

# 2014 LEGISLATIVE SESSION

## Overview for Campuses

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# A Look Back at 2013



**HB 1163:** Created the Sexual Assault Victim Emergency (SAVE) payment program for medical care for medical reporting sexual assault victims.

**HB 1020:** Created rules around testing of rape kits and addressing “backlogged” sexual assault evidence.

**HB 1259:** Broadened access to Civil Protection Orders for sexual assault victims seeking safety.

# HB 1163: SAVE Program



- ❖ The program pays for medical reporting victims' indirect medical costs and fees incurred as the result of obtaining medical forensic examinations following a sexual assault.
- ❖ Such indirect medical costs and fees may include, but are not limited to: emergency department fees and costs, laboratory fees, prescription medication, and physician's fees.
- ❖ The program may also pay for diagnostics/treatment of injuries directly related to the sexual assault, and any uncovered direct costs of the medical forensic examination for a medical reporting victim.

# Who is NOT Eligible for the SAVE Program

- Law Enforcement Reporting Victims who report the assault to law enforcement prior to, at the time of, or independent of a medical forensic exam.
  - *Minors are typically law enforcement reporting victims, due to Colorado law.*
- Victims who start out as Law Enforcement Reporting Victims, but then decide to stop participating with the Criminal Justice System.





# HB 1163: True or False!

1. All Medical Reporting Victims who have a MFE are eligible for this fund.
2. If a patient has health insurance or Medicaid ~ those programs should be billed first. If the victim does not have insurance, requests to not bill insurance, or is left with a remaining balance, then the fund can be utilized.
3. The SAVE Program cannot cover co-payments and deductibles.
4. To enroll in the program, victims send their hospital bills directly to DCJ.
5. Any remaining account balance left after the SAVE Program provides funding will be written off by the hospital that provided services.



**FALSE**  
**true**

# HB 1020

The law requires sexual assault evidence kits be submitted to a forensic lab within 21 days of receipt from a medical facility.

The rules require all kits be submitted unless:

- 1) the victim does not consent to submission of the kit. *[See consent form]*
- 2) the law enforcement agency is able to provide corroborated evidence of a false report. **MUST BE PROVEN FALSE VIA AN INVESTIGATION.**

**All other kits must be submitted to an accredited forensic laboratory.**

These rules became effective March 1, 2014.



# HB 1020

- The legislation also addressed the “backlog” of sexual assault evidence.
- Previously untested kits are now being tested and results are returning.
- Guidelines for Victim Notification.





# HB 1259: Increasing Access to Civil Protection Orders

- ✓ **Reorganizes** the statutes & adding sexual assault and stalking information to the legislative declaration.
- ✓ **Defines and clarifies** sexual assault/abuse provisions.
- ✓ **Clarifies** that criminal justice system intervention is not necessary for civil protection order eligibility.
- ✓ **Expands** eligibility for emergency protection orders to include abuse of elders/at-risk adults, sexual assault and stalking, which crimes are already eligible for temporary and permanent protection orders.
- ✓ **Prohibits** the court from denying orders due to a lapse of time between abusive acts and requests for orders.



# HB 1259: Increasing Access to Civil Protection Orders

- ✓ **Clarifies** that the burden of proof to issue a permanent order is a preponderance of the evidence.
- ✓ **Adds** language to allow the court to consider acts to designed to intimidate or retaliate against a protected person to satisfy the findings required for issuance of a permanent protection order.
- ✓ **Codifies** case law that a finding of imminent danger is only a prerequisite to issuance of a temporary order.
- ✓ **Adds** a new factor for court consideration of requests for modification or dismissal: whether the order should stand as it is necessary to the continued safety of the protected person.



# 2013 & 2014: Pregnancy and Rape



**SB 227 & HB 1162 created a process for a victim to petition the court to have the parental rights of the rapist terminated.**

# HB 1162

- 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:
  - 1) a sexual assault occurred,
  - 2) the child was conceived as a result of the rape, and
  - 3) 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.



