

CHAPTER 353

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 13-227

BY SENATOR(S) Carroll and Hudak, Aguilar, Cadman, Giron, Guzman, Harvey, Heath, Jahn, Jones, Kerr, King, Morse, Newell, Nicholson, Roberts, Schwartz, Todd, Ulibarri, Baumgardner, Brophy, Crowder, Grantham, Hodge, Kefalas, Lambert, Lundberg, Marble, Renfroe, Scheffel, Tochtrop;
 also REPRESENTATIVE(S) Landgraf, Buck, Gardner, Humphrey, Lebsock, Melton, Mitsch Bush, Navarro, Priola, Rankin, Saine, Schafer, Stephens, Vigil, Wilson, Young, Dore, Duran, Fields, Foote, Gerou, Hamner, Kagan, Kraft-Tharp, Labuda, Lee, May, Peniston, Rosenthal, Ryden, Salazar, Szabo, Waller, Wright.

AN ACT

CONCERNING METHODS TO PROTECT 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 AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 19-1-103, **amend** (112); and **add** (29.3) and (96.5) as follows:

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

(29.3) "CONVICTED" OR "CONVICTION", AS USED IN SECTION 19-5-105.5, MEANS A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION 18-1.3-102, C.R.S., A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO CONTEST ACCEPTED BY THE COURT, OR HAVING RECEIVED A DISPOSITION AS A JUVENILE OR HAVING BEEN ADJUDICATED A JUVENILE DELINQUENT BASED ON THE COMMISSION OF ANY ACT THAT CONSTITUTES SEXUAL ASSAULT, AS DEFINED IN SUBSECTION (96.5) OF THIS SECTION.

(96.5) "SEXUAL ASSAULT", AS USED IN SECTION 19-5-105.5, MEANS:

(a) "SEXUAL ASSAULT" AS DEFINED IN SECTION 18-3-402, C.R.S.;

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

(b) "UNLAWFUL SEXUAL CONTACT" AS DEFINED IN SECTION 18-3-404, C.R.S.;

(c) "SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST" AS DEFINED IN SECTION 18-3-405.3, C.R.S.;

(d) "SEXUAL ASSAULT ON A CHILD, AS DEFINED IN SECTION 18-3-405, C.R.S.; OR

(e) "SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST" AS DEFINED IN SECTION 18-3-405.5 C.R.S.

(112) (a) "Victim", as used in article 2 of this title, means the party immediately and directly aggrieved by the juvenile, that party's spouse, the party's parent, sibling, or child who is living with the party, a victim compensation board that has paid a victim compensation claim, a person or entity who has suffered losses because of a contractual relationship with such party, including, but not limited to, an insurer, or because of liability under section 14-6-110, C.R.S., or, in the absence of any of the above, the state.

(b) "VICTIM", AS USED IN SECTION 19-5-105.5, MEANS ANY NATURAL PERSON AGAINST WHOM A CRIME OF SEXUAL ASSAULT OR A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT HAS BEEN PERPETRATED OR IS ALLEGED TO HAVE BEEN PERPETRATED.

SECTION 2. In Colorado Revised Statutes, 19-5-101, **amend** (1) (b) and (1) (c); and **add** (1) (d) as follows:

19-5-101. Termination of the parent-child legal relationship. (1) The juvenile court may, upon petition, terminate the parent-child legal relationship between a parent or parents, or a possible parent or parents, and a child in:

(b) Proceedings under section 19-5-105; ~~or~~

(c) Proceedings under section 19-5-203 (1) (d), (1) (e), (1) (f), (1) (j), and (1) (k);
OR

(d) PROCEEDINGS UNDER SECTION 19-5-105.5.

SECTION 3. In Colorado Revised Statutes, **add** 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 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 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).

(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 WAS CONVICTED ON OR AFTER JULY 1, 2013, OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR CONVICTED OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST THE VICTIM;

(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 WITH THE CHILD IS IN THE BEST INTERESTS OF THE CHILD.

(5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION, THE COURT MAY APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE PROCEEDING. A PETITIONER HAS THE RIGHT TO BE REPRESENTED BY LEGAL COUNSEL IN PROCEEDINGS UNDER THIS SECTION AND HAS THE RIGHT TO SEEK THE APPOINTMENT OF LEGAL COUNSEL IF THE PETITIONER IS UNABLE FINANCIALLY TO SECURE LEGAL COUNSEL ON HIS OR HER OWN.

