

CHAPTER 178

COURTS

HOUSE BILL 04-1305

BY REPRESENTATIVE(S) Jahn, Frangas, Hefley, Boyd, Coleman, Crane, Romanoff, Stafford, and Williams S.; also SENATOR(S) Anderson.

AN ACT

CONCERNING PROTECTION ORDERS.

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

SECTION 1. 13-14-101 (2.4), Colorado Revised Statutes, is amended, and the said 13-14-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

13-14-101. Definitions. For purposes of this article, unless the context otherwise requires:

(1.5) "ADULT" MEANS A PERSON EIGHTEEN YEARS OF AGE OR OLDER.

(2.2) "MINOR CHILD" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.

(2.4) (a) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises or any other provision to protect the protected person from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

(I) This article, ~~sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S.,~~ section 18-1-1001, C.R.S., section 19-2-707, C.R.S., ~~section 19-3-316, C.R.S.,~~ section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(II) SECTIONS 14-4-101 TO 14-4-105, C.R.S., SECTION 14-10-107, C.R.S., SECTION 14-10-108, C.R.S., OR SECTION 19-3-316, C.R.S., AS THOSE SECTIONS EXISTED PRIOR

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

TO JULY 1, 2004;

(III) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(IV) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(b) For purposes of this article only, "protection order" includes any order that amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section ~~18-6-803.8, C.R.S.~~ 13-14-104.

**SECTION 2.** 13-14-102 (1), (5), (7), (8) (b), (8) (c), (9), and (10), the introductory portion to 13-14-102 (15), and 13-14-102 (15) (e) and (20), Colorado Revised Statutes, are amended, and the said 13-14-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**13-14-102. Civil protection orders - legislative declaration.** (1) ~~Any municipal court of record, if authorized by the municipal governing body, any county court, and any district court shall have original concurrent jurisdiction to issue a temporary or permanent civil protection order against an adult or against a juvenile who is ten years of age or older for any of the following purposes:~~ THE GENERAL ASSEMBLY HEREBY FINDS THAT THE ISSUANCE AND ENFORCEMENT OF PROTECTION ORDERS ARE OF PARAMOUNT IMPORTANCE IN THE STATE OF COLORADO BECAUSE PROTECTION ORDERS PROMOTE SAFETY, REDUCE VIOLENCE, AND PREVENT SERIOUS HARM AND DEATH. IN ORDER TO IMPROVE THE PUBLIC'S ACCESS TO PROTECTION ORDERS, AND TO ASSURE CAREFUL JUDICIAL CONSIDERATION OF REQUESTS AND EFFECTIVE LAW ENFORCEMENT, THERE SHALL BE TWO PROCESSES FOR OBTAINING PROTECTION ORDERS WITHIN THE STATE OF COLORADO, A SIMPLIFIED CIVIL PROCESS AND A MANDATORY CRIMINAL PROCESS.

- ~~(a) To prevent assaults and threatened bodily harm;~~
- ~~(b) To prevent domestic abuse;~~
- ~~(c) To prevent emotional abuse of the elderly or of an at-risk adult;~~
- ~~(d) To prevent stalking.~~

(1.5) ANY MUNICIPAL COURT OF RECORD, IF AUTHORIZED BY THE MUNICIPAL GOVERNING BODY, ANY COUNTY COURT, AND ANY DISTRICT, PROBATE, OR JUVENILE COURT SHALL HAVE ORIGINAL CONCURRENT JURISDICTION TO ISSUE A TEMPORARY OR PERMANENT CIVIL PROTECTION ORDER AGAINST AN ADULT OR AGAINST A JUVENILE WHO IS TEN YEARS OF AGE OR OLDER FOR ANY OF THE FOLLOWING PURPOSES:

- (a) TO PREVENT ASSAULTS AND THREATENED BODILY HARM;
- (b) TO PREVENT DOMESTIC ABUSE;

- (c) TO PREVENT EMOTIONAL ABUSE OF THE ELDERLY OR OF AN AT-RISK ADULT;
- (d) TO PREVENT STALKING.

(3.3) ANY DISTRICT COURT, IN AN ACTION COMMENCED UNDER THE "UNIFORM DISSOLUTION OF MARRIAGE ACT", ARTICLE 10 OF TITLE 14, C.R.S., SHALL HAVE AUTHORITY TO ISSUE TEMPORARY AND PERMANENT PROTECTION ORDERS PURSUANT TO THE PROVISIONS OF SUBSECTION (1.5) OF THIS SECTION. SUCH PROTECTION ORDER MAY BE AS A PART OF A MOTION FOR A PROTECTION ORDER ACCOMPANIED BY AN AFFIDAVIT FILED IN AN ACTION BROUGHT UNDER ARTICLE 10 OF TITLE 14, C.R.S. EITHER PARTY MAY REQUEST THE COURT TO ISSUE A PROTECTION ORDER CONSISTENT WITH ANY OTHER PROVISION OF THIS ARTICLE.

