Colorado Revised Statutes 2013

TITLE 13

COURTS AND COURT PROCEDURE

COURTS OF RECORD

ARTICLE 1

General Provisions

PART 1

ADMINISTRATIVE PROVISIONS

13-1-101. Clerks shall keep record books. The clerks of the courts of record in this state shall keep in their respective offices suitable books for indexing the records of their said offices, one to be known as the direct index and one as the inverse index.

13-1-102. Entries in records. In said indexes, the clerks shall properly enter the title of each cause or matter instituted in said courts and the case number references to the various orders, rulings, judgments, papers, and other proceedings of the court in such cause or matter. Any case number reference may be to a file jacket, page in a record book, microfilm record, or computer record.

13-1-103. Lost or destroyed records. When the record of any judgment, or decree, or other proceeding of any judicial court of this state, or any part of the record of any judicial proceeding has been lost or destroyed, any party or person interested therein, on application by complaint in writing under oath to such court and on showing to the satisfaction of such court that the same has been lost or destroyed without fault or negligence of the party or person making such application, may obtain an order from such court authorizing the defect to be supplied by a duly certified copy of the original record, where the same can be obtained, which certificate shall thereafter have the same effect as

the original record would have had in all respects.

13-1-104. Application for new order or record. When the loss or destruction of any record or part thereof has happened, and such defects cannot be supplied as provided in section 13-1-103, any party or person interested therein may make a written application to the court to which such record belonged, verified by affidavit, showing the loss or destruction thereof, and that certified copies thereof cannot be obtained by the party or person making such application, and the substance of the record so lost or destroyed, and that the loss or destruction occurred without the fault or negligence of the party or person making such application, and that the loss or destruction of the record, unless supplied, will or may result in damage to the party or person making such application. The court shall cause said application to be entered of record in said court, and due notice of said application shall be given by personal service of summons or by publication as in other cases; except that, in cases in which publication is required, the court may direct by order, to be entered of record, the form of the notice, and designate the newspaper in which the same shall be published. If, upon such hearing, said court is satisfied that the statements contained in said application are true, the court shall make an order embracing the substance and effect of the lost or destroyed record, which order shall be entered of record in said court and have the same effect which the original record would have had if the same had not been lost or destroyed insofar as concerns the party or person making such application and the persons who had been notified, as provided for in this section. The record in all cases where the proceeding was in rem and no personal service was had may be supplied upon like notice, as nearly as may be, as in the original proceeding.

13-1-105. Procedure where probate records destroyed. In case of the destruction by fire or otherwise of the records, or a part thereof, of any court having probate jurisdiction, the court may proceed, upon its own motion or upon the application in writing of any party in interest, to restore the records, papers, and proceedings of the court relating to the estate of deceased persons, including recorded wills and wills probated or filed for probate in said court. The power of restoration granted in this section shall also extend to the records, papers, proceedings, and documents of any previous court of probate which are or should be in the custody of a probate or district court. For the purpose of restoring said records, wills, papers, or proceedings, or any part thereof, the court may cause citations to be issued to all parties to be designated by it and may compel the attendance in court of any witness whose testimony may be necessary to establish any such record, or part thereof, and the production of any and all written and documentary evidence which it deems necessary in determining the true import and effect of the original record, will, paper, or other document belonging to the files of the court, and may

make such orders and decrees establishing such original record, will, paper, document, or proceeding, or the substance thereof, as to it seems just and proper. The court may make all such rules and regulations governing the proceedings for the restoration of the record, will, paper, document, and proceeding pertaining to the court as in its judgment will best secure the rights and protect the interests of all parties concerned.

13-1-106. Certified copy of record in supreme court or court of appeals. In all causes which have been removed to the supreme court of this state or to the court of appeals, a duly certified copy of the record of such cause remaining in the supreme court or the court of appeals may be filed in the court from which said cause was removed, on motion of any party or person claiming to be interested therein, and the copy so filed shall have the same effect as the original record would have had if the same had not been lost or destroyed.

13-1-107. Costs of replacement. The person making the application for the restoration of records shall pay all the costs thereof.

13-1-108. Judge may order adjournment. When in the opinion of the judge of any district or county court it is unnecessary or inadvisable to hold or convene any term of court fixed by statute, he may by an order in writing signed by him and filed with the clerk of such court adjourn the same sine die, or to a day certain, and the judges of said courts respectively have power to adjourn said courts, from time to time as may seem advisable, by written order signed and filed with the clerk of the court which may be so adjourned.

13-1-109. Court may appoint trustee. In all actions in any court of record of this state wherein any defendant is not found within the jurisdiction of the court and constructive service alone is had, and which is brought for the enforcement of an express, implied, or resulting trust, or for the removal of cloud from title to real estate, or for specific performance, or for the establishment of a lost or destroyed deed, conveyance, or instrument in writing, or for the establishment and proof of any conveyance, deed, or instrument in writing not properly proved and acknowledged, or in any other proceeding in rem, or affecting only specific property, where, according to the usual practice in courts of chancery, the court, if the defendant had been personally served, might direct or decree any act to be done or performed by the defendant in favor of plaintiff, the court may appoint a trustee for such defendant to do and perform in the place and stead of and for

such defendant the acts required by the decree rendered in any such cause. Any act lawfully done by such trustee, under and in pursuance of any such decree, shall be as binding and effectual for all purposes as if done and performed by the defendant in pursuance of such decree.

13-1-110. Appeal bond defective or insufficient. If, at any time pending an appeal in any action, suit, or other proceeding, it appears to the appellate court that the appeal bond or undertaking is defective or insufficient or that any surety thereon has died, or has removed or is about to remove from this state, or has become or is likely to become insolvent, such appellate court shall order another appeal bond or undertaking, or such other and further security as to the appellate court seems proper, if the appellant or his attorney of record has been served with at least twenty-four hours' written notice of an application of the appellee for such order. If the appellant fails to comply with said order within ten days after the making of the same, the appeal shall be dismissed.

13-1-111. Courts of record. (1) Each of the following courts shall have a seal and shall be a court of record:

(a) The supreme court;
(b) The district courts;
(c) The county courts;
(d) The juvenile court in the city and county of Denver;
(e) The probate court in the city and county of Denver;
(f) Any court established by law and expressly denominated a court of record;
(g) Repealed.
(h) The court of appeals.

13-1-112. Clerk to keep seal. The clerk of each court of record shall keep the seal thereof.

13-1-113. Seal - how attached. (1) A seal of a court or public officer, when required on any writ, process, or proceeding or to authenticate a copy of any record or document, may be impressed with wax, wafer, or any other substance and then attached to the writ, process, or proceeding or to the copy of the record or document, or it may be impressed on the paper alone or electronically attached to or logically associated with an electronic record or document. When jury summonses, subpoenas, or subpoenas duces tecum are prepared by means of mechanical reproduction, the seal of the summoning

court may be printed thereon instead of being impressed.

(2) A seal may also consist of a rubber stamp with a facsimile affixed thereon of the seal required to be used and may be placed or stamped upon the document requiring the seal with indelible ink.

13-1-114. Powers of court. (1) Every court has power:

(a) To preserve and enforce order in its immediate presence;

(b) To enforce order in the proceedings before it or before a person empowered to conduct a judicial investigation under its authority;

(c) To compel obedience to its lawful judgments, orders, and process and to the lawful orders of its judge out of court in action or proceeding pending therein;

(d) To control, in furtherance of justice, the conduct of its ministerial officers.

(2) Any judge of any court, when he reasonably believes that there is a risk of violence in the court, shall immediately advise the law enforcement agency designated to provide security for the court, and the law enforcement agency shall determine and provide appropriate security measures consistent with the degree of risk present. For the purpose of this subsection (2), a district or county judge shall have the assistance of the county sheriff, and a municipal judge shall have the assistance of the municipal police department. The court shall have discretion to assess all or part of the expense incurred in implementing such security measures as costs to be paid by the party or parties or other person or persons determined by the court to have necessitated such security measures.

(3) Any county sheriff or municipal peace officer providing security for persons involved in judicial proceedings in courts pursuant to subsection (2) of this section shall be immune from civil liability for damages except for gross negligence or reckless, wanton, or intentional misconduct.

13-1-115. Courts may issue proper writs. The courts have power to issue all writs necessary and proper to the complete exercise of the power conferred on them by the constitution and laws of this state. The district courts have authority in ne exeat proceedings according to the usual practice in such cases in courts of chancery.

13-1-116. Courts sit at county seat. Every court of record shall sit at the county seat of the county in which it is held, except as may be otherwise provided by law.

13-1-117. Juridical days. The courts of justice may be held and judicial business may be transacted on any day except as provided in section 13-1-118.

13-1-118. Judicial holidays. (1) No court shall be opened nor shall any judicial business be transacted on Sunday or any legal holiday except for the following purposes:

(a) To give, upon their request, instruction to a jury then deliberating on their verdict;

(b) To receive a verdict or discharge a jury;

(c) For the exercise of the powers of a judge in a criminal action or in a proceeding of a criminal nature;

(d) When it appears by the affidavit of the plaintiff, or someone in his behalf, in cases for the recovery of specific personal property, that the defendant is about to conceal, dispose of, or remove such property out of the jurisdiction of the court, an order for taking possession of the same may be issued and the writ or process executed on any day;

(e) When an application for writ of attachment is made, if it shall appear by the affidavit of the plaintiff, or someone in his behalf, that the defendant is about to dispose of, conceal, or remove property subject to execution or attachment out of the jurisdiction of the court, a writ of attachment may be issued and executed on any day.

(2) When the day fixed for the opening of a court falls on any of the days mentioned in this section, the court shall stand adjourned until the next succeeding day.

13-1-119. Judgment record and register of actions open for inspection. The judgment record and register of actions shall be open at all times during office hours for the inspection of the public without charge, and it is the duty of the clerk to arrange the several records kept by him in such manner as to facilitate their inspection. In addition to paper records, such information may also be presented on microfilm or computer terminal.

13-1-119.5. Electronic access to name index and register of actions. (1) Statewide electronic read-only access to the name index and register of actions of public case types shall be made available to the following agencies or attorneys appointed by the court:

(a) County departments as defined in section 19-1-103 (32), C.R.S., and attorneys who represent the county departments as county attorneys, as defined in section 19-1-103 (31.5), C.R.S., as it relates to the attorneys' work representing the county;

(b) The office of the state public defender, created in section 21-1-101, C.R.S.;

(c) Guardians ad litem under contract with the office of the child's representative, created in section 13-91-104, or authorized by the office of the child's representative to act as a guardian ad litem, as it relates to a case in which they are appointed by the court;

(d) Attorneys under contract with the office of the alternate defense counsel,

created in section 21-2-101, C.R.S., as it relates to a case in which they are appointed by the court;

(e) Respondent parent counsel appointed by the court and paid by the judicial department as it relates to a case in which they are appointed by the court; and

(f) Criminal justice agencies as described in section 24-72-302 (3), C.R.S.

(2) The supreme court may adopt rules regarding access to the name index and register of actions, including rules identifying confidential information maintained in the system and state requirements for using the confidential information. All agencies with access pursuant to subsection (1) of this section shall ensure that individuals who use the system receive training on appropriate usage and confidentiality of register of action information. Additionally, the state court administrator may monitor the use of the system and information through audits and the review of ad hoc queries or reports.

13-1-120. Proceedings in English - abbreviations. Every written proceeding in a court of justice in this state, or before a judicial officer, shall be in the English language, but such abbreviations as are now commonly used in that language may be used, and numbers expressed by figures or numerals in the customary manner.

13-1-121. Action not affected by vacancy. No action or proceeding in a court of justice in this state shall be affected by a vacancy in the office of any of the judges, or by failure of a term thereof.

13-1-122. When judge shall not act unless by consent. A judge shall not act as such in any of the following cases: In an action or proceeding to which he is a party, or in which he is interested; when he is related to either party by consanguinity or affinity in the third degree; or when he has been attorney or counsel for either party in the action or proceeding, unless by consent of all parties to the action.

13-1-123. Transfer of civil actions. When in any civil action pending in any court of record, whether filed as a special statutory proceeding, or otherwise, if for any reason the proceedings could be more expeditiously continued in another county, with the express consent of all parties, the court may order the cause transferred to any other county wherein the court finds the proceedings could be more expeditiously continued. No additional docket fee shall be required. Upon such a transfer being ordered, the clerk shall transfer all files, books, and records of the cause, or, if that is not practicable, he shall make, at the expense of the parties, and send to the clerk of the court to which the

cause is transferred a certified copy of all records in the cause which are necessary for the continuation of the proceedings in the court to which such cause is transferred, and the cause shall continue in the court to which it is transferred with the same effect and force as though such cause were originally docketed in such court.

13-1-123.5. Transfer of venue - actions involving related persons. In addition to the authority to change venue granted by sections 19-2-105 and 19-3-201, C.R.S., for good cause shown, a court, on its own motion, on the motion of another court in this state, or on the motion of a party or guardian ad litem, may order the transfer of a pending action brought under title 14 or title 19, C.R.S., or rule 365 of the Colorado rules of county court civil procedure to a court in another county when there is an action pending in the other county that names the parent, guardian, or legal custodian of a child who is the subject of the action brought under title 14 or title 19, C.R.S. The county to which the action is being transferred must be one in which venue is proper. Upon an order for such transfer, the transferring court shall notify all parties of the transfer and transmit all documents to the receiving court. The transferred action shall continue in the court to which it is transferred with the same force and effect as though originally docketed in the receiving court.

13-1-124. Jurisdiction of courts. (1) Engaging in any act enumerated in this section by any person, whether or not a resident of the state of Colorado, either in person or by an agent, submits such person and, if a natural person, such person's personal representative to the jurisdiction of the courts of this state concerning any cause of action arising from:

(a) The transaction of any business within this state;

(b) The commission of a tortious act within this state;

(c) The ownership, use, or possession of any real property situated in this state;

(d) Contracting to insure any person, property, or risk residing or located within this state at the time of contracting;

(e) The maintenance of a matrimonial domicile within this state with respect to all issues relating to obligations for support to children and spouse in any action for dissolution of marriage, legal separation, declaration of invalidity of marriage, or support of children if one of the parties of the marriage continues without interruption to be domiciled within the state;

(f) The engaging of sexual intercourse in this state as to an action brought under article 4 or article 6 of title 19, C.R.S., with respect to a child who may have been conceived by that act of intercourse, as set forth in verified petition; or

(g) The entering into of an agreement pursuant to part 2 or 5 of article 22 of this

title.

13-1-125. Service of process. (1) Service of process upon any person subject to the jurisdiction of the courts of Colorado may be made by personally serving the summons upon the defendant or respondent outside this state, in the manner prescribed by the Colorado rules of civil procedure, with the same force and effect as if the summons had been personally served within this state.

(2) No service of any summons or other process upon any corporation shall be made outside the state in the manner provided in subsection (1) of this section when such corporation maintains an agent for process upon whom service may be made as provided in rule 4 of the Colorado rules of civil procedure.

(3) Nothing in this section shall limit or affect the right to serve any process as prescribed by the Colorado rules of civil procedure.

13-1-126. Documents in court proceedings - designation by clerk of representative to attend court proceedings. Documents from the office of the clerk of any court of record to be used as evidence in court proceedings shall be acknowledged, exemplified, verified, or attested to in a manner which shall make unnecessary the personal appearance of such clerk in court proceedings to acknowledge, exemplify, verify, or attest to the validity of such documents. The clerk of any court of record may designate a representative to attend court proceedings if the clerk is subpoenaed for the purpose of acknowledging, exemplifying, verifying, or attesting to the validity of documents furnished by the clerk's office.

13-1-127. Entities - school districts - legislative declaration - representation. (1) As used in this section, unless the context otherwise requires:

(a) "Closely held entity" means an entity, as defined in section 7-90-102 (20), C.R.S., with no more than three owners.

(a.2) "Cooperative" shall have the same meaning as set forth in section 7-90-102 (9), C.R.S.

(a.5) "Corporate licensed child placement agency" means an entity that places, or arranges for placement of, the care of any child with any family, person, or institution other than persons related to said child and that is licensed by the department of human services pursuant to section 26-6-104, C.R.S., as a child placement agency.

(b) "Corporation" shall have the same meaning as set forth in section 7-90-102 (10), C.R.S.

(c) "Entity" shall have the same meaning as set forth in section 7-90-102 (20),

C.R.S.

(d) "Limited liability company" shall have the same meaning as set forth in section 7-90-102 (32), C.R.S.

(e) "Limited partnership" shall have the same meaning as set forth in section 7-90-102 (34), C.R.S.

(f) "Limited partnership association" shall have the same meaning as set forth in section 7-90-102 (35), C.R.S.

(g) "Nonprofit association" shall have the same meaning as set forth in section 7-90-102 (38), C.R.S.

(h) "Nonprofit corporation" shall have the same meaning as set forth in section 7-90-102 (39), C.R.S.

(i) "Officer" means a person generally or specifically authorized by an entity to take any action contemplated by this section.

(j) "Owner" shall have the same meaning as set forth in section 7-90-102 (43), C.R.S.

(k) "School district" means a school district organized and existing pursuant to law but does not include a junior college district.

(l) "Truancy proceedings" means judicial proceedings for the enforcement of the "School Attendance Law of 1963", article 33 of title 22, C.R.S., brought pursuant to section 22-33-108, C.R.S.

(2) Except as otherwise provided in section 13-6-407, a closely held entity may be represented before any court of record or any administrative agency by an officer of such closely held entity if:

(a) The amount at issue in the controversy or matter before the court or agency does not exceed fifteen thousand dollars, exclusive of costs, interest, or statutory penalties, on and after August 7, 2013; and

(b) The officer provides the court or agency, at or prior to the trial or hearing, with evidence satisfactory to the court or agency of the authority of the officer to appear on behalf of the closely held entity in all matters within the jurisdictional limits set forth in this section.

(2.3) For the purposes of this section, each of the following persons shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person's holding the specified office or status:

(a) An officer of a cooperative, corporation, or nonprofit corporation;

(b) A general partner of a partnership or of a limited partnership;

(c) A person in whom the management of a limited liability company is vested or reserved; and

(d) A member of a limited partnership association.

(2.5) (a) The general assembly hereby finds and determines that the practice of law should not include the representation of a corporation in workers' compensation

proceedings by an authorized employee of such corporation. While the general assembly respectfully recognizes the jurisdiction of the supreme court with respect to the regulation of the practice of law, it hereby finds and declares that the representation of a corporation in workers' compensation cases by an authorized employee of that corporation does not constitute the unauthorized practice of law. The general assembly has determined that the decision of a president or secretary of a corporation to have a corporate employee represent the corporation in a workers' compensation case is a business decision made voluntarily and knowingly by persons who are qualified and accustomed to making business decisions. The general assembly has further determined that allowing such representation will not hamper the orderly and proper disposition of workers' compensation cases and may expedite and facilitate such disposition. An employee of a defendant corporation with experience in the operations of such corporation and knowledge of the necessary facts and law can afford a defendant corporation with representation which is the substantial equivalent to, and may in some cases, be more effective than, a licensed attorney. The general assembly hereby declares that the protections afforded by the restrictions set forth by the supreme court with respect to the unauthorized practice of law are unnecessary for the described form of representation because the general public is not likely to be harmed by such representation. Further, the general assembly respectfully recommends that the supreme court adopt rules which permit and regulate such representation in which event the general assembly may choose to repeal this statute in deference to the supreme court's rules.

(b) Notwithstanding the provisions of paragraph (a) of subsection (2) of this section concerning the amount at issue, any corporation which is in compliance with the requirements otherwise imposed on corporations by law may be represented by any employee of the corporation who is so authorized by the president or secretary of such corporation, in proceedings authorized under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., exclusive of proceedings before the industrial claim appeals office under part 3 of article 43 of title 8, C.R.S., appeals to the court of appeals under section 8-43-307, C.R.S., and summary reviews by the supreme court under section 8-43-313, C.R.S.

(3) The court may rely upon a written resolution of a closely held entity that allows a named officer to appear in the closely held entity's behalf.

(4) A closely held entity's exercise of the option authorized by this section to be represented by an officer shall not alone be construed to establish personal liability of the representing officer or any other officer, director, owner, or shareholder for action taken by that closely held entity.

(5) A corporate licensed child placement agency, as defined in paragraph (a.5) of subsection (1) of this section, that is in compliance with the requirements otherwise imposed on closely held entities by law, may be represented by any named officer or designated agent of the agency in any proceeding involving the termination of the parent-

child relationship pursuant to the "Colorado Children's Code", title 19, C.R.S., or in any proceeding involving a petition for adoption pursuant to section 19-5-208, C.R.S.

(6) Nothing in this section shall be interpreted to restrict the classes of persons who, or circumstances in which persons, may be represented by other persons, or may appear in person, before Colorado courts or administrative agencies.

(7) (a) A school district board of education may authorize, by resolution, one or more employees of the school district to represent the school district in truancy proceedings in any court of competent jurisdiction; except that the authorization of the board of education shall not extend to representation of the school district before a court of appeals or before the Colorado supreme court.

