

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0478.01 Debbie Haskins x2045

HOUSE BILL 14-1162

HOUSE SPONSORSHIP

Landgraf, Joshi, Navarro, Rankin, Saine, Stephens, Wilson

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTION OF THE VICTIM OF A SEXUAL ASSAULT IN**
102 **CASES WHERE A CHILD WAS CONCEIVED AS A RESULT OF THE**
103 **SEXUAL ASSAULT, AND, IN CONNECTION THEREWITH, MAKING**
104 **LEGISLATIVE CHANGES IN RESPONSE TO THE STUDY BY AND THE**
105 **REPORT OF THE RECOMMENDATIONS FROM THE TASK FORCE ON**
106 **CHILDREN CONCEIVED THROUGH RAPE.**

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>.)

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.

Last session, the general assembly passed a bill that allows the victim of a sexual assault in which a child was conceived and in which the person who committed the sexual assault was convicted to file for the termination of the parent-child legal relationship of the person who committed the sexual assault. In that same bill, the general assembly created a task force on children conceived by rape to study whether changes should be made to that statute and to study issues associated with parental rights in cases where a child was conceived as a result of the sexual assault but a conviction did not occur. This bill makes legislative changes in response to the study and report prepared by the task force.

The bill makes the following changes to provisions passed last year for cases involving convictions:

- ! Adding more due process protections, such as specifying the notice to the respondent, setting a date for hearing the petition, and notifying the Indian tribe if the child is an Indian child in accordance with the federal "Indian Child Welfare Act";
- ! Adding more protections for the victim and the child, including protecting the identity of the victim and the child in the summons, ordering protective measures for the victim in the courtroom, and treating child support payments as confidential;
- ! Providing legal counsel and waiving filing fees for indigent victims;
- ! Providing for admission of parentage and for genetic testing to confirm paternity and allowing the court to order the parent against whom the petition has been filed to pay for genetic testing;
- ! Stating that the court shall not presume that having only one remaining parent is contrary to the child's best interests;
- ! Creating a process for the parent whose parent-child legal relationship is terminated to provide medical and family information to be shared with the child and the victim in a way that protects the child from knowing the name of the person;
- ! Clarifying what happens if the court denies the petition to terminate the parent-child legal relationship, including that the juvenile court has continuing jurisdiction of the matter and has the authority to enter an order allocating parental responsibilities between the parties, including an order to not allocate parental responsibilities to the parent against whom the petition was filed.

The bill repeals the statutes enacted last year that provided for a stay of a civil domestic relations proceeding or a paternity action while

criminal charges of sexual assault brought against the alleged perpetrator are resolved.

The bill creates a process to allow the victim of a sexual assault in cases where a child was conceived and in which a conviction did not occur to file a petition in juvenile court to prevent future contact with and to terminate the parent-child legal relationship of the parent who allegedly committed the sexual assault. This process is similar to the process for petitions involving convictions but does not include a rebuttable presumption that it is in best interests of the child to terminate the parent-child legal relationship. If the court denies the petition to terminate the parent-child legal relationship, the juvenile court has continuing jurisdiction and the authority to enter orders on allocation of parental rights, including an order to not allocate parental rights to the other parent. The juvenile court may order the parent to submit to a sex offense-specific evaluation and parental risk assessment that may factor in the allocation of parental rights and responsibilities and parenting time. The court shall order the parent who is found to have committed the sexual assault to pay for the costs of the evaluation and the assessment. All of the changes made in this bill to the process for petitions involving convictions are also included in the process for petitions for nonconvictions.

Since some issues involving the child conceived by a sexual assault might start in the domestic relations arena instead of in a juvenile proceeding, the bill gives the domestic relations courts the authority to allocate parental rights and responsibilities, to address decision-making between the victim and the other parent in these cases, and to issue protective orders. The provisions are similar to the considerations that the court uses to address cases involving domestic violence. If the court finds by a preponderance of the evidence that one of the parties has committed sexual assault and the child was conceived as a result of the sexual assault, then it shall not be in the best interests of the child to allocate sole or split decision-making to the person who was found to have committed sexual assault or to allocate mutual decision-making with respect to any issue over the objection of the other party or the guardian ad litem. If the court finds by a preponderance of the evidence that one of the parties has committed sexual assault and the child was conceived as a result of the sexual assault, the court shall consider whether it is in the best interests of the child to prohibit or limit the parenting time of that party with the child. Prior to entering an order relating to parenting time or parental contact, the court may order that party to submit to a sex offense-specific evaluation and a parental risk assessment in Colorado. The court shall order the parent who is found to have committed the sexual assault to pay the costs of the evaluation and parental risk assessment.

