

## CHAPTER 243

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**CHILDREN AND DOMESTIC MATTERS**


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**HOUSE BILL 05-1171**

BY REPRESENTATIVE(S) Jahn, Berens, Boyd, Clapp, Green, Paccione, Kerr, McGihon, Plant, Rose, Stafford, and Todd;  
also SENATOR(S) Grossman, Bacon, Fitz-Gerald, Groff, Hanna, Keller, Shaffer, Tapia, and Tochtrop.

**AN ACT**

**CONCERNING THE APPOINTMENT OF INDIVIDUALS BY THE COURT IN DOMESTIC RELATIONS  
PROCEEDINGS TO ASSIST IN THE RESOLUTION OF ISSUES RELATED TO CHILDREN.**

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

**SECTION 1.** Article 10 of title 14, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**14-10-128.1. Appointment of parenting coordinator.** (1) PURSUANT TO THE PROVISIONS OF THIS SECTION, AT ANY TIME AFTER THE ENTRY OF AN ORDER CONCERNING PARENTAL RESPONSIBILITIES AND UPON NOTICE TO THE PARTIES, THE COURT MAY, ON ITS OWN MOTION, A MOTION BY EITHER PARTY, OR AN AGREEMENT OF THE PARTIES, APPOINT A PARENTING COORDINATOR AS A NEUTRAL THIRD PARTY TO ASSIST IN THE RESOLUTION OF DISPUTES BETWEEN THE PARTIES CONCERNING PARENTAL RESPONSIBILITIES, INCLUDING BUT NOT LIMITED TO IMPLEMENTATION OF THE COURT-ORDERED PARENTING PLAN. THE PARENTING COORDINATOR SHALL BE AN INDIVIDUAL WITH APPROPRIATE TRAINING AND QUALIFICATIONS AND A PERSPECTIVE ACCEPTABLE TO THE COURT.

(2) (a) ABSENT AGREEMENT OF THE PARTIES, A COURT SHALL NOT APPOINT A PARENTING COORDINATOR UNLESS THE COURT MAKES THE FOLLOWING FINDINGS:

(I) THAT THE PARTIES HAVE FAILED TO ADEQUATELY IMPLEMENT THE PARENTING PLAN;

(II) THAT MEDIATION HAS BEEN DETERMINED BY THE COURT TO BE INAPPROPRIATE, OR, IF NOT INAPPROPRIATE, THAT MEDIATION HAS BEEN ATTEMPTED AND WAS UNSUCCESSFUL; AND

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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.*

(III) THAT THE APPOINTMENT OF A PARENTING COORDINATOR IS IN THE BEST INTERESTS OF THE CHILD OR CHILDREN INVOLVED IN THE PARENTING PLAN.

(b) IN ADDITION TO MAKING THE FINDINGS REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), PRIOR TO APPOINTING A PARENTING COORDINATOR, THE COURT SHALL CONSIDER THE EFFECT OF ANY DOCUMENTED EVIDENCE OF DOMESTIC VIOLENCE ON THE PARTIES' ABILITY TO ENGAGE IN PARENT COORDINATION.

(3) A PARENTING COORDINATOR SHALL ASSIST THE PARTIES IN IMPLEMENTING THE TERMS OF THE PARENTING PLAN. DUTIES OF A PARENTING COORDINATOR INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

(a) ASSISTING THE PARTIES IN CREATING AN AGREED-UPON, STRUCTURED GUIDELINE FOR IMPLEMENTATION OF THE PARENTING PLAN;

(b) DEVELOPING GUIDELINES FOR COMMUNICATION BETWEEN THE PARTIES AND SUGGESTING APPROPRIATE RESOURCES TO ASSIST THE PARTIES IN LEARNING APPROPRIATE COMMUNICATION SKILLS;

(c) INFORMING THE PARTIES ABOUT APPROPRIATE RESOURCES TO ASSIST THEM IN DEVELOPING IMPROVED PARENTING SKILLS;

(d) ASSISTING THE PARTIES IN REALISTICALLY IDENTIFYING THE SOURCES AND CAUSES OF CONFLICT BETWEEN THEM, INCLUDING BUT NOT LIMITED TO IDENTIFYING EACH PARTY'S CONTRIBUTION TO THE CONFLICT, WHEN APPROPRIATE; AND

(e) ASSISTING THE PARTIES IN DEVELOPING PARENTING STRATEGIES TO MINIMIZE CONFLICT.

