



To: **Colorado Women’s Bar Association**

From: Ruth Aponte & Julia Scanlan

RE: **2023 Legislative Session Wrap-Up**

Date: May 18, 2023

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Priority Legislation for Colorado Women’s Bar Association

The first Regular Session of the 74th Colorado General Assembly adjourned around 10pm on Monday, May 8, 2023. By all accounts this was an incredibly intense and hectic year with numerous high-profile issues and challenging conflicts.

The final totals for the 2023 session were 617 bills, 311 from the House and 306 from the Senate. At the time of this writing, 486 were passed and 131 died one way or the other. So far Governor Polis has allowed one to become law without signature, and he has vetoed three bills.

The Colorado Women’s Bar Association (CWBA) engaged in 38 bills during the 2023 legislative session, in addition to the budget process. The issues represented a broad segment of women’s issues including workplace harassment, equal pay for equal work, judicial discipline, and reproductive health care access.

Of those 38 bills CWBA took action to support 18 bills, opposed 4 bills, and monitored 16 other bills. This session represented an unusually high number of Level One issues for CWBA which acted as one of the lead members of three separate coalitions on 5 separate pieces of legislation. These Level One issues required significant and consistent engagement both from CWBA members and the lobby team with actions ranging from bill language development, ongoing stakeholder meetings, bill negotiations, testimony, and developing written materials.

Overviews of CWBA’s high priority legislation and actions taken are outlined in detail below, there are also brief summaries of lower priority legislation. For additional details on all the 2023 bills please see CWBA [Summary Matrix](#) review of bills, with hyperlinks to more information – bill versions, fiscal notes, engaged lobbyists, history, etc.

Workplace Harassment

Before the 2023 session kicked off the Women’s Bar spent last summer and fall building off the work done in the previous years with the Plaintiff Employment Lawyers Association (PELA) on workplace harassment policy. Given the difficulties encountered in the 2021 and 2022 sessions the coalition had a heavy lift and worked throughout the entirety of session to address roadblocks that hindered previous efforts. The intent was to pass a bill in the 2023 session.



After months of negotiations with the business community CWBA and PELA were able to find common ground on several employer-related issues. Most parties in opposition moved to neutral on the bill after concessions from proponents. CWBA was also instrumental in helping negotiate and address concerns from both the disability community and institutions of higher education.

The result of this sustained and intense effort was the initiation and passage of [SB23-172 Protecting Opportunities and Workers' Rights \(POWR\) Act](#). This pivotal legislation includes the following key policy changes:

- Creates Modern Definitions of “Harass” and “Harassment”
 - Amends CRS 24-34-401 to codify the definition of “harass” or “harassment” as unwelcome conduct toward an employee that is related to the employee’s protected characteristics or status and is subjectively and objectively offensive. The new definition of harassment eliminates the judicially created “severe or pervasive” standard.
- Improves CCRD Tracking of Harassment Claims
 - Requires CCRD to include a “harassment” option on its charge forms so that it will be clear to employees that prohibited harassment is a type of discriminatory or unfair employment practice.
- Expands Protections for Workers with Disabilities
 - Removes the language in the Colorado Anti-Discrimination Act (CADA) that permits employers to discriminate against covered individuals or refuse to accommodate them if “the disability has a significant impact on the job”. This aligns CADA with the federal standard prohibiting discrimination and requiring accommodation unless doing so causes an “undue hardship” for the employer. It also aligns CADA with the current Colorado Code of Regulations 3 C.C.R. 708-1, 60.6.
- Removes Unfair Barriers to Harassment Claims/Creates Affirmative Defense for Employers
 - Eliminates language from CADA stating that harassment is not an illegal act unless the employee files a complaint with the appropriate authority in the employee’s workplace and the authority fails to initiate a reasonable investigation and take prompt remedial action, if appropriate. That language is replaced with language providing an employer with a specific affirmative defense to claims of harassment.
- Creates Consistent Prohibitions to Marital Status Discrimination
 - Adds marital status to the list of characteristics and statuses that are protected from employment discrimination.
- Brings Equity to Non-Disclosure Agreements
 - Codifies specific terms under which non-disclosure agreements (“NDA’s”) can be used to restrict an employee from discussing or disclosing discriminatory or unfair employment practices. Under POWR, an NDA will be void unless it applies equally to all parties, does not restrict the employee from disclosing the facts of any alleged discriminatory practice to the employee’s family, medical providers, other advisers, or government agencies.

CWBA acted as a leader in every stage of the bill from start to finish. This included drafting language, negotiating with various organizations and action groups, doing research on the impact and cost of similar legislation on other states, lobbying legislators and providing verbal testimony in both the House and Senate Judiciary committees.