In addition, in cases where the court has found that the child was conceived as a result of sexual assault, a domestic relations court may not

modify a prior order regarding allocation of decision-making or modify a prior order regarding parenting time, unless it finds that the child's present environment endangers the child's physical health or significantly impairs the child's emotional development.

Under existing law, when a parent voluntarily relinquishes a child so that the child may be adopted, there is a private action filed to terminate the parent-child legal relationship of the other parent. A victim of sexual assault might want to voluntarily relinquish the child conceived from the sexual assault for adoption and terminate the other parent's rights. This bill amends the statute on termination in voluntary relinquishment cases so that the court may order the termination based on a finding that the other parent is unfit due to a history of violent behavior, which may include an incidence of sexual assault that resulted in the conception of the child.

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

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

4 **19-5-105.5. Termination of parent-child legal relationship**
5 **upon a finding that the child was conceived as a result of sexual**
6 **assault - legislative declaration - definitions.** (1) The general assembly
7 hereby declares that the purpose of this statute is to protect the victim of
8 a sexual assault and to protect the child conceived as a result of that
9 sexual assault by terminating the parental rights of the perpetrator of the
10 sexual assault and by issuing protective orders preventing future contact
11 between the parties. The general assembly further declares that this
12 section creates civil remedies and is not created to punish the perpetrator
13 but rather to protect the interests of the child and the victim of a sexual
14 assault.

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

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

1 (b) "Sexual assault" has the same meaning as defined in section
2 19-1-103 (96.5).

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

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

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

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

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

18 (c) Termination of the parent-child legal relationship of the other
19 parent with the child is in the best interests of the child.

20 (4.5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS
21 SECTION, THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE
22 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE
23 PURPOSE OF THE PROCEEDING IS WHETHER TO TERMINATE THE
24 PARENT-CHILD LEGAL RELATIONSHIP OF THE PERSON AGAINST WHOM THE
25 PETITION IS FILED. THE PETITIONER SHALL NOT SERVE A SUMMONS ON THE
26 RESPONDENT WHO APPEARS VOLUNTARILY OR WHO WAIVES SERVICE, BUT
27 THE PETITIONER SHALL PROVIDE THE RESPONDENT WITH A COPY OF THE

1 PETITION AND SUMMONS UPON APPEARANCE OR REQUEST. OTHERWISE,
2 THE RESPONDENT SHALL BE PERSONALLY SERVED OR NOTIFIED THROUGH
3 NOTICE BY PUBLICATION PURSUANT TO THE COLORADO RULES OF CIVIL
4 PROCEDURE. THE COURT SHALL PROTECT THE WHEREABOUTS OF THE
5 VICTIM AND MUST IDENTIFY THE VICTIM AND THE CHILD IN THE SUMMONS
6 BY INITIALS.

7 (5) After a petition has been filed pursuant to this section, the
8 court may appoint a guardian ad litem, who must be an attorney, to
9 represent the child's best interests in the proceeding. A petitioner has the
10 right to be represented by legal counsel in proceedings under this section
11 and has the right to seek the appointment of legal counsel if the petitioner
12 is unable financially to secure legal counsel on his or her own. THE
13 COURT SHALL WAIVE FILING FEES FOR INDIGENT VICTIMS.

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

20 (6.5) A PERSON AGAINST WHOM A PETITION HAS BEEN FILED MAY
21 ADMIT PARENTAGE OR MAY REQUEST GENETIC TESTING OR OTHER TESTS
22 OF INHERITED CHARACTERISTICS TO CONFIRM PATERNITY. THE TEST
23 RESULTS SHALL BE ADMITTED INTO EVIDENCE AS PROVIDED IN SECTION
24 13-25-126, C.R.S. THE COURT MAY ORDER THE PARENT AGAINST WHOM
25 A PETITION HAS BEEN FILED TO PAY FOR GENETIC TESTING.

