

CHAPTER 218

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 13-1259

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also SENATOR(S) Newell, Aguilar, Giron, Heath, Hudak, Kerr, Nicholson, Todd.

AN ACT

CONCERNING COURT ORDERS IN CIVIL ACTIONS FOR PERSONS AT RISK OF ABUSE OR NEGLECT, AND, IN CONNECTION THEREWITH, PROCEDURES FOR ALLOCATING PARENTAL RIGHTS AND RESPONSIBILITIES IN THE BEST INTERESTS OF THE CHILD IN CASES INVOLVING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE; PROVISIONS RELATING TO PARENTING TIME ORDERS; PROVISIONS RELATING TO PARENTING TIME EVALUATIONS AND REPORTS; AMENDING AND RELOCATING PROVISIONS RELATING TO CIVIL PROTECTION ORDERS; AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **amend** 14-10-123.4 as follows:

14-10-123.4. Rights of children in matters relating to parental responsibilities. (1) The general assembly hereby declares that children have certain rights in the determination of matters relating to parental responsibilities, including:

(a) The right to have such determinations based upon the best interests of the child;

(b) THE RIGHT TO BE EMOTIONALLY, MENTALLY, AND PHYSICALLY SAFE WHEN IN THE CARE OF EITHER PARENT; AND

(c) THE RIGHT TO RESIDE IN AND VISIT IN HOMES THAT ARE FREE OF DOMESTIC VIOLENCE AND CHILD ABUSE OR NEGLECT.

SECTION 2. In Colorado Revised Statutes, 14-10-124, **amend** (1), (1.5) introductory portion, (1.5) (a) introductory portion, (1.5) (a) (VI), (1.5) (b)

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

introductory portion, (4), and (7); **repeal** (1.5) (a) (IX), (1.5) (a) (X), (1.5) (b) (IV), and (1.5) (b) (V); and **add** (1.7) as follows:

14-10-124. Best interests of child. (1) Legislative declaration. WHILE CO-PARENTING IS NOT APPROPRIATE IN ALL CIRCUMSTANCES FOLLOWING DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION, the general assembly finds and declares that, IN MOST CIRCUMSTANCES, it is in the best interest of all parties to encourage frequent and continuing contact between each parent and the minor children of the marriage after the parents have separated or dissolved their marriage. In order to effectuate this goal WHEN APPROPRIATE, the general assembly urges parents to share the rights and responsibilities of child-rearing and to encourage the love, affection, and contact between the children and the parents.

(1.5) **Allocation of parental responsibilities.** The court shall determine the allocation of parental responsibilities, including parenting time and decision-making responsibilities, in accordance with the best interests of the child giving paramount consideration to the CHILD'S SAFETY AND THE physical, mental, and emotional conditions and needs of the child as follows:

(a) **Determination of parenting time.** The court, upon the motion of either party or upon its own motion, may make provisions for parenting time that the court finds are in the child's best interests unless the court finds, after a hearing, that parenting time by the party would endanger the child's physical health or significantly impair the child's emotional development. WHEN A CLAIM OF CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE HAS BEEN MADE TO THE COURT, OR THE COURT HAS REASON TO BELIEVE THAT A PARTY HAS COMMITTED CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE, PRIOR TO DETERMINING PARENTING TIME, THE COURT SHALL FOLLOW THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION. In determining the best interests of the child for purposes of parenting time, the court shall consider all relevant factors, including:

(VI) The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party; EXCEPT THAT, IF THE COURT DETERMINES THAT A PARTY IS ACTING TO PROTECT THE CHILD FROM WITNESSING DOMESTIC VIOLENCE OR FROM BEING A VICTIM OF CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE, THE PARTY'S PROTECTIVE ACTIONS SHALL NOT BE CONSIDERED WITH RESPECT TO THIS FACTOR;

~~(IX) Whether one of the parties has been a perpetrator of child abuse or neglect under section 18-6-401, C.R.S., or under the law of any state, which factor shall be supported by credible evidence;~~

~~(X) Whether one of the parties has been a perpetrator of domestic violence, which factor shall be supported by a preponderance of the evidence;~~

(b) **Allocation of decision-making responsibility.** The court, upon the motion of either party or its own motion, shall allocate the decision-making responsibilities between the parties based upon the best interests of the child. In determining decision-making responsibility, the court may allocate the decision-making responsibility with respect to each issue affecting the child mutually between both parties or individually to one or the other party or any combination thereof. WHEN

A CLAIM OF CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE HAS BEEN MADE TO THE COURT, OR THE COURT HAS REASON TO BELIEVE THAT A PARTY HAS COMMITTED CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE, PRIOR TO ALLOCATING DECISION-MAKING RESPONSIBILITY, THE COURT SHALL FOLLOW THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION. In determining the best interests of the child for purposes of allocating decision-making responsibilities, the court shall consider, in addition to the factors set forth in paragraph (a) of this subsection (1.5), all relevant factors including:

~~(IV) Whether one of the parties has been a perpetrator of child abuse or neglect under section 18-6-401, C.R.S., or under the law of any state, which factor shall be supported by credible evidence. If the court makes a finding of fact that one of the parties has been a perpetrator of child abuse or neglect, then it shall not be in the best interests of the child to allocate mutual decision-making with respect to any issue over the objection of the other party or the legal representative of the child.~~

~~(V) Whether one of the parties has been a perpetrator of domestic violence, which factor shall be supported by a preponderance of the evidence. If the court makes a finding of fact that one of the parties has been a perpetrator of domestic violence, then it shall not be in the best interests of the child to allocate mutual decision-making responsibility over the objection of the other party or the legal representative of the child, unless the court finds that the parties are able to make shared decisions about their children without physical confrontation and in a place and manner that is not a danger to the abused party or the child.~~

(1.7) PURSUANT TO SECTION 14-10-123.4, CHILDREN HAVE THE RIGHT TO HAVE THE DETERMINATION OF MATTERS RELATING TO PARENTAL RESPONSIBILITIES BASED UPON THE BEST INTERESTS OF THE CHILD. IN CONTESTED HEARINGS ON FINAL ORDERS REGARDING THE ALLOCATION OF PARENTAL RESPONSIBILITIES, THE COURT SHALL MAKE FINDINGS ON THE RECORD CONCERNING THE FACTORS THE COURT CONSIDERED AND THE REASONS WHY THE ALLOCATION OF PARENTAL RESPONSIBILITIES IS IN THE BEST INTERESTS OF THE CHILD.

