

## CHAPTER 307

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**CHILDREN AND DOMESTIC MATTERS**

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## HOUSE BILL 08-1342

BY REPRESENTATIVE(S) Kefalas, Gagliardi, Labuda, McFadyen, McGihon, Merrifield, Rice, and Todd;  
also SENATOR(S) Ward, Bacon, Boyd, Gibbs, Schwartz, Shaffer, and Williams.

**AN ACT**

CONCERNING MEASURES TO IMPROVE CHILD SUPPORT ENFORCEMENT, AND MAKING AN  
APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 14-10-115 (4) (b) and (5) (b) (I), Colorado Revised Statutes, are amended to read:

**14-10-115. Child support guidelines - purpose - definitions - determination of income - schedule of basic child support obligations - adjustments to basic child support - additional guidelines - child support commission.** (4) **Forms - identifying information.** (b) All child support orders entered pursuant to this article shall provide the ~~social security numbers~~ NAMES and dates of birth of the parties and of the children who are the subject of the order and the parties' residential and mailing addresses. THE SOCIAL SECURITY NUMBERS OF THE PARTIES AND CHILDREN SHALL BE COLLECTED PURSUANT TO SECTION 14-14-113 AND SECTION 26-13-127, C.R.S.

(5) **Determination of income.** (b) (I) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income; except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a child under the age of thirty months for whom the parents owe a joint legal responsibility OR FOR AN INCARCERATED PARENT SENTENCED TO ONE YEAR OR MORE.

**SECTION 2.** 14-14-113 (1) (b), Colorado Revised Statutes, is amended to read:

**14-14-113. Recordation of social security numbers in certain family matters.** (1) (b) ~~Records of all decrees of dissolution of marriage entered pursuant to section~~

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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.*

~~14-10-120, support orders issued pursuant to sections 14-10-115, 14-14-104, and 26-13.5-103, C.R.S., and articles 4 and 6 of title 19, C.R.S., and paternity determinations made pursuant to section 19-4-116, C.R.S., shall contain the parties' social security numbers~~ THE JUDICIAL DEPARTMENT SHALL MAINTAIN RECORDS OF THE PARTIES' AND CHILDREN'S SOCIAL SECURITY NUMBERS IN FAMILY MATTERS FILED UNDER ARTICLES 10 AND 14 OF THIS TITLE, ARTICLES 4 AND 6 OF TITLE 19, C.R.S., AND ARTICLE 13.5 OF TITLE 26, C.R.S. NOTHING IN THIS PARAGRAPH (b) SHALL REQUIRE THAT A PERSON'S SOCIAL SECURITY NUMBER APPEAR ON THE FACE OF THE COURT ORDER.

**SECTION 3.** Article 4 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**19-4-105.6. Amendment of proceedings - adding children.** (1) IN ANY EXISTING CASE COMMENCED UNDER THIS ARTICLE, IF IT IS ALLEGED THAT ANOTHER CHILD HAS BEEN CONCEIVED OF THE PARENTS NAMED IN THE EXISTING CASE, THAT CHILD SHALL BE ADDED TO THE EXISTING CASE IF AT LEAST ONE OF THE PRESUMPTIONS OF PATERNITY SPECIFIED IN SECTION 19-4-105 APPLIES FOR THE PURPOSE OF ESTABLISHING PATERNITY AND CHILD SUPPORT. THE CAPTION SHALL BE AMENDED TO INCLUDE THE ADDED CHILD.

(2) THE PARTY AMENDING THE PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL SERVE THE AMENDED PETITION WITH THE NEW CAPTION UPON THE OTHER PARTIES IN THE MANNER SET FORTH IN SECTION 19-4-109 (2), THE COLORADO RULES OF CIVIL PROCEDURE, OR AS OTHERWISE PROVIDED IN SECTION 26-13.5-104, C.R.S.

(3) PROCEEDINGS UNDER THIS ARTICLE MAY BE AMENDED PRIOR TO THE BIRTH OF THE CHILD TO BE ADDED TO THE PROCEEDINGS.

(4) IF A PETITION IS AMENDED PURSUANT TO THE REQUIREMENTS OF SECTION 19-5-103.7, THE LICENSED CHILD PLACEMENT AGENCY INVOLVED SHALL RECEIVE NOTICE OF THE ACTION IN THE SAME MANNER AS A PARTY TO THE ACTION.

(5) A SUMMONS ISSUED UPON THE AMENDMENT OF A PROCEEDING UNDER THIS ARTICLE SHALL CONTAIN THE ADVISEMENTS SET FORTH IN SECTION 19-4-105.5 (5).

(6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, IN ANY CASE WHERE THERE EXISTS MORE THAN ONE ALLEGED OR PRESUMED FATHER FOR A CHILD PURSUANT TO SECTION 19-4-105, A NEW CASE SHALL BE COMMENCED FOR THAT CHILD TO DETERMINE THE CHILD'S PATERNITY, ESTABLISH CHILD SUPPORT, AND ADDRESS ANY OTHER RELATED ISSUES. IF IT IS DETERMINED THAT THE CHILD IS THE CHILD OF PARENTS NAMED IN AN EXISTING CASE, THE CASES SHALL BE CONSOLIDATED INTO THE INITIAL ACTION PURSUANT TO RULE 42 OF THE COLORADO RULES OF CIVIL PROCEDURE.

**SECTION 4.** 19-4-116 (9), Colorado Revised Statutes, is amended to read:

**19-4-116. Judgment or order - birth-related costs - evidence.** (9) All child support orders entered pursuant to this article shall include the ~~social security numbers~~ NAMES and dates of birth of the parties and of the children who are the

subject of the order and the parties' residential and mailing addresses. THE SOCIAL SECURITY NUMBERS OF THE PARTIES AND CHILDREN SHALL BE COLLECTED PURSUANT TO SECTIONS 14-14-113 AND 26-13-127, C.R.S.

**SECTION 5.** Article 6 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**19-6-101.5. Amendments of proceedings - adding children.** (1) IN ANY EXISTING CASE COMMENCED UNDER THIS ARTICLE, IF IT IS ALLEGED THAT ANOTHER CHILD HAS BEEN CONCEIVED OF THE PARENTS NAMED IN THE EXISTING CASE, THAT CHILD SHALL BE ADDED TO THE EXISTING CASE IF AT LEAST ONE OF THE PRESUMPTIONS OF PATERNITY SPECIFIED IN SECTION 19-4-105 APPLIES FOR THE PURPOSE OF ESTABLISHING PATERNITY AND CHILD SUPPORT. THE CAPTION SHALL BE AMENDED TO INCLUDE THE ADDED CHILD.

(2) THE PARTY AMENDING THE PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL SERVE THE AMENDED PETITION WITH THE NEW CAPTION UPON THE OTHER PARTIES IN THE MANNER SET FORTH IN SECTION 19-6-103 (2).

(3) ONCE THE COURT HAS ACQUIRED JURISDICTION OVER THE PROCEEDINGS, SUCH JURISDICTION SHALL BE RETAINED REGARDLESS OF THE ADDED CHILD'S PHYSICAL PRESENCE OR PLACE OF RESIDENCE.

(4) AN AMENDED PETITION FILED PURSUANT TO THIS ARTICLE SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN SECTION 19-6-101.

(5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, IN ANY CASE WHERE THERE EXISTS MORE THAN ONE ALLEGED OR PRESUMED FATHER FOR A CHILD PURSUANT TO SECTION 19-4-105, A NEW CASE SHALL BE COMMENCED FOR THAT CHILD TO DETERMINE THE CHILD'S PATERNITY, ESTABLISH CHILD SUPPORT, AND ADDRESS ANY OTHER RELATED ISSUES. IF IT IS DETERMINED THAT THE CHILD IS THE CHILD OF PARENTS NAMED IN AN EXISTING CASE, THE CASES SHALL BE CONSOLIDATED INTO THE INITIAL ACTION PURSUANT TO RULE 42 OF THE COLORADO RULES OF CIVIL PROCEDURE.

**SECTION 6.** 26-13-108 (1), Colorado Revised Statutes, is amended to read:

**26-13-108. Recovery of public assistance paid for child support and maintenance - interest collected on support obligations.** (1) Whenever the state department, a county department or its authorized agent, or a district attorney recovers any amounts of support for public assistance recipients, such amounts shall be deposited in the county social services fund, and, if such support is used to reimburse public assistance paid in accordance with federal law, the federal government shall be entitled to a share in accordance with applicable federal law, the county shall be entitled to a share in accordance with state law, and the state shall be entitled to the remaining share. ~~In addition, the county shall be entitled to a share proportionate to one-half the amount of state funds paid.~~ THE STATE MAY REDIRECT THE STATE'S SHARE TO THE COUNTY PURSUANT TO SECTION 26-13-112.5. Costs and expenses reasonably and necessarily incurred by the office of district or county attorney, as contractual agent for a county department, in carrying out the provisions of this article shall be billed to county departments of social services or

a county department of social services within the judicial district for the actual cost of services provided. Each county shall make an annual accounting to the state department on all amounts recovered.

**SECTION 7.** 26-13-114 (7) (c), (7) (d), and (7) (e), Colorado Revised Statutes, are amended to read:

**26-13-114. Family support registry - collection and disbursement of child support and maintenance - rules - legislative declaration.** (7) All support orders shall contain:

(c) The name, ~~social security number~~, date of birth, residential address, and sex of the obligor, and the name and address of the employer of the obligor;

(d) The name, ~~social security number~~, date of birth, residential address, and sex of the obligee;

(e) The name, date of birth, AND sex ~~and social security number, if any~~, of all dependents covered under the support order;

**SECTION 8.** 26-13-127 (2) (c), Colorado Revised Statutes, is amended, and the said 26-13-127 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**26-13-127. State case registry.** (2) The judicial department shall collect and electronically transfer on a weekly basis, or more frequently as mutually agreeable, to the state department, or its agent, the following basic elements of all child support orders established or modified on or after October 1, 1998, which shall be stored in the state case registry:

(c) ~~The social security number of each parent and each child who is the subject of the order;~~

