

CHAPTER 137

**CHILDREN AND DOMESTIC MATTERS**

SENATE BILL 02-020

BY SENATOR(S) Gordon;  
also REPRESENTATIVE(S) Mitchell, Boyd, Harvey, Jahn, Lee, Madden, Scott, Stengel, and Williams S.

**AN ACT**

**CONCERNING A PROHIBITION AGAINST THE EXAMINATION OF CONFIDENTIAL COMMUNICATIONS MADE BY A MINOR CHILD TO A PARENT AND, IN CONNECTION THEREWITH, CREATING EXCEPTIONS TO THE PROHIBITION.**

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

**SECTION 1.** 13-90-107 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF NEW PARAGRAPH to read:

**13-90-107. Who may not testify without consent.** (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(1) (I) A PARENT MAY NOT BE EXAMINED AS TO ANY COMMUNICATION MADE IN CONFIDENCE BY THE PARENT'S MINOR CHILD TO THE PARENT WHEN THE MINOR CHILD AND THE PARENT WERE IN THE PRESENCE OF AN ATTORNEY REPRESENTING THE MINOR CHILD, OR IN THE PRESENCE OF A PHYSICIAN WHO HAS A CONFIDENTIAL RELATIONSHIP WITH THE MINOR CHILD PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (1), OR IN THE PRESENCE OF A MENTAL HEALTH PROFESSIONAL WHO HAS A CONFIDENTIAL RELATIONSHIP WITH THE MINOR CHILD PURSUANT TO PARAGRAPH (g) OF THIS SUBSECTION (1), OR IN THE PRESENCE OF A CLERGYMAN, MINISTER, PRIEST, OR RABBI WHO HAS A CONFIDENTIAL RELATIONSHIP WITH THE MINOR CHILD PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (1). THE EXCEPTION MAY BE WAIVED BY EXPRESS CONSENT TO DISCLOSURE BY THE MINOR CHILD WHO MADE THE COMMUNICATION OR BY FAILURE OF THE MINOR CHILD TO OBJECT WHEN THE CONTENTS OF THE COMMUNICATION ARE DEMANDED. THIS EXCEPTION DOES NOT RELIEVE ANY PHYSICIAN OR MENTAL HEALTH PROFESSIONAL FROM ANY STATUTORY REPORTING REQUIREMENTS.

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

(II) THIS EXCEPTION DOES NOT APPLY TO:

(A) ANY CIVIL ACTION OR PROCEEDING BY ONE PARENT AGAINST THE OTHER OR BY A PARENT OR MINOR CHILD AGAINST THE OTHER;

(B) ANY PROCEEDING TO COMMIT EITHER THE MINOR CHILD OR PARENT, PURSUANT TO TITLE 27, C.R.S., TO WHOM THE COMMUNICATION WAS MADE;

(C) ANY GUARDIANSHIP OR CONSERVATORSHIP ACTION TO PLACE THE PERSON OR PROPERTY OR BOTH UNDER THE CONTROL OF ANOTHER BECAUSE OF AN ALLEGED MENTAL OR PHYSICAL CONDITION OF THE MINOR CHILD OR THE MINOR CHILD'S PARENT;

(D) ANY CRIMINAL ACTION OR PROCEEDING IN WHICH A MINOR'S PARENT IS CHARGED WITH A CRIME COMMITTED AGAINST THE COMMUNICATING MINOR CHILD, THE PARENT'S SPOUSE, OR A MINOR CHILD OF EITHER THE PARENT OR THE PARENT'S SPOUSE;

(E) ANY ACTION OR PROCEEDING FOR TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP;

(F) ANY ACTION OR PROCEEDING FOR VOLUNTARY RELINQUISHMENT OF THE PARENT-CHILD LEGAL RELATIONSHIP; OR

(G) ANY ACTION OR PROCEEDING ON A PETITION ALLEGING CHILD ABUSE, DEPENDENCY OR NEGLECT, ABANDONMENT, OR NON-SUPPORT BY A PARENT.

(III) FOR PURPOSES OF THIS PARAGRAPH (I):

(A) "MINOR CHILD" MEANS ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS;

(B) "PARENT" INCLUDES THE LEGAL GUARDIAN OR LEGAL CUSTODIAN OF A MINOR CHILD AS WELL AS ADOPTIVE PARENTS.

**SECTION 2. Effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of 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; except that, if 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 actions filed with the court on or after the applicable effective date of this act.

Approved: May 6, 2002