26 (6.7) THE COURT SHALL HEAR A PETITION TO TERMINATE THE
27 PARENT-CHILD LEGAL RELATIONSHIP NO MORE THAN ONE HUNDRED

1 TWENTY DAYS AFTER SERVICE OF THE PETITION OR FROM THE FIRST
2 APPEARANCE DATE, WHICHEVER IS LATER, UNLESS BOTH PARTIES CONSENT
3 TO AN EXTENSION OR THE COURT FINDS GOOD CAUSE TO EXTEND THE
4 HEARING BEYOND ONE HUNDRED TWENTY DAYS.

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

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

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

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

21 (7.3) IF THE CHILD IS AN INDIAN CHILD, THE COURT SHALL COMPLY
22 WITH THE FEDERAL "INDIAN CHILD WELFARE ACT", 25 U.S.C. SEC. 1901
23 ET SEQ., AND THE PROVISIONS OF SECTION 19-1-126.

24 (7.5) IF THE COURT DENIES THE PETITION TO TERMINATE THE
25 PARENT-CHILD LEGAL RELATIONSHIP, THEN THE COURT SHALL ARTICULATE
26 ITS REASONS FOR DETERMINING THAT TERMINATION IS NOT IN THE BEST
27 INTERESTS OF THE CHILD. IF THE COURT DENIES THE PETITION, THE COURT

1 HAS CONTINUING JURISDICTION AND AUTHORITY TO ENTER AN ORDER
2 ALLOCATING PARENTAL RESPONSIBILITIES BETWEEN THE PARTIES,
3 INCLUDING AN ORDER TO NOT ALLOCATE PARENTAL RESPONSIBILITIES TO
4 THE OTHER PARENT. IN ISSUING ANY ORDER ALLOCATING PARENTAL
5 RESPONSIBILITIES, INCLUDING THE DUTY OF SUPPORT, GUARDIANSHIP, AND
6 PARENTING TIME PRIVILEGES WITH THE CHILD OR ANY OTHER MATTER, THE
7 COURT SHALL DETERMINE WHETHER THE ORDER IS IN THE BEST INTERESTS
8 OF THE CHILD.

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

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

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

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

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

1 modify the child support order accordingly.

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

5 (9.5) THE COURT MAY ORDER THE PERSON WHOSE PARENT-CHILD
6 LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE MEDICAL AND
7 FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS APPROPRIATE,
8 AND WITH THE PETITIONER IN A WAY THAT PROTECTS THE CHILD FROM
9 KNOWING THE NAME OF THE PERSON. THE COURT SHALL SPECIFY A
10 PROCESS TO DETERMINE HOW THE INFORMATION IS COLLECTED, WHO CAN
11 ACCESS IT, WHEN IT CAN BE ACCESSED, AND HOW IT IS STORED. THE COURT
12 MAY ORDER THAT A PERSON'S FAILURE TO COMPLY WITH THE REQUEST FOR
13 INFORMATION IN A TIMELY MANNER CONSTITUTES CONTEMPT OF COURT.

14 ~~(10) The victim is entitled, upon request, to a no-contact~~
15 ~~protection order issued against the person whose parental rights are~~
16 ~~terminated prohibiting the person~~ WHEN THE COURT FINDS BY A
17 PREPONDERANCE OF THE EVIDENCE THAT ONE OF THE PARTIES HAS
18 COMMITTED SEXUAL ASSAULT AND THE CHILD WAS CONCEIVED AS A
19 RESULT OF THE SEXUAL ASSAULT, AND WHEN THE COURT FINDS THAT IT IS
20 NOT IN THE BEST INTERESTS OF THE CHILD FOR THAT PARTY TO HAVE
21 DECISION-MAKING AUTHORITY OR PARENTING TIME WITH RESPECT TO
22 THAT CHILD, THE COURT, UPON THE REQUEST OF THE VICTIM, SHALL ISSUE
23 A PROTECTION ORDER PURSUANT TO SECTION 13-14-106, C.R.S. THE
24 PROTECTION ORDER SHALL RESTRAIN THE PARTY FOUND TO HAVE
25 COMMITTED SEXUAL ASSAULT from having any contact with either the
26 victim or the child.

