



Dear Members of the Colorado Supreme Court:

On behalf of AAUW-American Association of University Women, Littleton South-Metro branch, we submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses.

The American Association of University Women (AAUW) is one of the oldest women's organizations in the country, empowering women since 1881. The mission of AAUW is to advance equity for women and girls through research, education, and advocacy. AAUW of Colorado branches represent over 700 community leaders as members.

AAUW Littleton South-Metro branch has become aware that the current rules and proposed changes to the Rules Governing Lawyer Discipline fail to recognize the serious nature of sexual offenses and the reality that the majority of sexual offenses are not reported, and when they are, rarely result in convictions. Attorneys must be held to high ethical standards given the power, trust, and authority that their position holds within our society. The Rule of Limitation in C.R.C.P. 242.12 and definition of "serious crimes" in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system.

The current proposed changes to Rule 242.12 are too narrow as they do not allow regulation counsel to initiate an investigation into conduct discovered more than five years prior. This ignores the very real, documented experience of delayed reporting for sexual abuse survivors, especially those who are abused before adulthood. Evidence shows that children who are sexually abused typically wait decades to disclose the abuse due to fear, guilt, shame, trauma response, or inability to fully understand or have the language to describe the abuse.¹

Meanwhile, nearly 70% of sexual violence survivors do not choose to report to law enforcement—often because they do not think they will be believed, fear retaliation, lack trust in the justice system, or want to focus on healing rather than potentially experiencing additional trauma from reporting.² For these reasons, the state of Colorado has recognized the need to give survivors time to come forward and allow them pathways to justice and accountability when they are ready through passing legislation that removes time limitations for claims arising out of sexual misconduct (see C.R.S. 13-80-103.7). The Colorado Supreme Court should avoid undermining this progress and the healing and courage of survivors by adding the following underlined text into the proposed Rule 242.12 to ensure that licensed attorneys cannot evade accountability for complaints regarding sexual offenses due to an arbitrary timeline:

Rule 242.12. Rule of Limitation

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² *Statistics: The Criminal Justice System*, RAINN, <https://rainn.org/facts-statistics-the-scope-of-the-problem/statistics-the-criminal-justice-system/>

- (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, conduct constituting unlawful sexual behavior, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

Additionally, the definition of “serious crimes” in Rule 241 remains unchanged in the current proposed rules. This definition fails to include sexual offenses that do not result in a felony conviction, even if the attorney had used their position to commit the crime. As noted above, many sexual offenses go unreported; yet, those that are reported are unlikely to result in a felony conviction even if the conduct reaches a felony-level crime. In 2019, only sixteen percent of sexual assaults reported to law enforcement in Colorado resulted in an arrest.³ Fewer still face charges, prosecution, and conviction. The Colorado Supreme Court should change Rule 241 to ensure the limitations of the justice system do not get in the way of upholding the ethics and integrity required by attorneys by adding the following underlined text:

Rule 241 Terminology

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Sexual offenses are, by nature, an abuse of power and a violation of another person’s autonomy. They must be taken seriously, especially when committed by an attorney who wields significant power and legal authority, perhaps more so than other professions who are held to higher standards, such as real estate professionals. The current rules and proposed changes remain outdated and ignore nationally recognized research showing that sexual assault is underreported and, for child survivors, reporting is significantly delayed.⁴ For these reasons, AAUW of Colorado urges the Court to adopt the additions recommended above to protect the safety and trust of all Coloradans.

Sincerely,



Mary Lou Iverson, Co-President



Sandra Thurmond, Co-President

AAUW-American Association of University Women, Littleton South-Metro Branch

³ *Sexual Assaults Recorded by Law Enforcement, 2019: Colorado*, Bureau of Justice Statistics, US Department of Justice <https://bjs.ojp.gov/nibrs/reports/sarble/sarble19>

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Dear Members of the Colorado Supreme Court:

On behalf of AAUW-American Association of University Women, Durango Branch, I submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses.

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Sincerely,



Maria Doucette

Public Policy Chair

AAUW-American Association of University Women, Durango Branch

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Dear Members of the Colorado Supreme Court:

On behalf of AAUW (American Association of University Women) Lakewood Branch, I submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses.

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AAUW Lakewood Branch has become aware that the current rules and proposed changes to the Rules Governing Lawyer Discipline fail to recognize the serious nature of sexual offenses and the reality that the majority of sexual offenses are not reported, and when they are, rarely result in convictions. Attorneys must be held to high ethical standards given the power, trust, and authority that their position holds within our society. The Rule of Limitation in C.R.C.P. 242.12 and definition of “serious crimes” in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system.

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Gail Hoffman
Co-President
AAUW-American Association of University Women, Lakewood Branch

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Dear Members of the Colorado Supreme Court:

On behalf of AAUW-American Association of University Women, Grand Junction Branch, I submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses.

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AAUW Grand Junction branch has become aware that the current rules and proposed changes to the Rules Governing Lawyer Discipline fail to recognize the serious nature of sexual offenses and the reality that the majority of sexual offenses are not reported, and when they are, rarely result in convictions. Attorneys must be held to high ethical standards given the power, trust, and authority that their position holds within our society. The Rule of Limitation in C.R.C.P. 242.12 and definition of "serious crimes" in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system.

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M. Jane Fitzgerald

President

AAUW-American Association of University Women, Grand Junction Branch

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Hon. Su Ryden
State Advocacy Director
AAUW-American Association of University Women of Colorado
aauw-co-aauw.net

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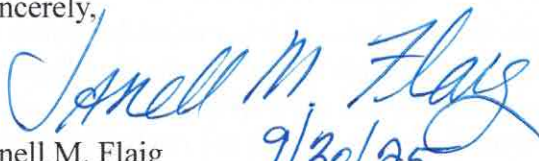
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9/30/25

Janell M. Flaig
Co-President

AAUW-American Association of University Women, Longmont Branch

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Public Testimony on Colorado Rule 242 Revisions

Good morning, Justices and members of the Committee.

My name is Judi Atwood, and I appear today as a Colorado parent and citizen who has witnessed firsthand how gaps in our attorney discipline system harm families.

The proposed revisions to Rule 242 strengthen procedures around diversion, interim suspensions, and public access, but they still miss one critical safeguard: the ability to order a narrowly tailored, independent psychological fitness evaluation when an attorney's behavior raises serious red flags.

I want to be very clear: I am not advocating for blanket testing of all attorneys. That would be unfair and discriminatory. But I cannot ignore the double standard that already exists in our courts. Parents in family court are routinely forced to submit to psychological evaluations — often without objective evidence, sometimes simply because one side demands it. These evaluations are invasive, costly, and can determine the course of a family's future.

If parents must prove their psychological fitness just to raise their own children, why do we exempt attorneys — who hold clients' homes, children, and futures in their hands — from any similar safeguard, even when their own behavior shows repeated misconduct?

What I propose is not arbitrary. It is a targeted system based on objective triggers: repeated findings of dishonesty, failure to produce trust-account records, breach of a diversion agreement, reciprocal discipline combined with new misconduct, or a petition for interim suspension supported by facts.

These are clear, behavior-based signals that a lawyer's current functional capacity should be evaluated, just as parents are required to prove their fitness every day in our courts.

This approach protects the public while respecting attorneys' due process and ADA rights. Evaluations would be confidential, limited to present ability to practice law competently and ethically, and ordered only when objective thresholds are met.

Without this safeguard, Rule 242 risks leaving the public unprotected from a small minority of attorneys who display dangerous patterns of misconduct but avoid accountability through diversions, delays, or secrecy.

