

## CHAPTER 5

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**CHILDREN AND DOMESTIC MATTERS**

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**HOUSE BILL 93S-1002**

BY REPRESENTATIVES Morrison, Berry, Acquafresca, Adkins, Agler, Allen, Armstrong, Blue, Eisenach, Fleming, George, Gordon, Greenwood, R. Hernandez, Jerke, Kaufman, Keller, Knox, Lawrence, Lyle, Martin, Mattingly, May, Moellenberg, Nichol, Owen, Piffner, Pierson, Ratterree, Snyder, Strom, and Tucker;  
also SENATORS Owens, Bishop, Blickensderfer, Cassidy, Gallagher, Hopper, Meiklejohn, Mendez, Norton, R. Powers, Roberts, Tebedo, Traylor, and Wham.

**AN ACT**

**CONCERNING A REQUIREMENT THAT PERSONS LEGALLY RESPONSIBLE FOR A CHILD SUBJECT TO PROCEEDINGS AUTHORIZED UNDER THE "COLORADO CHILDREN'S CODE" ATTEND ALL PROCEEDINGS INVOLVING THE CHILD.**

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

**SECTION 1.** 19-1-114 (3) and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 19-1-114 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**19-1-114. Order of protection.** (3) (a) When such an order of protection is made applicable to a parent or guardian, it may specifically require his OR HER active participation in the rehabilitation process and may impose specific requirements upon such parent or guardian, subject to the penalty of contempt for failure to comply with such order without good cause, as provided in subsection (5) of this section.

(b) THE COURT MAY, WHEN THE COURT DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CHILD, MAKE AN ORDER OF PROTECTION WHICH SHALL BE APPLICABLE TO A PARENT OR GUARDIAN OF A CHILD AND THE PERSON WITH WHOM THE CHILD RESIDES, IF OTHER THAN THE CHILD'S PARENT OR GUARDIAN, SUBJECT TO THE PROVISIONS OF ARTICLE 2 OF THIS TITLE. THE ORDER SHALL REQUIRE THE PARENT OR GUARDIAN AND THE PERSON WITH WHOM THE CHILD RESIDES, IF OTHER THAN THE PARENT OR GUARDIAN, TO BE PRESENT AT ANY JUVENILE PROCEEDING CONCERNING THE CHILD.

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

(5) (a) A person failing to comply with an order of protection without good cause may be found in contempt of court.

(b) THE COURT SHALL ISSUE A BENCH WARRANT FOR ANY PARENT OR GUARDIAN OR PERSON WITH WHOM THE CHILD RESIDES, IF OTHER THAN THE PARENT OR GUARDIAN, WHO, WITHOUT GOOD CAUSE, FAILS TO APPEAR AT ANY PROCEEDING.

(c) FOR PURPOSES OF THIS SUBSECTION (5), GOOD CAUSE FOR FAILING TO APPEAR SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, A SITUATION WHERE A PARENT OR GUARDIAN:

(I) DOES NOT HAVE PHYSICAL CUSTODY OF THE CHILD AND RESIDES OUTSIDE OF COLORADO;

(II) HAS PHYSICAL CUSTODY OF THE CHILD, BUT RESIDES OUTSIDE OF COLORADO AND APPEARING IN COURT WILL RESULT IN UNDUE HARDSHIP TO SUCH PARENT OR GUARDIAN; OR

(III) RESIDES IN COLORADO, BUT IS OUTSIDE OF THE STATE AT THE TIME OF THE JUVENILE PROCEEDING FOR REASONS OTHER THAN AVOIDING APPEARANCE BEFORE THE COURT AND APPEARING IN COURT WILL RESULT IN UNDUE HARDSHIP TO SUCH PARENT OR GUARDIAN.

(d) THE GENERAL ASSEMBLY HEREBY DECLARES THAT EVERY PARENT OR GUARDIAN WHOSE CHILD IS THE SUBJECT OF A JUVENILE PROCEEDING UNDER THIS ARTICLE SHOULD ATTEND ANY SUCH PROCEEDING AS OFTEN AS IS PRACTICABLE.

(6) FOR THE PURPOSES OF THIS SECTION, "PARENT" INCLUDES A NATURAL PARENT WHO HAS SOLE OR JOINT CUSTODY, REGARDLESS OF WHETHER THE PARENT IS DESIGNATED AS THE PRIMARY RESIDENTIAL CUSTODIAN, OR AN ADOPTIVE PARENT. "PARENT" DOES NOT INCLUDE A PERSON WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED PURSUANT TO THE PROVISIONS OF THIS TITLE OR THE PARENT OF AN EMANCIPATED MINOR. FOR THE PURPOSES OF THIS SECTION, "EMANCIPATED MINOR" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 13-21-107.5, C.R.S.

(7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE A RIGHT FOR ANY JUVENILE TO HAVE HIS OR HER PARENT OR GUARDIAN PRESENT AT ANY PROCEEDING AT WHICH SUCH JUVENILE IS PRESENT.

