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An Act

HOUSE BILL 14-1162

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also SENATOR(S) Carroll, Aguilar, Baumgardner, Crowder, Guzman, Heath, Herpin, Jahn, Johnston, Kefalas, Kerr, King, Lambert, Newell, Nicholson, Rivera, Roberts, Schwartz, Tochtrop, Todd, Ulibarri, Zenzinger.

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

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

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

19-5-105.5. Termination of parent-child legal relationship upon a finding that the child was conceived as a result of sexual assault - legislative declaration - definitions. (1) The general assembly hereby

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

declares that the purpose of this statute is to protect the victim of a sexual assault and to protect the child conceived as a result of that sexual assault by ~~terminating~~ CREATING A PROCESS TO SEEK TERMINATION OF the parental rights of the perpetrator of the sexual assault and by issuing protective orders preventing future contact between the parties. The general assembly further declares that this section creates civil remedies and is not created to punish the perpetrator but rather to protect the interests of the child and the victim of a sexual assault.

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

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

(a.5) "DISABILITY" MEANS:

(I) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES; OR

(II) A RECORD OF A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITED A MAJOR LIFE ACTIVITY.

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

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

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

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

(3) If a child was conceived as a result of an act that led to the parent's conviction for sexual assault or for a conviction in which the underlying factual basis was sexual assault, the victim of the sexual assault or crime may file a petition in the juvenile court to prevent future contact

with the parent who committed the sexual assault and to terminate the parent-child legal relationship of the parent who committed the sexual assault or crime.

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

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

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

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

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

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

financially to secure legal counsel on his or her own. THE COURT SHALL WAIVE FILING FEES FOR AN INDIGENT PETITIONER.

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

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

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

(6.6) IF THE PARTIES CONSENT, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY IN THE SAME PROCEEDING TO ENTER AN ORDER OF RELINQUISHMENT PURSUANT TO PART 1 OF ARTICLE 5 OF THIS TITLE WITHOUT A FINDING OR ADMISSION OF THE ELEMENTS REQUIRED BY SUBSECTION (7) OF THIS SECTION. AS PART OF THE AGREEMENT, THE RESPONDENT MUST AGREE IN WRITING TO WAIVE THE RIGHT TO ACCESS THE ORIGINAL BIRTH CERTIFICATE OR OTHER RELINQUISHMENT DOCUMENTS AS PERMITTED BY LAW UNDER ARTICLE 5 OF THIS TITLE OR PURSUANT TO THE

RULES OF THE STATE DEPARTMENT OF HUMAN SERVICES. THE WAIVER MUST BE FILED WITH THE COURT THAT ISSUES THE ORDER OF RELINQUISHMENT AND WITH THE STATE REGISTRAR OF VITAL STATISTICS.

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

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

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

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

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

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

(7.5) IF THE COURT DENIES THE PETITION TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP, THEN THE COURT SHALL ARTICULATE ITS REASONS FOR THE DENIAL OF THE PETITION. IF THE COURT DENIES THE PETITION, THE COURT HAS CONTINUING JURISDICTION AND AUTHORITY TO

ENTER AN ORDER IN THE SAME PROCEEDING ALLOCATING PARENTAL RESPONSIBILITIES BETWEEN THE PARTIES, INCLUDING BUT NOT LIMITED TO AN ORDER TO NOT ALLOCATE PARENTAL RESPONSIBILITIES TO THE RESPONDENT. IN ISSUING ANY ORDER ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING THE DUTY OF SUPPORT, GUARDIANSHIP, AND PARENTING TIME PRIVILEGES WITH THE CHILD OR ANY OTHER MATTER, THE COURT SHALL DETERMINE WHETHER THE ORDER IS IN THE BEST INTERESTS OF THE CHILD BASED ON A PREPONDERANCE OF THE EVIDENCE.

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

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

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

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

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

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

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

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

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

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

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

14-10-124.3. Stay of proceedings - criminal charges of allegations of sexual assault. ~~If criminal charges alleging an act of sexual assault, as defined in section 19-1-103 (96.5), C.R.S., are brought against the parent of a child alleging that a child was conceived as a result of the alleged sexual assault committed by that parent against the parent who is the alleged victim of the sexual assault, the court shall issue an automatic stay of any civil domestic proceedings under this article or of any paternity proceedings under the "Uniform Parentage Act", article 4 of title 19, C.R.S., involving both the child and the parent who is the alleged~~

~~perpetrator. The stay shall not be lifted until there is a final disposition of the criminal charges. In any future domestic proceedings under this article or any paternity proceedings under the "Uniform Parentage Act", article 4 of title 19, C.R.S., continued after the final disposition of the criminal charges, any denial of parenting time by the victim of the alleged sexual assault while the criminal charges were pending shall not be used in any way against the victim.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION, THE COURT SHALL APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE

PROCEEDING; EXCEPT THAT IF AT ANY TIME THE COURT DETERMINES THAT A GUARDIAN AD LITEM FOR THE CHILD IS NO LONGER NECESSARY, THE COURT MAY DISCHARGE THE GUARDIAN AD LITEM. THE PETITIONER AND THE RESPONDENT HAVE THE RIGHT TO BE REPRESENTED BY LEGAL COUNSEL IN PROCEEDINGS UNDER THIS SECTION. THE PETITIONER AND THE RESPONDENT EACH HAVE THE RIGHT TO SEEK THE APPOINTMENT OF LEGAL COUNSEL IF HE OR SHE IS UNABLE FINANCIALLY TO SECURE LEGAL COUNSEL ON HIS OR HER OWN. THE COURT SHALL WAIVE FILING FEES FOR AN INDIGENT PETITIONER.