(3.7) AT THE TIME A PROTECTION ORDER IS REQUESTED PURSUANT TO THIS SECTION, THE COURT SHALL INQUIRE ABOUT, AND THE REQUESTING PARTY AND SUCH PARTY'S ATTORNEY SHALL HAVE AN INDEPENDENT DUTY TO DISCLOSE, KNOWLEDGE SUCH PARTY AND SUCH PARTY'S ATTORNEY MAY HAVE CONCERNING THE EXISTENCE OF ANY PRIOR PROTECTION OR RESTRAINING ORDER OF ANY COURT ADDRESSING IN WHOLE OR IN PART THE SUBJECT MATTER OF THE REQUESTED PROTECTION ORDER. IN THE EVENT THERE ARE CONFLICTING RESTRAINING OR PROTECTION ORDERS, THE COURT SHALL CONSIDER, AS ITS FIRST PRIORITY, ISSUES OF PUBLIC SAFETY. AN ORDER THAT PREVENTS ASSAULTS, THREATS OF ASSAULT, OR OTHER BODILY HARM SHALL BE GIVEN PRECEDENCE OVER AN ORDER THAT DEALS WITH THE DISPOSITION OF PROPERTY OR OTHER TANGIBLE ASSETS. EVERY EFFORT SHALL BE MADE BY JUDICIAL OFFICERS TO CLARIFY CONFLICTING ORDERS.

(5) Upon the filing of a complaint duly verified, alleging that the defendant has committed acts that would constitute grounds for a civil protection order, any judge or magistrate, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary civil protection order to prevent the actions complained of and a citation directed to the defendant commanding the defendant to appear before the court at a specific time and date and to show cause, if any, why said temporary civil protection order should not be made permanent. ~~except that, if the temporary protection order is issued by the district court in connection with an action filed under the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., or by the juvenile court under the "Uniform Parentage Act", article 4 of title 19, C.R.S., the court may dispense with the issuance of a citation and require that the temporary protection order remain in effect until revoked, modified, or terminated as provided in section 14-10-108, C.R.S.~~ In addition, the court may order any other relief that the court deems appropriate. Complaints may be filed by persons seeking protection for themselves or for others as provided in section 26-3.1-102 (1) (b) and (1) (c), C.R.S. ~~If the defendant fails to appear before the court for the show cause hearing at the time and on the date identified in the citation issued by the court and the court finds that the defendant was properly served with the temporary protection order and such citation, it shall not be necessary to re-serve the defendant to make the protection order permanent.~~

(7) The return date of the citation shall be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the defendant in that period, the court shall extend the temporary protection order previously issued, continue the show of cause hearing, and issue an

alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, AND THE COURT MAY GRANT, additional continuances as needed if the petitioner has still been unable to serve the defendant.

(8) (b) When any person is served with ~~notice of~~ a temporary protection order issued against such person excluding such person from a shared residence, such ~~notice~~ TEMPORARY PROTECTION ORDER 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 (8). Such written notification shall be in bold print and conspicuously placed in such temporary protection order. No judge, magistrate, or other judicial officer shall issue a temporary protection order that does not comply with this subsection (8).

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes such person from a shared residence, shall be entitled to avail himself or herself of the forcible entry and detainer remedies available pursuant to article 40 of this title. However, such person shall not be entitled to return to the residence until such time as a valid writ of restitution is executed, filed with the court issuing the protection order, and, IF NECESSARY, the protection order is modified accordingly. A landlord whose lessee has been excluded from a residence pursuant to the terms of a protection order is also entitled to avail himself or herself of the remedies available pursuant to article 40 of this title.

(9) (a) On the return date of the citation, or on the day to which the hearing has been continued, the judge or magistrate shall examine the record and the evidence. If upon such examination the judge or magistrate is of the opinion that the defendant has committed acts constituting grounds for issuance of a civil protection order and that unless restrained will continue to commit such acts, the judge or magistrate shall order the temporary civil protection order to be made permanent or order a permanent civil protection order with different provisions from the temporary civil protection order. The judge or magistrate shall inform said defendant that a violation of the civil protection order shall constitute a criminal offense pursuant to section 18-6-803.5, C.R.S., or shall 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 and the petition is for a protection order to prevent domestic abuse, the court shall order the terms of the temporary protection order to be made permanent without further notice or service upon the defendant~~ BEFORE THE COURT FOR THE SHOW CAUSE HEARING AT THE TIME AND ON THE DATE IDENTIFIED IN THE CITATION ISSUED BY THE COURT AND THE COURT FINDS THAT THE DEFENDANT WAS PROPERLY SERVED WITH THE TEMPORARY PROTECTION ORDER AND SUCH CITATION, IT SHALL NOT BE NECESSARY TO RE-SERVE THE DEFENDANT TO MAKE THE PROTECTION ORDER PERMANENT. HOWEVER, IF THE COURT MODIFIES THE PROTECTION ORDER ON THE MOTION OF THE PROTECTED PARTY, THE MODIFIED PROTECTION ORDER SHALL BE SERVED UPON THE DEFENDANT.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (9), the judge or magistrate, after examining the record and the evidence, for good cause shown, may continue the temporary protection order and the show cause hearing to a date certain not to exceed one hundred twenty days after the date of the hearing if he or she determines such continuance would be in the best interests of the parties and

if both parties are present at the hearing and agree to the continuance. In addition, each party may request one continuance for a period not to exceed fourteen days which the judge or magistrate, after examining the record and the evidence, may grant upon a finding of good cause. The judge or magistrate shall inform the defendant that a violation of the temporary civil protection order shall constitute a criminal offense pursuant to section 18-6-803.5, C.R.S., or shall constitute contempt of court and subject the defendant to such punishment as may be provided by law.

