

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0409.01 Jane Ritter x4342

HOUSE BILL 16-1165

HOUSE SPONSORSHIP

Becker K. and Landgraf,

SENATE SPONSORSHIP

(None),

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING STATUTORY CHANGES BASED ON THE**
102 **RECOMMENDATIONS IN THE REPORT OF THE 2013-2015**
103 **COLORADO CHILD SUPPORT COMMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

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

- ! New legislation that permits the state child support enforcement agency to discover and administratively seize

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- insurance claim payments, awards, and settlements for the purpose of meeting past-due child support obligations;
- ! Changes to the income adjustment formula when parents are obligated to support children with multiple co-parents and joint legal responsibilities for the children;
- ! An amendment to the definition of "shared physical care" so that overall parenting time with a child is considered rather than simply the number of overnights with a child;
- ! Changing the reasonable cost threshold percentage for the enforcement of court-ordered medical support from 20% to 5%;
- ! Adding statutory language requiring the annual exchange between parents of financial information, including verification of child care expenses;
- ! Limiting the time period for which a party may seek retroactive child support based upon a change in physical care to 5 years; and
- ! Adding language regarding providing notice to possible and presumptive fathers.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-1115, **add** (7)
 3 as follows:

4 **10-3-1115. Improper denial of claims - prohibited - definitions**
 5 **- severability.** (7) THE PROVISIONS OF THIS SECTION AND SECTION
 6 10-3-1116 DO NOT APPLY TO ANY CLAIM PAYMENT THAT IS DELAYED OR
 7 DENIED BECAUSE OF THE INSURER'S PARTICIPATION IN THE CHILD SUPPORT
 8 ENFORCEMENT MECHANISM ESTABLISHED IN SECTION 26-13-122.7, C.R.S.

9 **SECTION 2.** In Colorado Revised Statutes, 14-10-122, **amend**
 10 (1.5) (c) (I) as follows:

11 **14-10-122. Modification and termination of provisions for**
 12 **maintenance, support, and property disposition - automatic lien.**
 13 (1.5) (c) **Lien on personal property other than wages, insurance**
 14 **claim payments, awards, and settlements, and moneys held by a**

1 **financial institution as defined in 42 U.S.C. sec. 669a (d) (1) or motor**
2 **vehicles.** (I) To evidence a lien on personal property, other than wages;
3 INSURANCE CLAIM PAYMENTS, AWARDS, AND SETTLEMENTS AS
4 AUTHORIZED IN SECTION 26-13-122.7, C.R.S.; and moneys held by a
5 financial institution as defined in 42 U.S.C. sec. 669a (d) (1) or motor
6 vehicles, created pursuant to this subsection (1.5), the state child support
7 enforcement agency shall file a notice of lien with the secretary of state
8 by means of direct electronic data transmission. From the time of filing
9 the notice of lien with the secretary of state, ~~such~~ THE lien ~~shall be~~ IS an
10 encumbrance in favor of the obligee, or the assignee of the obligee, and
11 ~~shall encumber~~ ENCUMBERS all personal property or any interest of the
12 obligor in any personal property.

13 **SECTION 3.** In Colorado Revised Statutes, **add** 26-13-122.7 as
14 follows:

15 **26-13-122.7. Administrative lien and attachment of insurance**
16 **claim payments, awards, and settlements - rules.** (1) (a) THE STATE
17 CHILD SUPPORT ENFORCEMENT AGENCY, OR ITS AGENT, MAY ISSUE A
18 NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT TO ANY PERSON,
19 INSURANCE COMPANY, OR AGENCY TO ATTACH INSURANCE CLAIM
20 PAYMENTS, AWARDS, OR SETTLEMENTS DUE TO AN OBLIGOR WHO IS
21 RESPONSIBLE FOR THE PAST-DUE SUPPORT OF A CHILD OR CHILDREN ON
22 WHOSE BEHALF AN OBLIGEE IS RECEIVING SERVICES FROM THE STATE'S
23 CHILD SUPPORT ENFORCEMENT AGENCY OR A DELEGATE CHILD SUPPORT
24 ENFORCEMENT UNIT PURSUANT TO THIS ARTICLE. THE STATE CHILD
25 SUPPORT ENFORCEMENT AGENCY AND INSURANCE COMPANIES SHALL
26 PARTICIPATE IN THE CHILD SUPPORT LIEN NETWORK INSURANCE DATA
27 MATCH, OR A SIMILAR PROGRAM, TO FACILITATE DISCOVERY OF POTENTIAL

