

CHAPTER 111

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 05-181

BY SENATOR(S) Johnson;
also REPRESENTATIVE(S) Jahn, Berens, Boyd, Carroll T., Larson, Marshall, Merrifield, Paccione, Rose, Solano, Stafford,
Todd, and Vigil.

AN ACT

CONCERNING PROCEEDINGS PERTAINING TO CHILD SUPPORT OBLIGATIONS, AND, IN CONNECTION THEREWITH, REQUIRING SPECIFIED ADVISEMENTS AND AUTHORIZING THE ALLOCATION OF PARENTAL RESPONSIBILITIES AT SUCH PROCEEDINGS.

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

SECTION 1. 14-10-107 (4)(b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

14-10-107. Commencement - pleadings - abolition of existing defenses - automatic, temporary injunction - enforcement. (4) (b) (III) THE SUMMONS SHALL CONTAIN THE FOLLOWING ADVISEMENTS:

(A) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5); AND

(B) THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO A LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF THE LEGAL FINAL DECREE OF DISSOLUTION, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

SECTION 2. 14-10-124, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

14-10-124. Best interests of child. (3.5) A REQUEST BY EITHER PARTY FOR GENETIC TESTING SHALL NOT PREJUDICE THE REQUESTING PARTY IN THE ALLOCATION

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

OF PARENTAL RESPONSIBILITIES PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

SECTION 3. 19-4-105.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-4-105.5. Commencement of proceedings - summons. (5) A SUMMONS ISSUED UPON COMMENCEMENT OF A PROCEEDING UNDER THIS ARTICLE SHALL CONTAIN THE FOLLOWING ADVISEMENTS:

(a) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S.; AND

(b) THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO A LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF THE FINAL DECREE OF DISSOLUTION, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

SECTION 4. 19-4-109 (2), Colorado Revised Statutes, is amended to read:

19-4-109. Jurisdiction - venue. (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)~~ 4(e) of the Colorado rules of civil procedure, WHEN THERE IS A BASIS FOR personal jurisdiction over an individual LIVING outside this state ~~may be acquired~~ PURSUANT TO SECTION 14-5-201, C.R.S., SERVICE MAY BE ACCOMPLISHED by delivering a copy of the summons, together with a copy of the petition upon which it was issued, to the individual served. 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 5. 19-4-111 (1), Colorado Revised Statutes, is amended to read:

19-4-111. Pretrial proceedings. (1) As soon as practicable after an action to declare the existence or nonexistence of the father-child relationship has been brought, an informal hearing shall be held if it is determined by the court to be in the child's best interest. The court may order that the hearing be held before a magistrate. The public shall be barred from the hearing if it is determined by the court to be in the best interest of any of the parties. A record of the proceeding or any portion thereof shall be kept if any party requests or the court orders. Rules of evidence need not be observed. AT THE INFORMAL HEARING, THE JUDGE OR MAGISTRATE SHALL GIVE A VERBAL ADVISEMENT TO THE PARTIES THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S. THE JUDGE OR MAGISTRATE SHALL FURTHER ADVISE THE PARTIES THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO THE LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF THE FINAL ORDER ESTABLISHING PATERNITY, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER

DATE.

SECTION 6. 19-6-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-6-101. Initiation of proceedings - support - repayment of birth-related debt. (6) A PETITION FILED PURSUANT TO THIS ARTICLE SHALL CONTAIN THE FOLLOWING ADVISEMENTS:

(a) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S.; AND

(b) THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO A LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF THE FINAL DECREE OF DISSOLUTION, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

SECTION 7. 19-6-103 (2), Colorado Revised Statutes, is amended to read:

19-6-103. Summons. (2) Service of the summons shall be by personal service as provided in the Colorado rules of civil procedure. In addition to any other method provided by rule or statute, including rule ~~4(f)~~ 4(e) of the Colorado rules of civil procedure, WHEN THERE IS A BASIS FOR personal jurisdiction over an individual LIVING outside this state ~~may be acquired~~ PURSUANT TO SECTION 14-5-201, C.R.S., SERVICE MAY BE ACCOMPLISHED by delivering a copy of the summons, together with a copy of the petition upon which it was issued, to the individual served. 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 8. 19-6-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-6-104. Hearing - orders. (1.5) AT THE HEARING, THE COURT SHALL GIVE A VERBAL ADVISEMENT TO THE PARTIES THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S. THE JUDGE OR MAGISTRATE SHALL FURTHER ADVISE THE PARTIES THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO THE LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF THE FINAL ORDER ESTABLISHING PATERNITY, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

SECTION 9. 19-6-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-6-104. Hearing - orders. (3.5) UPON THE FILING OF A PROCEEDING UNDER THIS ARTICLE OR UPON THE FILING OF A PROCEEDING ORIGINATING UNDER ARTICLE 13.5 OF TITLE 26, C.R.S., THE COURT MAY ENTER AN ORDER ALLOCATING PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S., EXCEPT THAT, IN MATTERS INVOLVING A NONRESIDENT PARTY, THE COURT SHALL FIRST DETERMINE

WHETHER IT HAS AUTHORITY TO ISSUE AN ORDER ALLOCATING PARENTAL RESPONSIBILITIES PURSUANT TO ARTICLE 13 OF TITLE 14, C.R.S. NOTHING IN THIS SUBSECTION (3.5) SHALL BE CONSTRUED TO AUTHORIZE A DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO NEGOTIATE OR MEDIATE THE ALLOCATION OF PARENTAL RESPONSIBILITIES IN ANY PROCEEDING INITIATED UNDER THIS ARTICLE OR ARTICLE 13.5 OF TITLE 26, C.R.S.

SECTION 10. 26-13.5-103 (1), Colorado Revised Statutes, is 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:

(a.5) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE OBLIGOR IN MATTERS CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S., AND THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO THE LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF THE FINAL ORDER ESTABLISHING PATERNITY, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

SECTION 11. Effective date - applicability. (1) This section and sections 4, 7, and 12 of this act shall take effect upon passage and shall apply to actions filed on or after said date.

(2) Section 9 of this act shall take effect July 1, 2005, and shall apply to actions filed on or after said date.

(3) Sections 1, 2, 3, 5, 6, 8, and 10 of this act shall take effect January 1, 2006, and shall apply to actions filed on or after said date.

SECTION 12. 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: April 22, 2005