

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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.

HOUSE
Amended 2nd Reading
April 10, 2014

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~~ CREATING A PROCESS TO SEEK TERMINATION
10 OF the parental rights of the perpetrator of the sexual assault and by
11 issuing protective orders preventing future contact between the parties.
12 The general assembly further declares that this section creates civil
13 remedies and is not created to punish the perpetrator but rather to protect
14 the interests of the child and the victim of a sexual 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 (a.5) "DISABILITY" MEANS:
2 (I) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY
3 LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES; OR
4 (II) A RECORD OF A PHYSICAL OR MENTAL IMPAIRMENT THAT
5 SUBSTANTIALLY LIMITED A MAJOR LIFE ACTIVITY.
6 (a.7) "PETITIONER" MEANS A VICTIM OF SEXUAL ASSAULT WHO
7 FILES A PETITION FOR TERMINATION OF THE PARENT-CHILD LEGAL
8 RELATIONSHIP OF THE OTHER PARENT AS PROVIDED IN THIS SECTION.
9 (a.8) "RESPONDENT" MEANS A PERSON AGAINST WHOM A PETITION
10 FOR TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS FILED AS
11 PROVIDED IN THIS SECTION.
12 (b) "Sexual assault" has the same meaning as defined in section
13 19-1-103 (96.5).
14 (c) "Victim" has the same meaning as defined in section 19-1-103
15 (112) (b).
16 (3) If a child was conceived as a result of an act that led to the
17 parent's conviction for sexual assault or for a conviction in which the
18 underlying factual basis was sexual assault, the victim of the sexual
19 assault or crime may file a petition in the juvenile court to prevent future
20 contact with the parent who committed the sexual assault and to terminate
21 the parent-child legal relationship of the parent who committed the sexual
22 assault or crime.
23 (4) The verified petition filed under this section must allege that:
24 (a) The ~~other parent~~ RESPONDENT was convicted on or after July
25 1, 2013, of an act of sexual assault against the ~~victim~~ PETITIONER or
26 convicted of a crime in which the underlying factual basis was sexual
27 assault against the ~~victim~~ PETITIONER;

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

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

5 (4.5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS
6 SECTION, THE COURT SHALL ISSUE A SUMMONS THAT RECITES BRIEFLY THE
7 SUBSTANCE OF THE PETITION AND CONTAINS A STATEMENT THAT THE
8 PURPOSE OF THE PROCEEDING IS WHETHER TO TERMINATE THE
9 PARENT-CHILD LEGAL RELATIONSHIP OF THE RESPONDENT. THE
10 PETITIONER SHALL HAVE THE RESPONDENT PERSONALLY SERVED WITH A
11 COPY OF THE SUMMONS OR NOTIFIED THROUGH NOTICE BY PUBLICATION
12 CONSISTENT WITH THE STATUTORY PROVISIONS FOR NOTICE IN SECTION
13 19-3-503 AND PURSUANT TO THE COLORADO RULES OF CIVIL PROCEDURE,
14 UNLESS THE RESPONDENT APPEARS VOLUNTARILY OR WAIVES SERVICE.
15 UPON REQUEST, THE COURT SHALL PROTECT THE WHEREABOUTS OF THE
16 PETITIONER AND MUST IDENTIFY THE PETITIONER AND THE CHILD IN THE
17 SUMMONS BY INITIALS.

18 (5) After a petition has been filed pursuant to this section, the
19 court ~~may~~ SHALL appoint a guardian ad litem, who must be an attorney,
20 to represent the child's best interests in the proceeding; EXCEPT THAT IF AT
21 ANY TIME THE COURT DETERMINES THAT A GUARDIAN AD LITEM FOR THE
22 CHILD IS NO LONGER NECESSARY, THE COURT MAY DISCHARGE THE
23 GUARDIAN AD LITEM. ~~A~~ THE petitioner ~~has~~ AND THE RESPONDENT HAVE
24 the right to be represented by legal counsel in proceedings under this
25 section. ~~and has~~ THE PETITIONER AND THE RESPONDENT EACH HAVE the
26 right to seek the appointment of legal counsel if ~~the petitioner~~ HE OR SHE
27 is unable financially to secure legal counsel on his or her own. THE