1 CLAIM PAYMENTS, AWARDS, OR SETTLEMENTS.

2 (b) (I) FOR THE PURPOSES OF THIS SECTION, AN INSURANCE CLAIM
3 PAYMENT, AWARD, OR SETTLEMENT IS LIMITED TO AN INDIVIDUAL WHO
4 RECEIVES MONEYS IN EXCESS OF ONE THOUSAND DOLLARS AFTER MAKING
5 A CLAIM FOR PAYMENT UNDER AN INSURANCE POLICY FOR:

6 (A) PERSONAL INJURY UNDER A POLICY FOR LIABILITY;

7 (B) WRONGFUL DEATH; OR

8 (C) WORKERS' COMPENSATION.

9

10 (II) FOR THE PURPOSES OF THIS SECTION, AN INSURANCE CLAIM
11 PAYMENT:

12 (A) ONLY INCLUDES THE PORTION OF THE CLAIM, AWARD, OR
13 SETTLEMENT PAYABLE TO THE OBLIGOR OR THE OBLIGOR'S
14 REPRESENTATIVE. ANY PORTION OF AN INSURANCE CLAIM PAYMENT THAT
15 REPLACES WAGES OR PROVIDES INCOME IN LIEU OF WAGES IS SUBJECT TO
16 THE LIMITATIONS SET FORTH IN SECTION 13-54-104 (2), C.R.S.; AND

17 (B) DOES NOT INCLUDE ANY MONEYS PAYABLE AS ATTORNEY
18 FEES, WITNESS FEES, COURT COSTS, REASONABLE LITIGATION EXPENSES,
19 DOCUMENTED UNPAID EXPENSES INCURRED FOR MEDICAL TREATMENT
20 CAUSALLY RELATED TO THE CLAIM, OR ANY PORTION OF A CLAIM BASED
21 ON DAMAGE OR A LOSS OF REAL OR PERSONAL PROPERTY.

22 (III) (A) UPON THE REQUEST OF AN INSURANCE COMPANY, AN
23 INDIVIDUAL WITH AN INSURANCE CLAIM PAYMENT, AWARD, OR
24 SETTLEMENT GOVERNED BY THIS SECTION SHALL PROVIDE TO THE INSURER
25 HIS OR HER CURRENT ADDRESS, DATE OF BIRTH, AND SOCIAL SECURITY
26 NUMBER;

27 (B) THE INSURANCE COMPANY MAKING THE REQUEST MAY INFORM

1 THE CLAIMANT THAT THE REQUEST IS BEING MADE IN ACCORDANCE WITH
2 THIS SECTION FOR THE PURPOSE OF ASSISTING THE STATE'S CHILD SUPPORT
3 ENFORCEMENT AGENCY IN ENFORCING CHILD SUPPORT LIENS PURSUANT TO
4 SECTION 14-10-122, C.R.S.; AND

5 (C) AN INSURER SHALL NOT MAKE PAYMENT TO A CLAIMANT WHO
6 REFUSES TO PROVIDE THE INFORMATION REQUIRED BY THIS SECTION. AN
7 INSURER THAT DECLINES TO MAKE PAYMENT ON THIS BASIS IS EXEMPT
8 FROM SUIT AND IMMUNE TO LIABILITY UNDER THIS SECTION AND ANY
9 OTHER SECTION IN A COMMON LAW ACTION IN LAW OR EQUITY.