(b) A court may rely on the written resolution of the school district board of education that authorizes the named employee to represent the school district in truancy proceedings.

(c) An authorized employee who represents a school district in truancy proceedings pursuant to the provisions of this subsection (7) shall not be subject to the provisions of section 12-5-112, C.R.S.

(d) A school district board of education's exercise of the option authorized by this section to be represented in truancy proceedings by an employee shall not alone be construed to establish personal liability of the representing employee or any other employee or a school director of the school district for action taken by the school district.

13-1-128. Confidentiality of decisions of courts of record - violations - penalties. (1) Each decision of a court of record shall be confidential until publicly announced.

(2) (a) If it appears that the provisions of subsection (1) of this section have been violated, petition shall be made to the chief judge of the district court for the city and county of Denver for the appointment of a special prosecutor and the convening of a grand jury.

(b) The chief judge, for good cause shown, shall appoint the special prosecutor and shall order the impaneling of a grand jury in accordance with the provisions of article 73 of this title. Any special prosecutor appointed pursuant to this section shall be compensated as provided in section 20-1-308, C.R.S.

(3) An action for violation of subsection (1) of this section may only be commenced by the return of an indictment by a grand jury notwithstanding any provision of section 16-5-101, C.R.S., to the contrary.

(4) Any person who knowingly violates the provisions of subsection (1) of this section commits a class 6 felony and, upon conviction thereof, shall be punished as provided in section 18-1.3-401, C.R.S.

13-1-129. Preferential trial dates. (1) In any civil action filed in any court of record in this state, the court shall grant a motion for a preferential trial date which is accompanied by clear and convincing medical evidence concluding that a party suffers from an illness or condition raising substantial medical doubt of survival of that party beyond one year and which satisfies the court that the interests of justice will be served by granting such motion for a preferential trial date.

(2) In any civil action filed in any court of record in this state, the court may grant a motion for a preferential trial date upon the motion of a party who is a natural person at least seventy years of age and a finding by the court that such claim is meritorious, unless the court finds that such party does not have a substantial interest in the case as a whole.

(3) A motion under this section may be filed and served at any time when the case is at issue and a party meets the requirements of subsection (1) or (2) of this section.

(4) Upon the granting of a motion for a preferential trial date, the court shall set the case for trial not more than one hundred nineteen days from the date the motion was filed. The court shall establish an accelerated discovery schedule in all such cases. No continuance shall be granted beyond the one-hundred-nineteen-day period except for physical or mental disability of a party or a party's attorney or upon a showing of other good cause. Any such continuance shall be for no more than one hundred nineteen days, and only one such continuance shall be granted to a party.

13-1-130. Reports of convictions to department of education. When a person is convicted of, pleads nolo contendere to, or receives a deferred sentence for a felony and the court knows the person is a current or former employee of a school district or a charter school in this state or holds a license or authorization pursuant to the provisions of article 60.5 of title 22, C.R.S., the court shall report such fact to the department of education.

13-1-131. Speedy trial option in civil actions. If a trial date has not been fixed by the court in any civil action within ninety days from the date the case is at issue, upon agreement of all the parties, the parties may elect to have the matter heard by a master, appointed by the court in accordance with the Colorado rules of civil procedure. When such a trial is held before a master, the parties shall pay the costs of such trial, as allocated fairly among the parties by the master. The master shall have all the powers of a judge.

13-1-132. Use of interactive audiovisual devices in court proceedings. (1) Except for trials, when the appearance of any person is required in any court of this state, such appearance may be made by the use of an interactive audiovisual device. An interactive audiovisual device shall operate so as to enable the person and the

judge or magistrate to view and converse with each other simultaneously.

(2) Notwithstanding any provision of this section, a judge or magistrate may order a person to appear in court.

(3) A full record of such proceeding shall be made.

(4) The supreme court may prescribe rules of procedure pursuant to section 13-2-109 to implement this section.

13-1-133. Use of recycled paper. (1) The general assembly finds and declares that there is a need to expand upon existing laws which foster the effective and efficient management of solid waste by requiring that certain documents submitted by attorneys-at-law to state courts of record be submitted on recycled paper. The general assembly further finds that such expansion will protect and enhance the environment and the health and safety of the citizens of Colorado.

(2) (a) (I) Except as provided in paragraph (b) of this subsection (2), no document shall be submitted by an attorney to a court of record after January 1, 1994, unless such document is submitted on recycled paper. The provisions of this section shall apply to all papers appended to each such document.

(II) (A) Procedures adopted to implement the provisions of this section shall not impede the conduct of court business nor create grounds for an additional cause of action or sanction.

(B) No document shall be refused by a court of record solely because it was not submitted on recycled paper.

(b) Nothing in this section shall be construed to apply to:

(I) Photographs;

(II) An original document that was prepared or printed prior to January 1, 1994;

(III) A document that was not created at the direction or under the control of the submitting attorney;

(IV) Facsimile copies otherwise permitted to be filed with a court of record in lieu of the original document; however, if the original is also required to be filed, such original shall be submitted in compliance with this section;

(V) Existing stocks of nonrecycled paper and preprinted forms acquired or printed prior to January 1, 1994.

(3) The provisions of this section shall not be applicable if recycled paper is not readily available.

(4) For purposes of this section, unless the context requires otherwise:

(a) "Attorney" means an attorney-at-law admitted to practice law before any court of record in this state.

(b) "Courts of record" shall have the same meaning as set forth in section 13-1-111.

(c) "Document" means any pleading or any other paper submitted as an appendix to such pleading by an attorney, which document is required or permitted to be filed with a clerk of court concerning any action to be commenced or which is pending before a court of record.

(d) "Recycled paper" means paper with not less than fifty percent of its total weight consisting of secondary and postconsumer waste and with not less than ten percent of such total weight consisting of postconsumer waste.

13-1-134. Court automation system - juvenile or domestic actions. (1) The general assembly hereby finds, determines, and declares that the accurate and efficient exchange of information between the courts and state family service agencies is beneficial in providing aid to families in need in Colorado. Further, the general assembly declares that the use of a computer automation system to link the courts with each other and with state family service agencies for the purpose of the exchange of information regarding families would aid in identifying and providing services to families in need. It is for this reason that the general assembly has adopted this section.

(2) (a) On or before January 15, 1996, the state court administrator shall establish and administer a program for automation of the court computer technology systems in order to link the juvenile courts and district courts involved in domestic actions around the state with each other and with state family service agencies, including, but not limited to, the department of human services, the juvenile probation department, law enforcement offices, and any other agency involved in the investigation, evaluation, or provision of services to families involved in domestic actions pursuant to title 19, C.R.S., and articles 4 and 10 of title 14, C.R.S. Said automation system shall provide those parties linked to the system with automatic access to information obtained by any one of the parties in regard to a family or family member involved in said domestic actions; except that said automation system shall not include information which is required to be kept confidential under any state or federal law.

(b) Repealed.

(3) The provisions of this section shall not affect the confidentiality of juvenile records.

13-1-135. Family courts - implementation report. (Repealed)

13-1-136. Civil protection orders - single set of forms. (1) The general assembly hereby finds that the statutes provide for the issuance of several types of civil protection orders to protect the public, but that many of these protection orders have many

elements in common. The general assembly also finds that consolidating the various forms for issuing and verifying service of civil protection orders and creating, to the extent possible, a standardized set of forms that will be applicable to the issuance and service of civil protection orders will simplify the procedures for issuing these protection orders and enhance the efficient use of the courts' and citizens' time and resources.

(2) On or before July 1, 2003, the state court administrator, pursuant to the rule-making authority of the Colorado supreme court, shall design and make available to the courts copies of a standardized set of forms that shall be used in the issuance and verification of service of civil protection orders issued pursuant to article 14 of this title or section 14-10-108, C.R.S., or rule 365 of the Colorado rules of county court civil procedure. The state court administrator shall design the standardized set of forms in such a manner as to make the forms easy to understand and use and in such a manner as will facilitate and improve the procedure for requesting, issuing, and enforcing civil protection orders.

(3) In developing the standardized set of forms for the issuance and verification of service of civil protection orders pursuant to this section, the state court administrator shall work with representatives of municipal, county, and district court judges, law enforcement, a member of the Colorado bar association, and representatives of other interested groups.

PART 2

COURT SECURITY CASH FUND COMMISSION

13-1-201. Legislative declaration. (1) The general assembly hereby finds that:

(a) Ensuring the safety of employees and users of state court facilities is a significant component of ensuring access to justice for the people of the state of Colorado;

(b) Responsibility for providing security for state court facilities lies with the county governments; and

(c) Colorado is a geographically, demographically, and economically diverse state and this diversity affects the funding and services of individual counties. Although the provision of security for state court facilities is a county responsibility, the variation in funds available to individual counties may not allow fundamental security measures to be met in each county.

(2) The general assembly, therefore, determines and declares that:

(a) The creation of the court security cash fund commission and the court security cash fund will be beneficial to, and in the best interests of, the people of the state of

Colorado; and

(b) The goals of the commission and the cash fund shall be to:

(I) Provide supplemental funding for ongoing security staffing in the counties with the most limited financial resources; and

(II) Provide moneys to counties for court security equipment costs, training of local security teams on issues of state court security, and emergency needs related to court security.

13-1-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Commission" means the court security cash fund commission created in section 13-1-203.

(2) "Fund" means the court security cash fund created in section 13-1-204.

(3) "Local security team" means a group of individuals from a county that oversees issues of court security for the county and that includes, at a minimum, the chief judge of the district court in the county or his or her designee, the sheriff or his or her designee, and a county commissioner or county manager or his or her designee.

13-1-203. Court security cash fund commission - creation - membership. (1) There is hereby created in the judicial department the court security cash fund commission to evaluate grant applications received pursuant to this part 2 and make recommendations to the state court administrator for awarding grants from the court security cash fund. The commission shall be appointed no later than July 1, 2007.

(2) (a) The commission shall be composed of seven members, as follows:

(I) Two representatives of an association that represents county commissioners who are recommended by the association and who are appointed by the governor;

(II) Two representatives of an association that represents county sheriffs who are recommended by the association and who are appointed by governor;

(III) Two members of the judicial branch who are appointed by the chief justice; and

(IV) One member of the general public who is appointed by the chief justice.

(b) The commission membership described in paragraph (a) of this subsection (2) shall include, at all times, at least one representative from a county in which the population is above the median population for the state of Colorado, as determined by the most recent data published by the department of local affairs, and at least one representative from a county in which the population is below the median population for the state of Colorado, as determined by the most recent data published by the department of local affairs.

(3) The term of office of each member of the commission shall be three years; except that, of those members first appointed, one member representing each entity shall be appointed for a one-year term and one member representing each entity shall be appointed for a two-year term. A vacancy shall be filled by the respective appointing authority for the unexpired term only.

(4) Members of the commission shall serve without compensation and without reimbursement for expenses.

13-1-204. Court security cash fund - creation - grants - regulations. (1) (a) There is hereby created in the state treasury the court security cash fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the implementation of this part 2. The state court administrator is authorized to accept gifts, grants, or donations from any private or public source for the purpose of implementing this part 2. All private and public moneys received by the state court administrator from gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund in addition to any moneys that may be appropriated to the fund directly by the general assembly.

(b) A five-dollar surcharge shall be assessed and collected as provided by law on docket fees and jury fees for specified civil actions filed on and after July 1, 2007, on docket fees for criminal convictions entered on and after July 1, 2007, on filing fees for specified probate filings made on and after July 1, 2007, on docket fees for specified special proceeding filings made on and after July 1, 2007, on fees for specified filings in water matters initiated on and after July 1, 2007, and on docket fees for specified traffic infraction penalties assessed on and after July 1, 2007. The surcharge shall be transmitted to the state treasurer, who shall credit the surcharge to the fund.

(c) (I) All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund at the end of any fiscal year. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (c) to the contrary, on April 20, 2009, the state treasurer shall deduct one million five hundred thousand dollars from the court security cash fund and transfer such sum to the general fund.

(III) Notwithstanding any provision of subparagraph (I) of this paragraph (c) to the contrary, on July 1, 2009, the state treasurer shall deduct five hundred thousand dollars from the court security cash fund and transfer such sum to the general fund.

(2) Moneys from the fund that are distributed to counties pursuant to this part 2 shall be used to supplement existing county funding for purposes related to security of

facilities containing a state court or probation office and shall not be used to supplant moneys already allocated by the county for such purposes.

(3) All moneys credited to the fund shall be available for grants awarded by the state court administrator, based on recommendations of the commission, to counties for the purposes described in this part 2; except that the state court administrator may use up to ten percent of the moneys annually appropriated from the fund for administrative costs incurred through the implementation of this part 2. The state court administrator, subject to annual appropriation by the general assembly, is hereby authorized to expend moneys appropriated from the fund pursuant to this part 2.

(4) In accordance with the principles set out in section 13-1-205, the commission shall adopt guidelines prescribing the procedures to be followed in making, filing, and evaluating grant applications, the criteria for evaluation, and other guidelines necessary for administering the fund.

13-1-205. Grant applications - duties of counties. (1) To be eligible for moneys from the fund, a local security team shall apply to the commission through the state court administrator for moneys to be used as specified in this part 2 and in accordance with the timelines and guidelines adopted by the commission and using the application form provided by the commission. For the commission to consider a grant application, the application shall be signed by the administrative authority of each entity that is represented on the local security team.

(2) Grants from the fund shall be used to fund counties that meet the criteria specified in subsection (4) of this section for:

(a) The provision of court security staffing at a facility containing a state court or probation office;

(b) The purchase of security equipment or related structural improvements for a facility containing a state court or probation office;

(c) The provision of training on issues of court security; or

(d) Miscellaneous funding needs associated with issues of court security or security equipment.

(3) Moneys credited to the fund that are available for grant distribution shall be awarded based on the following priority schedule:

(a) Requests from counties that meet the criteria specified in subsection (4) of this section shall have the highest priority; and

(b) Requests for moneys for personnel costs shall be given subsequent priority.

(4) Counties that meet at least two of the following criteria shall be given the highest priority for need-based grants for court security personnel services pursuant to this part 2:

(a) Counties in which the total population is below the state median, as

determined by the most recent data published by the department of local affairs;

(b) Counties in which the per capita income is below the state median, as determined by the most recent data published by the department of local affairs;

(c) Counties in which property tax revenues are below the state median, as determined by the most recent data published by the department of local affairs; or

(d) Counties in which the total county population living below the federal poverty line is greater than the state median, as determined by the most recent census published by the United States bureau of the census.

13-1-206. Repeal of part. (1) This part 2 is repealed, effective July 1, 2017.

(2) Prior to repeal, the court security cash fund commission shall be reviewed as provided in section 2-3-1203, C.R.S.

ARTICLE 1.5

Uniform Transboundary Pollution
Reciprocal Access Act

13-1.5-101. Short title. This article may be cited as the "Uniform Transboundary Pollution Reciprocal Access Act".

13-1.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Reciprocating jurisdiction" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America, or a province or territory of Canada, which has enacted this article or provides substantially equivalent access to its courts and administrative agencies.

(2) "Person" means an individual person, a corporation, a business trust, an estate, a trust, a partnership, an association, a joint venture, a government in its private or public capacity, a governmental subdivision or agency, or any other legal entity.

13-1.5-103. Forum. An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this jurisdiction may be brought in this jurisdiction.

13-1.5-104. Right to relief. A person who suffers, or is threatened with, injury to his person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this jurisdiction has the same rights to relief with respect to the injury or threatened injury and may enforce those rights in this jurisdiction as if the injury or threatened injury occurred in this jurisdiction.

13-1.5-105. Applicable law. The law to be applied in an action or other proceeding brought pursuant to this article, including what constitutes pollution, is the law of this jurisdiction excluding choice of law rules.

13-1.5-106. Equality of rights. This article does not accord a person injured or threatened with injury in another jurisdiction any rights superior to those that the person would have if injured or threatened with injury in this jurisdiction.

13-1.5-107. Right additional to other rights. The right provided in this article is in addition to and not in derogation of any other rights.

13-1.5-108. Waiver of sovereign immunity. The defense of sovereign immunity is applicable in any action or other proceeding brought pursuant to this article only to the extent that it would apply to a person injured or threatened with injury in this jurisdiction.

13-1.5-109. Uniformity of application and construction. This article shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this article among jurisdictions enacting it.

ARTICLE 2

Supreme Court

13-2-101. Terms of supreme court. In each year there shall be three terms of the supreme court: One beginning on the second Monday in September, another beginning on the second Monday in January, and another beginning on the second Monday in April.

13-2-102. Special terms. Special terms of said court may be called under such general rules and regulations as may be adopted by the court.

13-2-103. Open sessions - oral arguments. The court shall be in open session as often as practicable during each of its terms to hear and determine matters and causes which may come before it, and, at the discretion of the court, oral arguments may be allowed on final hearing in any cause on the request of any party thereto.

13-2-104. Quorum - adjournment. If a quorum of the justices of the supreme court is not present on the first day of any term, the court shall stand adjourned from day to day until a quorum attends; and said court, if a quorum is present, may adjourn to any day specified, as may be deemed advisable.

13-2-105. Continuance of causes. All matters, suits, and causes undisposed of at any term of the supreme court shall stand continued to the next succeeding term.

13-2-106. Process from supreme court. All process issued out of the supreme court shall bear teste in the name of the chief justice, be signed by the clerk of the court, sealed with its seal, and made returnable according to law or the rules and orders of the court and shall be executed by the officer to whom the same is directed.

13-2-107. Judge shall not act as attorney. No justice of the supreme court shall practice as an attorney-at-law in any of the courts of the state, nor give advice touching any cause pending or to be brought therein.

13-2-108. Rules of civil procedure. The supreme court has the power to prescribe, by general rules, for the courts of record in the state of Colorado the practice and procedure in civil actions and all forms in connection therewith; except that no rules shall be made by the supreme court permitting or allowing trial judges to comment to the jury on the evidence given on the trial. Such rules shall neither abridge, enlarge, nor modify the substantive rights of any litigants. The supreme court shall fix the dates when such rules take effect and the extent to which they apply to proceedings then pending, and thereafter all laws in conflict therewith shall be of no further force or effect.

13-2-109. Rules of criminal procedure. (1) The supreme court has the power to prescribe, from time to time, rules of pleading, practice, and procedure with respect to all proceedings in all criminal cases in all courts of the state of Colorado.

(2) The supreme court shall fix the dates when such rules take effect and the extent to which they apply to proceedings then pending.

13-2-110. Court to prescribe rules and forms. The supreme court from time to time may institute rules of practice, and prescribe forms of process to be used, and regulations for the keeping of the records and proceedings of the court, not inconsistent with the constitution or laws of this state.

13-2-111. Employees - compensation. (1) The supreme court may appoint one clerk, two deputy clerks, one librarian of the supreme court library, one reporter and an assistant reporter of its decisions, two bailiffs, and such additional clerical assistants as may be necessary.

(2) Each justice of the supreme court may appoint one or more law clerks and such clerical personnel as may be necessary to assist him in fulfilling the duties of his office.

(3) All employees appointed under the provisions of subsections (1) and (2) of this section shall be appointed and compensated pursuant to the provisions of section 13-3-105.

13-2-112. Duties of bailiff. (1) The bailiff appointed shall attend upon the court and the judges thereof. It is the duty of the bailiff to assist the librarian of the supreme court, when not otherwise engaged.

(2) In case of the absence of the bailiff, the court or judges may appoint some suitable person to act in his stead, and the person so appointed shall perform like services and shall receive the same salary as the bailiff.

13-2-113. Fees of clerk of supreme court. Except for the court of appeals docket fees, the supreme court is authorized to fix such fees for the services of the clerk of said court, in causes pending therein, as to the court seems proper, such fees to be paid by the parties to a cause pursuant to law and the order of the court.

13-2-114. Seal of supreme court. The seal of the supreme court shall be one and three-quarter inches in diameter, with a device inscribed thereon as follows: Upon a ground of white the figure of justice sitting faced to the left, but with body and face inclined to the front, arms outstretched, and holding in her left hand the scales and in her right the sword of justice. Upon the left, and just above the ground, shall appear the rising sun, with golden rays proceeding therefrom. On the right, and resting upon the ground, a shield, having inscribed thereon the coat of arms of the state of Colorado, the upper part of the shield leaning upon the figure of justice; upon the right of the shield a vine extending from the ground to the top of the shield; above the inscription and around the edge of the seal shall be the words "supreme court"; below the inscription and around the edge of the seal shall be the words, "State of Colorado", engraved thereon.

13-2-115. Pensions of supreme court judges. (1) Any person who has served as a judge of the supreme court of Colorado for not less than ten years, who has ceased to hold said office, and who has reached the age of sixty-five years is entitled to receive an annual pension during the remainder of his life in the amount of one-fourth of the annual salary of an associate judge of the supreme court. If such judge has served twenty years or more and has attained the age of seventy-two years, the annual pension shall be one-third of the annual salary of an associate judge of the supreme court. All pensions due under this section shall be paid monthly out of the general fund of this state.