(6) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE VICTIM IS NOT REQUIRED TO APPEAR IN THE PRESENCE OF THE OTHER PARENT, AND THE VICTIM'S AND THE CHILD'S WHEREABOUTS MUST BE KEPT CONFIDENTIAL.

(7) THE COURT SHALL TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP OF THE PERSON AGAINST WHOM THE PETITION IS FILED IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

(a) THE PARENT WAS CONVICTED ON OR AFTER JULY 1, 2013, OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR WAS CONVICTED OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST THE VICTIM;

(b) A CHILD WAS CONCEIVED AS A RESULT OF THAT ACT OF SEXUAL ASSAULT OR CRIME; 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.

(8) (a) A PERSON 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) TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (7) OF THIS SECTION DOES NOT RELIEVE THE PERSON OF ANY OBLIGATION TO PAY CHILD SUPPORT OR BIRTH-RELATED COSTS UNLESS WAIVED BY THE VICTIM. IN CASES IN WHICH CHILD SUPPORT OBLIGATIONS ARE NOT WAIVED AND THE COURT ORDERS THE PERSON 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. IF THE VICTIM'S PARENT-CHILD LEGAL RELATIONSHIP TO THE CHILD IS TERMINATED AFTER THE ENTRY OF A CHILD SUPPORT ORDER AGAINST THE PERSON WHO WAS CONVICTED, THE COURT SHALL MODIFY THE CHILD SUPPORT ORDER ACCORDINGLY.

(9) THE PERSON 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.

(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.

(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 SECTIONS 19-5-105, 19-5-103.5, OR 19-3-604.

(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.

SECTION 4. In Colorado Revised Statutes, **add** 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 5. In Colorado Revised Statutes, **add** 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), C.R.S., 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 6. In Colorado Revised Statutes, 18-3-402, **add** (7) as follows:

18-3-402. Sexual assault. (7) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF A SEXUAL ASSAULT UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 7. In Colorado Revised Statutes, 18-3-404, **add** (4) as follows:

18-3-404. Unlawful sexual contact. (4) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF UNLAWFUL SEXUAL CONTACT UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 8. In Colorado Revised Statutes, 18-3-405.3, **add** (5) as follows:

18-3-405.3. Sexual assault on a child by one in a position of trust. (5) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 9. In Colorado Revised Statutes, 18-3-405, **add** (4) as follows:

18-3-405. Sexual assault on a child. (4) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL ASSAULT ON A CHILD UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF

THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 10. In Colorado Revised Statutes, 18-3-405.5, **add** (5) as follows:

18-3-405.5. Sexual assault on a client by a psychotherapist. (5) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 11. In Colorado Revised Statutes, 14-14-104, **amend** (1) introductory portion as follows:

14-14-104. Recovery for child support debt. (1) Any payment of public assistance by a county department of social services made to or for the benefit of any dependent child or children creates a debt, which is due and owing to the county department of social services, recoverable by the county as a debt due to the state by the parent or parents who are responsible for support of the dependent child or children, OR BY THE PARENT WHOSE RIGHTS WERE TERMINATED PURSUANT TO SECTION 19-5-105.5, C.R.S., AND WHO WAS ORDERED TO PAY CHILD SUPPORT FOR THE BENEFIT OF A DEPENDENT CHILD, in an amount to be determined as follows:

SECTION 12. In Colorado Revised Statutes, **add** part 5 to article 1 of title 26 as follows:

PART 5
TASK FORCE ON CHILDREN CONCEIVED BY RAPE

26-1-501. Task force on children conceived by rape - legislative declaration - creation - duties - report - repeal of part. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(I) SECTION 19-5-105.5, C.R.S., ADDRESSES THE INTERESTS OF THE PARTIES AFFECTED AND CREATES A PROCESS TO TERMINATE THE PARENTAL RIGHTS OF A PERPETRATOR OF SEXUAL ASSAULT IN CIRCUMSTANCES IN WHICH A PARENT WAS CONVICTED OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR CONVICTED OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST THE VICTIM AND A CHILD WAS CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT OR CRIME;

(II) MANY SEXUAL ASSAULTS ARE NOT REPORTED OR PROSECUTED OR DO NOT RESULT IN A CONVICTION, AND IN SUCH CASES, THERE IS STILL A NEED TO PROTECT THE INTERESTS OF THE VICTIM FROM FUTURE CONTACT WITH THE ALLEGED PERPETRATOR WHILE BALANCING THE DUE PROCESS RIGHTS OF THE ALLEGED PERPETRATOR; AND

(III) THERE REMAIN UNRESOLVED AND DIFFICULT POLICY ISSUES RELATED TO THE PARENTAL RIGHTS OF THE PARTIES IN THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IN WHICH A CONVICTION OCCURRED AND ALSO IN THOSE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) IN WHICH A CONVICTION DID NOT OCCUR AND THAT DO NOT QUALIFY FOR THE PROCESS AFFORDED IN SECTION 19-5-105.5, C.R.S.