We cannot overstate the vital importance of having Iris Halpern as the lead CWBA member on this effort. Her expertise and connections were essential. This included an understanding of the relationship of the state to the federal Equal Employment Opportunity Office (EEOC) which enabled the coalition to address some last-minute opposition from the Colorado Civil Right Division (CCRD). This related to perceived risk to the state contract with EEOC for joint filing of suits under state and federal law. After further investigation the EEOC was able to respond and alleviate CCRD’s concerns.



After years of continued work on this issue CWBA should be extremely proud of the important policy changes secured in this new legislation. As of May 18, 2023 the bill has yet to be signed into law but the bill sponsors and lobby team have been given assurance that it will be signed by the Governor Polis.

Judicial Discipline

Addressing systemic problems relevant to judicial discipline has been a top priority for CWBA outside of the legislative arena on the heels of concerning reports in 2020. The revelations included complaints of sexual harassment within the judicial system and allegations the lack of transparency in their handling.

CWBA was able to build off the work done last session in [SB22-201 Commission On Judicial Discipline](#) which was a bipartisan bill that created a [Legislative Interim Committee on Judicial Discipline](#) that met during the 2022 interim with the goal to recommend legislation in the 2023 session.

CWBA was instrumental during the entire interim committee process and recognized publicly as a key negotiator in the sometimes-contentious conversations with the Judicial Department and Judicial Discipline Commission while also ensuring diverse voices like the Colorado Coalition Against Sexual Assault were at the table.

Many thanks to the team of CWBA members who provided countless hours of support for the last year and a half, including Ariana Busby, Alison Connaughty, Emma Garrison and Katherine Starnella. It was due to their incredible effort that many of CWBA's recommended policies and concepts were incorporated into the three bipartisan bills. Additional details are below.

[HB 23-1205 Office of Judicial Ombudsman](#)

- The bill establishes the Office of the Judicial Discipline Ombudsman (OJO) in the Judicial Department as an independent office of the Commission on Judicial Discipline. The bill also establishes the Judicial Discipline Ombudsman Selection Board, to be appointed no later than January 1, 2024, to appoint the ombudsman by March 1, 2024, and to oversee the office.
 - The board will consist of five members and must include lawyers, and people with a professional background in human resources or personnel management, financial management, or experience with employee harassment or discrimination cases or as a victims' rights advocate, and professional ombudsman experience.
- The ombudsman's powers and duties primarily include creating and maintaining an anonymous reporting system for Judicial Department personnel to submit complaints and managing the process. The ombudsman will investigate and report on instances of misconduct received and is required to report grievance trends and data collected to the Commission on Judicial Discipline, the Office of Attorney Regulation Counsel, law enforcement, and the Judicial Department. The ombudsman is also required to serve as a liaison between complainants and various community and mental health resources. The ombudsman will need to review and consider the standards of practice and code of ethics established in the international ombuds association. The ombuds will not be adversarial to the judicial department if the commission.
- Records related to complaints received by the office are exempt from the Colorado Open Records Act. The ombudsman is exempt from mandatory reporting rules, statutes, and policies, and may only report an incident under such provisions with the consent of the complainant. The office may promulgate rules to support its operations. The office is required to maintain office space that is not physically located in or managed by the Colorado Judicial Center.



HB 23-1019 Judicial Discipline Procedures and Reporting

- The bill makes changes to procedures and reporting related to judicial discipline including:
- **Commission on Judicial Discipline:** The bill requires the commission to report more information on the allegations, investigations, and complaints it receives, and the type of discipline imposed or recommended. The commission must also publish this information in its annual report and make the information available online. Second, the bill allows a person to submit a request for evaluation to the commission either by mail or online and requires the commission to develop an online request form. Finally, the bill requires the commission, upon receipt of a complaint, to explain to the complainant the judicial discipline process and to designate a point of contact to keep complainants apprised of the status of the complaint. If the complaint is dismissed, the commission must provide an explanation of the dismissal to the complainant.
- **Confidentiality:** The bill repeals the requirement that records related to an investigation of a judge remain confidential when the recommendation of the commission was not for the removal or retirement of a justice, and the associated misdemeanor offense for breaking confidentiality.
- **Judicial Discipline Adjudicative Board:** Conditional upon passage of House Concurrent Resolution 23-1001—that changes the judicial discipline process, creates the Judicial Discipline Adjudicative Board, and creates a rulemaking committee—this bill requires the judge member of any panel to provide administrative support to facilitate the panel’s hearing and makes other conforming changes to align with the resolution.