(4) (a) THE COURT MAY NOT APPOINT A PERSON PURSUANT TO THIS SECTION TO SERVE IN A CASE AS A PARENTING COORDINATOR IF THE PERSON HAS SERVED OR IS SERVING IN THE SAME CASE AS AN EVALUATOR PURSUANT TO SECTION 14-10-127 OR A REPRESENTATIVE OF THE CHILD PURSUANT TO SECTION 14-10-116. AFTER APPOINTING A PERSON PURSUANT TO THIS SECTION TO SERVE AS A PARENTING COORDINATOR IN A CASE, THE COURT MAY NOT SUBSEQUENTLY APPOINT THE PERSON TO SERVE IN THE SAME CASE AS AN EVALUATOR PURSUANT TO SECTION 14-10-127 OR A REPRESENTATIVE OF THE CHILD PURSUANT TO SECTION 14-10-116.

(b) THE COURT MAY APPOINT A PERSON WHO HAS SERVED OR IS SERVING IN A CASE AS A SPECIAL ADVOCATE PURSUANT TO SECTION 14-10-116 TO SERVE IN THE SAME CASE AS THE PARENTING COORDINATOR, UPON THE AGREEMENT OF THE PARTIES. AFTER APPOINTING A PERSON PURSUANT TO THIS SECTION TO SERVE AS A PARENTING COORDINATOR IN A CASE, THE COURT MAY NOT SUBSEQUENTLY APPOINT THE PERSON TO SERVE AS A SPECIAL ADVOCATE IN THE SAME CASE PURSUANT TO SECTION 14-10-116.

(5) A COURT ORDER APPOINTING A PARENTING COORDINATOR SHALL BE FOR A SPECIFIED TERM; EXCEPT THAT THE COURT ORDER SHALL NOT APPOINT A PARENTING COORDINATOR FOR A PERIOD OF LONGER THAN TWO YEARS. IF AN ORDER FAILS TO SPECIFY THE LENGTH OF THE COURT-ORDERED APPOINTMENT, IT SHALL BE CONSTRUED TO BE TWO YEARS FROM THE DATE OF APPOINTMENT. UPON AGREEMENT

OF THE PARTIES, THE COURT MAY EXTEND, MODIFY, OR TERMINATE THE APPOINTMENT, INCLUDING EXTENDING THE APPOINTMENT BEYOND TWO YEARS FROM THE DATE OF THE ORIGINAL APPOINTMENT. THE COURT MAY TERMINATE THE APPOINTMENT OF THE PARENTING COORDINATOR AT ANY TIME FOR GOOD CAUSE. THE COURT SHALL ALLOW THE PARENTING COORDINATOR TO WITHDRAW AT ANY TIME.

(6) A COURT ORDER APPOINTING A PARENTING COORDINATOR SHALL INCLUDE APPORTIONMENT OF THE RESPONSIBILITY FOR PAYMENT OF ALL OF THE PARENTING COORDINATOR'S FEES BETWEEN THE PARTIES. THE STATE SHALL NOT BE RESPONSIBLE FOR PAYMENT OF FEES TO A PARENTING COORDINATOR APPOINTED PURSUANT TO THIS SECTION.

