



## LEGISLATIVE WRAP-UP

### **Colorado's 2016 Legislative Session:**

I am pleased to announce CCADV had a very successful legislative session with our primary bills, HB 1066 and HB 1080, both passing by large margins. Our success under the gold dome is a direct reflection of the strong Coalition of voices we have developed both among our membership and within our communities statewide.

During the session I was honored to help facilitate public testimony for several Survivors who very courageously shared their personal stories in front of the cameras, and with our legislators on several CCADV supported bills.

CCADV also worked diligently to support, oppose, and amend dozens of other pieces of legislation this past session. What follows is a list and introduction to the new legislation CCADV actively worked on this session.

Each of the bill numbers is hyperlinked to the text of the full bill, and other information regarding fiscal notes or a bill's history of amendments or timelines can be found by navigating the tabs at the top of the bill's linking page. This document will highlight bills that have passed in the 2016 legislature.

As always I welcome your feedback and comments and I thank you for the opportunity to serve as the Public Policy Director.

A handwritten signature in blue ink that reads "Lydia Waligorski". The signature is written in a cursive, flowing style.

Lydia Waligorski, MPA

Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence

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**HB16-1066**      **Habitual Domestic Violence Offenders**

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**Sponsors:**            ROUPE / NEWELL

**Summary:**            This bill was largely in response to the Denver Post article highlighting the lack of consistency of prosecutor's use of the habitual DV offender statute. <http://www.denverpost.com/2015/05/16/domestic-violence-habitual-offender-law-languishes-in-colorado/>

Under current law, a person who is convicted of a misdemeanor involving an underlying factual basis of domestic violence and who has 3 prior convictions that include an act of domestic violence can be convicted as an habitual domestic violence offender, which is a class 5 felony. The act maintains this sentencing provision and describes the procedures that a court uses to determine whether the defendant has been convicted of 3 previous offenses that include an act of domestic violence.

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*Advocacy tip:*

*This bills allows for the use of previous convictions from any jurisdiction including municipal court convictions and convictions from other states. If the Survivor reports other incidents and is involved with the criminal justice system please help them bring this to the attention of the prosecution. We know there is are data gaps in Colorado between municipal courts and law enforcement databases and a Survivor's account of prior incidents can be helpful in both documenting history and accessing risk.*

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**Position:**            **Actively Support**

**Status:**              04/15/2016 Governor Signed

**Fiscal Notes:**      [Fiscal Note](#)

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**HB16-1080**      **Assault By Strangulation**

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**Sponsors:**            FOOTE / COOKE

**Summary:**            After over two years of stakeholder work, research, and being repeatedly told this bill would not pass due to the fiscal note, I am happy to report our tenacity has paid off and we now have a law recognizing the serious nature of strangulation. Under the new law, there does not have to be an external

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Colorado Coalition Against Domestic Violence**

visible injury to be able to investigate or charge strangulation as felony.  
This is a key point of the legislation as we know as little as 30% of living strangulation survivors may have visible external injury.

The bill adds intentionally causing serious bodily injury through strangulation as a means of committing the crime of first degree assault and intentionally causing bodily injury through strangulation as a means of committing second degree assault. The bill designates the new means of second degree assault as an extraordinary risk crime increasing the maximum presumptive sentence range. The bill makes an appropriation

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*Advocacy tip:*

*This bill will require statewide community specific training to fully implement. CCADV will be hosting a webinar and developing materials this summer to assist in implementation. We are also available to provide technical assistance as needed. Please contact me if you would like assistance to arrange a training for your community.*

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**Position:** **Actively Support**  
**Status:** 05/18/2016 Sent to the Governor  
**Fiscal Notes:** [Fiscal Note](#)

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**[HB16-1165](#) CO Child Support Commission Statutory Changes**

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**Sponsors:** BECKER K./CROWDER

**Summary:** The bill makes several changes to the Colorado child support guidelines and related statutes based on the work and final report of the 2013-2015 Colorado child support commission.