(4)(a) WHEN A CLAIM OF CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE HAS BEEN MADE TO THE COURT, OR THE COURT HAS REASON TO BELIEVE THAT A PARTY HAS COMMITTED CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE, PRIOR TO ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITY, AND PRIOR TO CONSIDERING THE FACTORS SET FORTH IN PARAGRAPHS (a) AND (b) OF SUBSECTION (1.5) OF THIS SECTION, THE COURT SHALL CONSIDER THE FOLLOWING FACTORS:

(I) **[Similar to 14-10-124 (1.5) (b) (IV).]** WHETHER ONE OF THE PARTIES HAS COMMITTED AN ACT OF CHILD ABUSE OR NEGLECT AS DEFINED IN SECTION 18-6-401, C.R.S., OR AS DEFINED UNDER THE LAW OF ANY STATE, WHICH FACTOR MUST BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. IF THE COURT FINDS THAT ONE OF THE PARTIES HAS COMMITTED CHILD ABUSE OR NEGLECT, THEN IT SHALL NOT BE IN THE BEST INTERESTS OF THE CHILD TO ALLOCATE MUTUAL DECISION-MAKING WITH RESPECT TO ANY ISSUE OVER THE OBJECTION OF THE OTHER PARTY OR THE LEGAL REPRESENTATIVE OF THE CHILD.

(II) **[Similar to 14-10-124 (1.5) (b) (V).]** WHETHER ONE OF THE PARTIES HAS

COMMITTED AN ACT OF DOMESTIC VIOLENCE, HAS ENGAGED IN A PATTERN OF DOMESTIC VIOLENCE, OR HAS A HISTORY OF DOMESTIC VIOLENCE, WHICH FACTOR MUST BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF THE PARTIES HAS COMMITTED DOMESTIC VIOLENCE:

(A) IT SHALL NOT BE IN THE BEST INTERESTS OF THE CHILD TO ALLOCATE MUTUAL DECISION-MAKING RESPONSIBILITY OVER THE OBJECTION OF THE OTHER PARTY OR THE LEGAL REPRESENTATIVE OF THE CHILD, UNLESS THE COURT FINDS THAT THERE IS CREDIBLE EVIDENCE OF THE ABILITY OF THE PARTIES TO MAKE DECISIONS COOPERATIVELY IN THE BEST INTEREST OF THE CHILD IN A MANNER THAT IS SAFE FOR THE ABUSED PARTY AND THE CHILD; AND

(B) THE COURT SHALL NOT APPOINT A PARENTING COORDINATOR SOLELY TO ENSURE THAT MUTUAL DECISION-MAKING CAN BE ACCOMPLISHED.

(b) THE COURT SHALL CONSIDER THE ADDITIONAL FACTORS SET FORTH IN PARAGRAPHS (a) AND (b) OF SUBSECTION (1.5) OF THIS SECTION IN LIGHT OF ANY FINDING OF CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE PURSUANT TO THIS SUBSECTION (4).

(c) If a party is absent or leaves home because of an act or threatened act of domestic violence committed by the other party, such absence or leaving shall not be a factor in determining the best interests of the child.

(d) WHEN THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF THE PARTIES HAS COMMITTED CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE, THE COURT SHALL CONSIDER, AS THE PRIMARY CONCERN, THE SAFETY AND WELL-BEING OF THE CHILD AND THE ABUSED PARTY.

(e) WHEN THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF THE PARTIES HAS COMMITTED CHILD ABUSE OR NEGLECT OR DOMESTIC VIOLENCE, IN FORMULATING OR APPROVING A PARENTING PLAN, THE COURT SHALL CONSIDER CONDITIONS ON PARENTING TIME THAT ENSURE THE SAFETY OF THE CHILD AND OF THE ABUSED PARTY. IN ADDITION TO ANY PROVISIONS SET FORTH IN SUBSECTION (7) OF THIS SECTION THAT ARE APPROPRIATE, THE PARENTING PLAN IN THESE CASES MAY INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING PROVISIONS:

(I) AN ORDER LIMITING CONTACT BETWEEN THE PARTIES TO CONTACT THAT THE COURT DEEMS IS SAFE AND THAT MINIMIZES UNNECESSARY COMMUNICATION BETWEEN THE PARTIES;

(II) AN ORDER THAT REQUIRES THE EXCHANGE OF THE CHILD FOR PARENTING TIME TO OCCUR IN A PROTECTED SETTING DETERMINED BY THE COURT;

(III) AN ORDER FOR SUPERVISED PARENTING TIME;

(IV) AN ORDER RESTRICTING OVERNIGHT PARENTING TIME;

(V) AN ORDER THAT RESTRICTS THE PARTY WHO HAS COMMITTED DOMESTIC VIOLENCE OR CHILD ABUSE OR NEGLECT FROM POSSESSING OR CONSUMING ALCOHOL

OR CONTROLLED SUBSTANCES DURING PARENTING TIME OR FOR TWENTY-FOUR HOURS PRIOR TO THE COMMENCEMENT OF PARENTING TIME;

(VI) AN ORDER DIRECTING THAT THE ADDRESS OF THE CHILD OR OF ANY PARTY REMAIN CONFIDENTIAL; AND

(VII) AN ORDER THAT IMPOSES ANY OTHER CONDITION ON ONE OR MORE PARTIES THAT THE COURT DETERMINES IS NECESSARY TO PROTECT THE CHILD, ANOTHER PARTY, OR ANY OTHER FAMILY OR HOUSEHOLD MEMBER OF A PARTY.

(f) WHEN THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT ONE OF THE PARTIES HAS COMMITTED DOMESTIC VIOLENCE, THE COURT MAY ORDER THE PARTY TO SUBMIT TO A DOMESTIC VIOLENCE EVALUATION. IF THE COURT DETERMINES, BASED UPON THE RESULTS OF THE EVALUATION, THAT TREATMENT IS APPROPRIATE, THE COURT MAY ORDER THE PARTY TO PARTICIPATE IN DOMESTIC VIOLENCE TREATMENT. AT ANY TIME, THE COURT MAY REQUIRE A SUBSEQUENT EVALUATION TO DETERMINE WHETHER ADDITIONAL TREATMENT IS NECESSARY. IF THE COURT AWARDS PARENTING TIME TO A PARTY WHO HAS BEEN ORDERED TO PARTICIPATE IN DOMESTIC VIOLENCE TREATMENT, THE COURT MAY ORDER THE PARTY TO OBTAIN A REPORT FROM THE TREATMENT PROVIDER CONCERNING THE PARTY'S PROGRESS IN TREATMENT AND ADDRESSING ANY ONGOING SAFETY CONCERNS REGARDING THE PARTY'S PARENTING TIME. THE COURT MAY ORDER THE PARTY WHO HAS COMMITTED DOMESTIC VIOLENCE TO PAY THE COSTS OF THE DOMESTIC VIOLENCE EVALUATIONS AND TREATMENT.