(c) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (9), FOR A PROTECTION ORDER FILED IN A PROCEEDING COMMENCED UNDER THE "UNIFORM DISSOLUTION OF MARRIAGE ACT", ARTICLE 10 OF TITLE 14, C.R.S., THE COURT MAY, ON THE MOTION OF EITHER PARTY IF BOTH PARTIES AGREE TO THE CONTINUANCE, CONTINUE THE TEMPORARY PROTECTION ORDER UNTIL THE TIME OF THE FINAL DECREE OR FINAL DISPOSITION OF THE ACTION.

(10) THE COURT SHALL ELECTRONICALLY TRANSFER INTO THE CENTRAL REGISTRY OF PROTECTION ORDERS ESTABLISHED PURSUANT TO SECTION 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section ~~shall be delivered to any law enforcement agency having jurisdiction to enforce said order~~ and SHALL DELIVER A COPY OF SUCH ORDER to the protected party.

(15) A municipal court of record that is authorized by its municipal governing body to issue protection OR RESTRAINING orders and any county court, in connection with issuing a civil protection order, shall have original concurrent jurisdiction with the district court to issue such additional orders as the municipal or county court deems necessary for the protection of persons. Such additional orders may include, but are not limited to:

(e) (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 and any conditions of such parenting time, including the supervision of such parenting time by a third party who agrees on the record to the terms of the supervised parenting time and any costs associated with supervised parenting time, if necessary. If the restrained party is unable to pay the ordered costs, the court shall not place such responsibility with publicly funded agencies. If the court finds that the safety of any child or the protected party cannot be ensured with any form of parenting time reasonably available, the court may deny parenting time.

(II.5) THE COURT MAY AWARD INTERIM DECISION-MAKING RESPONSIBILITY OF A CHILD TO A PERSON ENTITLED TO BRING AN ACTION FOR THE ALLOCATION OF PARENTAL RESPONSIBILITIES UNDER SECTION 14-10-123, C.R.S., WHEN SUCH AWARD IS REASONABLY RELATED TO PREVENTING DOMESTIC ABUSE AS DEFINED IN SECTION 13-14-101 (2), OR PREVENTING THE CHILD FROM WITNESSING DOMESTIC ABUSE.

(III) The standard for the award of temporary care and control OR INTERIM DECISION MAKING RESPONSIBILITY shall be in accordance with section 14-10-124, C.R.S.

(20) Enactment of this section shall not affect the effectiveness of any civil PROTECTION OR restraining order issued prior to July 1, 1999.

**SECTION 3.** Article 14 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**13-14-103. Emergency protection orders.** (1) (a) ANY COUNTY OR DISTRICT COURT SHALL HAVE THE AUTHORITY TO ENTER AN EMERGENCY PROTECTION ORDER PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (1).

(b) AN EMERGENCY PROTECTION ORDER ISSUED PURSUANT TO THIS SUBSECTION (1) MAY INCLUDE:

(I) RESTRAINING A PARTY FROM THREATENING, MOLESTING, INJURING, OR CONTACTING ANY OTHER PARTY, A MINOR CHILD OF EITHER OF THE PARTIES, OR A MINOR CHILD WHO IS IN DANGER IN THE REASONABLY FORESEEABLE FUTURE OF BEING A VICTIM OF AN UNLAWFUL SEXUAL OFFENSE OR DOMESTIC ABUSE;

(II) EXCLUDING A PARTY FROM THE FAMILY HOME OR FROM THE HOME OF ANOTHER PARTY UPON A SHOWING THAT PHYSICAL OR EMOTIONAL HARM WOULD OTHERWISE RESULT;

(III) AWARDING TEMPORARY CARE AND CONTROL OF ANY MINOR CHILD OF A PARTY INVOLVED; OR

(IV) ENJOINING AN INDIVIDUAL FROM CONTACTING A MINOR CHILD AT SCHOOL, AT WORK, OR WHEREVER HE OR SHE MAY BE FOUND.

(c) IN CASES INVOLVING A MINOR CHILD, THE JUVENILE COURT AND THE DISTRICT COURT SHALL HAVE THE AUTHORITY TO ISSUE EMERGENCY PROTECTION ORDERS TO PREVENT AN UNLAWFUL SEXUAL OFFENSE, AS DEFINED IN SECTION 18-3-411 (1), C.R.S., OR TO PREVENT DOMESTIC ABUSE, AS DEFINED IN SECTION 13-14-101 (2), WHEN REQUESTED BY THE LOCAL LAW ENFORCEMENT AGENCY, THE COUNTY DEPARTMENT OF SOCIAL SERVICES, OR A RESPONSIBLE PERSON WHO ASSERTS, IN A VERIFIED PETITION SUPPORTED BY AFFIDAVIT, THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT A MINOR CHILD IS IN DANGER IN THE REASONABLY FORESEEABLE FUTURE OF BEING THE VICTIM OF AN UNLAWFUL SEXUAL OFFENSE OR DOMESTIC ABUSE, BASED UPON AN ALLEGATION OF A RECENT ACTUAL UNLAWFUL SEXUAL OFFENSE OR DOMESTIC ABUSE OR THREAT OF THE SAME. ANY EMERGENCY PROTECTION ORDER ISSUED PURSUANT TO THIS SUBSECTION (1) SHALL BE ON A STANDARDIZED FORM PRESCRIBED BY THE JUDICIAL DEPARTMENT AND A COPY SHALL BE PROVIDED TO THE PROTECTED PERSON.