The changes include:

- New legislation that permits the state child support enforcement agency to discover and administratively seize insurance claim payments, awards, and settlements for the purpose of meeting past-due child support obligations;
- Changes to the income adjustment formula when parents are obligated to support children with multiple co-parents and joint legal responsibilities for the children;

**Legislative Wrap up 2016**  
**Colorado Coalition Against Domestic Violence**

- An amendment to the definition of "shared physical care" so that overall parenting time with a child is considered rather than simply the number of overnights with a child;
- Changing the reasonable cost threshold percentage for the enforcement of court-ordered medical support from 20% to 5%;
- Adding statutory language requiring the annual exchange between parents of information relevant to child support calculations that have occurred since the previous child support order;
- Limiting the time period for which a party may seek retroactive child support based upon a change in physical care to 5 years; and
- Adding language regarding providing notice to possible and presumptive fathers.

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*Advocacy tip:*

*As many of us assist and provide support to Survivors as they engage with the civil legal system and navigate allocations of parental responsibility it is helpful to manage client expectations and have conversations around child support and child support enforcement.*

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**Position:** **Passive Support**  
**Status:** 05/04/2016 Governor Signed  
**Fiscal Notes:** [Fiscal Note](#)

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**[HB16-1224](#) Treat Trafficking Of Children As Child Abuse**

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**Sponsors:** LUNDEEN / WOODS

**Summary:** This bill was significantly amended through the process to exclude labor trafficking of minors. After the amendments CCADV moved to monitor the bill rather than to actively support the bill.

The act amends the statutory definition of "child abuse or neglect" to include any case in which a child is subjected to human trafficking of a minor for sexual servitude. If a county department of human or social services (county department) assessment concludes that a child has been a victim of abuse or neglect involving human trafficking of a minor for sexual servitude, it shall, when necessary and appropriate, immediately offer social services to the child and to his or her family, and the county department may file a petition in court on behalf of the child. If a county department has reasonable cause to suspect that a child is a victim of human trafficking, the county department

**Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence**

shall notify a local law enforcement agency. In instances of third-party abuse or neglect as it relates to human trafficking, a county department may, but is not required to, interview the person alleged to be the perpetrator or prepare an investigative report. If the county department elects to interview the alleged perpetrator, it shall first confer with the local law enforcement agency. The department of human services and each county department shall implement a uniform screening tool that includes questions that are intended to identify children who are victims of human trafficking for sexual servitude or commercial sexual exploitation of a child, or who are at risk of being such victims.

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*Advocacy tips:*

*Implementation: If the county department of social services suspects that a child is a victim of human sex trafficking, they have to notify local law enforcement. DHS is currently in the process of rulemaking for the new procedures, and there will be public opportunities for comment.*

*What to know*

*In cases of third-party abuse or neglect, a county department of social services MAY, but is not required to, interview the suspect or MAY determine a finding. If a county department elects to interview the third-party suspect, it SHALL first confer with its local law enforcement agency.*

*Limitations: excludes labor trafficking of minors (DHS involvement w/truancy cases as a result of labor trafficking – offer services)*

**First prosecution:** <http://www.denverpost.com/2016/05/25/lakewood-child-sex-trafficking-conviction-is-first-under-new-colorado-laws/>

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**Position:** **Actively Monitor**  
**Status:** 04/15/2016 Governor Signed  
**Fiscal Notes:** [Fiscal Note](#)

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**[HB16-1227](#) Exemptions of Child Support Requirements Child Care Assist**

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**Sponsors:** KAGAN / HILL

**Summary:** CCADV actively worked with a group of partners on HB 1227 over the past year. This bill acknowledges Survivors need access to safe and secure childcare if they are to become self-sufficient.

