COURTS

Research Notes are prepared by Legislative Council Staff's nonpartisan research and committee staff. Research notes provide a summary of the bill, background information on the bill, and information on committee hearings and amendments adopted on the bill as it moves through the legislative process. Legislative Council Staff prepares final research notes for bills passed by the General Assembly as well as select bills that were considered but not adopted, and may be accessed through the links below. Research notes are provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly.

Court Procedures and Administration

HB 15-1021 *(Enacted)*
Confirm Statutory Court Dates to 7-day Intervals

HB 15-1034 *(Enacted)*
Add Judge in Twelfth Judicial District

HB 15-1149 *(Enacted)*
Office of the Respondent Parents' Counsel

SB 15-004 *(Enacted)*
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SB 15-043 *(Enacted)*
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SB 15-099 *(Enacted)*
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Criminal Sentencing

HB 15-1042 *(Enacted)*
Presentence Reports by Probation Officers

SB 15-195 *(Enacted)*
Spending Savings from Earned Time in DOC

Protection Orders

HB 15-1060 *(Enacted)*
Protection Orders Sex Offense Cases

Date:	***3/09/2015***
Version:	***Introduced***

Legislative Council Staff
Research Note

Bill Number: **HB15-1149**

Short Title: *Office Of The Respondent Parents' Counsel*

Prime Sponsors: Representative Hamner
Senator Lambert

Research Analyst: **Bo Pogue (x5390)**

Current Status

The bill is currently pending before the full House for second reading.

Summary

The introduced bill, recommended by the Joint Budget Committee, creates a nine-member governing commission for the Office of the Respondent Parents' Counsel (ORPC), to be appointed by the Colorado Supreme Court. Under existing law, the office is responsible for providing legal representation to parents involved in dependency and neglect proceedings who lack the financial means to obtain representation. The bill also pushes back the date on which existing respondent parent counsel appointments are required to be transferred to the office, from January 1, 2016, to July 1, 2016. After this date, ORPC is to make all subsequent respondent parent counsel appointments. Under the bill, the establishment date for the ORPC will continue to be January 1, 2016, but the governing commission's establishment date is July 1, 2015.

HB 15-1149 establishes the appointing criteria and duties of the ORPC governing commission, and excludes from service on the commission those employed in certain government positions. Members of the commission are not compensated for their service, but may be reimbursed for their expenses. The bill also establishes the qualifications for the governing commission's director, who is to be appointed by the commission. The director's compensation is set by the General Assembly. HB 15-1149 also requires the ORPC to transfer existing contracts and the bill payment system from the Judicial Department by July 1, 2017.

Background

Senate Bill 14-203 established the ORPC within the Judicial Department, and required the office's organizational structure to be based on a final report issued by the Respondent Parents' Counsel Work Group within the Judicial Department's Office of the State Court Administrator. The work group recommended creation of a governing commission for the ORPC, and determined that the formation of a stand-alone office focused solely on parent representation was the most

appropriate option to carry out the intent of the legislation. SB 14-203 established the following minimum duties for the ORPC:

- enhancing the provision of respondent parent counsel by ensuring the provision and availability of high-quality legal representation for parents involved in dependency and neglect proceedings, and making recommendations for minimum practices standards for the applicable counselors;
- establishing fair and realistic compensation rates for the counselors;
- working cooperatively with judicial districts to establish pilot programs, as appropriate, to enhance the quality of respondent parent counsel at the local level; and
- annually reviewing and evaluating the office's performance. The office is required to report annually to the General Assembly and the Office of the State Court Administrator on its performance, beginning January 1, 2017.

Date:	***May 27, 2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **HB15-1060**

Short Title: *Protection Orders Sex Offense Cases*

Prime Sponsors: Representative Hamner
Senator Cooke

Research Analyst: **Bo Pogue**

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on March 20, 2015.

Summary

Previous law required that the court state the terms of a protection order and that the defendant acknowledge the order prior to release on bond when a defendant is charged with domestic violence or stalking. In addition, the prosecutor can request a hearing to modify the protection order in those cases. House Bill 15-1060 extends these provisions to all cases involving unlawful sexual behavior, and requires the defendant to acknowledge the order in court and in writing prior to release.