(b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT WOULD BE BENEFICIAL TO CONVENE A TASK FORCE OF EXPERTS TO REVIEW AND EVALUATE THE PROCESS IN SECTION 19-5-105.5, C.R.S., AND TO STUDY THE ISSUES ASSOCIATED WITH PARENTAL RIGHTS IN CASES IN WHICH THERE ARE ALLEGATIONS THAT A SEXUAL ASSAULT OCCURRED, A CONVICTION OF OR PROSECUTION FOR SEXUAL ASSAULT HAS NOT OCCURRED, AND A CHILD HAS BEEN CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TASK FORCE MAKE RECOMMENDATIONS ON FUTURE LEGISLATION TO ADDRESS THESE CONCERNS.

(2) THERE IS HEREBY CREATED THE TASK FORCE ON CHILDREN CONCEIVED BY RAPE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL MEET DURING THE INTERIM AFTER THE FIRST REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY.

(3) THE TASK FORCE SHALL STUDY AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING PROTECTIONS FOR RAPE VICTIMS AND CONCERNING PARENTAL RIGHTS OF THE PARTIES INVOLVED IN CASES INVOLVING CONVICTIONS AND IN CASES IN WHICH THERE ARE ALLEGATIONS THAT A SEXUAL ASSAULT OCCURRED, A CONVICTION OF OR PROSECUTION FOR SEXUAL ASSAULT HAS NOT OCCURRED, AND A CHILD HAS BEEN CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT. THE TASK FORCE STUDY MUST INCLUDE BUT IS NOT LIMITED TO THE FOLLOWING ISSUES:

(a) WHETHER A PROCESS FOR ADDRESSING THE PARENTAL RIGHTS OF BOTH PARENTS IN CASES INVOLVING CONVICTIONS FOR SEXUAL ASSAULT AND IN CASES INVOLVING ALLEGATIONS OF SEXUAL ASSAULT WHERE THERE WERE NO CONVICTIONS IS MORE APPROPRIATELY ADDRESSED BY DISTRICT COURTS PURSUANT TO ARTICLE 10 OF TITLE 14, C.R.S., OR BY JUVENILE COURTS PURSUANT TO ARTICLE 5 OF TITLE 19, C.R.S. THE TASK FORCE MUST CONDUCT AN ANALYSIS THAT INCLUDES, BUT IS

NOT LIMITED TO, THE ADVANTAGES AND DISADVANTAGES OF EACH APPROACH, WHETHER THERE IS A POTENTIAL FOR UNINTENDED CONSEQUENCES FROM EITHER APPROACH, THE FISCAL IMPACT TO THE STATE, COUNTY DEPARTMENTS OF SOCIAL SERVICES, AND THE JUDICIAL BRANCH TO STAFF THE DIFFERENT APPROACHES, AND THE IMPACT OF EACH APPROACH ON THE PARTIES, THE STATE, THE COUNTY DEPARTMENTS OF SOCIAL SERVICES, AND THE JUDICIAL BRANCH.

(b) WHAT MECHANISMS AND DUE PROCESS PROTECTIONS CAN BE ESTABLISHED FOR THE COURT TO LIMIT OR TERMINATE PARENTAL RIGHTS, MAKE DECISIONS ABOUT ALLOCATION OF RIGHTS AND RESPONSIBILITIES OF THE PARENTS, AND ISSUE PROTECTIVE NO-CONTACT ORDERS;

(c) WHAT BURDEN OF PROOF SHOULD BE USED BY THE COURT IN MAKING THE FINDINGS IN PARAGRAPH (b) OF THIS SUBSECTION (3);

(d) THE UNIQUE CONSIDERATIONS AND CHALLENGES THAT ARE PRESENTED BY CASES INVOLVING DOMESTIC VIOLENCE;

