LEGISLATIVE WRAP-UP

Colorado’s 2015 Legislative Session:
The Colorado Coalition Against Domestic Violence
Achieves Many Policy Priorities

Colorado’s 70th General Assembly wrapped up the 2015 legislative session on May 6th. From the beginning of session on January 7th up until two days before it ended, bills were being introduced and CCADV’s Public Policy Committee Members were analyzing, weighing in, and thoroughly supporting me and the Coalition’s policy agenda through their incredible advocacy work.

The November 2014 election changed the balance of the political parties. The State Senate became a Republican majority and the House of Representatives continued as a Democratic majority. This meant the two chambers often debated differences in philosophies on many issues and ultimately bills were subject to the partisan politics of the day. Unfortunately, this dynamic resulted in CCADV pulling our legislative proposal to become the first state to declare that freedom from domestic violence is a human right. After we had bi-partisan sponsors and a bill draft, we realized through our conversations with Senators that there was a significant lack of support for establishing a human rights framework for domestic violence among Senate Republicans. We worked through our Republican bill sponsor on a compromise, but in the end we asked that the bill not be introduced as the revised language strayed appreciably from our intent and our Membership asked us not to proceed.

CCADV worked diligently to support, oppose, and amend dozens of other pieces of legislation this past session. What follows is an overview of some of the legislation CCADV was involved with. Bills are broken down by legislation that passed, the two most significant bills that failed, which we actively opposed, and a list of all the bills we worked on. Each of the bill numbers is hyperlinked to the text of the full bill, and other information regarding fiscal impact, a bill’s history of amendments, or timelines can be found by navigating the tabs at the top of the bill’s linking page.

I welcome your questions, comments and concerns. I thank you for the opportunity to serve you, our Membership, as the Public Policy Director for the Colorado Coalition Against Domestic Violence.

Sincerely,

Lydia Waligorski, MPA
CCADV Public Policy Director
HB-1035
Update Crime Victim Compensation Laws

Sponsors: Representative Fields and Senator Cooke

HB 1035, was actively supported by CCADV meaning we testified in both the House and the Senate and spoke directly with Legislators in favor of it’s passage. While the bill creates several new provisions, there was one in particular CCADV was excited to support.

As you may know under Colorado law when someone is arrested for domestic violence or any qualifying crime under CRS Title 18 in the criminal code, a mandatory protection order is entered against the defendant. Many times the protection order prohibits contact between the defendant and named victims and orders the defendant out of the household. This often creates financial hardships for victims who were dependent of the defendant’s income for basic needs such as rent/mortgage payments.

The bill defines “household support” as monetary support that a dependent would have received from the accused for the purpose of maintaining a home or residence. The bill also defines “dependent” as a child or spouse of the accused or other person in an intimate relationship with the accused, if the accused provided household support to the dependent. If the defendant vacated any home shared with the dependent as a result of the criminal event, such as in the case of an arrest the dependent can file or assistance from Crime Victims Compensation through the local judicial district.

Other changes to the Crime Victim Compensation law include:

- Under previous law, in an incident of hit and run or careless driving, crime victim compensation (compensation) was only available if a death resulted. The new law allows for compensation when an incident of hit and run or careless driving causes bodily injury.
- The bill expands compensable losses to include the cost of rekeying vehicles or other locks necessary to ensure a victim’s safety.
- The bill clarifies the confidentiality of records of a crime victim compensation board (board) by prohibiting the discovery of certain records in a civil or criminal case except:
  * To the extent necessary for a judicial review of the board’s decision; or
  * Upon a showing that the information is only in the records of the board, and, after review by the court, the court determines that the disclosure would not endanger the victim or another person.
- The bill increases the maximum compensation to $30,000 and emergency compensation to $2,000 and eliminates the requirement that losses be at least $25.
- The bill requires medical service providers to suspend collection proceedings for 90 days while a claim for compensation is considered. Finally, the bill specifies that a court shall include the amount of compensation requested by a crime victim compensation board in a restitution order and how the amount may be established.

Advocacy tip: It is important to note that each local Crime Victim Compensation Board may choose to set some of their own parameters as to how they will reimburse victims under the statutory limits so we would encourage advocates to contact their local crime victims compensation administrators and verify what provisions and limits may be available to crime victims in your community.

