

CHAPTER 266

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 94-088

BY SENATOR Wells;
also REPRESENTATIVES Kaufman, DeGette, and Pierson.

AN ACT

CONCERNING SUPPORT OBLIGATIONS.

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

SECTION 1. 13-25-126, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-25-126. Blood tests to determine parentage. (2) ANY OBJECTION TO GENETIC TESTING RESULTS SHALL BE MADE IN WRITING NOT LESS THAN FIFTEEN DAYS BEFORE THE FIRST SCHEDULED HEARING AT WHICH THE RESULTS MAY BE INTRODUCED INTO EVIDENCE OR FIFTEEN DAYS AFTER MOTION FOR SUMMARY JUDGMENT IS SERVED ON SUCH PERSON; EXCEPT THAT A PERSON SHALL OBJECT TO THE GENETIC TESTING RESULTS NOT LESS THAN TWENTY-FOUR HOURS PRIOR TO THE FIRST SCHEDULED HEARING IF SUCH PERSON DID NOT RECEIVE THE RESULTS FIFTEEN OR MORE DAYS BEFORE SUCH HEARING. IF NO OBJECTION IS MADE, THE TEST RESULTS SHALL BE ADMISSIBLE AS EVIDENCE OF PATERNITY IN A PATERNITY ACTION FILED PURSUANT TO ARTICLE 4 OF TITLE 19, C.R.S., OR ARTICLE 13.5 OF TITLE 26, C.R.S., WITHOUT THE NEED FOR FOUNDATION TESTIMONY OR OTHER PROOF OF AUTHENTICITY OR ACCURACY.

SECTION 2. 13-54-104 (1) (a) and (1) (b) (I) (A), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(a) "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to

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

be withheld and after the deduction of the cost of any health insurance provided by the individual pursuant to section 14-14-112, C.R.S. IN THE CASE OF AN ORDER FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR DEPENDENT CHILD, "DISPOSABLE EARNINGS" INCLUDES MONEYS VOLUNTARILY DEPOSITED IN TAX-DEFERRED COMPENSATION FUNDS.

(b) (I) "Earnings" means:

(A) Compensation paid or payable for personal services, whether denominated as wages, INCLUDING TIPS CALCULATED PURSUANT TO THE FEDERAL INTERNAL REVENUE SERVICE PERCENTAGE OF GROSS WAGES, salary, commission, or bonus;

SECTION 3. 13-54.5-101 (2) (a) (I), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-54.5-101. Definitions. (2) (a) "Earnings" means:

(I) Compensation paid or payable for personal services, whether denominated as wages, INCLUDING TIPS CALCULATED PURSUANT TO THE FEDERAL INTERNAL REVENUE SERVICE PERCENTAGE OF GROSS WAGES, salary, commission, or bonus;

SECTION 4. 14-5-128, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-5-128. Parentage. (1) If the obligor asserts as a defense that he is not the parent of the child for whom support is sought, and if it appears to the court that the defense is not frivolous, the court may adjudicate the parentage issue in accordance with the standards and provisions of the "Uniform Parentage Act", article 4 of title 19, C.R.S., under this article, notwithstanding any provisions to the contrary in any other law. Notwithstanding section 19-4-110, C.R.S., the court may adjudicate parentage without joining such child under rule 19 (a), C.R.C.P. The court may adjudicate the parentage issue at any time prior to the child's twenty-first birthday.

(2) A PATERNITY DETERMINATION MADE BY ANOTHER STATE, WHETHER ESTABLISHED THROUGH VOLUNTARY ACKNOWLEDGMENT, ADMINISTRATIVE PROCESSES, OR JUDICIAL PROCESSES, SHALL BE ENFORCED AND OTHERWISE TREATED IN THE SAME MANNER AS A JUDGMENT OF THIS STATE.

SECTION 5. 14-10-115 (1.5) (b) (I), (1.5) (e), (7) (a) (I) (A), (7) (b) (III), (7) (d.5) (I), and (18) (e), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

14-10-115. Child support - guidelines - schedule of basic child support obligations. (1.5) (b) (I) If the court finds that it is appropriate for the parents to contribute to the costs of a program of postsecondary education, then the court shall terminate child support and enter an order requiring both parents to contribute a sum determined to be reasonable for the education expenses of the child, taking into account the resources of each parent and the child. ~~Under no circumstances shall the obligor be ordered to pay more for postsecondary education expenses annually than such obligor was required to pay annually under the most recent child support order.~~ IN DETERMINING THE AMOUNT OF EACH PARENT'S CONTRIBUTION TO THE COSTS OF A