(d) THE CHIEF JUDGE IN EACH JUDICIAL DISTRICT SHALL BE RESPONSIBLE FOR MAKING AVAILABLE IN EACH JUDICIAL DISTRICT A JUDGE TO ISSUE, BY TELEPHONE, EMERGENCY PROTECTION ORDERS AT ALL TIMES WHEN THE COUNTY AND DISTRICT COURTS ARE OTHERWISE CLOSED FOR JUDICIAL BUSINESS. SUCH JUDGE MAY BE A DISTRICT COURT OR COUNTY COURT JUDGE OR A SPECIAL ASSOCIATE, AN ASSOCIATE, AN ASSISTANT COUNTY JUDGE, OR A MAGISTRATE.

(e) WHEN THE COUNTY, DISTRICT, AND JUVENILE COURTS ARE UNAVAILABLE FROM

THE CLOSE OF BUSINESS AT THE END OF THE DAY OR WEEK TO THE RESUMPTION OF BUSINESS AT THE BEGINNING OF THE DAY OR WEEK AND A PEACE OFFICER ASSERTS REASONABLE GROUNDS TO BELIEVE THAT AN ADULT IS IN IMMEDIATE AND PRESENT DANGER OF DOMESTIC ABUSE, BASED UPON AN ALLEGATION OF A RECENT INCIDENT OF ACTUAL DOMESTIC ABUSE OR THREAT OF DOMESTIC ABUSE, OR THAT A MINOR CHILD IS IN IMMEDIATE AND PRESENT DANGER OF AN UNLAWFUL SEXUAL OFFENSE, AS DEFINED IN SECTION 18-3-411 (1), C.R.S., OR OF DOMESTIC ABUSE, AS DEFINED IN SECTION 13-14-101 (2), A JUDGE MADE AVAILABLE PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (1) MAY ISSUE A WRITTEN OR VERBAL EX PARTE EMERGENCY PROTECTION ORDER. ANY WRITTEN EMERGENCY PROTECTION ORDER ISSUED PURSUANT TO THIS SUBSECTION (1) SHALL BE ON A STANDARDIZED FORM PRESCRIBED BY THE JUDICIAL DEPARTMENT AND A COPY SHALL BE PROVIDED TO THE PROTECTED PERSON.

(f) AN EMERGENCY PROTECTION ORDER ISSUED PURSUANT TO THIS SUBSECTION (1) SHALL EXPIRE NOT LATER THAN THE CLOSE OF JUDICIAL BUSINESS ON THE NEXT DAY OF JUDICIAL BUSINESS FOLLOWING THE DAY OF ISSUE, UNLESS OTHERWISE CONTINUED BY THE COURT. THE COURT MAY CONTINUE AN EMERGENCY PROTECTION ORDER FILED TO PREVENT DOMESTIC ABUSE PURSUANT TO THIS SUBSECTION (1) ONLY IF THE JUDGE IS UNABLE TO SET A HEARING ON PLAINTIFF'S REQUEST FOR A TEMPORARY PROTECTION ORDER ON THE DAY THE COMPLAINT WAS FILED PURSUANT TO SECTION 13-14-102; EXCEPT THAT THIS LIMITATION ON A COURT'S POWER TO CONTINUE AN EMERGENCY PROTECTION ORDER SHALL NOT APPLY TO AN EMERGENCY PROTECTION ORDER FILED TO PROTECT A MINOR CHILD FROM AN UNLAWFUL SEXUAL OFFENSE OR DOMESTIC ABUSE. FOR ANY EMERGENCY PROTECTION ORDER CONTINUED PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (f), FOLLOWING TWO DAYS' NOTICE TO THE PARTY WHO OBTAINED THE EMERGENCY PROTECTION ORDER OR ON SUCH SHORTER NOTICE TO SAID PARTY AS THE COURT MAY PRESCRIBE, THE ADVERSE PARTY MAY APPEAR AND MOVE ITS DISSOLUTION OR MODIFICATION. THE MOTION TO DISSOLVE OR MODIFY THE EMERGENCY PROTECTION ORDER SHALL BE SET DOWN FOR HEARING AT THE EARLIEST POSSIBLE TIME AND SHALL TAKE PRECEDENCE OVER ALL MATTERS EXCEPT OLDER MATTERS OF THE SAME CHARACTER, AND THE COURT SHALL DETERMINE SUCH MOTIONS AS EXPEDITIOUSLY AS THE ENDS OF JUSTICE REQUIRE.