Effective: March 20, 2015
HB-1032
Licensed Mental Health Professionals Treat Minors
Sponsors: Senator Aguilar and Representative Singer

This bill expands the list of mental health professionals who may provide services for minors who are at least 15 years of age with the minor’s consent. The expanded list of “professional persons” specifies that other licensed mental health professionals, namely, licensed social workers, marriage and family therapists, professional counselors, and addictions counselors may render mental health services to minors in any setting.

CCADV provided passive support for this bill as advocates recognize the need for confidential and readily available services for minors after they may have experienced victimization.

Effective: March 20, 2015

HB-1042
Presentence Reports By Probation Officers
Sponsors: Representative Foote and Senator Cooke

This bill by former Boulder County Prosecutor Mike Foote and former Weld County Sherriff Cooke will require courts to consider the actual amount of time a person will likely be incarcerated as a factor during the sentencing hearing. Under HB 1042, the probation department will be required to prepare and present to the court a factual report to be used at sentencing that to the best of their ability accurately calculates the amount of earned time/“good time” a person convicted of a felony or misdemeanor level assault.

Under current law, following the return of a verdict of guilty of a felony other than a class 1 felony, or following a finding of guilt on such a charge where the issues were tried before the court, or following a plea of guilty or nolo contendere to such a charge, or upon order of the court in any misdemeanor conviction, a probation officer must make an investigation and written report to the court before the imposition of a sentence. The bill requires, with certain exceptions, that if a defendant is convicted of a felony that occurred after July 1, 2004, and he or she is eligible to receive a sentence to the department of corrections, the presentence report must include a statement concerning the defendant’s eligibility for release from incarceration, including consideration of certain potentially sentence-reducing factors.

Advocacy tip: This information will be included in the pre sentence report and may not be able to be given to the victim in written form. However work with the District Attorney prosecutors and staff and directly ask for this information. They ARE allowed and encouraged to tell you this information, but they are generally not be allowed to share the pre-sentence report.

Effective: August 5, 2015
The Coalition actively supported this bill because it clarifies the process a defendant must follow in order to be allowed to post a bond to be released from custody.

Current law requires the Judge to verbally advise the terms of the criminal mandatory protection order and the defendant must acknowledge the order when a defendant is charged with domestic violence or stalking.

This bill extends these protections to sex offense cases. This bill also requires defendant to go one step further in their acknowledgement of a protection order. Under HB1060 a domestic violence, stalking and/or sex offense defendant will now be required to **sign the protection order before they may post a bond**. Up until now defendants may choose not to sign the mandatory protection order, (although service is proper without their signature as it was read out loud to the defendant in open court) which often gives victims protection orders that may be doubted by non law enforcement officers or those without access to law enforcement databases.

*Effective: March 20, 2015*

**HB-1072**

*Interactive Electronic Harassment*

*Sponsors:* Representative Fields and Senator Newell

*Bill Status* Signed by Governor.

Over the summer of 2014 a working was convened to determine if Colorado would pursue the creation of a new crime of cyber bullying. After careful deliberation a decision was made to instead clarify and strengthen the existing harassment statute.

The bill makes changes to the harassment statute to cover situations in which a person uses an interactive electronic medium to harass another. The new language is capitalized for your convenience.

A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she: DIRECTLY OR INDIRECTLY initiates communication with a person OR DIRECTS LANGUAGE TOWARD ANOTHER PERSON, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, or computer system, OR OTHER INTERACTIVE ELECTRONIC MEDIUM in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system, OR OTHER INTERACTIVE ELECTRONIC MEDIUM that is obscene.

*Effective: April 24, 2015*
**HB-1149**

**Office of the Respondent Parent’s Counsel**

**Sponsors:** Representative Hamner and Senator Lambert

This was largely a technical bill making changes to the administrative functions to the Office of the Respondent Parent’s Counsel. CCADV passively supported the bill as we know many times domestic violence survivors may find themselves needing to access the services of this office during dependency and neglect proceedings.

Upon the recommendation of the Joint Budget Committee. The bill establishes a 9-member governing respondent parents' counsel commission to oversee operations for the office of the respondent parents’ counsel. The commission membership is outlined. The duties of the commission include appointing a director for the office and providing support and guidance on issues concerning the office.

*Effective: July 1, 2016*

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**HB-1153**

**Oversight and Funding Child and Family Investigators**

**Sponsors:** Representative Young and Senator Steadman

CCADV has advocated for logical oversight of Child and Family Investigators for a number of years as this profession has become commonly and frequently used in allocation of parental responsibility cases. This technical bill introduced on the recommendation of the Joint Budget Committee consolidates oversight and funding of both attorney and non-attorney investigators under the state court administrator's office as of January 1, 2016.