(2) Upon the death of any judge, eligible to receive an annual pension pursuant to this section, who leaves a surviving spouse of at least sixty-five years of age to whom he has been married for at least twenty years, such spouse is entitled to receive a pension during the remainder of such spouse's life, or as long as such spouse remains unmarried, in the amount of seven thousand dollars per year, payable monthly from the general fund of this state.

(3) It is the intent of this section to limit the benefits payable under this section to persons, or their widows, who have terminated their service on the supreme court prior to May 16, 1974, or whose election or appointment to the supreme court took place prior to May 16, 1974. The retirement benefits payable to judges of the supreme court who are appointed subsequent to May 16, 1974, shall be as otherwise provided by law.

13-2-116. Disposition of law books. (1) The state librarian and all other officers who receive for public use from any other state or territory, or any officer thereof, or any other person any books of judicial reports or public statutes or any other books of law shall forthwith cause one copy of such books or statutes, and all of such books of reports, and other books of law to be deposited in the library of the supreme court, there to remain.

(2) The supreme court librarian shall furnish the supreme court annually, as the court may direct, a report designating any such copies of judicial reports, statutes, or books of law which, in the librarian's opinion, can be properly removed from the supreme court library and disposed of.

(3) The supreme court may take action pursuant to such report by ordering any copies of such judicial reports, statutes, or books of law designated therein disposed of in such manner as it shall determine.

13-2-117. Librarian to have charge of library. The librarian of the supreme court, under the direction of the court, shall have custody of the books pertaining to the library of the supreme court.

13-2-118. Duties of librarian. It is the duty of the librarian to keep his office open every day in the year, Saturdays, Sundays, and holidays excepted, from 8:30 a.m. until 5 p.m. of each day, so that the public may have access to the library, under such rules and regulations as the supreme court may prescribe.

13-2-119. Disposition of fees. (1) At the end of each month, all fees collected by the clerk of the supreme court during said month, except fees for admission to the bar and attorney registration fees, shall be deposited by the clerk with the state treasurer, by whom the same shall be kept separate and apart from all other funds in the state treasurer's hands.

(2) (Deleted by amendment, L. 98, p. 685, § 1, effective July 1, 1998.)

13-2-120. Supreme court library fund. The funds so set apart, together with the balance of the fund now in the state treasurer's hands and designated as the "supreme court library fund", shall be known as the "supreme court library fund", and the supreme court is authorized to use said fund for the purchase of books for the supreme court library, for paying the expenses of binding briefs and other documents for use in said library, for the purchase and maintenance of bookcases, catalogues, furniture, fixtures, and other equipment for said library, and for such other library service expenses as the chief justice deems necessary.

13-2-121. Manner of disbursement. The state controller is authorized to draw warrants upon said fund, from time to time upon certificate, of the sums required for the

purposes specified in section 13-2-120 under the signature of the chief justice or a majority of the judges of the supreme court, and the state treasurer is directed to pay the same out of said fund.

13-2-122. Supreme court and court of appeals opinions published. The opinions of the supreme court of the state of Colorado and of the court of appeals shall be published in volumes of the size, as nearly as may be, as present volumes of the Colorado reports, and containing not less than six hundred fifty pages each.

13-2-123. Duty of reporter. It is the duty of the reporter of the decisions of said courts, within four months after a sufficient number of opinions to constitute a volume of the prescribed size have been delivered to him, to compile and prepare the same for publication, together with such other proceedings of the supreme court as the justices thereof may designate for insertion in such volume, with syllabi, title pages, digest, and table of cases reported.

13-2-124. Publication of reports. (1) In lieu of the publication of the opinions of the supreme court and the court of appeals as provided for in this article, the supreme court may designate the published volumes of the decisions of the supreme court and the court of appeals, as the same are published by any person, firm, or corporation, to be the official reports of the decisions of the supreme court and the court of appeals. Any publication so designated as the official reports may include both the opinions of the supreme court and the court of appeals in the same volume.

(2) When any law of this state refers to the reports of the supreme court of the state of Colorado, said law shall be construed as referring to the reports in which are also contained the reported opinions of the court of appeals created pursuant to article 4 of this title.

(3) All books, both bound and unbound, and matrices covering the reports of the supreme court and the court of appeals which were published prior to July 1, 1982, and which are in the custody of the supreme court shall remain in the custody of the supreme court for the purpose of sale or replacement, and the supreme court may fix the price at which the prior official reports of the supreme court and the court of appeals are to be sold to the public. The supreme court may replace any lost or destroyed books free of cost if such books were originally distributed free of cost. The supreme court may authorize the reprinting of any prior volumes, the replacement supply of which has become exhausted or insufficient. The supreme court may also contract for the storage of such books and to sell, give away, destroy, or otherwise dispose of any excess books,

bound or unbound, which it deems not needed to provide a reasonable replacement supply.

13-2-125. Purchase, distribution, and sale of reports. (1) Upon the publication of each volume of the reports of the supreme court and the court of appeals under contract with the judicial department, the publisher shall be responsible for distributing as many copies as are required to meet the needs of the state in accordance with a list provided by the librarian of the supreme court. Costs of mailing incurred in such distribution shall be borne by the state from appropriations made to the judicial department.

(2) The distribution pursuant to subsection (1) of this section shall include the following:

(a) State and territorial libraries, as directed by the librarian of the supreme court;

(b) The library of congress and of the United States supreme court;

(c) The attorney general and secretary of state of Colorado, and officials of the executive branch as required;

(d) District attorneys and judges of Colorado courts of record;

(e) The justices and reporter of the Colorado supreme court;

(f) The law library of the university of Colorado, and the library of any other accredited law school in Colorado;

(g) Copies for use in the supreme court library and by the general assembly;

(h) Copies to be used for exchange purposes in the maintenance of the supreme court library, as directed by the librarian of the supreme court;

(i) Office of legislative legal services.

(3) All copies distributed to offices and agencies of the state of Colorado are at all times the property of the state and not the personal property of the incumbents of the respective offices and shall be so marked as the property of the state. This shall not apply to the justices and reporter of the supreme court as to volumes prepared during their tenure of office.

(4) The publisher shall sell the reports of the supreme court and the court of appeals to the public at a price which is set at the cost of the report plus a twenty percent markup for handling. The publisher shall retain the markup charges and remit to the state the costs of the reports sold as reimbursement to the general fund for payment by the state of the expenses of publication thereof. The unsold copies of all reports shall remain the property of the state and shall be returned by the publisher to the secretary of state upon the termination of the contract for publication. Until otherwise designated by law or order of the chief justice of the Colorado supreme court, the secretary of state shall be the legal custodian of the reports of the supreme court and the court of appeals. The secretary of state shall sell any remaining copies of such reports to the public at such cost plus twenty percent and transmit the sale proceeds to the state treasurer for deposit to the credit of the

general fund.

13-2-126. Reports and session laws furnished. (1) The legal custodian of publications of the state of Colorado is directed to furnish to the law library of the university of Colorado free of charge from existing stocks if feasible and in any event as such publications are from time to time issued:

(a) Thirty copies each of the reports of the supreme court of the state of Colorado; and

(b) Fifty copies each of the session laws and of any published regulations and decisions of the various administrative agencies of the state of Colorado; and

(c) Five copies each of the Colorado yearbook; and

(d) Two copies each of published legislative journals, published opinions and reports of the attorney general, and printed briefs and abstracts of record of the supreme court of Colorado.

(2) The law library is authorized to exchange any or all of the above publications for like publications of other jurisdictions.

13-2-127. Method for review. Appellate review by the supreme court of any action or proceeding of an inferior tribunal, whether such action or proceeding is civil, criminal, special, statutory, common law, or otherwise, shall be prescribed by rule of the supreme court, except as otherwise provided by law.

ARTICLE 3

Judicial Departments

13-3-101. State court administrator. (1) There is created, pursuant to section 5 (3) of article VI of the state constitution, the position of state court administrator, who shall be appointed by the justices of the supreme court at such compensation as shall be determined by them. The state court administrator is responsible to the supreme court and shall perform such duties as assigned to him by the chief justice and the supreme court.

(2) The state court administrator shall employ such other personnel as the supreme court deems necessary to aid the administration of the courts, as provided in section 5 (3) of article VI of the state constitution.

(3) The state court administrator shall establish standards to ensure proficiency in court reporting in the courts of this state. The state court administrator shall also develop

or cause to be developed examinations no less difficult than the examinations of the national shorthand reporters association and shall qualify those individuals who successfully complete such examination.

(4) Repealed.

(5) The state court administrator shall provide to the director of research of the legislative council criminal justice information and statistics and any other related data requested by the director. The state court administrator shall provide to the state commission on judicial performance and to district commissions on judicial performance case management statistics for justices and judges being evaluated.

(6) The state court administrator shall make grants from the family violence justice fund pursuant to the provisions of section 14-4-107, C.R.S.

(7) (a) The state court administrator shall make grants from the family-friendly court program cash fund pursuant to the provisions of section 13-3-113.

(b) Repealed.

(8) Repealed.

(9) The state court administrator is authorized to seek federal funding as it becomes available on behalf of the state court system for the establishment, maintenance, or expansion of veterans' treatment courts.

13-3-102. Surveys - conferences - reports. (1) The state court administrator under the direction of the chief justice shall make a continuous survey of the conditions of the dockets and the business of the courts of record and shall make reports and recommendations thereon to the chief justice.

(2) The chief justice shall assemble the judges of the courts of record at least once yearly to discuss such recommendations and such other business as will benefit the judiciary and the expedition of the business of the several courts. When so summoned, the judges of the courts of record shall attend such conferences at the expense of the state of Colorado. Each judge shall file a verified itemized statement of the mileage and all moneys actually paid out for personal maintenance expenses in attending such conferences with the court administrator, who shall audit the same and submit it to the state controller. The state controller shall draw a warrant therefor, which warrant shall be paid by the state treasurer out of the appropriate fund. Unless excused by illness, such judges are required to attend the conferences unless excused by the chief justice.

(3) Repealed.

13-3-103. Nominating and discipline commissions - expenses. (1) Members of judicial nominating commissions appointed pursuant to section 24 of article VI of the state constitution and members of the commission on judicial discipline appointed

pursuant to section 23 of article VI of the state constitution shall be reimbursed for actual and necessary personal maintenance expenses while performing official duties, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going to and returning from the place where official duties are performed.

(2) The mileage and expenses incurred by members of judicial nominating commissions and members of the commission on judicial discipline shall be paid from funds appropriated to the judicial department of the state. Each commission member shall keep an account of the mileage and all moneys actually paid out for personal maintenance expenses and shall file a verified itemized statement thereof with the court administrator, who shall audit the same and submit it to the state controller. The state controller shall draw a warrant therefor, which warrant shall be paid by the state treasurer out of the appropriate fund.

13-3-104. State shall fund courts. (1) The state of Colorado shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts.

(2) When a board of county commissioners determines that any furniture or equipment transferred to the judicial department as of January 1, 1970, has historic value, it shall remain in the county courthouse and revert to the county when no longer used by the judicial department.

13-3-105. Personnel - duties - qualifications - compensation - conditions of employment. (1) The supreme court, pursuant to section 5 (3) of article VI of the state constitution, shall prescribe, by rule, a personnel classification plan for all courts of record to be funded by the state, as provided in section 13-3-104.

(2) Such personnel classification and compensation plan shall include:

(a) A basic compensation plan of pay ranges to which classes of positions are assigned and may be reassigned;

(b) The qualifications for each position or class of positions, including education, experience, special skills, and legal knowledge;

(c) An outline of the duties to be performed in each position or class of positions;

(d) The classification of all positions based on the required qualifications and the duties to be performed, taking into account, where applicable, the amount and kinds of judicial business in each court of record subject to the provisions of this section;

(e) The number of full-time and part-time positions, by position title and classification, in each court of record subject to the provisions of this section;

(f) The procedures for and the regulations governing the appointment and removal of court personnel; and

(g) The procedures for and regulations governing the promotion or transfer of court personnel.

(3) The supreme court shall also prescribe by rule:

(a) The amount, terms, and conditions of sick leave and vacation time for court personnel, including annual allowance and accumulation thereof; and

(b) Hours of work and other conditions of employment.

(4) To the end that all state employees are treated generally in a similar manner, the supreme court, in promulgating rules as set forth in this section, shall take into consideration the compensation and classification plans, vacation and sick leave provisions, and other conditions of employment applicable to employees of the executive and legislative departments.

13-3-106. Judicial department operating budget - fiscal procedures. (1) (a) The court administrator, subject to the approval of the chief justice, shall prepare annually a consolidated operating budget for all courts of record subject to the provisions of section 13-3-104, such budget to be known as the judicial department operating budget.

(b) The court administrator, subject to the approval of the chief justice, shall prepare an annual budget request upon forms and according to procedures agreed to by the executive director of the department of personnel and the joint budget committee of the general assembly. The budget request documents and such additional information as may be requested shall be submitted to the department of personnel and the joint budget committee according to the same time schedule for budgetary review and analysis required of all executive agencies. The governor shall include recommendations for court appropriations as part of his or her regular budget message and according to section 24-37-301, C.R.S. The general assembly, upon recommendation of the joint budget committee, shall make appropriations to courts based on an evaluation of the budget request and the availability of state funds.

(2) The court administrator, subject to the approval of the chief justice, shall prescribe the procedures to be used by the judicial department and each court of record subject to the provisions of section 13-3-104, with respect to:

(a) The preparation of budget requests;

(b) The disbursement of funds appropriated to the judicial department by the general assembly;

(c) The purchase of forms, supplies, equipment, and other items as authorized in the judicial department operating budget; and

(d) Any other matter relating to fiscal administration.

(3) The court administrator shall consult with the state controller in the preparation of regulations pertaining to budgetary and fiscal procedures and forms and the disbursement of funds.

13-3-107. Consolidation of offices of clerks of court in certain counties. (1) The chief justice, pursuant to his authority under section 5 of article VI of the state constitution, may consolidate the offices of the clerks of the district and county courts in any county when he finds that there is insufficient judicial business to warrant the maintenance of separate offices.

(2) When the offices of the clerk of the district and county courts are so consolidated, the consolidated office shall be under a single clerk, who shall be both the clerk of the district court and the clerk of the county court; except that all functions, operations, and records required to be kept separate shall be so kept.

13-3-108. Maintenance of court facilities - capital improvements. (1) The board of county commissioners in each county shall continue to have the responsibility of providing and maintaining adequate courtrooms and other court facilities including janitorial service, except as otherwise provided in this section.

(2) The court administrator, subject to the approval of the chief justice, shall prepare annually a capital construction budget. The capital construction budget shall specify: The additional court housing facilities required for each court; the estimated cost of such additional structures or facilities and whether such additional court structures or facilities will include space used by other governmental units for nonjudicial purposes; and a detailed report on the present court facilities currently in use and the reasons for their inadequacy.

(3) (Deleted by amendment, L. 97, p. 1482, § 38, effective June 3, 1997.)

(4) (a) The chief justice is authorized to approve payment of state funds for the construction of any capital improvement facilities to be used for judicial purposes authorized and approved by the general assembly.

(b) The court administrator, with the approval of the chief justice, shall enter into leasing agreements with the governing body of the appropriate local unit of government when joint construction is authorized, or when the approved facilities are also to be used for nonjudicial purposes. The leasing agreement shall provide for the payment of state funds for that portion of the construction costs related to the operation of the courts.

(5) Construction or remodeling of any court or court-related facility shall be commenced only with prior approval of the chief justice of the Colorado supreme court after consultation with the board of county commissioners; except that a board of county commissioners, at its discretion, may take such actions.

13-3-109. Retirement - past service benefits. (1) Past service benefits in the public employees' retirement association shall be purchased for each employee covered under sections 13-3-104 and 13-3-105 who, on January 1, 1970, meets all of the following conditions:

(a) Is sixty years of age or older;

(b) Was not a member of a county or a city and county retirement plan, or, if a member, is not eligible to receive a deferred annuity;

(c) If a member of a county or a city and county retirement plan, has withdrawn the funds credited to his account with the county or city and county retirement fund, and paid the full amount thereof, exclusive of any voluntary contributions to such county or city and county retirement plan, into the public employees' retirement association, or who withdraws such funds and deposits them with the public employees' retirement association no later than March 31, 1970.

(2) (a) When an employee meets all of the conditions in subsection (1) of this section, the public employees' retirement association shall grant him prior service credit based on length of service in a court, or department thereof, covered under sections 13-3-104 and 13-3-105, up to a maximum of five years.

(b) The public employees' retirement association shall calculate the cost of granting such prior service credit to each employee, after giving credit for the amount paid, if any, by the employee, and shall bill the judicial department for such cost. In the event that the cost for an employee is less than the amount paid in by him pursuant to subsection (1) (c) of this section, the treasurer of the public employees' retirement association shall instead refund the difference to the employee.

(c) The judicial department shall include the total of such billings in its appropriation request. The grant of prior service credits provided in paragraph (a) of this subsection (2) shall be made only if an appropriation therefor is made by the general assembly.

(3) (a) Any employee under the age of sixty years covered under sections 13-3-104 and 13-3-105 who has been a member of a county or city and county retirement plan may purchase prior service credit by withdrawing the funds credited to his account with the county or city and county retirement fund and paying the full amount thereof into the public employees' retirement fund.

(b) The public employees' retirement association shall calculate the amount of prior service credit purchased by an employee as provided in paragraph (a) of this subsection (3) and shall so notify him.

(c) An employee covered under sections 13-3-104 and 13-3-105 may also purchase prior service credit, not to exceed the actual number of years of employment in a court of record, or department thereof, by making a direct payment to the public employees' retirement association in an amount determined by the public employees'

retirement association to be actuarially sound and without expense to the state.

(4) For the purposes set forth in article 51 of title 24, C.R.S., the employees for whom prior service credit is granted under this section shall be considered to have been employees of the state for the period of such prior service.

13-3-110. Expenses and compensation of judges outside county of residence. (1) When it is necessary for any district court judge, in the discharge of his duties, to hold court or transact judicial business outside the county of his residence, whether within or without the judicial district in which he resides, he shall be reimbursed for his actual and necessary expenses in the manner prescribed by rule of the supreme court, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled going to and returning from the place where he is engaged in judicial duties.

(2) When any county judge, juvenile court judge, or probate court judge is assigned to perform judicial duties in a court outside of his county of residence pursuant to section 5 (3) of article VI of the state constitution, he shall be reimbursed for his actual and necessary expenses in the manner prescribed by rule of the supreme court, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled going to and returning from the place where he is engaged in judicial duties.

(3) (a) When any county judge is assigned to perform judicial duties in a district, probate, or juvenile court outside of the judicial district in which he resides, as provided in section 13-6-218, he shall be paid for each day of such judicial duty, in addition to reimbursement for expenses and mileage as provided in this section, an amount equal to the difference between his per diem salary and the per diem salary of the judge of the court to which he is assigned.

(b) (I) When any county judge from a county of Class C or Class D is assigned to perform judicial duties in any district court pursuant to section 5 (3) of article VI of the state constitution, and when the duties the county judge performs increase the county judge's workload beyond the percentage of workload for which he or she is paid pursuant to section 13-30-103 (1) (l), the county judge shall be paid for each day of such judicial duty, in addition to the county judge's normal part-time salary and to reimbursement for expenses and mileage as provided in this section, an amount equal to the per diem salary of the judge of the district court to which the county judge is assigned.

(II) When any county judge from a county of Class C or Class D is assigned to perform judicial duties in any other county court pursuant to section 5 (3) of article VI of the state constitution, and when the duties the county judge performs increase the county judge's workload beyond the percentage of workload for which he or she is paid pursuant to section 13-30-103 (1) (l), the county judge shall be paid for each day of such judicial

duty, in addition to the county judge's normal part-time salary and to reimbursement for expenses and mileage as provided in this section, an amount equal to the per diem salary of a full-time county judge.

(c) For the purposes of this subsection (3), the per diem salary of a judge shall be computed by dividing his annual salary by the figure two hundred forty.

(4) When a retired justice of the supreme court or retired judge of any other court of record is assigned to judicial duties pursuant to section 5 (3) of article VI of the state constitution, he shall be compensated as provided in said section and be reimbursed for his actual and necessary expenses in the manner prescribed by rule of the supreme court, together with mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going to and returning from the place where he is engaged in judicial duties.

(5) Any mileage and expenses incurred by a judge or a retired justice or judge pursuant to this section, except judges assigned to the county court of the city and county of Denver, shall be paid by the state pursuant to section 13-3-104. The records and procedures for such payment shall be prescribed by the state court administrator pursuant to section 13-3-106.

(6) Any per diem salary pursuant to subsection (3) or (4) of this section shall be paid by the state pursuant to section 13-3-104. The records and procedures for such payments shall be prescribed by the state court administrator pursuant to section 13-3-106.