Colorado has the chance to lead the nation in bringing transparency, accountability, and safety into attorney regulation. Rules mean little if they cannot prevent foreseeable harm. By adding a targeted Independent Fitness Evaluation mechanism, you will strengthen both public trust and the integrity of the profession.

Thank you for your time and consideration.

Cover Note: Why Add Independent Fitness Evaluations to Rule 242?

Colorado's proposed revisions to Rule 242 (discipline of attorneys) provide for diversion, interim suspension, hearings, and expungement. However, the rules contain no authority to order an independent psychological evaluation of attorneys whose behavior demonstrates serious risk to the public. This cover note explains why adding a narrowly tailored provision for Independent Fitness Evaluations strengthens public protection while respecting due process and ADA rights.

Key Problem Areas in Current Rule 242:

- Repeated dishonesty findings and diversion breaches can occur without triggering a formal review of an attorney's current functional capacity.
- Trust-account failures (missing or withheld records) can continue until harm is irreversible.
- Interim suspension requires 'reasonable cause,' but does not include a tool to assess whether the lawyer is currently fit to practice.

Proposed Solution:

Insert a new subsection 242.16(h) that authorizes Independent Fitness Evaluations only when specific, objective triggers are met (e.g., repeated dishonesty findings, diversion breaches, trust-account failures, reciprocal discipline with similar allegations, or interim suspension petitions).

Public Benefits:

- Stronger protection for clients and families without blanket testing.
- Transparent, objective triggers prevent arbitrary use of evaluations.
- Confidentiality preserved under Rule 242.41 unless the matter is already public.
- ADA-compliant focus: evaluates current functional ability, not past diagnoses.

In short: Rules are meaningless if they cannot prevent foreseeable harm. Adding a narrow, evidence-based evaluation mechanism empowers the Regulation Committee to protect the public, without infringing on rights or imposing unnecessary burdens on the bar.

Proposed Amendments to Colorado Rule 242

Rule 242.16. Determination by Regulation Committee

(add new subsection (h))

(h) Independent Fitness Evaluation.

Objective Triggers. Upon a finding that one or more of the following triggers are present, the Regulation Committee may order an independent psychological fitness evaluation of the lawyer:

(A) Two or more sustained findings within five years involving dishonesty, fraud, or misrepresentation.

(B) Failure to produce trust-account records required under Colo. RPC 1.15D after written request or discovery.

(C) Breach of a diversion agreement approved under Rule 242.17.

(D) A petition for interim suspension filed under Rule 242.22 that is supported by reasonable cause to believe misconduct occurred.

(E) Reciprocal public discipline in another jurisdiction, coupled with a new request for investigation in Colorado alleging substantially similar conduct within three years.

Scope of Evaluation. The evaluation must be narrowly tailored to determine the lawyer's current functional ability to practice law competently, ethically, and responsibly. The evaluation may not inquire into past diagnoses or treatment history beyond what is necessary to assess present capacity.

Evaluator. The evaluation must be performed by a licensed psychologist or psychiatrist appointed from a court-approved panel. Costs may be assessed consistent with Rule 242.36.

Confidentiality. Reports and related materials are confidential and may only be disclosed as provided in Rule 242.41 or by protective order of the Presiding Disciplinary Judge.

Due Process. The lawyer may move to quash or limit the scope of the evaluation. The Presiding Disciplinary Judge will decide such motions and may issue protective orders as appropriate.

Rule 242.22. Interim Suspension for Alleged Serious Disciplinary Violations

(add cross-reference at end of subsection (a)):

"The Regulation Committee may also consider whether an Independent Fitness Evaluation under Rule 242.16(h) is warranted."

Rule 242.30. Evidence

(add to comment section):

"Adverse inferences permitted under Rule 242.30 for failure to produce required trust-account records may also serve as an objective trigger for an Independent Fitness Evaluation under Rule 242.16(h)."

Rule 242.41. Access to Information

(add subsection (g)):

“Independent Fitness Evaluations ordered under Rule 242.16(h) are confidential unless and until the matter becomes public under Rule 242.41(a), or as otherwise ordered by the Presiding Disciplinary Judge.”

■ Why This Works

Integrates smoothly into existing structure (242.16 authority, 242.22 suspension, 242.30 evidence, 242.41 confidentiality).

Protects ADA rights by focusing on current functional capacity, not diagnosis.

Adds clear, objective triggers — limiting discretion and ensuring evaluations aren't arbitrary.

Keeps confidentiality consistent with Rule 242.41.



September 25, 2025

Dear Members of the Colorado Supreme Court:

On behalf of the Colorado Coalition Against Sexual Assault (CCASA), I submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses. CCASA is a statewide nonprofit organization that was founded in 1984 to be the collective voice of rape crisis advocates. Today, CCASA supports our members, partners, and the broader community through leadership, advocacy, and support to address and prevent sexual violence. CCASA has become aware that the current rules and proposed changes to the Rules Governing Lawyer Discipline fail to recognize the serious nature of sexual offenses and the reality that the majority of sexual offenses are not reported, and when they are, rarely result in convictions. Attorneys must be held to high ethical standards given the power, trust, and authority that their position holds within our society. The Rule of Limitation in C.R.C.P. 242.12 and definition of “serious crimes” in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system.

The current proposed changes to Rule 242.12 are too narrow as they do not allow regulation counsel to initiate an investigation into conduct discovered more than five years prior. This ignores the very real, documented experience of delayed reporting for sexual abuse survivors, especially those who are abused before adulthood. Evidence shows that children who are sexually abused typically wait decades to disclose the abuse due to fear, guilt, shame, trauma response, or inability to fully understand or have the language to describe the abuse.¹ Meanwhile, nearly 70% of sexual violence survivors do not choose to report to law enforcement—often because they think they will not be believed, fear retaliation, lack trust in the justice system, or want to focus on healing rather than potentially experiencing additional trauma from reporting.² For these reasons, the state of Colorado has recognized the need to give survivors time to come forward and allow them pathways to justice and accountability when they are ready by passing legislation that removes time limitations for claims arising out of sexual misconduct (see C.R.S. 13-80-103.7). The Colorado Supreme Court should avoid undermining this progress and the healing and courage of survivors by adding the following underlined text into the proposed Rule 242.12 to ensure that licensed attorneys cannot evade accountability for complaints regarding sexual offenses due to an arbitrary timeline:

Rule 242.12. Rule of Limitation

- (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives

notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, conduct constituting unlawful sexual behavior, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

Additionally, the definition of “serious crimes” in Rule 241 remains unchanged in the current proposed rules. This definition fails to include sexual offenses that do not result in a felony conviction, even if the attorney had used their position to commit the crime. As noted above, many sexual offenses go unreported; yet, those that are reported are unlikely to result in a felony conviction even if the conduct reaches a felony-level crime. In 2019, only sixteen percent of sexual assaults reported to law enforcement in Colorado resulted in an arrest.³ Fewer still face charges, prosecution, and conviction. The Colorado Supreme Court should change Rule 241 to ensure the limitations of the justice system do not get in the way of upholding the ethics and integrity required by attorneys by adding the following underlined text:

Rule 241 Terminology

“Serious crime” means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; any conduct which constitutes unlawful sexual behavior pursuant to C.R.S. 16-22-102(9); an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.

Sexual offenses are, by nature, an abuse of power and a violation of another person’s autonomy. They must be taken seriously, especially when committed by an attorney who wields significant power and legal authority, perhaps more so than other professions who are held to higher standards, such as real estate professionals. The current rules and proposed changes remain outdated and ignore nationally recognized research showing that sexual assault is underreported and, for child survivors especially, reporting is significantly delayed.⁴ For these reasons, CCASA urges the Court to adopt the additions recommended above to protect the safety and trust of all Coloradans.

