



LEGISLATIVE WRAP-UP

Colorado's 2012 Legislative Session: The Colorado Coalition Against Domestic Violence Achieves Its Policy Priorities

Colorado's 69th General Assembly wrapped up the 2012 legislative session May 9th; then, they found themselves ordered into a special session by Governor Hickenlooper to finish their business in a more democratic manner because House leadership had allowed the clock run out on the Civil Unions Bill and some 30 other bills caught up in line behind it. One of the bills which the Colorado Coalition Against Domestic Violence invested a significant amount of time and energy on, the School Discipline Bill (Senate Bill 46), nearly failed along with the Civil Unions legislation, but was rescued during the special session by being added onto another related bill. The School Discipline Bill is one of many successful policy efforts, which CCADV accomplished on behalf of our members and survivors this year. Other 2012 legislative priorities for the Colorado Coalition Against Domestic Violence include Senate Bill 56, which we contributed several provisions to and provided input on other provisions which Senator Morgan Carroll brought forward. Senate Bill 56 addresses aspects of various court appointed roles in domestic relations cases and requires persons in those roles to make disclosures if they have any personal, financial, or familial relationships that would create a conflict of interest with regard to the parties in the case to which they were appointed or with the court. Both of these senate bills passed and have been signed into law by the Governor!

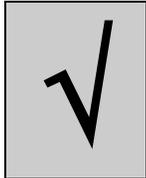
CCADV also worked diligently to support, oppose, and amend dozens of other pieces of legislation this past session. Among those bills was House Bill 1053 to further advance the rights of victims of crime by strengthening the states Victim's Rights Act (VRA). CCADV's Public Policy Director, Amy Miller, participated on the VRA Task Force in 2011 and provided input on bill language throughout the legislative process. Though not all of the original bill provisions survived, the vast majority of the bill was passed by the General Assembly and signed into law by the Governor. Almost all of the bills we supported passed and all of the bills we opposed failed, adding up to another victorious session for Coalition members and for survivors of domestic violence in Colorado!

PASSED LEGISLATION

HB-1053

VICTIM'S RIGHTS ACT CHANGES

Sponsors: Rep. Bob Gardner & Sen. Angela Giron



**Coalition
SUPPORT**

HB 1053, a bill that significantly advances the rights of victims of crimes and creates rights for victims of crimes not previously covered, contained numerous new provisions and several changes to existing law, including:

The bill adds the following crimes to those that are included in the victims' rights statute: Trafficking in adults, trafficking in children, first degree burglary, retaliation against a judge, and retaliation against a juror. It requires those responsible for criminal justice records to use reasonable efforts to redact social security numbers of victims and witnesses from criminal justice records. In addition, a victim or a witness has the right to have his or her address redacted and the right to be informed about protection services such as the witness protection program and the address confidentiality program. Electronic communication is added as a notification option for critical stages of criminal proceedings. A victim now has the right to know if a subpoena is requested for records of the victim and to be heard before the ruling is made on the subpoena. A victim also has the right to be informed when the offender is transferred to a nonresidential setting or is terminated from a community corrections program. If a victim is unable to attend a critical stage of the criminal justice process at which the victim has a right to be heard, the victim may request that the court make reasonable arrangements for the victim to provide input beyond a victim impact statement. A victim of a crime that was committed before 1993 whose offender is still serving a sentence for the crime may request notification of future critical stages. A victim will be permitted to provide a victim impact statement when the offender is referred to community corrections, and the victim has the right to provide a written statement. For transition cases, the victim has a right to make an oral statement to the community corrections board. Finally, HB 1053 clarifies that a victim has the right to know when the defendant is released from county jail, clarifies the public records about which a victim has a right to be informed, including a victim impact statement, and clarifies when a victim must be notified of sentence modification matters, including probation modifications or a modification of a protection order.

The Coalition participated on the VRA Task Force coordinated by the Colorado Division of Criminal Justice Office for Victim's Programs and actively provided input and support on the bill as requested by that state agency.

