

CHAPTER 266

COURTS

HOUSE BILL 23-1178

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also SENATOR(S) Winter F., Buckner, Cutter, Danielson, Exum, Ginal, Hansen, Jaquez Lewis, Marchman, Mullica, Priola, Roberts, Sullivan, Fenberg.

AN ACT

CONCERNING ENHANCING COURT PERSONNEL'S RECOGNITION OF DOMESTIC VIOLENCE TO ACCESS FEDERAL FUNDING, AND, IN CONNECTION THEREWITH, INCLUDING THE RECOGNITION OF CHILD ABUSE.

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

SECTION 1. In Colorado Revised Statutes, **add** 14-10-127.5 as follows:

14-10-127.5. Domestic violence training for court personnel - expert testimony - child placement decisions - legislative declaration - definitions.

(1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) APPROXIMATELY FIFTEEN MILLION CHILDREN ARE EXPOSED EACH YEAR TO DOMESTIC VIOLENCE OR CHILD ABUSE;

(II) MOST CHILD ABUSE IS PERPETRATED IN THE FAMILY AND BY A PARENT;

(III) A CHILD'S RISK OF ABUSE INCREASES AFTER A PERPETRATOR OF INTIMATE PARTNER VIOLENCE SEPARATES FROM THE PERPETRATOR'S DOMESTIC PARTNER, EVEN WHEN THE PERPETRATOR HAD NOT DIRECTLY ABUSED THE CHILD PREVIOUSLY;

(IV) EMPIRICAL RESEARCH INDICATES THAT ALLEGATIONS OF CHILD PHYSICAL AND SEXUAL ABUSE ARE REGULARLY DISCOUNTED BY COURTS WHEN RAISED IN PARENTAL ALLOCATION CASES. COURTS BELIEVE FEWER THAN ONE-FOURTH OF CLAIMS THAT A PARENT HAS COMMITTED CHILD PHYSICAL OR SEXUAL ABUSE.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(V) IN PARENTAL ALLOCATION CASES IN WHICH AN ALLEGED OR KNOWN ABUSIVE PARENT CLAIMS ALIENATION FROM THE CHILD, COURTS ARE FOUR TIMES MORE LIKELY TO DISBELIEVE THE PARENT WHO CLAIMS CHILD PHYSICAL OR SEXUAL ABUSE;

(VI) RESEARCH SHOWS THAT COURTS GRANT CUSTODY OR UNPROTECTED PARENTING TIME TO AN ALLEGED OR KNOWN ABUSIVE PARENT;

(VII) SINCE 2008, NEARLY EIGHT HUNDRED CHILDREN HAVE BEEN MURDERED BY A DIVORCING OR SEPARATING PARENT, WITH MORE THAN ONE HUNDRED MURDERS OCCURRING AFTER A COURT ORDERED THE CHILD INTO CONTACT WITH THE ALLEGED OR KNOWN ABUSIVE PARENT DESPITE OBJECTIONS FROM THE PARENT WHO CLAIMED CHILD PHYSICAL OR SEXUAL ABUSE;

(VIII) ABUSIVE PARENTS FREQUENTLY CLAIM THAT ABUSE ALLEGATIONS ARE FALSE TO MINIMIZE OR DENY REPORTS OF ABUSE. EXPERTS WHO TESTIFY AGAINST ABUSE ALLEGATIONS OFTEN LACK EXPERTISE IN THE RELEVANT TYPE OF ALLEGED ABUSE, RELYING ON UNPROVEN THEORIES.

(IX) JUDGES PRESIDING OVER PARENTAL ALLOCATION CASES WITH ALLEGATIONS OF CHILD ABUSE, CHILD SEXUAL ABUSE, AND DOMESTIC VIOLENCE ARE RARELY REQUIRED TO RECEIVE TRAINING ON THESE SUBJECTS.