Currently, the office of the child's representative has oversight for state-paid child and family investigators who are attorneys, and the state court administrator's office has oversight of state-paid investigators who are non-attorneys, as well as privately paid investigators. Placing the oversight of the profession into one state agency will help standardize both the professional standards of the court appointed role as well as the investigations process into concerns expressed by families.

CCADV passively supported this bill.

*Effective: January 1, 2016*
HB-1174

Information Protections Domestic Violence Victims

Sponsors: Representative Carver and Senator Woods

The bill extends the protections related to confidentiality of personal information on the internet that are currently in place for law enforcement officials and their immediate family to participants in the address confidentiality program for victims of domestic violence, sexual assault, or stalking (participants).

The bill clarifies the term "actual address" to include any unique identifying information related to a participant's residential, work, or school address.

Disclosure of unique identifying information of a participant in criminal and civil proceedings is limited to those circumstances where the potential harm to the participant is substantially outweighed by the public interest in the disclosure and when no other alternative would satisfy the necessity for disclosure.

Effective: March 20, 2015

HB-1273

Comprehensive School Discipline Reporting

Sponsors: Representative Lawrence and Senator Newell

CCADV worked with stakeholders the entire session to add teen dating violence as a reportable offense. Senator Newell was willing to support and offer an amendment, but at the 11th hour we failed to leverage support from the Senate Education committee, and were unable to secure a committee sponsor for the amendment.

The bill adds acts of sexual violence and the unlawful use of marijuana on school grounds, in a school vehicle, or at a school activity or sanctioned event to the current list of conduct and discipline code violations that a school is required to report as part of the safe school reporting requirements. Acts of sexual violence must only be reported in the aggregate, without any identifying information. The bill clarifies that the term "law enforcement" includes school resource officers. The division of criminal justice (division) shall compile, from reports submitted by law enforcement, and report on the number of arrests, summons, and tickets that occurred on school grounds and the court dispositions of those cases.

The division shall annually post the report on its web site. The division is only required to compile and prepare the reports if existing appropriations or resources are available. During the 2020 legislative session, the education committees of the house of representatives and the senate are encouraged to formally review the reports from the division and discuss whether to continue requiring the submission of data. The bill pulls funding from private prisons to fund an FTE for the Department of Public Safety to help compile the data.

Effective: June 5, 2015
HB-1358
Differential Response Program Abuse and Neglect
Sponsors: Representative Singer and Senator Lundberg

In 2010, the differential response pilot program for child abuse or neglect cases of low or moderate risk was created and scheduled for repeal on July 1, 2015. The bill removes the pilot status of the program and makes it a permanent program by removing the repeal. Participation in the program by county departments of human or social services is voluntary. The reporting requirements for the pilot program are repealed.

CCADV passively supported this bill.

Advocacy tip: Not all DHS departments are required to participate in the program, check with your local county agencies.

Effective: May 14, 2015

SB-12
Colorado Works Pass-Through Child Support Payment
Sponsors: Senator Kefalas and Representative Petterson

This bill allows state collected child support monies to be distributed to the family as opposed to being withheld for TANF/assistance reimbursements to the counties.

Further, the amount of the child support pass-through will not be included in income for purposes of calculating the amount of the applicant's or participant's basic cash assistance payment, however, the child support payments, with applicable disregards, shall be considered income for purposes of determining eligibility.

The general assembly may appropriate to the state department moneys sufficient to reimburse the counties for fifty percent of child support collections and the federal government for its share of child support collections. In any fiscal year in which the general assembly does not appropriate the full amount necessary to reimburse the county for the pass-through, the county is not required to, but may, implement the child support pass-through.

Advocacy tip: This ability of counties to do this is impacted by the amount of money in the general fund, so it is possible this could fluctuate from year to year.

This bill will not be in effect until January 1, 2017
This bill was Colorado’s version of Erin’s Law, and creates one position within the School Safety Resource Center charged with developing and materials and trainings for school communities regarding the prevention of child sexual abuse.

The bill requires the director of the school safety resource center to appoint a person to collect and make available materials and training regarding the awareness and prevention of child sexual abuse and assault, including materials and training that are specific to preventing sexual abuse and assault of children with developmental disabilities. The materials must include professional development materials for school personnel and parents and age-appropriate curricula for kindergarten through twelfth grade.