(7) IN A JUDICIAL PROCEEDING, ADMINISTRATIVE PROCEEDING, OR OTHER SIMILAR PROCEEDING BETWEEN THE PARTIES TO THE ACTION, A PARENTING COORDINATOR SHALL NOT BE COMPETENT TO TESTIFY AND MAY NOT BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT, OR DECISION, THAT OCCURRED DURING THE PARENTING COORDINATOR'S APPOINTMENT, TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY. NOTHING IN THIS SUBSECTION (7) SHALL BE CONSTRUED TO PROHIBIT A PARENTING COORDINATOR FROM TESTIFYING OR PRODUCING RECORDS TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY THE PARENTING COORDINATOR IS NECESSARY IN AN ACTION BY THE PARENTING COORDINATOR TO COLLECT FEES FROM A PARTY TO THE ACTION.

(8) THE PARENTING COORDINATOR SHALL COMPLY WITH ANY APPLICABLE PROVISIONS SET FORTH IN CHIEF JUSTICE DIRECTIVES AND ANY OTHER PRACTICE OR ETHICAL STANDARDS ESTABLISHED BY RULE, STATUTE, OR LICENSING BOARD THAT REGULATES THE PARENTING COORDINATOR.

**14-10-128.3. Appointment of decision-maker.** (1) IN ADDITION TO THE APPOINTMENT OF A PARENTING COORDINATOR PURSUANT TO SECTION 14-10-128.1 OR AN ARBITRATOR PURSUANT TO SECTION 14-10-128.5, AT ANY TIME AFTER THE ENTRY OF AN ORDER CONCERNING PARENTAL RESPONSIBILITIES AND UPON WRITTEN CONSENT OF BOTH PARTIES, THE COURT MAY APPOINT A QUALIFIED DOMESTIC RELATIONS DECISION-MAKER AND GRANT TO THE DECISION-MAKER BINDING AUTHORITY TO RESOLVE DISPUTES BETWEEN THE PARTIES AS TO IMPLEMENTATION OR CLARIFICATION OF EXISTING ORDERS CONCERNING THE PARTIES' MINOR OR DEPENDENT CHILDREN, INCLUDING BUT NOT LIMITED TO DISPUTES CONCERNING PARENTING TIME, SPECIFIC DISPUTED PARENTAL DECISIONS, AND CHILD SUPPORT. A DECISION-MAKER SHALL HAVE THE AUTHORITY TO MAKE BINDING DETERMINATIONS TO IMPLEMENT OR CLARIFY THE PROVISIONS OF A PRE-EXISTING COURT ORDER IN A MANNER THAT IS CONSISTENT WITH THE SUBSTANTIVE INTENT OF THE COURT ORDER. THE DECISION-MAKER APPOINTED PURSUANT TO THE PROVISIONS OF THIS SECTION MAY BE THE SAME PERSON AS THE PARENTING COORDINATOR APPOINTED PURSUANT TO SECTION 14-10-128.1.

(2) THE DECISION-MAKER'S PROCEDURES FOR MAKING DETERMINATIONS SHALL BE IN WRITING AND SHALL BE APPROVED BY THE PARTIES PRIOR TO THE TIME THE DECISION-MAKER BEGINS TO RESOLVE A DISPUTE OF THE PARTIES. IF A PARTY IS UNABLE OR UNWILLING TO AGREE TO THE DECISION-MAKER'S PROCEDURES, THE DECISION-MAKER SHALL BE ALLOWED TO WITHDRAW FROM THE MATTER.

(3) ALL DECISIONS MADE BY THE DECISION-MAKER PURSUANT TO THIS SECTION SHALL BE IN WRITING, DATED, AND SIGNED BY THE DECISION-MAKER. DECISIONS OF THE DECISION-MAKER SHALL BE FILED WITH THE COURT AND MAILED TO THE PARTIES OR TO COUNSEL FOR THE PARTIES, IF ANY, NO LATER THAN TWENTY DAYS AFTER THE DATE THE DECISION IS ISSUED. ALL DECISIONS SHALL BE EFFECTIVE IMMEDIATELY UPON ISSUANCE AND SHALL CONTINUE IN EFFECT UNTIL VACATED, CORRECTED, OR MODIFIED BY THE DECISION-MAKER OR UNTIL AN ORDER IS ENTERED BY A COURT PURSUANT TO A DE NOVO HEARING UNDER SUBSECTION (4) OF THIS SECTION.