10 (IV) THE STATE BOARD SHALL PROMULGATE RULES CONCERNING
11 APPROPRIATE PROCEDURES THAT THE STATE DEPARTMENT OR THE STATE'S
12 CHILD SUPPORT ENFORCEMENT AGENCY SHALL FOLLOW REGARDING
13 CERTAIN INSURANCE CLAIM PAYMENTS, AWARDS, OR SETTLEMENTS,
14 INCLUDING CLAIM PAYMENTS, AWARDS, OR SETTLEMENTS TO MULTIPLE
15 PARTIES. THE RULES MUST IDENTIFY FACTORS THE STATE'S CHILD SUPPORT
16 ENFORCEMENT AGENCY SHALL CONSIDER IN DETERMINING WHETHER TO
17 ATTACH THE CLAIM PAYMENT, AWARD, OR SETTLEMENT, OR ANY PORTION
18 OF SUCH CLAIM PAYMENT, AWARD, OR SETTLEMENT.

19 (2) AN INSURANCE COMPANY, AGENCY, OR CENTRAL REPORTING
20 ORGANIZATION, OR THE DIRECTORS, AGENTS, OR EMPLOYEES OF AN
21 INSURER, INSURANCE COMPANY, OR CENTRAL REPORTING ORGANIZATION,
22 ARE NOT LIABLE, AND NO CAUSE OF ACTION ACCRUES, FOR DAMAGES
23 BASED UPON ANY ACTIONS OR OMISSIONS TAKEN OR MADE IN GOOD FAITH
24 PURSUANT TO THIS SECTION.

25 (3) THE ADMINISTRATIVE LIEN AND ATTACHMENT REQUIRE THE
26 PERSON, INSURANCE COMPANY, OR AGENCY TO WITHHOLD THE INSURANCE
27 CLAIM PAYMENT, AWARD, OR SETTLEMENT. AN ADMINISTRATIVE LIEN AND

1 ATTACHMENT FOR THE COLLECTION FROM INSURANCE CLAIM PAYMENTS,
2 AWARDS, OR SETTLEMENTS FOR THE PAYMENT OF PAST-DUE CHILD
3 SUPPORT OBLIGATIONS OR PAST-DUE MAINTENANCE OR MAINTENANCE
4 WHEN COMBINED WITH CHILD SUPPORT OBLIGATIONS IS CONTINUING AND
5 REMAINS IN EFFECT UNTIL SUCH AMOUNT IS SATISFIED OR IS RELEASED IN
6 WRITING BY THE STATE CHILD SUPPORT ENFORCEMENT AGENCY.

7 (4) IN ORDER TO ATTACH AND COLLECT INSURANCE CLAIM
8 PAYMENTS, AWARDS, OR SETTLEMENTS FOR THE PAYMENT OF PAST-DUE
9 CHILD SUPPORT OR PAST-DUE MAINTENANCE OR MAINTENANCE WHEN
10 COMBINED WITH CHILD SUPPORT OBLIGATIONS, THE STATE CHILD SUPPORT
11 ENFORCEMENT AGENCY IS AUTHORIZED TO SERVE, BY FIRST-CLASS MAIL
12 OR ELECTRONICALLY, IF MUTUALLY AGREED UPON, A NOTICE OF
13 ADMINISTRATIVE LIEN AND ATTACHMENT ON ANY PERSON, INSURANCE
14 COMPANY, OR AGENCY HOLDING INSURANCE CLAIM PAYMENTS, AWARDS,
15 OR SETTLEMENTS THAT ARE OWED TO AN OBLIGOR. A COPY OF THE
16 ADMINISTRATIVE LIEN AND ATTACHMENT SHALL BE PROVIDED TO THE
17 OBLIGOR AND MUST INCLUDE INFORMATION ON THE OBLIGOR'S RIGHT TO
18 OBJECT TO THE ADMINISTRATIVE LIEN AND ATTACHMENT AND TO REQUEST
19 AN ADMINISTRATIVE REVIEW PURSUANT TO RULES PROMULGATED BY THE
20 STATE BOARD.

21 (5) ANY REMITTANCE OF MONEYS DEDUCTED OR WITHHELD BY A
22 PERSON, INSURANCE COMPANY, OR AGENCY PURSUANT TO THIS SECTION
23 MUST INCLUDE THE OBLIGOR'S NAME AND IDENTIFYING NUMBER AS
24 ASSIGNED BY THE STATE CHILD SUPPORT ENFORCEMENT AGENCY OR THE
25 FAMILY SUPPORT REGISTRY. THE MONEYS MUST BE REMITTED TO THE
26 FAMILY SUPPORT REGISTRY PURSUANT TO SECTION 26-13-114.