**SECTION 2.** 19-2-306 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 19-2-306 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**19-2-306. Summons - issuance - contents - service.** (2.5) (a) THE COURT MAY, WHEN THE COURT DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CHILD, JOIN THE CHILD'S PARENT OR GUARDIAN AND THE PERSON WITH WHOM THE CHILD RESIDES, IF OTHER THAN THE CHILD'S PARENT OR GUARDIAN, AS A RESPONDENT TO THE ACTION AND MAY ISSUE A SUMMONS REQUIRING THE

PARENT OR GUARDIAN AND THE PERSON WITH WHOM THE CHILD RESIDES, IF OTHER THAN THE CHILD'S PARENT OR GUARDIAN, TO APPEAR WITH THE CHILD AT ALL PROCEEDINGS UNDER THIS ARTICLE INVOLVING THE CHILD. IF THE PARENT OR GUARDIAN OF ANY CHILD CANNOT BE FOUND, THE COURT, IN ITS DISCRETION, MAY PROCEED WITH THE CASE WITHOUT THE PRESENCE OF SUCH PARENT OR GUARDIAN. FOR THE PURPOSES OF THIS SECTION AND SECTION 19-2-307, "PARENT" INCLUDES A NATURAL PARENT WHO HAS SOLE OR JOINT CUSTODY, REGARDLESS OF WHETHER THE PARENT IS DESIGNATED AS THE PRIMARY RESIDENTIAL CUSTODIAN, OR AN ADOPTIVE PARENT. THIS SUBSECTION (2.5) SHALL NOT APPLY TO ANY PERSON WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED PURSUANT TO THE PROVISIONS OF THIS TITLE OR THE PARENT OF AN EMANCIPATED MINOR. FOR THE PURPOSES OF THIS SECTION, "EMANCIPATED MINOR" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 13-21-107.5, C.R.S.

(b) THE GENERAL ASSEMBLY HEREBY DECLARES THAT EVERY PARENT OR GUARDIAN WHOSE CHILD IS THE SUBJECT OF A JUVENILE PROCEEDING UNDER THIS ARTICLE SHOULD ATTEND ANY SUCH PROCEEDING AS OFTEN AS IS PRACTICABLE.

(3) The summons shall require the person or persons having the physical custody of the juvenile, IF OTHER THAN A PARENT OR GUARDIAN, to appear and to bring the juvenile before the court at a time and place stated. ~~If the person or persons so summoned are not the parents or guardian of the juvenile, then summons shall also be issued to the parents or guardian, or both, notifying them of the pendency of the case and of the time and place set for hearing.~~

**SECTION 3.** 19-2-307 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**19-2-307. Contempt - warrant.** (1) EXCEPT AS OTHERWISE PROVIDED BY SUBSECTION (3) OF THIS SECTION, any person summoned or required to appear as provided in section 19-2-306 who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

(3) (a) When a parent or other person who signed a written promise to appear and bring the juvenile to court or who has waived or acknowledged service fails to appear with the juvenile on the date set by the court, a bench warrant may be issued for the parent or other person, the juvenile, or both.

(b) WHENEVER A PARENT OR GUARDIAN OR PERSON WITH WHOM THE JUVENILE RESIDES, IF OTHER THAN THE PARENT OR GUARDIAN, WHO HAS RECEIVED A SUMMONS TO APPEAR FAILS, WITHOUT GOOD CAUSE, TO APPEAR ON ANY OTHER DATE SET BY THE COURT, A BENCH WARRANT SHALL BE ISSUED FOR THE PARENT, GUARDIAN, OR PERSON WITH WHOM THE JUVENILE RESIDES, AND THE PARENT, GUARDIAN, OR PERSON WITH WHOM THE JUVENILE RESIDES SHALL BE SUBJECT TO CONTEMPT.

(c) FOR PURPOSES OF THIS SUBSECTION (3), GOOD CAUSE FOR FAILING TO APPEAR SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, A SITUATION WHERE A PARENT OR GUARDIAN:

(I) DOES NOT HAVE PHYSICAL CUSTODY OF THE CHILD AND RESIDES OUTSIDE OF COLORADO;

(II) HAS PHYSICAL CUSTODY OF THE CHILD, BUT RESIDES OUTSIDE OF COLORADO AND APPEARING IN COURT WILL RESULT IN UNDUE HARDSHIP TO SUCH PARENT OR GUARDIAN; OR

(III) RESIDES IN COLORADO, BUT IS OUTSIDE OF THE STATE AT THE TIME OF THE JUVENILE PROCEEDING FOR REASONS OTHER THAN AVOIDING APPEARANCE BEFORE THE COURT AND APPEARING IN COURT WILL RESULT IN UNDUE HARDSHIP TO SUCH PARENT OR GUARDIAN.

(d) THE NONAPPEARANCE OF SUCH PARENT, GUARDIAN, OR PERSON WITH WHOM THE CHILD RESIDES SHALL NOT BE THE BASIS FOR A CONTINUANCE.

(e) THE PROVISIONS OF THIS SUBSECTION (3) SHALL NOT BE APPLICABLE TO ANY PROCEEDING IN A CASE WHICH HAS BEEN TRANSFERRED TO THE DISTRICT COURT PURSUANT TO THE PROVISIONS OF SECTION 19-2-806.

(f) THE GENERAL ASSEMBLY HEREBY DECLARES THAT EVERY PARENT OR GUARDIAN WHOSE CHILD IS THE SUBJECT OF A JUVENILE PROCEEDING UNDER THIS ARTICLE SHOULD ATTEND ANY SUCH PROCEEDING AS OFTEN AS IS PRACTICABLE.

(g) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO CREATE A RIGHT FOR ANY JUVENILE TO HAVE HIS OR HER PARENT OR GUARDIAN PRESENT AT ANY PROCEEDING AT WHICH SUCH JUVENILE IS PRESENT.

**SECTION 4.** 19-2-304, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-304. Petition initiation.** If the district attorney determines that the interests of the juvenile or of the community require that further action be taken, he may file a petition in delinquency on the form specified in section 19-2-305, which shall be accepted by the court. UPON FILING OF SUCH PETITION, THE COURT, IF PRACTICABLE, SHALL SEND NOTICE OF THE PENDENCY OF SUCH ACTION TO THE NATURAL PARENTS OF THE JUVENILE WHO IS THE SUBJECT OF SUCH PETITION.

**SECTION 5. Effective date - applicability.** This act shall take effect upon passage and shall apply to offenses or acts committed on or after said date.

**SECTION 6. 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: September 13, 1993