Background

In FY 2013-14, there were 1,700 felony sex offense cases and 520 misdemeanor sex offense cases filed. A protection order is mandatory in these cases. Under state law, 30 offenses fall under the umbrella of "unlawful sexual behavior."

House and Senate Action

HB 15-1060 passed through both the Senate and House without amendment.

Date:	***May 27, 2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **HB15-1042**

Short Title: *Presentence Reports By Probation Officers*

Prime Sponsors: Representative Foote
Senator Cooke

Research Analyst: **Bo Pogue**

Current Status

This research note reflects the final version of the bill, which becomes effective August 5, 2015, assuming no referendum petition is filed.

Summary

For defendants that are eligible to receive a sentence to the Department of Corrections (DOC) for a felony that occurred after July 1, 2004, the bill requires that the presentence report prepared by probation staff of the court include a statement about how long the defendant is expected to be incarcerated. This statement must explain how parole eligibility dates and earned time are calculated, as well as conditions that may accompany an early release from prison, and note that the statement does not apply to youthful offenders. The statement is not required if the defendant is a sex offender, has at lease one previous conviction for a crime of violence, is convicted of a class 1 felony, or the Probation Department has reasonable grounds to believe that the language of the statement is inapplicable to the defendant.

The bill clarifies that it is the responsibility of the Probation Department to transmit a copy of the presentence report and the court to transmit the mittimus (the court order for incarceration) directly to the DOC.

Background

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 to 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 sentence. Each presentence report is required to include a substance abuse assessment or evaluation and, unless waived by the court, the following information:

- information on the defendant's family background, educational history, employment

,ecord, and past criminal record, including the defendant's past juvenile delinquency record, if any;
- information indicating whether the defendant has been convicted of unlawful sexual behavior;
- an evaluation of the alternative dispositions available for the defendant;
- information on the potential collection of restitution, as required by the court;
- a victim impact statement; and
- such other information as the court may require, including the findings and results of a professionally conducted psychiatric examination of the defendant.

House Action

House Judiciary Committee (February 24, 2015). At the hearing, representatives of the Colorado Criminal Defense Bar and the Colorado Criminal Justice Reform Coalition testified in opposition to the bill unless it were to be amended, while victim advocates testified in support of the bill. The committee adopted amendment L.004, a strike-below amendment, which established the July 1. 2004, applicability date and enhanced a required statement in the presentence report to include more information about the defendant's possible length of incarceration. Amendment L.004 also created exemptions for requiring the inclusion of the statement in the presentence report under certain circumstances and for certain crimes. The committee also adopted amendment L.005, which included class 1 felonies in this list of exemptions, and amendment L.006, which slightly augmented the language in the presentence report length-of-incarceration statement.

House Second Reading (March 6, 2015). The House Committee of the Whole adopted the House Judiciary Committee report with the following floor amendments:

- Amendment No. 2 by Representative Foote, which further augments the statement concerning the length of a defendant's expected incarceration required to be included in a presentence report, and makes certain technical changes to the committee report;
- Amendment No. 3 by Representative Foote, which narrows the title of the bill to focus on the required statement in the presentence report; and
- Amendment No. 4 by Representative Foote, which includes language in the presentence report required statement explaining that the statement does not apply to the Youthful Offender System within the Department of Corrections.

Senate Action

The Senate passed HB 15-1042 without further amendment.

Date:	***May 28, 2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **HB15-1034**

Short Title: *Add Judge In Twelfth Judicial District*

Prime Sponsors: Representative Vigil
Senator Crowder

Research Analyst: **Bo Pogue**

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on March 20, 2015.

Summary

House Bill 15-1022 increases the number of district court judges in the Twelfth Judicial District from three to four, subject to available appropriations. The Twelfth Judicial District is composed of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache Counties.

Background

With the allocation of an additional judge, the Judicial Department plans to reallocate the docket of current judges in the Twelfth Judicial District. The new district judge will be assigned criminal and juvenile (e.g., dependency and neglect) cases that are currently assigned to the Chief Judge. This will allow the Chief Judge to focus on civil cases, addressing a current backlog and allowing civil cases to be heard more readily in outlying counties. No increase or adjustment in felony criminal docket time is anticipated as a result of this bill.