(4) (a) A PARTY MAY FILE A MOTION WITH THE COURT REQUESTING THAT A DECISION OF THE DECISION-MAKER BE MODIFIED BY THE COURT PURSUANT TO A DE NOVO HEARING. A MOTION FOR A DE NOVO HEARING SHALL BE FILED NO LATER THAN THIRTY DAYS AFTER THE DATE THE DECISION IS ISSUED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(b) IF A COURT, IN ITS DISCRETION BASED ON THE PLEADINGS FILED, GRANTS A PARTY'S REQUEST FOR A DE NOVO HEARING TO MODIFY THE DECISION OF THE DECISION-MAKER AND THE COURT SUBSTANTIALLY UPHOLDS THE DECISION OF THE DECISION-MAKER, THE PARTY THAT REQUESTED THE DE NOVO HEARING SHALL PAY THE FEES AND COSTS OF THE OTHER PARTY AND SHALL PAY THE FEES AND COSTS INCURRED BY THE DECISION-MAKER IN CONNECTION WITH THE REQUEST FOR DE NOVO HEARING, UNLESS THE COURT FINDS THAT IT WOULD BE MANIFESTLY UNJUST.

(5) A COURT ORDER APPOINTING A DECISION-MAKER SHALL BE FOR A SPECIFIED TERM; EXCEPT THAT THE COURT ORDER SHALL NOT APPOINT A DECISION-MAKER FOR A PERIOD OF LONGER THAN TWO YEARS. IF AN ORDER FAILS TO SPECIFY THE LENGTH OF THE COURT-ORDERED APPOINTMENT, IT SHALL BE CONSTRUED TO BE TWO YEARS FROM THE DATE OF APPOINTMENT. UPON AGREEMENT OF THE PARTIES, THE COURT MAY EXTEND, MODIFY, OR TERMINATE THE APPOINTMENT, INCLUDING EXTENDING THE APPOINTMENT BEYOND TWO YEARS FROM THE DATE OF THE ORIGINAL APPOINTMENT. THE COURT MAY TERMINATE THE APPOINTMENT OF THE DECISION-MAKER AT ANY TIME FOR GOOD CAUSE. THE COURT SHALL ALLOW THE DECISION-MAKER TO WITHDRAW AT ANY TIME.

(6) A COURT ORDER APPOINTING A DECISION-MAKER SHALL INCLUDE APPORTIONMENT OF THE RESPONSIBILITY FOR PAYMENT OF ALL OF THE DECISION-MAKER'S FEES BETWEEN THE PARTIES. THE STATE SHALL NOT BE RESPONSIBLE FOR PAYMENT OF FEES TO A DECISION-MAKER APPOINTED PURSUANT TO THIS SECTION.

(7) (a) A DECISION-MAKER SHALL BE IMMUNE FROM LIABILITY IN ANY CLAIM FOR INJURY THAT ARISES OUT OF AN ACT OR OMISSION OF THE DECISION-MAKER OCCURRING DURING THE PERFORMANCE OF HIS OR HER DUTIES OR DURING THE PERFORMANCE OF AN ACT THAT THE DECISION-MAKER REASONABLY BELIEVED WAS WITHIN THE SCOPE OF HIS OR HER DUTIES UNLESS THE ACT OR OMISSION CAUSING SUCH INJURY WAS WILLFUL AND WANTON.

(b) NOTHING IN THIS SUBSECTION (7) SHALL BE CONSTRUED TO BAR A PARTY FROM ASSERTING A CLAIM RELATED TO THE REASONABLENESS OR ACCURACY OF ANY FEE CHARGED OR TIME BILLED BY A DECISION-MAKER.