13-3-111. Appointment of retired or resigned justice or judge pursuant to agreement of parties - appointment discretionary. (1) Upon agreement of all appearing parties to a civil action that a specific retired or resigned justice of the supreme court or a retired or resigned judge of any other court be assigned to hear the action and upon agreement that one or more of the parties shall pay the agreed upon salary of the selected justice or judge, together with all other salaries and expenses incurred, the chief justice may assign any retired or resigned justice or retired or resigned intermediate appellate, district, county, probate, or juvenile court judge who consents temporarily to perform judicial duties for such action.

(2) The decision as to whether a retired or resigned justice or judge shall be assigned to judicial duties, pursuant to subsection (1) of this section, shall be entirely within the discretion of the chief justice. The chief justice may require such undertakings as in his or her opinion may be necessary to ensure that proceedings held pursuant to this section shall be without expense to the state.

(3) Such appointment may be made at any time after the action is at issue.

(4) Orders, decrees, verdicts, and judgments resulting from hearings or trials presided over by a judge appointed pursuant to this section shall have the same force and

effect as orders, decrees, verdicts, or judgments resulting from a hearing or trial presided over by a regularly serving judge.

(5) Orders, decrees, verdicts, and judgments resulting from hearings or trials presided over by a judge appointed pursuant to this section may be enforced or appealed in the same manner as orders, decrees, verdicts, or judgments resulting from a hearing or trial presided over by a regularly sitting judge.

(6) The salaries and expenses paid to judges appointed pursuant to this section shall be at the rate agreed upon by the parties and the judge.

(7) The supreme court may promulgate such rules as may be necessary to implement this section.

13-3-112. Report on increase in docket fees. (Repealed)

13-3-113. "Family-friendly Courts Act". (1) **Short title.** This section shall be known and may be cited as the "Family-friendly Courts Act".

(2) **Legislative declaration.** (a) The general assembly hereby finds and declares that many families experience challenges and transitions with legal ramifications that often necessitate court involvement. Frequently individuals and family members attend court or visit other governmental offices for juvenile delinquency proceedings, domestic relations proceedings, protective proceedings related to domestic abuse or domestic violence, child protection proceedings, meetings with probation officers, and other matters. Many persons who attend court proceedings are responsible for the care of young children. For many such individuals, child care issues can distract from, if not present obstacles or even barriers to, effective and complete participation in ongoing court proceedings. The general assembly finds that these issues were acknowledged and addressed in the 1999 report entitled "Creating Family Friendly Courts in Colorado: Children's Centers for the Courthouse", which report was submitted by the Colorado supreme court family friendly facilities task force and which report recommended the establishment of children's centers in courthouses.

(b) The general assembly further finds that the same individuals who are in need of child care services when they are participating in court proceedings may also benefit from the availability of information and resource referrals relating to certain types of services within the community, including services addressing at-risk youth, employment counseling, employment training and placement, health education and counseling, financial management, education, legal counseling and referral, mediation, domestic abuse and domestic violence, fatherhood programs, and substance abuse.

(c) The general assembly further finds that individuals who are involved in court proceedings may have additional court-ordered service needs involving their children,

including, but not limited to, supervised parenting time and the transfer of the physical custody of a child from one parent to the other.

(d) The general assembly therefore determines and declares that the creation of family-friendly court programs is beneficial to and in the best interests of the citizens of Colorado. The general assembly further finds that the goal of such programs shall primarily be providing quality child care in or near courthouses to the children of individuals and families who attend court-related proceedings, but that such programs may also provide additional court-related family services at the facility and shall serve as a clearinghouse of information and resource referrals for program patrons concerning the wide variety of available services in the community, including services that provide help to at-risk youth, educational services, health services, mental health services, substance abuse services, legal services, and domestic abuse information.

(3) **Definitions.** For purposes of this section:

(a) "At-risk youth" shall have the same meaning as set forth in section 26-6.8-104 (3), C.R.S.

(b) "Domestic abuse" shall have the same meaning as set forth in section 13-14-101 (2).

(c) "Domestic violence" shall have the same meaning as set forth in section 18-6-800.3 (1), C.R.S.

(d) "Family-friendly court services" means child care and court-related family services provided in the courthouse or courthouse complex or in reasonable proximity to the courthouse.

(e) "Program" means the family-friendly court program established pursuant to this section.

(4) **Provision of family-friendly court services.** There is hereby created the family-friendly court program. The purpose of the program shall be to provide quality family-friendly court services to families and the children of individuals who are attending court proceedings or related matters and to serve as a central location for the dissemination of information to families about resources and services relating to at-risk youth, employment counseling, employment training and placement, health education and counseling, financial management, education, legal counseling and referral, mediation, domestic abuse and domestic violence, fatherhood programs, and substance abuse. Grants awarded pursuant to this section shall be used to establish and maintain new family-friendly court programs in judicial districts throughout the state that do not have comparable existing programs, as well as to enhance existing family-friendly court programs.

(5) **Grant applications - duties of judicial districts.** (a) To be eligible for moneys from the family-friendly court program cash fund, created in subsection (6) of this section, for the provision of family-friendly court services, a judicial district shall apply to the state court administrator in accordance with the timelines and guidelines

adopted by the state court administrator, using an application form provided by the state court administrator.

(b) The state court administrator, in determining which judicial districts may receive grant moneys pursuant to this section, shall consider the extent that a judicial district is responsible for:

(I) Actively recruiting qualified and skilled child care providers to provide quality child care services to families and children of individuals who are attending court proceedings or related matters;

(II) Conducting the necessary criminal history checks through the Colorado bureau of investigation and hiring qualified and appropriate child care providers;

(III) Selecting and establishing a safe physical location in the courthouse or in the courthouse complex or in reasonable proximity to the courthouse, for the provision of child care services;

(IV) When reasonably practicable in consideration of funding, staffing, and assistance from other public and private organizations, providing additional court-related family services to families and children experiencing the challenges and transitions that necessitate court involvement, including, but not limited to, supervised parenting time and transfer of the physical custody of a child from one parent to the other;

(V) Soliciting information from community-based organizations, faith communities, governmental entities, schools, community mental health centers, local nonprofit or not-for-profit agencies, local law enforcement agencies, businesses, and other community service providers about the following services and resources for the purpose of providing such information to patrons of the family-friendly court services:

(A) Youth services, including but not limited to youth mentoring services, services to prevent or reduce youth crime and violence, student dropout prevention and intervention services, and any other services that may be available in the community, the goal and purpose of which are to assist at-risk youth;

(B) Multipurpose service centers for displaced homemakers pursuant to article 15.5 of title 8, C.R.S., and other information to assist displaced homemakers, which information shall relate to employment counseling, employment training, employment placement, health education and counseling services, financial management services, educational services, and legal counseling and services;

(C) Information related to health insurance and health care coverage, including but not limited to the children's basic health plan and dental health plan, established pursuant to article 8 of title 25.5, C.R.S., and the baby and kid care program, established pursuant to section 25.5-5-205, C.R.S.;

(D) Substance abuse programs that are available in the community;

(E) Services and potential financial resources that may be available for victims of domestic abuse or domestic violence, including but not limited to counseling for persons who are victims of domestic abuse and their dependents, advocacy programs that assist

victims in obtaining services and information, and educational services for victims of domestic violence;

(F) Fatherhood programs that are available in the community; and

(G) Any other services that would be beneficial to families experiencing challenges and transition necessitating court involvement, including but not limited to family stabilization services as provided in section 19-1-125, C.R.S., and mediation services; and

(VI) Providing to persons staffing the program training and ongoing support with regard to the available resources and additional referrals provided through the program at each court location.

(c) The judicial districts that are selected by the state court administrator to provide family-friendly court services shall be responsible for:

(I) Implementing a method of evaluating the effectiveness of the family-friendly court program and assessing the impact of the child care and informational services provided through the program; and

(II) Reporting annually to the state court administrator concerning the results of the judicial district's evaluation of the family-friendly court program as well as an accounting of fiscal contributions received and expenditures made by the judicial district for the implementation, administration, and maintenance of the program and such other information that the state court administrator may require or that the judicial district determines to be relevant and informative.

(d) The judicial districts that are selected by the state court administrator to provide family-friendly court services that provide child care services shall meet the licensing requirements for child care facilities set forth in part 1 of article 6 of title 26, C.R.S., and all child care licensing rules promulgated by the state board of human services in connection therewith.

(e) In addition to grants received from the state court administrator pursuant to this section, judicial districts implementing or enhancing existing family-friendly court programs pursuant to this section are authorized to accept any funds, grants, gifts, or donations from any private or public source for the purpose of implementing this section; except that no grant or donation shall be accepted if the conditions attached to the grant or donation require the expenditure thereof in a manner contrary to law. Any such moneys received by a judicial district shall be credited to the family-friendly court program cash fund created in subsection (6) of this section for grants awarded by the board pursuant to this section.

(6) **Family-friendly court program cash fund.** (a) There is hereby created in the state treasury the family-friendly court program cash fund. The moneys in the family-friendly court program cash fund shall be subject to annual appropriation by the general assembly for the implementation of this section. The state court administrator is authorized to accept on behalf of the state any grants, gifts, or donations from any private

or public source for the purpose of this section. All private and public funds received through grants, gifts, or donations shall be transmitted to the state treasurer, who shall credit the same to the family-friendly court program cash fund in addition to any moneys that may be appropriated to the cash fund directly by the general assembly. In addition, commencing July 1, 2002, the one-dollar surcharge set forth in section 42-4-1701 (4) (a) (VI), C.R.S., shall be transmitted to the state treasurer who shall credit the same to the family-friendly court program cash fund created in this subsection (6). All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(b) All moneys in the family-friendly court program cash fund, created in paragraph (a) of this subsection (6), shall be available for grants awarded by the state court administrator to judicial districts seeking to implement or enhance existing family-friendly court programs and administrative costs associated with the implementation and administration of this section. The state court administrator, subject to annual appropriation by the general assembly, is hereby authorized to expend moneys appropriated to the judicial department from the family-friendly court program cash fund to judicial districts seeking to establish or enhance family-friendly court programs pursuant to this section.

(6.5) Notwithstanding any provision of subsection (6) of this section to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred thousand dollars from the family-friendly court program cash fund and transfer such sum to the general fund.

(7) The state court administrator shall announce to all judicial districts the availability of grants pursuant to this section for the establishment and maintenance or enhancement of family-friendly court services programs in the judicial districts.

(8) (Deleted by amendment, L. 2005, p. 1000, § 1, effective June 2, 2005.)

13-3-114. State court administrator - compensation for exonerated persons - definitions - annual payments - child support payments - financial literacy training - qualified health plan - damages awarded in civil actions - reimbursement to the state. (1) As used in this section, unless the context otherwise requires:

(a) "Annual payment" means a payment of monetary compensation made by the state court administrator or his or her designee to an exonerated person pursuant to this section. An annual payment shall be in the amount of one hundred thousand dollars, which amount shall be adjusted annually by the state auditor to account for inflation; except that:

(I) If the remaining amount of the state's duty of monetary compensation owed to the exonerated person is less than one hundred thousand dollars, the amount of the annual

payment shall be equal to the remaining amount; and

(II) The amount of an annual payment may be reduced as described in subsection (5) of this section.

(b) "Exonerated person" means a person who has been determined by a district court pursuant to section 13-65-102 to be actually innocent, as defined in section 13-65-101 (1).

(c) "Incarceration" means a person's custody in a county jail or a correctional facility while he or she serves a sentence issued pursuant to the person's conviction of a felony or pursuant to the person's adjudication as a juvenile delinquent for the commission of one or more offenses that would be felonies if committed by a person eighteen years of age or older. For the purposes of this section, "incarceration" includes placement as a juvenile to the custody of the state department of human services or a county department of social services.

(d) "Personal financial management instruction course" means a personal financial management instruction course that has been approved by the United States trustee's office pursuant to 11 U.S.C. sec. 111.

(e) "State's duty of monetary compensation" means the total amount of monetary compensation owed by the state to an exonerated person.

(2) Not more than fourteen days after the state court administrator receives directions from a district court pursuant to section 13-65-103 to compensate an exonerated person, the state court administrator shall:

(a) Issue an annual payment to the exonerated person. Annually thereafter, on or before the date that such payment was made, until the state's duty of monetary compensation is satisfied, the state court administrator or his or her designee shall issue an annual payment to the exonerated person.

(b) Pay on the exonerated person's behalf any amount of compensation for child support payments owed by the exonerated person that became due during his or her incarceration, or any amount of interest on child support arrearages that accrued during his or her incarceration but which have not been paid, as described in section 13-65-103 (2) (e) (III), C.R.S. The state court administrator, or his or her designee, shall make such payment in a lump sum to the appropriate county department of social services or other agency responsible for receiving such payments not more than thirty days after the state court administrator receives directions from a district court to compensate an exonerated person pursuant to section 13-65-103.

(c) Pay on the exonerated person's behalf the amount of reasonable attorney fees awarded to the exonerated person pursuant to section 13-65-103 (2) (e) (IV), C.R.S.

(3) The amount of any payment made to, or on behalf of, an exonerated person pursuant to this section shall be deducted from the state's duty of monetary compensation to the exonerated person.

(4) Notwithstanding the provisions of paragraph (a) of subsection (2) of this

section, after the state court administrator has issued one annual payment to an exonerated person, the state court administrator shall not issue another annual payment to the exonerated person until the exonerated person has completed a personal financial management instruction course.

(5) In each year in which the state court administrator issues an annual payment to an exonerated person, the person's annual payment shall be reduced by ten thousand dollars if the person fails to present to the state court administrator a policy or certificate showing that the person has purchased or otherwise acquired a qualified health plan for himself or herself and his or her dependents that is valid for at least six months. Such amount shall be deducted from the state's duty of monetary compensation to the exonerated person as if such amount had been issued to the exonerated person.

(6) (a) An exonerated person who receives monetary compensation pursuant to this section shall reimburse the state for the total amount of annual payments made to the exonerated person pursuant to this section if:

(I) The exonerated person prevails in or settles a civil action against the state or against any other government body in a civil action concerning the same acts that are the bases for the petition for compensation; and

(II) The judgment rendered in the civil action or the settlement of the civil action includes an award of monetary damages to the exonerated person.

(b) For the purposes of paragraph (a) of this subsection (6), in any proceeding that satisfies the description set forth in said paragraph (a), upon a satisfactory showing by the state that the exonerated person has received monetary compensation pursuant to this section, the court shall offset a sufficient amount of moneys from the exonerated person's award of monetary damages to reimburse the state for such monetary compensation. The court shall transfer such moneys to the state treasurer, who shall credit the moneys to the general fund.

(7) Notwithstanding any provision of this section, the state court administrator shall not issue an annual payment to an exonerated person if:

(a) (I) The exonerated person has prevailed in or settled a civil action for monetary damages as described in subsection (6) of this section; and

(II) The amount of the monetary damages awarded by the court in the civil action, or stipulated in the settlement of the action, and collected by the exonerated person equals or exceeds the remaining amount of the state's duty of monetary compensation to the exonerated person;

(b) The exonerated person is convicted of a class 1 or class 2 felony, or of an offense that would be considered a class 1 or class 2 felony in Colorado, after the date upon which a court issues an order of compensation on the person's behalf; or

(c) The person has not yet completed a personal financial management instruction course, as required by subsection (4) of this section.

13-3-115. Diversion funding committee. (1) The state court administrator shall establish a diversion funding committee, referred to in this section as the "committee". The committee shall consist of:

(a) The attorney general or his or her designee;

(b) The executive director of a statewide organization representing district attorneys or his or her designee;

(c) The state public defender or his or her designee;

(d) The director of the division of criminal justice in the department of public safety; and

(e) The state court administrator or his or her designee;

(2) (a) The committee shall develop funding guidelines, including permissible uses for the funding, and an application process for elected district attorneys to request funds appropriated by the general assembly in order to operate an adult diversion program consistent with section 18-1.3-101, C.R.S.

(b) The committee shall also develop an application that includes but is not limited to:

(I) A description of the adult pretrial diversion program, including the project's goals, objective, and timeline for implementation;

(II) The number of adults that could be enrolled in a pretrial diversion program using the funds requested and a description of the eligibility criteria developed by the district attorney;

(III) The process and method by which a participant's treatment or services needs will be assessed;

(IV) Outcomes and performance measures that the program will use in its evaluation;

(V) Itemized expenses for the amount of the funding request and whether the funding request is for a new adult pretrial diversion program or funding to continue or expand an existing adult pretrial diversion program;

(VI) The diversion supervision fees, if any, that the district attorney will require as a condition of participation in a pretrial diversion program; and

(VII) A list of any other agencies, organizations, service providers, or planning groups that would be involved in the planning and implementation of the project.

(3) The committee must review all funding requests submitted by a district attorney to support an adult pretrial diversion program. By majority vote, the committee may approve all or a portion of a funding request that meets the guidelines established pursuant to paragraph (a) of subsection (2) of this section or deny a request.

(4) The judicial department shall execute the contract and allocate the funding requests approved by the committee.

(5) A district attorney who receives funding pursuant to this section shall collect data and provide a status report to the judicial department by a date prescribed by the

committee that includes but is not limited to:

(a) The number of people screened and the number of people who met the diversion program criteria;

(b) The number of people enrolled in the adult pretrial diversion program;

(c) Demographic information on those enrolled in the adult pretrial diversion program including age, gender, and ethnicity;

(d) Participant status, including the number of people that have successfully completed the diversion program, the number of people still under active supervision in the diversion program, the number of people terminated from the diversion program, and the reason for their termination; and

(e) The accounting of the funds expended and the amount of any funds unexpended and unencumbered at the end of the funding period.

(6) By January 31, 2015, and each January 31 thereafter, the judicial department shall provide to the joint budget committee a status report that includes the information required by subsection (5) of this section.

(7) Any funds provided to a district attorney for purposes of operating an adult pretrial diversion program pursuant to this section shall not be reverted to the general fund if unexpended by the end of the fiscal year in which the funds were received.

ARTICLE 4

Court of Appeals

13-4-101. Establishment. There is hereby created the court of appeals, pursuant to section 1 of article VI of the state constitution. The court of appeals shall be a court of record. Judges of the court of appeals may serve in any state court with full authority as provided by law, when called upon to do so by the chief justice of the supreme court.

13-4-102. Jurisdiction. (1) Any provision of law to the contrary notwithstanding, the court of appeals shall have initial jurisdiction over appeals from final judgments of, and interlocutory appeals of certified questions of law in civil cases pursuant to section 13-4-102.1 from, the district courts, the probate court of the city and county of Denver, and the juvenile court of the city and county of Denver, except in:

(a) Repealed.

(b) Cases in which a statute, a municipal charter provision, or an ordinance has been declared unconstitutional;

(c) Cases concerned with decisions or actions of the public utilities commission;

(d) Water cases involving priorities or adjudications;

(e) Writs of habeas corpus;

(f) Cases appealed from the county court to the district court, as provided in section 13-6-310;

(g) Summary proceedings initiated under articles 1 to 13 of title 1 and article 10 of title 31, C.R.S.;

(h) Cases appealed from the district court granting or denying postconviction relief in a case in which a sentence of death has been imposed.

(2) The court of appeals has initial jurisdiction to:

(a) Review awards or actions of the industrial claim appeals office, as provided in articles 43 and 74 of title 8, C.R.S.;

(b) Review orders of the banking board granting or denying charters for new state banks, as provided in article 102 of title 11, C.R.S.;

(c) (Deleted by amendment, L. 2006, p. 761, § 19, effective July 1, 2006.)

(d) Review all final actions and orders appropriate for judicial review of the Colorado podiatry board, as provided in section 12-32-108.7, C.R.S.;

(e) Review all final actions and orders appropriate for judicial review of the Colorado state board of chiropractic examiners as provided in section 12-33-121, C.R.S.;

(f) Review actions of the Colorado medical board in refusing to grant or in revoking or suspending a license or in placing the holder thereof on probation, as provided in section 12-36-119, C.R.S.;

(g) Review actions of the board of dental examiners in refusing to issue or renew or in suspending or revoking a license to practice dentistry or dental hygiene, as provided in section 12-35-130, C.R.S.;

(h) Review all final actions and orders appropriate for judicial review of the board of nursing as provided in articles 38 and 42 of title 12, C.R.S.;

(i) Review actions of the state board of optometry in refusing to grant or renew, revoking, or suspending a license, issuing a letter of admonition, or placing a licensee on probation or under supervision, as provided by section 12-40-119 (2) (e), C.R.S.;

(j) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations as provided in article 41 of title 12, C.R.S.;

(k) Review all final actions and orders appropriate for judicial review of the state board of pharmacy, as provided in section 12-42.5-125, C.R.S.;

(l) Review decisions of the board of education of a school district in proceedings for the dismissal of a teacher, as provided in section 22-63-302 (10), C.R.S.;

(m) Review final decisions or orders of the Colorado real estate commission, as provided in parts 1, 3, and 4 of article 61 of title 12, C.R.S.;

(m.5) Review final decisions or orders of the director of the division of real estate, as provided in part 10 of article 61 of title 12, C.R.S.;

Editor's note: Paragraph (m.5) is effective January 1, 2015.