(7) In order to implement an order allocating parental responsibilities, both parties may submit a parenting plan or plans for the court's approval that shall address both parenting time and the allocation of decision-making responsibilities. If no parenting plan is submitted or if the court does not approve a submitted parenting plan, the court, on its own motion, shall formulate a parenting plan that shall address parenting time and the allocation of decision-making responsibilities. WHEN ISSUES RELATING TO PARENTING TIME ARE CONTESTED, AND IN OTHER CASES WHERE APPROPRIATE, THE PARENTING PLAN MUST BE AS SPECIFIC AS POSSIBLE TO CLEARLY ADDRESS THE NEEDS OF THE FAMILY AS WELL AS THE CURRENT AND FUTURE NEEDS OF THE AGING CHILD. IN GENERAL, THE PARENTING PLAN MAY INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING PROVISIONS:

(a) A DESIGNATION OF THE TYPE OF DECISION-MAKING AWARDED;

(b) A PRACTICAL SCHEDULE OF PARENTING TIME FOR THE CHILD, INCLUDING HOLIDAYS AND SCHOOL VACATIONS;

(c) A PROCEDURE FOR THE EXCHANGES OF THE CHILD FOR PARENTING TIME, INCLUDING THE LOCATION OF THE EXCHANGES AND THE PARTY OR PARTIES RESPONSIBLE FOR THE CHILD'S TRANSPORTATION;

(d) A PROCEDURE FOR COMMUNICATING WITH EACH OTHER ABOUT THE CHILD, INCLUDING METHODS FOR COMMUNICATING AND FREQUENCY OF COMMUNICATION;

(e) A PROCEDURE FOR COMMUNICATION BETWEEN A PARENT AND THE CHILD OUTSIDE OF THAT PARENT'S PARENTING TIME, INCLUDING METHODS FOR

COMMUNICATING AND FREQUENCY OF COMMUNICATION; AND

(f) ANY OTHER ORDERS IN THE BEST INTERESTS OF THE CHILD.

SECTION 3. In Colorado Revised Statutes, 14-10-127, **amend** (1) (a) (I); and **add** (1) (a) (I.3) as follows:

14-10-127. Evaluation and reports - disclosure. (1) (a) (I) In all proceedings concerning the allocation of parental responsibilities with respect to a child, the court ~~shall~~ **MAY**, upon motion of either party or upon its own motion, order ~~the court probation department~~, any county or district social services department or a licensed mental health professional qualified pursuant to subsection (4) of this section to perform an evaluation and file a written report concerning the disputed issues relating to the allocation of parental responsibilities for the child, unless such motion by either party is made for the purpose of delaying the proceedings. Any court or social services department personnel appointed by the court to do such evaluation shall be qualified pursuant to subsection (4) of this section. When a mental health professional performs the evaluation, the court shall appoint or approve the selection of the mental health professional. Within seven days after the appointment, the evaluator shall comply with the disclosure provisions of subsection (1.2) of this section. The court shall, at the time of the appointment of the evaluator, order one or more of the parties to deposit a reasonable sum with the court to pay the cost of the evaluation. The court may order the reasonable charge for such evaluation and report to be assessed as costs between the parties at the time the evaluation is completed.

(I.3) IN DETERMINING WHETHER TO ORDER AN EVALUATION PURSUANT TO THIS SECTION, IN ADDITION TO ANY OTHER CONSIDERATIONS THE COURT DEEMS RELEVANT, THE COURT SHALL CONSIDER:

(A) WHETHER AN INVESTIGATION BY A CHILD AND FAMILY INVESTIGATOR PURSUANT TO SECTION 14-10-116.5 WOULD BE SUFFICIENT OR APPROPRIATE GIVEN THE SCOPE OR NATURE OF THE DISPUTED ISSUES RELATING TO THE ALLOCATION OF PARENTAL RESPONSIBILITIES FOR THE CHILD;

(B) WHETHER AN EVALUATION PURSUANT TO THIS SECTION IS NECESSARY TO ASSIST THE COURT IN DETERMINING THE BEST INTERESTS OF THE CHILD; AND

(C) WHETHER INVOLVING THE CHILD IN AN EVALUATION PURSUANT TO THIS SECTION IS IN THE BEST INTERESTS OF THE CHILD.

SECTION 4. In Colorado Revised Statutes, 14-10-129, **amend** (2) (c) introductory portion and (4) as follows:

14-10-129. Modification of parenting time. (2) The court shall not modify a prior order concerning parenting time that substantially changes the parenting time as well as changes the party with whom the child resides a majority of the time unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or the party with whom the child resides the majority of the time and that the modification is necessary to serve the best

interests of the child. In applying these standards, the court shall retain the parenting time schedule established in the prior decree unless:

(c) The party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party. A court hearing on any modification of parenting time due to an intent to relocate shall be given a priority on the court's docket. In determining whether the modification of parenting time is in the best interests of the child, the court shall take into account all relevant factors, including whether a party has ~~been a perpetrator~~ COMMITTED AN ACT OF DOMESTIC VIOLENCE, HAS ENGAGED IN A PATTERN OF DOMESTIC VIOLENCE, OR HAS A HISTORY OF DOMESTIC VIOLENCE, as that term is defined in section 14-10-124 (1.3), which factor shall be supported by a preponderance of the evidence, ~~whether~~ AND SHALL CONSIDER such domestic violence WHETHER IT occurred before or after the prior decree, and all other factors enumerated in section 14-10-124 (1.5) (a) and:

(4) A motion to restrict parenting time or parental contact with a parent which alleges that the child is in imminent physical or emotional danger due to the parenting time or contact by the parent shall be heard and ruled upon by the court not later than ~~seven~~ FOURTEEN days after the day of the filing of the motion. Any parenting time which occurs during such ~~seven-day~~ FOURTEEN-DAY period after the filing of such a motion shall be supervised by an unrelated third party deemed suitable by the court or by a licensed mental health professional, as defined in section 14-10-127 (1) (b). This subsection (4) shall not apply to any motion which is filed pursuant to subsection (3) of this section.

SECTION 5. In Colorado Revised Statutes, **add with relocated provisions** 13-14-100.2 as follows:

13-14-100.2. Legislative declaration. [Formerly 13-14-102 (1).] (1) (a) 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 OTHER TYPES OF ABUSE, and prevent serious harm and death. In order to improve the public's access to protection orders and to ensure 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.