(c) (I) IN A JUDICIAL PROCEEDING, ADMINISTRATIVE PROCEEDING, OR OTHER SIMILAR PROCEEDING, A DECISION-MAKER SHALL NOT BE COMPETENT TO TESTIFY AND MAY NOT BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT, OR DECISION, THAT OCCURRED DURING THE DECISION-MAKER'S APPOINTMENT, TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

(II) THIS PARAGRAPH (c) SHALL NOT APPLY:

(A) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY THE DECISION-MAKER IS NECESSARY TO DETERMINE THE CLAIM OF THE DECISION-MAKER AGAINST A PARTY; OR

(B) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY THE DECISION-MAKER IS NECESSARY TO DETERMINE A CLAIM OF A PARTY AGAINST A DECISION-MAKER; OR

(C) WHEN BOTH PARTIES HAVE AGREED, IN WRITING, TO AUTHORIZE THE DECISION-MAKER TO TESTIFY.

(d) IF A PERSON COMMENCES A CIVIL ACTION AGAINST A DECISION-MAKER ARISING FROM THE SERVICES OF THE DECISION-MAKER, OR IF A PERSON SEEKS TO COMPEL A DECISION-MAKER TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF PARAGRAPH (c) OF THIS SUBSECTION (7), AND THE COURT DECIDES THAT THE DECISION-MAKER IS IMMUNE FROM CIVIL LIABILITY OR THAT THE DECISION-MAKER IS NOT COMPETENT TO TESTIFY, THE COURT SHALL AWARD TO THE DECISION-MAKER REASONABLE ATTORNEY FEES AND REASONABLE EXPENSES OF LITIGATION.

(8) THE DECISION-MAKER SHALL COMPLY WITH ANY APPLICABLE PROVISIONS SET FORTH IN CHIEF JUSTICE DIRECTIVES AND ANY OTHER PRACTICE OR ETHICAL STANDARDS ESTABLISHED BY RULE, STATUTE, OR LICENSING BOARD THAT REGULATES THE DECISION-MAKER.

**SECTION 2.** 14-10-128.5, Colorado Revised Statutes, is amended to read:

**14-10-128.5. Appointment of arbitrator - de novo review of award.** (1) With the consent of all parties, the court may appoint an arbitrator to resolve disputes between the parties concerning the parties' minor or dependent children, including but not limited to parenting time, nonrecurring adjustments to child support, and disputed parental decisions. Notwithstanding any other provision of law to the contrary, all awards entered by an arbitrator appointed pursuant to this section shall be in writing. The arbitrator's award shall be effective immediately upon entry and shall continue in effect until vacated by the arbitrator pursuant to part 2 of article 22 of title 13, C.R.S., modified or corrected by the arbitrator pursuant to part 2 of article 22 of title 13, C.R.S., or modified by the court pursuant to a de novo ~~review~~ HEARING under subsection (2) of this section.

(2) Any party may apply to have the arbitrator's award vacated, modified, or corrected pursuant to part 2 of article 22 of title 13, C.R.S., or may move the court to modify the arbitrator's award pursuant to a de novo ~~review~~ of HEARING CONCERNING such award BY FILING A MOTION FOR HEARING NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE AWARD. In circumstances in which a party moves for

a de novo ~~review~~ HEARING by the court, ~~the court shall order the nonprevailing party~~ IF THE COURT, IN ITS DISCRETION BASED ON THE PLEADINGS FILED, GRANTS THE MOTION AND THE COURT SUBSTANTIALLY UPHOLDS THE DECISION OF THE ARBITRATOR, THE PARTY THAT REQUESTED THE DE NOVO HEARING SHALL BE ORDERED to pay the fees and costs of the ~~prevailing~~ OTHER party and the fees of the arbitrator incurred in responding to the application or motion unless the court finds that it would be manifestly unjust.

**SECTION 3. 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: June 2, 2005