(2) (a) A VERBAL EMERGENCY PROTECTION ORDER MAY BE ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION ONLY IF THE ISSUING JUDGE FINDS THAT AN IMMINENT DANGER IN CLOSE PROXIMITY EXISTS TO THE LIFE OR HEALTH OF ONE OR MORE PERSONS OR THAT A DANGER EXISTS TO THE LIFE OR HEALTH OF THE MINOR CHILD IN THE REASONABLY FORESEEABLE FUTURE.

(b) ANY VERBAL EMERGENCY PROTECTION ORDER SHALL BE REDUCED TO WRITING AND SIGNED BY THE OFFICER OR OTHER PERSON ASSERTING THE GROUNDS FOR THE ORDER AND SHALL INCLUDE A STATEMENT OF THE GROUNDS FOR THE ORDER ASSERTED BY THE OFFICER OR PERSON. THE OFFICER OR PERSON SHALL NOT BE SUBJECT TO CIVIL LIABILITY FOR ANY STATEMENT MADE OR ACT PERFORMED IN GOOD FAITH. THE EMERGENCY PROTECTION ORDER SHALL BE SERVED UPON THE RESPONDENT WITH A COPY GIVEN TO THE PROTECTED PARTY AND FILED WITH THE COUNTY OR DISTRICT COURT AS SOON AS PRACTICABLE AFTER ISSUANCE. ANY WRITTEN EMERGENCY PROTECTION ORDER ISSUED PURSUANT TO THIS SUBSECTION (2) SHALL BE ON A STANDARDIZED FORM PRESCRIBED BY THE JUDICIAL DEPARTMENT AND A COPY SHALL BE PROVIDED TO THE PROTECTED PERSON.

(3) THE COURT SHALL ELECTRONICALLY TRANSFER INTO THE CENTRAL REGISTRY OF PROTECTION ORDERS ESTABLISHED PURSUANT TO SECTION 18-6-803.7, C.R.S., A COPY OF ANY ORDER ISSUED PURSUANT TO THIS SECTION AND SHALL DELIVER A COPY OF SUCH ORDER TO THE PROTECTED PARTY OR HIS OR HER PARENT OR AN INDIVIDUAL ACTING IN THE PLACE OF A PARENT WHO IS NOT THE RESPONDENT.

(4) IF ANY PERSON NAMED IN AN ORDER ISSUED PURSUANT TO THIS SECTION HAS NOT BEEN SERVED PERSONALLY WITH SUCH ORDER BUT HAS RECEIVED ACTUAL NOTICE OF THE EXISTENCE AND SUBSTANCE OF SUCH ORDER FROM ANY PERSON, ANY ACT IN VIOLATION OF SUCH ORDER MAY BE DEEMED SUFFICIENT TO SUBJECT THE PERSON NAMED IN SUCH ORDER TO ANY PENALTY FOR SUCH VIOLATION.

(5) VENUE FOR FILING A COMPLAINT PURSUANT TO THIS SECTION IS PROPER IN ANY COUNTY WHERE THE ACTS CONSTITUTING UNLAWFUL SEXUAL ASSAULT OR DOMESTIC ABUSE THAT ARE THE SUBJECT OF THE COMPLAINT OCCUR, IN ANY COUNTY WHERE ONE OF THE PARTIES RESIDES, OR IN ANY COUNTY WHERE ONE OF THE PARTIES IS EMPLOYED. THIS REQUIREMENT FOR VENUE DOES NOT PROHIBIT THE CHANGE OF VENUE TO ANY OTHER COUNTY APPROPRIATE UNDER APPLICABLE LAW.

(6) A PERSON FAILING TO COMPLY WITH ANY ORDER OF THE COURT ISSUED PURSUANT TO THIS SECTION SHALL BE FOUND IN CONTEMPT OF COURT AND, IN ADDITION, MAY BE PUNISHED AS PROVIDED IN SECTION 18-6-803.5, C.R.S.

(7) AT ANY TIME THAT THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION TO ENFORCE THE EMERGENCY PROTECTION ORDER HAS CAUSE TO BELIEVE THAT A VIOLATION OF THE ORDER HAS OCCURRED, IT SHALL ENFORCE THE ORDER. IF THE ORDER IS WRITTEN AND HAS NOT BEEN PERSONALLY SERVED, A MEMBER OF THE LAW ENFORCEMENT AGENCY SHALL SERVE A COPY OF SAID ORDER ON THE PERSON NAMED RESPONDENT THEREIN. IF THE ORDER IS VERBAL, A MEMBER OF THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE RESPONDENT OF THE EXISTENCE AND SUBSTANCE THEREOF.

(8) THE AVAILABILITY OF AN EMERGENCY PROTECTION ORDER SHALL NOT BE AFFECTED BY THE SUBJECT OF DOMESTIC ABUSE LEAVING HIS OR HER RESIDENCE TO AVOID SUCH ABUSE.

(9) THE ISSUANCE OF AN EMERGENCY PROTECTION ORDER SHALL NOT BE CONSIDERED EVIDENCE OF ANY WRONGDOING.

(10) IF THREE EMERGENCY PROTECTION ORDERS ARE ISSUED WITHIN A ONE-YEAR PERIOD INVOLVING THE SAME PARTIES WITHIN THE SAME JURISDICTION, THE COURT SHALL SUMMON THE PARTIES TO APPEAR BEFORE THE COURT AT A HEARING TO REVIEW THE CIRCUMSTANCES GIVING RISE TO SUCH EMERGENCY PROTECTION ORDERS.