27 (6) THE STATE CHILD SUPPORT ENFORCEMENT AGENCY MAY

1 RECOVER FROM THE MONEYS COLLECTED ANY FEES ASSESSED UPON THE
2 STATE CHILD SUPPORT ENFORCEMENT AGENCY IN ITS EFFORTS TO ATTACH
3 INSURANCE CLAIM PAYMENTS, AWARDS, AND SETTLEMENTS.

4 (7) THIS SECTION APPLIES TO ALL CHILD SUPPORT OBLIGATIONS
5 AND TO ALL MAINTENANCE OR MAINTENANCE WHEN COMBINED WITH
6 CHILD SUPPORT OBLIGATIONS THAT WERE ORDERED AS PART OF ANY
7 PROCEEDING, REGARDLESS OF WHEN THE ORDER WAS ENTERED. ALL CHILD
8 SUPPORT OBLIGORS ARE SUBJECT TO THE NOTICE OF ADMINISTRATIVE LIEN
9 AND ATTACHMENT AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION.

10 (8) A LIEN OR ASSIGNMENT PERFECTED ON ANY INSURANCE CLAIM
11 PAYMENT, AWARD, OR SETTLEMENT PRIOR TO THE RECEIPT OF THE
12 ADMINISTRATIVE LIEN AND ATTACHMENT ISSUED BY THE STATE CHILD
13 SUPPORT ENFORCEMENT AGENCY SHALL BE HONORED PRIOR TO THE
14 ADMINISTRATIVE LIEN AND ATTACHMENT ISSUED BY THE STATE CHILD
15 SUPPORT ENFORCEMENT AGENCY. THE STATE CHILD SUPPORT
16 ENFORCEMENT AGENCY SHALL RECEIVE THE BALANCE, IF ANY, OF THE
17 REMAINING INSURANCE CLAIM PAYMENT, AWARD, OR SETTLEMENT UP TO
18 THE AMOUNT OWED BY THE OBLIGOR.

19 **SECTION 4.** In Colorado Revised Statutes, 14-10-115, **amend**
20 (6) as follows:

21 **14-10-115. Child support guidelines - purpose - definitions -**
22 **determination of income - schedule of basic child support obligations**
23 **- adjustments to basic child support - additional guidelines - child**
24 **support commission. (6) Adjustments to gross income. (a) The**
25 ~~amount of child support actually paid by a parent with an order for~~
26 ~~support of other children shall be deducted from that parent's gross~~
27 ~~income.~~ AT THE TIME A CHILD SUPPORT ORDER IS INITIALLY ESTABLISHED,

1 OR IN ANY PROCEEDING TO MODIFY A CHILD SUPPORT ORDER, IF A PARENT
2 IS ALSO LEGALLY RESPONSIBLE FOR THE SUPPORT OF ANY OTHER CHILDREN
3 FOR WHOM THE PARENTS DO NOT SHARE JOINT LEGAL RESPONSIBILITY, THE
4 COURT SHALL MAKE AN ADJUSTMENT TO THE PARENT'S GROSS INCOME
5 PRIOR TO CALCULATING THE BASIC CHILD SUPPORT OBLIGATION FOR THE
6 CHILD OR CHILDREN WHO ARE THE SUBJECT OF THE SUPPORT ORDER IN
7 QUESTION AS FOLLOWS:

8 (I) IF A PARENT IS OBLIGATED TO PAY SUPPORT FOR ANOTHER
9 CHILD PURSUANT TO AN ORDER, THE AMOUNT ACTUALLY PAID ON THE
10 ORDER MUST BE DEDUCTED FROM THAT PARENT'S GROSS INCOME;

11 (II) IF THE OTHER CHILD IS RESIDING IN THE HOME OF A PARENT,
12 THE COURT SHALL DEDUCT FROM THAT PARENT'S GROSS INCOME THE
13 AMOUNT CALCULATED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION
14 (6);

15 (III) IF ANOTHER CHILD OF A PARENT IS RESIDING OUTSIDE THE
16 HOME OF THAT PARENT, THE COURT SHALL DEDUCT FROM THAT PARENT'S
17 GROSS INCOME THE AMOUNT OF DOCUMENTED MONEY PAYMENTS
18 ACTUALLY PAID BY THE PARENT FOR THE SUPPORT OF THE OTHER CHILD,
19 NOT TO EXCEED THE SCHEDULE OF BASIC SUPPORT OBLIGATIONS SET
20 FORTH IN SUBSECTION (7) OF THIS SECTION.

21 (b) ~~(f) At the time of the initial establishment of a child support~~
22 ~~order, or in any proceeding to modify a support order, if a parent is also~~
23 ~~legally responsible for the support of other children for whom the parents~~
24 ~~do not share joint legal responsibility, an adjustment shall be made~~
25 ~~revising the parent's income prior to calculating the basic child support~~
26 ~~obligation for the children who are the subject of the support order if the~~
27 ~~children are living in the home of the parent seeking the adjustment or if~~

1 ~~the children are living out of the home, and the parent seeking the~~
2 ~~adjustment provides documented proof of money payments of support of~~
3 ~~those children.~~ The amount ~~shall~~ OF THE ADJUSTMENT MUST not exceed
4 the schedule of basic support obligations listed in this section. For a
5 parent with a gross income of one thousand nine hundred dollars or less
6 per month, the adjustment ~~shall be~~ IS seventy-five percent of the amount
7 calculated using the low-income adjustment described in
8 sub-subparagraphs (B) and (C) of subparagraph (II) of paragraph (a) of
9 subsection (7) of this section based only upon the responsible parent's
10 income, without any other adjustments for the number of other children
11 for whom the parent is responsible. For a parent with gross income of
12 more than one thousand nine hundred dollars per month, the adjustment
13 ~~shall be~~ IS seventy-five percent of the amount listed under the schedule
14 of basic support obligations in paragraph (b) of subsection (7) of this
15 section that would represent a support obligation based only upon the
16 responsible parent's income, without any other adjustments for the
17 number of other children for whom the parent is responsible. The amount
18 calculated as set forth in this ~~subparagraph (I) shall~~ PARAGRAPH (b) MUST
19 be subtracted from the amount of the parent's gross income prior to
20 calculating the basic support obligation based upon both parents' gross
21 income, as provided in subsection (7) of this section.

22 ~~(H) The adjustment pursuant to this paragraph (b), based on the~~
23 ~~responsibility to support other children, shall not be made to the extent~~
24 ~~that the adjustment contributes to the calculation of a support order lower~~
25 ~~than a previously existing support order for the children who are the~~
26 ~~subject of the modification hearing at which an adjustment is sought.~~

27 **SECTION 5.** In Colorado Revised Statutes, 14-10-115, **amend**

1 (8) (e) as follows:

2 **14-10-115. Child support guidelines - purpose - definitions -**
3 **determination of income - schedule of basic child support obligations**
4 **- adjustments to basic child support - additional guidelines - child**
5 **support commission. (8) Computation of basic child support - shared**
6 **physical care - split physical care - stipulations - deviations - basis for**
7 **periodic updates. (e) In any AN action to establish or modify child**
8 **support, whether temporary or permanent, the guidelines and schedule of**
9 **basic child support obligations as set forth in subsection (7) of this section**
10 **shall be used as a rebuttable presumption for the establishment or**
11 **modification of the amount of child support. Courts A COURT may deviate**
12 **from the guidelines and schedule of basic child support obligations where**
13 **its application would be inequitable, unjust, or inappropriate. Any such**
14 **deviation shall be accompanied by written or oral findings by the court**
15 **specifying the reasons for the deviation and the presumed amount under**
16 **the guidelines and schedule of basic child support obligations without a**
17 **deviation. These reasons may include, but are not limited to, THE AMOUNT**
18 **OF TIME A PARENT SPENDS WITH A CHILD, WHICH NEED NOT INCLUDE**
19 **OVERNIGHTS, the extraordinary medical expenses incurred for treatment**
20 **of either parent or a current spouse, extraordinary costs associated with**
21 **parenting time, the gross disparity in income between the parents, the**
22 **ownership by a parent of a substantial nonincome producing asset,**
23 **consistent overtime not considered in gross income under**
24 **sub-subparagraph (C) of subparagraph (II) of paragraph (a) of subsection**
25 **(5) of this section, or income from employment that is in addition to a**
26 **full-time job or that results in the employment of the obligor more than**
27 **forty hours per week or more than what would otherwise be considered**

