

CHAPTER 167

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 94-1226

BY REPRESENTATIVES Tucker, Allen, Dyer, Kaufman, Morrison, Adkins, Armstrong, Benavidez, Blue, DeGette, Fleming, Friednash, George, Greenwood, Hagedorn, Hernandez, Keller, Kerns, Kreutz, Lawrence, Lyle, Mattingly, Pierson, Reeser, Rupert, Snyder, Strom, Tanner, and Wright;
also SENATORS Blickensderfer, Bishop, Casey, Feeley, Johnson, Mendez, and Traylor.

AN ACT

CONCERNING RESTRAINING ORDERS TO PREVENT DOMESTIC ABUSE.

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

SECTION 1. 14-4-102 (2), (6), (7.5) (b), and (8), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

14-4-102. Restraining orders to prevent domestic abuse. (2) A temporary or permanent restraining order to prevent domestic abuse may include:

(a) Restraining a party from threatening, molesting, injuring, or contacting any other party or the minor children of either of the parties;

(b) Excluding a party from the family home upon a showing that physical or emotional harm would otherwise result;

(c) Excluding a party from the home of another party upon a showing that physical or emotional harm would otherwise result;

(d) (I) Awarding temporary care and control of any minor children of either party involved for a period of not more than one hundred twenty days.

(II) If temporary care and control is awarded, the order may include parenting time rights for the other party involved.

(III) The standard for the award of temporary care and control shall be in

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

accordance with section 14-10-124.

(e) SUCH OTHER RELIEF AS THE COURT DEEMS APPROPRIATE AND NECESSARY TO PREVENT DOMESTIC ABUSE.

(6) A copy of the complaint together with a copy of the temporary restraining order to prevent domestic abuse and a copy of the citation shall be served upon the defendant in accordance with the rules for the service of process as provided in rule 304 of the Colorado rules of county court civil procedure or rule 4 of the Colorado rules of civil procedure, and the citation shall inform the defendant that, if the defendant fails to appear in court in accordance with the terms of the citation, THE TEMPORARY RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE PREVIOUSLY ENTERED BY THE COURT SHALL BE MADE PERMANENT WITHOUT FURTHER NOTICE OR SERVICE UPON THE DEFENDANT. THE COURT MAY ALSO ISSUE a bench warrant ~~may be issued~~ for the arrest of the defendant, IF THE DEFENDANT FAILS TO APPEAR IN COURT IN ACCORDANCE WITH THE TERMS OF THE CITATION.

(7.5) (b) When any person is served with notice of a temporary restraining order issued against such person excluding such person from a shared residence, such notice shall contain a notification in writing to such person of such person's ability to return to such shared residence pursuant to paragraph (a) of this subsection (7.5). Such written notification shall be in bold print and conspicuously placed in such temporary restraining order. ~~Any temporary restraining order issued on or after January 1, 1994, which does not contain such written notification in the manner prescribed by this paragraph (b), shall be null and void.~~ NO JUDGE, MAGISTRATE, OR OTHER JUDICIAL OFFICER SHALL ISSUE A TEMPORARY RESTRAINING ORDER THAT DOES NOT COMPLY WITH THIS SUBSECTION (7.5).

(8) On the return date of the citation, or on the day to which the hearing has been continued, the judge shall examine the record and the evidence, and if upon such evidence the judge ~~shall be~~ IS of the opinion that the defendant has committed acts constituting domestic abuse to the plaintiff or a minor child of either of the parties, and that unless restrained and enjoined, will continue to commit such acts constituting domestic abuse, the judge shall order the temporary restraining order to be made permanent or order a permanent restraining order with different provisions than the temporary restraining order and the judge shall inform said defendant that a violation of the restraining order will constitute contempt of court and subject the defendant to such punishment as may be provided by law. IF THE DEFENDANT FAILS TO APPEAR AT THE RETURN DATE, THE COURT SHALL ORDER THE TERMS OF THE TEMPORARY RESTRAINING ORDER TO BE MADE PERMANENT WITHOUT FURTHER NOTICE OR SERVICE UPON THE DEFENDANT.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1994, and shall apply to temporary restraining orders to prevent domestic abuse issued on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 28, 1994