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

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

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

(10) THE COURT SHALL HEAR A PETITION TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP NO MORE THAN ONE HUNDRED TWENTY DAYS AFTER SERVICE OF THE PETITION OR FROM THE FIRST

APPEARANCE DATE, WHICHEVER IS LATER, UNLESS BOTH PARTIES CONSENT TO AN EXTENSION OR THE COURT FINDS GOOD CAUSE TO EXTEND THE HEARING BEYOND ONE HUNDRED TWENTY DAYS.

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

(I) A SEXUAL ASSAULT AGAINST THE PETITIONER OCCURRED;

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

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

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

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

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

(13) (a) A RESPONDENT WHOSE PARENTAL RIGHTS ARE TERMINATED

IN ACCORDANCE WITH THIS SECTION HAS:

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

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

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

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

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

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

OF COURT.

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

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

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

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

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

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

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

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

(a) That the parent is unfit. In considering the fitness of the child's

parent, the court shall consider, but shall not be limited to, the following:

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

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

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

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

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

(a) **Determination of parenting time.** The court, upon the motion of either party or upon its own motion, may make provisions for parenting time that the court finds are in the child's best interests unless the court finds, after a hearing, that parenting time by the party would endanger the child's physical health or significantly impair the child's emotional development. In addition to a finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development, in any order imposing or continuing a parenting time restriction the court shall enumerate the specific factual findings supporting the restriction AND MAY ENUMERATE THE CONDITIONS THAT THE RESTRICTED PARTY COULD FULFILL IN ORDER TO SEEK MODIFICATION IN THE PARENTING PLAN. When a claim of child abuse or neglect, ~~or~~ domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO A CLAIM THAT THE

CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, ~~or~~ domestic violence, OR SEXUAL ASSAULT WHERE THERE IS ALSO A CLAIM THAT THE CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT, prior to determining parenting time, the court shall follow the provisions of subsection (4) of this section. In determining the best interests of the child for purposes of parenting time, the court shall consider all relevant factors, including:

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

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

(III) WHETHER ONE OF THE PARTIES HAS COMMITTED AN ACT OF SEXUAL ASSAULT RESULTING IN THE CONCEPTION OF THE CHILD, WHICH

FACTOR MUST BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. 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, THERE IS A REBUTTABLE PRESUMPTION THAT IT IS NOT IN THE BEST INTERESTS OF THE CHILD TO ALLOCATE SOLE OR SPLIT DECISION-MAKING AUTHORITY TO THE PARTY FOUND TO HAVE COMMITTED SEXUAL ASSAULT OR TO ALLOCATE MUTUAL DECISION-MAKING BETWEEN A PARTY FOUND TO HAVE COMMITTED SEXUAL ASSAULT AND THE PARTY WHO WAS SEXUALLY ASSAULTED WITH RESPECT TO ANY ISSUE.

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

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

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

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

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

between the parties;

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

(III) An order for supervised parenting time;

(IV) An order restricting overnight parenting time;

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

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

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

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

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

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

CONTINUING CHANGE OF CIRCUMSTANCES SUCH THAT THE CURRENT PARENTING TIME ORDERS ARE NO LONGER IN THE CHILD'S BEST INTERESTS, INCLUDING CONSIDERATION OF WHETHER THE RESTRICTED PARENT HAS SATISFACTORILY COMPLIED WITH ANY CONDITIONS SET FORTH BY THE COURT WHEN THE COURT IMPOSED THE RESTRICTIONS ON PARENTING TIME, AND EITHER:

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

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

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

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

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

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

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

19-5-109. Birth parent access to records related to relinquishment of parental rights. (1) (a) EXCEPT FOR RELINQUISHMENTS ORDERED PURSUANT TO SECTION 19-5-105.5 (6.6) OR 19-5-105.7 (9) OR WHEN THE SUBSEQUENT TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS THE RESULT OF A DEPENDENCY AND NEGLECT ACTION, in those cases in which a parent consents to the relinquishment of his or her child, ~~and the subsequent termination of the parent-child legal relationship is not the result of a dependency and neglect action,~~ the custodian of

records shall provide to the relinquishing birth parent to whom the document pertains a copy of the relinquishment records, in the possession of the custodian of records, that are signed by the relinquishing birth parent or by a parent, guardian, custodian, or legal representative on behalf of the relinquishing birth parent and any of the following records listed in this paragraph (a) in which the relinquishing birth parent is named, including:

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

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

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

SECTION 12. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO