

CHAPTER 46

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 11-123

BY SENATOR(S) Foster, Newell;
also REPRESENTATIVE(S) Summers, Fields, Kerr J., Labuda, Peniston, Todd, Wilson.

AN ACT**CONCERNING TECHNICAL CHANGES TO CHILD SUPPORT PROCEDURES.**

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

SECTION 1. 13-25-126 (1) (a), Colorado Revised Statutes, is amended to read:

13-25-126. Genetic tests to determine parentage. (1) (a) (I) In any action, suit, or proceeding in which the parentage of a child is at issue, including but not limited to actions or proceedings pursuant to section 14-10-122 (6) or 19-4-107.3, C.R.S., upon motion of the court or any of the interested parties, the court shall order the alleged mother, the child or children, and the alleged father to submit to genetic testing and other appropriate testing of inherited characteristics, including but not limited to blood and tissue type, for the purpose of determining probability of parentage. If a party refuses to submit to these tests, the court may resolve the question of parentage against the party to enforce its order if the rights of others and the interests of justice so require.

(II) A COURT, PURSUANT TO THIS SECTION, OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT PURSUANT TO SECTION 26-13.5-105, C.R.S., SHALL NOT ORDER GENETIC TESTING OF A CHILD WHOSE PARENTAGE HAS PREVIOUSLY BEEN DETERMINED BY OR PURSUANT TO THE LAW OF ANOTHER STATE, BUT A COURT MAY STAY A SUPPORT PROCEEDING FOR SUCH REASONABLE TIME AS DETERMINED BY THE COURT TO ALLOW THE PARTY ASSERTING THE DEFENSE TO PURSUE THE NONPARENTAGE CLAIM IN THE OTHER STATE.

SECTION 2. 14-10-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

14-10-107. Commencement - pleadings - abolition of existing defenses - automatic, temporary injunction - enforcement. (2.5) UPON THE FILING OF A PETITION FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION PURSUANT TO THIS ARTICLE, EACH PARTY SHALL PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE COURT, HIS OR HER SOCIAL SECURITY NUMBER AND THE SOCIAL SECURITY NUMBER OF EACH CHILD NAMED IN THE PETITION PURSUANT TO PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION.

SECTION 3. 14-10-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

14-10-123. Commencement of proceedings concerning allocation of parental responsibilities - jurisdiction - automatic temporary injunction - enforcement. (2.5) UPON THE FILING OF A PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION, EACH PARTY SHALL PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE COURT, HIS OR HER SOCIAL SECURITY NUMBER AND THE SOCIAL SECURITY NUMBER OF EACH CHILD NAMED IN THE PETITION.

SECTION 4. The introductory portion to 14-14-111.5 (4), Colorado Revised Statutes, is amended to read:

14-14-111.5. Income assignments for child support or maintenance. (4) **Notice to withhold income for support.** Ten days after the date the advance notice of activation is mailed to the obligor for income assignments on orders entered during the time periods described in paragraphs (a), (b), and (d) of subsection (2) of this section or immediately for income assignments on orders entered during the time periods described in paragraphs (c), (e), and (f) of subsection (2) of this section, an income assignment may be activated by the obligee, the obligee's representative, or the delegate child support enforcement unit by causing a notice to withhold income for support to be served upon the employer, trustee, or other payor of funds, by first-class mail or by electronic service, if such employer, trustee, or other payor of funds mutually agrees with the state child support enforcement agency to receive such income assignments electronically. Receipt of notice by the employer, trustee, or other payor of funds confers jurisdiction of the court over the employer, trustee, or other payor of funds. INCOME ASSIGNMENTS ACTIVATED FOR ORDERS ENTERED DURING THE TIME PERIODS DESCRIBED IN PARAGRAPHS (c), (e), AND (f) OF SUBSECTION (2) OF THIS SECTION SHALL BE PAID THROUGH THE FAMILY SUPPORT REGISTRY PURSUANT TO SECTION 26-13-114, C.R.S. In circumstances in which the source of income to the obligor is unemployment compensation benefits and the custodian of the child is receiving support enforcement services pursuant to section 26-13-106, C.R.S., no notice to withhold income for support shall be required. In such cases, the state child support enforcement agency shall electronically intercept the unemployment compensation benefits through an automated interface with the department of labor and employment. In all other cases, the notice to withhold income for support shall contain the following information and, except in cases in which the obligee is receiving child support enforcement services pursuant to section 26-13-106, C.R.S., shall have a certified copy of the support order attached thereto:

SECTION 5. 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 - automatic temporary injunction - enforcement. (2.5) UPON THE COMMENCEMENT OF A PROCEEDING UNDER THIS ARTICLE, EACH PARTY SHALL PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE COURT, HIS OR HER SOCIAL SECURITY NUMBER AND THE SOCIAL SECURITY NUMBER OF EACH CHILD WHO IS THE SUBJECT OF THE PROCEEDING UNDER THIS ARTICLE.

