

## CHAPTER 222

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**CHILDREN AND DOMESTIC MATTERS**


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**SENATE BILL 01-029**

BY SENATOR(S) Gordon, Dyer (Arapahoe), Dyer (Durango), Perlmutter, and Tate;  
also REPRESENTATIVE(S) Cadman and Coleman.

**AN ACT**

CONCERNING THE RESIDENCE OF A CHILD OF THE PARTIES TO A DOMESTIC RELATIONS PROCEEDING.

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

**SECTION 1.** 14-10-129 (1), (1.5), and (2), Colorado Revised Statutes, are amended to read:

**14-10-129. Modification of parenting time.** (1) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (1), the court may make or modify an order granting or denying parenting time rights whenever such order or modification would serve the best interests of the child.

(II) IN THOSE CASES IN WHICH A PARTY WITH WHOM THE CHILD RESIDES A MAJORITY OF THE TIME IS SEEKING TO RELOCATE WITH THE CHILD TO A RESIDENCE THAT SUBSTANTIALLY CHANGES THE GEOGRAPHICAL TIES BETWEEN THE CHILD AND THE OTHER PARTY, THE COURT, IN DETERMINING WHETHER THE MODIFICATION OF PARENTING TIME IS IN THE BEST INTERESTS OF THE CHILD, SHALL TAKE INTO ACCOUNT ALL RELEVANT FACTORS, INCLUDING THOSE ENUMERATED IN PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION. THE PARTY WHO IS INTENDING TO RELOCATE WITH THE CHILD TO A RESIDENCE THAT SUBSTANTIALLY CHANGES THE GEOGRAPHICAL TIES BETWEEN THE CHILD AND THE OTHER PARTY SHALL PROVIDE THE OTHER PARTY WITH WRITTEN NOTICE AS SOON AS PRACTICABLE OF HIS OR HER INTENT TO RELOCATE, THE LOCATION WHERE THE PARTY INTENDS TO RESIDE, THE REASON FOR THE RELOCATION, AND A PROPOSED REVISED PARENTING TIME PLAN. 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.

(b) (I) ~~but~~ The court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger the child's physical health or significantly

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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.*

impair the child's emotional development. Nothing in this section shall be construed to affect grandparent visitation granted pursuant to section 19-1-117, C.R.S.

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL NOT APPLY IN THOSE CASES IN WHICH A 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.

(1.5) If a motion for a substantial modification of parenting time which also changes the party with whom the child resides a majority of the time has been filed, whether or not it has been granted, no subsequent motion may be filed within two years after disposition of the prior motion unless the court decides, on the basis of affidavits, that the child's present environment may endanger the child's physical health or significantly impair the child's emotional development OR THAT 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.

(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:

(a) The parties agree to the modification; OR

(b) The child has been integrated into the family of the moving party with the consent of the other party; or

(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 OF SPOUSE ABUSE AS THAT TERM IS DEFINED IN SECTION 14-10-124 (4) WHICH FACTOR SHALL BE SUPPORTED BY CREDIBLE EVIDENCE, WHETHER SUCH SPOUSE ABUSE OCCURRED BEFORE OR AFTER THE PRIOR DECREE, AND ALL OTHER FACTORS ENUMERATED IN SECTION 14-10-124 (1.5) (a) AND:

(I) THE REASONS WHY THE PARTY WISHES TO RELOCATE WITH THE CHILD;

(II) THE REASONS WHY THE OPPOSING PARTY IS OBJECTING TO THE PROPOSED RELOCATION;

(III) THE HISTORY AND QUALITY OF EACH PARTY'S RELATIONSHIP WITH THE CHILD

SINCE ANY PREVIOUS PARENTING TIME ORDER;

(IV) THE EDUCATIONAL OPPORTUNITIES FOR THE CHILD AT THE EXISTING LOCATION AND AT THE PROPOSED NEW LOCATION;

(V) THE PRESENCE OR ABSENCE OF EXTENDED FAMILY AT THE EXISTING LOCATION AND AT THE PROPOSED NEW LOCATION;

(VI) ANY ADVANTAGES OF THE CHILD REMAINING WITH THE PRIMARY CAREGIVER;

(VII) THE ANTICIPATED IMPACT OF THE MOVE ON THE CHILD;

(VIII) WHETHER THE COURT WILL BE ABLE TO FASHION A REASONABLE PARENTING TIME SCHEDULE IF THE CHANGE REQUESTED IS PERMITTED; AND

(IX) ANY OTHER RELEVANT FACTORS BEARING ON THE BEST INTERESTS OF THE CHILD; OR

(~~e~~) (d) The child's present environment endangers the child's physical health or significantly impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

**SECTION 2. Effective date - applicability.** (1) This act shall take effect September 1, 2001, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all motions concerning modification of parenting time filed on or after the applicable effective date of this act.

Approved: June 1, 2001