Under current law, a county may impose as a condition of receiving low-income child care assistance under the Colorado child care assistance program (CCCAP) that an applicant who is not a Colorado works participant apply for and cooperate with child support establishment and enforcement, unless the applicant shows good cause to the county for an exemption from this

**Legislative Wrap up 2016**  
**Colorado Coalition Against Domestic Violence**

requirement. Pursuant to this law, the state board of human services (state board) has adopted rules that give counties the option to require child support cooperation as a condition of receiving child care assistance for teen parents. The bill exempts an applicant who is a teen parent, as defined by rule of the state board, from child support cooperation requirements as a condition of receiving child care assistance until the teen parent has graduated from high school or successfully completed a high school equivalency examination. After the teen parent has been determined eligible for child care assistance and his or her chosen child care provider is receiving subsidy payments, a county may require the teen parent to regularly attend, at no cost and at a location and time most convenient to the teen parent, information sessions with the county child support staff focused on understanding the benefits of child support to the child, the family as a whole, and the benefits of two-parent engagement in a child's life. Once a person who receives child care assistance no longer meets the definition of a teen parent or has either graduated from high school or successfully completed a high school equivalency examination, the county may require that person to cooperate with child support establishment and enforcement as a condition of continued receipt of child care assistance. Nothing in the bill prevents a teen parent from establishing child support.

The bill exempts an applicant who is a victim of domestic violence, a sexual offense, harassment, or stalking from child support cooperation requirements or from establishing good cause for not cooperating as a condition of receiving child care assistance. The bill sets forth the requirements that a victim of domestic violence, a sexual offense, harassment, or stalking must establish to qualify for this exception. A county may provide information about the importance of establishing child support to a teen parent or a victim of domestic violence, a sexual offense, harassment, or stalking who chooses not to engage in child support establishment and enforcement. The state board is required to revise its rules on CCCAP to implement the exceptions from child support cooperation for teen parents and victims of domestic violence, sexual offense, harassment, or stalking. On July 1, 2017, and every July 1 thereafter through July 1, 2025, each county department shall report to the state department information related to teen parents in CCCAP. The state board shall establish, by rule, criteria to be reported annually by each county, including but not limited to:

- The total number of cases in each county that are receiving services from a county child support services office that involve custodial parties who are 19 years of age or younger and the number of children being served;
- The total number of teen parents in each county that are receiving Colorado child care assistance;
- For each teen parent receiving child care assistance in the county, longitudinal data indicating whether paternity has been established and

**Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence**

whether child support has been established for the child and reported for the child from birth to age 4;

For each teen parent receiving child care assistance in the county, longitudinal data indicating whether the teen parent achieved economic self-sufficiency and avoided becoming a Colorado works participant while in school and reported for the child from the child's birth to age 4;

- For each teen parent receiving child care assistance in the county, longitudinal data indicating the total amount and the percentage of child support collected for the benefit of the child and reported for the child from birth to age 4.

The reports filed with the state department are public records available for public inspection. Upon notification that the relevant human services case management systems are capable of accommodating the exceptions from child support cooperation for teen parents and for domestic violence Survivors, the state department is required to start tracking counties' compliance. The state department shall notify counties when the human services case management systems are functional and when the tracking of compliance will begin. \$268,562 is appropriated to the department of human services from federal child care development funds to purchase information technology services to implement the bill.

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*Advocacy tip:*

*The documentation burden for Survivors to exempt out of child support enforcement is similar to the documentation procedures outline in the current Colorado Address Confidentiality Program. This means a letter from an advocate is adequate and counties will not need to require a police report or further documentation the person is a Survivor of sexual assault, domestic violence or stalking.*

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**Position:** **Actively Support**  
**Status:** 05/19/2016 Governor Signed  
**Fiscal Notes:** [Fiscal Note](#)

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**[HB16-1258](#) Court Clerks Posting Of Service**

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**Sponsors:** MELTON / LUNDBERG

**Summary:** Under current law, if a respondent in a domestic relations action cannot be personally served and is served by publication, the clerk of the court is required to

**Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence**

post a copy of the process on a bulletin board in his or her office for 35 days after the date of publication. The act authorizes the Clerk of Court the option of posting the service online on the court's website in addition to on a bulletin board.

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*Advocacy tip:*

*The Judge may still order someone to pay for and publish information in a local paper etc. This law would also post the information on the county clerk's website. This may be helpful for clients seeking notice by publication.*

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**Position:** **Passive Support**  
**Status:** 04/21/2016 Governor Signed  
**Fiscal Notes:** [Fiscal Note](#)

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**[HB16-1260](#) Extend Statute Of Limitations Sexual Assault**

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**Sponsors:** FIELDS / COOKE

**Summary:** The bill makes the statute of limitations for felony sexual assault 20 years.

**Position:** **Actively Support**  
**Status:** 05/11/2016 Sent to the Governor  
**Fiscal Notes:** [Fiscal Note](#)

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**[HB16-1309](#) Right To Counsel In Municipal Court**

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**Sponsors:** LONTINE / MARBLE

**Summary:** At the time of first appearance on a municipal charge, if the defendant is in custody and the charged offense includes a possible sentence of incarceration, the court shall appoint counsel to be provided by the State Public offender's Office to represent the defendant for purposes of the initial appearance unless, after a full advisement, the defendant makes a knowing, intelligent, and voluntary waiver of his or her right to counsel. If the defendant remains in custody, the appointment of counsel continues until the defendant is released from custody. If the defendant is released from custody, he or she may apply for court-appointed counsel, and the court shall appoint counsel if the court determines that the defendant is



**Legislative Wrap up 2016**  
**Colorado Coalition Against Domestic Violence**

indigent and the charged offense includes a possible sentence of incarceration.  
[The bill takes effect May 1<sup>st</sup>, 2017.](#)

**Position:** **Actively Monitor**  
**Status:** 05/11/2016 Sent to the Governor  
**Fiscal Notes:** [Fiscal Note](#)

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**[SB16-051](#) Judge's Discretion Regarding Consecutive Sentences**

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**Sponsors:** JOHNSTON / MELTON

**Summary:** Under prior law, for a person convicted of 2 or more separate crimes of violence arising out of the same incident, a court had to require the person to serve the resulting sentences consecutively rather than concurrently. The act states that the court has discretion to require the person to serve the resulting sentences concurrently rather than consecutively if one of the crimes is aggravated robbery, assault in the second degree, or escape.

**Position:** **Monitor**  
**Status:** 04/14/2016 Governor Signed  
**Fiscal Note** [Fiscal Note](#)

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**[SB16-065](#) Restitution In Criminal Cases**

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**Sponsors:** STEADMAN / LEE

**Summary:** The bill establishes a procedure whereby 2 years after the defendant's death the obligation may be terminated. Under current law, interest accrues on unpaid restitution amounts at the rate of 12% per annum. The bill lowers the interest rate to 8% per annum and specifies that it is simple interest. The bill also permits the clerk of the court to adjust the amount remaining due on an order if money is paid on the order outside of the court's process. Under current law, a person's driver's license is revoked if he or she is convicted of specified driving offenses and cannot be reinstated until the person has paid all restitution due as a result of the conviction. The bill repeals the prohibition against reinstating a person's license until all restitution has been paid. Current law prohibits a person from moving to have his or her records in a juvenile case expunged until the person has paid all restitution due as a result of the juvenile case. The bill repeals this requirement

**Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence**

and authorizes expungement so long as the person is current on any restitution payment schedule, but establishes a procedure to reverse the expungement order if the person does not make timely payments on the schedule.

**Position:** **Monitor**  
**Status:** 05/12/2016 Sent to the Governor  
**Fiscal Notes:** [Fiscal Note](#)

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**[SB16-102](#)      **Repeal Certain Mandatory Minimum Prison Sentences****

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**Sponsors:** KERR / MORENO

**Summary:** CCADV opposed this bill, but recognized this bill would pass into law. We identified an amendment to mitigate a large unintended consequences of the bill in the original form and once we were successful in amending the bill, we moved into a neutral position. The amendment we were successful in passing preserved the enhanced penalty for violating a mandatory or civil protection order or violation of bail bonds if the underlying nature of the violation involved contacting the victim. We know there are very often acts meant to intimidate crime victims from participating in the court process that are charged as the lesser misdemeanor crimes when they may not enough evidence to prove all elements the felony charge of witness tampering beyond a reasonable doubt.

Under current law, a person convicted of certain types of second degree assault and convicted of violating bail bond conditions must be sentenced to a mandatory term of incarceration. This bill removes the mandatory term of incarceration requirement in those the second degree assault circumstances and many of the violating bail bond conditions circumstances. The bill requires a mandatory imprisonment sentence for a person who is convicted of a misdemeanor violation of a protection order offense or of a felony offense related to witness bribing, intimidation, retaliation, or tampering, involving a victim or witness in the underlying offense while on bond in the underlying case. The court must impose the mandatory sentence as a consecutive sentence to any underlying incarceration sentence.

**Position:** **Active Amend**  
**Status:** 05/19/2016 Signed by Governor

**Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence**

**Fiscal Notes:** [Fiscal Note](#)

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**[SB16-110](#)      **Child Victim Privacy Criminal Justice Records****

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**Sponsors:**                      WOODS / LUNDEEN

**Summary:**                      The act requires that, before releasing a criminal justice record related to a child-victim crime, the releasing agency delete the name and any other information that would identify a child victim of the offense. The act specifies the crimes that are child-victim crimes. The act makes an exception for sharing information between identified government entities.

**Position:**                      **Actively Support**

**Status:**                         04/14/2016 Governor Signed

**Fiscal Notes:**                 [Fiscal Note](#)

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**[SB16-116](#)      **Private Company Accurate Criminal History Data****

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**Sponsors:**                      JOHNSTON / LEE

**Summary:**                      This bill was significantly amended in the 2<sup>nd</sup> Chamber to allow for the sealing of diversion and deferred judgment criminal records without a mechanism to preserve victim access to the record once it is sealed. CCADV had previously taken a position in opposition against the full sealing of records as we know Survivors may need future access to the records to obtain services through crime victims' compensation, or to be able to document past incidents of violence in civil courts. We approached the bill Sponsors with a solution and asked for a conference committee in the waning hours of the session and we were not successful in further amending the bill.

In addition to the existing procedures for sealing criminal justice records, the bill creates a simplified process for sealing criminal justice records when a case is completely dismissed, where the person in interest is

**Legislative Wrap up 2016**  
**Colorado Coalition Against Domestic Violence**

acquitted, where the person in interest completes a diversion agreement, or the person in interest completes a deferred judgment and sentence. The bill requires the court in each of these circumstances to give the defendant the option of immediately moving to have his or her criminal justice records sealed. The motion may be informal and made in open court. The bill also allows the defendant to make the motion at a time subsequent to the dismissal or acquittal by filing a written motion. When a defendant uses the expedited procedures created by the bill, the court shall promptly process the request without the filing of a separate civil action. When the court seals criminal justice records under the expedited procedures, the court shall provide a copy of the court's order to each custodian who may have custody of any of the records subject to the order. The bill requires defendants using the expedited process to pay a processing fee of \$65, which is credited to the judicial stabilization cash fund.

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*Advocacy tips:*

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*Please assist Survivors in obtaining printed copies of police reports and any criminal documents EARLY in the process before diversion has been completed or before the terms of the deferred judgment has been satisfied.*

*Also many times Survivors are on board with the record sealing as it can impact their family economics. If you are working with someone who may later need documentation of the criminal case it may be helpful to problem solve with Survivor where they can safely keep the printed records if needed in the future.*

*It is our understanding at this time the domestic violence habitual offender statutes should not be impacted by the sealing of these records, however this may depend on future case law.*

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**Position:** **Active Amend**  
**Status:** 05/13/2016 Sent to the Governor  
**Fiscal Notes:** [Fiscal Note](#)

**Failed Legislation to be aware of:**

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**[HB16-1412](#)**

**Fund Address Confidentiality Program**

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**Legislative Wrap up 2016  
Colorado Coalition Against Domestic Violence**

**Short Title:** Fund Address Confidentiality Program

**Sponsors:** HAMNER / GRANTHAM

**Summary:** Joint Budget Committee. The bill allocates \$100,000 annually from the victims' assistance and law enforcement fund to the department of personnel for the address confidentiality program.

