

CHAPTER 207

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 09-268

BY SENATOR(S) Tapia, Keller, White, Hudak;
also REPRESENTATIVE(S) Pommer, Ferrandino, Marostica, Looper.

AN ACT

CONCERNING CLARIFYING THE APPOINTMENT OF STATE-PAID PROFESSIONALS IN CASES INVOLVING CHILDREN, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 14-10-116 (3), Colorado Revised Statutes, is amended to read:

14-10-116. Appointment in domestic relations cases - representation of child's best interests - legal representative of the child. (3) (a) The court shall enter an order for costs, fees, and disbursements in favor of the child's legal representative appointed pursuant to subsection (1) of this section. The order shall be made against any or all of the parties; except that, if the responsible ~~party is~~ PARTIES ARE DETERMINED TO BE indigent, the costs, fees, and disbursements shall be borne by the state.

(b) IN A PROCEEDING FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION, PRIOR TO THE ENTRY OF A DECREE OF DISSOLUTION OR LEGAL SEPARATION, THE COURT SHALL NOT ENTER AN ORDER REQUIRING THE STATE TO BEAR THE COSTS, FEES, OR DISBURSEMENTS RELATED TO THE APPOINTMENT OF A CHILD'S LEGAL REPRESENTATIVE UNLESS BOTH PARTIES ARE DETERMINED TO BE INDIGENT AFTER CONSIDERING THE COMBINED INCOME AND ASSETS OF THE PARTIES.

(c) IF THE APPOINTMENT OF A CHILD'S LEGAL REPRESENTATIVE OCCURS IN A CASE INVOLVING UNMARRIED PARTIES, INCLUDING THOSE PROCEEDINGS THAT OCCUR AFTER THE ENTRY OF A DECREE FOR DISSOLUTION OF MARRIAGE OR OF LEGAL SEPARATION, THE COURT SHALL MAKE EVERY REASONABLE EFFORT TO APPORTION COSTS BETWEEN THE PARTIES IN A MANNER THAT WILL MINIMIZE THE COSTS, FEES, AND DISBURSEMENTS THAT SHALL BE BORNE BY THE STATE.

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

SECTION 2. 14-10-116.5 (3), Colorado Revised Statutes, is amended to read:

14-10-116.5. Appointment in domestic relations cases - child and family investigator. (3) (a) The court shall enter an order for costs, fees, and disbursements in favor of the child and family investigator appointed pursuant to subsection (1) of this section. The order shall be made against any or all of the parties; except that, if the responsible ~~party is~~ PARTIES ARE DETERMINED TO BE indigent, the costs, fees, and disbursements shall be borne by the state.

(b) IN A PROCEEDING FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION, PRIOR TO THE ENTRY OF A DECREE OF DISSOLUTION OR LEGAL SEPARATION, THE COURT SHALL NOT ENTER AN ORDER REQUIRING THE STATE TO BEAR THE COSTS, FEES, OR DISBURSEMENTS RELATED TO THE APPOINTMENT OF A CHILD AND FAMILY INVESTIGATOR UNLESS BOTH PARTIES ARE DETERMINED TO BE INDIGENT AFTER CONSIDERING THE COMBINED INCOME AND ASSETS OF THE PARTIES.

(c) IF THE APPOINTMENT OF A CHILD AND FAMILY INVESTIGATOR OCCURS IN A CASE INVOLVING UNMARRIED PARTIES, INCLUDING THOSE PROCEEDINGS THAT OCCUR AFTER THE ENTRY OF A DECREE FOR DISSOLUTION OF MARRIAGE OR OF LEGAL SEPARATION, THE COURT SHALL MAKE EVERY REASONABLE EFFORT TO APPORTION COSTS BETWEEN THE PARTIES IN A MANNER THAT WILL MINIMIZE THE COSTS, FEES, AND DISBURSEMENTS THAT SHALL BE BORNE BY THE STATE.

SECTION 3. 19-1-111 (2) (a) (III), (2) (b), and (4), Colorado Revised Statutes, are amended to read:

19-1-111. Appointment of guardian ad litem. (2) The court may appoint a guardian ad litem in the following cases:

(a) For a child in a delinquency proceeding where:

(III) The court ~~finds~~ MAKES SPECIFIC FINDINGS that the APPOINTMENT OF A GUARDIAN AD LITEM IS NECESSARY TO SERVE THE best interests of the child ~~will be served by an appointment~~ AND SUCH SPECIFIC FINDINGS ARE INCLUDED IN THE COURT'S ORDER OF APPOINTMENT.

(b) For a child in proceedings under the "School Attendance Law of 1963", article 33 of title 22, C.R.S., WHEN THE COURT FINDS THAT THE APPOINTMENT IS NECESSARY DUE TO EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (4), the appointment of a guardian ad litem pursuant to this section shall continue until such time as the court's jurisdiction is terminated.

(b) THE APPOINTMENT OF THE GUARDIAN AD LITEM SHALL TERMINATE IN A DELINQUENCY PROCEEDING:

(I) AT THE TIME SENTENCE IS IMPOSED, UNLESS THE COURT CONTINUES THE APPOINTMENT BECAUSE THE CHILD IS SENTENCED TO RESIDENTIAL OR COMMUNITY OUT-OF-HOME PLACEMENT AS A CONDITION OF PROBATION; OR

(II) WHEN THE CHILD REACHES EIGHTEEN YEARS OF AGE, UNLESS THE CHILD HAS A DEVELOPMENTAL DISABILITY.

(c) THE COURT MAY TERMINATE THE APPOINTMENT OF A GUARDIAN AD LITEM IN A DELINQUENCY PROCEEDING ON ITS OWN MOTION OR ON THE MOTION OF THE GUARDIAN AD LITEM WHEN THE APPOINTMENT IS NO LONGER NECESSARY DUE TO ANY OF THE FOLLOWING REASONS:

(I) THE CHILD'S PARENT, GUARDIAN, LEGAL CUSTODIAN, CUSTODIAN, PERSON TO WHOM PARENTAL RESPONSIBILITIES HAVE BEEN ALLOCATED, RELATIVE, STEPPARENT, OR SPOUSAL EQUIVALENT APPEARS AT A HEARING IN THE CASE;

(II) THE CONFLICT OF INTEREST DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION NO LONGER EXISTS; OR

(III) THE APPOINTMENT NO LONGER SERVES THE BEST INTERESTS OF THE CHILD.

SECTION 4. Appropriation - adjustments to the 2009 long bill. For the implementation of this act, the general fund appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2009, to the judicial department, office of the child's representative, for court appointed counsel, is decreased by ninety-seven thousand dollars (\$97,000).

SECTION 5. 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 1, 2009