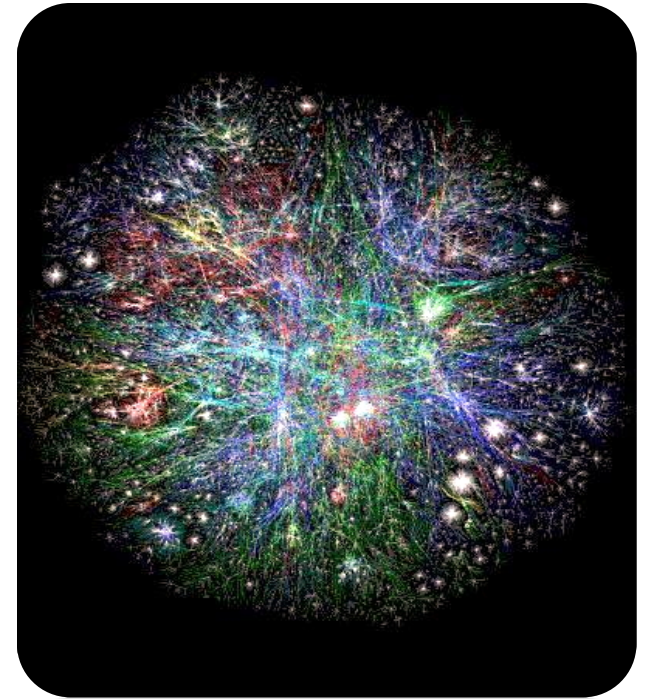
# HB 1162

- 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**. These include: protective measures in the summons, courtroom, and child support payments (if applicable).
- **Provides** legal counsel for indigent victims and creates a process for the person whose rights are terminated to provide medical and family information.
- **Requires** the appointment of a guardian ad litem (GAL) in all relevant termination cases.



# HB 1378: Posting Intimate Photos on the Internet

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.





# HB 1378

- If convicted, the offender can be fined up to \$10,000, with finds going to CO's Crime Victim Compensation Fund.
- The victim may also bring a civil action against the person who posted the private images.
- Creates a criminal penalty for posting a private image for financial gain.
- Record sealing component.



# Forensic Compliance



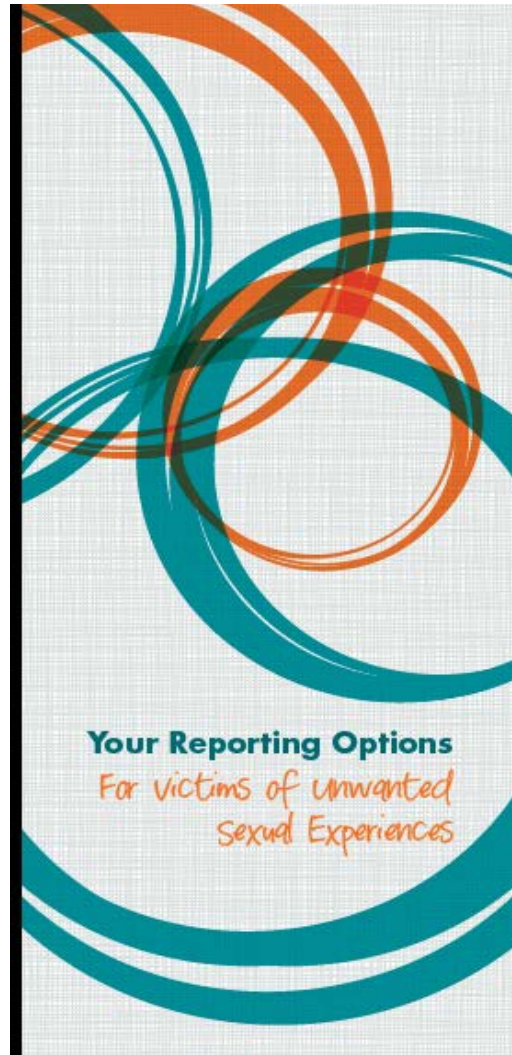


# REPORTING OPTIONS

VAWA 2005 required states to have laws regarding access to free medical care without LE reporting.

- CO enacted **C.R.S. § 18-3-407.5**
  - Any sexual assault victim can get a medical forensic exam without participating in the criminal justice system
  - Victims receive these exams for free (the exam only, not other medical expenses)
    - The Colorado Division of Criminal Justice (DCJ) pays for these exams using federal funds
    - Can include testing for drug-facilitated sexual assault kit testing
  - Law Enforcement retrieves and stores the forensic exam kits a minimum of 2 years.

# New Resource!



# CCASA Public Policy Committee

- ✓ 3rd Tuesday of each month from 11:30 am-1:00 pm
  - ✓ Meetings = in-person & conference call option
    - ✓ Open to all CCASA members
  - ✓ Contact me for more information!



# Questions?