The appointed person must also offer in-person and on-line training for school personnel and parents and publicize and make available on-line the materials, training, and curricula. The training must include information concerning use of the child abuse reporting hotline system. The appointed person must seek to work with appropriate community-based organizations in creating and collecting the materials, training, and curricula.

Each school district is encouraged to include in its school safety plan a child sexual abuse and prevention plan, and each charter school is encouraged to adopt a child sexual abuse and prevention plan. A plan may include professional development for school personnel and parents, including information concerning use of the child abuse reporting hotline system, and age-appropriate curricula for students in kindergarten through twelfth grade. An educator who receives professional development in the awareness and prevention of child sexual abuse and assault may use the professional development to meet the requirements for renewing his or her educator license.

Effective: June 5, 2015

Advocacy tip: This position is funded for the next school year and will likely be hired over the summer. The bill encourages the staff person to collaborate with community based programs.
SB 30

Prostitution Defense For Human Trafficking Victim

**Sponsors:** Senator Carroll and Representative Foote

The bill creates an affirmative defense to the crime of prostitution on or after July 1, 2015, if the person committed the act as a direct result of being a victim of human trafficking. A person charged with or convicted of prostitution before July 1, 2015, may petition to have the court vacate his or her record of any conviction for that offense. The court may grant the motion upon a finding that the defendant's participation in the offense was a direct result of being a victim of human trafficking.

CCADV provided passive support for this bill.

*Effective: April 16, 2015*

SB-214

Interim Committee Safe Schools Youth Mental Health

**Sponsors:** Senator Scheffel and Representative Duran

The bill creates the school safety and youth in crisis committee (committee) to:

* Study issues relating to school safety and the prevention of threats to the safety of students, teachers, administrators, employees, and volunteers;
* Study and evaluate programs and methods for identifying and monitoring students in crisis; and
* Develop standardized criteria for school personnel to use in assessing the potential threat posed by one or more students.

*Study and Evaluate the implementation of SB15-214 including but not limited to considerations of the duty of school districts, charter schools and their employees to exercise reasonable care to protect all students, faculty, and staff from harm resulting from acts committed by another person when the harm is reasonably foreseeable and any recommendations that committee may have concerning steps that a school district or charter school may take to satisfy its duty of reasonable care.*

CCADV provided passive support for this bill, and attempted to nominate members directly to the committee.

*Effective: June 3, 2015*

**Advocacy tip:** The committee is allowed to create sub-groups of interested parties.
SB 128

Medical Reports of Alleged Sexual Assaults

Sponsors: Senator Carroll and Representative Landgraf

Creates an anonymous reporting option for victims of sexual assault who do not wish to have evidence collected and clarifies reporting options.

The option of seeking medical care after an assault with an option for the hospital to not report to law enforcement may help survivors seek medical care without fear of being forced to disclose anything they are not comfortable sharing.

The bill requires the three types of reports to be either:
* A law enforcement report if the victim requests that the evidence be collected and at the time of the medical treatment chooses to participate in the criminal justice system;
* A medical report if the victim requests that the evidence be collected but at the time of the medical treatment chooses not to participate in the criminal justice system; or
* An anonymous report if the victim consents to the collection of the evidence but at the time of the medical treatment chooses not to have personal identifying information disclosed to law enforcement or to participate in the criminal justice system. For an anonymous report, the medical facility shall not provide information identifying the victim to law enforcement, and law enforcement shall not submit the evidence for testing. For a law enforcement or medical report, law enforcement shall submit the evidence for testing pursuant to existing law. The bill clarifies that a victim may speak anonymously to law enforcement and that no report is required if evidence is not collected.

Advocacy Tip: Colorado still requires certain (not all) medical licensees to report to law enforcement injuries they treat or medically attend to when the licensee believes the injury was caused by the commission of a crime such as domestic violence. We have heard from advocates this coupled with Colorado’s mandatory arrest law has made victims hesitant to access medical services after physical incidents involving domestic violence. This law did not address domestic violence and may become complicated around issues of intimate partner sexual assault, which CCADV was and remains concerned about. These concerns are the reason we were neutral on the bill instead of supporting it.

We are working closely with CCASA to provide technical assistance on the topic, and will continue to work on the issue until DV can be addressed too.