PROGRAM OF POSTSECONDARY EDUCATION FOR A CHILD, THE COURT SHALL BE LIMITED TO AN AMOUNT NOT TO EXCEED THE AMOUNT LISTED UNDER THE SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS IN PARAGRAPH (b) OF SUBSECTION (10) OF THIS SECTION FOR THE NUMBER OF CHILDREN RECEIVING POSTSECONDARY EDUCATION. THE AMOUNT OF CONTRIBUTION WHICH EACH PARENT IS ORDERED TO PAY PURSUANT TO THIS PARAGRAPH (b) SHALL BE SUBTRACTED FROM THE AMOUNT OF EACH PARENT'S GROSS INCOME, RESPECTIVELY, PRIOR TO CALCULATING THE BASIC CHILD SUPPORT OBLIGATION FOR ANY REMAINING CHILDREN PURSUANT TO SUBSECTION (10) OF THIS SECTION. In no case shall the court issue orders providing for both child support and postsecondary education to be paid for the same time period for the same child regardless of the age of the child. Either parent or the child may move for such an order at any time before the child attains the age of twenty-one years. EITHER A CHILD SEEKING AN ORDER FOR POSTSECONDARY EDUCATION EXPENSES OR ON WHOSE BEHALF POSTSECONDARY EDUCATION EXPENSES ARE SOUGHT, OR THE PARENT FROM WHOM THE PAYMENT OF POSTSECONDARY EDUCATION EXPENSES ARE SOUGHT, MAY REQUEST THAT THE COURT ORDER THE CHILD AND SUCH PARENT TO SEEK MEDIATION PRIOR TO A HEARING ON THE ISSUE OF POSTSECONDARY EDUCATION EXPENSES. MEDIATION SERVICES SHALL BE PROVIDED IN ACCORDANCE WITH SECTION 13-22-305, C.R.S. THE COURT MAY ORDER THE PARTIES TO SEEK MEDIATION IF THE COURT FINDS THAT MEDIATION IS APPROPRIATE. Postsecondary education includes college and vocational education programs. If such an order is entered, the parents shall contribute to the total sum determined by the court in proportion to their adjusted gross incomes as defined in subparagraph (II) of paragraph (a) of subsection (10) of this section. The order for postsecondary education support may not extend beyond the earlier of the child's twenty-first birthday or the completion of an undergraduate degree. The court may order the support paid directly to the educational institution, to the child, or in such other fashion as is appropriate to support the education of the child. If the child resides in the home of one parent while attending school or during periods of time in excess of thirty days when school is not in session, the court may order payments from one parent to the other for room and board UNTIL THE CHILD ATTAINS THE AGE OF NINETEEN. A child shall not be considered emancipated solely by reason of living away from home while in postsecondary education.

(e) For the purposes of this section, "postsecondary education support" means support for the FOLLOWING expenses associated with attending a college, university, or vocational education program: ~~and shall, if appropriate, include reasonable and necessary transportation expenses, health insurance expenses, extraordinary medical expenses, room and board,~~ Tuition, books, supplies, and fees. ~~including application fees, charged by the institution.~~

(7) **Determination of income.** (a) For the purposes of the guideline specified in subsections (3) to (14) of this section, "income" means actual gross income of a parent, if employed to full capacity, or potential income, if unemployed or underemployed. Gross income of each parent shall be determined according to the following guidelines:

(I) (A) "Gross income" includes income from any source and includes, but is not limited to, income from salaries, wages, INCLUDING TIPS CALCULATED PURSUANT TO THE FEDERAL INTERNAL REVENUE SERVICE PERCENTAGE OF GROSS WAGES, commissions, bonuses, dividends, severance pay, pensions, interest, trust income,

annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or maintenance received. Gross income does not include child support payments received.

(b) (III) For the purposes of this section, a parent shall not be deemed "underemployed" if:

(A) The employment is temporary and is reasonably intended to result in higher income within the foreseeable future; or

(B) The employment is a good faith career choice which is not intended to deprive a child of support and does not unreasonably reduce the support available to a child;
OR

(C) THE PARENT IS ENROLLED IN AN EDUCATIONAL PROGRAM WHICH IS REASONABLY INTENDED TO RESULT IN A DEGREE OR CERTIFICATION WITHIN A REASONABLE PERIOD OF TIME AND WHICH WILL RESULT IN A HIGHER INCOME, SO LONG AS THE EDUCATIONAL PROGRAM IS A GOOD FAITH CAREER CHOICE WHICH IS NOT INTENDED TO DEPRIVE THE CHILD OF SUPPORT AND WHICH DOES NOT UNREASONABLY REDUCE THE SUPPORT AVAILABLE TO A CHILD.

(d.5) (I) At the time of the initial establishment of a child support order, or in any proceeding to modify a support order, if a parent is also legally responsible for the support of other children for whom the parents do not share joint legal responsibility, an adjustment shall be made revising such parent's income prior to calculating the basic child support obligation for the children who are the subject of the support order IF THE CHILDREN ARE LIVING IN THE HOME OF THE PARENT SEEKING THE ADJUSTMENT OR IF THE CHILDREN ARE LIVING OUT OF THE HOME, AND THE PARENT SEEKING THE ADJUSTMENT PROVIDES DOCUMENTED PROOF OF MONEY PAYMENTS OF SUPPORT OF THOSE CHILDREN. THE AMOUNT SHALL NOT EXCEED THE GUIDELINES LISTED IN THIS SECTION. An amount equal to the amount listed under the schedule of basic child support obligations in paragraph (b) of subsection (10) of this section which would represent a support obligation based only upon the responsible parent's gross income, without any other adjustments, for the number of such other children for whom such parent is also responsible shall be subtracted from the amount of such parent's gross income prior to calculating the basic child support obligation based on both parents' gross income as provided in subsection (10) of this section.