House Action

House Judiciary Committee (January 15, 2015). The committee referred the bill unamended to the House Appropriations Committee. The committee heard testimony from two judges representing the Judicial Branch about the need for an additional judge in the Twelfth Judicial District.

House Appropriations Committee (January 30, 2015). House Appropriations added an appropriations clause to the bill in the amount of $340,651 for FY 2015-16, and referred the bill to the Committee of the Whole.

House Second Reading (February 3, 2015). The House Committee of the Whole adopted HB 15-1034 along with the Appropriations Committee report.

Senate Action

The Senate passed HB 15-1034 without further amendment.

Relevant Research

Attached is a memorandum from November 2013 outlining the process for changing Colorado's judicial district boundaries. The memorandum also contains information about judicial district populations from 1960 to 2010.

Date:	***May 27, 2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **HB15-1021**

Short Title: *Conform Statutory Court Dates To 7-day Intervals*

Prime Sponsors: Representative Willett
Senator Merrifield

Research Analyst: **Bo Pogue**

Current Status

This research note reflects the final version of the bill, which becomes effective on August 5, 2015, assuming no referendum petition is filed.

Summary

House Bill 15-1021 modifies provisions in Title 42 of the Colorado Revised Statutes to establish time intervals based on a "rule of seven" for judicial review of certain actions by the Division of Motor Vehicles (DMV) in the Department of Revenue. The bill applies to deadlines to file appeals with the district court related to DMV actions to cancel, suspend, or revoke driver's licenses and state identification cards. Previously, state law required appeals of relevant administrative actions to be filed within 30 days of the DMV action. The bill extends the deadline for these appeals to the next seven-day interval, 35 days after the DMV action.

Background

In December 2011, the Colorado Supreme Court adopted Rule Change 2011(18) and Rule Change 2011(19). These rule changes modify the computation of time intervals between events in the legal process, with subsequent events to occur on the same day of the week as the initiating act. This "rule of seven" avoids filing deadlines and other crucial dates that were previously calculated to fall on weekends. Most affected court rules correspond with statutes previously modified in a conforming manner by Senate Bill 12-175, House Bill 13-1126, and House Bill 14-1347. This bill contains time intervals that were not included in those bills.

House and Senate Action

HB 15-1021 was not amended during the legislative process. No one testified on the bill in the House Judiciary Committee, and a representative from the Office of the State Court

Administrator made herself available for questioning to the Senate Judiciary Committee, but the committee had no questions.

Date:	***6/24/2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **SB15-195**

Short Title: *Spending Savings From Earned Time In DOC*

Prime Sponsors: Senator Steadman
Representative Hamner

Research Analyst: **Conrad Imel (x2756)**

Current Status

This research note reflects the final version of the bill, which became effective on August 5, 2015.

Summary

Senate Bill 15-195 requires the General Assembly to appropriate up to $6.5 million in savings realized from the Department of Corrections (DOC) awarding offenders achievement earned time. The bill requires the savings to be appropriated to the education subprogram offering academic and vocational programs to offenders, and the parole subprogram for parole wrap-around services. The bill requires the DOC to give priority to parole wrap-around services administered based on evidence-based practices when allocating money under the bill.

The bill also prohibits the DOC from receiving commissions from a telephone provider except as much as is necessary to pay for calling costs and costs incurred by the DOC in managing the calling system.

Background

In 2012, the General Assembly enacted House Bill 12-1223, which created a new category of earned time called "achievement earned time," which may be awarded to offenders who:

- successfully complete a milestone or phase of an educational, vocational, therapeutic, or re-entry program; or
- demonstrate exceptional conduct (defined in the bill) that promotes the safety of correctional staff, volunteers, contractors, or other persons under the supervision of the DOC.

At the discretion of the executive director of the DOC, offenders may be awarded up to 60 days of achievement earned time per program milestone or phase, or per instance of exceptional conduct; except that no offender may be awarded more than a total of 120 days. Issuing achievement earned time results in a cost savings for the DOC.

Senate Action

Senate Judiciary Committee (April 7, 2015). The committee heard testimony in support of the bill from representatives of the DOC. There was no testimony in opposition to the bill.