Sincerely,



Brie Franklin
Executive Director

¹ *Delayed Disclosure*, CHILD USA, 2024 Fact Sheet. <https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf>

² *Statistics: The Criminal Justice System*, RAINN. <https://rainn.org/facts-statistics-the-scope-of-the-problem/statistics-the-criminal-justice-system/>

³ *Sexual Assaults Recorded by Law Enforcement, 2019: Colorado*, Bureau of Justice Statistics, US Department of Justice. <https://bjs.ojp.gov/nibrs/reports/sarble/sarble19>

⁴ *Delayed Disclosure*, CHILD USA. The US Department of Justice estimates that 86% of childhood sexual abuse went unreported to adulthood.



Dear Members of the Colorado Supreme Court:

On behalf of the Colorado Organization for Victim Assistance (COVA), I submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses. COVA is a statewide coalition supporting victims and survivors of all crimes and the professionals serving them. COVA has become aware that the current rules and proposed changes to the Rules Governing Lawyer Discipline fail to recognize the serious nature of sexual offenses and the reality that the majority of sexual offenses are not reported, and when they are, rarely result in convictions. Attorneys must be held to high ethical standards given the power, trust, and authority that their position holds within our society. The Rule of Limitation in C.R.C.P. 242.12 and definition of “serious crimes” in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system.

The current proposed changes to Rule 242.12 are too narrow as they do not allow regulation counsel to initiate an investigation into conduct discovered more than five years prior. This ignores the very real, documented experience of delayed reporting for sexual abuse survivors, especially those who are abused before adulthood. Evidence shows that children who are sexually abused typically wait decades to disclose the abuse due to fear, guilt, shame, trauma response, or inability to fully understand or have the language to describe the abuse.¹ Meanwhile, nearly 70% of sexual violence survivors do not choose to report to law enforcement—often because they do not think they will be believed, fear retaliation, lack trust in the justice system, or want to focus on healing rather than potentially experiencing additional trauma from reporting.² For these reasons, the state of Colorado has recognized the need to give survivors time to come forward and allow them pathways to justice and accountability when they are ready through passing legislation that removes time limitations for claims arising out of sexual misconduct (see C.R.S. 13-80-103.7). The Colorado Supreme Court should avoid undermining this progress and the healing and courage of survivors by adding the following underlined text into the proposed Rule 242.12 to ensure that licensed attorneys cannot evade accountability for complaints regarding sexual offenses due to an arbitrary timeline:

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**1325 S. Colorado Blvd, Suite 508B
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Phone: 303-861-1160
Toll free: 800-261-2682
Fax: 303-861-1265
www.ColoradoCrimeVictims.org**

¹ *Delayed Disclosure*, CHILD USA, 2024 Fact Sheet <https://childusa.org/wp-content/Disclosure-2024.pdf>

² *Statistics: The Criminal Justice System*, RAINN, <https://rainn.org/facts-statistics-t/problem/statistics-the-criminal-justice-system/>

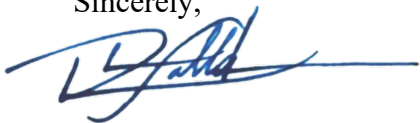
Additionally, the definition of “serious crimes” in Rule 241 remains unchanged in the current proposed rules. This definition fails to include sexual offenses that do not result in a felony conviction, even if the attorney had used their position to commit the crime. As noted above, many sexual offenses go unreported; yet those that are reported are unlikely to result in a felony conviction even if the conduct reaches a felony-level crime. In 2019, only sixteen percent of sexual assaults reported to law enforcement in Colorado resulted in an arrest.³ Fewer still face charges, prosecution, and conviction. The Colorado Supreme Court should change Rule 241 to ensure the limitations of the justice system do not get in the way of upholding the ethics and integrity required by attorneys by adding the following underlined text:

Rule 241 Terminology

“Serious crime” means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; any conduct which constitutes unlawful sexual behavior pursuant to C.R.S. 16-22-102(9); an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.

Sexual offenses are, by nature, an abuse of power and a violation of another person’s autonomy. They must be taken seriously, especially when committed by an attorney who wields significant power and legal authority, perhaps more so than other professions who are held to higher standards, such as real estate professionals. The current rules and proposed changes remain outdated and ignore nationally recognized research showing that sexual assault is underreported and, for child survivors, reporting is significantly delayed.⁴ For these reasons, COVA urges the Court to adopt the additions recommended above to protect the safety and trust of all Coloradans.

Sincerely,



Robert Fallbeck
Executive Director
Colorado Organization for Victim Assistance

³ *Sexual Assaults Recorded by Law Enforcement, 2019: Colorado*, Bureau of Justice Statistics, US Department of Justice <https://bjs.ojp.gov/nibrs/reports/sarble/sarble19>

⁴ *Delayed Disclosure*, CHILD USA. The US Department of Justice estimates that 86% of childhood sexual abuse went unreported to adulthood.

Aimee Jensen
Fort Collins, CO
aajensenftc@gmail.com
970-222-7304

October 12, 2025

Office of Attorney Regulation Counsel
Colorado Supreme Court
1300 Broadway, Suite 500
Denver, CO 80203

Re: Request for Mandatory Disbarment in Cases of Attorney Sexual Misconduct

Dear Members of the Office of Attorney Regulation Counsel,

I am writing to respectfully urge the Colorado Supreme Court and the Office of Attorney Regulation Counsel to strengthen disciplinary measures regarding attorneys found guilty of sexual misconduct. Specifically, I propose that **any substantiated finding of sexual misconduct following a completed investigation be classified as a serious crime requiring mandatory disbarment.**

I find it unconscionable under the current laws a lawyer can be disciplined for shoplifting that occurred 25 years ago but cannot be disciplined for inappropriately touching a child that occurred 6 years ago.

Attorneys hold a position of public trust and wield significant influence in the lives of those they represent. Sexual misconduct, whether against clients, colleagues, or others, fundamentally violates the ethical standards and professional integrity upon which the legal profession is built. To allow attorneys who have committed such acts to retain their licenses undermines confidence in the justice system and retraumatizes victims who rely on that system for fairness and protection.

While I recognize that due process and thorough investigation are critical to maintaining justice, once misconduct is proven, the consequence should be absolute. A clear, consistent policy of disbarment in all verified cases of sexual misconduct would send a strong message that the legal profession in Colorado stands firmly against abuse of power and exploitation in any form.

I deeply appreciate the important work your office performs to uphold the integrity of the legal profession. I respectfully ask that this issue receive the serious consideration it deserves and that necessary policy or rule changes be implemented to ensure accountability and restore public trust.

Thank you for your time, your service, and your continued commitment to justice and ethics.

Sincerely,
Aimee Jensen

LATHROP LAW OFFICE

A PROFESSIONAL CORPORATION

DIANE M. LATHROP

JENNIFER S. EASTERDAY

THE OPERA GALLERIA BUILDING
123 NORTH COLLEGE AVENUE, SUITE 330
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TELEPHONE (970) 484-5858
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www.lathroplawoffice.com

September 9, 2025

Via Email supremecourtrules@judicial.state.co.us

Dear Members of the Colorado Supreme Court:

I am a licensed attorney in Colorado and have been since 1986. I have been practicing family law for the past 35+ years. I recently learned that a lawyer in my community was allowed to retain his law license after pleading guilty to unlawful sexual contact and being required to register as a sex offender. Practicing family laws means that I have many clients who have been sexually abused and so I have first-hand knowledge of how devastating it is, even many years after the abuse occurred. Even if sexual abuse has not happened to the client themselves, many clients have family and friends who have suffered from abuse. An attorney with a sexual offense conviction who is required to register as a sex offender, should not be allowed to retain their license and represent clients. Many divorce clients would be extremely upset, probably even emotionally triggered, to learn that the attorney across the desk from them has been convicted of such a horrendous crime.