~~(18) (e) In reviewing the child support guidelines as required in paragraph (a) of this subsection (18), the child support commission shall study the merits of amending the child support guidelines to make credits for supporting other children and credits allowed to an absent parent only available for current support and only available for payments actually being made.~~

SECTION 6. 14-10-120 (5), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

14-10-120. Decree. (5) Whenever child support has been ordered, the decree of dissolution shall contain notice of the intent to activate a wage assignment in the event of default in child support, pursuant to section 14-14-107. IN THOSE CASES

GOVERNED BY SECTION 14-14-111, THE DECREE OF DISSOLUTION, LEGAL SEPARATION, DECLARATION OF INVALIDITY, CUSTODY, OR SUPPORT SHALL CONTAIN AN ORDER FOR IMMEDIATE DEDUCTIONS FOR FAMILY SUPPORT OBLIGATIONS PURSUANT TO SECTION 14-14-111.

SECTION 7. 14-14-102 (9), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-102. Definitions - repeal. (9) "Wages" means income to an obligor in any form, including, but not limited to, earnings from an employer, payment to an independent contractor for labor or services, commissions, TIPS CALCULATED PURSUANT TO THE FEDERAL INTERNAL REVENUE SERVICE PERCENTAGE OF GROSS WAGES, rents, bonuses, retirement benefits and pensions, including, but not limited to, those paid pursuant to article 64 of title 22, articles 51, 54, 54.5, and 54.6 of title 24, and article 30 of title 31, C.R.S., workers' compensation benefits, dividends, royalties, trust account distributions, and any moneys drawn by a self-employed individual for personal use. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5), C.R.S.

SECTION 8. 14-14-106, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-106. Interest. Interest per annum at four percent greater than the statutory rate set forth in section 5-12-101, C.R.S., on any arrearages and child support debt due and owing may be COMPOUNDED MONTHLY AND MAY BE collected by the judgment creditor; however, such interest may be waived by the judgment creditor, and such creditor shall not be required to maintain interest balance due accounts. IN CASES IN WHICH THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT IS PROVIDING SUPPORT ENFORCEMENT SERVICES PURSUANT TO SECTION 26-13-106, C.R.S., INTEREST COLLECTED ON ARREARAGES AND CHILD SUPPORT DEBT SHALL BE TREATED AS A CHILD SUPPORT COLLECTION AND DISTRIBUTED IN ACCORDANCE WITH FEDERAL REGULATIONS. Interest collected on obligations due recipients receiving aid to families with dependent children shall be deposited in the county social services fund and shall be distributed in accordance with the provisions of section 26-13-108, C.R.S.

SECTION 9. 14-14-107 (9) (e), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-107. Wage assignment - applicability. (9) (e) At a hearing on an objection, reasonable attorney fees and costs ~~shall~~ MAY be awarded to the prevailing party.

SECTION 10. 14-14-110 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-110. Contempt of court. (1) Evidence of noncompliance with an order for child support, or maintenance when combined with child support, in the form of an affidavit from the clerk of the court or in the form of a copy of the record of payments certified by the clerk of the court OR IN THE FORM OF A COPY OF THE RECORD OF

PAYMENT MAINTAINED BY THE FAMILY SUPPORT REGISTRY is prima facie evidence of contempt of court.

SECTION 11. 14-14-112 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-112. Deductions for health insurance. (1) In all orders which direct the obligor to provide health insurance for any child, the court or delegate child support enforcement unit shall include a provision directing the obligor's employer to enroll such child AND THE OBLIGOR, IF ENROLLMENT OF THE OBLIGOR IS A REQUIREMENT OF THE PLAN, in the health insurance plan and to deduct from the wages due the obligor an amount sufficient to provide for premiums for health insurance when such insurance is offered by the employer. FOR ALL ORDERS ENTERED PRIOR TO AUGUST 1, 1992, WHICH DIRECT THE OBLIGOR TO PROVIDE HEALTH INSURANCE FOR ANY CHILD, THE OBLIGEE, THE OBLIGEE'S REPRESENTATIVE, OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL SEND A COPY OF THE NOTICE OF THE DEDUCTION FOR HEALTH INSURANCE, BY FIRST CLASS MAIL, TO THE OBLIGOR CONCURRENT WITH MAILING OF THE NOTICE TO THE OBLIGOR'S EMPLOYER PURSUANT TO SUBSECTION (2) OF THIS SECTION. The court or the delegate child support enforcement unit shall direct the obligor to notify the court or unit, in writing, of any change of address or employment within ten days of the change.