Effective: August 8, 2012

Bill Status

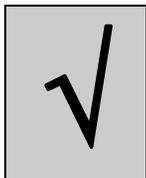
Signed by
Governor.

PASSED LEGISLATION, cont.

HB-1085

HEARSAY EXCEPTION FOR DEVELOPMENTALLY DISABLED

Sponsors: Rep. Rhonda Fields and Sen. Morgan Carroll



**Coalition
SUPPORT**

The Coalition supported HB 1085 because of its potential to increase the prosecution of domestic violence crimes committed against people with developmental disabilities, which is a vulnerable population who are often the target of crimes, but which acts are under prosecuted. The bill creates an exception to the hearsay rule, which is an existing rule of evidence rendering out-of-court statements inadmissible in a trial, hearing, or other court proceeding. Such a statement made by a developmentally disabled individual, in any criminal or delinquency proceeding in which the individual is alleged to have been a victim, is now admissible in such a proceeding. Further, a statement is admissible in any criminal, delinquency, or civil proceeding when it describes: an unlawful sexual offense performed with, by, on, or in the presence of the declarant; child abuse which the declarant witnessed or to which he or she was subjected; a homicide; or an act of domestic violence. The statement may only be admitted into evidence after the court holds a hearing outside the presence of the jury to rule on the reliability of the statement and the declarant either testifies at the hearing or, if unavailable, corroborative evidence exists concerning the act that is the subject of the statement. If the statement is admitted, the court is required to instruct the jury as to how to consider such hearsay evidence.

Effective: August 8, 2012

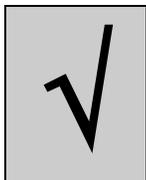
Bill Status

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Governor.

HB-1114

STALKING MANDATORY ARREST/PROTECTION ORDER

Sponsors: Rep. Millie Hamner and Sen. Gail Schwartz



**Coalition
SUPPORT**

Although this bill did not address stalking in intimate relationships, the Coalition passively supported it on behalf of our members who assist all victims of stalking. Under the new law, when a person is arrested for non-intimate partner stalking, the court is required to enter a protection order and to state the terms of the order, and the defendant must acknowledge the order before being released on bail for the charge. In addition, the prosecutor can request a hearing to modify the protection order. The bill originally sought to mandate peace officers to also make a probable cause arrest in non-intimate partner stalking cases, but that was amended out of the bill in the House due to concerns about unintended consequences associated with mandatory probable cause arrest policies in DV cases.

Effective May 11, 2012

Bill Status

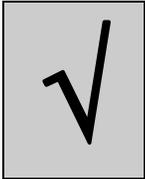
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Governor.

PASSED LEGISLATION, cont.

HB-1231

ACCESS TO DRIVER'S LICENSE INFORMATION

Sponsors: Rep. Su Ryden & Sen. Nancy Spence



**Coalition
SUPPORT**

The Coalition passively supported this bill because it narrows the law in terms of who may have access to driver's license records to limit it to those private investigators and security services regulated by the state. The legislation restricts access to information on driver's licenses and motor vehicle registrations to only *licensed* private investigators, *licensed* private investigative agencies, and *licensed* security services. This change conforms state law to the federal "Driver's Privacy Protection Act of 1994".

Effective: August 8, 2012

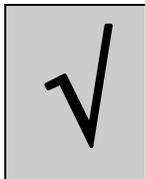
Bill Status

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Governor.

HB-1233

LEGAL SEPARATION COURT APPEARANCE PROCEDURE

Sponsors: Rep. Jeanne Labuda and Sen. Morgan Carroll



**Coalition
SUPPORT**

Under current state laws on dissolution of marriage (divorce), if there are no children of a marriage and the parties have entered into a written agreement about the division of marital property, a court may enter a divorce decree (order) by affidavit, without the appearance of the parties. The bill aligns the law for parties seeking a legal separation by permitting a court to enter a decree of legal separation, under the same conditions, without the parties' appearance.

Effectively this new law means that survivors of domestic abuse who do not have children with their spouse and who submit a written agreement to the court concerning the division of marital assets and debts can have their legal separation case processed by the court without ever having to participate in a court hearing with their abuser. Allowing the court to process legal separation cases in this manner may be beneficial to survivors of domestic abuse in terms of a simplified process and safety, of course, which is why the Coalition passively supported HB 1233.

Effective: July 1, 2012

Bill Status

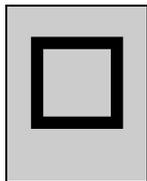
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Governor.

PASSED LEGISLATION, cont.

HB-1310

CRIMINAL PROCEEDINGS OMNIBUS CHANGES

Sponsors: Rep. Bob Gardner and Sen. Morgan Carroll



Coalition
NEUTRAL

The omnibus bill addresses several areas of criminal procedure in state law, which is why the Coalition initially took notice of this legislation. Upon close analysis and research of the bills provisions, the Coalition was satisfied that the changes would not have much, if any, impact on domestic violence cases one way or the other. Thus, a neutral policy position was adopted on HB-1310.

Effective: July 1, 2012

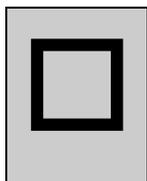
Bill Status

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Governor.

SB-46

DISCIPLINE IN PUBLIC SCHOOLS

Sponsors: Sen. Linda Newell and Rep. Claire Levy



Coalition
NEUTRAL

SB 46 eliminates zero tolerance policies (except for possession of weapons at school) for discipline in primary schools in order to reduce unnecessary expulsions, out-of-school suspensions and referrals to law enforcement. CCADV became involved in the legislative task force and process due to early proposals to only refer felony criminal activity by students to law enforcement, while misdemeanor crimes would be handled through school disciplinary interventions. CCADV was primarily concerned about the creation of a false distinction between misdemeanor and felony level teen dating violence (tdv) crimes within schools in terms of offender risk and victim safety. Another concern centered around how schools would handle misdemeanor tdv situations when schools do not appear to know how to recognize or respond to tdv or to have policies or procedures on tdv in place. The Coalition opposed initial proposals, but through early action with the task force and during the bill process, we were able to help shape the end result mostly to our satisfaction. The final version of SB 46 includes the following provisions that the Coalition sought in conjunction with CCASA:

- * Schools must consider whether misconduct threatened the safety of any student when deciding whether to make a referral to law enforcement.
- * District Boards of Education may consult with victim's organizations and law enforcement when developing or implementing safe school plans.
- * Exception to the use of restorative justice or peer mediation practices for alleged criminal misconduct by students involving unlawful sexual offenses, domestic violence/tdv, stalking or protection order violations.
- * School Districts must show due consideration to the impact of code of conduct violations on victimized students in accord with applicable laws.

Effective: May 19, 2012

Bill Status

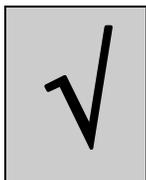
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PASSED LEGISLATION, cont.

SB-56

COURT APPOINTMENTS IN DOMESTIC RELATIONS CASES

Sponsors: Sen. Morgan Carroll and Rep. Chris Holbert



**Coalition
SUPPORT**

The bill requires a child's legal representative, a child and family investigator, a parental responsibilities evaluator, a parenting coordinator, and a decision-maker to disclose when appointed any familial, financial, or social relationship that the appointed person has with the child, either party, the attorneys, or the judge, and the nature of the relationship. Based upon the disclosure, the court may terminate the appointment and appoint a different person to the case. A party may also object to the appointment within a certain amount of time based upon the disclosure. The court may now apportion the cost of a parental responsibility evaluation between the parties when it appoints the evaluator and reapportion the reasonable costs of the evaluation when the evaluation is completed. With respect to parenting coordinator changes, the appointed person must be a neutral third party with an independent perspective acceptable to the court. Additionally, before appointing a parenting coordinator, the court shall now consider the effect of a claim by one of the parties of domestic violence by the other party on the ability of the parties to engage in parent coordination.

Effective: July 1, 2012

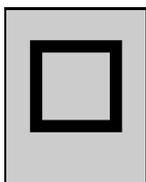
Bill Status

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Governor.

SB-78

PROTECTION FOR AT-RISK ADULTS

Sponsors: Sen. Evie Hudak and Rep. Sue Schafer



**Coalition
NEUTRAL**

This bill mostly makes minor changes to current law regarding the mistreatment, self-neglect, and exploitation of at-risk adults, but essentially does two main things: it requires county departments of human services to complete criminal background checks on adult protective services employees and it authorizes a legislative task force to study the issue of mandating certain persons to report abuse or self-neglect of elder at-risk adults. Since the task force would be studying a population that includes elders experiencing domestic abuse the Coalition had an interest in who would be appointed to that body. CCADV's ultimate position on the bill was neutral, although we did actively and successfully seek a position for a representative of a statewide victim advocacy organization on the task force.

Effective: May 29, 2012

Bill Status

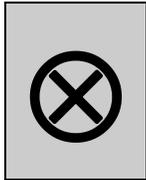
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Governor.

FAILED LEGISLATION

HB-1048

END CBI INSTACHECK DUTY FOR FIREARMS TRANSFERS

Sponsors: Rep. Mark Waller and Sen. Lois Tochtrop



**Coalition
OPPOSE**

HB 1048 would have removed the requirement that the Colorado Bureau of Investigation (CBI) perform background checks for the sale or transfer of firearms and for concealed carry permit applications. The Coalition opposed this bill even though the FBI would continue to perform these background checks as the agency currently does, because an average of 31% of the denials made by CBI to prohibited persons have not historically been caught by the FBI and presumably would not be caught through FBI background checks. Past denials made by CBI include sales/transfers of firearms and concealed carry permits to individuals who restrained by protection orders or convicted of certain misdemeanor crimes involving domestic violence. Colorado passed similar legislation in 1999, which was quickly repealed when its passage was followed by the murder of Jessica Gonzales' three daughters when their father Simon Gonzales was able to purchase a firearm because an FBI background check failed to reveal that he was restrained under a permanent civil protection order. Fortunately, CCADV's opposition in conjunction with our law enforcement allies caused the this bill to fail.

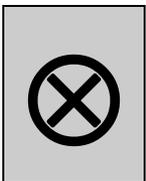
Bill Status

Bill did not pass.

HB-1088

DEADLY FORCE AGAINST INTRUDER AT PLACE OF BUSINESS

Sponsors: Rep. Chris Holbert and Sen. Kevin Grantham



**Coalition
OPPOSE**

This perennial favorite attempts to extend the right to use deadly force against an intruder under certain conditions to owners, and employees of businesses. A similar law nicknamed "Make My Day" in Colorado is about rights of homeowners to use deadly force when encountering an intruder. A major difference between current law and this proposed legislation, which is a particularly problematic aspect of the bill, is that the same reasonable right to privacy in a home does not hold up in public places such as businesses. Such a law would create a "shoot first and ask questions later" scenario for businesses that is ripe for abuse, including by domestic violence offenders. HB 1088 would have extend immunity from criminal prosecution and from civil liability to the owner or employee of the business who used physical or deadly force against an intruder in the business. Thus a person could kill another person because he/she "reasonably believes that the intruder might use any physical force, no matter how slight", and would never encounter legal consequences, and may not even be investigated for his/her actions. CCADV actively opposed HB-1088, as the organization has for the past several years, because it is overbroad and unnecessary given adequate self-defense laws in our state, leaving it open to abuse.

Bill Status

Bill did not pass.

FAILED LEGISLATION, cont.

HB-1092

CONCEALED HANDGUN CARRY WITHOUT PERMIT

Sponsors: Rep. Kevin Priola and Sen. Greg Brophy



**Coalition
OPPOSE**

House Bill 1092 sought to make the permit currently required to lawfully carry a concealed handgun optional. The removal of the permit requirement would have also made the accompanying background check used to determine whether a person is prohibited from possessing firearms optional. Under a permit optional system, individuals would be determining for themselves whether they were qualified to carry a concealed weapon or whether they were prohibited from doing so under the law. The Coalition actively opposed this bill, as it has done in prior years, testifying against it in the House and Senate (it failed there in committee) due to the safety risks posed by the self-policing aspect to domestic violence victims and public safety in general.