The committee adopted amendment L.004, which increased the savings appropriation from $5 million to $6.5 million and prohibits the DOC from receiving a commission from a telephone provider except as much as is necessary to pay for calling costs and costs incurred by the DOC in managing the calling system. The committee referred the bill, as amended, to the Senate Appropriations Committee.

Senate Appropriations Committee (April 10, 2015). The Appropriations Committee adopted amendment J.001, which amended the bill to add an appropriation to the DOC. The committee referred the bill, as amended, to the Senate Committee of the Whole.

Senate second reading (April 15, 2015). The Senate Committee of the Whole adopted the Senate Judiciary Committee report and the Senate Appropriations Committee report, and passed the bill, as amended, on second reading.

Senate third reading (April 16, 2015). The Senate adopted the bill on third reading.

House Action

House Judiciary Committee (April 23, 2015). The committee heard testimony in support of the bill from representatives of the DOC. The committee referred the bill, unamended, to the House Appropriations Committee.

House Appropriations Committee (April 29, 2015). The Appropriations Committee referred the bill, unamended, to the House Committee of the Whole.

House second reading (April 29, 2015). The House Committee of the Whole passed the bill, unamended, on second reading.

House third reading (April 30, 2015). The House passed the bill on third reading.

Relevant Research

Background and Purpose of the Intensive Supervision Parole Program (Memorandum, 2013): http://tinyurl.com/psyjhfl.

Earned Time Credit Available to Eligible Offenders at the Colorado Department of Corrections, 2013 (Attachment A).

Services Provided by the Department of Corrections to Inmates (Memorandum, 2012): http://tinyurl.com/q2vfu5h.

Date:	***9/18/2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **SB15-099**

Short Title: *Eliminate Duties For Probation Officers*

Prime Sponsors: Senator Cooke
Representative Lawrence

Research Analyst: **Conrad Imel (x2756)**

Current Status

This research note reflects the final version of the bill, which became effective on August 5, 2015.

Summary

Senate Bill 15-099 eliminates the following duties of probation officers:

- performing supplemental evaluations concerning disputed issues in cases involving the allocation of parental responsibilities;
- exercising continuing supervision over a case to ensure that terms relating to an allocation of parental responsibilities or parenting time are carried out;
- making a social study and written report in all children's cases under the Colorado Children's Code; and
- serving as attendance officer of a school district.

Background

The Colorado Judicial Branch administers 23 probation departments across the state that are responsible for preparing pre-sentence investigation reports for the court and supervising adult and juvenile offenders through a number of specialized programs. Several provisions of current law address the performance of certain duties by probation officers, many not involving offender supervision.

Senate Action

Senate Judiciary Committee (February 9, 2015). The committee heard testimony in support of the bill from representatives of the County Sheriffs of Colorado and Colorado Probation

Services. The committee referred the bill to the Committee of the Whole with a recommendation that it be placed on the consent calendar.

Senate second reading (February 12, 2015). The Senate Committee of the Whole passed the bill on second reading.

Senate third reading (February 13, 2015). The Senate passed the bill on third reading.

House Action

House Judiciary Committee (March 17, 2015). The committee heard testimony in support of the bill from a representative of the Office of the State Court Administrator. The committee referred the bill to the Committee of the Whole.

House second reading (March 20, 2015). The House Committee of the Whole passed the bill on second reading.

House third reading (March 23, 2015). The House passed the bill on third reading.

Relevant Research

Probation Services in Colorado (Issue Brief): http://tinyurl.com/qhbb34m.

Date:	***5/21/2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **SB15-043**

Short Title: *Prosecution Fellowship Clean-up*

Prime Sponsors: Senator Heath
Representative Pabon

Research Analyst: **Conrad Imel (x2756)**

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on April 3, 2015.

Summary

The bill clarifies that participants in the Prosecution Fellowship Program are independent contractors and not employees of the Colorado District Attorneys' Council (CDAC). The bill also clarifies that up to six district attorneys' offices may be selected each year for the placement of fellows.

Background

In 2014, the General Assembly enacted legislation that established the Prosecution Fellowship Program in the Colorado Department of Higher Education to provide annual fellowship funding to CDAC for up to six individuals who have recently graduated from law school in Colorado to allow them to pursue careers as prosecutors in rural Colorado. The fellowship program matches law school graduates for one-year fellowships with rural district attorneys' offices. Participating law schools provide some funding toward the fellows' salaries in order to have their students considered for the program.