(n) Review final decisions and orders of the Colorado civil rights commission, as provided in parts 3, 4, and 7 of article 34 of title 24, C.R.S.;

(o) Review all final actions and orders appropriate for judicial review of the passenger tramway safety board, as provided in section 25-5-708, C.R.S.;

(p) Review decisions of the state personnel board, as provided in section 24-50-125.4, C.R.S.;

(q) Review final actions and orders appropriate for judicial review of the state electrical board, as provided in article 23 of title 12, C.R.S.;

(r) Review all final actions and orders appropriate for judicial review of the state board of licensure for architects, professional engineers, and professional land surveyors, as provided in section 12-25-309 (5), C.R.S.;

(s) Review final actions and orders of the boards, as defined in section 12-43-201 (1), C.R.S., that are appropriate for judicial review and final actions;

(t) (Deleted by amendment, L. 2008, p. 426, § 25, effective August 5, 2008.)

(u) Review all final actions and orders appropriate for judicial review of the coal mine board of examiners, as provided in section 34-22-107 (8), C.R.S.;

(v) Review final actions and orders of the director of the division of professions and occupations appropriate for judicial review, as provided in section 12-55.5-115, C.R.S.;

(w) Review final actions and orders appropriate for judicial review of the examining board of plumbers;

(x) Review decisions of the board of assessment appeals, as provided in section 39-8-108 (2), C.R.S.;

(y) and (z) Repealed.

(aa) (Deleted by amendment, L. 98, p. 818, § 14, effective August 5, 1998.)

(bb) Review final actions taken pursuant to article 38.1 of title 12, C.R.S., by the state board of nursing in the division of professions and occupations in the department of regulatory agencies;

(cc) Review final actions and orders appropriate for judicial review of the securities commissioner, as provided in section 11-59-117, C.R.S.;

(dd) Review final actions and orders appropriate for judicial review of the commissioner of insurance, pursuant to title 10, C.R.S.;

(ee) Review final actions and orders appropriate for judicial review of the Colorado racing commission, as provided in section 12-60-507 (3), C.R.S.;

(ff) Review final actions and orders appropriate for judicial review of the Colorado passenger tramway safety board, as provided in section 25-5-708, C.R.S.;

(gg) Review final actions and orders appropriate for judicial review of the

department of revenue relating to penalties for violations of statutes relating to the sale of cigarettes and tobacco products to minors pursuant to section 24-35-505 (5), C.R.S.;

(hh) Review final actions and orders appropriate for judicial review of the state board of veterinary medicine, as provided in section 12-64-112 (2), C.R.S.;

(ii) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations as provided in section 12-37-107 (4), C.R.S.;

(jj) Review all final actions and orders appropriate for judicial review of the executive director of the department of labor and employment, as provided in section 8-20-104, C.R.S.;

(kk) Review all final actions and orders appropriate for judicial review of the director of the division of professions and occupations in the department of regulatory agencies, as provided in section 12-40.5-110, C.R.S.

(3) The court of appeals shall have authority to issue any writs, directives, orders, and mandates necessary to the determination of cases within its jurisdiction.

(4) (Deleted by amendment, L. 95, p. 235, § 4, effective April 17, 1995.)

13-4-102.1. Interlocutory appeals of determinations of questions of law in civil cases. (1) The court of appeals, under rules promulgated by the Colorado supreme court, may permit an interlocutory appeal of a certified question of law in a civil matter from a district court or the probate court of the city and county of Denver if:

(a) The trial court certifies that immediate review may promote a more orderly disposition or establish a final disposition of the litigation; and

(b) The order involves a controlling and unresolved question of law.

(2) A majority of the judges who are in regular active service on the court of appeals and who are not disqualified may, if approved by rules promulgated by the Colorado supreme court, order that an interlocutory appeal permitted by the court of appeals be heard or reheard by the court of appeals en banc.

13-4-103. Number of judges - qualifications. (1) The number of judges of the court of appeals shall be sixteen. Effective July 1, 2006, the number of judges of the court of appeals shall be nineteen. Subject to available appropriations, effective July 1, 2008, the number of judges of the court of appeals shall be twenty-two.

(2) Judges of the court of appeals shall have the same qualifications as justices of the Colorado supreme court.

13-4-104. Term of office - selection. (1) The term of office for a judge of the

court of appeals is eight years.

(2) Judicial appointments to the court of appeals shall be made pursuant to section 20 of article VI of the state constitution.

13-4-104.5. Temporary judicial duties. Whenever the chief justice of the supreme court deems assignment of a judge necessary to the prompt disposition of judicial business, the chief justice may assign any judge of the court of appeals, or any retired judge of the court of appeals who consents, to temporarily perform judicial duties in any court of record. For each day of such temporary service a retired judge shall receive compensation as provided by law.

13-4-105. Chief judge. The chief justice of the supreme court shall appoint a judge of the court of appeals to serve as chief judge at the pleasure of the chief justice. The chief judge shall exercise such administrative powers as may be delegated to him by the chief justice.

13-4-106. Divisions. (1) The court of appeals shall sit in divisions of three judges each to hear and determine all matters before the court.

(2) The chief judge, with the approval of the chief justice, shall assign judges to each division. Such assignments shall be changed from time to time as determined by the chief judge, with the approval of the chief justice.

(3) Cases shall be assigned to the divisions of the court of appeals in rotation according to the order in which they are filed with the clerk of the court of appeals or transferred by the supreme court, except that the chief judge has the authority to transfer cases from one division to another to maintain approximately equal case loads or for any other appropriate reason.

13-4-107. Place of court. The court of appeals shall be located in the city and county of Denver, but any division of the court of appeals may sit in any county seat for the purpose of hearing oral argument in cases before the division.

13-4-108. Supreme court review. (1) Before application may be made for writ of certiorari, as provided in this section, application shall be made to the court of appeals for a rehearing if required by supreme court rule.

(2) Within twenty-eight days after a rehearing has been refused by the court of

appeals, any party in interest who is aggrieved by the judgment of the court of appeals may appeal by application to the supreme court for a writ of certiorari.

(3) Procedures on writs of certiorari, including procedures for rehearings, shall be as prescribed by rule of the supreme court.

13-4-109. Certification of cases to the supreme court. (1) The court of appeals, prior to final determination, may certify any case before it to the supreme court for its review and final determination, if the court of appeals finds:

(a) The subject matter of the appeal has significant public interest;

(b) The case involves legal principles of major significance; or

(c) The case load of the court of appeals is such that the expeditious administration of justice requires certification.

(2) The supreme court shall consider such certification and may accept the case for final determination or remand it for determination by the court of appeals.

(3) The supreme court may order the court of appeals to certify any case before the court of appeals to the supreme court for final determination.

13-4-110. Determination of jurisdiction - transfer of cases. (1) (a) When a party in interest alleges, or the court is of the opinion, that a case before the court of appeals is not properly within the jurisdiction of the court of appeals, the court of appeals shall refer the case to the supreme court. The supreme court shall decide the question of jurisdiction in a summary manner, and its determination shall be conclusive.

(b) A party in interest shall allege that a case is not properly within the jurisdiction of the court of appeals by motion filed with the court of appeals within twenty-one days after the date the record is filed with the clerk of the court of appeals, failing which any objection to jurisdiction by a party in interest shall be waived.

(2) Any case within the jurisdiction of the court of appeals which is filed erroneously in the supreme court shall be transferred to the court of appeals by the supreme court.

(3) No case filed either in the supreme court or the court of appeals shall be dismissed for having been filed in the wrong court but shall be transferred and considered properly filed in the court which the supreme court determines has jurisdiction.

13-4-111. Employees - compensation. (1) Subject to the rules and regulations of the supreme court, the court of appeals shall appoint a clerk, a reporter of decisions, deputy clerks, and such other assistants as may be necessary.

(2) Each judge of the court of appeals may appoint a law clerk who shall be

learned in the law and one secretary or stenographer. The persons so employed may be discharged or removed at the pleasure of the judge employing them.

(3) All employees appointed under subsections (1) and (2) of this section shall be paid such compensation as shall be prescribed by the rules and regulations of the supreme court.

13-4-112. Fees of the clerk of court of appeals. (1) (a) Within the time allowed or fixed for transmission of the record, the appellant shall pay to the clerk of the court of appeals a docket fee of two hundred twenty-three dollars.

(b) The docket fee for the appellee shall be one hundred forty-eight dollars to be paid upon the entry of appearance of the appellee.

(2) (a) Each fee collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) One hundred fifty dollars shall be deposited in the supreme court library fund created pursuant to section 13-2-120;

(II) Five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6); and

(III) Sixty-eight dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Seventy-five dollars shall be deposited in the supreme court library fund created pursuant to section 13-2-120;

(II) Five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6); and

(III) Sixty-eight dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

13-4-113. Publication of decisions.

(1) Repealed.

(2) Those court of appeals opinions to be published in full shall be selected as prescribed by supreme court rule.

ARTICLE 5

Judicial Districts

PART 1

JUDGES - TERMS

13-5-101. Judicial districts and terms. The state is divided into twenty-two judicial districts as prescribed by this part 1. Terms of court shall be fixed by rules adopted by the district court in each district; except that at least one term of court shall be held each calendar year in each county within the district, at the county seat of such county.

13-5-102. First district. (1) The first judicial district shall be composed of the counties of Gilpin and Jefferson.

(2) (a) The number of judges for the first judicial district shall be eleven.

(b) Subject to available appropriations, effective July 1, 2004, the number of judges for the first judicial district shall be twelve.

(c) Subject to available appropriations, effective July 1, 2008, the number of judges for the first judicial district shall be thirteen.

(d) (Deleted by amendment, L. 2011, (SB 11-028), ch. 21, p. 52, § 1, effective March 11, 2011.)

(e) Repealed.

(f) Notwithstanding the provisions of paragraph (a) of this subsection (2), subject to available appropriations, effective July 1, 2012, the number of judges for the first judicial district shall be thirteen.

(3) (a) Notwithstanding any provision of law to the contrary, the district and county judges regularly assigned to Gilpin county may sit and maintain their official chambers at a single location anywhere within such county, and any related office may also be maintained at such location.

(b) As used in this subsection (3), "related office" includes but need not be limited to the offices of the sheriff, county clerk and recorder, county treasurer, clerk of district court, and clerk of county court.

13-5-103. Second district. (1) The second judicial district shall be composed of the city and county of Denver.

(2) (a) The number of judges for the second judicial district shall be nineteen. Effective January 1, 1978, the number of judges shall be twenty.

(b) Subject to available appropriations, effective July 1, 2008, the number of judges for the second judicial district shall be twenty-one.

(c) Subject to available appropriations, effective July 1, 2009, the number of

judges for the second judicial district shall be twenty-three.

13-5-104. Third district. (1) The third judicial district shall be composed of the counties of Las Animas and Huerfano.

(2) The number of judges for the third judicial district shall be two.

(3) The third judicial district shall be divided into two divisions. The northern division shall consist of the county of Huerfano, and the southern division shall consist of the county of Las Animas. One judge of the district shall maintain his official residence and chambers in the northern division of the district, and one judge shall maintain his official residence and chambers in the southern division of the district. Travel and maintenance expenses shall be allowed a judge of the district only when he is outside the county of his official residence. For all other purposes, the district shall be considered as a single entity. The allocation of judges to the northern and southern divisions shall be made by court rule. In the event that the judges of the district are unable to agree upon an allocation by rule, the matter shall be determined by the chief justice of the supreme court.

13-5-105. Fourth district. (1) The fourth judicial district shall be composed of the counties of El Paso and Teller.

(2) (a) The number of judges for the fourth judicial district shall be fifteen.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the fourth judicial district shall be sixteen.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the fourth judicial district shall be seventeen.

(d) Subject to available appropriations, effective July 1, 2004, the number of judges for the fourth judicial district shall be nineteen.

(e) Subject to available appropriations, effective July 1, 2008, the number of judges for the fourth judicial district shall be twenty.

(f) Subject to available appropriations, effective July 1, 2009, the number of judges for the fourth judicial district shall be twenty-two.

13-5-106. Fifth district. (1) The fifth judicial district shall be composed of the counties of Clear Creek, Eagle, Lake, and Summit.

(2) (a) The number of judges for the fifth judicial district shall be six.

(b) and (c) Repealed.

(d) At least one of the judges for the fifth judicial district shall maintain his or her official chambers and residence in the county of Eagle, Lake, or Summit.

13-5-107. Sixth district. (1) The sixth judicial district shall be composed of the counties of Archuleta, La Plata, and San Juan.

(2) (a) The number of judges for the sixth judicial district shall be two.

(b) (Deleted by amendment, L. 2012.)

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), subject to available appropriations, effective July 1, 2012, the number of judges for the sixth judicial district shall be four.

13-5-108. Seventh district. (1) The seventh judicial district shall be composed of the counties of Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel.

(2) (a) The number of judges for the seventh judicial district shall be three.

(b) Subject to available appropriations, effective July 1, 2003, the number of judges for the seventh judicial district shall be four.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), subject to available appropriations, effective July 1, 2011, the number of judges for the seventh judicial district shall be five.

13-5-109. Eighth district. (1) The eighth judicial district shall be composed of the counties of Larimer and Jackson.

(2) (a) The number of judges for the eighth judicial district shall be five.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the eighth judicial district shall be six.

(c) Subject to available appropriations, effective July 1, 2008, the number of judges for the eighth judicial district shall be seven.

(d) Subject to available appropriations, effective July 1, 2009, the number of judges for the eighth judicial district shall be eight.

13-5-110. Ninth district. (1) The ninth judicial district shall be composed of the counties of Garfield, Pitkin, and Rio Blanco.

(2) (a) The number of judges for the ninth judicial district shall be five.

(b) (Deleted by amendment, L. 2013.)

13-5-111. Tenth district. (1) The tenth judicial district shall be composed of the county of Pueblo.

(2) (a) The number of judges for the tenth judicial district shall be six.

(b) Subject to available appropriations, effective July 1, 2008, the number of judges for the tenth judicial district shall be seven.

13-5-112. Eleventh district. (1) The eleventh judicial district shall be composed of the counties of Chaffee, Custer, Fremont, and Park.

(2) (a) The number of judges for the eleventh judicial district shall be three.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the eleventh judicial district shall be four.

(3) The eleventh judicial district shall be divided into two divisions. The northern division shall consist of the counties of Chaffee and Park, and the southern division shall consist of the counties of Fremont and Custer. One judge of the district shall maintain his official residence and chambers in the northern division of the district, one judge shall maintain his official residence and chambers in the southern division of the district, and one judge shall sit in both divisions as assigned by the chief judge. Travel and maintenance expenses shall be allowed a judge of the district only when he is outside the county of his official residence. For all other purposes the district shall be considered as a single entity. The allocation of judges to the northern and southern divisions shall be made by court rule. In the event that the judges of the district are unable to agree upon an allocation by rule, the matter shall be determined by the chief justice of the supreme court.

13-5-113. Twelfth district. (1) The twelfth judicial district shall be composed of the counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache.

(2) (a) The number of judges for the twelfth judicial district shall be two.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the twelfth judicial district shall be three.

13-5-114. Thirteenth district. (1) The thirteenth judicial district shall be composed of the counties of Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma.

(2) The number of judges for the thirteenth judicial district shall be four.

13-5-115. Fourteenth district. (1) The fourteenth judicial district shall be composed of the counties of Grand, Moffat, and Routt.

(2) (a) The number of judges for the fourteenth judicial district shall be two.

(b) Subject to available appropriations, effective July 1, 2007, the number of

judges for the fourteenth judicial district shall be three.

13-5-116. Fifteenth district. (1) The fifteenth judicial district shall be composed of the counties of Baca, Cheyenne, Kiowa, and Prowers.

(2) The number of judges for the fifteenth judicial district shall be two.

13-5-117. Sixteenth district. (1) The sixteenth judicial district shall be composed of the counties of Bent, Crowley, and Otero.

(2) The number of judges for the sixteenth judicial district shall be two.

13-5-118. Seventeenth district. (1) The seventeenth judicial district shall be composed of the county of Adams and the city and county of Broomfield.

(2) (a) The number of judges for the seventeenth judicial district shall be eight.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the seventeenth judicial district shall be nine.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the seventeenth judicial district shall be ten.

(d) Subject to available appropriations, effective July 1, 2007, the number of judges for the seventeenth judicial district shall be eleven.

(e) Subject to available appropriations, effective July 1, 2008, the number of judges for the seventeenth judicial district shall be thirteen.

(f) Subject to available appropriations, effective July 1, 2009, the number of judges for the seventeenth judicial district shall be fifteen.

(3) The seventeenth judicial district shall have jurisdiction over all causes of action accruing and all crimes committed within the city and county of Broomfield on or after November 15, 2001. Prior to November 15, 2001, the judicial districts for the counties, as they existed prior to November 15, 2001, shall have jurisdiction over all causes of action accruing and crimes committed within such counties.

13-5-119. Eighteenth district. (1) The eighteenth judicial district shall be composed of the counties of Arapahoe, Douglas, Elbert, and Lincoln.

(2) (a) The number of judges for the eighteenth judicial district shall be fourteen.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the eighteenth judicial district shall be fifteen.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the eighteenth judicial district shall be sixteen.

(d) (I) Subject to available appropriations, effective July 1, 2004, the number of judges for the eighteenth judicial district shall be seventeen.

(II) Subject to available appropriations, effective July 1, 2007, the number of judges for the eighteenth judicial district shall be eighteen.

(III) Subject to available appropriations, effective July 1, 2008, the number of judges for the eighteenth judicial district shall be twenty.

(IV) Subject to available appropriations, effective July 1, 2009, the number of judges for the eighteenth judicial district shall be twenty-one.

(e) The district judges regularly assigned to Arapahoe county shall maintain their offices in one location within Arapahoe county.

(3) Repealed.

13-5-120. Nineteenth district. (1) The nineteenth judicial district shall be composed of the county of Weld.

(2) (a) The number of judges for the nineteenth judicial district shall be four.

(b) Subject to available appropriations, effective July 1, 2002, the number of judges for the nineteenth judicial district shall be five.

(c) Subject to available appropriations, effective July 1, 2003, the number of judges for the nineteenth judicial district shall be six.

(d) Subject to available appropriations, effective July 1, 2007, the number of judges for the nineteenth judicial district shall be seven.

(e) Subject to available appropriations, effective July 1, 2008, the number of judges for the nineteenth judicial district shall be eight.

(f) Subject to available appropriations, effective July 1, 2009, the number of judges for the nineteenth judicial district shall be nine.

13-5-121. Twentieth district. (1) The twentieth judicial district shall be composed of the county of Boulder.

(2) (a) The number of judges for the twentieth judicial district shall be six.

(b) Subject to available appropriations, effective July 1, 2003, the number of judges for the twentieth judicial district shall be seven.

(c) Subject to available appropriations, effective July 1, 2004, the number of judges for the twentieth judicial district shall be eight.

(d) Subject to available appropriations, effective June 30, 2010, the number of judges for the twentieth judicial district shall be nine.

13-5-122. Twenty-first district. (1) The twenty-first judicial district shall be

composed of the county of Mesa.

(2) (a) The number of judges for the twenty-first judicial district shall be four.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the twenty-first judicial district shall be five.

13-5-123. Twenty-second district. (1) The twenty-second judicial district shall be composed of the counties of Dolores and Montezuma.

(2) (a) The number of judges for the twenty-second judicial district shall be one.

(b) Subject to available appropriations, effective July 1, 2007, the number of judges for the twenty-second judicial district shall be two.

13-5-124. Appointment of clerk and employees. District court personnel shall be appointed pursuant to the provisions of section 13-3-105.

13-5-125. Clerks to keep records. The clerks of district courts shall keep the financial records prescribed by the state court administrator under the provisions of section 13-3-106.

13-5-126. Duties of bailiff. It is the duty of every bailiff to preserve order in the court to which he may be appointed; to attend upon the jury; to open and close the court; and to perform such other duties as may be required of him by the judge of the court.

13-5-127. Duties of reporters. The shorthand reporter, on the direction of the court, shall take down in shorthand all the testimony, rulings of the court, exceptions taken, oral instructions given, and other proceedings had during the trial of any cause, and in such causes as the court may designate.

13-5-128. Compensation of reporter. The shorthand reporter of a court of record shall be compensated for preparation of the original and any copies of the typewritten transcript of his shorthand notes at such rates as from time to time may be established and promulgated by the supreme court of the state of Colorado. Where, in a court of record, no shorthand reporter is employed and trial transcripts are prepared by other court personnel, such personnel shall be similarly compensated for any transcript preparation required to be accomplished in other than normal working hours.

13-5-129. Reporters' expenses. (Repealed)

13-5-130. Reporters to file verified statements. (Repealed)

13-5-131. Multiple-judge districts. In any district court composed of more than one judge, each of the judges shall sit separately for the trial of causes and the transaction of business and shall have and exercise all the powers and functions, as well in vacation of court as in term time, which he might have and exercise if he were the sole judge of said court.