27 (11) Termination of the parent-child legal relationship pursuant

1 to subsection (7) of this section is an independent basis for termination of
2 parental rights, and the court need not make any of the considerations or
3 findings described in section ~~19-5-105, 19-5-103.5, or 19-3-604~~
4 ~~19-3-604, 19-5-103.5, OR 19-5-105.~~

5 (12) Nothing in this section prohibits the termination of parental
6 rights by the court using the criteria described in section ~~19-5-105,~~
7 ~~19-5-103.5, or 19-3-604~~ 19-3-604, 19-5-103.5, OR 19-5-105.

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

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

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

1 **19-4-105.7. Stay of paternity proceedings - criminal charges**
2 **of allegations of sexual assault.** ~~If criminal charges alleging an act of~~
3 ~~sexual assault, as defined in section 19-1-103 (96.5), are brought against~~
4 ~~a presumed or possible parent who is the subject of an action to determine~~
5 ~~paternity alleging that a child was conceived as a result of that sexual~~
6 ~~assault committed by that presumed or possible parent against the parent~~
7 ~~who is the alleged victim of the sexual assault, the court shall issue an~~
8 ~~automatic stay of any paternity proceedings under this article involving~~
9 ~~both the child and the presumed or possible parent who is the alleged~~
10 ~~perpetrator. The stay shall not be lifted until there is a final disposition of~~
11 ~~the criminal charges. In any future paternity proceedings under this article~~
12 ~~that are continued after the final disposition of the criminal charges, any~~
13 ~~denial of parenting time by the victim of the alleged sexual assault while~~
14 ~~the criminal charges were pending shall not be used in any way against~~
15 ~~the victim.~~

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

18 **19-5-105.7. Termination of parent-child legal relationship in**
19 **a case of an allegation that a child was conceived as a result of sexual**
20 **assault but in which no conviction occurred - legislative declaration**
21 **- definitions.** (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE
22 PURPOSE OF THIS STATUTE IS TO PROTECT THE PETITIONER OF A SEXUAL
23 ASSAULT AND TO PROTECT A CHILD CONCEIVED AS A RESULT OF THAT
24 SEXUAL ASSAULT BY TERMINATING THE PARENTAL RIGHTS OF THE
25 PERPETRATOR OF THE SEXUAL ASSAULT AND BY ISSUING PROTECTIVE
26 ORDERS PREVENTING FUTURE CONTACT BETWEEN THE PARTIES. THE
27 GENERAL ASSEMBLY FURTHER DECLARES THAT THIS SECTION CREATES

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

6 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (a) "CONVICTION" HAS THE SAME MEANING AS DEFINED IN SECTION
9 19-1-103 (29.3).

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

12 (3) THE PETITIONER OF A SEXUAL ASSAULT WHO ALLEGES THAT A
13 CHILD WAS CONCEIVED AS A RESULT OF A SEXUAL ASSAULT IN WHICH A
14 CONVICTION DID NOT OCCUR MAY FILE A PETITION IN THE JUVENILE COURT
15 TO PREVENT FUTURE CONTACT WITH THE PARENT WHO ALLEGEDLY
16 COMMITTED THE SEXUAL ASSAULT AND TO TERMINATE THE PARENT-CHILD
17 LEGAL RELATIONSHIP OF THE PARENT WHO ALLEGEDLY COMMITTED THE
18 SEXUAL ASSAULT.

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

21 (a) THE OTHER PERSON COMMITTED AN ACT OF SEXUAL ASSAULT
22 AGAINST THE PETITIONER;

23 (b) THE OTHER PERSON HAS NOT BEEN CONVICTED FOR THE ACT OF
24 SEXUAL ASSAULT;

25 (c) A CHILD WAS CONCEIVED AS A RESULT OF THE ACT OF SEXUAL
26 ASSAULT AS DESCRIBED UNDER PARAGRAPH (a) OF THIS SUBSECTION (4);

27 AND

1 (d) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF
2 THE OTHER PARENT WITH THE CHILD IS IN THE BEST INTERESTS OF THE
3 CHILD.