(e) THE UNIQUE CONSIDERATIONS AND CHALLENGES THAT ARE PRESENTED BY CASES WHERE THE PERSON WHO COMMITTED OR IS ALLEGED TO HAVE COMMITTED THE SEXUAL ASSAULT IS A WOMAN AND THE WOMAN BECOMES IMPREGNATED AND CONCEIVES A CHILD;

(f) HOW PARENTAL RIGHTS SHOULD BE DETERMINED AND ADDRESSED THROUGH DEPENDENCY OR NEGLECT PROCEEDINGS IN THE JUVENILE JUSTICE SYSTEM;

(g) HOW PARENTAL RESPONSIBILITIES SHOULD BE ALLOCATED IN DOMESTIC RELATIONS CASES BROUGHT UNDER ARTICLE 10 OF TITLE 14, C.R.S.;

(h) HOW TO ADDRESS THE VISITATION RIGHTS OF GRANDPARENTS OF THE CHILD IN THESE CIRCUMSTANCES;

(i) HOW THE RIGHTS OF PARENTS AND CHILDREN ARE AFFECTED BY THE FEDERAL "INDIAN CHILD WELFARE ACT", 25 U.S.C., CHAPTER 21;

(j) THE NECESSITY OF OBTAINING CONSENT FROM BOTH BIOLOGICAL PARENTS TO THE ADOPTION OF THE CHILD AND HOW TO OBTAIN THAT CONSENT;

(k) WHETHER AND HOW TO ALLOW A BIRTH PARENT TO RELINQUISH THE CHILD THROUGH AN EXPEDITED RELINQUISHMENT PROCEDURE FOR A CHILD UNDER ONE YEAR OF AGE AND SEEK THE TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF THE OTHER PARENT WHO IS ALLEGED TO BE THE PERPETRATOR OF SEXUAL ASSAULT SO THAT THE CHILD MAY LEGALLY BE AVAILABLE FOR ADOPTION;

(l) WITH RESPECT TO THE ALLEGED PERPETRATOR'S PARENTAL RIGHTS, THE ADVANTAGES AND DISADVANTAGES OF AND COMPARISONS OF:

(I) NOT ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, TO A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR; OR

(II) NOT ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, TO A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR, AND LEAVING THE PARENT'S OBLIGATION TO PROVIDE CHILD SUPPORT FOR THE CHILD INTACT; OR

(III) TERMINATING ALL PARENTAL RIGHTS AND RESPONSIBILITIES OF A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR, INCLUDING NOT ALLOCATING PARENTAL RESPONSIBILITIES REGARDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, AND TERMINATING ALL OBLIGATIONS TO PROVIDE CHILD SUPPORT FOR THE CHILD;

(m) THE FEASIBILITY OF ALLOWING THE VICTIM TO EXERCISE PARENTAL CHOICE ABOUT WHETHER THE OBLIGATIONS FOR CHILD SUPPORT OF THE OTHER PARENT ARE LEFT INTACT OR ARE ELIMINATED, INCLUDING BALANCING THE RIGHTS OF THE CHILD TO BE FINANCIALLY SUPPORTED WITH THE VICTIM'S CHOICE TO WAIVE CHILD SUPPORT, AND INCLUDING AN EXAMINATION OF WHETHER SUCH A CHOICE CAN BE WAIVED IN CIRCUMSTANCES IN WHICH THE CHILD WOULD QUALIFY FOR PUBLIC ASSISTANCE BENEFITS;

(n) THE RESOURCES AND TRAINING NEEDED TO TRAIN DOMESTIC RELATIONS STAFF IN THE JUDICIAL BRANCH WHO WORK WITH THE PARTIES AND THE COSTS ASSOCIATED WITH PROVIDING RESOURCES AND TRAINING; AND

(o) THE IMPACT OF THE PROCESS CREATED IN SECTION 19-5-105.5, C.R.S., UPON THE CHILD WELFARE SYSTEM, INCLUDING THE IMPACT ON THE COLLECTION OF FEES FOR CHILDREN PLACED IN FOSTER CARE, AND UPON THE COLLECTION AND ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS.

(4) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE SPONSORS AND CO-SPONSORS OF SENATE BILL 13-227, ENACTED IN 2013, AND TO THE JUDICIARY COMMITTEE OF THE SENATE AND TO THE JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE DECEMBER 1, 2013. UPON REQUEST OF A MEMBER OF THE TASK FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE PREPARED AND ATTACHED TO THE FINAL REPORT OF FINDINGS AND RECOMMENDATIONS.

