



2010 Legislative Wrap-Up

PASSED LEGISLATION

Civil Protection Orders: Ability to Protect Animals When Used as a Tool of Coercion, Control, Punishment, Intimidation, or Revenge

SB10-80 by Senator Linda Newell & Representative Jerry Frangas

CCADV Position: Active Support (CCADV carried this legislation)

Clarifies that in civil protection orders the court may order the restrained person to not threaten, molest, injure, kill, take, transfer, encumber, conceal, or dispose of an animal owned, possessed, leased, kept, or held by the protected person, minor children, or any other protected persons (C.R.S. 13-14-102(15)(f2) & C.R.S. 13-14-103(1)(b)(V)). A court-entered civil protection order may also specify arrangements for possession and care of any animal owned, possessed, leased, kept, or held by the protected person, minor children, or any other protected persons (C.R.S. 13-14-102(15)(f4) & C.R.S. 13-14-103(1)(b)(VI)). Amends the definitions of "abuse of the elderly or of an at-risk adult", "domestic abuse", and "protection order" as necessary to include threats of or acts of violence against animals (C.R.S. 13-14-101(1)(f), (2)(b), (2.4)(a), & (2.4)(a)(IV)).

Outcome: Passed by the General Assembly and signed by the Governor on 4/12/10.

Effective: July 1, 2010.

Definition of Domestic Violence when Determining the Best Interests of the Child

HB10-1135 by Representative Su Ryden & Senators Linda Newell & Evie Hudak

CCADV Position: Active Support (CCADV carried this legislation)

Replaces the term "spouse abuse" with the more inclusive term "domestic violence" in the best interests of the child statute (C.R.S. 14-10-124(1.5)(a)(X), (1.5)(b)(V), & (4)). Defines "domestic violence" to align closely to the definition of "domestic violence" in the criminal code, including definition of "intimate relationship" (C.R.S. 14-10-124(1.3)). Replaces the term "spouse abuse" with the more inclusive term "domestic violence" in the modification of parenting time statute (C.R.S. 14-10-129(2)(c)).

Outcome: Passed by the General Assembly and signed by the Governor on 4/14/10.

Effective: Applies to BIC determinations on or after July 1, 2010.

Continuation of the Colorado Domestic Abuse Fund

SB10-172 by Senator Pat Steadman & Representative Dianne Primavera

CCADV Position: Active Support (CCADV carried this legislation)

Continues the Colorado Domestic Abuse Fund voluntary contribution designation line on state individual income tax returns for 10 years or until January 1, 2020 (C.R.S. 39-22-802).

Outcome: Passed by the General Assembly and signed by the Governor on 4/29/10.

Effective: August 11, 2010.

Temporary Injunctions in Proceedings Involving Minor Children
HB10-1097 by Representative Debbie Benefield & Senator John Morse
CCADV Position: Active Support

Currently, in a divorce or legal separation action, a temporary injunction is in effect against both parties upon personal service on the respondent. The bill creates a temporary injunction, upon personal service on the respondent, in paternity proceedings and in proceedings involving the allocation of parental responsibilities that are not brought as part of a divorce or legal separation action (C.R.S. 14-10-123(3)(a) & 19-4-105.5(5)(c I) & (cII)). The temporary injunction created in the bill enjoins both parties from:

- * Removing a minor child from the state without the consent of the other party or order of the court;
- * Molesting or disturbing the peace of the other party; and
- * Cancelling, modifying, terminating, or allowing to lapse for nonpayment of premiums, without at least 14 days' advance notification and the written consent of the other party or order of the court, a health or life insurance policy that provides coverage to a minor child or names a minor child as the beneficiary of the policy. Either party may seek a modification of the temporary injunction from the court or through the consent of the other party. The temporary injunction created in the bill remains in effect for 120 days in paternity proceedings, unless the 120-day period is modified by the parties or by the court. In proceedings involving the allocation of parental responsibilities, the temporary injunction remains in effect until the court enters the final decree, dismisses the petition, or enters a further order modifying the injunction. The bill clarifies the enforcement procedure for peace officers responding to an alleged violation of the part of the temporary injunction that restrains a party from molesting or disturbing the peace of the other party. Proceedings initiated by grandparents seeking parenting time only are excluded from the temporary injunction created in the bill.