(b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT:

(I) A CHILD'S SAFETY IS THE FIRST PRIORITY OF THE COURT IN A PROCEEDING AFFECTING THE CHILD'S CARE AND CUSTODY;

(II) STRENGTHENING THE ABILITY OF THE COURTS TO RECOGNIZE AND ADJUDICATE ADULT AND CHILD ABUSE ALLEGATIONS BASED ON VALID, ADMISSIBLE EVIDENCE WILL ALLOW COURTS TO ENTER ORDERS THAT PROTECT AND MINIMIZE RISK OF HARM TO THE CHILD; AND

(III) COURT PERSONNEL INVOLVED IN CASES CONTAINING ABUSE ALLEGATIONS WHO RECEIVE TRAUMA-INFORMED TRAINING ON THE DYNAMICS, SIGNS, AND IMPACTS OF CHILD ABUSE, CHILD SEXUAL ABUSE, AND INTIMATE PARTNER VIOLENCE WILL HELP PROTECT AND MINIMIZE RISK OF HARM TO THE CHILD.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCUSED PARTY" MEANS A PARENT IN A CASE TO DETERMINE PARENTAL RESPONSIBILITIES WHO HAS BEEN ACCUSED OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE.

(b) "PROTECTIVE PARTY" MEANS A PARENT IN A CASE TO DETERMINE PARENTAL RESPONSIBILITIES WHO IS COMPETENT, PROTECTIVE, NOT SEXUALLY OR PHYSICALLY ABUSIVE, AND WITH WHOM A CHILD IS BONDED OR ATTACHED.

(c) "REUNIFICATION TREATMENT" MEANS A TREATMENT OR THERAPY AIMED AT REUNITING OR REESTABLISHING A RELATIONSHIP BETWEEN A CHILD AND AN ESTRANGED OR REJECTED PARENT OR OTHER FAMILY MEMBER OF THE CHILD.

(d) "TASK FORCE" MEANS THE TASK FORCE TO STUDY VICTIM AND SURVIVOR AWARENESS AND RESPONSIVENESS TRAINING REQUIREMENTS FOR JUDICIAL PERSONNEL CREATED IN SECTION 24-33.5-534, AS ENACTED IN HOUSE BILL 23-1108.

(e) "VICTIM SERVICE PROVIDER" MEANS A NONPROFIT, NONGOVERNMENTAL OR TRIBAL ORGANIZATION OR RAPE CRISIS CENTER, INCLUDING OF A STATE OR TRIBAL NATION, THAT IS SUBJECT TO SECTION 13-90-107 (1)(k)(I) AND ASSISTS OR ADVOCATES FOR DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING VICTIMS, INCLUDING DOMESTIC VIOLENCE SHELTERS, FAITH-BASED ORGANIZATIONS, AND OTHER ORGANIZATIONS WITH A DOCUMENTED HISTORY OF EFFECTIVE WORK CONCERNING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(3) (a) IN ALL PROCEEDINGS BROUGHT PURSUANT TO THIS TITLE 14 CONCERNING THE ALLOCATION OF PARENTAL RESPONSIBILITIES WITH RESPECT TO A CHILD IN WHICH A CLAIM OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE, HAS BEEN MADE TO THE COURT, OR THE COURT HAS REASON TO BELIEVE THAT A PARTY HAS COMMITTED DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE, THE COURT SHALL:

(I) CONSIDER THE ADMISSION OF EXPERT TESTIMONY AND EVIDENCE IF THE EXPERT DEMONSTRATES EXPERTISE AND EXPERIENCE WORKING WITH VICTIMS OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE, THAT IS NOT SOLELY FORENSIC IN NATURE; AND

(II) CONSIDER EVIDENCE OF PAST SEXUAL OR PHYSICAL ABUSE COMMITTED BY THE ACCUSED PARTY, INCLUDING:

(A) ANY PAST OR CURRENT PROTECTION OR RESTRAINING ORDERS AGAINST THE ACCUSED PARTY, INCLUDING PROTECTION OR RESTRAINING ORDERS THAT RAISE SEXUAL VIOLENCE OR ABUSE;

(B) ARRESTS OF THE ACCUSED PARTY FOR DOMESTIC VIOLENCE, SEXUAL VIOLENCE, OR CHILD ABUSE;

(C) CONVICTIONS OF THE ACCUSED PARTY FOR DOMESTIC VIOLENCE, SEXUAL VIOLENCE, OR CHILD ABUSE; OR

(D) OTHER DOCUMENTATION, INCLUDING LETTERS FROM A VICTIM ADVOCATE OR VICTIM SERVICE PROVIDER, IF THE VICTIM HAS CONSENTED PURSUANT TO SECTION 13-90-107 (1)(k)(I); MEDICAL RECORDS; OR A LETTER TO A LANDLORD TO BREAK A LEASE.