HCR 23-1001 Judicial Discipline Procedures and Confidentiality

- This concurrent resolution refers a question to the 2024 general election ballot to ask voters to amend the constitution to change how disciplinary hearings for judges are handled with the following adjustments:
- **Judicial Discipline Adjudicative Board:** the resolution creates the Independent Judicial Discipline Adjudicative Board to conduct disciplinary hearings and to hear appeals of informal remedial action orders from the Commission on Judicial Discipline.
- **Appeals of disciplinary orders:** the resolution allows a justice or judge or the Commission on Judicial Discipline to appeal a Judicial Discipline Adjudicative Board’s disciplinary order or dismissal to the Supreme Court or a tribunal if the disciplinary action involves a Supreme Court Justice.
- **Confidentiality:** the resolution allows the Commission on Judicial Discipline to release information about the status of an evaluation, investigation, or proceeding to the victim of misconduct or the complainant; release information about a complaint that resulted in discipline to specified government agencies; and to make aggregate information publicly available.
- **Rulemaking Committee:** Finally, the resolution creates the 13-member Rulemaking Committee to propose rules for the Commission on Judicial Discipline. The Rulemaking Committee must propose rules for proceedings initiated on or after April 1, 2025, that include the standards and degree of proof to be applied in judicial discipline proceedings, confidential reporting procedures, and complainant rights. The Supreme Court must approve or reject each rule proposed by the committee and the committee may promulgate specific rules governing proceedings before the Judicial Discipline Adjudicative Board.

As of May 16, 2023, the two bills are still awaiting final signature from the Governor, but they are expected to become law. House Concurrent Resolution 23-1001 places the question about constitutional changes in this area before voters in November of 2024. CWBA will likely continue to have a vested interest in the passage of this measure and should be prepared to engage with potential campaigns and public outreach on the measure.



Equal Pay for Equal Work Act

CWBA was the lead of author of the 2019 Colorado Equal Pay for Equal Work Act ([CEPEW](#)). CWBA worked with partners at the Women's Foundation of Colorado (WFCO) to bring forward this landmark legislation which is a model across the country to provide transparency on pay ranges for all employees and remedies for those who have proof of underpayment. Such information is a game changer for women in the workforce and is already making an impact.

This said, the measure is not without critics and remains controversial specifically within the business community. These concerns and conversations with the Polis Administration and business community began late in 2022 legislative session.

Given the concerns from last year the CWBA and WFCO opted to use a proactive approach to address CEPEW issues along with a full coalition of supporters. Proponents worked over the interim to solidify improvements to the law and what concessions or tweaks were reasonable to address employer concerns. The culmination of these conversations resulted in the introduction of [SB23-105 Ensure Equal Pay for Equal Work](#).

The bill has three main components:

- Authorizes the Department of Labor and Employment to investigate and act upon potential equal pay violations.
- Expands the back pay period from 3 to up to 6 years for workers wrongly underpaid that long to recoup the difference between what they were paid and what they should have been paid. This bill does NOT change the 2-year statute of limitations for complaints of equal pay violations or existing record keeping requirements.
- Updates transparency requirements (summarized below):
 - Defines Career Development and Career Progression and exempts these types of employee job changes from employer requirements to notify all employees in advance about job opportunities.
 - Specifies that when there is a vacancy to be filled, all employees must be notified of a job opportunity before a selection decision is made.

Throughout the bills entire process, it faced consistent opposition from the business community along with strong concerns from the higher education and childcare communities. The Governors Office also maintained their strong concerns with administrative impacts to employers including requirements for posting of job notices to remote workers.

This opposition resulted in frequent and often long negotiations with the Governor's office and business community on both remote worker and backpay issues. A huge thanks to Laura Wolf and Ellen Giarratana for their support throughout the session. Ultimately due to potential veto of the bill, the coalition had to make some concessions on job postings for remote workers. However, the exception was crafted very narrowly to only impact a very limited number of Colorado workers.

In the end the coalition agreed to the following language on remote workers and added a repeal provision in 2029. The coalition refused any changes to backpay.

EXCEPT THAT, IF AN EMPLOYER IS ONLY PHYSICALLY LOCATED OUTSIDE OF COLORADO AND HAS FEWER THAN FIFTEEN EMPLOYEES WORKING IN COLORADO, ALL OF WHOM WORK ONLY REMOTELY, THEN, THROUGH JULY 1, 2029, THE EMPLOYER IS ONLY REQUIRED TO PROVIDE NOTICE OF REMOTE JOB OPPORTUNITIES.

Though the coalition had to make some unwelcome concessions they also successfully staved off larger changes to the bill and maintained the integrity of bill and the coalition's original goals. Like CWBA's other major issues SB23-105 was passed in the final days of session and is still awaiting final signature from the Governor. There will also be rulemaking at



the Colorado Department of Labor and Employment regarding the changes to CEPEW. The Women's Foundation intends to keep the coalition apprised of these hearings and potential engagement. WFCO also intends to develop resources and training for both employees and employers with more information to come on those efforts.

