

CHAPTER 108

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 12-056

BY SENATOR(S) Carroll, Aguilar, Boyd, Foster, Giron, Guzman, Newell, Steadman, Tochtrop;
also REPRESENTATIVE(S) Holbert, Brown, Coram, Fields, Fischer, Labuda, Singer, Solano, Todd, Vigil, Wilson.

AN ACT**CONCERNING JUDICIAL APPOINTMENTS IN DOMESTIC RELATIONS CASES INVOLVING CHILDREN.**

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

SECTION 1. In Colorado Revised Statutes, 14-10-116, **amend** (1); and **add** (2.5) as follows:

14-10-116. Appointment in domestic relations cases - representation of child's best interests - legal representative of the child - disclosure. (1) The court may, upon the motion of either party or upon its own motion, appoint an attorney, in good standing and licensed to practice law in the state of Colorado, to serve as the legal representative of the child, representing the best interests of the child in any domestic relations proceeding that involves allocation of parental responsibilities. In no instance may the same person serve as both the child's legal representative pursuant to this section and as the child and family investigator for the court pursuant to section 14-10-116.5. **WITHIN SEVEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS SECTION.**

(2.5) (a) **WITHIN SEVEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDICIAL OFFICER AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.**

(b) **BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY**

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

HAS SEVEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE. IF A PARTY OBJECTS TO THE APPOINTMENT, THE COURT SHALL APPOINT A DIFFERENT PERSON OR CONFIRM THE APPOINTMENT WITHIN SEVEN DAYS AFTER THE DATE OF THE PARTY'S OBJECTION. IF NO PARTY TIMELY OBJECTS TO THE APPOINTMENT, THEN THE APPOINTMENT IS DEEMED CONFIRMED.

SECTION 2. In Colorado Revised Statutes, 14-10-116.5, **amend** (1); and **add** (2.5) as follows:

14-10-116.5. Appointment in domestic relations cases - child and family investigator - disclosure. (1) The court may, upon the motion of either party or upon its own motion, appoint ~~an individual~~ A NEUTRAL THIRD PERSON to serve the court as a child and family investigator pursuant to subsection (2) of this section in a domestic relations proceeding that involves allocation of parental responsibilities. The court shall set forth the specific duties of the child and family investigator in a written order of appointment. The same person may not serve as both the legal representative of the child pursuant to section 14-10-116 and as the child and family investigator for the court pursuant to this section. WITHIN SEVEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS SECTION.

(2.5) (a) WITHIN SEVEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDICIAL OFFICER AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS SEVEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE. IF A PARTY OBJECTS TO THE APPOINTMENT, THE COURT SHALL APPOINT A DIFFERENT PERSON OR CONFIRM THE APPOINTMENT WITHIN SEVEN DAYS AFTER THE DATE OF THE PARTY'S OBJECTION. IF NO PARTY TIMELY OBJECTS TO THE APPOINTMENT, THEN THE APPOINTMENT IS DEEMED CONFIRMED.

SECTION 3. In Colorado Revised Statutes, 14-10-127, **amend** (1) (a) (I) and (1) (a) (I.5) introductory portion; and **add** (1.2) as follows:

14-10-127. Evaluation and reports - disclosure. (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 for the child, unless such motion by either party is made for the purpose of delaying the proceedings. 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. WITHIN SEVEN DAYS AFTER THE APPOINTMENT, THE EVALUATOR SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (1.2) OF THIS SECTION. ~~The moving party~~ COURT shall, at the time of the appointment of the evaluator, ORDER ONE OR MORE OF THE PARTIES TO 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 AT THE TIME THE EVALUATION IS COMPLETED.

(1.5) 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 the supplemental evaluation at the initial expense of the moving party. THE PERSON APPOINTED TO PERFORM THE SUPPLEMENTAL EVALUATION SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (1.2) OF THIS SECTION. The court shall not order a supplemental evaluation if it determines that any of the following applies, based on motion and supporting affidavits:

(1.2) (a) WITHIN SEVEN DAYS AFTER HIS OR HER APPOINTMENT, THE EVALUATOR SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE EVALUATOR HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDICIAL OFFICER AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.2), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT EVALUATOR IN THE PROCEEDINGS. A PARTY HAS SEVEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE. IF A PARTY OBJECTS TO THE APPOINTMENT, THE COURT SHALL APPOINT A DIFFERENT PERSON OR CONFIRM THE APPOINTMENT WITHIN SEVEN DAYS AFTER THE DATE OF THE PARTY'S OBJECTION. IF NO PARTY TIMELY OBJECTS TO THE APPOINTMENT, THEN THE APPOINTMENT IS DEEMED CONFIRMED.

SECTION 4. In Colorado Revised Statutes, 14-10-128.1, **amend** (1) and (2) (b); and **add** (2.5) as follows:

14-10-128.1. Appointment of parenting coordinator - disclosure. (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~~ A NEUTRAL PERSON with appropriate training and qualifications and ~~a~~ AN INDEPENDENT perspective acceptable to the court. WITHIN SEVEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS SECTION.

(2) (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~~ MAY consider the effect of any CLAIM OR documented evidence of domestic violence, AS DEFINED IN SECTION 14-10-124 (1.3) (a), BY THE OTHER PARTY on the parties' ability to engage in parent coordination.

(2.5) (a) WITHIN SEVEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDICIAL OFFICER AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS SEVEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE. IF A PARTY OBJECTS TO THE APPOINTMENT, THE COURT SHALL APPOINT A DIFFERENT PERSON OR CONFIRM THE APPOINTMENT WITHIN SEVEN DAYS AFTER THE DATE OF THE PARTY'S OBJECTION. IF NO PARTY TIMELY OBJECTS TO THE APPOINTMENT, THEN THE APPOINTMENT IS DEEMED CONFIRMED.

SECTION 5. In Colorado Revised Statutes, 14-10-128.3, **amend** (1); and **add** (4.5) as follows:

14-10-128.3. Appointment of decision-maker - disclosure. (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. AT THE TIME OF THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (4.5) OF THIS SECTION.

(4.5) (a) WITHIN SEVEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDICIAL OFFICER AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE

APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS SEVEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE. IF A PARTY OBJECTS TO THE APPOINTMENT, THE COURT SHALL APPOINT A DIFFERENT PERSON OR CONFIRM THE APPOINTMENT WITHIN SEVEN DAYS AFTER THE DATE OF THE PARTY'S OBJECTION. IF NO PARTY TIMELY OBJECTS TO THE APPOINTMENT, THEN THE APPOINTMENT IS DEEMED CONFIRMED.

SECTION 6. Effective date - applicability. This act takes effect July 1, 2012, and applies to court appointments made on or after said date.

SECTION 7. 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: April 13, 2012