**Position:** **Actively Oppose**

**Status:** 03/31/2016 House Second Reading Laid Over to 06/01/2016 - No Amendments

**Fiscal Notes:** [Fiscal Note](#)

CCADV, CCASA and COVA worked together to oppose this bill from the Joint Budget Committee (JBC) as it permanently diverted funds from victim services whose funds fluctuate from year to year and flat funded the Address Confidentiality Fund at their current rate of 100,000 from the state's general fund. This bill would have balanced the state budget on the backs of crime victims and we had no choice but to actively oppose the funding mechanism created in this bill. We were able to successfully work with bill sponsors to postpone the bill. It is very likely we may will need to continue to help secure a funding streams for the ACP program. Note to advocates: the 100,000 allocated to the Address Confidentiality Fund is the only state general fund dollars awarded to victim services in Colorado.

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**[HB16-1466](#)      **Promoting Affordable Housing****

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**Sponsors:** TYLER / ULIBARRI

**Summary:** Section 1 of the bill requires the state treasurer, on or before June 30, 2016, to transfer \$40 million from the state's unclaimed property trust fund (unclaimed property moneys) to the division of housing in the department of local affairs (division) and to the Colorado housing and finance authority (authority). Of the moneys to be transferred, the bill requires the state treasurer to transmit:  
\* \$30 million to the division to be deposited by the division into the

**Legislative Wrap up 2016**  
**Colorado Coalition Against Domestic Violence**

housing development grant fund (HDG fund) to improve, preserve, or expand the supply of affordable housing in Colorado, which includes rental assistance for persons in households with low and very low incomes; and

\* \$10 million to the authority to be deposited by the authority into the affordable housing assistance fund (affordable housing fund) to support new or existing programs that provide financial assistance to persons in households with an income of 80% or less of the area median income for the purpose of allowing such persons to finance, purchase, or rehabilitate single family residential homes as well as to provide financial assistance to any nonprofit entity and political subdivision that makes loans to persons in such households to enable such persons to finance, purchase, or rehabilitate single family residential homes. If the economic and revenue forecast prepared by legislative council staff in June 2016 shows that the transfer required by the bill will result in the state exceeding the constitutional spending limit for the state fiscal year 2015-16, then the transfer must be reduced by the amount that causes the state to exceed the spending limit. Section 2 creates the affordable housing fund in the authority, which fund is to be administered by the authority. This section specifies the source of moneys to be deposited into such fund, restricts the use of the moneys in the fund, and gives the authority the sole administrative discretion to determine how best to expend moneys deposited into the affordable housing fund that support the programs that it administers under the bill. Sections 3 and 4 direct the division to administer all new or existing programs to improve, preserve, or expand the supply of affordable housing in Colorado that are supported by the \$30 million transfer from the unclaimed property trust fund to the HDG fund under the bill. In administering such programs, the division is authorized, with the approval of the state housing board, to allocate such moneys to new or existing programs as it determines will best satisfy the purposes specified in the bill.

**Position:** **Actively Support**

**Status:** 05/09/2016 Senate Committee on Appropriations Postpone Indefinitely

**Fiscal Notes:** [Fiscal Note](#)

This bill became a priority for CCADV. The Sponsors purposely introduced this as a late bill along with an affordable housing package of bills and after many months of ongoing negotiations with stakeholders.

## **Legislative Wrap up 2016 Colorado Coalition Against Domestic Violence**

Sadly the agreements reached prior to bill introduction were not enough and for the second year in a row this bill was held hostage by the need to satisfy the perceived problems related to construction defects litigation.

This bill's funding mechanism will not be viable next year due to the budget and refund limits set by TABOR (the Colorado Taxpayer Bill of Rights), so it will not be reintroduced next year despite our State's desperate need for affordable housing. CCADV will continue to work in coalition with other statewide partners on addressing the need for affordable housing as everyone needs a safe place to call home.