1 COURT SHALL WAIVE FILING FEES FOR AN INDIGENT PETITIONER.

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

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

21 (6.5) A RESPONDENT MAY ADMIT PARENTAGE OR MAY REQUEST
22 GENETIC TESTING OR OTHER TESTS OF INHERITED CHARACTERISTICS TO
23 CONFIRM PATERNITY. THE TEST RESULTS MUST BE ADMITTED INTO
24 EVIDENCE AS PROVIDED IN SECTION 13-25-126, C.R.S. THE FINAL COSTS
25 FOR GENETIC TESTS OR OTHER TESTS OF INHERITED CHARACTERISTICS
26 MUST BE ASSESSED AGAINST THE NONPREVAILING PARTY ON THE
27 PARENTAGE ISSUE.

1 (6.6) IF THE PARTIES CONSENT, THE COURT HAS CONTINUING
2 JURISDICTION AND AUTHORITY IN THE SAME PROCEEDING TO ENTER AN
3 ORDER OF RELINQUISHMENT PURSUANT TO PART 1 OF ARTICLE 5 OF THIS
4 TITLE WITHOUT A FINDING OR ADMISSION OF THE ELEMENTS REQUIRED BY
5 SUBSECTION (7) OF THIS SECTION. AS PART OF THE AGREEMENT, THE
6 RESPONDENT MUST AGREE IN WRITING TO WAIVE THE RIGHT TO ACCESS
7 THE ORIGINAL BIRTH CERTIFICATE OR OTHER RELINQUISHMENT
8 DOCUMENTS AS PERMITTED BY LAW UNDER ARTICLE 5 OF THIS TITLE OR
9 PURSUANT TO THE RULES OF THE STATE DEPARTMENT OF HUMAN
10 SERVICES. THE WAIVER MUST BE FILED WITH THE COURT THAT ISSUES THE
11 ORDER OF RELINQUISHMENT AND WITH THE STATE REGISTRAR OF VITAL
12 STATISTICS.

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

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

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

27 (b) A child was conceived as a result of that act of sexual assault

1 or crime AS EVIDENCED BY THE RESPONDENT ADMITTING PARENTAGE OR
2 GENETIC TESTING ESTABLISHING THE PATERNITY; and

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

9 (7.3) IF THE CHILD IS AN INDIAN CHILD, THE COURT SHALL ENSURE
10 COMPLIANCE WITH THE FEDERAL "INDIAN CHILD WELFARE ACT", 25
11 U.S.C. SEC. 1901 ET SEQ., AND THE PROVISIONS OF SECTION 19-1-126.

12 (7.5) IF THE COURT DENIES THE PETITION TO TERMINATE THE
13 PARENT-CHILD LEGAL RELATIONSHIP, THEN THE COURT SHALL ARTICULATE
14 ITS REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE
15 PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO
16 ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL
17 RESPONSIBILITIES BETWEEN THE PARTIES, INCLUDING BUT NOT LIMITED TO
18 AN ORDER TO NOT ALLOCATE PARENTAL RESPONSIBILITIES TO THE
19 RESPONDENT. IN ISSUING ANY ORDER ALLOCATING PARENTAL
20 RESPONSIBILITIES, INCLUDING THE DUTY OF SUPPORT, GUARDIANSHIP, AND
21 PARENTING TIME PRIVILEGES WITH THE CHILD OR ANY OTHER MATTER, THE
22 COURT SHALL DETERMINE WHETHER THE ORDER IS IN THE BEST INTERESTS
23 OF THE CHILD BASED ON A PREPONDERANCE OF THE EVIDENCE.

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

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

1 (II) No right of inheritance from the child; and
2 (III) No right to notification of, or standing to object to, the
3 adoption of the child.