SECTION 12. 19-1-121, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-1-121. Confidentiality of records - "Uniform Parentage Act". Notwithstanding any other law concerning public hearings and records, any hearing or trial held under article 4 of this title shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records ~~other than the final judgment,~~ pertaining to the action or proceeding ~~whether~~ WHICH ARE part of the permanent record of the court ~~or of a file in the county department of social services or elsewhere,~~ are subject to inspection ~~only~~ BY THE PARTIES TO THE ACTION AND THEIR ATTORNEYS OF RECORD, AND SUCH PARTIES AND THEIR ATTORNEYS SHALL BE SUBJECT TO A COURT ORDER WHICH SHALL BE IN EFFECT AGAINST ALL PARTIES TO THE ACTION PROHIBITING SUCH PARTIES FROM DISCLOSING THE GENETIC TESTING INFORMATION CONTAINED IN THE COURT'S RECORD. SUCH COURT PAPERS AND RECORDS SHALL NOT BE SUBJECT TO INSPECTION BY ANY PERSON NOT A PARTY TO THE ACTION EXCEPT upon consent of the court and all ~~interested persons~~ PARTIES TO THE ACTION, or, in exceptional cases only, upon an order of the court for good cause shown. ALL PAPERS AND RECORDS IN THE CUSTODY OF THE COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL BE AVAILABLE FOR INSPECTION BY THE PARTIES TO THE ACTION ONLY UPON THE CONSENT OF ALL PARTIES TO THE ACTION AND AS PROVIDED BY SECTION 26-1-114, C.R.S., OR BY THE RULES GOVERNING DISCOVERY, BUT SUCH PAPERS AND RECORDS SHALL NOT BE SUBJECT TO INSPECTION BY ANY PERSON NOT A PARTY TO THE ACTION EXCEPT UPON CONSENT OF ALL PARTIES TO THE ACTION; EXCEPT THAT THE RESULTS OF GENETIC TESTING MAY BE PROVIDED TO ALL PARTIES, WHEN AVAILABLE, NOTWITHSTANDING LAWS GOVERNING CONFIDENTIALITY AND WITHOUT THE NECESSITY OF FORMAL DISCOVERY. ANY PERSON RECEIVING OR INSPECTING PATERNITY INFORMATION IN THE CUSTODY OF THE COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL BE SUBJECT TO A COURT ORDER WHICH SHALL BE IN EFFECT PROHIBITING SUCH PERSONS FROM DISCLOSING THE

GENETIC TESTING INFORMATION CONTAINED IN THE DEPARTMENT'S RECORD.

SECTION 13. Article 4 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-4-105.5. Commencement of proceedings - summons. (1) ALL PROCEEDINGS UNDER THIS ARTICLE SHALL BE COMMENCED IN THE MANNER PROVIDED BY THE COLORADO RULES OF CIVIL PROCEDURE OR AS OTHERWISE PROVIDED IN THIS SECTION OR SECTION 26-13.5-105, C.R.S.

(2) UPON COMMENCEMENT OF A PROCEEDING UNDER THIS ARTICLE BY ONE OF THE PARTIES, THE OTHER PARTIES SHALL BE SERVED IN THE MANNER SET FORTH IN SECTION 19-4-109 (2), THE COLORADO RULES OF CIVIL PROCEDURE, OR AS OTHERWISE PROVIDED IN SECTION 26-13.5-105, C.R.S.

SECTION 14. 19-4-109 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 19-4-109 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-4-109. Jurisdiction - venue. (1.5) A PATERNITY DETERMINATION MADE BY ANOTHER STATE, WHETHER ESTABLISHED THROUGH VOLUNTARY ACKNOWLEDGMENT, ADMINISTRATIVE PROCESSES, OR JUDICIAL PROCESSES, SHALL BE ENFORCED AND OTHERWISE TREATED IN THE SAME MANNER AS A JUDGMENT OF THIS STATE.

(2) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this article with respect to a child who may have been conceived by that act of intercourse. Upon filing of the petition, the court shall issue a summons. The hearing shall be set for a day not less than ten days after service is completed or on such later date as the court may order. In addition to any other method provided by rule or statute, including rule 4(f) of the Colorado rules of civil procedure, personal jurisdiction over an individual outside this state may be acquired by delivering a copy of the summons, together with a copy of the petition upon which it was issued, to the individual served. ~~or by sending such copies to him by registered mail with proof of actual receipt.~~ SUCH SERVICE MAY BE BY PRIVATE PROCESS SERVER OR BY SENDING SUCH COPIES TO SUCH INDIVIDUAL BY CERTIFIED MAIL WITH PROOF OF ACTUAL RECEIPT BY SUCH INDIVIDUAL.

SECTION 15. 19-4-116 (4), (7), and (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-4-116. Judgment or order. (4) Support judgments or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY ENTER AN ORDER DIRECTING THE FATHER TO PAY FOR SUPPORT OF THE CHILD, IN AN AMOUNT AS MAY BE DETERMINED BY THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO BE REASONABLE UNDER THE CIRCUMSTANCES, FOR A TIME PERIOD WHICH OCCURRED PRIOR TO THE ENTRY OF THE ORDER ESTABLISHING PATERNITY. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(7) Any order of support made pursuant to subsections (4) to (6) of this section shall continue until the child is ~~twenty-one~~ NINETEEN years of age, unless the support order is terminated sooner by court order.

