



## 2014 Legislative Summary May 6, 2014

*This document contains a brief summary of legislation monitored, supported, or opposed by CCASA in the 2014 legislative session. Please contact [advocacy@ccasa.org](mailto:advocacy@ccasa.org) for questions.*

### **House Bill 1035: Restitution Collection Deferred Judgment**

This bill clarifies that an order of restitution that is part of a deferred judgment can be collected by the court after the deferred judgment is dismissed, until the judgment is satisfied. It was signed into law on 3/7/14. *CCASA Position: Passive Support*

### **House Bill 1044: Parolee Tamper with Electronic Monitoring Device**

This bill increases penalties for parolees who remove or tamper with their electronic monitoring device. It was sent to the Governor on 5/2/14. *CCASA Position: Passive Support*

### **House Bill 1061: Eliminate Prison for Inability to Pay Fines**

This bill addresses the criminal justice response when a defendant does not pay court-ordered monetary fines/fees. The introduced version allowed the defendant to ask for a waiver if s/he was not able to make the court order monetary payments. CCASA was concerned about this process and wanted to ensure that it did not negatively impact funds for victim services, especially if the offender was able to pay, but was attempting to manipulate the court system by asking for a waiver. The amended bill states that if the defendant is unable to pay the court-ordered monetary amount, s/he must explain to the court why they have not paid. If it is a willful failure to pay, s/he may be imprisoned for failure to comply with the court order. A defendant cannot be imprisoned if the court finds that s/he is unable to pay the amount without undue hardship. The bill solidifies payment plan options for defendants. *CCASA Position: Active Amend/Monitor*

### **HB 1148: Victims' Rights Act Cleanup**

This bill adds all crimes related to the commercial sexual exploitation of children to the VRA. The bill clarifies when a modification of sentence (including probation) is a critical stage in the criminal justice process—which ensures victim notification. The bill states that victims have the right to receive a free copy of the initial incident report and ensures the right to be notified of a hearing concerning a petition for sealing of records for VRA crimes. This bill also clarifies that victims residing in the Department of Youth Corrections also have a right to be heard in relevant components of the criminal justice process. It was signed by the Governor on 4/4/14. *CCASA Position: Active Support*

## **HB 1152: Passive Surveillance Records**

This bill initially required that video or still images obtained by passive surveillance by governmental entities (ex: monitoring cameras) must be destroyed within 6 months after the recording of the images, with some exceptions. CCASA was asked to oppose the bill because law enforcement may rely on this footage to build investigations and corroborate the victim's account of what happened. The bill was amended from 6 months data retention to 1 year for unlimited access to data. Law enforcement agencies would then have 2 more years to access the information if they have a triggering event, such as someone reporting a crime. After 3 years of access to information, if they have not used it in a case, it would have to be destroyed. It was signed into law on 4/4/14. *CCASA Position: Oppose*

## **HB 1162: Protect Rape Victim Where Child Conceived**

This bill continued the efforts of last year, to ensure that if a rape results in the birth of a child—there is a path for a victim to obtain protections related to custody of the child. This bill creates a process for the victim to seek termination of the parental rights of the rapist—even if there has not been a criminal conviction for the rape. Without a conviction, in order to terminate, the court must find by clear and convincing evidence that a sexual assault occurred, the child was conceived as a result of the rape, and it's in the best interest of the child to have parental rights of the rapist terminated. If the court does not grant the termination request, they have the jurisdiction to allocate parental responsibilities at that time. In cases where termination is not contemplated, but parental responsibilities are being allocated, if the court finds by preponderance of the evidence that the sexual assault occurred and the child was conceived as a result, there are additional protections for the victim and child. The bill adds additional protections for the victim and the child, including protective measures in the summons, courtroom, and child support payments (if applicable). It also provides legal counsel for indigent victims and creates a process for the person whose rights are terminated to provide medical and family information. The bill requires the appointment of a guardian ad litem (GAL) in all relevant termination cases. It was sent to the Governor on 5/1/14. *CCASA Position: Active Support/this was CCASA's priority bill. We did not support the GAL amendment.*

## **House Bill 1042: Birth Parent Access to Relinquishment Records**

This bill requires relevant relinquishment records (including the child's original birth certificate) to be given to the person at the time of relinquishment. CCASA had some concerns about this bill and amended House Bill 1162 (above) to ensure that a person voluntarily relinquishing their rights in a termination proceeding under C.R.S.19.5.105.5 & C.R.S. 19-5-105.7 (termination of parent-child legal relationship upon a finding that the child was conceived as a result of sexual assault—with and without a conviction) waives the right to copies of these documents. It was sent to the Governor for signing on 4/28/14. *CCASA Position: Active Monitor/Amend*