4 (b) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-3-608,
5 termination of parental rights under subsection (7) of this section does not
6 relieve the ~~person~~ RESPONDENT of any obligation to pay child support or
7 birth-related costs unless waived by the ~~victim~~ PETITIONER. In cases in
8 which child support obligations are not waived, ~~and~~ THE COURT, AS
9 INFORMED BY THE WISHES OF THE PETITIONER, SHALL DETERMINE IF
10 ENTERING AN ORDER TO PAY CHILD SUPPORT IS IN THE BEST INTERESTS OF
11 THE CHILD. If the court orders the ~~person~~ RESPONDENT to pay child
12 support, the court shall order the payments to be made through the child
13 support registry to avoid the need for any contact between the parties AND
14 ORDER THAT THE PAYMENTS BE TREATED AS A NONDISCLOSURE OF
15 INFORMATION CASE. If the ~~victim's~~ PETITIONER'S parent-child legal
16 relationship to the child is terminated after the entry of a child support
17 order against the ~~person who was convicted~~ RESPONDENT, the court shall
18 modify the child support order accordingly.

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

23 (9.5) THE COURT MAY ORDER A RESPONDENT WHOSE
24 PARENT-CHILD LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE
25 MEDICAL AND FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS
26 APPROPRIATE, AND WITH THE PETITIONER. FOR TERMINATIONS ENTERED
27 UNDER THIS SECTION AND SECTION 19-5-105.7, THE STATE COURT

1 ADMINISTRATOR SHALL ESTABLISH A UNIFORM PROCESS TO DETERMINE
2 HOW THE INFORMATION IS COLLECTED, WHO CAN ACCESS IT, WHEN IT CAN
3 BE ACCESSED, AND HOW IT IS STORED. THE COURT MAY ORDER THAT A
4 RESPONDENT'S FAILURE TO COMPLY WITH THE REQUEST FOR INFORMATION
5 IN A TIMELY MANNER CONSTITUTES CONTEMPT OF COURT.

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

12 (11) Termination of the parent-child legal relationship pursuant
13 to subsection (7) of this section is an independent basis for termination of
14 parental rights, and the court need not make any of the considerations or
15 findings described in section ~~19-5-105, 19-5-103.5, or 19-3-604~~
16 ~~19-3-604, 19-5-103.5, OR 19-5-105.~~

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

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

22 **14-10-124.3. Stay of proceedings - criminal charges of**
23 **allegations of sexual assault.** ~~If criminal charges alleging an act of~~
24 ~~sexual assault, as defined in section 19-1-103 (96.5), C.R.S., are brought~~
25 ~~against the parent of a child alleging that a child was conceived as a result~~
26 ~~of the alleged sexual assault committed by that parent against the parent~~
27 ~~who is the alleged victim of the sexual assault, the court shall issue an~~

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

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

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

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

3 **19-5-105.7. Termination of parent-child legal relationship in**
4 **a case of an allegation that a child was conceived as a result of sexual**
5 **assault but in which no conviction occurred - legislative declaration**
6 **- definitions.**

(1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE
7 PURPOSE OF THIS STATUTE IS TO PROTECT A PERSON IN A CASE WHERE IT
8 IS DETERMINED THAT HE OR SHE IS A VICTIM OF SEXUAL ASSAULT BUT IN
9 WHICH NO CONVICTION OCCURRED AND TO PROTECT A CHILD CONCEIVED
10 AS A RESULT OF THAT SEXUAL ASSAULT BY CREATING A PROCESS TO SEEK
11 TERMINATION OF THE PARENTAL RIGHTS OF THE PERPETRATOR OF THE
12 SEXUAL ASSAULT AND BY ISSUING PROTECTIVE ORDERS PREVENTING
13 FUTURE CONTACT BETWEEN THE PARTIES. THE GENERAL ASSEMBLY
14 FURTHER DECLARES THAT THIS SECTION CREATES CIVIL REMEDIES AND IS
15 NOT CREATED TO PUNISH THE PERPETRATOR BUT RATHER TO PROTECT THE
16 INTERESTS OF THE PETITIONER AND THE CHILD. THE GENERAL ASSEMBLY
17 CREATES THIS SECTION TO ADDRESS THE PROCEDURES IN CASES WHERE
18 THERE ARE ALLEGATIONS OF SEXUAL ASSAULT BUT IN WHICH A
19 CONVICTION DID NOT OCCUR.