Bill Status

Bill did not pass.

HB-1255

ENDING CONTINUOUS APPROPRIATION OF STATE MONEYS

Sponsor: Rep. Randy Baumgardner



**Coalition
OPPOSE**

This legislation attempted to end all continuous appropriations from the state general fund or from any cash fund disbursed by the state and to give the authority for appropriating those dollars back to the legislature. The Coalition decided to passively oppose HB-1255 because it would have removed the continuous appropriations authority that our Address Confidentiality Program (ACP) has over one of its cash funds. CCADV's proactive legislation from 2011 (HB-1080) enabled continuous appropriations for any gifts, grants or donations received by the ACP so that the Program did not have to wait for the legislature, which is only in session four months of the year, to authorize the use of those funds. The lack of continuous appropriations authority for grant funds had been a particular problem for the ACP because a delay in spending authority over those funds conflicted with grant timelines. Fortunately, the bill did not get very far in the legislative process.

Bill Status

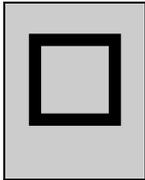
Bill did not pass.

FAILED LEGISLATION, cont.

HB-1256

FORMULA FOR MAINTENANCE DISSOLUTION OF MARRIAGE

Sponsors: Rep. Beth McCann and Sen. Shawn Mitchell



Coalition
NEUTRAL

House Bill 1256 sought to create a legal presumption that marital maintenance will be awarded to one of the persons (parties) involved in a dissolution of marriage action (divorce). The bill included three categories of maintenance: general term, reimbursement, and transitional. In addition, the bill would have put a formula in place for those awards of maintenance involving parties who meet certain income and marriage duration requirements. Finally, HB-1256 directed the courts to consider factors relating to fairness and equity, such as financial resources of the parties, age and health or the parties, and contributions of a party to the advancement of the spouse's economic, educational or occupational circumstances. CCADV's position on the bill was to monitor or to be neutral because we were aware of the difficulty it was in due to the opposition it was facing. However, such a change to the courts handling of marital maintenance would appear to benefit some survivors of domestic violence during the process of divorce, so it the Coalition will consider taking a supportive position on the bill when reintroduced in 2013.

Bill Status

Bill did not pass.

HB-1046

COLORADO WORKS PROGRAM DRUG TESTING REQUIREMENT

Sponsors: Rep. Jerry Sonnenberg and Sen. Greg Brophy



Coalition
OPPOSE

Basically, this bill would have required all applicants for Temporary Assistance to Needy Families (TANF) to pay for, take, and pass a test for controlled substances. The fee for the test would have been reimbursed out of the Counties' TANF budget to those applicants who passed the drug test. Anyone who failed would be barred from receiving benefits for 6 months, except benefits could still have been paid for children through a protective payee who also would have been required to take and pass the screening test. The Coalition opposed HB-1046 for many reasons, but primarily because the majority of TANF recipients are victims of domestic violence, many of whom would likely have been deterred from seeking benefits if experiencing issues with substance abuse, which is often co-occurs with and is related to the relationship abuse. Or, the bill may have also deterred women who have experienced domestic violence from applying for TANF due to the up front cost of paying for the drug screening, which could easily be prohibitive to a person who is indigent.

Bill Status

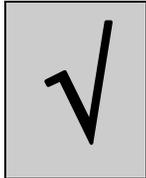
Bill did not pass.

FAILED LEGISLATION, cont.

SB-3

PERMISSIBLE USE OF CREDIT INFORMATION BY EMPLOYERS

Sponsors: Sen. Morgan Carroll and Rep. Randy Fischer



**Coalition
SUPPORT**

Essentially, this legislation attempted to restrict the use of consumer credit information by employers, a practice that has been on the rise. Specifically, SB 3 would have prohibited employers from using credit information to evaluate prospective or current employees, with a couple of job position exceptions. It also sought to require employers who do use this information to take adverse action against the prospective or current employee to disclose the use of the credit information and to give that employee an opportunity to explain negative credit information. CCADV actively supported this bill because many survivors of domestic violence have their credit damaged or ruined through the economic abuse they suffer. Punitive measure by employers towards survivors for having poor credit through no fault of their own, such as denying them opportunities for employment or advancement based upon their credit, is a type of re-victimization and creates a catch 22 for survivors who are trying to get out of an abusive relationship and trying to gain financial independence. Unfortunately, SB 3 failed due to opposition by the business community.