Senate Action

Senate Judiciary Committee (January 26, 2015). The committee heard testimony in support of the bill from a representative of the CDAC. The committee adopted amendment L.001 to clarify the independent contractor status of the program's participants. The committee referred the bill, as amended, to the Senate Committee of the Whole, with a recommendation that it be

placed on the consent calendar.

Senate second reading (January 29, 2015). The Senate Committee of the Whole adopted the Senate Judiciary Committee report and passed the bill, as amended, on second reading.

Senate third reading (February 2, 2015). The Senate adopted the bill, unamended, on third reading.

House Action

House Judiciary Committee (March 3, 2015). The committee heard testimony in support of the bill from a representative of the CDAC. The committee referred the bill, unamended, to the House Committee of the Whole.

House second reading (March 6, 2015). The House Committee of the Whole passed the bill, unamended, on second reading.

House third reading (March 10, 2015). The House adopted the bill, unamended, on third reading.

Date:	***May, 20 2015***
Version:	***Final***

Legislative Council Staff
Research Note

Bill Number: **SB15-004**

Short Title: *CASA Volunteer For Youth In A Truancy Proceeding*

Prime Sponsors: Senator Jahn
Representative Primavera

Research Analyst: **Conrad Imel**

Current Status

This research note reflects the final version of the bill, which becomes effective on August 5, 2015, assuming no referendum petition is filed.

Summary

The bill allows the memorandum of understanding between a Court Appointed Special Advocate (CASA) program and a judicial district to be amended or modified at any time.

The bill permits judges and magistrates to appoint a CASA volunteer to advocate for a child in a truancy proceeding brought pursuant to the "School Attendance Law of 1963" if the judge or a magistrate provides notice to a parent or legal guardian of the child. The bill also amends the training requirements and duties of CASA volunteers as they relate to advocating for children in education-related cases.

Background

In 1996, the General Assembly enacted legislation that authorized CASA programs in Colorado. CASA programs are created by a memorandum of understanding between the chief judge of a judicial district and the CASA program that identifies the roles and responsibilities of CASA volunteers appointed in the judicial district. Two or more judicial districts may jointly establish a CASA program.

Generally, CASA volunteers are assigned by judges and magistrates, at their discretion, to advocate for children in actions brought under the Colorado Children's Code, in domestic matters, and in probate and other related cases. The Jefferson and Gilpin County CASA program has assigned CASA volunteers for children in truancy cases under a pilot program. Currently, there are 16 CASA programs in Colorado.

Senate Action

Senate Judiciary Committee (January 26, 2015). The committee heard testimony in support of the bill from representatives of CASA of Jefferson and Gilpin Counties, the Office of Child's Representative, CASA in Colorado, Voices for Children CASA, and private citizens. There was no testimony in opposition to the bill.

The committee adopted amendment L.001 to require consent from parents before a CASA volunteer can work with students in proceedings held pursuant to the School Attendance Law of 1963 (Part 1 of Article 33 of Title 22, C.R.S.). The committee referred the bill, as amended, to the Senate Committee of the Whole.

Senate second reading (January 29, 2015). The committee adopted the Senate Judiciary Committee report and passed the bill, as amended, on second reading.

Senate third reading (February 3, 2015). The Senate passed the bill, unamended, on third reading. On the same day, the Senate reconsidered the bill, and passed the bill, unamended, on third reading.

Senate Consideration of House Amendments (April 22, 2015). The Senate concurred with the House amendments and repassed the bill.

House Action

House Judiciary Committee (April 14, 2015). The committee heard testimony in support of the bill from representatives of Colorado CASA, the First Judicial District, and a private citizen. There was no testimony in opposition to the bill.

The committee adopted amendment L.002 to remove the requirement that parents provide written consent for a CASA volunteer to be appointed in truancy cases, and to remove provisions relating to the conclusion of the CASA volunteer's appointment.

House second reading (April 17, 2015). The committee adopted the House Judiciary Committee report and passed the bill, as amended, on second reading.

House third reading (April 20, 2015). The House passed the bill, unamended, on third reading.