I am embarrassed and offended that the Colorado's Rules of Professional Conduct allow this circumstance to exist. The general public already has a poor opinion of the legal profession and allowing a convicted registered sex offenders to remain licensed tarnishes all attorneys as well as the judiciary. This must be changed to ensure that the public has confidence that we really do police our profession by holding attorneys to the highest moral and ethical standards.

The current Colorado Rules of Civil Procedure are inadequate as they do not protect the public from hiring Colorado attorneys who have committed sexual misconduct. In addition, the proposed changes to the Rules Governing Lawyer Discipline are inadequate. Rules 241 and 242.12, C.R.C.P. should be changed as follows:

- "Serious crime" means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; **ANY CONDUCT WHICH CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR PURSUANT TO CRS 16-22-102(9)**, an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.

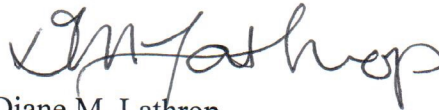
- (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, **ANY CONDUCT WHICH CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR PURSUANT TO CRS 16-22-102(9)**, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

There should be no rule of limitation applicable to reports of sexual misconduct by a licensed attorney.

Thank you in advance for your serious consideration of this very important and necessary Rule change.

Sincerely,

LATHROP LAW OFFICE, P.C.

A handwritten signature in dark ink, appearing to read "D. M. Lathrop", written in a cursive style.

Diane M. Lathrop
Attorney at Law

Ian D. McCargar

4742 Glen Isle Drive
Loveland, CO 80538
970-231-7363
ianmccargar@gmail.com

August 29, 2025

VIA ELECTRONIC MAIL - - supremecourtrules@judicial.state.co.us

Colorado Supreme Court
Ralph L. Carr Judicial Center
2 East 14th Avenue
Denver, CO 80203

Re: Proposed changes to Rule 242.12, Rules of Professional Conduct

Dear Members of the Colorado Supreme Court:

I am a Colorado licensed attorney. I have been licensed since May, 1982, practicing primarily in Northern Colorado. I recently learned that a lawyer in my community was exempted from discipline after pleading guilty to unlawful sexual contact and being required to register as a sex offender. The Rules' current definitions and limitation period are to blame.

The current Colorado Rules of Civil Procedure do not protect the public from Colorado attorneys who have committed sexual misconduct. Sexual misconduct is often concealed, and its victims are reluctant to report until time passes. Criminal limitations periods have been eased in recent years to acknowledge these realities. The Court's attorney disciplinary rules should keep up with the times.

Rules 241 and 242.12, C.R.C.P. should be changed to add the upper-case text as follows:

- Rule 241, Terminology: "Serious crime" means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; ANY CONDUCT WHICH CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR PURSUANT TO CRS 16-22-102(9), an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.
- Rule 242 (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, ANY CONDUCT WHICH CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR PURSUANT TO CRS 16-22-102(9), or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

Colorado Supreme Court
August 29, 2025
Page Two

No rule of limitation should be applicable to discipline arising out of reports of sexual misconduct against a licensed attorney. In the most-recent case, the attorney's misconduct was sheltered by supervising attorneys for years until the victim had the courage to step forward and pursue both civil and criminal remedies.

Please consider the foregoing when evaluating changes to the rules applicable to these circumstances. Colorado deserved better from our profession.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ian D. McCargar', written over a horizontal line.

Ian D. McCargar

ROCKY MOUNTAIN
victim law center

October 17, 2025

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

VIA Email Only to: supremecourtrules@judicial.state.co.us

Dear Members of the Colorado Supreme Court:

I am submitting this letter on behalf of Rocky Mountain Victim Law Center (RMvlc) to urge you to make important changes to the Rules Governing Lawyer Discipline that will address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses.

RMvlc is a non-profit law firm that has provided free legal services to crime victims, including many victims and survivors of sexual offenses, across Colorado for more than 15 years. Our mission is to elevate victims' voices, champion their rights, and transform the systems impacting them. Fundamental to RMvlc's services is ensuring access to justice and meaningful legal remedies for victims of all crimes, no matter what legal system or adjudicative process they choose to engage with, including in criminal cases, Title IX proceedings, administrative law, and civil proceedings.

Colorado has consistently demonstrated a robust commitment to preventing and addressing sexual offenses, and it is imperative that this commitment is also reflected in the Rules Governing Lawyer Discipline.

According to the Colorado Bureau of Investigation, there were 6,098 non-consensual sex offenses reported in Colorado in 2024¹. However, Bureau of Justice Statistics data shows victims of violent crime report to law enforcement only 48% of the time². For sexual offenses, research shows these

¹ Colorado Crime Stats, *Violent Crime 2024*, Colorado Bureau of Investigation, available at <https://coloradocrimestats.state.co.us/tops/report/violent-crimes/colorado/2024>.

² Tapp, S.N. & Coen, E.J. (2024). *Criminal Victimization*, 2024. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ 310547

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victim law center

reporting rates are even lower, with only about 5%-20% of rapes reported to law enforcement³. Sexual misconduct is not limited to criminal violations, however. In the context of education, 44.7% of college students surveyed reported experiencing sexual misconduct victimization, but only 19.85% of those incidents were reported to Title IX⁴. And in the context of housing, sexual harassment is widely underreported, with only 1 in 10 victims reporting harassment by landlords.⁵

Given the abysmal reporting rate of sexual offenses, it is even more imperative that a broad range of remedies to address sexual misconduct exists, including in the context of lawyer discipline. The reporting of criminal activity is an issue of public significance. *Lawson v. Stow*, 327 P.3d 340, 347 (Colo. App. 2014). Further, there is a “strong public interest” in regulating professions and businesses that require a license to practice. *State Bd. Of Chiropractic Examiners v. Stjernholm*, 935 P.2d 959, 969 (Colo. 1997)(citing *Kourlis v. District Ct.*, 930 P.2d 1329 (Colo. 1997) and *Colo. Chiropractic Ass’n v. State*, 467 P.2d 795 (Colo. 1970).

Colorado’s commitment to reduce and respond to sexual violence is reflected throughout its statutes. Sexual assault crimes are the only crimes in Colorado that provide for alternative reporting procedures, including anonymous and medical-only reports, along with the option to make a more traditional report to law enforcement. C.R.S. § 18-3-407.5. There are important “rape shield” protections in both criminal and civil cases., C.R.S. § 18-3-407, C.R.S. § 13-25-138. Colorado has the Sex Offender Lifetime Supervision Act (C.R.S. § 18-1.3-1001) and Sex Offender Management Board, (C.R.S. § 16-11.7-101), which both recognize the importance of ongoing treatment and supervision for sex offenders to prevent them from reoffending. Survivors of sexual violence also have a separate standard for protection orders. C.R.S. § 13-14-106(1)(a). In the family law context, there are specific protections related to children conceived as the result of sexual assault. C.R.S. § 19-5-103. Colorado statutes prohibit sexual harassment and retaliation in the workplace (C.R.S. § 24-34-402(1)(a,e), in schools (C.R.S. § 22-1-143), and under Colorado Fair Housing Act (C.R.S. § 24-34-502(1)(a)(I)). However, this commitment is not equally reflected in the Rules Governing Lawyer Discipline.