(b) IN DETERMINING ALLOCATION OF PARENTAL RESPONSIBILITIES IN PROCEEDINGS BROUGHT PURSUANT TO THIS TITLE 14 IN WHICH A CLAIM OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE, HAS BEEN MADE TO THE COURT, OR THE COURT HAS REASON TO BELIEVE THAT A PARTY HAS COMMITTED DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE, A COURT SHALL NOT:

(I) REMOVE A CHILD FROM A PROTECTIVE PARTY SOLELY TO IMPROVE A DEFICIENT RELATIONSHIP WITH AN ACCUSED PARTY;

(II) RESTRICT CONTACT BETWEEN A CHILD AND A PROTECTIVE PARTY SOLELY TO IMPROVE A DEFICIENT RELATIONSHIP WITH AN ACCUSED PARTY;

(III) ORDER REUNIFICATION TREATMENT, UNLESS THERE IS GENERALLY ACCEPTED AND SCIENTIFICALLY VALID PROOF OF THE SAFETY, EFFECTIVENESS, AND THERAPEUTIC VALUE OF THE REUNIFICATION TREATMENT; OR

(IV) ORDER REUNIFICATION TREATMENT THAT IS PREDICATED ON CUTTING OFF THE RELATIONSHIP BETWEEN A CHILD AND PROTECTIVE PARTY.

(c) IF A COURT ISSUES AN ORDER TO REMEDIATE THE RESISTANCE OF A CHILD TO HAVE CONTACT WITH AN ACCUSED PARTY, THE ORDER MUST PRIMARILY ADDRESS THE BEHAVIOR OF THE ACCUSED PARTY, WHO SHALL ACCEPT RESPONSIBILITY FOR THE ACCUSED PARTY'S ACTIONS THAT NEGATIVELY AFFECTED THE ACCUSED PARTY'S RELATIONSHIP WITH THE CHILD, AND A MENTAL HEALTH PROFESSIONAL APPROVED BY THE DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD SHALL VERIFY THE ACCUSED PARTY'S BEHAVIOR BEFORE THE COURT ORDERS A PROTECTIVE PARTY TO TAKE STEPS TO IMPROVE THE RELATIONSHIP WITH THE ACCUSED PARTY.

(d) IN COMPLIANCE WITH THE FEDERAL "KEEPING CHILDREN SAFE FROM FAMILY VIOLENCE ACT", 34 U.S.C. SEC. 10446, AS AMENDED, ANY NEUTRAL PROFESSIONAL APPOINTED BY A COURT TO EXPRESS AN OPINION RELATING TO ABUSE, TRAUMA, OR THE BEHAVIORS OF VICTIMS AND PERPETRATORS OF ABUSE AND TRAUMA DURING A PROCEEDING TO ALLOCATE PARENTAL RESPONSIBILITIES SHALL POSSESS DEMONSTRATED EXPERTISE AND EXPERIENCE IN WORKING WITH VICTIMS OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING CHILD SEXUAL ABUSE, THAT IS NOT SOLELY OF A FORENSIC NATURE.

(4) (a) THE TASK FORCE SHALL STUDY THE TRAINING REQUIREMENTS IN THE FEDERAL "KEEPING CHILDREN SAFE FROM FAMILY VIOLENCE ACT", 34 U.S.C. SEC. 10446, AS AMENDED, AND MAKE RECOMMENDATIONS THAT COMPLY WITH THE FEDERAL REQUIREMENTS FOR ANY JUDGE OR MAGISTRATE WHO PRESIDES OVER PARENTAL RESPONSIBILITY PROCEEDINGS. THE TASK FORCE SHALL FOCUS ON THE FOLLOWING:

(I) THE HOURLY TRAINING REQUIREMENTS DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION;

(II) THE RECOGNITION OF DOMESTIC VIOLENCE AND CHILD ABUSE DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION; AND

(III) THE REQUIREMENTS OF A PROFESSIONAL TRAINER TO LEAD THE TRAINING DESCRIBED IN SUBSECTIONS (6)(a) AND (6)(b) OF THIS SECTION.