~~(b) The general assembly further finds and declares that:~~

~~(I) Domestic violence is not limited to physical threats of violence and harm but includes financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs;~~

~~(II) Victims of domestic violence in many cases are unable to access resources to seek lasting safety options;~~

~~(III) These victims need the assistance of additional court orders to meet their immediate needs for food, shelter, transportation, medical care, and child care at the time they go to court for a civil protection order; and~~

~~(IV) These additional court orders are needed not only in cases that end in dissolution of marriage but also in cases in which reconciliation is appropriate, as well as in other cases.~~

(2) [Similar to 13-14-102 (1) (b)] THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT DOMESTIC ABUSE IS NOT LIMITED TO PHYSICAL THREATS OF VIOLENCE AND HARM BUT ALSO INCLUDES MENTAL AND EMOTIONAL ABUSE, FINANCIAL CONTROL, DOCUMENT CONTROL, PROPERTY CONTROL, AND OTHER TYPES OF CONTROL THAT MAKE A VICTIM MORE LIKELY TO RETURN TO AN ABUSER DUE TO FEAR OF RETALIATION OR INABILITY TO MEET BASIC NEEDS. MANY VICTIMS OF DOMESTIC ABUSE ARE UNABLE TO ACCESS THE RESOURCES NECESSARY TO SEEK LASTING SAFETY OPTIONS. VICTIMS NEED ADDITIONAL PROVISIONS IN PROTECTION ORDERS SO THAT THEY CAN MEET THEIR IMMEDIATE NEEDS OF FOOD, SHELTER, TRANSPORTATION, MEDICAL CARE, AND CHILDCARE FOR THEIR APPEARANCE AT PROTECTION ORDER HEARINGS. THESE NEEDS MAY EXIST NOT ONLY IN CASES THAT MAY END IN DISSOLUTION OF MARRIAGE BUT ALSO IN OTHER CIRCUMSTANCES, INCLUDING CASES IN WHICH RECONCILIATION MAY OCCUR.

(3) ADDITIONALLY, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT SEXUAL ASSAULT AFFECTS COLORADANS OF ALL AGES, BACKGROUNDS, AND CIRCUMSTANCES AND IS ONE OF THE MOST UNDER-REPORTED OF ALL CRIMES. SEXUAL VIOLENCE MAY OCCUR IN ANY TYPE OF RELATIONSHIP; HOWEVER, THE MAJORITY OF SEXUAL ASSAULT IS PERPETRATED BY SOMEONE WHOM THE VICTIM KNOWS. VICTIMS OF SEXUAL ASSAULT WHO DO NOT REPORT THE CRIME, AS WELL AS VICTIMS WHO DO REPORT BUT WHOSE CASE IS NOT PROSECUTED, STILL NEED AND DESERVE PROTECTION FROM FUTURE INTERACTIONS WITH THE PERPETRATOR, AS MANY VICTIMS EXPERIENCE LONG-LASTING PHYSICAL AND EMOTIONAL TRAUMA FROM UNWANTED CONTACT WITH THE PERPETRATOR.

(4) FINALLY, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT STALKING IS A DANGEROUS, HIGH-RISK CRIME THAT FREQUENTLY ESCALATES OVER TIME AND THAT SOMETIMES LEADS, TRAGICALLY, TO SEXUAL ASSAULT OR HOMICIDE. COUNTLESS YOUTH AND ADULTS IN COLORADO HAVE FACED THE FEAR, ISOLATION, AND DANGER OF BEING VICTIMS OF STALKING, AND MANY OF THESE INCIDENTS GO UNREPORTED AND ARE NOT PROSECUTED. WHILE STALKING BEHAVIORS MAY APPEAR INNOCUOUS TO OUTSIDE OBSERVERS, THE VICTIMS OFTEN ENDURE INTENSE PHYSICAL AND EMOTIONAL DISTRESS THAT AFFECTS ALL ASPECTS OF THEIR LIVES AND ARE MORE LIKELY THAN OTHERS TO EXPRESS ANXIETY, DEPRESSION, AND SOCIAL DYSFUNCTION.

SECTION 6. In Colorado Revised Statutes, 13-14-101, **amend** (2), (2.4) (a) introductory portion, (2.4) (a) (IV), (2.4) (b), and (3); and **add** (1.7) and (2.9) as follows:

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

(1.7) "CONTACT" OR "CONTACTING" MEANS ANY INTERACTION OR COMMUNICATION WITH ANOTHER PERSON, DIRECTLY OR INDIRECTLY THROUGH A THIRD PARTY, AND ELECTRONIC AND DIGITAL FORMS OF COMMUNICATION, INCLUDING BUT NOT LIMITED TO INTERACTION OR COMMUNICATION THROUGH

SOCIAL MEDIA.

(2) "Domestic abuse" means any act, ATTEMPTED ACT, or threatened act of violence, STALKING, HARASSMENT, OR COERCION that is committed by any person against another person to whom the actor is currently or was formerly related, or with whom the actor is living or has lived in the same domicile, or with whom the actor is involved or has been involved in an intimate relationship. A SEXUAL RELATIONSHIP MAY BE AN INDICATOR OF AN INTIMATE RELATIONSHIP BUT IS NEVER A NECESSARY CONDITION FOR FINDING AN INTIMATE RELATIONSHIP. FOR PURPOSES OF THIS SUBSECTION (2), "COERCION" INCLUDES COMPELLING A PERSON BY FORCE, THREAT OF FORCE, OR INTIMIDATION TO ENGAGE IN CONDUCT FROM WHICH THE PERSON HAS THE RIGHT OR PRIVILEGE TO ABSTAIN, OR TO ABSTAIN FROM CONDUCT IN WHICH THE PERSON HAS A RIGHT OR PRIVILEGE TO ENGAGE. "Domestic abuse" may also include any act, ATTEMPTED ACT, or threatened act of violence against:

(a) The minor children of either of the parties; or

(b) An animal owned, possessed, leased, kept, or held by either of the parties or by a minor child of either of the parties, which threat, ACT, or ATTEMPTED act is intended to coerce, control, punish, intimidate, or exact revenge upon either of the parties or a minor child of either of the parties.

(2.4) (a) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, ~~or touching~~, STALKING, OR SEXUALLY ASSAULTING OR ABUSING any protected person OR FROM ENTERING OR REMAINING ON PREMISES, OR FROM COMING WITHIN A SPECIFIED DISTANCE OF A PROTECTED PERSON OR PREMISES, or from ~~threatening~~, taking, transferring, concealing, harming, ~~or disposing of~~ OR THREATENING HARM TO AN ANIMAL OWNED, POSSESSED, LEASED, KEPT, OR HELD BY A 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:

(IV) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, ~~or touching~~, STALKING, OR SEXUALLY ASSAULTING OR ABUSING a person, OR FROM ENTERING OR REMAINING ON PREMISES, OR FROM COMING WITHIN A SPECIFIED DISTANCE OF A PROTECTED PERSON OR PREMISES, or from ~~threatening~~, taking, transferring, concealing, harming, ~~or disposing of~~ OR THREATENING TO HARM an animal owned, possessed, leased, kept, or held by a 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 EMERGENCY PROTECTION ORDER, AS DESCRIBED IN SECTION 13-14-103, ANY restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-110.

(2.9) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION

16-11.7-102 (3), C.R.S., BY ANY PERSON AGAINST ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE ACTOR AND THE PETITIONER.

(3) "Stalking" means ~~the crime~~ ANY ACT, ATTEMPTED ACT, OR THREATENED ACT of stalking as described in section 18-3-602, C.R.S.