³ Lonsway, K.A. & Archambault, J. (2012) *The “Justice Gap” for Sexual Assault Cases: Future Directions for Research and Reform*, Violence Against Women, 145-168.

⁴ Tara N. Richards & Brittany E. Hayes, *Examining the prevalence of experiencing sexual misconduct and reporting to Title IX and counseling services across student race/ethnicity: Findings from the 2019 Association of American Universities survey*, 166 (Aug. 30, 2023), <https://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12640>.

⁵ Rigel C. Oliveri, *Sexual Harassment of Low-Income Women by Landlords*, 21:3 U.S. Dep’t of Hous. & Urb. Dev., Cityscape, 261, 273 (2019)



C.R.C.P. 242.12 fails to recognize the serious nature of sexual offenses. The Rule of Limitation in C.R.C.P. 242.12 and definition of “serious crimes” in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system. Attorneys, like everyone else in Colorado, must be held to high ethical standards, particularly given the power, trust, and authority that their positions hold within our society.

The current proposed changes to Rule 242.12 are too narrow as they do not allow regulation counsel to initiate an investigation into conduct discovered more than five years prior. This ignores the very real, documented experience of delayed reporting for sexual abuse survivors, especially those who are abused before adulthood. Evidence shows that children who are sexually abused typically wait decades to disclose the abuse due to fear, guilt, shame, trauma response, or inability to fully understand or have the language to describe the abuse.⁶ Meanwhile, nearly 70% of sexual violence survivors do not choose to report to law enforcement—often because they do not think they will be believed, fear retaliation, lack trust in the justice system, or want to focus on healing rather than potentially experiencing additional trauma from reporting.⁷ “For some survivors simply participating in the [legal] process can be as painful and damaging as the crime itself.” Katirai, N. (2020). *Retraumatized in Court*, 62 ARIZ. L. REV. 81, 88.

The Colorado Supreme Court should avoid undermining the progress our state has made in recognizing and responding to sexual violence by ensuring attorneys cannot evade accountability for complaints regarding sexual offenses due to an arbitrary timeline. Accordingly, I ask you to add the following underlined text into the proposed Rule 242.12.

Rule 242.12. Rule of Limitation

- (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud,

⁶ *Delayed Disclosure*, CHILD USA, 2024 Fact Sheet <https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf>

⁷ *Statistics: The Criminal Justice System*, RAINN, <https://rainn.org/facts-statistics-the-scope-of-the-problem/statistics-the-criminal-justice-system/>

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victim law center

conversion, conduct constituting unlawful sexual behavior, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

Additionally, the definition of “serious crimes” in Rule 241 remains unchanged in the current proposed rules. This definition fails to include sexual offenses that do not result in a felony conviction, even if the attorney used their position to commit the crime. As noted above, many sexual offenses go unreported; yet, those that are reported are unlikely to result in a felony conviction even if the conduct reaches a felony-level crime. Despite 6,098 sex offenses being reported in 2024, only 1,725 sex offense cases were filed in District Courts in FY24⁸. Fewer still face charges, prosecution, and conviction. “[O]f 100 forcible rapes that are committed, approximately 5 to 20 will be reported, 0.4 to 5.4 will be prosecuted, and 0.2 to 5.2 will result in a conviction. Only 0.2 to 2.9 will yield a felony conviction. Then an estimated 0.2 to 2.8 will result in incarceration of the perpetrator, with 0.1 to 1.9 in prison and 0.1 to 0.9 in jail.” Lonsway and Archambault, p.157. The Colorado Supreme Court should change Rule 241 to ensure the limitations of the justice system do not get in the way of upholding the ethics and integrity required by attorneys by adding the following underlined text:

Rule 241 Terminology

“Serious crime” means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; any conduct which constitutes unlawful sexual behavior pursuant to C.R.S. 16-22-102(9); an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.

Colorado’s legislature has repeatedly recognized the harmful impact of sexual offenses. In 2024, rape shield laws were expanded, it was noted that: “(a) sexual violence is a significant public safety and health concern in Colorado...(e)sexual crimes are the most unreported crimes due to many factors, including fear of retaliation, feelings of shame, self-blame, fear of blame, fear of disbelief, fear of the criminal justice process, and complex trauma... (f) The successful prosecution of sexual offenders is abysmally low due to societal myths about sexual crimes resulting in victim blaming, as well as the high rate of victims opting not to participate in the criminal justice system because of a lack of protection from harassment and humiliation...”. 2024 Colo. HB 1072. Sexual offenses are, by nature, an abuse of power and a violation of another person’s autonomy. They must be

⁸ Colorado Judicial Branch, Annual Statistical Report, Fiscal Year 2024, Table 19, available at <https://www.coloradojudicial.gov/annual-statistical-reports>.



taken seriously, especially when committed by an attorney who wields significant power and legal authority, perhaps more so than other professions who are held to higher standards, as noted in *State Bd. Of Chiropractic Examiners v. Stjernholm*, 935 P.2d 959, 969 (Colo. 1997).

The current rules and proposed changes remain outdated and ignore Colorado's public policy interests related to sex offenses. For these reasons, Rocky Mountain Victim Law Center urges the Court to adopt the additions recommended above to protect the safety and trust of all Coloradans.

Sincerely,

A handwritten signature in black ink that reads "Emily Tofte Nestaval". The signature is written in a cursive, flowing style.

Emily Tofte Nestaval, MSW

Executive Director

emily@rmvictimlaw.org

303-295-2001 x 105

www.rmvictimlw.org



Alexander R. Rothrock
Attorney at Law
arothrock@bfwlaw.com

September 9, 2025

Via Email: cheryl.stevens@judicial.state.co.us

The Honorable Monica M. Márquez and
Justices of the Colorado Supreme Court
Ralph L. Carr Judicial Center
2 East 14th Avenue
Denver, CO 80203

Re: Proposed Revised C.R.C.P. 241.21(b)(3)

Dear Chief Justice Márquez and Justices of the Colorado Supreme Court:

Attached is a proposed change to C.R.C.P. 242.21 that clarifies that the Presiding Disciplinary Judge has the authority to adjudicate a reciprocal discipline case in favor of the respondent *on motion*, without involving a hearing board. The existing rule authorizes the PDJ to adjudicate such a case on motion in favor of the People, but it does not expressly authorize the reverse. Any doubt about the PDJ's authority to rule in favor of either party on motion seems to have been unintentional and would be eliminated with the adoption of the revised rule in the attached. I have discussed this matter with Regulation Counsel Jessica Yates.

Sincerely,

BURNS, FIGA & WILL, P.C.

Alexander R. Rothrock

ARR/pkb

Enclosure

PROPOSED REVISED C.R.C.P. 241.21(b)(3)

C.R.C.P. 242.21(b)(3) *Decision by Presiding Disciplinary Judge.* The Presiding Disciplinary Judge may, without a hearing or a Hearing Board, resolve the matter on a dispositive motion, such as a motion filed under C.R.C.P. 12, 55, or 56, and if the Regulation Counsel does not seek substantially different discipline and the respondent does not challenge the order based on any of the defenses listed in subsection (a) above, impose the same discipline as was imposed by the other jurisdiction.

Dear Members of the Colorado Supreme Court:

I am a Colorado licensed attorney and have been since 1997. I recently learned that a lawyer in my community was allowed to retain his law license after pleading guilty to unlawful sexual contact and being required to register as a sex offender.