4 (5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION,
5 THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE
6 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE
7 PURPOSE OF THE PROCEEDING IS TO DETERMINE WHETHER TO TERMINATE
8 THE PARENT-CHILD LEGAL RELATIONSHIP OF THE PERSON AGAINST WHOM
9 THE PETITION IS FILED. THE PETITIONER SHALL NOT SERVE A SUMMONS ON
10 THE RESPONDENT WHO APPEARS VOLUNTARILY OR WHO WAIVES SERVICE,
11 BUT THE PETITIONER SHALL PROVIDE THE RESPONDENT WITH A COPY OF
12 THE PETITION AND SUMMONS UPON APPEARANCE OR REQUEST.
13 OTHERWISE, THE RESPONDENT SHALL BE PERSONALLY SERVED OR
14 NOTIFIED THROUGH NOTICE BY PUBLICATION PURSUANT TO THE
15 COLORADO RULES OF CIVIL PROCEDURE. THE COURT SHALL PROTECT THE
16 WHEREABOUTS OF THE PETITIONER AND MUST IDENTIFY THE PETITIONER
17 AND THE CHILD IN THE SUMMONS BY INITIALS.

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

26 (7) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE COURT
27 MAY GRANT PROTECTIVE MEASURES IN THE COURTROOM AS REQUESTED

1 BY THE PETITIONER, INCLUDING BUT NOT LIMITED TO ALLOWING THE
2 PETITIONER TO NOT APPEAR IN THE PRESENCE OF THE OTHER PARENT SO
3 LONG AS THESE MEASURES DO NOT VIOLATE DUE PROCESS. THE
4 PETITIONER'S AND THE CHILD'S WHEREABOUTS MUST BE KEPT
5 CONFIDENTIAL.

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

12 (9) 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 (10) (a) THE COURT SHALL TERMINATE THE PARENT-CHILD LEGAL
19 RELATIONSHIP OF THE PERSON AGAINST WHOM THE PETITION IS FILED IF
20 THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

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

22 (II) THE SEXUAL ASSAULT WAS PERPETRATED BY THE
23 RESPONDENT;

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

27 (IV) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS

1 IN THE BEST INTERESTS OF THE CHILD.

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

5 (11) (a) IF THE COURT DENIES THE PETITION TO TERMINATE THE
6 PARENT-CHILD LEGAL RELATIONSHIP, THE COURT SHALL ARTICULATE ITS
7 REASONS FOR DETERMINING THAT TERMINATION IS NOT IN THE BEST
8 INTERESTS OF THE CHILD. IF THE COURT DENIES THE PETITION, THE COURT
9 HAS CONTINUING JURISDICTION AND AUTHORITY TO ENTER AN ORDER
10 ALLOCATING PARENTAL RESPONSIBILITIES BETWEEN THE PETITIONER AND
11 THE OTHER PARENT, INCLUDING AN ORDER TO NOT ALLOCATE PARENTAL
12 RESPONSIBILITIES TO THE OTHER PARENT. IN ISSUING ANY ORDER
13 ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING THE DUTY OF
14 SUPPORT, GUARDIANSHIP, AND PARENTING TIME PRIVILEGES WITH THE
15 CHILD OR ANY OTHER MATTER, THE COURT SHALL DETERMINE WHETHER
16 THE ORDER IS IN THE BEST INTERESTS OF THE CHILD.