13-5-132. Powers of judges sitting separately. Each court held by the several judges, while sitting separately, shall be known as the district court in and for the county where such court is held and shall have the same power to vacate or modify its own judgments, decrees, or orders rendered or made while so held as if the said court were composed of a single judge.

13-5-133. Judges may sit en banc - purpose - rules. (1) In any district court composed of more than one judge, the judges may sit en banc at such times as they may determine, for the purpose of making rules of court, the appointment of a clerk and other employees, subject to the provisions of section 13-3-105, and other ministerial duties, subject to the administrative powers delegated to the chief judge by the chief justice of the supreme court pursuant to section 5 (4) of article VI of the state constitution.

(2) Subject to the approval of the chief justice of the supreme court, a district court sitting en banc may make rules:

(a) To facilitate the transaction of business in the courts held by the judges sitting separately; and

(b) To provide for the classification, arrangement, and distribution of the business of the court among the several judges thereof.

(3) Judges of a district court in districts having more than one judge may sit en banc only for the purposes enumerated in this section, and the court so sitting en banc shall have no power to review any order, decision, or proceeding of the court held by any judge sitting separately.

13-5-134. Juries. Jurors may be summoned and empaneled for each of the judges

sitting separately as though each were the sole court.

13-5-135. Time limit on judgment. Every motion, issue, or other matter arising in any cause pending or to be brought in any district court of this state, and which is submitted to any such court for judgment or decision thereof, shall be determined by the court within ninety days after the adjournment of court. This section shall not be so construed as to prohibit a decision after the expiration of the time limited, but only as working a forfeiture as provided in section 13-5-136.

13-5-136. Forfeit of salary. (1) If any judge of any district court, to whom any motion, issue, or other matter, arising in any cause, is submitted for judgment or decision, fails or neglects to decide or give judgment upon the same within the time limited by section 13-5-135, such judge shall not receive from the state treasury any salary for the quarter in which such failure occurred, when the following requirements are satisfied:

(a) The party aggrieved by the failure of such judge to rule in a timely manner files a complaint demanding the withholding of the salary of such judge with the commission on judicial discipline established in section 23 (3) of article VI of the state constitution;

(b) The commission on judicial discipline, in accordance with rule 4 of the Colorado rules of judicial discipline, investigates the judge's alleged violation of section 13-5-135;

(c) After such investigation the commission on judicial discipline, in accordance with rule 4 of the Colorado rules of judicial discipline, makes a recommendation concerning the allegation to the Colorado supreme court; and

(d) If deemed appropriate, the Colorado supreme court issues an order directing the department of the treasury to withhold the judge's salary.

(2) This section shall not apply in case of the sickness or death of a judge.

13-5-137. Judges seeking retention in office. (Repealed)

13-5-138. Appeals to district court. If a statute provides for review of the acts of any court, board, commission, or officer by certiorari or other writ and if no time within which review may be sought is provided by statute, a petition to review such acts shall be filed in the district court not later than thirty days from the final action taken by said court, board, commission, or officer.

13-5-139. Transfer of information from orders for child support and maintenance to child support enforcement agency - payment of support and maintenance. (1) On and after July 1, 1991, and contingent upon the executive director of the department of human services notifying the state court administrator that a particular county or judicial district is ready to implement and participate in the family support registry created in section 26-13-114, C.R.S., the clerk of the court of every judicial district in the state shall transfer the information described in section 26-13-114 (7), C.R.S., to the delegate child support enforcement unit within five working days after entry or modification of a court order or filing of an administrative order in any IV-D case, as defined in section 26-13-102.5 (2), C.R.S.

(2) to (4) Repealed.

13-5-140. Transfer of certain registry functions - cooperation between departments. The judicial department and the department of human services shall cooperate in the transfer of the functions relating to the collection of child support from the courts to the child support enforcement agency specified in article 13 of title 26, C.R.S. In order to implement such transfer, which shall be completed on or after July 1, 1991, and upon notification to the state court administrator by the executive director of the department of human services that a particular county or judicial district is ready to implement and participate in the family support registry, the judicial department shall transfer to the state child support enforcement agency all necessary data, computer programs, technical written material, and budgetary information and shall provide such technical assistance as may be required. The judicial department shall retain payment records relating to child support orders until the executive director of the department of human services notifies the state court administrator that retention of the records is no longer necessary.

13-5-141. Compilation - sentences received upon conviction of felony. (1) The state court administrator's office shall, by March 1 and by September 1 of each year, prepare and make available to the public at each district court, for a reasonable charge, a compilation of the sentences imposed in felony cases by each judge in each district court. Such compilation shall include:

(a) The name of each judge;

(b) The name of each offender and a description of the crime for which he was convicted;

(c) The sentence imposed by each such judge for each such felony case; and

(d) A statement that complete information concerning aggravating and mitigating factors, plea and sentence concessions, and other sentencing considerations is available in

the court file. As soon as practical, such information shall be included in the compilation.

13-5-142. National instant criminal background check system - reporting. (1) On and after March 20, 2013, the state court administrator shall send electronically the following information to the Colorado bureau of investigation created pursuant to section 24-33.5-401, C.R.S., referred to within this section as the "bureau":

(a) The name of each person who has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;

(b) The name of each person who has been committed by order of the court to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 27-81-112 or 27-82-108, C.R.S.; and

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of mental illness pursuant to section 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to section 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to section 27-65-109, C.R.S.

(1.5) Not more than forty-eight hours after receiving notification of a person who satisfies the description in paragraph (a), (b), or (c) of subsection (1) of this section, the state court administrator shall report such fact to the bureau.

(2) Any report made by the state court administrator pursuant to this section shall describe the reason for the report and indicate that the report is made in accordance with 18 U.S.C. sec. 922 (g) (4).

(3) The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

(a) The person to whom the record pertains makes a written request to the state court administrator; and

(b) No less than three years before the date of the written request:

(I) The court entered an order pursuant to section 15-14-318, C.R.S., terminating a guardianship on a finding that the person is no longer an incapacitated person, if the record in the national instant criminal background check system is based on a finding of incapacity;

(II) The period of commitment of the most recent order of commitment or recommitment expired, or a court entered an order terminating the person's incapacity or discharging the person from commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of commitment to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental

health and substance abuse; except that the state court administrator shall not cancel any record pertaining to a person with respect to whom two recommitment orders have been entered under section 27-81-112 (7) and (8), C.R.S., or who was discharged from treatment under section 27-81-112 (11), C.R.S., on the grounds that further treatment will not be likely to bring about significant improvement in the person's condition; or

(III) The record in the case was sealed pursuant to section 27-65-107 (7), C.R.S., or the court entered an order discharging the person from commitment in the nature of habeas corpus pursuant to section 27-65-113, C.R.S., if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of mental illness.

(4) Pursuant to section 102 (c) of the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180), a court, upon becoming aware that the basis upon which a record reported by the state court administrator pursuant to subsection (1) of this section does not apply or no longer applies, shall:

(a) Update, correct, modify, or remove the record from any database that the federal or state government maintains and makes available to the national instant criminal background check system, consistent with the rules pertaining to the database; and

(b) Notify the attorney general that such basis does not apply or no longer applies.

13-5-142.5. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration. (1) **Legislative declaration.** The purpose of this section is to set forth a judicial process whereby a person may apply or petition for relief from federal firearms prohibitions imposed pursuant to 18 U.S.C. sec. 922 (d) (4) and (g) (4), as permitted by the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180, sec. 105).

(2) **Eligibility.** A person may petition for relief pursuant to this section if:

(a) (I) He or she has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;

(II) He or she has been committed by order of the court to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 27-81-112 or 27-82-108, C.R.S.; or

(III) The court has entered an order for the person's involuntary certification for short-term treatment of mental illness pursuant to section 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to section 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to section 27-65-109, C.R.S.; and

(b) He or she is a person to whom the sale or transfer of a firearm or ammunition is prohibited by 18 U.S.C. sec. 922 (d) (4), or who is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. sec.

922 (g) (4).

(3) **Due process.** In a court proceeding pursuant to this section:

(a) The petitioner shall have an opportunity to submit his or her own evidence to the court concerning his or her petition;

(b) The court shall review the evidence; and

(c) The court shall create and thereafter maintain a record of the proceeding.

(4) **Proper record.** In determining whether to grant relief to a petitioner pursuant to this section, the court shall receive evidence concerning, and shall consider:

(a) The circumstances regarding the firearms prohibitions imposed by 18 U.S.C. sec. 922 (g) (4);

(b) The petitioner's record, which must include, at a minimum, the petitioner's mental health records and criminal history records; and

(c) The petitioner's reputation, which the court shall develop, at a minimum, through character witness statements, testimony, or other character evidence.

(5) **Proper findings.** (a) Before granting relief to a petitioner pursuant to this section, the court shall issue findings that:

(I) The petitioner is not likely to act in a manner that is dangerous to public safety; and

(II) Granting relief to the petitioner is not contrary to the public interest.

(b) (I) If the court denies relief to a petitioner pursuant to this section, the petitioner may petition the court of appeals to review the denial, including the record of the denying court.

(II) A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court.

(III) In reviewing a denial, the court of appeals has discretion, but is not required, to receive additional evidence necessary to conduct an adequate review.

13-5-143. Judge as party to a case - recusal of judge upon motion. (1) If a judge or former judge of a district court is a party in his or her individual and private capacity in a case that is to be tried within any district court in the same judicial district in which the judge or former judge is or was a judge of a district court, any party to the case may file a timely motion requesting that the judge who is appointed to preside over the case recuse himself or herself from the case.

(2) If a district court receives a motion filed by a party pursuant to subsection (1) of this section, the judge who is appointed to preside over the case shall recuse himself or herself if he or she is a judge of a district court in the same judicial district in which the judge or former judge who is a party to the case in his or her individual and private capacity is or was a judge of a district court.

(3) If a judge recuses himself or herself pursuant to subsection (2) of this section, the chief justice of the Colorado supreme court or his or her designee shall appoint a

judge from outside the judicial district to preside over the case.

(4) The provisions of this section shall not apply to a water judge or referee when he or she is acting within his or her exclusive jurisdiction over water matters pursuant to section 37-92-203, C.R.S.

13-5-144. Chief judge - veterans treatment court authority. The chief judge of a judicial district may establish an appropriate program for the treatment of veterans and members of the military.

PART 2

DISTRICT COURT MAGISTRATES

13-5-201. District court magistrates. (1) District court magistrates may be appointed, subject to available appropriations, pursuant to section 13-3-105, if approved by the chief justice of the supreme court.

(2) A district court magistrate shall be a qualified attorney-at-law admitted to practice in this state and in good standing. Nothing in this part 2 shall affect the qualifications of water referees appointed pursuant to section 37-92-203 (6), C.R.S.

(2.5) District court magistrates shall have the power to solemnize marriages pursuant to the procedures in section 14-2-109, C.R.S.

(3) District court magistrates may hear such matters as are determined by rule of the supreme court, subject to the provision that no magistrate may preside in any trial by jury.

(3.5) District court magistrates shall have the power to preside over matters specified in section 13-17.5-105.

(4) For purposes of this part 2, the Denver probate court shall be regarded as a district court.

PART 3

FAMILY LAW MAGISTRATES

13-5-301 to 13-5-305. (Repealed)

ARTICLE 5.5

Commissions on Judicial
Performance

13-5.5-101. Legislative declaration. (1) The general assembly hereby finds and declares that it is in the public interest to establish a system of evaluating judicial performance to provide persons voting on the retention of justices and judges with fair, responsible, and constructive information about judicial performance and to provide justices and judges with useful information concerning their own performances. The general assembly further finds and declares that the evaluation of judicial performance should be conducted statewide and within each judicial district using uniform criteria and procedures pursuant to the provisions of this article.

(2) The general assembly further finds and declares that it is in the public interest to establish an office of judicial performance evaluation within the judicial department of the state to implement the provisions of this article.

13-5.5-101.5. Office of judicial performance evaluation. (1) There is hereby established in the judicial department the office of judicial performance evaluation, referred to in this article as the "office". The state commission on judicial performance established pursuant to section 13-5.5-102 shall oversee the office.

(2) The state commission shall appoint an executive director of the office who shall serve at the pleasure of the state commission. The compensation of the executive director shall be the same as the general assembly establishes for a judge of the district court. The compensation paid to the executive director shall not be reduced during the time that a person serves as executive director. The executive director shall hire additional staff for the office as necessary and as approved by the state commission.

(3) Subject to the supervision of the state commission, the office shall:

(a) Staff the state and district commissions when directed to do so by the state commission;

(b) Train members of the state and district commissions;

(c) Collect and disseminate data on judicial performance evaluations;

(d) Conduct public education efforts concerning the judicial performance evaluation process and retention recommendations of the state and district commissions;

(e) Measure public awareness of the judicial performance evaluation process through regular polling; and

(f) Complete other duties as assigned by the state commission.

(4) Expenses of the office shall be paid for from the state commission on judicial performance cash fund created pursuant to section 13-5.5-107.

13-5.5-102. State commission on judicial performance - repeal. (1) (a) (I) (A) There is hereby established the state commission on judicial performance, referred to in this article as the "state commission". The state commission shall consist of ten members. The speaker of the house of representatives and the president of the senate shall each appoint one attorney and one nonattorney. The governor and the chief justice of the supreme court shall each appoint one attorney and two nonattorneys.

(B) For purposes of this subsection (1), "attorney" means a person admitted to practice law before the courts of this state.

(II) (A) All members of the state commission shall serve terms of four years. The term of each member of the state commission shall expire on November 30 of an odd-numbered year, and the term of a member appointed to replace a member at the end of the member's term shall commence on December 1 of the year in which the previous member's term expires.

(B) The term of each member serving as of January 1, 2009, shall be extended until November 30 of the odd-numbered year following the completion of that member's term. This sub-subparagraph (B) is repealed, effective July 1, 2014.

(b) (I) Any vacancy on the state commission shall be filled by the original appointing authority, but a member shall not serve more than two full terms plus any balance remaining on an unexpired term if the initial appointment was to fill a vacancy. Within five days after a vacancy arises on the state commission, the state commission shall notify the appointing authority of the vacancy, and the appointing authority shall make an appointment within forty-five days after the date of the vacancy. If the original appointing authority fails to make the appointment within forty-five days after the date of the vacancy, the state commission shall make the appointment.

(II) Justices and judges actively performing judicial duties may not be appointed to serve on the state commission. Former justices and judges are eligible to be appointed as attorney members; except that a former justice or judge may not be assigned or appointed to perform judicial duties while serving on the state commission.

(c) The chair of the state commission shall be elected by its members every two years.

(2) Members and employees of the state commission shall be immune from suit in any action, civil or criminal, based upon official acts performed in good faith as members of the state commission.

(3) A member of the state commission shall recuse himself or herself from any evaluation of the person who appointed the member to the commission.

13-5.5-103. Powers and duties of the state commission. (1) In addition to other powers conferred and duties imposed upon the state commission by this article, the state

commission has the following powers and duties:

(a) To appoint and supervise a person to serve as the executive director of the office of judicial performance evaluation;

(b) To assist the executive director in managing the office and providing fiscal oversight of the operating budget of the office;

(c) To develop uniform procedures and techniques for evaluating district and county judges, justices of the Colorado supreme court, and judges of the court of appeals based on performance criteria provided in section 13-5.5-105.5;

(d) To develop guidelines and procedures for the continuous collection of data for use in the evaluation process;

(e) To develop surveys for persons affected by justices and judges, including but not limited to attorneys, jurors, litigants, law enforcement personnel, attorneys within the district attorneys' and public defender's offices, employees of the court, court interpreters, employees of probation offices, employees of local departments of social services, and victims of crimes, as defined in section 24-4.1-302 (5), C.R.S.;

(f) To determine the statistical validity of completed surveys, report to the district commissions on the statistical validity of the surveys for their districts, and specify when and how statistically invalid surveys may be used;

(g) To prepare alternatives to surveys where sample populations are inadequate to produce valid results;

(h) To produce and distribute narratives and survey reports;

(i) To review case management data and statistics for individual appellate justices and judges provided by the state court administrator;

(j) To review written judicial opinions;

(k) To collect information from direct courtroom observation;

(l) To interview justices and appellate judges and other persons and accept information and documentation from interested persons;

(m) To draft narratives that reflect the results of judicial performance evaluations of justices and appellate judges;

(n) To distribute to the public narratives that reflect the results of each judicial performance evaluation of each appellate justice or judge;

(o) (I) Subject to approval by the Colorado supreme court, to promulgate rules necessary to implement and effectuate the provisions of this article, including rules to be followed by the district commissions.

(II) Prior to the final promulgation of any rule pursuant to this paragraph (o), the state commission shall post a notice of the proposed rule, allow for a period for public comment, and give the public an opportunity to address the commission concerning the proposed rule at a public hearing.

(III) The state commission may adopt rules or standards that provide guidance to members of the state commission or members of district commissions regarding the

review or interpretation of information obtained as a result of the evaluation process and the criteria contained in section 13-5.5-105.5. Any such rules or standards shall:

(A) Be consistent with paragraphs (e), (f), and (g) of this subsection (1), in that the rules or standards and the application thereof shall take into consideration the statistical reliability of survey data; and

(B) Not divest any member of the state commission or a district commission of his or her ultimate authority to decide whether to vote for or against recommending retention of a justice or judge and be consistent with subsection (2) of this section and section 13-5.5-105 (2).

(p) To develop procedures for the review of the deliberation procedures established by the district commissions. However, the state commission shall not have the power or duty to review actual determinations made by the district commissions.

(q) To gather and maintain statewide statistical data and post a statistical report of the statewide data on its web site no later than thirty days prior to each retention election. The statistical report shall specify:

(I) The total number of justices and judges who were eligible to stand for retention;

(II) The total number of evaluations of justices and judges performed by the state and district commissions;

(III) The total number of justices and judges who were evaluated but did not stand for retention; and

(IV) The total number of justices and judges recommended as "retain", "do not retain", or "no opinion", respectively.

(2) Unless recused pursuant to a provision of this article, each member of the state commission shall have the discretion to vote for or against retention of a justice or judge based upon his or her review of all information before the state commission.

13-5.5-104. District commission on judicial performance. (1) (a) (I) (A) There is hereby established in each judicial district a district commission on judicial performance, referred to in this article as the "district commission". The district commission shall consist of ten members. The speaker of the house of representatives and the president of the senate shall each appoint one attorney and one nonattorney. The governor and the chief justice of the supreme court shall each appoint one attorney and two nonattorneys.

(B) For purposes of this subsection (1), "attorney" means a person admitted to practice law before the courts of this state.

(II) All members of the district commission shall serve terms of four years. The term of each member of a district commission shall expire on November 30 of an odd-numbered year, and the term of any member appointed to replace a member at the end of

the member's term shall commence on December 1 of the year when the previous member's term expires.

(III) The appointing authority may remove members of the district commissions for cause.

(b) (I) Any vacancy on the district commission shall be filled by the original appointing authority, but a member shall not serve more than two full terms plus any balance remaining on an unexpired term if the initial appointment was to fill a vacancy. Within five days after a vacancy arises on a district commission, the district commission shall notify the appointing authority and the state commission of the vacancy, and the appointing authority shall make an appointment within forty-five days after the date of the vacancy. If the original appointing authority fails to make the appointment within forty-five days after the date of the vacancy, the state commission shall make the appointment.

(II) Justices and judges actively performing judicial duties may not be appointed to serve on the district commission. Former justices and judges are eligible to be appointed as attorney members; except that a former justice or judge may not be assigned or appointed to perform judicial duties while serving on the district commission.

(c) The chair of the district commission shall be elected by its members every two years.

(2) The district administrator of each judicial district and his or her staff shall serve as the staff for the district commission.

(3) Members and employees of a district commission shall be immune from suit in any action, civil or criminal, based upon official acts performed in good faith as members of the district commission.

(4) A member of a district commission shall recuse himself or herself from an evaluation of the person who appointed the member to the commission.

13-5.5-105. Powers and duties of district commissions. (1) In addition to other powers conferred and duties imposed upon a district commission by this article, in conformity with the rules, guidelines, and procedures adopted by the state commission pursuant to section 13-5.5-103 (1) (f) and the state commission's review of the deliberation procedures pursuant to section 13-5.5-103 (1) (p), a district commission has the following powers and duties:

(a) To review case management statistics and data for individual district and county court judges provided by the state court administrator;

(b) To review written judicial opinions and orders of district and county court judges within the judicial district;

(c) To collect information from direct courtroom observation of district and county court judges within the judicial district;

(d) To interview district and county court judges and other persons and accept

information and documentation from interested persons;

(e) To obtain information from parties and attorneys regarding district and county court judges' handling of domestic relations and family law cases with respect to the judges' fairness, patience with pro se parties, gender neutrality, and handling of emotional parties; and

(f) To draft narratives that reflect the results of judicial performance evaluations of district and county court judges.