SECTION 7. In Colorado Revised Statutes, **repeal** 13-14-102.

SECTION 8. In Colorado Revised Statutes, 13-14-103, **amend** (1)(b)(I), (1)(b)(V), (1)(e), (1)(f), (5), and (8) as follows:

13-14-103. Emergency protection orders. (1)(b) An emergency protection order issued pursuant to this subsection (1) may include:

(I) Restraining a party from CONTACTING, HARASSING, INJURING, INTIMIDATING, threatening, molesting, ~~injuring or contacting~~ TOUCHING, STALKING, SEXUALLY ASSAULTING OR ABUSING 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;

(V) Restraining a party from ~~threatening~~, molesting, injuring, killing, taking, transferring, encumbering, concealing, ~~or disposing of~~ OR THREATENING HARM TO an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult; or

(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~~ ASSAULT, STALKING, SEXUAL ASSAULT OR 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~~ 13-14-104.5; 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.

(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.

(8) The availability of an emergency protection order shall not be affected by the ~~subject of domestic abuse~~ PERSON SEEKING PROTECTION leaving his or her residence to avoid ~~such abuse~~ HARM.

SECTION 9. In Colorado Revised Statutes, **repeal** 13-14-104.

SECTION 10. In Colorado Revised Statutes, **add with relocated provisions** 13-14-104.5 as follows:

13-14-104.5. [Formerly 13-14-102 (1.5) to (8).] Procedure for temporary civil protection order. ~~(1.5)~~ (1) (a) 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)~~ (I) To prevent assaults and threatened bodily harm;
- ~~(b)~~ (II) To prevent domestic abuse;
- ~~(c)~~ (III) To prevent emotional abuse of the elderly or of an at-risk adult;
- (IV) TO PREVENT SEXUAL ASSAULT OR ABUSE; AND
- ~~(d)~~ (V) To prevent stalking.

(b) TO BE ELIGIBLE FOR A PROTECTION ORDER, THE PETITIONER DOES NOT NEED TO SHOW THAT HE OR SHE HAS REPORTED THE ACT THAT IS THE SUBJECT OF THE COMPLAINT TO LAW ENFORCEMENT, THAT CHARGES HAVE BEEN FILED, OR THAT THE PETITIONER IS PARTICIPATING IN THE PROSECUTION OF A CRIMINAL MATTER.

(2) Any civil protection order issued pursuant to this section shall be issued using the standardized set of forms developed by the state court administrator pursuant to section 13-1-136.

~~(2.5)~~ (3) Venue for filing a motion or complaint pursuant to this section is proper in any county where the acts that are the subject of the motion or 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.

~~(3)~~ (4) A motion for a temporary civil protection order shall be set for hearing AT THE EARLIEST POSSIBLE TIME, which hearing may be ex parte, at ~~the earliest possible time~~; and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

~~(3.3)~~ (5) 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)~~ (1) 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)~~ (6) 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 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.

~~(4)~~ ~~(a)~~ (7) (a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil protection order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider ~~when the most recent incident of abuse or threat of harm occurred as well as all other relevant evidence concerning the safety and protection of the persons seeking the protection order. However, the court shall not deny a petitioner the relief requested solely because of a lapse of time between an act of abuse or threat of harm and filing of the petition for a protection order~~ ALL RELEVANT EVIDENCE CONCERNING THE SAFETY AND PROTECTION OF THE PERSONS SEEKING THE PROTECTION ORDER. THE COURT SHALL NOT DENY A PETITIONER THE RELIEF REQUESTED BECAUSE OF THE LENGTH OF TIME BETWEEN AN ACT OF ABUSE OR THREAT OF HARM AND THE FILING OF THE PETITION FOR A PROTECTION ORDER.

(b) If the judge or magistrate finds that an imminent danger exists to the employees of a business entity, he or she may issue a civil protection order in the name of the business for the protection of the employees. An employer is not be liable for failing to obtain a civil protection order in the name of the business for the protection of the employees and patrons.

~~(5)~~ (8) Upon the filing of a complaint duly verified, alleging that the ~~defendant~~ RESPONDENT 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~~ RESPONDENT commanding the ~~defendant~~ RESPONDENT 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. 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.

~~(6)~~ (9) A copy of the complaint, ~~together with~~ a copy of the temporary civil protection order, and a copy of the citation ~~shall~~ MUST be served upon the ~~defendant~~ RESPONDENT and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or rule 4 of the Colorado rules of civil procedure. The citation ~~shall~~ MUST inform the ~~defendant~~ RESPONDENT that, if the ~~defendant~~ RESPONDENT fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the ~~defendant~~ RESPONDENT, and the temporary protection order previously entered by the court made permanent without further notice or service upon the ~~defendant~~ RESPONDENT.

~~(7)~~ (10) The return date of the citation must 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~~ RESPONDENT 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~~ RESPONDENT.

~~(8)(a)~~ (11) (a) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, ~~shall be~~ IS permitted to return to ~~such~~ THE shared residence one time to obtain sufficient undisputed personal effects as are necessary for ~~such~~ THE person to maintain a normal standard of living during any period prior to a hearing concerning the order. ~~Such~~ THE person against whom a temporary protection order is issued ~~shall be~~ IS permitted to return to ~~such~~ THE shared residence only if ~~such~~ THE person is accompanied at all times BY A PEACE OFFICER while the person is at or in ~~such~~ THE shared residence. ~~by a peace officer.~~

(b) When any person is served with a temporary protection order issued against ~~such~~ THE person excluding ~~such~~ THE person from a shared residence, ~~such~~ THE temporary protection order ~~shall~~ MUST contain a notification in writing to ~~such~~ THE person of ~~such~~ THE person's ability to return to ~~such~~ THE shared residence pursuant to paragraph (a) of this subsection ~~(8)~~ (11). ~~Such~~ THE written notification shall be in bold print and conspicuously placed in ~~such~~ THE temporary protection order. ~~No~~ A judge, magistrate, or other judicial officer shall NOT issue a temporary protection order that does not comply with this section.

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes ~~such~~ THE person from a shared residence, ~~shall be entitled to~~ MAY avail himself or herself of the forcible

entry and detainer remedies available pursuant to article 40 of this title. However, such person is not be entitled to return to the residence until such time as a valid writ of restitution is executed AND 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~~ MAY ALSO avail himself or herself of the remedies available pursuant to article 40 of this title.

SECTION 11. In Colorado Revised Statutes, **add with relocated provisions** 13-14-105 as follows:

13-14-105. [Formerly 13-14-102 (15) and (16).] Provisions relating to civil protection orders. ~~(15)~~ (1) 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~~ HAS original concurrent jurisdiction with the district court to ~~issue such additional orders as the~~ INCLUDE ANY PROVISIONS IN THE ORDER THAT THE municipal or county court deems necessary for the protection of persons, ~~Such additional orders may include, but are not limited to;~~ INCLUDING BUT NOT LIMITED TO ORDERS:

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

(b) Restraining a party from contacting any other party or the minor child of either of the parties;

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

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

(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~~ ONE YEAR.