(8) The court may order support to be continued after the child is ~~twenty-one~~ NINETEEN years of age if the child is unable to care for himself or herself by reason of mental or physical disability or other reason justifiable in the opinion of the court.

SECTION 16. 19-4-128, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-4-128. Right to jury trial - limitation. ~~The petitioner or respondent~~ ANY PARTY may demand a trial by jury of six persons to determine the existence or nonexistence of the parent and child relationship. However, if genetic tests or other tests of inherited characteristics have been administered as provided in section 13-25-126, C.R.S., and the results show that the probability of the alleged father's paternity is ninety-nine percent or higher, ~~the alleged father may not demand a trial by jury.~~ NO PARTY MAY DEMAND A JURY TRIAL, AND NOTWITHSTANDING ANY DEMAND WHICH MAY HAVE BEEN MADE, TRIAL SHALL BE TO THE COURT AND NOT TO A JURY.

SECTION 17. 19-6-104 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-6-104. Hearing - orders. (1) ~~If at the hearing,~~ the court OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT finds that the respondent has an obligation to support the child or children mentioned in the petition OR NOTICE, the court OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT may enter an order directing the respondent to pay such sums for support as may be reasonable under the circumstances, TAKING INTO CONSIDERATION THE FACTORS FOUND IN SECTION 19-4-116 (6). THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY ALSO ENTER AN ORDER DIRECTING THE APPROPRIATE PARTY TO PAY FOR SUPPORT OF THE CHILD, IN AN AMOUNT AS MAY BE DETERMINED BY THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO BE REASONABLE UNDER THE CIRCUMSTANCES, FOR A TIME PERIOD WHICH OCCURRED PRIOR TO THE ENTRY OF THE SUPPORT ORDER ESTABLISHED UNDER THIS ARTICLE.

SECTION 18. 25-2-112 (3) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-2-112. Certificates of birth - filing - establishment of paternity. (3) (a) If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless:

(I) Paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as so determined shall be entered; or

(II) The mother and the mother's husband execute joint or separate affidavits reflecting the mother's and the husband's signatures individually notarized and attesting that the husband is not the father of the child, in which case, information about the father shall be omitted from the certificate; or

(III) The mother executes an affidavit attesting that the husband is not the father and that the putative father is the father, the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. Such affidavits may be joint or individual or a combination thereof, and each signature shall be individually notarized. In such event, the putative father shall be shown as the father on the certificate.

(IV) A COURT OF COMPETENT JURISDICTION HAS DETERMINED THE HUSBAND IS NOT THE PRESUMED FATHER AND THE PUTATIVE FATHER EXECUTES AN AFFIDAVIT WHICH IS INDIVIDUALLY NOTARIZED ATTESTING THAT HE IS THE FATHER AND THE MOTHER EXECUTES AN AFFIDAVIT WHICH IS INDIVIDUALLY NOTARIZED THAT THE PUTATIVE FATHER IS THE FATHER. IN SUCH EVENT THE PUTATIVE FATHER SHALL BE SHOWN AS THE FATHER ON THE BIRTH CERTIFICATE.

SECTION 19. 26-13-105 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-13-105. Child support enforcement services. (1) Subject to the provisions of section 26-13-104, the child support enforcement program shall include the following, as required by federal law:

(a) The establishment AND MODIFICATION of an obligor parent's legal obligation to support his or her dependent children, including determination of parentage when necessary;

SECTION 20. 26-13-107 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-13-107. State parent locator service. (3) (d) THE STATE PARENT LOCATOR SERVICE OR A DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY OBTAIN INFORMATION FROM CREDIT BUREAUS ON THE WHEREABOUTS, INCOME, AND ASSETS OF INDIVIDUALS PURSUANT TO THE PROVISIONS OF THE FEDERAL "FAIR CREDIT REPORTING ACT" IN ORDER TO PROVIDE THE SERVICES SET FORTH IN SECTION 26-13-105.

SECTION 21. 26-13.5-103 (1) (b.5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended, and the said 26-13.5-103 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

26-13.5-103. Notice of financial responsibility issued - contents. (1) The delegate child support enforcement unit shall issue a notice of financial responsibility to an obligor who owes a child support debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the delegate child support enforcement unit pursuant to article 13 of this title. The notice shall advise the obligor:

(b.5) That, if the notice is issued for the purpose of establishing the paternity of and financial responsibility for a child, the delegate child support enforcement unit shall issue an order of default establishing paternity and setting forth the amount of the obligor's duty of support, if:

(I) THE OBLIGOR FAILS TO APPEAR FOR THE INITIAL NEGOTIATION CONFERENCE AS SCHEDULED IN THE NOTICE OF FINANCIAL RESPONSIBILITY AND FAILS TO RESCHEDULE A NEGOTIATION CONFERENCE PRIOR TO THE DATE AND TIME STATED IN THE NOTICE OF FINANCIAL RESPONSIBILITY; OR