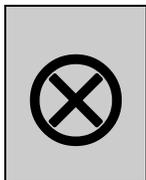
Bill Status

Bill did not pass.

SB-25

CONCEALED HANDGUN CARRY WITH NO PERMIT

Sponsors: Sen. Tim Neville and Rep. Randy Baumgardner



**Coalition
OPPOSE**

Senate bill 25 was identical to House Bill 1092, which would have made the permit currently required to lawfully carry a concealed handgun optional. Please see the summary for HB 1092 on page 8 of this report for more information.

Bill Status

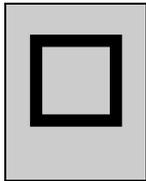
Bill did not pass.

FAILED LEGISLATION, cont.

SB-105

COLLATERAL CONSEQUENCES OF CONVICTION

Sponsors: Sen. Pat Steadman and Rep. Claire Levy



**Coalition
NEUTRAL**

Senate bill 105 would have created a process for individuals to petition the court, with notice to the district attorney, for limited relief from a collateral consequence of a conviction or for restoration of rights if doing so would have helped the individual obtain employment, housing, public benefits, or occupational licensing. At issue in relation to domestic violence defendants was the restoration of their rights to purchase or possess firearms, particularly related to employment. This section of the bill would have effectively created an “official use” exemption from firearms prohibitions in domestic violence criminal cases for certain types of employment, similar to what exists in civil protection order cases. The bill sponsor agreed to amend the bill so that conditions of probation or parole, such as firearms prohibitions or sex offender registry requirements, would not be affected. Because of the amendment, the Coalition’s position altered from one of opposition to active monitor or neutral. Although the bill passed out of the Senate, it did not make it out of its first committee in the House.

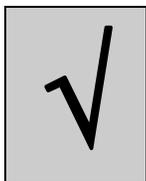
Bill Status

Bill did not pass.

SB-139

COORDINATION OF WORK SUPPORT ASSISTANCE

Sponsors: Sen. Betty Boyd and Rep. Rhonda Fields



**Coalition
SUPPORT**

The bill would have created a pilot program in the Department of Human Services to provide grants to counties, nonprofit organizations, and other community-based organizations to support Colorado Works (TANF) recipients to gain and keep employment. The grant money would have been used to provide supports to persons making the transition from Colorado Works into the work force, such as subsidized job training programs to assist unemployed and low- and middle-skilled workers gains skills and experience. CCADV passively supported SB-139 as we saw the potential benefit of such supports to survivors of domestic violence as they transition off of public benefits. The bill did not succeed.

Bill Status

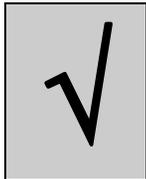
Bill did not pass.

FAILED LEGISLATION, cont.

SB-163

REDUCE PENALTY CERTAIN DRUG POSSESSION OFFENSES

Sponsors: Sen. Shawn Mitchell and Rep. Don Beezley



**Coalition
SUPPORT**

Senate bill 163 attempted to reduce the crime classification and penalties for certain drug-related offenses and to direct the cost savings towards training programs on trauma informed treatment for substance abuse treatment programs. The Coalition passively supported this legislation once it was amended so that it made only minor changes to the classification and penalties for drugs known to be used to facilitate sexual assaults. Support was because of the training component on trauma informed treatment, which could really benefit survivors of domestic violence who are also dealing with the effects of trauma while in substance abuse treatment programs .

Bill Status

Bill did not
pass.



To look up & print copies of Colorado laws:

- * Go to www.leg.state.co.us. Click on “Statutes and Session Laws”
- * Click on Colorado Revised Statutes