Reproductive Health Policy

CWBA continued to elevate reproductive health as a top priority for the session by opposing several pieces of anti-choice legislation. CWBA was also among the large coalition of supporters lead by COBALT, Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR), and Planned Parenthood of the Rockies to support a package of three bills dubbed the "Safe Access to Healthcare Package" details on each measure are below.

- **SB23-188 Protections For Accessing Reproductive Health Care**
 - After the fall of Roe, states hostile to reproductive rights are not content with prohibiting abortion within their borders; they seek to impose their restrictions on all states. Similarly, we have seen a tremendous uptick in legislation targeting transgender patients and their families. This bill will shield legally-protected health care patients, providers, and helpers from criminal prosecution and imprisonment; extradition; civil lawsuits; court summons, subpoenas, and arrests; interstate investigations, divulging information, or assistance with investigations; and professional de-licensing and other discrimination.
- **SB23-189 Insurance Coverage for Reproductive Health Care**
 - Abortion coverage: the bill requires large employer plans, as of January 1, 2025, to provide coverage for the total cost of abortion services without policy deductibles, copayments, or coinsurance. Exceptions are made where the coverage is in conflict with an employer's sincerely held beliefs or the employer is a public entity prohibited by the state constitution from using public funds for this purpose. Individual and small group plans must provide this coverage if the federal HHS confirms the state's determination that the coverage is not subject to state defrayal pursuant to federal law. These provisions do not apply to a high deductive health plan, unless allowed by federal law.
 - Family-planning related services: The bill expands the Reproductive Health Care Program in the Department of Health Care Policy and Financing to include family planning-related services, which includes, but is not limited to, tobacco cessation services, cervical cancer screenings, treatment of sexually transmitted infections, and any other medical diagnosis, treatment, or preventive service routinely provided in a family planning visit.
 - Family Planning Access Collaborative: The Family Planning Access Collaborative is created in the Colorado Department of Public Health and Environment (CDPHE) to examine issues related to access to family planning services, gaps in coverage, and the confidentiality of services. The collaborative must be convened by September 1, 2023, and publish recommendations by December 15, 2023. The General Assembly must appropriate \$200,000 in FY 2023-24 for the collaborative, which is also authorized to accept gifts, grants, and donations.
- **SB23-190 Deceptive Trade Practice Pregnancy-related Service**
 - The bill makes it a deceptive trade practice to directly or indirectly advertise abortions, emergency contraceptives, or referrals for these services when the person does not provide these services. The bill also makes it unprofessional conduct for a regulated health care professional to provide, prescribe, administer or attempt medication abortion reversal.
 - In April after the bill was signed into law a Catholic health care clinic asked a federal judge to block enforcement of a Colorado law considering it a deceptive trade practice to prescribe drugs to counteract a medication abortion.



- U.S. District Judge Daniel Domenico said there was no need to block the first-of-its-kind ban because the state has said it will not enforce it for now, meaning that the center, Bella Health and Wellness, is not under any immediate threat. He did not address the merits of the case.
- The Colorado Attorney General's Office said it will not enforce the law until the state medical board creates rules addressing the issue, which must occur by October.

CWBA had six members testify during the hour's long hearings in both the House and Senate in support of the bill package. The members represented a wide range of perspectives including law students and lawyers from around the state.

We expect that reproductive health care will continue to be an active issue for CWBA as the national stage continues to change and Colorado feels the impact of the fall of *Roe v. Wade*. CWBA has also been informed that there is an appetite and intention to potentially run a constitutional amendment in 2024 to solidify access to reproductive care in the state constitution.

CWBA Level II Priority Bills

HB23-1077 Informed Consent To Intimate Patient Examinations

Sponsors: Representatives J. Willford (D) L. Garcia (D) and Senators F. Winter (D) S. Jaquez Lewis (D)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill requires health professionals, students, and trainees to obtain informed consent from sedated or unconscious patients before performing intimate examinations, unless it is medically necessary for the life or well-being of the patient. In addition to patient consent, students or trainees may only perform intimate examinations if it is related to the planned procedure to be performed, the patient has recognized them as part of the care team, and they are under direct supervision. The bill outlines the process for obtaining patient consent and subjects non-compliant professionals and health-care facilities to disciplinary action or sanctions by their regulator or the Department of Public Health and Environment (CDPHE). The bill also specifies that limitations on liability damages does not apply to violations by health professionals. Health-care facilities can develop their own consent forms or use the form to be developed by CDPHE.