17 (b) WHEN THE COURT FINDS BY A PREPONDERANCE OF THE
18 EVIDENCE THAT THE RESPONDENT HAS COMMITTED SEXUAL ASSAULT BUT
19 DENIES THE PETITION, THE COURT MAY ORDER THAT PARTY TO SUBMIT TO
20 A SEX OFFENSE-SPECIFIC EVALUATION AND A PARENTAL RISK ASSESSMENT
21 IN COLORADO. THE COURT SHALL CONSIDER THE RECOMMENDATIONS OF
22 THE EVALUATION AND THE ASSESSMENT IN ANY ORDER THE COURT MAKES
23 RELATING TO PARENTING TIME OR PARENTAL CONTACT. THE COURT SHALL
24 ORDER THE PARENT WHO IS FOUND TO HAVE COMMITTED THE SEXUAL
25 ASSAULT TO PAY FOR THE COSTS OF THE EVALUATION AND THE
26 ASSESSMENT.

27 (12) (a) A PERSON WHOSE PARENTAL RIGHTS ARE TERMINATED IN

1 ACCORDANCE WITH THIS SECTION HAS:

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

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

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

8 (b) TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (10)
9 OF THIS SECTION DOES NOT RELIEVE THE RESPONDENT OF ANY OBLIGATION
10 TO PAY 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 PERSON TO
15 PAY CHILD SUPPORT, THE COURT SHALL ORDER THE PAYMENTS TO BE
16 MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID THE NEED FOR
17 ANY CONTACT BETWEEN THE PARTIES AND ORDER THAT THE PAYMENTS BE
18 TREATED AS A NONDISCLOSURE OF INFORMATION CASE. IF THE
19 PETITIONER'S PARENT-CHILD LEGAL RELATIONSHIP TO THE CHILD IS
20 TERMINATED AFTER THE ENTRY OF A CHILD SUPPORT ORDER AGAINST THE
21 PERSON WHO WAS CONVICTED, THE COURT SHALL MODIFY THE CHILD
22 SUPPORT ORDER ACCORDINGLY.

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

27 (14) THE COURT MAY ORDER THE PERSON WHOSE PARENT-CHILD

1 LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE MEDICAL AND
2 FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS APPROPRIATE,
3 AND WITH THE PETITIONER IN A WAY THAT PROTECTS THE CHILD FROM
4 KNOWING THE NAME OF THE PERSON. THE COURT SHALL SPECIFY A
5 PROCESS TO DETERMINE HOW THE INFORMATION IS COLLECTED, WHO CAN
6 ACCESS IT, WHEN IT CAN BE ACCESSED, AND HOW IT IS STORED. THE COURT
7 MAY ORDER THAT A PERSON'S FAILURE TO COMPLY WITH THE REQUEST FOR
8 INFORMATION IN A TIMELY MANNER CONSTITUTES CONTEMPT OF COURT.

9 (15) WHEN THE COURT FINDS BY A PREPONDERANCE OF THE
10 EVIDENCE THAT ONE OF THE PARTIES HAS COMMITTED SEXUAL ASSAULT
11 AND THE CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT,
12 AND WHEN THE COURT FINDS THAT IT IS NOT IN THE BEST INTERESTS OF
13 THE CHILD FOR THAT PARTY TO HAVE DECISION-MAKING AUTHORITY OR
14 PARENTING TIME WITH RESPECT TO THAT CHILD, THE COURT, UPON THE
15 REQUEST OF THE PETITIONER, SHALL ISSUE A PROTECTION ORDER
16 PURSUANT TO SECTION 13-14-106, C.R.S. THE PROTECTION ORDER SHALL
17 RESTRAIN THE PARTY FOUND TO HAVE COMMITTED SEXUAL ASSAULT FROM
18 HAVING ANY CONTACT WITH EITHER THE CHILD OR THE PETITIONER.

19 (16) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP
20 PURSUANT TO SUBSECTION (10) OF THIS SECTION IS AN INDEPENDENT BASIS
21 FOR TERMINATION OF PARENTAL RIGHTS, AND THE COURT NEED NOT MAKE
22 ANY OF THE CONSIDERATIONS OR FINDINGS DESCRIBED IN SECTION
23 19-3-604, 19-5-103.5, OR 19-5-105.