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

(a) "CONVICTION" HAS THE SAME MEANING AS DEFINED IN SECTION
23 19-1-103 (29.3).

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

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

6 (3) THE PERSON WHO ALLEGES THAT HE OR SHE IS A VICTIM OF
7 SEXUAL ASSAULT AND WHO ALLEGES THAT A CHILD WAS CONCEIVED AS A
8 RESULT OF A SEXUAL ASSAULT IN WHICH A CONVICTION DID NOT OCCUR
9 MAY FILE A PETITION IN THE JUVENILE COURT TO PREVENT FUTURE
10 CONTACT WITH THE PARENT WHO ALLEGEDLY COMMITTED THE SEXUAL
11 ASSAULT AND TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP OF
12 THE PARENT WHO ALLEGEDLY COMMITTED THE SEXUAL ASSAULT.

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

15 (a) THE RESPONDENT COMMITTED AN ACT OF SEXUAL ASSAULT
16 AGAINST THE PETITIONER;

17 (b) THE RESPONDENT HAS NOT BEEN CONVICTED FOR THE ACT OF
18 SEXUAL ASSAULT;

19 (c) A CHILD WAS CONCEIVED AS A RESULT OF THE ACT OF SEXUAL
20 ASSAULT AS DESCRIBED UNDER PARAGRAPH (a) OF THIS SUBSECTION (4);
21 AND

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

24 (5) (a) 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 TO DETERMINE WHETHER TO TERMINATE

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

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

22 (6) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION,
23 THE COURT SHALL APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN
24 ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE
25 PROCEEDING; EXCEPT THAT IF AT ANY TIME THE COURT DETERMINES THAT
26 A GUARDIAN AD LITEM FOR THE CHILD IS NO LONGER NECESSARY, THE
27 COURT MAY DISCHARGE THE GUARDIAN AD LITEM. THE PETITIONER AND

1 THE RESPONDENT HAVE THE RIGHT TO BE REPRESENTED BY LEGAL
2 COUNSEL IN PROCEEDINGS UNDER THIS SECTION. THE PETITIONER AND THE
3 RESPONDENT EACH HAVE THE RIGHT TO SEEK THE APPOINTMENT OF LEGAL
4 COUNSEL IF HE OR SHE IS UNABLE FINANCIALLY TO SECURE LEGAL
5 COUNSEL ON HIS OR HER OWN. THE COURT SHALL WAIVE FILING FEES FOR
6 AN INDIGENT PETITIONER.

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

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

21 (9) IF THE PARTIES CONSENT, THE COURT HAS CONTINUING
22 JURISDICTION AND AUTHORITY IN THE SAME PROCEEDING TO ENTER AN
23 ORDER OF RELINQUISHMENT PURSUANT TO PART 1 OF ARTICLE 5 OF THIS
24 TITLE WITHOUT A FINDING OR ADMISSION OF THE ELEMENTS REQUIRED BY
25 SUBSECTION (11) OF THIS SECTION. AS PART OF THE AGREEMENT, THE
26 RESPONDENT MUST AGREE IN WRITING TO WAIVE THE RIGHT TO ACCESS
27 THE ORIGINAL BIRTH CERTIFICATE OR OTHER RELINQUISHMENT

1 DOCUMENTS AS PERMITTED BY LAW UNDER ARTICLE 5 OF THIS TITLE OR
2 PURSUANT TO THE RULES OF THE STATE DEPARTMENT OF HUMAN
3 SERVICES. THE WAIVER MUST BE FILED WITH THE COURT THAT ISSUES THE
4 ORDER OF RELINQUISHMENT AND WITH THE STATE REGISTRAR OF VITAL
5 STATISTICS.