HB23-1107 Crime Victim Services Funding

Sponsors: Representatives M. Duran (D) R. Pugliese (R) and Senators F. F. Winter (D) R. Gardner (R)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill continues the Crime Victim Service Fund indefinitely, which is currently scheduled to repeal on July 1, 2027. The bill also requires a transfer of \$3 million from the General Fund to the State Domestic Violence and Sexual Assault Services Fund in the Department of Human Services

HB23-1108 Crime Victim Services Funding

Sponsors: Representatives M. Duran (D) G. Evans (R) and Senators C. Hansen (D) R. Gardner (R)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill creates a task force within the Division of Criminal Justice to study requirements for judicial personnel related to victim and survivor awareness and responsiveness training. The task force has seventeen members and must meet between four and ten times between July 1, 2023, and October 15, 2023. The task force must submit a report on topics outlined in the bill by November 1, 2023.

HB23-1172 Child Welfare And Juvenile Court Jurisdiction

Sponsors: Representatives J. Parenti (D) and Senators S. Jaquez Lewis (D)



CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill expands the jurisdiction of juvenile courts in child welfare proceedings. It allows juvenile courts to make permanent allocations of parental responsibilities without a full adjudication for each parent to determine neglect or dependency. Instead, at least one parent, legal guardian, or legal custodian requires an adjudication or continued adjudication. The bill also allows juvenile courts to order name changes for children and youth in dependency and neglect cases and foster youth in transition cases, similar to district and county courts, and removes the requirement to provide public notice of name changes for children or youth who have been found to be neglected or dependent, or are being assessed for neglect or dependency.

[HB23-1178](#) Court Personnel And Domestic Violence Awareness

Sponsors: Representatives M. Froelich (D) and Senators F. Winter (D)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill creates new requirements for the courts and those involved in parental responsibility proceedings designed to improve the ability of courts to recognize and respond to child physical abuse, child sexual abuse, domestic violence, and trauma in all family victims, particularly children, and to make custody decisions that prioritize child safety and well-being and that are culturally sensitive and appropriate for diverse communities.

[HB23-1182](#) Remote Public Access To Criminal Court Proceedings

Sponsors: Representatives J. Mabrey (D) E. Epps (D) and Senators R. Fields (D) R. Gardner (R)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill requires all Colorado courts, including municipal courts, to make criminal court proceedings conducted in open court available for remote public viewing unless the courtroom does not have the technological capability to make the proceedings available to the public. Courtrooms may still exclude members of the public from viewing proceedings through a court order.

[HB23-1199](#) Forensic Medical Evidence Process Improvements

Sponsors: Representatives M. Froelich (D) M. Soper (R) and Senators F. Winter (D)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill requires the Department of Public Safety (DPS) to establish a secure statewide system that allows victims of sexual assault to monitor the status of evidence obtained from their forensic medical evidence examinations. Every state or local law enforcement agency, medical facility, crime laboratory, or other entity that supplies, performs, analyzes, stores, or destroys examinations must participate in the system. The system must track certain information about stages of evidence analysis based on whether or not the victim consents to having the evidence analyzed and must also provide victims with certain information about navigating the criminal justice system and community resources. The system must be operational by June 30, 2025. Beginning January 30, 2026, the DPS must annually report on examination data to the General Assembly. Additionally, the DPS must establish a tracking system for claims submitted to the sexual assault victim emergency (SAVE) payment program by December 31, 2024. The system must meet minimum information requirements described in the bill. Beginning January 30, 2026, the DPS must annually report on reimbursement data to the General Assembly.

[SB23-039](#) Reduce Child And Incarcerated Parent Separation

Sponsors: Representatives J. Amabile (D) and Senators J. Buckner (D)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill requires the Department of Public Safety (DPS) to establish a secure statewide system that allows victims of sexual assault to monitor the status of evidence obtained from their forensic medical evidence examinations. Every state or local law enforcement agency, medical facility, crime laboratory, or other entity that supplies, performs,



analyzes, stores, or destroys examinations must participate in the system. The system must track certain information about stages of evidence analysis based on whether or not the victim consents to having the evidence analyzed and must also provide victims with certain information about navigating the criminal justice system and community resources. The system must be operational by June 30, 2025. Beginning January 30, 2026, the DPS must annually report on examination data to the General Assembly. Additionally, the DPS must establish a tracking system for claims submitted to the sexual assault victim emergency (SAVE) payment program by December 31, 2024. The system must meet minimum information requirements described in the bill. Beginning January 30, 2026, the DPS must annually report on reimbursement data to the General Assembly.