The current Colorado Rules of Civil Procedure are inadequate as they do not protect the public from hiring Colorado attorneys who have committed sexual misconduct. In addition, the proposed changes to the Rules Governing Lawyer Discipline are inadequate. Rules 241 and 242.12, C.R.C.P. should be changed as follows:

- "Serious crime" means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; **ANY CONDUCT WHICH CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR PURSUANT TO CRS 16-22-102(9)**, an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.
- (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, **ANY CONDUCT WHICH CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR PURSUANT TO CRS 16-22-102(9)**, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

There should be no rule of limitation applicable to reports of sexual misconduct by a licensed attorney.

It is quite concerning to me that an attorney in Colorado can be convicted of such a personal and invasive offense and still maintain the ability to practice law in our State. I would encourage this Honorable Court to adopt the proposed changes as set forth above.

Sincerely,



Michael J. Rourke
Attorney Registration #28812

July 30, 2025

Dear Members of the Colorado Supreme Court:

The Sexual Assault Victim Advocate Center (“SAVA”) is a Colorado non-profit entity whose mission is to provide crisis intervention, advocacy and counseling for all those affected by sexual violence. SAVA serves as the only rape crisis center in Larimer and Weld Counties dedicated exclusively to serving the needs of sexual assault survivors. Each year SAVA provides confidential support to over 1,200 victims of sexual assault and provides education to over 1,000 community members and 9,000 students.

SAVA has been made aware of a loophole in the rules governing licensed attorneys in Colorado that allows licensed attorneys to practice law even after being convicted of sex offenses and registering as a sex offender. This is true because Rule 241 does not include misdemeanor sex offenses as serious crimes. Unfortunately, the proposed rule changes continue to ignore the seriousness of misdemeanor sex offenses, related sex offender registration and the acknowledgement that sexual abuse survivors often delay reporting the conduct for decades.¹

The proposed changes to the Rules Governing Lawyer Discipline are inadequate for numerous reasons.

- The definition of “serious crimes” in Rule 241 remains unchanged. The definition fails to include misdemeanor sex offenses, particularly those that require sex offender registration.
- The proposed changes to Rule 242.12 are too narrow. The proposed changes appear to expand the rule of limitation to allow regulation counsel to initiate an investigation within five years of a “conviction.” However, the rule of limitation remains unchanged for reports of sexual misconduct that do not result in a “conviction”. There should be no rule of limitation applicable to reports of sexual misconduct by a licensed attorney.
- A conviction should not be required as a pre-requisite for an investigation for sexual assault occurring more than five years prior to reporting.

The Colorado legislature has acknowledged the impact of delayed reporting by passing legislation that removes time limitations for claims arising out of sexual misconduct.

¹ *Delayed Disclosure*, CHILD USA, 2024 Fact Sheet chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf



See C.R.S. 13-80-103.7. It is unclear why the Colorado Supreme Court would undermine the work the state legislature has done by protecting licensed attorneys from discipline.

If the proposed changes are adopted, and the seriousness of sexual misconduct is ignored after five years, the public remains exposed to unfit members of society practicing law. The current rules and proposed changes remain outdated and ignore nationally recognized research that sexual assault is underreported and, for child survivors, reporting is significantly delayed². At SAVA Center, we see this on a regular basis. Survivors wait days, months, and years to report what has happened to them. Many survivors do not have the language as a child to describe what happened to them, and it is only later, as an adult, that they are able to define their experience.

SAVA requests that the Court reject the proposed changes, and instead, adopt changes which identify misdemeanor sex offenses as serious crimes and ensuring that no limitation would apply to reports of sexual misconduct by a licensed attorney.

Sincerely,

Alison Jones-Lockwood

Alison Jones-Lockwood

Executive Director

SAVA Center

4812 S. College Avenue

Fort Collins, CO 80525

² *Id.* The US Department of Justice estimates that 86% of childhood sexual abuse went unreported to adulthood.

Members of the Colorado Supreme Court:

Earlier this year a Colorado licensed attorney was allowed to retain his law license despite having plead to a misdemeanor sex offense on a child, registering as a sex offender, and being placed on supervised probation. The basis of the charge was that he sexually assaulted a minor while he was working as a Chief Deputy District Attorney in Larimer County. The assault happened in 1999 and the person he assaulted was me. Multiple times. When I was 16 and 17 years old.

In 1999, when the Larimer DA's office found out about the assault, they allowed the perpetrator to resign and never prosecuted him or reported him to OARC despite having an affirmative duty to do so. When I reported the assault some 23 years later two complaints were made to OARC, one by me and one by the current Larimer County District Attorney – Gordon McLaughlin. We both thought this would be an easy investigation and surely a grievance that would result in disbarment. But that never happened. Both grievances were dismissed by OARC due to the current definition of “serious crimes,” which does not include a misdemeanor sex offense and the Rule of Limitation on actions in Rule 242.12, which currently limits the reporting period for non-convictions to five years from the alleged conduct. Because the conduct occurred more than five years prior to the grievance and the perpetrator plead to a misdemeanor to avoid the impact of a felony conviction, the grievance was time barred. This conclusion was made by OARC despite the fact that the District Attorney in 1999 failed to report the conduct, which he was obligated to do. Regrettably, the committee that hears grievance appeals affirmed OARC's decision.

During the prosecution of the case, the perpetrator was required to undergo a sex offender evaluation. One of the issues outlined in that evaluation was that the perpetrator had cognitive distortions. The cognitive distortions cause him to engage in victim blaming, which prohibits him from analyzing the impact of his crime on his victim. The distortions also included the perpetrator justifying his behavior based on his own moral construct. These distortions are unhealthy for a lay person and more so dangerous for a licensed attorney who works in the capacity of representing people charged with crimes, interacting with victims, and providing advice as legal counsel.

The proposed rule change is wholly inadequate. It does not modify the definition of “serious crimes” to include misdemeanor sex offenses or sex offender registry. Nor does it exempt reports of sexual misconduct from the five-year Rule of Limitation. The requirement of a conviction undermines the well-established research that sexual misconduct is regularly reported many years after it occurred, at which point prosecution can be difficult if not time barred. The proposed change does not fall in line with the purpose of the Colorado Rules of Professional Conduct, which include the following in the preamble:

The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has the responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Preamble [12].

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. Preamble [5].

Unlawful sexual contact is abhorrent, which is to say, inappropriate, unprofessional and shows character and fitness flaws regardless of when it was committed. Unlawful sexual contact clearly violates the unambiguous language of C.R.P.C. 8.4 which defines misconduct as follows:

- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (h) engage in any conduct that directly, intentionally and wrongfully harms others and that adversely reflects on a lawyer's fitness to practice law; or
- (i) engage in conduct the lawyer knows or reasonably should know constitutes sexual harassment where the conduct occurs in connection with the lawyer's professional activities.

Unlawful sexual contact and consequential registration as a sex offender undoubtedly constitutes misconduct. I note comment 2 to C.R.P.C. 8.4 attempts to delineate "offenses that indicate lack of those characteristics" from crimes of "moral turpitude". Ultimately the comment concludes that "offenses involving violence" are offenses for which an attorney should be professionally answerable. Sexual assault is a crime of violence, particularly when it is committed on a child. It is a crime of such importance that the legislature has eliminated the statute of limitations for the criminal offense of sexual assault on a child. The Colorado Supreme Court should ensure that unlawful sexual contact is taken just as seriously by members of the legal profession. Unlawful sexual contact by a member of our bar should be punished, regardless of how or when it is charged or plead to or when the conduct occurred. The only way to ensure that is to make the rules reflect the gravity and consequences of the conduct and to make it clear that the conduct is a basis for professional misconduct.