Why CCADV Actively Supported HB10-1097:

The intent of this legislation is to remove the disparity of legal protections afforded to the children of married parties versus the children of unmarried parties in domestic relations cases. Upon the filing and service of a Petition for Dissolution of Marriage or Legal Separation, existing law places into effect an automatic temporary injunction against all parties, including a prohibition on the removal of any minor child of the marriage from the State of Colorado without the consent of both parties or an order of the court. Unmarried parties have not been subject to an automatic temporary injunction upon the filing and service of a Petition for Allocation of Parental Responsibilities (APR). Parties in APR actions have had to craft their own restrictions on removal or continuation of health or life insurance by filing for protection orders, motions to restrict parenting time, or drafting stipulations regarding these issues. Victims of domestic violence, many of whom have no legal representation, will no longer have to seek these protections in a patchwork fashion. The automatic temporary injunction will decrease the likelihood of an abuser kidnapping the children or cancelling the children's health or life insurance policies as means of controlling the victim, will increase the likelihood of the non-abusive parent retaining physical custody, and places the best interests of the child first. A victim who wishes to seek safety with the children in another state will continue to have that option before an APR action is filed or served upon her, or through a motion for relocation.

Outcome: Passed by the General Assembly and signed by the Governor on 3/25/10.

Effective: The temporary injunction applies upon personal service of a respondent in cases filed on or after August 15, 2010.

Authorization for the Establishment of a Veterans' Treatment Court Program in Judicial Districts

HB10-1104 by Representative Marsha Looper & Senator Suzanne Williams

CCADV Position: Active Monitor

Authorizes the State Court Administrator to seek federal funding as it becomes available on behalf of the state court system for the establishment, maintenance, or expansion of Veterans' Treatment Courts. The chief judge of a judicial district may establish an appropriate program for the treatment of veterans and members of the military.

Why CCADV Actively Monitored HB10-1104:

CCADV is concerned that jurisdictions that establish Veterans' Treatment Court programs will accept members of the military or veterans who have committed crimes with an underlying factual basis of domestic violence. Domestic violence offenders who are members of the military or veterans and who successfully complete the requirements of the program may then be eligible for removal of the crime(s) from their record. Members of the military or veterans who committed a qualifying misdemeanor crime of domestic violence, but who have no conviction on record, are **not** covered by federal firearms laws that prohibit the possession of firearms and ammunition.

Outcome: Passed by the General Assembly and signed by the Governor on 4/16/10.

Effective: April 16, 2010.

Information in the Central Registry of Protection Orders

HB10-1218 by Representative Mark Waller & Senator Linda Newell

CCADV Position: Passive Support

The bill clarifies that the central registry of protection orders shall contain information on the amount of bail and conditions of bond in any case in which the court has entered a protection order and the highest classified crime charged in the case, if any.

Why CCADV Passively Supported HB10-1218:

This legislation addresses situations where a defendant has been arrested for a felony against a victim and there is a protection order issued keeping the defendant away from the victim. A violation of that protection order is a class 1 misdemeanor and a violation of the felony bond is a felony. Often the felony bond is a condition of the protection order and so the defendant should be arrested on a new felony. However, law enforcement are seldom aware of the felony condition in the protection order and so only arrest on the misdemeanor violation instead of the felony bond violation. This creates safety issues for the victim when the case has to be backed out and re-charged. Requiring the information to be entered into the central registry of protection orders will allow law enforcement to have access to those conditions of bond for charging purposes.

Outcome: Passed by the General Assembly and signed by the Governor on 4/29/10.

Effective: April 29, 2010.

**Differential Response in Certain Interfamilial Child Abuse or Neglect Cases
HB10-1226 by Representative John Kefalas & Senator Nancy Spence
CCADV Position: Passive Support**

Statutory language was added to existing law to allow county child protective services in five pilot counties to use an alternative response for cases that meet the legal definition of child abuse and neglect, but are determined to be low or moderate in severity. The statutory change allows agencies to not make a determination of maltreatment or identify a person responsible for abuse or neglect. The legislation authorizes administration of this pilot for four years in five counties: Arapahoe, Larimer, Jefferson, Fremont and Garfield. The participating county departments shall each prepare and submit to the state department a report concerning the county department's administration of the pilot program. The state department shall prepare and submit to the health and human services committees of the House of Representatives and Senate a report concerning the administration of the pilot program. The report prepared by the state department, at a minimum, shall include an evaluation of the pilot program's success or failure, a description of any specific problems encountered during the administration of the pilot program, and a recommendation as to whether the general assembly should repeal the pilot program, continue the pilot program for a specific period, or establish the pilot program statewide on a permanent basis.

Why CCADV Passively Supported HB10-1226:

The purpose of the pilot is to promote child safety through early engagement with families in the child protection process. Preliminary results from other states include: efficacy in restoring and/or maintaining child safety; increased family and caseworker satisfaction and engagement with the process; and decreased recidivism. Additionally, the differential response model has the potential to reduce the number of "failure to protect" findings against victims of domestic violence.

Outcome: Passed by the General Assembly and signed by the Governor on 4/15/10.
Effective: April 15, 2010.