SB23-046 Average Weekly Wage Paid Leave Benefits

Sponsors: Representatives M. Duran (D) and Senators F. Winter (D)

CWBA position: support level II – signed into law

Bill Summary: The bill requires the Division of Family and Medical Leave Insurance (FAMLI) in the Colorado Department of Labor and Employment (CDLE) to calculate a covered individual's weekly benefit amount based on the individual's average weekly wage from all jobs worked in the base period, instead of only the jobs from which the individual is taking leave.

SB23-046 Average Weekly Wage Paid Leave Benefits

Sponsors: Representatives M. Duran (D) and Senators F. Winter (D)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill requires the Division of Family and Medical Leave Insurance (FAMLI) in the Colorado Department of Labor and Employment (CDLE) to calculate a covered individual's weekly benefit amount based on the individual's average weekly wage from all jobs worked in the base period, instead of only the jobs from which the individual is taking leave.

SB23-058 Job Application Fairness Act

Sponsors: Representatives M. Young (D) J. Willford (D) and Senators J. Danielson (D) S. Jaquez Lewis (D)

CWBA position: support level II – awaiting Gov signature

Bill Summary: The bill prohibits employers from inquiring about a prospective employee's age, date of birth, and dates of attendance at or date of graduation from an educational institution on an employment application beginning July 1, 2024. The Department of Labor and Employment (CDLE) will enforce the requirement, issue warnings, and impose civil penalties upon second or subsequent violations.

HB23-1159 Family Courts Study Commission

Sponsors: Representatives S. Luck (R) and Senators M. Baisley (R)

CWBA position: active monitor – House Third Reading Lost 33-no 30-yes 2-excused

Bill Summary: The bill creates a commission to study family courts and make recommendations to the Judicial Department and the General Assembly. The commission is tasked with studying the administration and operations of family courts, as well as judicial decisions and the short-term and long-term outcomes of persons involved in family court. The commission will accept and consider written testimony, reports and research from individuals and private entities.

HB23-1097 Painkiller Administration Prior To Abortion

Sponsors: Representatives S. Luck (R) and Senators

CWBA position: oppose level II– House Committee on Health & Insurance Postpone Indefinitely

Bill Summary: The bill requires a health-care provider performing an abortion of a fetus at 20-weeks gestational age or more to administer a painkiller to the fetus prior to the abortion with certain exceptions.



HB23-1119 Abolishing Abortion In Colorado

Sponsors: Representatives S. Bottoms (R) and Senators

CWBA position: **oppose level II– House Committee on Health & Insurance Postpone Indefinitely**

Bill Summary: The bill defines "person" to include an unborn human child at all stages of gestation as it relates to a private right of action and current homicide and assault provisions. The bill requires the state to enforce homicide and assault provisions. A judge who voids or overrules any provision of the bill is subject to impeachment. The bill includes a severability clause.

HB23-1150 Provide Information On Abortion Pill Reversal

Sponsors: Representatives S. Bottoms (R) and Senators

CWBA position: **oppose level II– House Committee on Health & Insurance Postpone Indefinitely**

Bill Summary: The bill requires clinicians to provide information, prepared by the Department of Public Health and Environment (CDPHE), concerning abortion pill reversal to any woman seeking an abortion through the use of an abortion-inducing drug. The information must be provided 24 hours before the clinician prescribes or administers the abortion-inducing drug or induces the abortion. The CDPHE must maintain the information on its website and update it annually. Civil penalties, a deceptive trade practice, and professional disciplinary action may be levied or taken against any clinician who fails to provide the required information concerning abortion pill reversal. The bill includes a severability clause, and allows the General Assembly to appoint members to intervene in any lawsuit challenging the constitutionality of the act.

SB23-089 Uniform Family Law Arbitration Act

Sponsors: Representatives M. Snyder (D) and Senators R. Gardner (R)

CWBA position: **oppose level II– Senate Committee on Judiciary Postpone Indefinitely**

Bill Summary: The bill enacts the Uniform Family Law Arbitration Act to allow the use of arbitration to resolve family law disputes, with some restrictions. Specifically, arbitrators cannot grant legal separation, terminate parental rights, grant adoption of a child, determine the status of dependency, and determine child-related disputes. The bill specifies the information to be included in arbitration agreements and the process for initiating an arbitration, including filing a motion for judicial relief to the court with jurisdiction over the case. In certain circumstances, a court can determine that an arbitration should not proceed or that separate arbitrations involving the same parties be consolidated. The bill also establishes the qualifications, duties, and authority of arbitrators, as well as the rights of parties involved, including representation by an attorney. Arbitrators can allocate any fees related to the arbitration to the parties.