Effective: March 30, 2014
**PASSED LEGISLATION, cont.**

**SB 109**

**Mandated Reporting of Mistreatment Against an Adult With a Disability**

_Sponsors:_ Senator Grantham and Representative Young

_CCADV remained neutral on this as it had several amendments during the session that improved the bill’s provisions. The reporting requirements of this bill are **NOT in effect until 1 July 2016**. CCADV will work with community partners to provide technical assistance and training within the next year closer to the implementation date._

The bill creates a one year long task force to develop best practices for the reporting of mistreatment including financial abuse of persons over the age of 18 living with an intellectual or developmental disability.

**Advocacy tip:** The task force is required to solicit and accept public comment in preparation to implement the new reporting guidelines. CCADV will monitor the groups progress over the next year and let members know when solicitation of comments opens.

**Effective:** July 1, 2016

**HB 1282**

**Crimes of Deception & Lying in Birth Certificates**

_Sponsors:_ Representative Saine and Senator Newell

_This bill originally criminalized birth mothers for omitting information about the biological father of the child. CCADV opposed that provision and testified before the House Judiciary Committee as to the concerns this may have created for Survivors of domestic and sexual violence. The bill was successfully amended and we then moved into a neutral position as the majority of our concerns were addressed._

The bill makes it a misdemeanor for a birth parent to knowingly and intentionally misrepresent material information for use in the preparation of an original that is used to create a child's birth certificate. "Material information" is defined as the legal name of a birth parent, the birth date of a birth parent, the mother's maiden name prior to a first marriage, if applicable, and the place of birth of a birth parent. "Birth parent" means a natural parent, by birth, of a child born in this state. "Birth parent" also includes a presumed or putative father in accordance with the statutory presumptions for determination of paternity, or a putative father that is not married to the mother who signs a voluntary acknowledgment of paternity.

The state registrar of vital statistics is required to revise the birth certificate worksheet form used for the preparation of a certificate of live birth to include a statement that knowingly and intentionally misrepresenting material information on the worksheet form used for the preparation of a birth certificate is a class 2 misdemeanor.

**Advocacy tip:** If you are working with a pregnant survivor, make sure to include conversations regarding establishing paternity and her rights regarding completion of the birth certificate in your safety planning.

**Effective:** June 5, 2013
HB-1263

Criminal Record Sealing

Sponsors: Representative Lebsock

HB 1263 would have allowed for the one time sealing of a misdemeanor conviction and would have allowed persons convicted of domestic violence to be able to seal their criminal records.

CCADV had several serious concerns regarding offender accountability and long term victim safety regarding the premise and the written version of this bill.

We met with the bill sponsor several times in an attempt to find a workable compromise before the bill was introduced. Because the bill included domestic violence as offense that could be sealed, we found ourselves in a position where we needed to strongly oppose the bill and so launched a statewide advocacy effort incorporating letters and call from advocates, survivors, and programs aimed at defeating this bill.

We were successful because we rallied and worked together. A special thank you for everyone who offered support.

SB-129

Preserving the Parent Child Relationship

Sponsors: Senator Lundberg and Representative Kagan

This bill would have created a legal presumption of 50/50 parenting time for all allocation of parental responsibility cases and would have significantly changed the best interest of the child standard.

SB 129 was significantly amended by Senator Morgan Carroll right before it came to the House of Representatives for consideration. Those changes preserved the spirit of the bill but prepared the language and the arguments for the bill in a more palatable and seemingly benign way by claiming all parents have equal rights to parenting their children. While this sounded like a good idea to many legislators, this would have been detrimental to child and adult survivors of domestic violence.

If courts were to presume 50/50 was the starting point or the goal of the courts designated parenting time it would placed the parents interests over the needs of child and would have essentially overridden the premise behind the best interest of the child standard which is to consider the needs of the child as paramount.

CCADV worked closely with community partners and parent survivors to organize over three hours of testimony in opposition to the bill as we had heard the bill was expected to pass. We spent a significant amount of time actively opposing this bill this session.

Advocacy tip: Similar measures have been defeated in other states and we have heard this bill is likely to come back. There is also talk of a ballot measure in Nebraska. Please continue to educate systems on the perils of any presumption of parenting time in statute.
The Public Policy Committee examined over 50 pieces of legislation this year. In addition to failed bills listed above and the attached synopsis of the bills which were signed into law, CCADV also analyzed several other bills and decided to remain neutral and/or not engage on the specific pieces of legislation.

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LO = Laid Over, PI = Postponed Indefinitely

To look up & print copies of Colorado laws:
- Go to www.leg.state.co.us. Click on “Statutes and Session Laws”