ARE  
41 TERMINATED IN ACCORDANCE WITH THIS SECTION HAS:

1 (I) NO RIGHT TO ALLOCATION OF PARENTAL RESPONSIBILITIES,  
2 INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR  
3 THE CHILD;

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

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

7 (b) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-3-608,  
8 TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (10) OF THIS  
9 SECTION DOES NOT RELIEVE THE RESPONDENT OF ANY OBLIGATION TO PAY  
10 CHILD SUPPORT OR BIRTH-RELATED COSTS UNLESS WAIVED BY THE  
11 PETITIONER. IN CASES IN WHICH CHILD SUPPORT OBLIGATIONS ARE NOT  
12 WAIVED, THE COURT, AS INFORMED BY THE WISHES OF THE PETITIONER,  
13 SHALL DETERMINE IF ENTERING AN ORDER TO PAY CHILD SUPPORT IS IN  
14 THE BEST INTERESTS OF THE CHILD. IF THE COURT ORDERS THE  
15 RESPONDENT TO PAY CHILD SUPPORT, THE COURT SHALL ORDER THE  
16 PAYMENTS TO BE MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID  
17 THE NEED FOR ANY CONTACT BETWEEN THE PARTIES AND ORDER THAT THE  
18 PAYMENTS BE TREATED AS A NONDISCLOSURE OF INFORMATION CASE. IF  
19 THE PETITIONER'S PARENT-CHILD LEGAL RELATIONSHIP TO THE CHILD IS  
20 TERMINATED AFTER THE ENTRY OF A CHILD SUPPORT ORDER AGAINST THE  
21 RESPONDENT, THE COURT SHALL MODIFY THE CHILD SUPPORT ORDER  
22 ACCORDINGLY.

23 (13) A RESPONDENT WHOSE PARENT-CHILD LEGAL RELATIONSHIP  
24 HAS BEEN TERMINATED IN ACCORDANCE WITH THIS SECTION HAS NO RIGHT  
25 TO MAKE MEDICAL TREATMENT DECISIONS OR ANY OTHER DECISIONS ON  
26 BEHALF OF THE CHILD.

27 (14) THE COURT MAY ORDER A RESPONDENT WHOSE PARENT-CHILD  
28 LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE MEDICAL AND  
29 FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS APPROPRIATE,  
30 AND WITH THE PETITIONER. THE SHARING OF INFORMATION MUST BE  
31 CONSISTENT WITH THE UNIFORM PROCESS ESTABLISHED BY THE STATE  
32 COURT ADMINISTRATOR AS PROVIDED IN SECTION 19-5-105.5 (9.5). THE  
33 COURT MAY ORDER THAT A RESPONDENT'S FAILURE TO COMPLY WITH THE  
34 REQUEST FOR INFORMATION IN A TIMELY MANNER CONSTITUTES  
35 CONTEMPT OF COURT.

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

39 (16) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP  
40 PURSUANT TO SUBSECTION (10) OF THIS SECTION IS AN INDEPENDENT BASIS  
41 FOR TERMINATION OF PARENTAL RIGHTS, AND THE COURT NEED NOT MAKE

1 ANY OF THE CONSIDERATIONS OR FINDINGS DESCRIBED IN SECTION  
2 19-3-604, 19-5-103.5, OR 19-5-105.

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

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

8 **19-5-102. Venue.** (1) A petition for relinquishment of the  
9 parent-child relationship shall be filed in the county where the child  
10 resides or in the county where the petitioner resides. If a child placement  
11 agency is involved, the petition may be filed in the county where the child  
12 placement agency is located.

13 (2) A PETITION FOR TERMINATION OF THE PARENT-CHILD LEGAL  
14 RELATIONSHIP PURSUANT TO SECTION 19-5-105.5 OR SECTION 19-5-105.7  
15 MUST BE FILED IN THE COUNTY WHERE THE CHILD RESIDES OR IN THE  
16 COUNTY WHERE THE PETITIONER RESIDES.