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

27 **SECTION 5.** In Colorado Revised Statutes, 19-5-105, **amend**

1 (3.1) (a) (IV) as follows:

2 **19-5-105. Proceeding to terminate parent-child legal**
3 **relationship.** (3.1) The court may order the termination of the other birth
4 parent's parental rights upon a finding that termination is in the best
5 interests of the child and that there is clear and convincing evidence of
6 one or more of the following:

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

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

14 **SECTION 6.** In Colorado Revised Statutes, 14-10-124, **amend**
15 (1.5) (a) introductory portion, (1.5) (b) introductory portion, (4) (a)
16 introductory portion, (4) (b), (4) (d), and (4) (e); and **add** (1.3) (c), (4) (a)
17 (III), (4) (a) (IV), and (4) (a) (V) as follows:

18 **14-10-124. Best interests of child.** (1.3) **Definitions.** For
19 purposes of this section and section 14-10-129 (2) (c), unless the context
20 otherwise requires:

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

23 (1.5) **Allocation of parental responsibilities.** The court shall
24 determine the allocation of parental responsibilities, including parenting
25 time and decision-making responsibilities, in accordance with the best
26 interests of the child giving paramount consideration to the child's safety
27 and the physical, mental, and emotional conditions and needs of the child

1 as follows:

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

21 (b) **Allocation of decision-making responsibility.** The court,
22 upon the motion of either party or its own motion, shall allocate the
23 decision-making responsibilities between the parties based upon the best
24 interests of the child. In determining decision-making responsibility, the
25 court may allocate the decision-making responsibility with respect to each
26 issue affecting the child mutually between both parties or individually to
27 one or the other party or any combination thereof. When a claim of child

1 abuse or neglect or domestic violence has been made to the court, or the
2 court has reason to believe that a party has committed child abuse or
3 neglect, ~~or~~ domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO
4 A CLAIM THAT THE CHILD IN QUESTION WAS CONCEIVED AS A RESULT OF
5 THE SEXUAL ASSAULT, prior to allocating decision-making responsibility,
6 the court shall follow the provisions of subsection (4) of this section. In
7 determining the best interests of the child for purposes of allocating
8 decision-making responsibilities, the court shall consider, in addition to
9 the factors set forth in paragraph (a) of this subsection (1.5), all relevant
10 factors including:

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

21 (III) WHETHER ONE OF THE PARTIES HAS COMMITTED AN ACT OF
22 SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE CHILD, WHICH
23 FACTOR MUST BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. IF
24 THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF
25 THE PARTIES HAS COMMITTED SEXUAL ASSAULT AND THE CHILD WAS
26 CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT, THEN IT IS NOT IN THE
27 BEST INTERESTS OF THE CHILD TO ALLOCATE SOLE OR SPLIT

1 DECISION-MAKING AUTHORITY TO THE PARTY FOUND TO HAVE COMMITTED
2 SEXUAL ASSAULT OR TO ALLOCATE MUTUAL DECISION-MAKING WITH
3 RESPECT TO ANY ISSUE OVER THE OBJECTION OF THE OTHER PARTY OR THE
4 GUARDIAN AD LITEM.

5 (IV) IF ONE OF THE PARTIES IS FOUND BY A PREPONDERANCE OF
6 THE EVIDENCE TO HAVE COMMITTED SEXUAL ASSAULT RESULTING IN THE
7 CONCEPTION OF THE CHILD, WHETHER IT IS IN THE BEST INTERESTS OF THE
8 CHILD TO PROHIBIT OR LIMIT THE PARENTING TIME OF THAT PARTY WITH
9 THE CHILD. PRIOR TO ENTERING AN ORDER RELATING TO PARENTING TIME
10 OR PARENTAL CONTACT, THE COURT MAY ORDER THAT PARTY TO SUBMIT
11 TO A SEX OFFENSE-SPECIFIC EVALUATION AND A PARENTAL RISK
12 ASSESSMENT IN COLORADO. THE COURT SHALL CONSIDER THE
13 RECOMMENDATIONS OF THE EVALUATION AND THE ASSESSMENT IN ANY
14 ORDER THE COURT MAKES RELATING TO PARENTING TIME OR PARENTAL
15 CONTACT. THE COURT SHALL ORDER THE PARENT WHO IS FOUND TO HAVE
16 COMMITTED THE SEXUAL ASSAULT TO PAY FOR THE COSTS OF THE
17 EVALUATION AND THE ASSESSMENT.