## **HB 1171: Medical Evidence in Sexual Assault Cases Rules**

Last year, CCASA supported House Bill 1020, which directed the state to create rules around the testing of sexual assault forensic evidence. Those rules were created and promulgated. They state that all sexual assault forensic evidence must be tested UNLESS the victim does not consent or if law

enforcement has PROVEN the report to be false, via investigation. In March 2014, these new rules went into effect and a new victim consent form was created and circulated statewide. This legislation ensures that the consent form itself does not need to go through the rule-making process each time it is modified. It was signed into law 3/27/14. *CCASA Position: Active Support*

## **HB 1260: Penalties for Sex Offenses Against a Child Under 12**

This bill is Colorado's version of "Jessica's Law," which has passed in more than forty states. If an adult offender sexually abuses a child under 12 (intrusion or penetration), then the offender must be sentenced at least 10-16 years to life for a class 4 felony, 18-32 years to life for a class 3 felony, or at least 24-48 years to life for a class 2 felony. If defendants for these cases are eventually released to parole, they must wear electronic monitoring for the duration of parole. Nationally, this type of legislation has not proven to be effective in lowering recidivism and re-offense, and also may be correlated with lower reporting rates. As of 5/6/14, the House is still considering the Senate amendments. *CCASA Position: Active Monitor*

## **HB 1273: Human Trafficking**

This bill aligns Colorado's definition of human trafficking with the federal definition, expands rape shield laws to include survivors of human trafficking, eliminates the affirmative defenses of knowledge of age and consent, allows for greater restitution for survivors, and creates a Human Trafficking Council to advise the state on training, public outreach, and additional legislative measures. It passed in the Senate on 4/30/14, and will be sent to the Governor for signing. *CCASA Position: Active Support. CCASA plans to have a Representative on the Human Trafficking Council.*

## **HB 1378: Posting Intimate Photos on the Internet**

CCASA opposed the first version of this bill because of its problematic approach to child pornography. The Sponsor re-drafted the bill so that it only applies to an adult posting images of intimate parts of another adult, without that person's consent. The bill now makes it a misdemeanor 1 harassment crime if the images or video were posted with: the intent to harass the depicted person and inflict serious emotional distress upon the depicted person without the person's consent or when the actor knew or should have known that the depicted person had a reasonable expectation that the image would remain private, and the conduct resulted in the serious emotional distress of the depicted person. If convicted, the offender can be fined up to ten thousand dollars. The fines collected will go to Colorado's Crime Victim Compensation Fund. The victim may also bring a civil action against the person who posted the private images. The bill also creates a criminal penalty for posting a private image for financial gain. After the offender has completed the sentence and payment of fines (and if that person has not been convicted of another offense for at least 5 years), the offender can petition the court to have the criminal justice records sealed. This bill passed the Senate on 5/5/14 and will be sent to the Governor to be signed. *CCASA Position: Active Amend/Passive Support*

## **SB 59: Statute of Limitations Crime Related to Sex Crimes**

In current child sexual assault cases and in cases where the identity of the perpetrator is not known (but there is DNA evidence), there is no criminal statute of limitations. However, in cases when the crime

involved another criminal act (breaking and entering, burglary, etc.), the accompanying non-sex offenses were subject to a statute of limitations. This bill states that if the accompanying offense was a felony and is based on the same act or series of acts as the sexual assault not subject to a statute of limitations, then this bill eliminates the statute of limitations for the accompanying offenses. It was signed into law on 3/21/14. *CCASA position: Active/passive support.*

## **SB 206: Criminal Record Sealing Clean-up**

The bill is primarily clean-up and reorganization of existing statutes addressing the sealing of criminal justice records. However, it allows a person to seal an arrest record if they are not charged with a crime, and the statute of limitations has not run, but the person is no longer being investigated by law enforcement (this applies to certain sex offenses). Sealing is still determined by the court's discretion. Once a record is sealed, the criminal justice system can still access them. CCASA provided testimony for the legislative record as to why a victim may still need to access an arrest record, but we were not able to amend the bill to address this issue. The bill passed in the House on 5/3/14. *CCASA Position: Active Monitor/Research*