(2.5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE PARTIES SHALL PROVIDE THE JUDICIAL DEPARTMENT WITH THE SOCIAL SECURITY NUMBER OF EACH PARTY AND EACH CHILD WHO IS THE SUBJECT OF A CHILD SUPPORT ORDER. THE JUDICIAL DEPARTMENT SHALL COLLECT AND ELECTRONICALLY TRANSFER THE SOCIAL SECURITY NUMBERS TO THE STATE DEPARTMENT, OR ITS AGENT, ON A WEEKLY BASIS OR MORE FREQUENTLY, AS PER MUTUAL AGREEMENT. NOTHING IN THIS SUBSECTION (2.5) SHALL REQUIRE THAT A PERSON'S SOCIAL SECURITY NUMBER APPEAR ON THE FACE OF ANY COURT ORDER ENTERED PURSUANT TO SECTION 14-10-115, 14-14-104, OR 19-4-116, C.R.S., OR SECTION 26-13-114 OR 26-13.5-105.

**SECTION 9.** Article 13.5 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**26-13.5-103.5. Notice of financial responsibility amended - adding children.**

(1) IN ANY EXISTING CASE COMMENCED UNDER THIS ARTICLE, IF IT IS ALLEGED THAT ANOTHER CHILD HAS BEEN CONCEIVED OF THE PARENTS NAMED IN THE EXISTING CASE AND AT LEAST ONE OF THE PRESUMPTIONS OF PATERNITY SPECIFIED IN SECTION

19-4-105, C.R.S., APPLIES, THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL ISSUE AN AMENDED NOTICE OF FINANCIAL RESPONSIBILITY TO ADD THE CHILD TO THE CASE.

(2) THE AMENDED NOTICE OF FINANCIAL RESPONSIBILITY TO ADD A CHILD TO AN EXISTING CASE SHALL BE SERVED IN THE MANNER SET FORTH IN SECTION 26-13.5-104.

(3) THE AMENDED NOTICE OF FINANCIAL RESPONSIBILITY TO ADD A CHILD TO AN EXISTING CASE SHALL CONTAIN ALL OF THE ADVISEMENTS REQUIRED IN AN ORIGINAL NOTICE OF FINANCIAL RESPONSIBILITY AS SET FORTH IN SECTION 26-13.5-103.

(4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, IN ANY CASE WHERE THERE EXISTS MORE THAN ONE ALLEGED OR PRESUMED FATHER FOR A CHILD PURSUANT TO SECTION 19-4-105, C.R.S., A NEW CASE SHALL BE COMMENCED FOR THAT CHILD TO DETERMINE THE CHILD'S PATERNITY, ESTABLISH CHILD SUPPORT, AND ADDRESS ANY OTHER RELATED ISSUES. IF IT IS DETERMINED THAT THE CHILD IS THE CHILD OF PARENTS NAMED IN AN EXISTING CASE, THE CASES SHALL BE CONSOLIDATED PURSUANT TO RULE 42 OF THE COLORADO RULES OF CIVIL PROCEDURE.

**SECTION 10.** 26-13.5-105 (1) (d), Colorado Revised Statutes, is amended to read:

**26-13.5-105. Negotiation conference - issuance of order of financial responsibility - filing of order with district court.** (1) Every obligor who has been served with a notice of financial responsibility pursuant to section 26-13.5-104 shall appear at the time and location stated in the notice for a negotiation conference or shall reschedule a negotiation conference prior to the date and time stated in the notice. The negotiation conference shall be scheduled not more than thirty days after the date of the issuance of the notice of financial responsibility. A negotiation conference shall not be rescheduled more than once and shall not be rescheduled for a date more than ten days after the date and time stated in the notice without good cause as defined in rules and regulations promulgated pursuant to section 26-13.5-113. If a negotiation conference is continued, the obligor shall be notified of such continuance by first-class mail or by hand delivery. If a stipulation is agreed upon at the negotiation conference as to the obligor's duty of support, the delegate child support enforcement unit shall issue an administrative order of financial responsibility setting forth the following:

(d) The ~~name, birth date, and social security number~~ NAMES AND DATES OF BIRTH of the parties and of the children for whom support is being sought and the parties' residential and mailing addresses.

**SECTION 11. Appropriation - adjustments to the 2008 long bill.** For the purpose of increasing funding to the counties for child support enforcement programs, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2008, shall be adjusted as follows:

(1) The appropriation to the department of human services, county administration division, for county incentive payments, is increased by two million five hundred

thousand dollars (\$2,500,000). Said sum shall be cash funds from the state's share of retained child support collections and fraud refunds.

(2) The appropriation to the department of human services, office of self sufficiency, Colorado works program, for county block grants, is decreased by two million five hundred thousand dollars (\$2,500,000). Said sum shall be cash funds from the state's share of retained child support collections and fraud refunds.

**SECTION 12. Effective date.** (1) Sections 12 and 13 of this act shall take effect upon passage.

(2) Sections 1, 2, 4, 6, 7, 8, 10, and 11 of this act shall take effect July 1, 2008.

(3) Sections 3, 5, and 9 of this act shall take effect January 1, 2009.

**SECTION 13. 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: May 27, 2008