Respectfully submitted,

Sara Stieben, #40159

Attorney Regulation Counsel
Jessica E. Yates

Chief Deputy Regulation Counsel
Margaret B. Funk

Deputy Regulation Counsel
Dawn M. McKnight
April M. McMurrey
Gregory G. Sapakoff

Assistant Deputy Regulation Counsel
Erin Robson Kristofco
Lisa E. Pearce

**COLORADO SUPREME COURT
ATTORNEY REGULATION COUNSEL**



Attorneys' Fund for Client Protection
Unauthorized Practice of Law

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Assistant Regulation Counsel

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Jody McGuirk
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Jonathan P. White

Inventory Counsel

Jay Fernandez

October 26, 2025

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

Sent via email: supremecourtrules@judicial.state.co.us

Re: Public comment on Colorado Rule of Civil Procedure 242 series proposal

Dear Justices of the Supreme Court,

I am writing to support the proposed changes to the Colorado Rules of Civil Procedure 242 series. The proposal reflects a thoughtful effort by members of the Advisory Committee on the Practice of Law to clarify the procedural rules governing the grievance and discipline process applicable to attorneys and licensed legal paraprofessionals ("LLPs"), informed by the experiences of the Office of Attorney Regulation Counsel ("OARC"), the Legal Regulation Committee, and the Office of the Presiding Disciplinary Judge in using the revamped rules that were adopted effective July 1, 2021.

Generally speaking, the proposal would increase transparency for those endeavoring to understand what can feel like an obscure process, including by incorporating current practices explicitly into rule language. The proposal also strives to avoid or address potential ambiguities that occasionally create fodder for disputes within the attorney/LLP discipline process.

Statute/Rule of Limitations

During this rule drafting process, attention has been focused on existing C.R.C.P. 242.12 – the Rule of Limitation. Prior to the 2021 rule changes, this rule was codified at C.R.C.P. 251.32(i) and stated:

Statute of Limitations. A request for investigation against an attorney shall be filed within five years of the time that the complaining witness discovers or reasonably should have discovered the misconduct. There shall be no statute of limitations for misconduct alleging fraud, conversion, or conviction of a serious crime, or for an offense the discovery of which has been prevented by concealment by the attorney.

During the rule re-write process that culminated with the Rule 242 series, members of the respondent's counsel bar observed that the civil statutes of limitations were framed differently, and proposed that the attorney discipline statute (really, rule) of limitations be more closely aligned to those found in other sources of law. As a result, the current rule of limitation provides:

Disciplinary sanctions or diversions may not be based on conduct reported more than five years after the date the conduct is discovered or reasonably should have been discovered. But there is no rule of limitation where the allegations involve fraud, conversion, or conviction of a serious crime, or where the lawyer is alleged to have concealed the conduct.

C.R.C.P. 242.12 (effective July 1, 2021).

While the framing of the newer version might have some attractive parallels to certain other statutes of limitations, this version has turned out to be ill-suited to a system that is focused on public protection and does not demand that a complainant have the same type of standing that a person might in other litigation contexts. It begs the question of exactly who should have discovered the conduct, and if multiple people did or should have, then it is unclear how to start the five-year clock. There are other wrinkles with the current formulation. Sometimes those with knowledge arguably had a duty to report, but it is unclear when that duty accrued. Sometimes the misconduct is not obvious until there is harm, which may not be clear to the client but later becomes clear to a friend or family member of the client. In some of these cases, the failure of someone to report the misconduct is an independent act of injustice that should not prevent a system from pursuing professional accountability.

The proposed change to Rule 242.12 would revert to a framework that has an identifiable actor:

(a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

This version is designed both to provide more clarity in any given matter based on the timing of the complaining witness's complaint, and to more specifically address criminal matters resulting in conviction. It also reflects public input received during the Advisory Committee's March 2025 meeting regarding matters resulting in criminal convictions. There are times when a criminal matter is not immediately reported to law enforcement due to factors inherent in the criminal conduct; for example, an under-age victim of a sexually-based offense might remain silent for a lengthy period of time. There also are times when a resulting criminal conviction is not self-reported to Regulation Counsel, and although the crime might be well-known in another jurisdiction, it is not known to OARC.

The proposed version of Rule 242.12 would help resolve these issues in favor of ensuring the possibility of accountability through a licensure action, while continuing to pose a time bar that is appropriately scaled to the possibility of stale or unavailable evidence.

In preparing these written comments, I identified a potentially helpful additional clarification to underscore the intent that criminal convictions will be handled under separate provisions. The possible additions to the Advisory Committee's proposal are in italics below:

(a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct, *unless that misconduct has resulted in a criminal conviction*. For *convictions*

of crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

Other Noteworthy Changes in the Proposal

The current rules are somewhat unclear as to whether a PDJ recommendation to suspend a respondent's license on an interim basis is public information if the Supreme Court does not approve the recommendation, but a formal complaint is filed after that proceeding. Hearings for interim suspension often involve numerous witnesses who discuss their participation in the hearing with others, and a rule requiring OARC to maintain confidentiality of a recommendation for interim suspension would not strike the right balance when weighed against transparency values. The proposal addresses this ambiguity and increases transparency by providing that information is publicly available once the PDJ recommends interim suspension. (See proposed changes to C.R.C.P. 242.22(f), 242.41(a)).

Rule 242.41(a) also would be revised to be more consistent with Rule 242.41(b)(2), so that information provided to OARC's Intake Division that is considered to be unactionable or irrelevant does not become public information even if other information provided by the same complainant results in the filing of a formal complaint. This clarification will help avoid the need to seek protective orders when extraneous information that may be personally- or client-sensitive is provided to Intake. Likewise, proposed changes to Rule 242.41(b)(6) would avoid additional protective order proceedings by automatically extending confidentiality to any information with official confidential status within a court system, including treatment of records under CJD 05-01.

Conclusion

As always, I remain available to answer any questions about this proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. E. Yates", is positioned above the printed name.

Jessica E. Yates
Attorney Regulation Counsel

JEY/jey



Dear Members of the Colorado Supreme Court:

On behalf of AAUW-American Association of University Women Gunnison Branch, I submit this letter regarding the proposed changes to the Rules Governing Lawyer Discipline and urge you to address the glaring gap for investigating and disciplining lawyers who have committed sexual offenses.

The American Association of University Women (AAUW) is one of the oldest women's organizations in the country, empowering women since 1881. The mission of AAUW is to advance equity for women and girls through **research, education, and advocacy**. AAUW of Colorado branches represent over 700 community leaders as members.

AAUW Gunnison branch has become aware that the current rules and proposed changes to the Rules Governing Lawyer Discipline fail to recognize the serious nature of sexual offenses and the reality that the majority of sexual offenses are not reported, and when they are, rarely result in convictions. Attorneys must be held to high ethical standards given the power, trust, and authority that their position holds within our society. The Rule of Limitation in C.R.C.P. 242.12 and definition of “serious crimes” in Rule 241 should be changed to promote the safety of Coloradans and trust in our legal system.

The current proposed changes to Rule 242.12 are too narrow as they do not allow regulation counsel to initiate an investigation into conduct discovered more than five years prior. This ignores the very real, documented experience of delayed reporting for sexual abuse survivors, especially those who are abused before adulthood. Evidence shows that children who are sexually abused typically wait decades to disclose the abuse due to fear, guilt, shame, trauma response, or inability to fully understand or have the language to describe the abuse.¹

Meanwhile, nearly 70% of sexual violence survivors do not choose to report to law enforcement—often because they do not think they will be believed, fear retaliation, lack trust in the justice system, or want to focus on healing rather than potentially experiencing additional trauma from reporting.² For these reasons, the state of Colorado has recognized the need to give survivors time to come forward and allow them pathways to justice and accountability when they are ready through passing legislation that removes time limitations for claims arising out of sexual misconduct (*see* C.R.S. 13-80-103.7). The Colorado Supreme Court should avoid undermining this progress and the healing and courage of survivors by adding the following underlined text into the proposed Rule 242.12 to ensure that licensed attorneys cannot evade accountability for complaints regarding sexual offenses due to an arbitrary timeline:

¹ *Delayed Disclosure*, CHILD USA, 2024 Fact Sheet <https://childusa.org/wp-content/uploads/2024/06/Delayed-Disclosure-2024.pdf>

² *Statistics: The Criminal Justice System*, RAINN, <https://rainn.org/facts-statistics-the-scope-of-the-problem/statistics-the-criminal-justice-system/>

Rule 242.12. Rule of Limitation

- (a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, conduct constituting unlawful sexual behavior, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

Additionally, the definition of “serious crimes” in Rule 241 remains unchanged in the current proposed rules. This definition fails to include sexual offenses that do not result in a felony conviction, even if the attorney had used their position to commit the crime. As noted above, many sexual offenses go unreported; yet, those that are reported are unlikely to result in a felony conviction even if the conduct reaches a felony-level crime. In 2019, only sixteen percent of sexual assaults reported to law enforcement in Colorado resulted in an arrest.³ Fewer still face charges, prosecution, and conviction. The Colorado Supreme Court should change Rule 241 to ensure the limitations of the justice system do not get in the way of upholding the ethics and integrity required by attorneys by adding the following underlined text:

Rule 241 Terminology

“Serious crime” means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; any conduct which constitutes unlawful sexual behavior pursuant to C.R.S. 16-22-102(9); an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.

Sexual offenses are, by nature, an abuse of power and a violation of another person’s autonomy. They must be taken seriously, especially when committed by an attorney who wields significant power and legal authority, perhaps more so than other professions who are held to higher standards, such as real estate professionals. The current rules and proposed changes remain outdated and ignore nationally recognized research showing that sexual assault is underreported and, for child survivors, reporting is significantly delayed.⁴ For these reasons, AAUW of Colorado urges the Court to adopt the additions recommended above to protect the safety and trust of all Coloradans.

Sincerely,

Sharon Schlegel
Branch President
AAUW-American Association of University Women, Gunnison Branch

³ *Sexual Assaults Recorded by Law Enforcement, 2019: Colorado*, Bureau of Justice Statistics, US Department of Justice <https://bjs.ojp.gov/nibrs/reports/sarble/sarble19>

⁴ *Delayed Disclosure*, CHILD USA. The US Department of Justice estimates that 86% of childhood sexual abuse went unreported to adulthood.

To: The Colorado Supreme Court

RE: C.R.C.P. 242.12: Registered Sex Offender and Licensed Attorney

Dear Members of the Supreme Court:

We are writing to request your help in closing a gap in the current and draft rules for the Office of Attorney Regulation's Colorado Rules of Professional Conduct. We request that you reject the proposed rules changes as presented and that the Colorado Supreme Court update the definition of "serious crimes" to include misdemeanor sex offenses and sex offender registration and exempt reports of sexual misconduct from the five-year Rule of Limitation.

On February 27, 2025, the Office of Attorney Regulation Counsel dismissed a complaint filed against a licensed Colorado Attorney claiming that it was time barred and because his conviction (plea to unlawful sexual contact) is not defined as a "serious crime" under Colorado Rule of Civil Procedure 242. Because the attorney pled guilty to unlawful sexual contact, he is required to register as a sex offender in Colorado. Thus, the dismissal of the grievance against him has had a disturbing result: allowing a registered sex offender to retain his Colorado law license. It is concerning that the rules, as currently written, would allow for no other option.

We understand that earlier this year the Supreme Court Advisory Committee on the Practice of Law heard public comment from a concerned citizen, who is also a licensed attorney, regarding her concerns with the rules as written. She requested that the definition of "serious crimes" be amended to include misdemeanor sex offenses, particularly those that require sex offender registration. She also requested that the Rule of Limitation be expanded to allow for investigations to occur more than five years after the misconduct occurred.

The concerned citizen pointed out in her presentation that many other licensed professions include misdemeanor sex offenses as serious or disqualifying crimes for those professions. Similarly, the citizen highlighted the well-established research that many sexual abuse survivors delay reporting the abuse for years or even decades, making a five-year time bar unrealistic and unjustified.

A review of the rule changes proposed by the Supreme Court Advisory Committee on the Practice of Law shows that the committee did not expand the definition of "serious crimes" to include misdemeanor sex offenses or any reference to sex offender registry. The proposed changes do not even address the definition. The Rule of Limitation was modified; however, it requires a conviction of a "serious crime" and still limits the reporting period for non-convictions to five years.

For reference, the current and proposed definition of "Serious Crime" is:

"Serious crime" means any felony; any lesser crime a necessary element of which, as determined by its statutory or common law definition, involves interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; an attempt or conspiracy to commit such a crime; or solicitation of another to commit such a crime.

The proposed rule changes are inadequate and are inconsistent with the Colorado Supreme Court and the Office of Attorney Regulation's mission, as included in the Colorado Rules of Professional Conduct Preamble:

“The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar.”

“A lawyer’s conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer’s business and personal affairs.”

Victims deserve the security in knowing that they can report these offenses in the form of a grievance. The Supreme Court’s lack of acknowledgement of misdemeanor sex offenses/sex offender registration is problematic. It ignores the profession’s responsibility to ensure that its regulations are “conceived in the public interest” and the lawyer’s responsibility to conform to the requirements of the law in the lawyer’s personal affairs.

We request that the Supreme Court reject the proposed rules changes as presented and that the Colorado Supreme Court update the definition of “serious crimes” to include misdemeanor sex offenses and sex offender registration and exempt reports of sexual misconduct from the five-year Rule of Limitation.

Sincerely,

Colorado State Senator Judy Amabile
Colorado State Senator Matt Ball
Colorado State Senator Jeff Bridges
Colorado State Senator James Coleman
Colorado State Senator Lisa Cutter
Colorado State Senator Jessie Danielson
Colorado State Senator Nick Hinrichsen
Colorado State Senator Iman Jodeh
Colorado State Senator Cathy Kipp
Colorado State Senator Chris Kolker
Colorado State Senator Janice Marchman
Colorado State Senator Dafna Michaelson Jenet
Colorado State Senator Robert Rodriguez
Colorado State Senator Marc Snyder
Colorado State Senator Tom Sullivan
Colorado State Senator Faith Winter
Colorado State Representative Jennifer Bacon
Colorado State Representative Andrew Boesenecker
Colorado State Representative Kyle Brown
Colorado State Representative Chad Clifford
Colorado State Representative Monica Duran
Colorado State Representative Meg Froelich
Colorado State Representative Lorena Garcia
Colorado State Representative Lindsay Gilchrist
Colorado State Representative Eliza Hamrick
Colorado State Representative Jamie Jackson
Colorado State Representative Mandy Lindsay
Colorado State Representative William Lindstedt
Colorado State Representative Meghan Lukens
Colorado State Representative Bob Marshall

Colorado State Representative Tisha Mauro
Colorado State Representative Karen McCormick
Colorado State Representative Amy Paschal
Colorado State Representative Gretchen Rydin
Colorado State Representative Emily Sirota
Colorado State Representative Lesley Smith
Colorado State Representative Rebekah Stewart
Colorado State Representative Tammy Story
Colorado State Representative Brianna Titone
Colorado State Representative Jenny Willford
Colorado State Representative Steven Woodrow
Colorado State Representative Yara Zokaie