- CWBA had several concerns with the bill including the provision prohibiting ex-parte communications with an arbitrator, without a carve-out for the med/arb process. The med/arb process is being used to resolve both in collaborative and non-collaborative environments. This is incredibly important to reducing case filings if cases can be resolved through the med/arb process. Second, the "child related issue" provision prohibits arbitration related to any parenting time or child support disputes.
- Assuming the CWBA continues to want to engage in this policy the lobby team would suggest that time be spent following the recommendations of the uniform law commission to be better informed of any possible referred bills that may be of concern.

General Legislative Overview

The 2023 Colorado legislative session ended with partisan tensions after lawmakers were faced with trying to resolve the two biggest issues of the session in just a few days' time.

Here are the key events in the last days leading up to adjournment at 10 p.m. on May 8, 2023:



Land use defeat - The ambitious and much amended land-use bill championed by Gov. Jared Polis died on the last day of the session. The Senate had stripped the top-down, state-control provisions of the original [SB 23-213](#). House Democratic progressives restored some of those when they got their hands on the bill. The Senate refused to give in to the House changes, and the bill died. It was a major defeat for Polis, who has not seen a legislative defeat since entering office four years ago. The governor blamed loss of the bill on “special interests.” A companion bill, [HB 23-1255](#), passed without controversy. It bans cities from enacting growth limits.

Property tax relief passes— The second major end-of-session issue was property tax relief. A complicated measure, [SB 23-303](#), proposed a reduction of property tax rates with losses of local government revenues to be backfilled with diversion of some Taxpayer’s Bill of Rights surpluses. All of this will have to be approved by voters in November because it requires a change in TABOR refunds. Democrats tweaked amendments to the bill to attract the support of some local governments (i.e. fire districts), drawing Republican rhetorical scorn during debate on the final evening of the session.

The bill passed the House Monday evening without the no votes of the House’s 19 Republicans, who walked out of the chamber. The future of this measure will be one Aponte & Busam plans to watch closely, given the difficulties of presenting a very complicated measure to voters.

Senate Democrats crack down – The Senate had been largely free of the House Democratic-Republican procedural conflicts seen this session. But when Republicans threatened to slow things down Democratic leaders lowered the hammer and limited debate. That ensured the passage of [HB23-1311](#), the TABOR refund bill in the final two days of session.

The 2023 session may not have begun on a hopeful note, but it did begin with a sense of change.

In the 65-member House 30 representatives were new to the Capitol, many of them young Democratic progressives.

Republicans, contrary to some pre-election prognostications, lost seats in both chambers. The rump of 19 GOP House members warned early on that they would make things difficult for the majority.

That threat played out as the session unfolded. Republicans made long speeches on minor bills they supported, and several times delayed action by asking bills to be read aloud in their entirety. The Democratic majority leadership responded by invoking rules that limited the length of debate, something rarely done in past sessions. House GOP first timers included some hard-right representatives, most from El Paso County, who became major players in GOP delaying tactics.

Earlier in the session, Democrats pushed through GOP speech making and passed significant bill packages on gun control and protection of reproductive rights.

But House progressives had a mixed scorecard, losing bills to ban assault weapons, create fairer scheduling for workers and allow cities to permit safe drug injection sites.

Here are some of the other big issues that dominated the 2023 session:

Criminal justice - The third major debate during the closing days was over [HB 23-1249](#). Originally the bipartisan measure proposed raising the minimum age for charging youths with crimes to 13. The current age is 10. Instead of going into the criminal or juvenile court systems youth would be supervised and treated by local organizations called collaborative management programs.



The bill was considered over multiple days in the Senate and drew strong opposition from some Republicans. It finally passed Monday morning in a highly amended version that basically calls for a study of the issue. A few hours later the House agreed to the amended bill.

State Budget – Lawmakers faced a changed budget landscape in the 2023 session. Starting in the pandemic year of 2020, unexpectedly strong state revenues followed by significant federal relief funds gave legislators significant increase revenues to allocate, although spending of the federal money is time-limited.

Revenue growth has moderated going into the 2023-24 budget, and there’s no new federal money flowing. So, it was more of a “normal” budget year, although the Joint Budget Committee had sufficient resources to fund a 5 percent increase in state employee salaries, give a 3 percent increase to community providers and cover key inflationary costs for state agencies.

The full budget package, which includes more than just the long appropriations bill ([SB 23-214](#)), adds up to \$41.4 billion from all fund sources, a 4.2 percent increase. The grand total for General Fund is \$15.42 billion, a 14 percent increase.

A primary driver of the General Fund increase is the end of the enhanced federal match for Medicaid, set up during the pandemic but coming to an end. That will require the state to spend more on the medical insurance program.

The budget also includes continued startup funding for the new Department of Early Childhood and the Behavioral Health Administration. And significant increases in school district local revenues and a \$1 billion-plus balance in the State Education Fund enabled lawmakers to shrink the Budget Stabilization Factor next year and eliminate it in 2024-25.