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

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

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

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

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

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

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

1 (12) IF THE COURT DENIES THE PETITION TO TERMINATE THE
2 PARENT-CHILD LEGAL RELATIONSHIP, THE COURT SHALL ARTICULATE ITS
3 REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE
4 PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO
5 ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL
6 RESPONSIBILITIES BETWEEN THE PETITIONER AND THE RESPONDENT,
7 INCLUDING BUT NOT LIMITED TO AN ORDER TO NOT ALLOCATE PARENTAL
8 RESPONSIBILITIES TO THE RESPONDENT. IN ISSUING ANY ORDER
9 ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING THE DUTY OF
10 SUPPORT, GUARDIANSHIP, AND PARENTING TIME PRIVILEGES WITH THE
11 CHILD OR ANY OTHER MATTER, THE COURT SHALL DETERMINE WHETHER
12 THE ORDER IS IN THE BEST INTERESTS OF THE CHILD BASED ON A
13 PREPONDERANCE OF THE EVIDENCE.

14 (13) (a) A RESPONDENT WHOSE PARENTAL RIGHTS ARE
15 TERMINATED IN ACCORDANCE WITH THIS SECTION HAS:

16 (I) NO RIGHT TO ALLOCATION OF PARENTAL RESPONSIBILITIES,
17 INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR
18 THE CHILD;

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

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

22 (b) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-3-608,
23 TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (10) OF THIS
24 SECTION DOES NOT RELIEVE THE RESPONDENT OF ANY OBLIGATION TO PAY
25 CHILD SUPPORT OR BIRTH-RELATED COSTS UNLESS WAIVED BY THE
26 PETITIONER. IN CASES IN WHICH CHILD SUPPORT OBLIGATIONS ARE NOT
27 WAIVED, THE COURT, AS INFORMED BY THE WISHES OF THE PETITIONER,

1 SHALL DETERMINE IF ENTERING AN ORDER TO PAY CHILD SUPPORT IS IN
2 THE BEST INTERESTS OF THE CHILD. IF THE COURT ORDERS THE
3 RESPONDENT TO PAY CHILD SUPPORT, THE COURT SHALL ORDER THE
4 PAYMENTS TO BE MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID
5 THE NEED FOR ANY CONTACT BETWEEN THE PARTIES AND ORDER THAT THE
6 PAYMENTS BE TREATED AS A NONDISCLOSURE OF INFORMATION CASE. IF
7 THE PETITIONER'S PARENT-CHILD LEGAL RELATIONSHIP TO THE CHILD IS
8 TERMINATED AFTER THE ENTRY OF A CHILD SUPPORT ORDER AGAINST THE
9 RESPONDENT, THE COURT SHALL MODIFY THE CHILD SUPPORT ORDER
10 ACCORDINGLY.

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

15 (15) THE COURT MAY ORDER A RESPONDENT WHOSE PARENT-CHILD
16 LEGAL RELATIONSHIP HAS BEEN TERMINATED TO PROVIDE MEDICAL AND
17 FAMILY INFORMATION TO BE SHARED WITH THE CHILD, AS APPROPRIATE,
18 AND WITH THE PETITIONER. THE SHARING OF INFORMATION MUST BE
19 CONSISTENT WITH THE UNIFORM PROCESS ESTABLISHED BY THE STATE
20 COURT ADMINISTRATOR AS PROVIDED IN SECTION 19-5-105.5 (9.5). THE
21 COURT MAY ORDER THAT A RESPONDENT'S FAILURE TO COMPLY WITH THE
22 REQUEST FOR INFORMATION IN A TIMELY MANNER CONSTITUTES
23 CONTEMPT OF COURT.

24 (16) THE JUVENILE COURT HAS ORIGINAL CONCURRENT
25 JURISDICTION TO ISSUE A TEMPORARY OR PERMANENT CIVIL PROTECTION
26 ORDER PURSUANT TO SECTION 13-14-104.5 OR 13-14-106, C.R.S.

27 (17) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP

1 PURSUANT TO SUBSECTION (10) OF THIS SECTION IS AN INDEPENDENT BASIS
2 FOR TERMINATION OF PARENTAL RIGHTS, AND THE COURT NEED NOT MAKE
3 ANY OF THE CONSIDERATIONS OR FINDINGS DESCRIBED IN SECTION
4 19-3-604, 19-5-103.5, OR 19-5-105.