(5) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(a) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(I) A REPRESENTATIVE OF A STATEWIDE SEXUAL ASSAULT COALITION;

(II) A REPRESENTATIVE OF A STATEWIDE DOMESTIC VIOLENCE COALITION;

(III) AN EXPERT IN THE FEDERAL "INDIAN CHILD WELFARE ACT", 25 U.S.C., CHAPTER 21;

(IV) A REPRESENTATIVE FROM A CHILDREN'S ADVOCACY CENTER OR STATEWIDE ORGANIZATION REPRESENTING CHILDREN'S ADVOCACY CENTERS;

(V) A REPRESENTATIVE OF A STATEWIDE DISABILITY RIGHTS ORGANIZATION;

(VI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT ADVOCATES ON BEHALF OF CRIME VICTIMS;

(b) A REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES WHO IS FAMILIAR WITH CHILD WELFARE, ADOPTION SERVICES, AND CHILD SUPPORT ENFORCEMENT APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES;

(c) A REPRESENTATIVE FROM THE OFFICE OF THE CHILD'S REPRESENTATIVE APPOINTED BY THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

(d) A REPRESENTATIVE FROM THE JUDICIAL BRANCH APPOINTED BY THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

(e) A REPRESENTATIVE OF THE ATTORNEY GENERAL'S OFFICE APPOINTED BY THE STATE ATTORNEY GENERAL;

(f) A REPRESENTATIVE OF COUNTY DEPARTMENTS OF SOCIAL SERVICES WHO WORKS IN CHILD PROTECTIVE SERVICES APPOINTED BY COLORADO COUNTIES, INC.;

(g) AN ATTORNEY WHO REPRESENTS A COUNTY AND WHO IS APPOINTED BY THE ASSOCIATION THAT REPRESENTS COUNTY HUMAN SERVICES DIRECTORS IN COLORADO;

(h) A REPRESENTATIVE FROM THE FAMILY LAW SECTION OF THE COLORADO BAR ASSOCIATION WHO IS FAMILIAR WITH FAMILY LAW AND ADOPTION LAW APPOINTED BY THE COLORADO BAR ASSOCIATION;

(i) A REPRESENTATIVE FROM THE JUVENILE LAW SECTION OF THE COLORADO BAR ASSOCIATION APPOINTED BY THE COLORADO BAR ASSOCIATION;

(j) A REPRESENTATIVE FROM THE CRIMINAL LAW SECTION OF THE COLORADO BAR ASSOCIATION WHO IS A CRIMINAL DEFENSE ATTORNEY APPOINTED BY THE COLORADO BAR ASSOCIATION;

(k) A REPRESENTATIVE APPOINTED BY THE COLORADO DISTRICT ATTORNEYS' COUNCIL; AND

(l) A PERSON WHO IS A SURVIVOR OF A SEXUAL ASSAULT APPOINTED BY A STATEWIDE ORGANIZATION THAT ADVOCATES ON BEHALF OF SEXUAL ASSAULT VICTIMS.

(6) THE APPOINTING AUTHORITIES SHALL MAKE ALL APPOINTMENTS TO THE TASK FORCE ON OR BEFORE JUNE 15, 2013.

(7) (a) THE FIRST MEETING OF THE TASK FORCE SHALL OCCUR NO LATER THAN JULY 20, 2013. THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES.

(b) THE TASK FORCE'S MEETINGS SHALL BE PUBLIC MEETINGS.

(c) THE MEMBERS OF THE TASK FORCE SHALL ELECT A CHAIR AND A VICE-CHAIR

FROM ITS MEMBERSHIP.

(8) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE TASK FORCE.

(9) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR EXPENSES.

(10) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL NOT PROVIDE STAFF SUPPORT TO THE TASK FORCE.

(11) THIS PART 5 IS REPEALED, EFFECTIVE JANUARY 1, 2014.

SECTION 13. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2013, the sum of \$9,000, or so much thereof as may be necessary, for allocation to the division of child welfare, administration, for the provision of assistance to the task force on children conceived by rape that is created by this act.

SECTION 14. Effective date - applicability. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Sections 1 through 10 of this act take effect July 1, 2013, and apply to convictions occurring on or after said date.

SECTION 15. 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 28, 2013