(11) THE DUTIES OF PEACE OFFICERS ENFORCING ORDERS ISSUED PURSUANT TO THIS SECTION SHALL BE IN ACCORDANCE WITH SECTION 18-6-803.5, C.R.S., AND ANY RULES ADOPTED BY THE COLORADO SUPREME COURT PURSUANT TO SAID SECTION.

**13-14-104. Foreign protection orders. (1) Definitions.** AS USED IN THIS SECTION, "FOREIGN PROTECTION ORDER" MEANS ANY PROTECTION OR RESTRAINING ORDER, INJUNCTION, OR OTHER ORDER ISSUED FOR THE PURPOSE OF PREVENTING



VIOLENT OR THREATENING ACTS OR HARASSMENT AGAINST, OR CONTACT OR COMMUNICATION WITH OR PHYSICAL PROXIMITY TO, ANOTHER PERSON, INCLUDING TEMPORARY OR FINAL ORDERS, OTHER THAN CHILD SUPPORT OR CUSTODY ORDERS, ISSUED BY A CIVIL OR CRIMINAL COURT OF ANOTHER STATE, AN INDIAN TRIBE, OR A U.S. TERRITORY OR COMMONWEALTH.

(2) **Full faith and credit.** A FOREIGN PROTECTION ORDER SHALL BE ACCORDED FULL FAITH AND CREDIT BY THE COURTS OF THIS STATE AS IF THE ORDER WERE AN ORDER OF THIS STATE, NOTWITHSTANDING SECTION 14-11-101, C.R.S., AND ARTICLE 53 OF THIS TITLE, IF THE ORDER MEETS ALL OF THE FOLLOWING CONDITIONS:

(a) THE FOREIGN PROTECTION ORDER WAS OBTAINED AFTER PROVIDING THE PERSON AGAINST WHOM THE PROTECTION ORDER WAS SOUGHT REASONABLE NOTICE AND AN OPPORTUNITY TO BE HEARD SUFFICIENT TO PROTECT HIS OR HER DUE PROCESS RIGHTS. IF THE FOREIGN PROTECTION ORDER IS AN EX PARTE INJUNCTION OR ORDER, THE PERSON AGAINST WHOM IT WAS OBTAINED SHALL HAVE BEEN GIVEN NOTICE AND AN OPPORTUNITY TO BE HEARD WITHIN A REASONABLE TIME AFTER THE ORDER WAS ISSUED SUFFICIENT TO PROTECT HIS OR HER DUE PROCESS RIGHTS.

(b) THE COURT THAT ISSUED THE ORDER HAD JURISDICTION OVER THE PARTIES AND OVER THE SUBJECT MATTER;

(c) THE ORDER COMPLIES WITH SECTION 13-14-102 (18).

(3) **Process.** A PERSON ENTITLED TO PROTECTION UNDER A FOREIGN PROTECTION ORDER MAY, BUT SHALL NOT BE REQUIRED TO, FILE SUCH ORDER IN THE DISTRICT OR COUNTY COURT BY FILING WITH SUCH COURT A CERTIFIED COPY OF SUCH ORDER, WHICH SHALL BE ENTERED INTO THE CENTRAL REGISTRY OF PROTECTION ORDERS CREATED IN SECTION 18-6-803.7, C.R.S. THE CERTIFIED ORDER SHALL BE ACCOMPANIED BY AN AFFIDAVIT IN WHICH THE PROTECTED PERSON AFFIRMS TO THE BEST OF HIS OR HER KNOWLEDGE THAT THE ORDER HAS NOT BEEN CHANGED OR MODIFIED SINCE IT WAS ISSUED. THERE SHALL BE NO FILING FEE CHARGED. IT IS THE RESPONSIBILITY OF THE PROTECTED PERSON TO NOTIFY THE COURT IF THE PROTECTION ORDER IS SUBSEQUENTLY MODIFIED.

(4) **Enforcement.** FILING OF THE FOREIGN PROTECTION ORDER IN THE CENTRAL REGISTRY OR OTHERWISE DOMESTICATING OR REGISTERING THE ORDER PURSUANT TO ARTICLE 53 OF THIS TITLE OR SECTION 14-11-101, C.R.S., IS NOT A PREREQUISITE TO ENFORCEMENT OF THE FOREIGN PROTECTION ORDER. A PEACE OFFICER SHALL PRESUME THE VALIDITY OF, AND ENFORCE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, A FOREIGN PROTECTION ORDER THAT APPEARS TO BE AN AUTHENTIC COURT ORDER THAT HAS BEEN PROVIDED TO THE PEACE OFFICER BY ANY SOURCE. IF THE PROTECTED PARTY DOES NOT HAVE A COPY OF THE FOREIGN PROTECTION ORDER ON HIS OR HER PERSON AND THE PEACE OFFICER DETERMINES THAT A PROTECTION ORDER EXISTS THROUGH THE CENTRAL REGISTRY, THE NATIONAL CRIME INFORMATION CENTER AS DESCRIBED IN 28 U.S.C. SEC. 534, OR COMMUNICATION WITH APPROPRIATE AUTHORITIES, THE PEACE OFFICER SHALL ENFORCE THE ORDER. A PEACE OFFICER MAY RELY UPON THE STATEMENT OF ANY PERSON PROTECTED BY A FOREIGN PROTECTION ORDER THAT IT REMAINS IN EFFECT. A PEACE OFFICER WHO IS ACTING IN GOOD FAITH WHEN ENFORCING A FOREIGN PROTECTION ORDER SHALL NOT BE CIVILLY OR CRIMINALLY LIABLE PURSUANT TO SECTION 18-6-803.5 (5), C.R.S.