(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.

~~(H.5)~~ (III) 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.

~~(H)~~ (IV) ~~The standard for the award of Temporary care and control or interim decision-making responsibility shall~~ MUST be DETERMINED in accordance with THE STANDARD CONTAINED IN section 14-10-124, C.R.S.

~~(f)~~ ~~Such other relief as the court deems appropriate~~ RESTRAINING A PARTY FROM INTERFERING WITH A PROTECTED PERSON AT THE PERSON'S PLACE OF EMPLOYMENT OR PLACE OF EDUCATION OR FROM ENGAGING IN CONDUCT THAT IMPAIRS THE PROTECTED PERSON'S EMPLOYMENT, EDUCATIONAL RELATIONSHIPS, OR ENVIRONMENT;

~~(f.2)~~ (g) Restraining a party from ~~threatening~~ molesting, injuring, killing, taking, transferring, encumbering, concealing, ~~or disposing of~~ OR THREATENING HARM TO an animal owned, possessed, leased, kept, or held by any other party or a minor child of any other party; ~~or an elderly or at-risk adult;~~

~~(f.4)~~ (h) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party or a minor child of any other party; ~~or an elderly or at-risk adult;~~

(i) GRANTING SUCH OTHER RELIEF AS THE COURT DEEMS APPROPRIATE;

~~(g)~~ ~~(H)~~ (j) (I) A temporary injunction that may be issued by the court that, upon personal service or upon waiver and acceptance of service by the defendant, is to be in effect against the defendant for a period determined to be appropriate by the court and restrains the defendant from ceasing to make payments for mortgage or rent, insurance, utilities or related services, transportation, medical care, or child care when the defendant has a prior existing duty or legal obligation or from transferring, encumbering, concealing, or in any way disposing of personal effects or real property, except in the usual course of business or for the necessities of life. The restrained party shall be required to account to the court for all extraordinary expenditures made after the injunction is in effect. Any injunction issued shall not exceed one hundred twenty days after the issuance of the permanent civil protection order. ENTERING A TEMPORARY INJUNCTION RESTRAINING THE RESPONDENT FROM CEASING TO MAKE PAYMENTS FOR MORTGAGE OR RENT, INSURANCE, UTILITIES OR RELATED SERVICES, TRANSPORTATION, MEDICAL CARE, OR CHILD CARE WHEN THE RESPONDENT HAS A PRIOR EXISTING DUTY OR LEGAL OBLIGATION OR FROM TRANSFERRING, ENCUMBERING, CONCEALING, OR IN ANY WAY DISPOSING OF PERSONAL EFFECTS OR REAL PROPERTY, EXCEPT IN THE USUAL COURSE OF BUSINESS OR FOR THE NECESSITIES OF LIFE AND REQUIRING THE RESTRAINED PARTY TO ACCOUNT TO THE COURT FOR ALL EXTRAORDINARY EXPENDITURES MADE AFTER THE INJUNCTION IS IN EFFECT.

(II) ANY INJUNCTION ISSUED PURSUANT TO THIS PARAGRAPH (j) IS EFFECTIVE UPON PERSONAL SERVICE OR UPON WAIVER AND ACCEPTANCE OF SERVICE BY THE RESPONDENT FOR A PERIOD OF TIME DETERMINED APPROPRIATE BY THE COURT NOT EXCEED ONE YEAR AFTER THE ISSUANCE OF THE PERMANENT CIVIL PROTECTION ORDER.

~~(H)~~ (III) The provisions of the injunction ~~shall~~ MUST be printed on the summons, and the petition and the injunction ~~shall~~ become an order of the court upon fulfillment of the requirements of subparagraph (I) of this paragraph ~~(g)~~ (j).

~~(H)~~ (IV) Nothing in this paragraph ~~(g)~~ shall preclude ~~(j)~~ PRECLUDES either party from applying to the district court for further temporary orders, an expanded temporary injunction, or modification or revocation. Any subsequent order issued by the district court as part of a domestic matter involving the parties supersedes an injunction made pursuant to this paragraph ~~(g)~~ (j).

~~(16)~~ (2) Any order for temporary care and control issued pursuant to subsection ~~(15)~~ (1) of this section shall be is governed by the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14, C.R.S.

SECTION 12. In Colorado Revised Statutes, **add with relocated provisions** 13-14-106 as follows:

13-14-106. [Formerly 13-14-102 (9), (10), and (18).] Procedure for permanent civil protection orders. ~~(9)~~ (a) (1) (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~~ FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT has committed acts constituting grounds for issuance of a civil protection order and that unless restrained will continue to commit such acts OR ACTS DESIGNED TO INTIMIDATE OR RETALIATE AGAINST THE PROTECTED PERSON, the judge or magistrate shall order the temporary civil protection order to be made permanent or enter a permanent civil protection order with ~~different~~ DIFFERENT provisions DIFFERENT from the temporary civil protection order. A FINDING OF IMMINENT DANGER TO THE PROTECTED PERSON IS NOT A NECESSARY PREREQUISITE TO THE ISSUANCE OF A PERMANENT CIVIL PROTECTION ORDER. The judge or magistrate shall inform ~~said defendant~~ THE RESPONDENT that a violation of the civil protection order ~~shall constitute~~ CONSTITUTES a criminal offense pursuant to section 18-6-803.5, C.R.S., or ~~shall constitute~~ CONSTITUTES contempt of court and ~~subject the defendant~~ SUBJECTS THE RESPONDENT to such punishment as may be provided by law. If the ~~defendant~~ RESPONDENT 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~~ RESPONDENT was properly served with the temporary protection order and such citation, it ~~shall not be~~ IS NOT necessary to re-serve the ~~defendant~~ RESPONDENT 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 must be served upon the ~~defendant~~ RESPONDENT.

(b) Notwithstanding the provisions of paragraph (a) of this subsection ~~(9)~~ (1), 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~~ ONE YEAR 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~~ RESPONDENT that a violation of the temporary civil protection order ~~shall constitute~~ CONSTITUTES a criminal offense pursuant to section 18-6-803.5, C.R.S., or ~~shall constitute~~ CONSTITUTES contempt of court and ~~subject~~

SUBJECTS the ~~defendant~~ RESPONDENT to such punishment as may be provided by law.

(c) Notwithstanding the provisions of paragraph (b) of this subsection ~~(9)~~ (1), 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)~~ (2) 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.

~~(18)~~ (3) A court shall not grant a mutual protection order to prevent domestic abuse for the protection of opposing parties unless each party has met his or her burden of proof as described in ~~subsection (4) of this section~~ section 13-14-104.5 (7) and the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order to prevent domestic abuse for the protection of opposing parties. A party may not waive the requirements set forth in this subsection ~~(18)~~ (3).