⊕ (II) The obligor fails to take a blood test or fails to appear for an appointment to take a blood test without good cause; or

⊕ (III) The results of the blood test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the obligor fails to appear for the negotiation conference as scheduled in the notice and fails to reschedule a negotiation conference prior to the date and time stated in the notice;

(i.5) THAT THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY ENTER AN ORDER DIRECTING THE OBLIGOR TO PAY FOR SUPPORT OF THE CHILD, IN AN AMOUNT AS MAY BE DETERMINED BY THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO BE REASONABLE UNDER THE CIRCUMSTANCES, FOR A TIME PERIOD PRIOR TO THE ENTRY OF AN ORDER ESTABLISHING PATERNITY OR FOR A TIME PERIOD PRIOR TO THE ENTRY OF THE SUPPORT ORDER ESTABLISHED PURSUANT TO SECTION 19-6-104, C.R.S.;

SECTION 22. 26-13.5-105, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-13.5-105. Negotiation conference - issuance of order of financial responsibility - filing of order with district court. (5) IF THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT FINDS THAT THE RESPONDENT HAS AN OBLIGATION TO SUPPORT THE CHILD OR CHILDREN MENTIONED IN THE PETITION OR NOTICE, THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY ENTER AN ORDER DIRECTING THE RESPONDENT TO PAY SUCH SUMS FOR SUPPORT AS MAY BE REASONABLE UNDER THE CIRCUMSTANCES, TAKING INTO CONSIDERATION THE FACTORS FOUND IN SECTION 19-4-116 (6), C.R.S. THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY ALSO ENTER AN ORDER DIRECTING THE APPROPRIATE PARTY TO PAY FOR SUPPORT OF THE CHILD, IN AN AMOUNT AS MAY BE DETERMINED BY THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO BE REASONABLE UNDER THE CIRCUMSTANCES, FOR A TIME PERIOD WHICH OCCURRED PRIOR TO THE ENTRY OF THE SUPPORT ORDER ESTABLISHED PURSUANT TO SECTION 19-6-104, C.R.S.

SECTION 23. 26-13.5-106 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-13.5-106. Default - issuance of order of default - filing of order with district court. (1) (a) If an obligor fails to appear for a negotiation conference as scheduled in the notice of financial responsibility, and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility, the delegate child support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility. If an obligor fails to appear for a rescheduled negotiation conference, the delegate child support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility.

(b) In an action to establish paternity and financial responsibility, THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL ISSUE AN ORDER OF DEFAULT ESTABLISHING PATERNITY AND FINANCIAL RESPONSIBILITY IN ACCORDANCE WITH THE NOTICE OF FINANCIAL RESPONSIBILITY if:

(I) THE OBLIGOR FAILS TO APPEAR FOR THE INITIAL NEGOTIATION CONFERENCE AS SCHEDULED IN THE NOTICE OF FINANCIAL RESPONSIBILITY AND FAILS TO RESCHEDULE A NEGOTIATION CONFERENCE PRIOR TO THE DATE AND TIME STATED IN THE NOTICE OF FINANCIAL RESPONSIBILITY; OR

(II) ~~an~~ THE obligor fails to take a blood test or fails to appear for an appointment to take a blood test without good cause; or

(III) ~~if~~ The results of the blood test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the obligor fails to appear for the negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility. ~~the delegate child support enforcement unit shall issue an order of default establishing paternity and financial responsibility in accordance with the notice of financial responsibility.~~

(b.5) The state board shall promulgate rules defining what constitutes good cause for failure to appear at a negotiation conference.

(c) Such order of default shall be approved by the court and shall include the following:

(I) The amount of the monthly support obligation and instructions on the manner in which it shall be paid;

(II) The amount of child support debt due and owing to the state department and instructions on the manner in which it shall be paid;

(III) The amount of arrearages due and owing and instructions on the manner in which it shall be paid;

(IV) The name of the custodian of the child and the name, birth date, and social security number of the child for whom support is being sought;

(V) The information required by section 14-14-107 (1) (b), C.R.S.;

(VI) In a default order establishing paternity, a statement that the obligor has been determined to be the natural parent of the child;

(VII) Such other information set forth in rules and regulations promulgated pursuant to section 26-13.5-113.

(d) SUCH ORDER FOR DEFAULT MAY DIRECT THE OBLIGOR TO PAY FOR SUPPORT OF THE CHILD, IN AN AMOUNT AS MAY BE DETERMINED BY THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO BE REASONABLE UNDER THE CIRCUMSTANCES, FOR A TIME PERIOD PRIOR TO THE ENTRY OF THE ORDER ESTABLISHING PATERNITY.