**Relocation of the Crime of Stalking in the Colorado Revised Statutes
HB10-1233 by Representative Su Ryden & Senator Linda Newell
CCADV Position: Active Support**

Moves stalking out of harassment statute to a standalone statute within the crimes against persons code (C.R.S. 18-3-601). No substantive changes to the language of the stalking statute were made. Makes conforming amendments to various statutes that reference the crime of stalking.

Why CCADV Actively Supported HB10-1233:

Relocation of the crime of stalking to its own statute brings attention to the crime as one that is potentially more dangerous and lethal than simple harassment. CCADV hopes that this change will avoid further minimization of this serious crime and increase enforcement of the stalking law as a class 5 felony as originally intended by the legislature.

Outcome: Passed by the General Assembly and signed by the Governor on 4/14/10.
Effective: August 11, 2010.

Eliminating the Repeal of “Deny on Arrest”
HB10-1391 by Representative Joe Rice & Senator Betty Boyd
CCADV Position: Active Support

The existing law was established in 2000, but in order to ensure that the program was working smoothly the legislature sunset this provision effective July 1, 2010. This legislation repeals the sunset of a provision in C.R.S. 24-33.5-424 and extends the practice of having the Colorado Bureau of Investigation (CBI) conduct firearm background checks, known as InstaCheck, and prohibits a person who has been charged with a felony or certain domestic violence cases, from purchasing, receiving, or possessing a firearm under state or federal law while the charges are being adjudicated.

Why CCADV Actively Supported HB10-1391:

Domestic violence offenders who gain access to firearms pose a lethal threat both to those they have abused and to the wider community. For the safety of all, it is particularly important that newly arrested domestic violence offenders are not able to purchase firearms since they routinely retaliate to punish victims for the arrest.

Outcome: Passed by the General Assembly and signed by the Governor on 6/7/10.
Effective: June 7, 2010.

Concerning the National Instant Criminal Background Check System
HB10-1411 by Representative Mark Waller & Senator Lois Tochtrop
CCADV Position: Active Monitor

For persons who are denied the ability to purchase a firearm, because no disposition exists in the record, shifts the burden from the individual to CBI for tracking down the disposition of that case. The bill was unfunded, and CBI will require additional resources in order to accomplish this.

Why CCADV Actively Monitored HB10-1411:

This bill was introduced to address the concern of some legislators about continuing (through HB10-1391) the practice under existing law of requiring individuals who are denied purchase of a firearm to prove to CBI that they were not convicted when the disposition of the case is not clear in the database. At issue was whether the burden and expense of exercising the right to own a firearm should be borne by individuals or by the State. In order to pass HB10-1391 it became necessary to pass HB10-1411 in tandem.

Outcome: Passed by the General Assembly and signed by the Governor on 6/7/10.
Effective: June 7, 2010.

Reductions in Barriers to Obtaining Identity Related Documents
SB10-06 by Senator Betty Boyd & Representative Ken Summers
CCADV Position: Passive Support

An individual may present a letter of referral from a County DSS to receive a fee waiver for a certified birth or death certificate. An individual who is at least 60 years old, who was referred by a County DSS, or who was referred by DOC, DYC, or County Jail shall receive a fee waiver to receive or renew an identification card.

Why CCADV Passively Supported SB10-06:

Victims who need certified copies of birth certificates to qualify for public assistance may be able to get the fees waived by their County DSS office. Victims who have been incarcerated may need to obtain identification upon release with no financial means of doing so. The documents covered by this legislation are also needed to prove citizenship or lawful presence. At \$17 each, the cost may otherwise be prohibitive to low-income victims.

Outcome: Passed by the General Assembly and signed by the Governor on 6/5/10.
Effective: June 5, 2010.

Concerning the Requirement that Certain Persons Report Child Abuse or Neglect SB10-66 by Senator Evie Hudak & Representative Claire Levy CCADV Position: Active Support

Clarifies in existing law (C.R.S. 19-3-404) that the requirement of certain persons to report child abuse or neglect **does not** apply if a person does not have reasonable cause to know of or suspect the abuse or neglect until the child is 18 years of age or older. In addition, clarifies an exception for persons in a position of trust or if the mandatory reporter has reason to believe other children may be at risk.

Why CCADV Actively Supported SB10-66:

The legislation clarifies the ambiguous language of the existing statute on persons required to report child abuse or neglect. Adults who were abused as children determine whether or not to report the abuse, which supports their right to privileged communications with advocates under Colorado law (C.R.S. 13-90-107)(k)).

Outcome: Passed by the General Assembly and signed by the Governor on 6/10/10.
Effective: June 10, 2010.

Streamlining Eligibility Requirements for the Colorado Works Program SB10-68 by Senator Betty Boyd & Representative Tom Massey CCADV Position: Passive Support

The legislation changed eligibility requirements for Temporary Assistance to Needy Families (TANF). Among the changes made is that women will be able to qualify for TANF upon pregnancy, rather than at 6 months pregnant.