SECTION 13. In Colorado Revised Statutes, **add with relocated provisions** 13-14-107 as follows:

13-14-107. [Formerly 13-14-102 (11), (12) and (13).] Enforcement of protection order - duties of peace officer. ~~(13)~~ (1) A person failing to comply with any order of the court issued pursuant to this ~~section shall be found~~ ARTICLE is in contempt of court or may be prosecuted for violation of a civil protection order pursuant to section 18-6-803.5, C.R.S.

~~(12)~~ (2) The duties of peace officers enforcing a civil protection order 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~~ THAT section.

~~(11) If the order has not been personally served, the peace officer responding to a call for assistance shall serve a copy of said order on the person named defendant therein and shall write the time, date, and manner of service on the protected person's copy of such order and shall sign such statement.~~

(3) **[Similar to 13-14-102 (11).]** IF A RESPONDENT HAS NOT BEEN PERSONALLY SERVED WITH A PROTECTION ORDER, A PEACE OFFICER RESPONDING TO A CALL FOR ASSISTANCE SHALL SERVE A COPY OF THE PROTECTION ORDER ON THE RESPONDENT NAMED IN THE PROTECTION ORDER, SHALL WRITE THE TIME, DATE, AND MANNER OF SERVICE ON THE PROTECTED PERSON'S COPY OF THE ORDER, AND SHALL SIGN THE STATEMENT.

SECTION 14. In Colorado Revised Statutes, **add with relocated provisions** 13-14-108 as follows:

13-14-108. [Formerly 13-14-102 (17) and (17.5).] Modification and termination of civil protection orders. ~~(17)~~ (1) Any order granted pursuant to

~~paragraph (c) or (e) of subsection (15) of this section shall~~ SECTION 13-14-105 (1) (c) OR (1) (e) MUST terminate whenever a subsequent order regarding the same subject matter is granted pursuant to the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., or the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14, C.R.S., or the "Colorado Children's Code", title 19, C.R.S.

~~(17.5)(a) (2) (a) Nothing in this section shall preclude~~ ARTICLE PRECLUDES the protected party from applying to the court at any time for modification, including but not limited to a modification of the duration of a protection order or dismissal of a temporary or permanent protection order issued pursuant to this section.

(b) The restrained party may apply to the court for modification, including but not limited to a modification of the duration of the protection order or dismissal of a permanent protection order pursuant to this section. However, if a permanent protection order has been issued or if a motion for modification or dismissal of a permanent protection order has been filed by the restrained party, whether or not it was granted, no motion to modify or dismiss may be filed by the restrained party within ~~four~~ TWO years after issuance of the permanent order or after disposition of the prior motion.

~~(b) (F) (A) (3) (a) (I) Notwithstanding any provision of paragraph (a) of this subsection (17.5)~~ SUBSECTION (2) OF THIS SECTION to the contrary, after issuance of the permanent protection order, if the restrained party ~~is~~ HAS BEEN convicted of OR PLED GUILTY TO any misdemeanor OR ANY FELONY AGAINST THE PROTECTED PERSON, other than the original ~~misdemeanor~~ OFFENSE, IF ANY, that formed the basis for the issuance of the protection order, ~~the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), C.R.S., or of any felony;~~ then the protection order ~~shall remain~~ REMAINS permanent and ~~shall~~ MUST not be modified or dismissed by the court.

~~(B) (II) Notwithstanding the prohibition in sub-subparagraph (A) of this subparagraph (I) OF THIS PARAGRAPH (a), a protection order may be modified or dismissed on the motion of the protected person, or the person's attorney, parent or legal guardian if a minor, or conservator of OR legal guardian if one has been appointed; except that this sub-subparagraph (B) shall~~ PARAGRAPH (a) DOES not apply if the parent, legal guardian, or conservator is the restrained person.

~~(H) (b) A court shall not consider a motion to modify a protection order filed by a restrained party pursuant to paragraph (a) of this subsection (17.5) (3) unless the court receives the results of a fingerprint-based criminal history record check of the restrained party that is conducted within ninety days prior to the filing of the motion. The fingerprint-based criminal history record check shall~~ MUST include a review of the state and federal criminal history records maintained by the Colorado bureau of investigation and federal bureau of investigation. The restrained party shall be responsible for supplying fingerprints to the Colorado bureau of investigation and to the federal bureau of investigation and paying the costs of the record checks. The restrained party may be required by the court to provide certified copies of any criminal dispositions that are not reflected in the state or federal records and any other dispositions that are unknown.

~~(e)~~ (4) Except as otherwise provided in this ~~section~~ ARTICLE, the issuing court ~~shall retain~~ RETAINS jurisdiction to enforce, modify, or dismiss a temporary or permanent protection order.

~~(d)~~ (5) ~~Any motion filed pursuant to paragraph (a) of this subsection (17.5) shall be heard by the court.~~ THE COURT SHALL HEAR ANY MOTION FILED PURSUANT TO SUBSECTION (2) OF THIS SECTION. The party moving for a modification or dismissal of a temporary or permanent protection order pursuant to ~~paragraph (a) of this subsection (17.5)~~ SUBSECTION (2) OF THIS SECTION shall affect personal service on the other party with a copy of the motion and notice of the hearing on the motion, as provided by rule 4 (e) of the Colorado rules of civil procedure. The moving party shall bear the burden of proof to show, by a preponderance of the evidence, that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary. If the protected party has requested that his or her address be kept confidential, the court shall not disclose such information to the restrained party or any other person, except as otherwise authorized by law.

~~(e)~~ (6) In considering whether to modify or dismiss a protection order issued pursuant to this section, the court shall consider all relevant factors, including but not limited to:

~~(f)~~ (a) Whether the restrained party has complied with the terms of the protection order;

~~(f)~~ (b) Whether the restrained party has met the conditions associated with the protection order, if any;

~~(f)~~ (c) Whether the restrained party has been ordered to participate in and ~~complete~~ HAS COMPLETED a domestic violence OFFENDER treatment program provided by an entity approved pursuant to section 16-11.8-103, ~~(4) (a) (f) (C)~~, C.R.S., ~~and whether the restrained party has completed the program~~ OR HAS BEEN ORDERED TO PARTICIPATE IN AND HAS EITHER SUCCESSFULLY COMPLETED A SEX OFFENDER TREATMENT PROGRAM PROVIDED BY AN ENTITY APPROVED PURSUANT TO SECTION 16-11.7-103, C.R.S., OR HAS MADE SIGNIFICANT PROGRESS IN A SEX OFFENDER TREATMENT PROGRAM AS REPORTED BY THE SEX OFFENDER TREATMENT PROVIDER;