18 (V) WHEN THE COURT FINDS BY A PREPONDERANCE OF THE
19 EVIDENCE THAT ONE OF THE PARTIES HAS COMMITTED SEXUAL ASSAULT
20 AND THE CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT,
21 AND WHEN THE COURT FINDS THAT IT IS NOT IN THE BEST INTERESTS OF
22 THE CHILD FOR THAT PARTY TO HAVE DECISION-MAKING AUTHORITY OR
23 PARENTING TIME WITH RESPECT TO THAT CHILD, THE COURT, UPON THE
24 REQUEST OF THE ABUSED PARTY, SHALL ISSUE A PROTECTION ORDER
25 PURSUANT TO SECTION 13-14-106, C.R.S. THE PROTECTION ORDER SHALL
26 RESTRAIN THE PARTY FOUND TO HAVE COMMITTED SEXUAL ASSAULT FROM
27 HAVING ANY CONTACT WITH EITHER THE CHILD OR THE ABUSED PARTY.

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

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

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

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

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

24 (III) An order for supervised parenting time;

25 (IV) An order restricting overnight parenting time;

26 (V) An order that restricts the party who has committed domestic
27 violence, SEXUAL ASSAULT, or child abuse or neglect from possessing or

1 consuming alcohol or controlled substances during parenting time or for
2 twenty-four hours prior to the commencement of parenting time;

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

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

8 (VIII) AN ORDER THAT REQUIRES CHILD SUPPORT PAYMENTS TO BE
9 MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID THE NEED FOR
10 ANY RELATED CONTACT BETWEEN THE PARTIES OR TO KEEP THE ABUSED
11 PARTY'S AND THE CHILD'S WHEREABOUTS CONFIDENTIAL.

12 **SECTION 7.** In Colorado Revised Statutes, 14-10-129, **add** (2.5)
13 as follows:

14 **14-10-129. Modification of parenting time.**
15 (2.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE
16 CONTRARY, IF THE COURT HAS FOUND THAT THE CHILD WAS CONCEIVED AS
17 A RESULT OF A SEXUAL ASSAULT, AS DEFINED IN SECTION 19-1-103 (96.5),
18 C.R.S., THE COURT MAY NOT MODIFY A PRIOR ORDER REGARDING
19 PARENTING TIME, UNLESS IT FINDS THAT THE CHILD'S PRESENT
20 ENVIRONMENT ENDANGERS THE CHILD'S PHYSICAL HEALTH OR
21 SIGNIFICANTLY IMPAIRS THE CHILD'S EMOTIONAL DEVELOPMENT.

22 **SECTION 8.** In Colorado Revised Statutes, 14-10-131, **add** (3)
23 as follows:

24 **14-10-131. Modification of custody or decision-making**
25 **responsibility.** (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
26 ARTICLE TO THE CONTRARY, IF THE COURT HAS FOUND THAT THE CHILD
27 WAS CONCEIVED AS A RESULT OF A SEXUAL ASSAULT, AS DEFINED IN

1 SECTION 19-1-103 (96.5), C.R.S., THE COURT MAY NOT MODIFY A PRIOR
2 ORDER REGARDING DECISION-MAKING, UNLESS IT FINDS THAT THE CHILD'S
3 PRESENT ENVIRONMENT ENDANGERS THE CHILD'S PHYSICAL HEALTH OR
4 SIGNIFICANTLY IMPAIRS THE CHILD'S EMOTIONAL DEVELOPMENT.

5 **SECTION 9.** In Colorado Revised Statutes, 19-1-103, **amend**
6 (96.5) introductory portion as follows:

7 **19-1-103. Definitions.** As used in this title or in the specified
8 portion of this title, unless the context otherwise requires:

9 (96.5) "Sexual assault", as used in ~~section 19-5-105.5~~ SECTIONS
10 19-5-105, 19-5-105.5, AND 19-5-105.7, means:

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

13 (2) Sections 1 through 3 of this act apply to convictions occurring
14 on or after July 1, 2014.

15 (3) Sections 4 through 9 of this act apply to acts occurring on or
16 after July 1, 2014.

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