SECTION 6. 19-4-105.6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-4-105.6. Amendment of proceedings - adding children. (2.5) THE PARTY AMENDING THE PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE COURT, THE SOCIAL SECURITY NUMBER OF THE ADDED CHILD.

SECTION 7. 26-13-113, Colorado Revised Statutes, is amended to read:

26-13-113. Placement in foster care automatic assignment of right. When a child is placed in foster care pursuant to article 5 of this title ~~and~~ OR Title IV-E of the federal "Social Security Act", as amended, all rights to current and accrued child support for the benefit of the child are assigned by operation of law to the state department. When placement has terminated, the assignment of rights to accrued child support shall remain in effect until foster care COST OF CARE OR maintenance costs have been reimbursed in full. ~~in those cases in which the children were not eligible for assistance under Title IV-E of the federal "Social Security Act", as amended. For cases in which children were eligible for assistance under Title IV-E of the federal "Social Security Act", as amended, the criteria for assignment of rights set forth in section 26-2-111 (3) (a) shall apply.~~ Amounts collected pursuant to this section shall be distributed to the federal government, the state, and the county proportionately according to each entity's contribution.

SECTION 8. 26-13-114 (1) (b) and (1) (c), Colorado Revised Statutes, are amended to read:

26-13-114. Family support registry - collection and disbursement of child support and maintenance - rules - legislative declaration. (1) The general assembly hereby finds, determines, and declares that it has been demonstrated that the establishment and operation of one automated central payment registry for the processing of child support, child support when combined with maintenance, and maintenance payments is beneficial to the state in the collection and enforcement of family support obligations. It is the intent of the general assembly by enacting this section to authorize the implementation of one central family support registry for the collection, receipt, and disbursement of payments with respect to:

(b) Child support obligations for children whose custodians are not receiving child support enforcement services from delegate child support enforcement units (non-IV-D cases), if the court orders such obligations to be paid through the family support registry pursuant to this title, section 14-10-117, C.R.S., or title 19, C.R.S., OR IF THE COURT ORDER IS SUBJECT TO INCOME-WITHHOLDING PURSUANT TO SECTION 14-14-111.5, C.R.S., and if the executive director of the state department has notified the state court administrator pursuant to subsection (5) of this section

that the judicial district in which the court issuing the order is situated is ready to participate in the family support registry; and

(c) Maintenance obligations, if the court orders payments for such obligations to be paid through the family support registry pursuant to this title or section 14-10-117, C.R.S., OR IF THE ORDER IS SUBJECT TO INCOME-WITHHOLDING PURSUANT TO SECTION 14-14-111.5, C.R.S., and if the executive director of the state department has notified the state court administrator that the judicial district in which the court issuing the order is situated is ready to participate in the family support registry and the family support registry is ready to accept such maintenance payments.

SECTION 9. 26-13.5-102 (3), Colorado Revised Statutes, is amended to read:

26-13.5-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Child support debt" means, in the case in which there is no existing order for child support, an amount ordered by the court pursuant to section 14-14-104, C.R.S., or by a delegate child support enforcement unit pursuant to this article for unreimbursed public assistance provided to a family that has received or is receiving aid to families with dependent children OR TEMPORARY ASSISTANCE TO NEEDY FAMILIES. In the case in which there is an existing court or administrative order for support, "child support debt" means an amount equal to the amount of public assistance paid to the extent of the full amount of arrearages which have accrued as of the date of the court or administrative order that determines the child support debt.

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

(o) That the obligor may assert the following objections in the negotiation conference and that, if such objections are not resolved, the delegate child support enforcement unit shall schedule a court hearing pursuant to section 26-13.5-105 (3):

(I) That he is not the parent of the dependent child; HOWEVER, IF PARENTAGE HAS BEEN PREVIOUSLY DETERMINED BY OR PURSUANT TO THE LAW OF ANOTHER STATE, THE OBLIGOR IS ADVISED THAT ANY CHALLENGE TO THE DETERMINATION OF PARENTAGE MUST BE RESOLVED IN THE STATE WHERE THE DETERMINATION OF PARENTAGE WAS MADE;

SECTION 11. 26-13.5-105 (3) (c), 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. (3) (c) If no stipulation is agreed upon at the negotiation conference and paternity is not an issue, or, if paternity is an issue and EITHER the evidence relating to paternity meets the requirements set forth in section 13-25-126 (1) (g), C.R.S., OR PARENTAGE HAS BEEN PREVIOUSLY DETERMINED BY ANOTHER STATE, the delegate child support enforcement unit shall issue temporary orders establishing current child support, arrears, foster care maintenance, medical support, and reasonable support for a time period prior to the entry of the order for support and shall file the notice of financial responsibility and proof of service with the clerk of the district court in the county in which the notice of financial responsibility was issued and shall request the court to set a hearing for the matter.

SECTION 12. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 21, 2011