SECTION 24. 26-13.5-112 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-13.5-112. Modification of an order. (1) At any time after the entry of an order of financial responsibility or an order of default under this article, in order to add, alter, or delete any provisions to such an order, the delegate child support enforcement unit may issue a notice of financial responsibility to an obligor requesting the modification of an existing administrative order issued pursuant to this article. The delegate child support enforcement unit shall serve the obligor with a notice of financial responsibility by first class mail and shall proceed as set forth in this article. The obligor or the obligee may file a written request for modification of an administrative order issued under this article with the delegate child support enforcement unit by serving the delegate child support enforcement unit ~~by certified mail~~ BY FIRST CLASS MAIL OR IN PERSON. If such unit objects to the request for modification based upon the failure to demonstrate a showing of changed circumstances required pursuant to section 14-10-122, C.R.S., the delegate child support enforcement unit shall advise the requesting party of the party's right to request the court to set the matter for a court hearing. The court shall hold a hearing and decide only the issue of modification within ninety days of such request. If the delegate child support enforcement unit does not object to the obligor's or obligee's request for modification, the unit shall serve the obligor with a notice of financial responsibility by first class mail and shall proceed as set forth in this article. Within thirty days of receipt of the request for modification, the delegate child support enforcement unit shall either advise the requesting party of the party's right to request a court hearing or shall issue a notice of financial responsibility. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the delegate child support enforcement unit pursuant to article 13 of this title, the delegate child support enforcement unit shall certify the matter for hearing to the district court in which the order was filed.

SECTION 25. 24-52-102 (4), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-52-102. Deferred compensation plan - state deferred compensation committee. (4) Compensation deferred pursuant to this article is included as compensation for the purpose of computing retirement or pension benefits earned by the employee; except that such compensation is exempt from state income taxation to the same extent as it is exempt from federal income taxation. Such compensation shall be INCLUDED IN THE DETERMINATION OF DISPOSABLE EARNINGS AS DEFINED IN SECTION 13-54-104 (1) (a), C.R.S., AND SHALL BE exempt from garnishment or levy under execution or attachment to the extent provided in section 13-54-104, C.R.S.

SECTION 26. 14-5-301 (b) (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-5-301. Proceedings under this article. (b) This article provides for the following proceedings:

(1) Establishment of an order for spousal support or child support pursuant to part 4 of this article; EXCEPT THAT THE SUPPORT ENFORCEMENT AGENCY SHALL NOT BE

AUTHORIZED TO ESTABLISH A SPOUSAL SUPPORT ORDER.

SECTION 27. Part 10 of article 5 of title 14, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

14-5-1007. Enforcement of interstate income withholding. (1) IF DIRECT ENFORCEMENT OF AN INCOME WITHHOLDING ORDER IS NOT UTILIZED, A SUPPORT ENFORCEMENT AGENCY IN ANOTHER STATE SEEKING THE ENFORCEMENT OF A SUPPORT ORDER MAY COMPILE AND TRANSMIT TO THE CLERK OF THE COURT ALL DOCUMENTATION REQUIRED TO ENTER A SUPPORT ORDER FOR THE PURPOSE OF OBTAINING INCOME WITHHOLDING. THE CENTRAL INTERSTATE REGISTRY SHALL RECEIVE FILINGS UNDER TITLE IV-D OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, AND SHALL TRANSMIT SUCH FILINGS TO THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT, WHICH SHALL PROMPTLY REFER THE DOCUMENTS TO THE CLERK OF THE COURT. THE CLERK OF THE COURT SHALL FILE THE DOCUMENTS WHICH SHALL CONSTITUTE ENTRY OF THE SUPPORT ORDER UNDER THIS ARTICLE. A SUPPORT ORDER ENTERED PURSUANT TO THIS SECTION DOES NOT NULLIFY AND IS NOT NULLIFIED BY A SUPPORT ORDER MADE BY A COURT OF THIS STATE OR BY A SUPPORT ORDER MADE BY A COURT OF ANY OTHER STATE. HOWEVER, A SUPPORT ORDER ENTERED PURSUANT TO THIS SECTION SHALL BE MODIFIED IN ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION.

(2) THE FOLLOWING DOCUMENTATION IS REQUIRED FOR THE ENTRY OF A SUPPORT ORDER OF ANY JURISDICTION:

- (a) A CERTIFIED COPY OF THE SUPPORT ORDER WITH ALL MODIFICATIONS;
- (b) A CERTIFIED COPY OF AN INCOME WITHHOLDING ORDER, IF ANY, STILL IN EFFECT;
- (c) A COPY OF THE PORTION OF THE INCOME WITHHOLDING STATUTE OF THE JURISDICTION WHICH ISSUED THE SUPPORT ORDER STATING THE REQUIREMENTS FOR OBTAINING INCOME WITHHOLDING UNDER THE LAW OF THAT JURISDICTION;
- (d) A SWORN STATEMENT OF THE OBLIGEE OR A CERTIFIED STATEMENT OF THE AGENCY REGARDING THE ARREARAGES AND ASSIGNMENT OF SUPPORT RIGHTS, IF ANY; AND
- (e) A STATEMENT WHICH INCLUDES:
 - (I) THE NAME, ADDRESS, DATE OF BIRTH, SEX, AND SOCIAL SECURITY NUMBER OF THE OBLIGOR, IF KNOWN, AND THE DATE OF COLLECTION;
 - (II) THE NAME AND ADDRESS OF THE OBLIGOR'S EMPLOYER OR OF ANY OTHER SOURCE OF INCOME OF THE OBLIGOR DERIVED IN THIS STATE AGAINST WHICH INCOME WITHHOLDING IS SOUGHT; AND
 - (III) THE NAME AND ADDRESS OF THE AGENCY OR PERSON TO WHOM SUPPORT PAYMENTS COLLECTED BY INCOME WITHHOLDING SHALL BE TRANSMITTED.

