

CHAPTER 277

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 05-1157

BY REPRESENTATIVE(S) Riesberg, Boyd, Coleman, Green, Paccione, and Todd;
also SENATOR(S) Shaffer, Bacon, Fitz-Gerald, Groff, Grossman, Hanna, Tapia, Tochtrop, Tupa, Veiga, Williams, and Windels.

AN ACT

CONCERNING JUDICIAL DISCRETION TO DENY A SUPPLEMENTAL EVALUATION RELATED TO THE ALLOCATION OF PARENTAL RESPONSIBILITIES IN A DOMESTIC RELATIONS PROCEEDING BASED ON THE BEST INTERESTS OF THE CHILD.

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

SECTION 1. 14-10-127 (1) (a), Colorado Revised Statutes, is amended to read:

14-10-127. Evaluation and reports. (1) (a) (I) In all proceedings concerning the allocation of parental responsibilities with respect to a child, the court shall, upon motion of either party or upon its own motion, order the court probation department, any county or district social services department, or a licensed mental health professional qualified pursuant to subsection (4) of this section to perform an evaluation and file a written report concerning the disputed issues relating to the allocation of parental responsibilities ~~or parenting time arrangements, or both,~~ for the child, unless such motion by either party is made for the purpose of delaying the proceedings. ~~No later than January 1, 1990,~~ Any court or social services department personnel appointed by the court to do such evaluation shall be qualified pursuant to subsection (4) of this section. When a mental health professional performs the evaluation, the court shall appoint or approve the selection of the mental health professional. The moving party shall, at the time of the appointment of the evaluator, deposit a reasonable sum with the court to pay the cost of the evaluation. The court may order the reasonable charge for such evaluation and report to be assessed as costs between the parties.

(I.5) A PARTY MAY REQUEST A SUPPLEMENTAL EVALUATION TO THE EVALUATION ORDERED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). The court shall appoint another mental health professional to perform ~~a~~ THE supplemental evaluation at the initial expense of the moving party. The court shall not order a supplemental

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

evaluation if it determines that any of the following applies, based on motion and supporting affidavits:

(A) Such motion is interposed for purposes of delay;

(B) A party objects, and the party who objects or the child has a physical or mental condition that would make it harmful for such party or the child to participate in the supplemental evaluation;

(C) The purpose of such motion is to harass or oppress the other party;

(D) The moving party has failed or refused to cooperate with the first evaluation;
or

(E) The weight of the evidence other than the evaluation concerning the allocation of parental responsibilities or parenting time by the mental health professional demonstrates that a second evaluation would not be of benefit to the court in determining the allocation of parental responsibilities and parenting time; OR

(F) IN ADDITION TO THE EVALUATION ORDERED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THERE HAS BEEN AN INVESTIGATION AND REPORT PREPARED BY A SPECIAL ADVOCATE PURSUANT TO SECTION 14-10-116, AND THE COURT FINDS THAT A SUPPLEMENTAL EVALUATION CONCERNING PARENTAL RESPONSIBILITIES WILL NOT SERVE THE BEST INTERESTS OF THE CHILD.

(II) Each party and the child shall cooperate in the supplemental evaluation. If the court finds that the supplemental evaluation was necessary and materially assisted the court, the court may order the costs of such supplemental evaluation to be assessed as costs between the parties. Except as otherwise provided in this section, such report shall be considered confidential and shall not be available for public inspection unless by order of court. The cost of each probation department or department of human services evaluation shall be based on an ability to pay and shall be assessed as part of the costs of the action or proceeding, and, upon receipt of such sum by the clerk of court, it shall be transmitted to the department or agency performing the evaluation.

SECTION 2. 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 3, 2005