(2) Unless recused pursuant to a provision of this article, each member of a district commission shall have the discretion to vote for or against retention of a district or county judge based upon his or her review of all information before the district commission.

(3) Upon completing its required recommendations and narratives, each district commission shall collect all documents and other information, including all copies, received regarding the justices or judges evaluated. Each district commission shall forward the documents and other information, including all copies, to the state commission within thirty days following submission of the district commission's recommendations and narratives to the state commission. The state commission shall adopt rules regarding retention of evaluation information, which shall be made available to district commissions for subsequent evaluations of the justices or judges.

13-5.5-105.5. Judicial performance criteria. (1) The state commission shall evaluate each justice of the Colorado supreme court and each judge of the Colorado court of appeals based on the following performance criteria:

(a) Integrity, including but not limited to whether:

(I) The justice or judge avoids impropriety or the appearance of impropriety;

(II) The justice or judge displays fairness and impartiality toward all participants; and

(III) The justice or judge avoids ex parte communications;

(b) Legal knowledge, including but not limited to whether:

(I) The justice's or judge's opinions are well-reasoned and demonstrate an understanding of substantive law and the relevant rules of procedure and evidence;

(II) The justice's or judge's opinions demonstrate attentiveness to factual and legal issues before the court; and

(III) The justice's or judge's opinions adhere to precedent or clearly explain the legal basis for departure from precedent;

(c) Communication skills, including but not limited to whether:

(I) The justice's or judge's opinions are clearly written and understandable; and

(II) The justice's or judge's questions or statements during oral arguments are clearly stated and understandable;

(d) Judicial temperament, including but not limited to whether:

(I) The justice or judge demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom; and

(II) The justice or judge maintains appropriate decorum in the courtroom;

(e) Administrative performance, including but not limited to whether:

(I) The justice or judge demonstrates preparation for oral argument, attentiveness, and appropriate control over judicial proceedings;

(II) The justice or judge manages workload effectively;

(III) The justice or judge issues opinions in a timely manner and without unnecessary delay; and

(IV) The justice or judge participates in a proportionate share of the court's workload; and

(f) Service to the legal profession and the public by participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system.

(2) The district commissions shall evaluate district and county judges based on the following criteria:

(a) Integrity, including but not limited to whether:

(I) The judge avoids impropriety or the appearance of impropriety;

(II) The judge displays fairness and impartiality toward all participants; and

(III) The judge avoids ex parte communications;

(b) Legal knowledge, including but not limited to whether:

(I) The judge demonstrates an understanding of substantive law and relevant rules of procedure and evidence;

(II) The judge demonstrates awareness of and attentiveness to factual and legal issues before the court; and

(III) The judge appropriately applies statutes, judicial precedent, and other sources of legal authority;

(c) Communication skills, including but not limited to whether:

(I) The judge's findings of fact, conclusions of law, and orders are clearly written and understandable;

(II) The judge's oral presentations are clearly stated and understandable and the judge clearly explains all oral decisions; and

(III) The judge clearly presents information to the jury;

(d) Judicial temperament, including but not limited to whether:

(I) The judge demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom;

(II) The judge maintains and requires order, punctuality, and decorum in the courtroom; and

(III) The judge demonstrates appropriate demeanor on the bench;

(e) Administrative performance, including but not limited to whether:

(I) The judge demonstrates preparation for all hearings and trials;

(II) The judge uses court time efficiently;

(III) The judge issues findings of fact, conclusions of law, and orders without unnecessary delay;

(IV) The judge effectively manages cases;

(V) The judge takes responsibility for more than his or her own caseload and is willing to assist other judges; and

(VI) The judge understands and complies with directives of the Colorado supreme court; and

(f) Service to the legal profession and the public by participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system.

13-5.5-106. Evaluation in retention election years. (1) (a) (I) The state commission shall conduct an evaluation of each justice of the supreme court and each judge of the court of appeals whose term is to expire and who must stand for retention election. The evaluations shall be referred to in this subsection (1) as "retention year evaluations".

(II) Retention year evaluations shall be completed and the narrative prepared and communicated to the appellate justice or judge no later than forty-five days prior to the last day available for the appellate justice or judge to declare such justice's or judge's intent to stand for retention.

(III) Prior to the completion of the narratives for retention year evaluations, and following at least ten days' notice to the public and the appellate justices and judges, it is highly recommended that the state commission hold a public hearing regarding all appellate justices and judges who are subject to retention year evaluations. The state commission shall arrange to have the public hearing electronically recorded and shall make copies of the recording available to members of the public. The state commission shall supply a copy of the recording at no cost to any justice or judge who is the subject of the hearing.

(IV) The narrative prepared for a retention year evaluation shall include an assessment of the appellate justice's or judge's strengths and weaknesses with respect to the judicial performance criteria contained in section 13-5.5-105.5 (1), a discussion regarding any deficiency identified in the interim evaluation prepared pursuant to section 13-5.5-106.3, and a statement of whether the state commission concludes that any deficiency identified has been satisfactorily addressed by the justice or judge.

(V) Each appellate justice or judge who receives a retention year evaluation shall have the opportunity to meet with the state commission or otherwise respond to the evaluation no later than ten days following the justice's or judge's receipt of the

evaluation. If the meeting is held or response is made, the state commission may revise its evaluation.

(b) After the requirements of paragraph (a) of this subsection (1) are met, the state commission shall make a recommendation regarding the retention of each appellate justice or judge who declares his or her intent to stand for retention, which recommendation shall be stated as "retain", "do not retain", or "no opinion". A "no opinion" recommendation shall be made only when the state commission concludes that results are not sufficiently clear to make a firm recommendation and shall be accompanied by a detailed explanation. The narrative shall include the number of commission members who voted for and against the recommendation.

(c) The state commission shall release the narrative, the recommendation, and any other relevant information related to a retention year evaluation to the public no later than forty-five days prior to the retention election. The state commission shall arrange to have the narrative and recommendation printed in the ballot information booklet prepared pursuant to section 1-40-124.5, C.R.S., and mailed to electors pursuant to section 1-40-125, C.R.S.

(2) (a) (I) The district commission shall conduct an evaluation of each district and county judge whose term is to expire and who must stand for retention election. The evaluations shall be referred to in this subsection (2) as "retention year evaluations".

(II) Retention year evaluations shall be completed and the narrative communicated to each judge no later than forty-five days prior to the last day available for the judge to declare the judge's intent to stand for retention.

(III) Prior to the completion of narratives for retention year evaluations, and following at least ten days' notice to the public and the district and county judges, it is highly recommended that the district commission conduct a public hearing regarding all district and county judges who are subject to retention year evaluations. The district commission shall arrange to have the public hearing electronically recorded and shall make copies of the recording available to members of the public. The district commission shall supply a copy of the recording at no cost to any judge who is the subject of the hearing.

(IV) The narrative prepared for a retention year evaluation shall include an assessment of the district or county judge's strengths and weaknesses with respect to the judicial performance criteria contained in section 13-5.5-105.5 (2), a discussion regarding any deficiency identified in the interim evaluation prepared pursuant to section 13-5.5-106.3, and a statement of whether the district commission concludes that any deficiency identified has been satisfactorily addressed by the judge.

(V) Each judge who receives a retention year evaluation shall have the opportunity to meet with the district commission or otherwise respond to the evaluation no later than ten days following the judge's receipt of the evaluation. If the meeting is held or response is made, the district commission may revise its evaluation.

(b) After the requirements of paragraph (a) of this subsection (2) are met, the district commission shall make a recommendation regarding the retention of each district or county judge who declares his or her intent to stand for retention, which recommendation shall be stated as "retain", "do not retain", or "no opinion". A "no opinion" recommendation shall be made only when the district commission concludes that results are not sufficiently clear to make a firm recommendation and shall be accompanied by a detailed explanation. The narrative shall include the number of commission members who voted for and against the recommendation.

(c) The state commission shall release the narrative, the recommendation, and any other relevant information to the public no later than forty-five days prior to the retention election. The state commission shall arrange to have a summary of the narrative and recommendation printed in the ballot information booklet prepared pursuant to section 1-40-124.5, C.R.S., and mailed to electors within the judicial district pursuant to section 1-40-125, C.R.S.

(3) Repealed.

13-5.5-106.3. Interim evaluations. (1) (a) During each full term of office of each Colorado supreme court justice and each judge of the court of appeals, the state commission shall conduct at least one interim evaluation of each justice and each judge. The evaluations shall be referred to in this subsection (1) as "interim evaluations".

(b) Interim evaluations shall be completed and communicated to the chief justice of the Colorado supreme court or the chief judge of the court of appeals and the appellate justice or judge being evaluated.

(c) Each appellate justice or judge who receives an interim evaluation shall have the opportunity to meet with the state commission or otherwise respond to the evaluation no later than ten days following the justice's or judge's receipt of the evaluation. If the meeting is held or response is made, the state commission may revise its evaluation.

(d) The state commission shall release the survey evaluations related to interim evaluations to the public simultaneously with, and no earlier than, the release of the retention year evaluations pursuant to section 13-5.5-106 (1) (c) prepared for that year.

(2) (a) During each full term of office of each district judge and county judge, the district commission shall conduct at least one interim evaluation of each district judge and county judge. The evaluations shall be referred to in this subsection (2) as "interim evaluations".

(b) Interim evaluations shall be completed and communicated to the chief judge of the district and to the district or county judge being evaluated.

(c) Each district or county judge who receives an interim evaluation shall have the opportunity to meet with the district commission or otherwise respond to the evaluation no later than ten days following the judge's receipt of the evaluation. If the meeting is

held or response is made, the district commission may revise its evaluation.

(d) The state commission shall release the survey evaluations related to interim evaluations to the public simultaneously with, and no earlier than, the release of the retention year evaluations prepared for that year.

13-5.5-106.4. Recusal. (1) A member of the state commission or a district commission shall disclose to the commission any professional or personal relationship with a justice or judge that may affect an unbiased evaluation of the justice or judge, including involvement with any litigation involving the justice or judge and the member, the member's family, or the member's financial interests. The state commission or a district commission may require the recusal of one of its members on account of a relationship with a justice or judge upon a two-thirds vote of the other members of the commission.

(2) A member of the state commission or a district commission shall recuse himself or herself from participating in the consideration and vote on any matter involving the evaluation of a justice or judge for failure to meet the training, courtroom observation, interview, or opinion review responsibilities provided by rule, unless excused by a two-thirds vote of the other members of the commission.

(3) An attorney serving as a member of the state commission or a district commission shall not request that a justice or judge being evaluated by the commission be recused from hearing a case in which the attorney appears as counsel of record, or request permission to withdraw from a case pending before a justice or judge being evaluated, solely on the basis that the attorney is serving as a member of a commission.

(4) An attorney who appears in a matter where opposing counsel or a witness serves as a member of the state commission or a district commission that is evaluating the justice or judge before whom the matter is set may not seek withdrawal of the attorney, exclusion of the witness, or recusal of the justice or judge solely on the basis that the opposing counsel or witness is serving as a member of a commission.

(5) A justice or judge being evaluated by the state commission or a district commission may not recuse himself or herself from a case solely on the basis that an attorney, party, or witness is a member of the commission, nor should a justice or judge grant an attorney's request to withdraw from a case, solely on the basis that the attorney, party, or witness is serving as a member of a commission.

13-5.5-106.5. Confidentiality. (1) Except as provided in subsection (3) of this section, all comments in survey reports, self-evaluations, personal information protected under section 24-72-204 (3) (a) (II), C.R.S., additional oral or written information, content of improvement plans, and any matter discussed in executive session shall remain

confidential except as otherwise specifically provided by rule. Comments in survey reports may be summarized for use in a narrative. A member of a commission shall not publicly discuss the evaluation of any particular justice or judge.

(2) Except as provided in subsection (3) of this section, all recommendations, narratives, and survey reports are confidential until released to the public on the first day following the deadline for justices and judges to declare their intent to stand for retention. Any comments included in the report shall be made available only to members of the commissions, the justice or judge being evaluated, and the chief justice or chief judge.

(3) Information required to be kept confidential pursuant to this article may be released only under the following circumstances:

(a) To the supreme court attorney regulation committee, as provided by rule of the state commission;

(b) To the commission on judicial discipline, as provided by rule of the state commission; or

(c) With the consent of the justice or judge being evaluated.

13-5.5-107. Acceptance of private or federal grants - general appropriations. (1) The state commission is authorized to accept any grants of federal or private funds made available for any purpose consistent with the provisions of this article. Any funds received pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the state commission on judicial performance cash fund, which is hereby created and referred to in this section as the "fund". The fund shall also include the amount of the increases in docket fees collected pursuant to sections 13-32-105 (1) and 42-4-1710 (4) (a), C.R.S. Any interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. Moneys in the fund may be expended by the state commission, subject to annual appropriation by the general assembly, for the purposes of this article. In addition, the general assembly may make annual appropriations from the general fund for the purposes of this article.

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, on April 20, 2009, the state treasurer shall deduct nine hundred thousand dollars from the fund and transfer such sum to the general fund.

13-5.5-108. Implementation of article. (Repealed)

13-5.5-109. Repeal of article. (1) This article is repealed, effective June 30,

2019.

(2) Repealed.

ARTICLE 6

County Courts

PART 1

ESTABLISHMENT AND JURISDICTION

13-6-101. Establishment. Pursuant to the provisions of section 1 of article VI of the Colorado constitution, there is hereby established in each county of the state of Colorado a county court.

13-6-102. Court of record. Each county court shall be a court of record, with such powers as are inherent in constitutionally created courts.

13-6-103. Statewide jurisdiction. The jurisdiction of the county court shall extend to all cases which arise within the boundaries of this state or are subject to its judicial power and which are within the limitations imposed by this article, but the exercise of this jurisdiction is subject to restrictions of venue as established by this article or, if there are none, by rule of the Colorado supreme court.

13-6-104. Original civil jurisdiction. (1) On and after January 1, 1991, the county court shall have concurrent original jurisdiction with the district court in civil actions, suits, and proceedings in which the debt, damage, or value of the personal property claimed does not exceed fifteen thousand dollars, including by way of further example, and not limitation, jurisdiction to hear and determine actions in tort and assess damages therein not to exceed fifteen thousand dollars. The county court shall also have jurisdiction of counterclaims in all such actions when the counterclaim does not exceed fifteen thousand dollars.

(2) The county court shall have concurrent original jurisdiction with the district court in actions to foreclose liens pursuant to article 20 of title 38, C.R.S., and in cases of forcible entry, forcible detainer, or unlawful detainer, except when such cases involve the boundary or title to real property and except as provided in section 13-40-109. Judgment

in the county court for rent, damages on account of unlawful detention, damages for injury to property, and damages incurred under article 20 of title 38, C.R.S., under this subsection (2) shall not exceed a total of fifteen thousand dollars, exclusive of costs and attorney fees, nor shall the county court on and after January 1, 1991, have jurisdiction if the monthly rental value of the property exceeds fifteen thousand dollars.

(3) The county court shall have concurrent original jurisdiction with the district court in petitions for change of name.

(4) Repealed.

(5) The county court shall have concurrent original jurisdiction with the district court to issue temporary and permanent civil restraining orders as provided in article 14 of this title.

(6) (Deleted by amendment, L. 99, p. 501, § 5, effective July 1, 1999.)

(7) The county court shall have concurrent original jurisdiction with the district court to hear actions brought pursuant to section 25-8-607, C.R.S.

(8) The county court shall have original jurisdiction in hearings concerning the impoundment of motor vehicles pursuant to section 42-13-106, C.R.S.

(9) (Deleted by amendment, L. 99, p. 501, § 5, effective July 1, 1999.)

13-6-105. Specific limits on civil jurisdiction. (1) The county court shall have no civil jurisdiction except that specifically conferred upon it by law. In particular, it shall have no jurisdiction over the following matters:

(a) Matters of probate;

(b) Matters of mental health, including commitment, restoration to competence, and the appointment of conservators;

(c) Matters of dissolution of marriage, declaration of invalidity of marriage, and legal separation;

(d) Matters affecting children, including the allocation of parental responsibilities, support, guardianship, adoption, dependency, or delinquency;

(e) Matters affecting boundaries or title to real property;

(f) Original proceedings for the issuance of injunctions, except as provided in section 13-6-104 (5), except as required to enforce restrictive covenants on residential property and to enforce the provisions of section 6-1-702.5, C.R.S., and except as otherwise specifically authorized in this article or, if there is no authorization, by rule of the Colorado supreme court.

(2) Any powers or duties previously placed in the county court by law in connection with any of the matters excluded from the jurisdiction of the county court by this section are transferred to the district court or, if within their jurisdiction, to the probate court of the city and county of Denver or the juvenile court of the city and county of Denver, and the statutes relating thereto shall be so construed.

(3) Nothing in this section shall be deemed to prevent the appointment of county judges as magistrates in juvenile matters or as magistrates in mental health and other matters. Appointments of county judges as magistrates in mental health and other matters are authorized, and, when so appointed by the district judge, the county judge shall serve as a district court officer for the designated purposes.

13-6-106. Original criminal jurisdiction. (1) The county court shall have concurrent original jurisdiction with the district court in the following criminal matters:

(a) Criminal actions for the violation of state laws which constitute misdemeanors or petty offenses, except those actions involving children over which the juvenile court of the city and county of Denver or the district courts of the state, other than in Denver, have exclusive jurisdiction;

(b) The issuance of warrants, the conduct of preliminary examinations, the conduct of dispositional hearings pursuant to section 16-5-301 (1), C.R.S., and section 18-1-404 (1), C.R.S., the issuance of bindover orders, and the admission to bail in felonies and misdemeanors.

(2) The provisions of subsection (1) (b) of this section shall not apply to any child under the age of eighteen years alleged to have committed a felony, except a crime of violence punishable by death or life imprisonment where the accused is sixteen years of age or older.

13-6-107. Restraining orders to prevent emotional abuse of the elderly. (Repealed)

PART 2

JUDGES AND OTHER PERSONNEL

13-6-201. Classification of counties. (1) For such organizational and administrative purposes concerning county courts as are specified in this part 2, counties shall be classified as provided in subsection (2) of this section. The classifications established in this section shall not have any effect upon any classifications now provided by law for any other purpose and specifically shall have no effect upon the existing classification of counties for the purpose of fixing judicial salaries for county judges as provided by section 13-30-103.

(2) Classes of counties for this part 2 are:

(a) Class A. Class A shall consist of the city and county of Denver.

(b) Class B. Class B shall consist of the counties of Adams, Arapahoe, Boulder,

Douglas, Eagle, El Paso, Fremont, Jefferson, La Plata, Larimer, Mesa, Montrose, Pueblo, Summit, Weld, and the city and county of Broomfield.

(c) Class C. Class C shall consist of the counties of Alamosa, Delta, Garfield, Las Animas, Logan, Montezuma, Morgan, Otero, Prowers, and Rio Grande.

(d) Class D. Class D shall consist of the counties of Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Dolores, Elbert, Gilpin, Grand, Gunnison, Jackson, Hinsdale, Huerfano, Kiowa, Kit Carson, Lake, Lincoln, Mineral, Moffat, Ouray, Park, Phillips, Pitkin, Saguache, San Juan, San Miguel, Sedgwick, Rio Blanco, Routt, Teller, Washington, and Yuma.

13-6-202. Number of judges. (1) In each county there shall be one county judge; except that: In the county of El Paso, there shall be eight county judges; in each of the counties of Arapahoe and Jefferson, there shall be seven county judges; in the county of Adams, there shall be six county judges; in the county of Boulder, there shall be five county judges; in each of the counties of Larimer and Weld, there shall be four county judges; in each of the counties of Pueblo, Douglas, and Mesa, there shall be three county judges; and, in the city and county of Denver, there shall be the number of county judges provided by the charter and ordinances thereof. In the city and county of Broomfield, there shall be one county judge. One of the county judges in Boulder county shall maintain a courtroom in the city of Longmont at least three days per week. The judge of the Eagle county court shall conduct court business in that portion of Eagle county lying in the Roaring Fork river drainage area in a manner sufficient to deal with the business before the court.

(2) (a) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Jefferson shall be eight.

(b) Subject to available appropriations, effective July 1, 2009, the number of county judges in the county of Jefferson shall be nine.

(3) (a) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of El Paso shall be nine.

(b) Subject to available appropriations, effective July 1, 2009, the number of county judges in the county of El Paso shall be ten.

(4) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Larimer shall be five.

(5) (a) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Adams shall be seven.

(b) Subject to available appropriations, effective July 1, 2009, the number of county judges in the county of Adams shall be eight.

(6) Subject to available appropriations, effective July 1, 2008, the number of county judges in the county of Arapahoe shall be eight.

13-6-203. Qualifications of judges. (1) The county judge shall be a qualified elector of the county for which he is elected or appointed and shall reside there so long as he serves as county judge.

(2) In counties of Class A and B, no person shall be eligible for election or appointment to the office of county judge unless he has been admitted to the practice of law in Colorado.