(3) IF THE DOCUMENTATION RECEIVED BY THE CLERK OF THE COURT IN SUBSECTION (2) OF THIS SECTION DOES NOT CONFORM TO THE REQUIREMENTS, THE COURT OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL REMEDY ANY DEFECT WHICH THE COURT OR CHILD SUPPORT UNIT IS ABLE TO REMEDY WITHOUT THE ASSISTANCE OF THE REQUESTING AGENCY. IF CORRECTIONS CANNOT BE MADE, THE REQUESTING AGENCY SHALL IMMEDIATELY BE NOTIFIED OF THE NECESSARY ADDITIONS OR CORRECTIONS. IN NEITHER CASE SHALL THE DOCUMENTATION BE RETURNED. THE COURT OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL ACCEPT THE DOCUMENTATION REQUIRED BY SUBSECTION (2) OF THIS SECTION EVEN IF IT IS NOT IN THE USUAL FORM REQUIRED BY STATE OR LOCAL RULES, SO LONG AS THE SUBSTANTIVE REQUIREMENTS ARE MET.

(4) A SUPPORT ORDER ENTERED UNDER THIS SECTION SHALL BE ENFORCEABLE BY A WAGE ASSIGNMENT AGAINST INCOME DERIVED IN THIS STATE IN THE SAME MANNER, BEGINNING WITH AN ADVANCE NOTICE OF ACTIVATION AND WITH THE SAME EFFECT AS SET FORTH IN SECTION 14-14-107. ENTRY OF THE ORDER SHALL NOT CONFER JURISDICTION ON A COURT OF THIS STATE OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT FOR ANY PURPOSE OTHER THAN INCOME WITHHOLDING OF WAGES, AS DEFINED IN SECTION 14-14-102, STATE INCOME TAX REFUND OFFSET, AND INTERCEPTION OF LOTTERY WINNINGS.

(5) (a) THE CLERK OF THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT, UPON RECEIVING A CERTIFIED COPY OF ANY AMENDMENT OR MODIFICATION TO A SUPPORT ORDER WHICH WAS ENTERED PURSUANT TO THIS SECTION FOR THE PURPOSE OF OBTAINING INCOME WITHHOLDING, SHALL INITIATE, AS THOUGH IT WERE A SUPPORT ORDER OF THIS STATE, NECESSARY PROCEDURES TO AMEND OR MODIFY THE WAGE ASSIGNMENT TO CONFORM TO THE MODIFIED SUPPORT ORDER.

(b) IF THE COURT OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT DETERMINES THAT THE OBLIGOR HAS OBTAINED EMPLOYMENT IN ANOTHER STATE OR HAS A NEW OR ADDITIONAL SOURCE OF INCOME IN ANOTHER STATE, THE COURT OR CHILD SUPPORT ENFORCEMENT UNIT SHALL PROMPTLY NOTIFY THE AGENCY WHICH REQUESTED THE INCOME WITHHOLDING OF THE CHANGES AND SHALL FORWARD TO THAT AGENCY ALL INFORMATION THE COURT OR CHILD SUPPORT ENFORCEMENT UNIT HAS OR CAN OBTAIN WITH RESPECT TO THE OBLIGOR'S NEW ADDRESS AND THE NAME AND ADDRESS OF THE OBLIGOR'S NEW EMPLOYER OR ALL INFORMATION THE COURT OR UNIT HAS OR CAN OBTAIN WITH RESPECT TO THE OBLIGOR'S OTHER SOURCE OF INCOME. THE COURT OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL INCLUDE A CERTIFIED COPY OF THE INCOME WITHHOLDING ORDER IN EFFECT IN THIS STATE WITH THE NOTICE.

SECTION 28. Part 1 of article 1 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

25-1-122.5. Confidentiality of genetic testing records - "Uniform Parentage Act". NOTWITHSTANDING ANY OTHER LAW CONCERNING PUBLIC RECORDS, ANY RECORDS OR INFORMATION CONCERNING THE GENETIC TESTING OF A PERSON FOR PURPOSES OF THE DETERMINATION OF PARENTAGE PURSUANT TO ARTICLE 4 OF TITLE 19, C.R.S., SHALL BE CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-1-121, C.R.S.

SECTION 29. Effective date - applicability. Sections 1, 5, and 11 of this act shall take effect July 1, 1994, and shall apply to actions commenced on or after such date. Sections 26 and 27 of this act shall take effect January 1, 1995. The remainder of this act shall take effect upon passage.

SECTION 30. 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 31, 1994