**SECTION 4.** The introductory portion to 14-10-108 (2) and 14-10-108 (2.3), (2.5), (3), (4), (6), and (7), Colorado Revised Statutes, are amended to read:

**14-10-108. Temporary orders in a dissolution case.** (2) As a part of a motion of such temporary orders or by an independent motion accompanied by an affidavit, either party may request the court to issue a temporary ~~injunction~~ ORDER:

(2.3) Any protection order issued pursuant to this section on or after July 1, 1999, ~~shall be issued using the standardized set of forms developed by the state court administrator pursuant to section 13-1-136, C.R.S.~~

(2.5) ~~As part of a temporary protection order, the court may award interim decision-making responsibility of a child to a person entitled to bring an action for the allocation of parental responsibilities under section 14-10-123, when such award is reasonably related to preventing domestic abuse as defined in section 14-4-101 (2) or preventing the child from witnessing domestic abuse. The interim decision-making responsibility order may be modified or dissolved, based upon the best interests of the child as set forth in section 14-10-124, at a subsequent temporary or permanent orders hearing or as otherwise provided by subsection (6) of this section or as otherwise ordered by the court. The interim decision-making responsibility order may be issued without notice to the other party only if the court finds that irreparable injury would result to the moving party or the child if no order were issued until the time for responding to the motion had elapsed. The interim decision-making responsibility order shall be without prejudice to the rights of the parties or child at subsequent hearings in the proceedings. The interim decision-making responsibility order may provide for parenting time for any other party.~~

(3) ~~The court may issue a temporary protection order without requiring notice to the other party only if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury would result to the moving party if no order were issued until the time for responding had elapsed. A copy of any temporary protection order issued pursuant to this section shall be provided to the protected parties. A PARTY TO AN ACTION FILED PURSUANT TO THIS ARTICLE MAY SEEK, AND THE COURT MAY ISSUE, A TEMPORARY OR PERMANENT PROTECTION ORDER PURSUANT TO THE PROVISIONS OF SECTION 13-14-102, C.R.S.~~

(4) ~~On the basis of the showing made, the court may issue a temporary injunction and such temporary orders as are just and proper in the circumstances.~~

(6) ~~On two days' notice to the party who obtained the temporary protection order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification. The motion to dissolve or modify the temporary protection order granted without notice shall be set down for hearing at the earliest possible time and take precedence of all matters except older matters of the same character, and the court shall determine such motion as expeditiously as the ends of justice require.~~

(7) At the time a protection order is requested pursuant to this section 13-14-102, C.R.S., the court shall inquire about, and the requesting party and such party's attorney shall have an independent duty to disclose, knowledge such party and such party's attorney may have concerning the existence of any prior protection orders OR

RESTRAINING ORDERS of any court addressing in whole or in part the subject matter of the requested protection order.

**SECTION 5. Repeal.** 14-4-101, 14-4-103, 14-4-104, 18-6-803.8, and 19-3-316, Colorado Revised Statutes, are repealed.

**SECTION 6.** 13-3-113 (3) (b), Colorado Revised Statutes, is amended to read:

**13-3-113. "Family-friendly Courts Act" - repeal.** (3) **Definitions.** For purposes of this section:

(b) "Domestic abuse" shall have the same meaning as set forth in section ~~14-4-101 (2)~~, C.R.S. 13-14-101 (2).

**SECTION 7.** 13-15-102 (2) (c), Colorado Revised Statutes, is amended to read:

**13-15-102. Publication of change.** (2) Public notice of such name change through publication as required in subsection (1) of this section shall not be required if the petitioner has been:

(c) The victim of domestic abuse as that term is defined in section ~~14-4-101 (2)~~, C.R.S. 13-14-101 (2).

**SECTION 8.** 13-53-102 (1), Colorado Revised Statutes, is amended to read:

**13-53-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court, except a protection order or a restraining order as described in section ~~18-6-803.8, C.R.S.~~, 13-14-104 that is entitled to full faith and credit in this state.

**SECTION 9.** 14-4-107 (5) (b), Colorado Revised Statutes, is amended to read:

**14-4-107. Family violence justice fund - creation - grants from fund.** (5) For purposes of this section:

(b) "Family violence" has the same meaning as "domestic abuse" as set forth in section ~~14-4-101 (2)~~ 13-14-101 (2), C.R.S.