Why CCADV Passively Supported SB10-68:

Receiving TANF benefits earlier in the course of a pregnancy will be financially beneficial to some victims of domestic violence and their children.

Outcome: Passed by the General Assembly and signed by the Governor on 4/21/10.
Effective: January 1, 2011.

Concerning Human Trafficking SB10-140 by Senator Shawn Mitchell & Representative Beth McCann CCADV Position: Passive Support

Repeals and relocates, with amendments, provisions relating to trafficking in adults, trafficking in children, and coercion of involuntary servitude. Adds trafficking in adults, trafficking in children, and coercion of involuntary servitude to offenses against the person

(C.R.S. 18-3-501, 502, & 503) that qualify as racketeering activity under the "Colorado Organized Crime Control Act".

Why CCADV Passively Supported SB10-140:

Relocation of these crimes so that they qualify as racketeering activity will make prosecution easier and will therefore increase prosecution.

Outcome: Passed by the General Assembly and signed by the Governor on 4/21/10.

Effective: April 21, 2010.

Information Relating to a Referral of Suspected Child Abuse or Neglect by Certain Mandatory Reporters

SB10-152 by Senator Linda Newell & Representative Sara Gagliardi

CCADV Position: Passive Support

Expands the list of persons under C.R.S. 19-1-307(2), including victim advocates, who may be given access to child abuse or neglect records/reports. The County DSS is required to provide certain information to the mandatory reporter within 30 calendar days. A mandatory reporter may seek certain additional information from the County DSS within 90 calendar days.

Why CCADV Passively Supported SB10-152:

The legislation will help create a two-way flow of information and communication between Child Protective Service workers and victim advocates. This will help advocates to better assist the victims who they continue to work with over time. The new requirement on CPS workers may also improve working relationships between them and advocates.

Outcome: Passed by the General Assembly and signed by the Governor on 5/14/10.

Effective: September 1, 2010.

FAILED LEGISLATION

Use of Deadly Force against a Person Who Makes an Illegal Entry into a Place of Business

HB10-1094 by Representative Cory Gardner & Senator Ted Harvey

CCADV Position: Active Oppose

The bill extended the right to use deadly force against an intruder under certain conditions to include owners, managers, and employees of places of business.

Why CCADV Actively Opposed HB10-1094:

The bill extended the immunity from prosecution and civil liability too far, requiring a far lesser standard for justifying the use of deadly force when there are already laws in place to protect those defending themselves. A perpetrator of domestic violence could easily manipulate this law to avoid prosecution for murdering their victim at their place of employment.

Outcome: Died in Committee on 3/15/10.

Verification of the Work Eligibility Status of New Employees through the Federal Electronic Verification Program

SB10-33 by Senator Dave Schultheis & Representative Randy Baumgardner

CCADV Position: Passive Oppose

Under current law, employers are required to examine, and retain records of examining, the legal work status of new employees. The bill repeals the current law and instead creates the "Fair and Legal Employment for Coloradans Act" (act), which requires all nongovernmental employers in the state to participate in the federal electronic verification program (e-verify program) for purposes of verifying the work eligibility status of all new employees.

Why CCADV Passively Opposed SB10-33:

The intent of the bill was to prevent undocumented persons from obtaining employment in Colorado, which could have had a negative impact on the financial independence of immigrant victims of domestic violence.

Outcome: Died in Committee on 3/3/10.

Governor's Authority to Restrict the Distribution of Firearms during a State of Disaster or Emergency

SB10-51 by Senator Scott Renfroe & Representative Jerry Sonnenberg

CCADV Position: Passive Oppose

Eliminates the authority of the governor to suspend or limit the sale, dispensing, or transportation of firearms during a state of disaster emergency.

Why CCADV Passively Opposed SB10-51:

The bill would have allowed unrestricted access to firearms to *anyone* during a state of disaster or emergency.

Outcome: Died in Committee on 2/10/10.

Exemption from Federal Regulation of Certain Items Related to Exercising the Right to Bear Arms

SB10-92 by Senator Dave Schultheis & Representative Steve King

CCADV Position: Active Oppose

The bill exempts from federal laws and regulations all firearms, firearm accessories, and ammunition that are manufactured in Colorado by persons who are not federally licensed and that are sold and remain in Colorado. The bill makes conforming amendments.

Why CCADV Actively Opposed SB10-92:

Law enforcement would not have been able to remove firearms made in Colorado (only those transported in from somewhere else) from perpetrators of domestic violence.

Outcome: Died in Committee on 2/10/10.

*For more information, contact Amy Miller, Public Policy Director
Colorado Coalition Against Domestic Violence,
1120 Lincoln St., Ste. 900, Denver, CO 80203
Phone: (303) 962-0933; Toll-free:888-778-7091ext 812; e-mail: amiller@ccadv.org*