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

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

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

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

19 **SECTION 6.** In Colorado Revised Statutes, 19-5-105, **amend**
20 (3.1) (a) (IV) as follows:

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

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

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

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

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

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

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

21 (a) **Determination of parenting time.** The court, upon the motion
22 of either party or upon its own motion, may make provisions for parenting
23 time that the court finds are in the child's best interests unless the court
24 finds, after a hearing, that parenting time by the party would endanger the
25 child's physical health or significantly impair the child's emotional
26 development. In addition to a finding that parenting time would endanger
27 the child's physical health or significantly impair the child's emotional

1 development, in any order imposing or continuing a parenting time
2 restriction the court shall enumerate the specific factual findings
3 supporting the restriction AND MAY ENUMERATE THE CONDITIONS THAT
4 THE RESTRICTED PARTY COULD FULFILL IN ORDER TO SEEK MODIFICATION
5 IN THE PARENTING PLAN. When a claim of child abuse or neglect, or
6 domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO A CLAIM
7 THAT THE CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT
8 has been made to the court, or the court has reason to believe that a party
9 has committed child abuse or neglect, or domestic violence, OR SEXUAL
10 ASSAULT WHERE THERE IS ALSO A CLAIM THAT THE CHILD WAS CONCEIVED
11 AS A RESULT OF THE SEXUAL ASSAULT, prior to determining parenting
12 time, the court shall follow the provisions of subsection (4) of this
13 section. In determining the best interests of the child for purposes of
14 parenting time, the court shall consider all relevant factors, including:

15 (b) **Allocation of decision-making responsibility.** The court,
16 upon the motion of either party or its own motion, shall allocate the
17 decision-making responsibilities between the parties based upon the best
18 interests of the child. In determining decision-making responsibility, the
19 court may allocate the decision-making responsibility with respect to each
20 issue affecting the child mutually between both parties or individually to
21 one or the other party or any combination thereof. When a claim of child
22 abuse or neglect or domestic violence has been made to the court, or the
23 court has reason to believe that a party has committed child abuse or
24 neglect, or domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO
25 A CLAIM THAT THE CHILD IN QUESTION WAS CONCEIVED AS A RESULT OF
26 THE SEXUAL ASSAULT, prior to allocating decision-making responsibility,
27 the court shall follow the provisions of subsection (4) of this section. In

1 determining the best interests of the child for purposes of allocating
2 decision-making responsibilities, the court shall consider, in addition to
3 the factors set forth in paragraph (a) of this subsection (1.5), all relevant
4 factors including:

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

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

27 (IV) IF ONE OF THE PARTIES IS FOUND BY A PREPONDERANCE OF

1 THE EVIDENCE TO HAVE COMMITTED SEXUAL ASSAULT RESULTING IN THE
2 CONCEPTION OF THE CHILD, WHETHER IT IS IN THE BEST INTERESTS OF THE
3 CHILD TO PROHIBIT OR LIMIT THE PARENTING TIME OF THAT PARTY WITH
4 THE CHILD.

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

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

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

23 (I) An order limiting contact between the parties to contact that
24 the court deems is safe and that minimizes unnecessary communication
25 between the parties;

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

- 1 (III) An order for supervised parenting time;
- 2 (IV) An order restricting overnight parenting time;
- 3 (V) An order that restricts the party who has committed domestic
4 violence, SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE CHILD,
5 or child abuse or neglect from possessing or consuming alcohol or
6 controlled substances during parenting time or for twenty-four hours prior
7 to the commencement of parenting time;
- 8 (VI) An order directing that the address of the child or of any
9 party remain confidential; and
- 10 (VII) An order that imposes any other condition on one or more
11 parties that the court determines is necessary to protect the child, another
12 party, or any other family or household member of a party; AND
- 13 (VIII) AN ORDER THAT REQUIRES CHILD SUPPORT PAYMENTS TO BE
14 MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID THE NEED FOR
15 ANY RELATED CONTACT BETWEEN THE PARTIES AND AN ORDER THAT THE
16 PAYMENTS BE TREATED AS A NONDISCLOSURE OF INFORMATION CASE.