(b) THE TRAINING MUST BE DESIGNED TO IMPROVE THE COURTS' ABILITY TO RECOGNIZE DOMESTIC VIOLENCE AND CHILD ABUSE IN PARENTAL ALLOCATION PROCEEDINGS AS DESCRIBED IN SUBSECTION (6)(c) OF THIS SECTION.

(5) (a) CHILD AND FAMILY INVESTIGATORS, AS DESCRIBED IN SECTION 14-10-116.5, PARENTAL RESPONSIBILITIES EVALUATORS, AS DESCRIBED IN SECTION 14-10-127, WHO ARE INVOLVED IN PARENTAL RESPONSIBILITY PROCEEDINGS, AND LEGAL REPRESENTATIVES OF CHILDREN DESCRIBED IN SECTION 14-10-113 WHO DO NOT CONTRACT WITH THE OFFICE OF THE CHILD'S REPRESENTATIVE, SHALL COMPLETE:

(I) NO LESS THAN TWENTY HOURS OF INITIAL TRAINING; AND

(II) NO LESS THAN FIFTEEN HOURS OF ONGOING TRAINING EVERY FIVE YEARS.

(b) THE REQUIRED TRAINING SET FORTH IN SUBSECTION (5)(a) OF THIS SECTION MUST FOCUS ON DOMESTIC VIOLENCE AND CHILD ABUSE, INCLUDING:

(I) CHILD SEXUAL ABUSE;

(II) PHYSICAL ABUSE;

(III) EMOTIONAL ABUSE;

(IV) COERCIVE CONTROL;

(V) IMPLICIT AND EXPLICIT BIAS, INCLUDING BIASES RELATING TO PARTIES WITH DISABILITIES;

(VI) TRAUMA;

(VII) LONG-TERM AND SHORT-TERM IMPACTS OF DOMESTIC VIOLENCE AND CHILD ABUSE ON CHILDREN; AND

(VIII) VICTIM AND PERPETRATOR BEHAVIORAL PATTERNS AND RELATIONSHIP DYNAMICS WITHIN THE CYCLE OF VIOLENCE.

(c) (I) FOR EACH FISCAL YEAR, THE OFFICE OF THE CHILD'S REPRESENTATIVE SHALL REPORT TO THE STATE COURT ADMINISTRATOR A LIST OF TRAININGS ON DOMESTIC VIOLENCE AND CHILD ABUSE THAT THE OFFICE OF THE CHILD'S REPRESENTATIVE PROVIDES.

(II) SPECIAL MASTERS AND MEDIATORS WHO ARE INVOLVED IN PARENTAL RESPONSIBILITY PROCEEDINGS PURSUANT TO THIS TITLE 14 SHALL REPORT TO THE STATE COURT ADMINISTRATOR THE EXISTING TRAINING ON DOMESTIC VIOLENCE AND CHILD ABUSE AND THE HOURS OF TRAINING COMPLETED.

(6) (a) A PROFESSIONAL TRAINER SHALL CONDUCT THE REQUIRED TRAINING SET FORTH IN SUBSECTION (5) OF THIS SECTION. THE PROFESSIONAL TRAINER SHALL HAVE SUBSTANTIAL EXPERIENCE IN ASSISTING SURVIVORS OF DOMESTIC VIOLENCE OR CHILD ABUSE. A PROFESSIONAL TRAINER MAY INCLUDE A PROFESSIONAL REPRESENTING A VICTIM SERVICE PROVIDER.

(b) THE PROFESSIONAL TRAINER DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION SHALL RELY ON EVIDENCE-BASED AND PEER-REVIEWED RESEARCH

CONDUCTED BY RECOGNIZED EXPERTS OR RESEARCH CONDUCTED IN THE FIELD BY RECOGNIZED DOMESTIC VIOLENCE VICTIM ADVOCATES THAT FOCUSES ON THE TYPES OF ABUSE DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION AND SHALL NOT INCLUDE THEORIES, CONCEPTS, OR BELIEF SYSTEMS IN THE REQUIRED TRAINING THAT ARE NOT SUPPORTED BY EVIDENCE-BASED AND PEER-REVIEWED RESEARCH OR RESEARCH CONDUCTED IN THE FIELD BY RECOGNIZED DOMESTIC VIOLENCE VICTIM ADVOCATES.