1 to be full-time employment. The existence of a factor enumerated in this
2 section does not require the court to deviate from the guidelines and basic
3 schedule of child support obligations but ~~is~~ MAY BE a factor to be
4 considered in the decision to deviate. The court may deviate from the
5 guidelines and basic schedule of child support obligations even if ~~no~~ A
6 factor enumerated in this section ~~exists~~ DOES NOT EXIST.

7 **SECTION 6.** In Colorado Revised Statutes, 14-10-115, **amend**
8 (10) (g) as follows:

9 **14-10-115. Child support guidelines - purpose - definitions -**
10 **determination of income - schedule of basic child support obligations**
11 **- adjustments to basic child support - additional guidelines - child**
12 **support commission. (10) Adjustments for health care expenditures**
13 **for children. (g)** Where the application of the premium payment on the
14 guidelines and schedule of basic child support obligations results in a
15 child support order of fifty dollars or less, or the premium payment is
16 ~~twenty~~ FIVE percent or more of the parent's gross income, the court or
17 delegate child support enforcement unit may elect not to require the
18 parent to include the child or children on an existing policy or to purchase
19 insurance. The parent ~~shall, however, be~~ IS, HOWEVER, required to provide
20 insurance when it ~~does become~~ BECOMES available at a reasonable cost.

21 **SECTION 7.** In Colorado Revised Statutes, 14-10-115, **amend**
22 (14) (a) as follows:

23 **14-10-115. Child support guidelines - purpose - definitions -**
24 **determination of income - schedule of basic child support obligations**
25 **- adjustments to basic child support - additional guidelines - child**
26 **support commission. (14) Annual exchange of information. (a)** When
27 a child support order is entered or modified, the parties ~~may agree or the~~

1 ~~court may require the parties to exchange financial information~~ SHALL
2 EXCHANGE FINANCIAL INFORMATION, including verification of CHILD
3 CARE AND ITS COSTS AND VERIFICATION OF insurance and its costs,
4 pursuant to paragraph (c) of subsection (5) of this section and other
5 appropriate information once a year or less often, ~~by regular mail~~, for the
6 purpose of updating and modifying the order without a court hearing. The
7 parties shall use the approved standardized child support forms specified
8 in subsection (4) of this section in exchanging financial information. THE
9 PARENTS SHALL INCLUDE the forms ~~shall be included~~ with any agreed
10 modification or an agreement that a modification is not appropriate at the
11 time. If the agreed amount departs from the guidelines and schedule of
12 basic child support obligations, the parties shall furnish statements of
13 explanation ~~that shall be included~~ with the forms and shall ~~be filed~~ FILE
14 THE DOCUMENTS with the court. The court shall review the agreement
15 pursuant to this paragraph (a) and inform the parties by regular mail
16 whether or not additional or corrected information is needed, or that the
17 modification is granted, or that the modification is denied. If the parties
18 cannot agree, ~~no~~ A modification pursuant to this paragraph (a) shall NOT
19 be entered; however, either party may move for or the court may
20 schedule, upon its own motion, a modification hearing.

21 **SECTION 8.** In Colorado Revised Statutes, 14-10-122, **amend**
22 (5) as follows:

23 **14-10-122. Modification and termination of provisions for**
24 **maintenance, support, and property disposition - automatic lien.**

25 (5) Notwithstanding the provisions of subsection (1) of this section,
26 when a court-ordered, voluntary, or mutually agreed upon change of
27 physical care occurs, the provisions for child support of the obligor under