17 **SECTION 6.** In Colorado Revised Statutes, 19-5-105, **amend**  
18 (3.1) (a) (IV) as follows:

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

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

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

31 **SECTION 7.** In Colorado Revised Statutes, 14-10-124, **amend**  
32 (1.5) (a) introductory portion, (1.5) (b) introductory portion, (4) (a)  
33 introductory portion, (4) (b), (4) (d), and (4) (e); and **add** (1.3) (c), (4) (a)  
34 (III), and (4) (a) (IV) as follows:

35 **14-10-124. Best interests of child.** (1.3) **Definitions.** For  
36 purposes of this section and section 14-10-129 (2) (c), unless the context  
37 otherwise requires:

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

40 (1.5) **Allocation of parental responsibilities.** The court shall  
41 determine the allocation of parental responsibilities, including parenting

1 time and decision-making responsibilities, in accordance with the best  
2 interests of the child giving paramount consideration to the child's safety  
3 and the physical, mental, and emotional conditions and needs of the child  
4 as follows:

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

26 (b) **Allocation of decision-making responsibility.** The court,  
27 upon the motion of either party or its own motion, shall allocate the  
28 decision-making responsibilities between the parties based upon the best  
29 interests of the child. In determining decision-making responsibility, the  
30 court may allocate the decision-making responsibility with respect to each  
31 issue affecting the child mutually between both parties or individually to  
32 one or the other party or any combination thereof. When a claim of child  
33 abuse or neglect or domestic violence has been made to the court, or the  
34 court has reason to believe that a party has committed child abuse or  
35 neglect, ~~or~~ domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO  
36 A CLAIM THAT THE CHILD IN QUESTION WAS CONCEIVED AS A RESULT OF  
37 THE SEXUAL ASSAULT, prior to allocating decision-making responsibility,  
38 the court shall follow the provisions of subsection (4) of this section. In  
39 determining the best interests of the child for purposes of allocating  
40 decision-making responsibilities, the court shall consider, in addition to  
41 the factors set forth in paragraph (a) of this subsection (1.5), all relevant  
42 factors including:

1 (4) (a) When a claim of child abuse or neglect, or domestic  
2 violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO A CLAIM THAT THE  
3 CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT has been  
4 made to the court, or the court has reason to believe that a party has  
5 committed child abuse or neglect, or domestic violence, OR SEXUAL  
6 ASSAULT THAT RESULTED IN THE CONCEPTION OF THE CHILD, prior to  
7 allocating parental responsibilities, including parenting time and  
8 decision-making responsibility, and prior to considering the factors set  
9 forth in paragraphs (a) and (b) of subsection (1.5) of this section, the court  
10 shall consider the following factors:

11 (III) WHETHER ONE OF THE PARTIES HAS COMMITTED AN ACT OF  
12 SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE CHILD, WHICH  
13 FACTOR MUST BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. IF  
14 THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF  
15 THE PARTIES HAS COMMITTED SEXUAL ASSAULT AND THE CHILD WAS  
16 CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT, THERE IS A  
17 REBUTTABLE PRESUMPTION THAT IT IS NOT IN THE BEST INTERESTS OF THE  
18 CHILD TO ALLOCATE SOLE OR SPLIT DECISION-MAKING AUTHORITY TO THE  
19 PARTY FOUND TO HAVE COMMITTED SEXUAL ASSAULT OR TO ALLOCATE  
20 MUTUAL DECISION-MAKING BETWEEN A PARTY FOUND TO HAVE  
21 COMMITTED SEXUAL ASSAULT AND THE PARTY WHO WAS SEXUALLY  
22 ASSAULTED WITH RESPECT TO ANY ISSUE.

23 (IV) IF ONE OF THE PARTIES IS FOUND BY A PREPONDERANCE OF  
24 THE EVIDENCE TO HAVE COMMITTED SEXUAL ASSAULT RESULTING IN THE  
25 CONCEPTION OF THE CHILD, WHETHER IT IS IN THE BEST INTERESTS OF THE  
26 CHILD TO PROHIBIT OR LIMIT THE PARENTING TIME OF THAT PARTY WITH  
27 THE CHILD.

28 (b) The court shall consider the additional factors set forth in  
29 paragraphs (a) and (b) of subsection (1.5) of this section in light of any  
30 finding of child abuse or neglect, or domestic violence, OR SEXUAL  
31 ASSAULT RESULTING IN THE CONCEPTION OF A CHILD pursuant to this  
32 subsection (4).

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

38 (e) When the court finds by a preponderance of the evidence that  
39 one of the parties has committed child abuse or neglect, or domestic  
40 violence, OR SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE  
41 CHILD, in formulating or approving a parenting plan, the court shall  
42 consider conditions on parenting time that ensure the safety of the child

1 and of the abused party. In addition to any provisions set forth in  
2 subsection (7) of this section that are appropriate, the parenting plan in  
3 these cases may include, but is not limited to, the following provisions:

4 (I) An order limiting contact between the parties to contact that  
5 the court deems is safe and that minimizes unnecessary communication  
6 between the parties;

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

9 (III) An order for supervised parenting time;

10 (IV) An order restricting overnight parenting time;

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

15 (VI) An order directing that the address of the child or of any  
16 party remain confidential; ~~and~~

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

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

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

26 **14-10-129. Modification of parenting time.** (2.5) (a) WHEN THE  
27 COURT RESTRICTS A PARTY'S PARENTING TIME PURSUANT TO SECTION  
28 19-5-105.5, C.R.S., OR SECTION 19-5-105.7, C.R.S., OR SECTION  
29 14-10-124 (4) (a) (IV), THE COURT MAY MAKE OR MODIFY AN ORDER  
30 GRANTING OR DENYING PARENTING TIME RIGHTS WHENEVER SUCH ORDER  
31 OR MODIFICATION WOULD SERVE THE BEST INTERESTS OF THE CHILD.  
32 WITHIN THIRTY-FIVE DAYS AFTER THE FILING OF A VERIFIED MOTION BY  
33 THE RESTRICTED PARTY SEEKING A MODIFICATION OF PARENTING TIME,  
34 THE COURT SHALL DETERMINE FROM THE VERIFIED MOTION, AND  
35 RESPONSE TO THE MOTION, IF ANY, WHETHER THERE HAS BEEN A  
36 SUBSTANTIAL AND CONTINUING CHANGE OF CIRCUMSTANCES SUCH THAT  
37 THE CURRENT PARENTING TIME ORDERS ARE NO LONGER IN THE CHILD'S  
38 BEST INTERESTS, INCLUDING CONSIDERATION OF WHETHER THE  
39 RESTRICTED PARENT HAS SATISFACTORILY COMPLIED WITH ANY  
40 CONDITIONS SET FORTH BY THE COURT WHEN THE COURT IMPOSED THE  
41 RESTRICTIONS ON PARENTING TIME, AND EITHER:

1 (I) DENY THE MOTION, IF THERE IS AN INADEQUATE ALLEGATION;  
2 OR

3 (II) SET THE MATTER FOR HEARING AS EXPEDITIOUSLY AS POSSIBLE  
4 WITH NOTICE TO THE PARTIES OF THE TIME AND PLACE OF THE HEARING.

5 (b) IF THE COURT FINDS THAT THE FILING OF A MOTION UNDER  
6 PARAGRAPH (a) OF THIS SUBSECTION (2.5) WAS SUBSTANTIALLY  
7 FRIVOLOUS, SUBSTANTIALLY GROUNDLESS, SUBSTANTIALLY VEXATIOUS,  
8 OR INTENDED TO HARASS OR INTIMIDATE THE OTHER PARTY, THE COURT  
9 SHALL REQUIRE THE MOVING PARTY TO PAY THE REASONABLE AND  
10 NECESSARY ATTORNEY FEES AND COSTS OF THE OTHER PARTY.

11 **SECTION 9.** In Colorado Revised Statutes, 19-1-103, **amend**  
12 (96.5) introductory portion as follows:

13 **19-1-103. Definitions.** As used in this title or in the specified  
14 portion of this title, unless the context otherwise requires:

15 (96.5) "Sexual assault", as used in ~~section 19-5-105.5~~ SECTIONS  
16 19-5-105, 19-5-105.5, AND 19-5-105.7, means:

17 **SECTION 10. Effective date - applicability.** (1) This act takes  
18 effect July 1, 2014.

19 (2) Sections 1 through 3 of this act apply to convictions occurring  
20 on or after July 1, 2013.

21 (3) Sections 4 through 7 of this act apply to acts occurring on or  
22 after July 1, 2014.

23 **SECTION 11. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety."

\*\* \*\* \*\* \*\* \*\*