**SECTION 10.** 14-10-107.8 (1), Colorado Revised Statutes, is amended to read:

**14-10-107.8. Required notice of prior restraining orders to prevent domestic abuse - petitions for dissolution of marriage or legal separation.** (1) When filing a petition for dissolution of marriage or legal separation pursuant to this article, the filing party shall have a duty to disclose to the court the existence of any prior temporary or permanent restraining orders to prevent domestic abuse issued pursuant to article 14 of title 13, C.R.S., any mandatory restraining orders issued pursuant to section 18-1-1001, C.R.S., and any emergency protection orders issued pursuant to section ~~14-4-103~~ 13-14-103, C.R.S., entered against either party by any court within

two years prior to the filing of the petition of dissolution of marriage or legal separation. The disclosure required pursuant to this section shall address the subject matter of the previous restraining or emergency protection orders, including the case number and jurisdiction issuing such orders.

**SECTION 11.** 14-10-123.6 (2), Colorado Revised Statutes, is amended to read:

**14-10-123.6. Required notice of prior restraining orders to prevent domestic abuse - proceedings concerning parental responsibilities relating to a child - resources for family services.** (2) When filing a proceeding concerning the allocation of parental responsibilities relating to a child pursuant to this article, the filing party shall have a duty to disclose to the court the existence of any prior temporary or permanent restraining orders to prevent domestic abuse issued pursuant to article 14 of title 13, C.R.S., and any emergency protection orders issued pursuant to section ~~14-4-103~~ 13-14-103, C.R.S., entered against either party by any court within two years prior to the filing of the proceeding. The disclosure required pursuant to this section shall address the subject matter of the previous restraining orders or emergency protection orders, including the case number and jurisdiction issuing such orders.

**SECTION 12.** 18-6-803.5 (1.5) (a.5), Colorado Revised Statutes, is amended to read:

**18-6-803.5. Crime of violation of a protection order - penalty - peace officers' duties.** (1.5) As used in this section:

(a.5) (I) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises or any other provision to protect the protected person from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

(A) Article 14 of title 13, C.R.S., ~~sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., section 18-1-1001, section 19-2-707, C.R.S., section 19-3-316, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;~~

(B) SECTIONS 14-4-101 TO 14-4-105, C.R.S., SECTION 14-10-107, C.R.S., SECTION 14-10-108, C.R.S., OR SECTION 19-3-316, C.R.S., AS THOSE SECTIONS EXISTED PRIOR TO JULY 1, 2004;

(C) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(D) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(II) For purposes of this section only, "protection order" includes any order that

amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section ~~18-6-803.8~~ 13-14-104, C.R.S.

**SECTION 13.** 18-6-803.7 (1) (b.5), Colorado Revised Statutes, is amended to read:

**18-6-803.7. Central registry of protection orders - creation.** (1) As used in this section:

(b.5) (I) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, that is issued by a court of this state or an authorized municipal court, and that is issued pursuant to:

(A) Article 14 of title 13, C.R.S., ~~sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S.,~~ section 18-1-1001, section 19-2-707, C.R.S., ~~section 19-3-316, C.R.S.,~~ section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(B) SECTIONS 14-4-101 TO 14-4-105, C.R.S., SECTION 14-10-107, C.R.S., SECTION 14-10-108, C.R.S., OR SECTION 19-3-316, C.R.S., AS THOSE SECTIONS EXISTED PRIOR TO JULY 1, 2004; or

(C) An order issued as part of the proceedings concerning a criminal municipal ordinance violation.

(II) "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as described in section ~~18-6-803.8~~ 13-14-104, C.R.S.

**SECTION 14.** 19-4-107.5, Colorado Revised Statutes, is amended to read:

**19-4-107.5. Required notice of prior restraining orders to prevent domestic abuse - determination of parent and child relationship.** When filing a proceeding under this article, the filing party shall have a duty to disclose to the court the existence of any prior temporary or permanent restraining orders to prevent domestic abuse issued pursuant to article 14 of title 13, C.R.S., and any emergency protection orders issued pursuant to section ~~14-4-103~~, 13-14-103, C.R.S., entered against either party by any court within ninety days prior to the filing of the proceeding to determine the parent and child relationship. The disclosure required pursuant to this section shall address the subject matter of the previous restraining orders or emergency protection orders, including the case number and jurisdiction issuing such orders.

**SECTION 15.** 19-5-102.5 (2), Colorado Revised Statutes, is amended to read:

**19-5-102.5. Relinquishment hearings - court docket priority.** (2) Notwithstanding the provisions of subsection (1) of this section, nothing in this section shall affect the priority of a hearing concerning the issuance of a temporary protection order pursuant to section 13-14-102, C.R.S. ~~section 14-4-103, C.R.S., or~~

~~section 14-10-108, C.R.S.~~

**SECTION 16.** 19-5-202.5 (2), Colorado Revised Statutes, is amended to read:

**19-5-202.5. Adoption hearings - termination appeals - court docket priority - exceptions.** (2) Notwithstanding the provisions of subsection (1) of this section, nothing in this section shall affect the priority of a hearing concerning the issuance of a temporary protection order pursuant to section 13-14-102, C.R.S. ~~section 14-4-103, C.R.S., or section 14-10-108, C.R.S.~~

**SECTION 17. Effective date - applicability.** This act shall take effect July 1, 2004, and shall apply to motions for protective orders or motions to modify protective orders filed on or after said date.

**SECTION 18. 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 21, 2004