1 the existing child support order, if modified pursuant to this section, will
2 be modified or terminated as of the date when physical care was changed.
3 The provisions for the establishment of a child support order based on a
4 court-ordered, voluntary, or mutually agreed upon change of physical care
5 may also be entered retroactively to the date when the physical care was
6 changed. When a court-ordered, voluntary, or mutually agreed upon
7 change of physical care occurs, parties are encouraged to avail themselves
8 of the provision set forth in section 14-10-115 (14) (a) for updating and
9 modifying a child support order without a court hearing. THE COURT
10 SHALL NOT MODIFY CHILD SUPPORT PURSUANT TO THIS SUBSECTION (5)
11 FOR ANY TIME MORE THAN FIVE YEARS PRIOR TO THE FILING OF THE
12 MOTION TO MODIFY CHILD SUPPORT, UNLESS THE COURT FINDS THAT ITS
13 APPLICATION WOULD BE SUBSTANTIALLY INEQUITABLE, UNJUST, OR
14 INAPPROPRIATE. THE FIVE-YEAR PROHIBITION ON RETROACTIVE
15 MODIFICATION DOES NOT PRECLUDE A REQUEST FOR RELIEF PURSUANT TO
16 ANY STATUTE OR COURT RULE.

17 **SECTION 9.** In Colorado Revised Statutes, **amend** 19-4-110 as
18 follows:

19 **19-4-110. Parties.** The child may be made a party to the action.
20 If the child is a minor, the court may appoint a guardian ad litem. The
21 child's mother or father may not represent the child as guardian or
22 otherwise. THE COURT SHALL MAKE the natural mother, each man
23 presumed to be the father under section 19-4-105, and each man alleged
24 to be the natural father ~~shall be made~~ parties or, if not subject to the
25 jurisdiction of the court, ~~shall be given~~ PROVIDE notice of the action in a
26 manner prescribed by the court and an opportunity to be heard. If a man
27 who is alleged to be the natural father is deceased, THE COURT SHALL

1 MAKE the personal representative of his estate, if one has been appointed,
2 ~~shall be made~~ a party. If a personal representative has not been appointed,
3 THE COURT SHALL MAKE the deceased man's spouse or an immediate
4 blood relative ~~shall be made~~ a party. If a spouse or immediate blood
5 relative is not known or does not exist, the court shall appoint a
6 representative for the alleged natural father who is deceased. The court
7 may align the parties. WHEN THE PERSON TO BE SERVED HAS NO
8 RESIDENCE WITHIN COLORADO AND HIS OR HER PLACE OF RESIDENCE IS
9 NOT KNOWN OR WHEN HE OR SHE CANNOT BE FOUND WITHIN THE STATE
10 AFTER DUE DILIGENCE, SERVICE MUST BE BY PUBLICATION PURSUANT TO
11 RULE 4 (g) OF THE COLORADO RULES OF CIVIL PROCEDURE; EXCEPT THAT
12 SERVICE MUST BE BY A SINGLE PUBLICATION AND MUST BE COMPLETED
13 NOT LESS THAN FIVE DAYS PRIOR TO THE TIME SET FOR HEARING ON
14 PATERNITY ADJUDICATION.

15 **SECTION 10.** In Colorado Revised Statutes, 14-10-114, **amend**
16 (8) (a) (I) as follows:

17 **14-10-114. Spousal maintenance - guidelines - legislative**
18 **declaration - definitions.** (8) **Definitions.** As used in this section, unless
19 the context otherwise requires:

20 (a) (I) "Adjusted gross income" means gross income as defined in
21 paragraph (c) of this subsection (8), less preexisting court-ordered child
22 support obligations actually paid by a party, preexisting court-ordered
23 alimony or maintenance obligations actually paid by a party, and the
24 adjustment to a party's income as determined pursuant to section
25 14-10-115 (6) (b) ~~(f)~~; for any children who are not children of the
26 marriage for whom the party has a legal responsibility to support.

27 **SECTION 11. Act subject to petition - effective date.** This act

1 takes effect January 1, 2017; except that, if a referendum petition is filed
2 pursuant to section 1 (3) of article V of the state constitution against this
3 act or an item, section, or part of this act within the ninety-day period
4 after final adjournment of the general assembly, then the act, item,
5 section, or part will not take effect unless approved by the people at the
6 general election to be held in November 2016 and, in such case, will take
7 effect on January 1, 2017, or on the date of the official declaration of the
8 vote thereon by the governor, whichever is later.