

## CHAPTER 348

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**CHILDREN AND DOMESTIC MATTERS**


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**SENATE BILL 08-106**

BY SENATOR(S) Schultheis, Boyd, Cadman, Gibbs, Groff, Mitchell S., Penry, Shaffer, Spence, Tochtrop, Ward, Wiens, Williams, and Kester;  
 also REPRESENTATIVE(S) Lundberg, Balmer, Buescher, Butcher, Carroll M., Carroll T., Fischer, Frangas, Gardner C., Garza-Hicks, Green, Jahn, Kefalas, Kerr A., King, Lambert, Looper, Madden, Massey, May M., McFadyen, Merrifield, Middleton, Mitchell V., Peniston, Primavera, Rice, Riesberg, Romanoff, Rose, Scanlan, Stafford, Summers, and Swalm.

**AN ACT**

**CONCERNING PERPETRATORS OF UNLAWFUL SEXUAL BEHAVIOR WHO ARE INVOLVED IN CHILD CUSTODY CASES.**

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

**SECTION 1.** 14-10-129 (3) (a), Colorado Revised Statutes, is amended, and the said 14-10-129 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**14-10-129. Modification of parenting time.** (3) (a) If a parent has been convicted of any of the crimes listed in paragraph (b) of this subsection (3) OR CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, OF AN OFFENSE THAT, IF COMMITTED IN COLORADO, WOULD CONSTITUTE ANY OF THE CRIMES LISTED IN PARAGRAPH (b) OF THIS SUBSECTION (3), or convicted of any crime in which the underlying factual basis has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., that constitutes a potential threat or endangerment to the child, the other parent, or any other person who has been granted custody of or parental responsibility for the child pursuant to court order may file an objection to parenting time with the court. The other parent or other person having custody or parental responsibility shall give notice to the offending parent of such objection as provided by the Colorado rules of civil procedure, and the offending parent shall have twenty days from such notice to respond. If the offending parent fails to respond within twenty days, the parenting time rights of such parent shall be suspended until further order of the court. If such parent responds and objects, a hearing shall be held within thirty days of such

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

response. The court may determine that any offending parent who responds and objects shall be responsible for the costs associated with any hearing, including reasonable attorney fees incurred by the other parent. In making such determination, the court shall consider the criminal record of the offending parent and any actions to harass the other parent and the children, any mitigating actions by the offending parent, and whether the actions of either parent have been substantially frivolous, substantially groundless, or substantially vexatious. The offending parent shall have the burden at the hearing to prove that parenting time by such parent is in the best interests of the child or children.

(c) IF THE PARTY WAS CONVICTED IN ANOTHER STATE OR JURISDICTION OF AN OFFENSE THAT IF COMMITTED IN COLORADO WOULD CONSTITUTE AN OFFENSE LISTED IN SUBPARAGRAPHS (III) TO (XX) OF PARAGRAPH (b) OF THIS SUBSECTION (3), THE COURT SHALL ORDER THAT PARTY TO SUBMIT TO A SEX-OFFENSE-SPECIFIC EVALUATION AND A PARENTAL RISK ASSESSMENT IN COLORADO AND THE COURT SHALL CONSIDER THE RECOMMENDATIONS OF THE EVALUATION AND THE ASSESSMENT IN ANY ORDER THE COURT MAKES RELATING TO PARENTING TIME OR PARENTAL CONTACT. THE CONVICTED PARTY SHALL PAY FOR THE COSTS OF THE EVALUATION AND THE ASSESSMENT.

**SECTION 2. 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.

Approved: May 29, 2008