~~(f)~~ (d) Whether the restrained party has voluntarily participated in any domestic violence OFFENDER treatment program ~~or other counseling addressing domestic violence or anger management issues~~ PROVIDED BY AN ENTITY APPROVED PURSUANT TO SECTION 16-11.8-103, C.R.S., OR ANY SEX OFFENDER TREATMENT PROGRAM PROVIDED BY AN ENTITY APPROVED PURSUANT TO SECTION 16-11.7-103, C.R.S.;

~~(f)~~ (e) The time that has lapsed since the protection order was issued;

~~(f)~~ (f) When the last incident of abuse or threat of harm occurred or other relevant information concerning the safety and protection of the protected person;

~~(f)~~ (g) Whether, since the issuance of the protection order, the restrained person has been convicted of or pled guilty to a ~~crime, the underlying factual basis of which has been found by a court on the record to include an act of domestic~~

~~violence, as that term is defined in section 18-6-800.3 (1), C.R.S., other than the original offense, if any, that formed the basis for the issuance of the protection order;~~ ANY MISDEMEANOR OR ANY FELONY AGAINST THE PROTECTED PERSON, OTHER THAN THE ORIGINAL OFFENSE, IF ANY, THAT FORMED THE BASIS FOR THE ISSUANCE OF THE PROTECTION ORDER;

~~(VII)~~ (h) Whether any other restraining orders, ~~or~~ protective orders, or protection orders have been subsequently issued against the restrained person pursuant to this section or any other law of this state or any other state; ~~and~~

~~(IX)~~ (i) The circumstances of the parties, including the relative proximity of the parties' residences and SCHOOLS OR work places and whether the parties have minor children together; AND

(j) WHETHER THE CONTINUED SAFETY OF THE PROTECTED PERSON DEPENDS UPON THE PROTECTION ORDER REMAINING IN PLACE BECAUSE THE ORDER HAS BEEN SUCCESSFUL IN PREVENTING FURTHER HARM TO THE PROTECTED PERSON.

SECTION 15. In Colorado Revised Statutes, **add with relocated provisions** 13-14-109 as follows:

13-14-109. [Formerly 13-14-102 (21).] Fees and costs. ~~(21)~~(a) (1) The court may assess a filing fee against a petitioner seeking relief under this ~~section~~ ARTICLE; except that the court may not assess a filing fee against a petitioner if the court determines the petitioner is seeking the protection order as a victim of domestic abuse, ~~as defined by section 13-14-101 (2); domestic violence as defined in section 18-6-800.3 (1), C.R.S., stalking, as described in section 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S.~~ Petitioners shall be provided the necessary number of certified copies at no cost. OR SEXUAL ASSAULT OR ABUSE. THE COURT SHALL PROVIDE THE NECESSARY NUMBER OF CERTIFIED COPIES AT NO COST TO PETITIONERS.

~~(b)~~ (2) Fees for service of process may not be assessed by a state agency or public agency against petitioners seeking relief under this section as a victim of conduct consistent with the following: Domestic abuse as defined by section 13-14-101 (2); domestic violence as defined by section 18-6-800.3 (1), C.R.S.; stalking as described in section 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S. A STATE OR PUBLIC AGENCY MAY NOT ASSESS FEES FOR SERVICE OF PROCESS AGAINST A PETITIONER SEEKING RELIEF UNDER THIS ARTICLE AS A VICTIM OF CONDUCT CONSISTENT WITH THE FOLLOWING: DOMESTIC ABUSE, DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., STALKING, OR SEXUAL ASSAULT OR ABUSE.

~~(c)~~ (3) At the permanent protection order hearing, the court may require the respondent to pay the filing fee and service-of-process fees, as established by the state agency, political subdivision, or public agency pursuant to a fee schedule, and to reimburse the petitioner for costs incurred in bringing the action.

SECTION 16. In Colorado Revised Statutes, **add with relocated provisions** 13-14-110 as follows:

13-14-110. [Formerly 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.~~ UNITED STATES territory or commonwealth.

(2) **Full faith and credit.** COURTS OF THIS STATE SHALL ACCORD FULL FAITH AND CREDIT TO 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~~ MUST 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; and

(c) The order complies with section 13-14-106 (3).

(3) **Process.** A person entitled to protection under a foreign protection order may, but ~~shall~~ is 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~~ MUST be entered into the central registry of protection orders created in section 18-6-803.7, C.R.S. The certified order ~~shall~~ MUST 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 through 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 is not civilly liable or criminally liable pursuant to section 18-6-803.5 (5), C.R.S.

SECTION 17. In Colorado Revised Statutes, 14-10-108, **amend** (3) and (7) as follows:

14-10-108. Temporary orders in a dissolution case. (3) 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~~ PART 1 OF ARTICLE 14 OF TITLE 13, C.R.S.

(7) At the time a protection order is requested pursuant to ~~section 13-14-102~~ PART 1 OF ARTICLE 14 OF TITLE 13, 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 18. In Colorado Revised Statutes, 14-11-101, **amend** (3) as follows:

14-11-101. Foreign decrees - how handled. (3) Notwithstanding the provisions of this article, a restraining or protection order issued by a court of any state, any Indian tribe, or any United States territory shall be enforced pursuant to section ~~13-14-104~~ 13-14-110, C.R.S.

SECTION 19. In Colorado Revised Statutes, 18-6-803.5, **amend** (1.5) (a.5) (II) as follows:

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

(a.5) (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 ~~13-14-104~~ 13-14-110, C.R.S.

SECTION 20. In Colorado Revised Statutes, 18-6-803.7, **amend** (1) (b.5) (II) as follows:

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

(b.5) (II) "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as described in section ~~13-14-104~~ 13-14-110, C.R.S.

SECTION 21. In Colorado Revised Statutes, 19-5-102.5, **amend** (2) as follows:

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~~ 13-14-104.5, C.R.S.

SECTION 22. In Colorado Revised Statutes, 19-5-202.5, **amend** (2) as follows:

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~~ 13-14-104.5, C.R.S.

SECTION 23. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the judicial stabilization cash fund created in section 13-32-101 (6), Colorado Revised Statutes, not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$217,942 and 3.2 FTE, or so much thereof as may be necessary, to be allocated to the trial courts for the implementation of this act as follows:

- (a) \$211,102 and 3.2 FTE for trial court programs for personal services; and
- (b) \$6,840 for trial court programs for operating expenses.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the judicial stabilization cash fund created in section 13-32-101 (6), Colorado Revised Statutes, not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$57,457, or so much thereof as may be necessary, to be allocated to the courts administration division for courthouse capital expenses related to the implementation of this act.

SECTION 24. Effective date - applicability. (1) This act takes effect July 1, 2013.

(2)(a) Sections 1 to 4 of the act apply to petitions or motions filed on or after the effective date of this act.

(b) Sections 5 to 16 of the act apply to civil protection orders entered on or after the effective date of this act.

SECTION 25. 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: May 14, 2013