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

19 **14-10-129. Modification of parenting time.** (2.5) (a) WHEN THE
20 COURT RESTRICTS A PARTY'S PARENTING TIME PURSUANT TO SECTION
21 19-5-105.5, C.R.S., OR SECTION 19-5-105.7, C.R.S., OR SECTION
22 14-10-124 (4) (a) (IV), THE COURT MAY MAKE OR MODIFY AN ORDER
23 GRANTING OR DENYING PARENTING TIME RIGHTS WHENEVER SUCH ORDER
24 OR MODIFICATION WOULD SERVE THE BEST INTERESTS OF THE CHILD.
25 WITHIN THIRTY-FIVE DAYS AFTER THE FILING OF A VERIFIED MOTION BY
26 THE RESTRICTED PARTY SEEKING A MODIFICATION OF PARENTING TIME,
27 THE COURT SHALL DETERMINE FROM THE VERIFIED MOTION, AND

1 RESPONSE TO THE MOTION, IF ANY, WHETHER THERE HAS BEEN A
2 SUBSTANTIAL AND CONTINUING CHANGE OF CIRCUMSTANCES SUCH THAT
3 THE CURRENT PARENTING TIME ORDERS ARE NO LONGER IN THE CHILD'S
4 BEST INTERESTS, INCLUDING CONSIDERATION OF WHETHER THE
5 RESTRICTED PARENT HAS SATISFACTORILY COMPLIED WITH ANY
6 CONDITIONS SET FORTH BY THE COURT WHEN THE COURT IMPOSED THE
7 RESTRICTIONS ON PARENTING TIME, AND EITHER:

8 (I) DENY THE MOTION, IF THERE IS AN INADEQUATE ALLEGATION;
9 OR

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

12 (b) IF THE COURT FINDS THAT THE FILING OF A MOTION UNDER
13 PARAGRAPH (a) OF THIS SUBSECTION (2.5) WAS SUBSTANTIALLY
14 FRIVOLOUS, SUBSTANTIALLY GROUNDLESS, SUBSTANTIALLY VEXATIOUS,
15 OR INTENDED TO HARASS OR INTIMIDATE THE OTHER PARTY, THE COURT
16 SHALL REQUIRE THE MOVING PARTY TO PAY THE REASONABLE AND
17 NECESSARY ATTORNEY FEES AND COSTS OF THE OTHER PARTY.

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

20 **19-1-103. Definitions.** As used in this title or in the specified
21 portion of this title, unless the context otherwise requires:

22 (96.5) "Sexual assault", as used in ~~section 19-5-105.5~~ SECTIONS
23 19-5-105, 19-5-105.5, AND 19-5-105.7, means:

24 **SECTION 10.** In Colorado Revised Statutes, 19-5-109, **amend**
25 **as added by House Bill 14-1042** the introductory portion to (1) (a) as
26 follows:

27 **19-5-109. Birth parent access to records related to**

1 **relinquishment of parental rights.** (1) (a) EXCEPT FOR
2 RELINQUISHMENTS ORDERED PURSUANT TO SECTION 19-5-105.5 (6.6) OR
3 19-5-105.7 (9) OR WHEN THE SUBSEQUENT TERMINATION OF THE
4 PARENT-CHILD LEGAL RELATIONSHIP IS THE RESULT OF A DEPENDENCY
5 AND NEGLECT ACTION, in those cases in which a parent consents to the
6 relinquishment of his or her child, ~~and the subsequent termination of the~~
7 ~~parent-child legal relationship is not the result of a dependency and~~
8 ~~neglect action,~~ the custodian of records shall provide to the relinquishing
9 birth parent to whom the document pertains a copy of the relinquishment
10 records, in the possession of the custodian of records, that are signed by
11 the relinquishing birth parent or by a parent, guardian, custodian, or legal
12 representative on behalf of the relinquishing birth parent and any of the
13 following records listed in this paragraph (a) in which the relinquishing
14 birth parent is named, including:

15 **SECTION 11. Effective date - applicability.** (1) This act takes
16 effect July 1, 2014; except that section 10 of this act takes effect only if
17 House Bill 14-1042 becomes law and takes effect either on the effective
18 date of this bill or the effective date of House Bill 14-1042, whichever is
19 later.

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

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

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