(c) THE REQUIRED TRAINING MUST BE DESIGNED TO IMPROVE THE ABILITY OF COURTS TO:

(I) RECOGNIZE AND RESPOND TO CHILD PHYSICAL ABUSE, CHILD SEXUAL ABUSE, DOMESTIC VIOLENCE, AND TRAUMA IN ALL FAMILY VICTIMS, PARTICULARLY CHILDREN; AND

(II) MAKE APPROPRIATE CUSTODY DECISIONS THAT PRIORITIZE CHILD SAFETY AND WELL-BEING AND THAT ARE CULTURALLY SENSITIVE AND APPROPRIATE FOR DIVERSE COMMUNITIES.

(7) AS SOON AS POSSIBLE AFTER JULY 1, 2023, THE JUDICIAL BRANCH SHALL APPLY TO THE FEDERAL DEPARTMENT OF JUSTICE'S OFFICE OF THE ATTORNEY GENERAL FOR A GRANT INCREASE IN COMPLIANCE WITH THE FEDERAL "KEEPING CHILDREN SAFE FROM FAMILY VIOLENCE ACT", 34 U.S.C. SEC. 10446, AS AMENDED.

SECTION 2. In Colorado Revised Statutes, 14-10-116.5, **amend** (2)(f) as follows:

14-10-116.5. Appointment in domestic relations cases - child and family investigator - disclosure - background check. (2) (f) The court shall not appoint a person from the eligibility registry to be a child and family investigator for a case pursuant to this section unless the court finds that the person is qualified as competent by training and experience in, at a minimum, domestic violence and its effects on children, adults, and families, child abuse, and child sexual abuse IN ACCORDANCE WITH SECTION 14-10-127.5. The person's training and experience must be provided by recognized sources with expertise in domestic violence and the traumatic effects of domestic violence IN ACCORDANCE WITH SECTION 14-10-127.5. As of January 1, ~~2022~~ 2024, initial and ongoing training must include, at a minimum:

(I) ~~Six~~ TEN initial hours of training on domestic violence, including coercive control, and its traumatic effects on children, adults, and families;

(II) ~~Six~~ TEN initial hours of training on child abuse and child sexual abuse and its traumatic effects; and

(III) ~~Four~~ FIFTEEN subsequent hours of training every ~~two~~ FIVE years on domestic violence, including coercive control, child abuse, and child sexual abuse, and the traumatic effects on children, adults, and families.

SECTION 3. In Colorado Revised Statutes, 14-10-127, **amend** (4)(a.5) as follows:

14-10-127. Evaluation and reports - training and qualifications of evaluators - disclosure. (4) A person is not allowed to testify as an expert witness regarding a parental responsibilities or parenting time evaluation that the person has performed pursuant to this section unless the court finds that the person is qualified as competent, by training and experience, in the areas of:

(a.5) The effects of domestic violence on children, adults, and families, including the connection between domestic violence and trauma on children, child abuse, and child sexual abuse IN ACCORDANCE WITH SECTION 14-10-127.5. The person's training and experience must be provided by recognized sources with expertise in domestic violence and the traumatic effects of domestic violence IN ACCORDANCE WITH SECTION 14-10-127.5. As of January 1, ~~2022~~ 2024, initial and ongoing training must include, at a minimum:

(I) ~~Six~~ TEN initial hours of training on domestic violence, including coercive control, and its traumatic effects on children, adults, and families;

(II) ~~Six~~ TEN initial hours of training on child abuse and child sexual abuse and its traumatic effects; and

(III) ~~Four~~ FIFTEEN subsequent hours of training every ~~two~~ FIVE years on domestic violence, child abuse, and child sexual abuse and the traumatic effects on children, adults, and families.

SECTION 4. Effective date. This act takes effect upon passage; except that section 14-10-127.5 (2)(d) and (4), Colorado Revised Statutes, as enacted in section 1 of this act, take effect only if House Bill 23-1108 becomes law, in which case section 14-10-127.5 (2)(d) and (4) take effect on the effective date of this act or House Bill 23-1108, whichever is later.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 25, 2023