The committee that prepared the budget had five members without prior experience on the JBC – Reps. Shannon Bird, Emily Sirota and Rob Bockenfeld and Sens. Jeff Bridges and Barbara Kirkmeyer. Only Sen. Rachel Zenzinger, the chair, had served on the committee before.

There were some clear growing pains for members during the months of briefings, hearings and votes. But members handled their toughest test – presenting the budget on the floors of the Senate and House – like veterans.

Key statistics:

- Projected GF available for spending - \$18.98 billion
- GF obligations (before amendments) - \$16.72 billion
- GF reserve - \$2.26 billion
- TABOR refunds - \$151.4 million

Other Criminal Justice – This was an active area of legislation. Bills of interest that passed include limits on use of restraints in state prisons ([HB 23-1013](#)), admissibility of juvenile statements when police lie to suspects (HB 23-1042), toughening of auto theft laws (SB 23-097) and restrictions on no-knock raids (SB 23-109). An effort to toughen fentanyl laws (SB 23-254) failed. And progressive Democrats killed a bill (SB 23-158) that would have renewed the Colorado Commission on Criminal and Juvenile Justice.

Education – Bills of note that passed included a \$41 million increase in special education funding ([SB 23-099](#)), creation of a task force to study the state accountability system ([HB 23-1241](#)), a \$27.3 million program to improve math teaching and student performance ([HB 23-1231](#)), provision of mental health screening in secondary schools ([HB 23-1003](#)) and



banning of corporal punishment in schools and childcare centers. There also were several bills passed that seek to improve adult education and workforce training.

Elections – A bill pushed by Senate President Steve Fenberg of Boulder alters the system of state reimbursement for county election costs and also makes changes in campaign spending disclosure rules, contribution limits, requirements for polling centers and drop boxes and other changes ([SB 23-276](#)).

Environment & energy – This also was a high-interest area this session. Bills that passed dealt with air-quality permits ([HB 23-1294](#), much amended), tighter utility regulation of utilities and limits on which rate-case expenses can be passed on to customers ([SB 23-291](#)), reduction of greenhouse gas emissions ([SB 23-016](#)), energy standards for appliances ([HB 23-1161](#)), expanding the role and changing the name of the oil and gas conservation commission ([SB 23-285](#)) and creation of a task force to study Colorado River issues ([SB 23-295](#)). Lawmakers also passed a number of wildfire mitigation and suppression bills and approved purchase of a second Fire Hawk helicopter.

Gun Violence Prevention – This was the first hot issue of the session. Measures that passed included creation of a waiting period for delivery of firearms purchases ([HB 23-1219](#)), strengthening the red flag law ([SB 23-170](#)), increasing the minimum age to buy firearms ([SB 23-169](#)), making it easier to sue gun manufacturers ([SB 23-168](#)) and cracking down on “ghost guns ([SB 23-279](#)). But a proposed ban on assault weapons failed in committee with bipartisan opposition ([HB 23-1230](#)).

Health care costs – Hospital costs were a major focus in this area and included measures to establish corrective action procedures for hospitals that fail to meet the minimum community investment thresholds ([HB 23-1243](#)), some restrictions on hospital outpatient facility fees ([HB 23-1215](#)) and hospital and medical cost transparency ([HB 23-1226](#) and [SB 23-252](#)) and regulation of psychedelic mushrooms ([SB 23-290](#)). 3 percent medical debt [SB 23-093](#).

Housing – Beyond the late-breaking land use bill, the legislative calendar was full of other housing measures. A ban on municipal growth limits passed without much controversy ([HB 23-1255](#)), but a proposal to allow local governments to impose rent controls failed ([HB 23-1115](#)). There were a variety of renters’ rights bills, including some restrictions on landlords (HB 23-1095 and SB 23-184), eviction protections ([HBs 23-1120](#) and [1171](#)) and habitability requirements ([HB 23-1171](#)).

Reproductive rights – The session’s second big controversy after gun control was abortion. Majority Democrats efficiently pushed through bills to expand access to reproductive health services ([SB 23-189](#)), strengthen legal protections for reproductive health care providers ([SB 23-188](#)) and provide stronger regulation of agencies that counsel against abortions. That latter measure already is facing a court challenge.

School funding – The annual school finance act ([SB 23-287](#) this year) set Total Program Funding for school districts at \$9.1 billion, an increase of about \$670 million, funded almost entirely by dramatic increases in local property tax revenues. Base per pupil funding increases by \$598.25, to \$8,076.41, an 8 percent inflation increase. Average per-pupil funding is estimated at \$10,579. On top of TPR, rural districts will receive an additional \$30 million.