(3) In counties of Class C and Class D, no person shall be eligible for appointment to the office of county judge unless he has graduated from high school or has attained the equivalent of a high school education as indicated by the possession of a certificate of equivalency issued by the department of education, based upon the record made on the general educational development test.

(4) Repealed.

(5) Judges-elect who have not been admitted to the practice of law shall not take office for the first time as county judge until they have attended an institute on the duties and functioning of the county court to be held under the supervision of the supreme court, unless such attendance is waived by the supreme court. Judges who are attorneys and who are taking office for the first time as county judge may attend this institute if they wish. All judges are entitled to their actual and necessary expenses while attending this institute. The supreme court shall establish the institute to which this subsection (5) refers and shall provide that it be held when the appointment of a sufficient number of nonlawyer county judges warrants, as determined by the chief justice.

13-6-204. Activities of judges. (1) In counties of Class A and B, county judges shall devote their full time to judicial duties and shall not engage in the private practice of law. They may also serve as municipal judges in counties of Class A but may not do so in counties of Class B.

(2) In counties of Class C and D, county judges, if admitted to the bar, may engage in the private practice of law in courts other than the county court and in matters which have not and will not come before the county court and may serve as municipal judges.

(3) County judges of any class county may be appointed as magistrates in juvenile matters and as magistrates for the district court in mental health matters and shall receive no additional compensation for such service. County judges may accept appointment as magistrates in any other matter, and for such service a county judge is entitled to such compensation as the appointing district judge may allow, payable from funds provided under sections 13-3-104 and 13-3-106.

13-6-205. Term and appointment of judges. The term of office of county judges shall be four years. County judge appointments shall be made pursuant to section 20 of article VI of the state constitution. This section shall not apply to the city and county of Denver, and the term of office and manner of selection of county judges therein shall be determined by the charter and ordinances thereof.

13-6-206. Vacancies. If the office of a county judge, except in the city and county of Denver, becomes vacant because of death, resignation, failure to be retained in office pursuant to section 25 of article VI of the state constitution, or other cause, the governor, as provided in section 20 of article VI of the state constitution, shall appoint an individual possessing the qualifications specified in section 13-6-203.

13-6-207. Bond. (Repealed)

13-6-208. Special associate, associate, and assistant county judges. (1) In order to provide for the expeditious handling of county court business and for county court sessions in population centers which are not county seats, there may be created in counties designated by law the positions of special associate county judge, associate county judge, and assistant county judge.

(2) Special associate, associate, and assistant county judges, when so provided by law, except in the city and county of Denver, shall be elected or appointed at the same time, in the same manner, and for the same term, and shall possess the same qualifications, as the county judges of their respective counties. Vacancies in positions for special associate, associate, and assistant county judges shall be filled in the same manner as a vacancy in the office of county judge.

(3) The location of the official residence and court chambers for the purpose of holding court of special associate, associate, and assistant county judges shall be as prescribed by law. Travel and maintenance expenses shall be allowed special associate, associate, and assistant county judges only when they are performing official duties outside of their official places of residence.

(4) Special associate, associate, and assistant county judges when actually performing judicial duties shall have all the jurisdiction and power of a county judge, and their orders and judgments shall be those of the county court.

(5) Repealed.

(6) Special associate, associate, and assistant county judges in counties of Classes B, C, and D, if admitted to the bar, may engage in the private practice of law in courts other than the county court and in matters which have not and will not come before the

county court, and may serve as municipal judges.

13-6-209. Special associate and associate county judges - designated counties. (1) In the county of Montrose there shall be an associate county judge who shall maintain his or her official residence in Montrose county and court chambers in that portion of Montrose county that is included in the southwestern water conservation district as set forth and described in section 37-47-103, C.R.S.

(2) In the county of Garfield there shall be a special associate county judge who shall maintain his official residence and court chambers in the city of Rifle.

(3) In the county of Rio Blanco there shall be an associate county judge who shall maintain his official residence and court chambers in the city of Rangely.

(4) Repealed.

13-6-210. Assistant county judges - designated counties. (Repealed)

13-6-211. Appointment of clerk. (1) (a) The position of clerk of the county court is established in counties of Classes A, B, C, and D, except as otherwise provided in this section and in section 13-3-107.

(b) In counties of Class A, the appointment of the clerk shall be made and his salary fixed as prescribed in the charter and ordinances of such county.

(c) In counties of Classes B, C, and D, the appointment and salary of the clerk shall be in accordance with the provisions of section 13-3-105.

(2) In such counties as may be determined by the chief justice, the functions of the office of the clerk of the county court may be performed by a consolidated office serving both the district and county courts, as provided in section 13-3-107.

(3) In any county in which there is no clerk of the county court provided pursuant to the provisions of section 13-3-105, the judge of the county court shall act as ex officio clerk without further compensation and have all the duties and powers of the clerk.

13-6-212. Duties of clerk. (1) The powers and duties of the clerk of the county court shall be similar to the powers and duties of the clerk of the district court exclusive of the powers of the district court clerk in probate and shall include such duties as may be assigned to him by law, by court rules, and by the county judge.

(2) Upon approval by the chief justice of the supreme court, the chief judge of a judicial district may authorize, either generally or in specific cases, the clerk of the county court to do the following:

(a) Issue bench warrants, misdemeanor or felony warrants, and writs of restitution upon written or oral order of a judge;

(b) Advise defendants in criminal cases of their procedural and constitutional rights;

(c) Accept pleas of not guilty in all criminal cases and set dates for hearings or trials in such cases;

(d) Subject to the requirements of the Colorado rules of civil procedure, enter default and default judgments and issue process for the enforcement of said judgments;

(e) Under the direction of a judge, grant continuances, set motions for hearing, and set cases for trial; and

(f) With the consent of the defendant, accept pleas of guilty and admissions of liability and impose penalties pursuant to a schedule approved by the presiding judge in misdemeanor cases involving violations of wildlife and parks and outdoor recreation laws for which the maximum penalty in each case is a fine of not more than one thousand dollars, and in misdemeanor traffic and traffic infraction cases involving the regulation of vehicles and traffic for which the penalty specified in section 42-4-1701, C.R.S., or elsewhere in articles 2 to 4 of title 42, C.R.S., in each case is less than three hundred dollars. A clerk shall not levy a fine of over said amounts nor sentence any person to jail. If, in the judgment of the clerk, a fine of over said amounts or a jail sentence is justified, the case shall be certified to the judge of the county court for rearraignment and trial de novo.

13-6-213. Bond of clerk. (Repealed)

13-6-214. Other employees. (1) In counties of Class A, such deputy clerks, assistants, reporters, stenographers, and bailiffs as shall be necessary for the transaction of the business of the county court may be appointed and their compensation fixed in the manner provided in the charter and ordinances thereof.

(2) In counties of Classes B, C, and D, there shall be appointed such deputy clerks, assistants, reporters, stenographers, and bailiffs as are necessary, in accordance with the provisions of section 13-3-105.

13-6-215. Presiding judges. In each county court which has more than one county judge, the court, by rule, shall provide for the designation of a presiding judge. If there is a failure to select a presiding judge by rule, the chief justice shall designate a presiding judge.

13-6-216. Judges to sit separately. In each county court which has more than one county judge, each judge shall sit separately for the trial of cases and the transaction of judicial business, and each court so held shall be known as the county court of the county wherein held. Each judge shall have all of the powers which he might have if he were the sole judge of the court, including the power to vacate his own judgments, decrees, or orders, or those of a predecessor when permitted by law, but not county court orders of another judge of the same county court who is still in office.

13-6-217. Judges may sit en banc. In each county court which has more than one judge, the court may sit en banc for the purpose of making rules of court, the appointment of a clerk and other employees, pursuant to section 13-3-105, and the conduct of other business relating to the administration of the court, as authorized by and subject to the approval of the chief justice of the supreme court.

13-6-218. Assignment of county judges and retired county judges to other courts authorized. Any county judge or retired county judge who has been licensed to practice law in this state for five years may be assigned by the chief justice of the supreme court, pursuant to section 5 (3) of article VI of the state constitution, to perform judicial duties in any district court, the probate court of the city and county of Denver, or the juvenile court of the city and county of Denver.

13-6-219. Judge as party to a case - recusal of judge upon motion. (1) If a judge or former judge of a county court is a party in his or her individual and private capacity in a case that is to be tried within any county court in the same judicial district in which the judge or former judge is or was a judge of a county court, any party to the case may file a timely motion requesting that the judge who is appointed to preside over the case recuse himself or herself from the case.

(2) If a county court receives a motion filed by a party pursuant to subsection (1) of this section, the judge who is appointed to preside over the case shall recuse himself or herself if he or she is a judge of a county court in the same judicial district in which the judge or former judge who is a party to the case in his or her individual and private capacity is or was a judge of a county court.

(3) If a judge recuses himself or herself pursuant to subsection (2) of this section, the chief justice of the Colorado supreme court or his or her designee shall appoint a judge from outside the judicial district to preside over the case.

PART 3

GENERAL PROCEDURAL PROVISIONS

13-6-301. Court rules. Each county court possesses the power to make rules for the conduct of its business to the extent that such rules are not in conflict with the rules of the supreme court or the laws of the state, but are supplementary thereto. In each county court which has more than one judge, or has an associate judge sitting regularly, the court shall make such rules as it deems necessary for the classification, arrangement, and distribution of the business of the court among the several judges thereof. All county court rules are subject to review by the supreme court.

13-6-302. Terms of court. Terms of the county court shall be fixed by rule of the court in each county; except that at least one term shall be held in each county in each year.

13-6-303. Place of holding court. In each county, the county court shall sit at the county seat, and the county court by rule or order also may provide for hearing and trials to be held in locations other than the county seat. In particular, if the corporate limits of a municipality extend into two counties, the county court of either county, for the hearing of matters for which venue is properly laid before them or the requirements thereof are waived, may sit at any place within such municipality without regard to the location of the county line. Where the county court sits regularly at locations other than the county seat, proper venue within the county shall be fixed by court rule.

13-6-304. Court facilities. The county commissioners shall provide court facilities at the county seat and are authorized to do so elsewhere. Such facilities may be provided by arrangement with municipal authorities, by rental, or by other appropriate means.

13-6-305. Maintenance of records. (1) Permanent records of the county court shall be maintained at the office of the clerk of the court at the county seat.

(2) (a) If the county court sits regularly at a location other than the county seat, and the court so provides by rule, cases may be docketed at such locations, and thereafter all pleadings, writs, judgments, and other documents in the case shall be filed at such other location.

(b) Repealed.

(c) In criminal cases, a single copy of items filed is sufficient. A notice of docketing of criminal cases with sufficient information to identify the defendant and the offense charged shall be forwarded forthwith to the clerk of the court at the county seat. After termination of the case, all records on file and a transcript of the judgment shall be forwarded to the county seat.

13-6-306. Seal. The county court of each county shall have an appropriate seal.

13-6-307. Process. (1) Each county court shall have the power to issue process necessary to acquire jurisdiction, to require attendance, and to enforce all orders, decrees, and judgments. Such process runs to any county within the state and, when authorized by the Colorado rules of civil procedure, may be served outside the state. Any sheriff to whom process is directed is authorized and required to execute the same, and he is entitled to the same fees as are allowed for serving like process from the district courts. Persons other than the sheriff or his deputies may also serve process from the county court when permitted by the Colorado rules of civil procedure or by law.

(2) Upon request of the court, the prosecuting county, or the defendant, the clerk of the county court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with the violation of a county ordinance. Whenever a person who is issued a subpoena pursuant to this subsection (2) fails, without good cause, to appear, the court may issue an order for the person to show cause to the court as to why the person should not be held in contempt. Following a show cause hearing, the court may make findings of fact and conclusions of law and may enter an appropriate order, which may include finding the person in contempt.

13-6-308. Juries. (1) When required, juries shall be selected and summoned as provided for courts of record in articles 71 to 74 of this title, with such exceptions as are provided in this section. With the consent of the district court and the jury commissioners, the county court may, if feasible, use the same panel of jurors summoned for the district court. Jurors selected and summoned for the county court may also be used in municipal court in counties of Class A, as defined in section 13-6-201.

(2) If a county court sits regularly in a location other than the county seat and if jury trials are held at that location as well as at the county seat, the jury commissioner may establish jury districts within the county for the selection of county court jurors. The county shall be divided into as many such districts as there are locations in which the county court regularly holds jury trials, and each district shall include one such location as

well as appropriate contiguous territory. In counties so divided, the jury commissioner shall select separate lists of persons from each jury district to serve as county court jurors within their respective districts. Such lists shall contain not less than one hundred names. When jurors are to be summoned for county court service within such districts, names shall be drawn from the list by the jury commissioner. In all other respects, the provisions of articles 71 to 74 of this title shall be followed in selecting, drawing, and summoning jurors in counties divided into county court jury districts.

13-6-309. Verbatim record of proceedings. A verbatim record of the proceedings and evidence at trials in the county court shall be maintained by electronic devices or by stenographic means, as the judge of the court may direct, except when such record may be unnecessary in certain proceedings pursuant to specific provisions of law.

13-6-309.5. Traffic violations bureau - schedule of traffic offenses and fines or penalties - method of payment - effect of payment. (Repealed)

13-6-310. Appeals from county court. (1) Appeals from final judgments and decrees of the county courts shall be taken to the district court for the judicial district in which the county court entering such judgment is located. Appeals shall be based upon the record made in the county court.

(2) The district court shall review the case on the record on appeal and affirm, reverse, remand, or modify the judgment; except that the district court, in its discretion, may remand the case for a new trial with such instructions as it may deem necessary, or it may direct that the case be tried de novo before the district court.

(3) Repealed.

(4) Further appeal to the supreme court from a determination of the district court in a matter appealed to such court from the county court may be made only upon writ of certiorari issued in the discretion of the supreme court and pursuant to such rules as that court may promulgate.

13-6-311. Appeals from county court - simplified procedure. (1) (a) If either party in a civil action believes that the judgment of the county court is in error, he or she may appeal to the district court by filing notice of appeal in the county court within fourteen days after the date of entry of judgment and by filing within the said fourteen days an appeal bond with the clerk of the county court. The bond shall be furnished by a corporate surety authorized and licensed to do business in this state as surety, or one or

more sufficient private sureties, or may be a cash deposit by the appellant and, if the appeal is taken by the plaintiff, shall be conditioned to pay the costs of the appeal and the counterclaim, if any, and, if the appeal is taken by the defendant, shall be conditioned to pay the costs and judgment if the appealing party fails. The bond shall be approved by the judge or the clerk.

(b) Upon filing of the notice of appeal, the posting and approval of the bond, and the deposit by the appellant of an estimated fee in advance for preparing the record, the county court shall discontinue all further proceedings and recall any execution issued. The appellant shall then docket his or her appeal in the district court. A motion for new trial is not required as a condition of appeal. If a motion for new trial is made within fourteen days, the time for appeal shall be extended until fourteen days after disposition of the motion, but only matters raised on the motion for new trial shall be considered on an appeal thereafter.

(2) (a) Upon the deposit of the estimated record fee, the clerk of the court shall prepare and issue as soon as possible a record of the proceedings in the county court, including the summons, the complaint, proof of service, and the judgment. The record shall also include a transcription of such part of the actual evidence and other proceedings as the parties may designate or, in lieu of transcription, to which they may stipulate. If a stenographic record has been maintained or the parties agree to stipulate, the party appealing shall lodge with the clerk of the court the reporter's transcript of the designated evidence or proceedings or a stipulation covering such items within forty-two days after the filing of the notice of appeal. If the proceedings have been recorded electronically, the transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the county court, either by him or her or under his or her supervision, within forty-two days after the filing of the notice of appeal.

(b) The clerk shall notify, in writing, the opposing parties of the completion of the record, and the parties have fourteen days within which to file objections. If none are received, the record shall be certified forthwith by the clerk. If objections are made, the parties shall be called for hearing and the objections settled by the county judge as soon as possible and the record then certified.

(3) When the record has been duly certified and any additional fees therefor paid, it shall be filed with the clerk of the district court by the clerk of the county court, and the opposing parties shall be notified of such filing by the clerk of the county court.

(4) A written brief setting out matters relied upon as constituting error and outlining any arguments to be made shall be filed in the district court by the appellant within twenty-one days after filing of the record therein. A copy of the brief shall be served on the appellee. The appellee may file an answering brief within twenty-one days after such service. In the discretion of the district court, time for filing of briefs and answers may be extended.

(5) Unless there is further review by the supreme court upon writ of certiorari and

pursuant to the rules of that court, after final disposition of the appeal by the district court, the judgment on appeal therein shall be certified to the county court for action as directed by the district court, except upon trials de novo held in the district court or in cases in which the judgment is modified, in which cases the judgment shall be that of the district court and enforced therefrom.

(6) Repealed.

PART 4

COUNTY COURT - SMALL CLAIMS DIVISION

13-6-401. Legislative declaration. The general assembly hereby finds and declares that individuals, partnerships, corporations, and associations frequently do not pursue meritorious small civil claims because of the disproportion between the expense and time of counsel and litigation and the amount of money or property involved; that the law and procedures of civil litigation are technical and frequently unknown to persons who are representing themselves; that procedures for the inexpensive, speedy, and informal resolution of small claims in a forum where the rules of substantive law apply, but the rules of procedure and pleading and the technical rules of evidence do not apply, are desirable; that such procedures should be conducted at times convenient to the persons using them, including evening and Saturday sessions; that the personnel implementing and conducting such procedures should be trained and equipped to assist anyone with a small claim in a friendly, efficient, and courteous manner; and that, therefore, the establishment of a small claims division of the county court as provided in this part 4 is in the public interest.

13-6-402. Establishment of small claims division. There is hereby established in each county court a division designated as the small claims court.

13-6-403. Jurisdiction of small claims court - limitations. (1) On and after January 1, 1996, the small claims court shall have concurrent original jurisdiction with the county and district courts in all civil actions in which the debt, damage, or value of the personal property claimed by either the plaintiff or the defendant, exclusive of interest and cost, does not exceed seven thousand five hundred dollars, including such civil penalties as may be provided by law. By way of further example, and not limitation, the small claims court shall have jurisdiction to hear and determine actions in tort and assess damages therein not to exceed seven thousand five hundred dollars. The small claims court division shall also have concurrent original jurisdiction with the county and district

courts in actions where a party seeks to enforce a restrictive covenant on residential property and the amount required to comply with the covenant does not exceed seven thousand five hundred dollars, exclusive of interest and costs, in actions where a party seeks replevin if the value of the property sought does not exceed seven thousand five hundred dollars, and in actions where a party seeks to enforce a contract by specific performance or to disaffirm, avoid, or rescind a contract and the amount at issue does not exceed seven thousand five hundred dollars.

(2) The small claims court shall have no jurisdiction except that specifically conferred upon it by law. In particular, it shall have no jurisdiction over the following matters:

(a) Those matters excluded from county court jurisdiction under section 13-6-105 (1);

(b) Actions involving claims of defamation by libel or slander;

(c) Actions of forcible entry, forcible detainer, or unlawful detainer;

(d) and (e) (Deleted by amendment, L. 2001, p. 1512, § 2, effective September 1, 2001.)

(f) Actions brought or defended on behalf of a class;

(g) Actions requesting or involving prejudgment remedies;

(h) Actions involving injunctive relief, except as required to:

(I) Enforce restrictive covenants on residential property;

(II) Enforce the provisions of section 6-1-702.5, C.R.S.;

(III) Accomplish replevin; and

(IV) Enter judgments in actions where a party seeks to enforce a contract by specific performance or to disaffirm, avoid, or rescind a contract;

(i) Traffic violations and other criminal matters;

(j) Awards of body executions.

13-6-404. Clerk of the small claims court. The clerk of the county court or a deputy designated by said clerk shall act as the clerk of the small claims court. The clerk of the small claims court shall provide such assistance as may be requested by any person regarding the jurisdiction, operations, and procedures of the small claims court; however, the clerk shall not engage in the practice of law. All necessary forms shall be available from the clerk.

13-6-405. Magistrate in small claims court. (1) In the following circumstances, a magistrate may hear and decide claims in a small claims court:

(a) In Class A counties, as defined in section 13-6-201, magistrates for small claims may be appointed by the presiding judge.

(b) In Class B counties, as defined in section 13-6-201, magistrates for small claims may be appointed, pursuant to section 13-3-105, if approved by the chief justice.

(2) A magistrate shall be a qualified attorney-at-law admitted to practice in the state of Colorado or a nonattorney if the nonattorney is serving as a county judge pursuant to section 13-6-203.

(3) While acting as a magistrate for small claims, a magistrate shall have the same powers as a judge.

(3.5) A magistrate shall have the power to solemnize marriages pursuant to the procedures in section 14-2-109, C.R.S.

(4) If any party files a timely written objection, pursuant to rule of the supreme court, with the magistrate conducting the hearing, that party's case shall be rereferred to a judge.

13-6-406. Schedule of hearings. The small claims court shall conduct hearings at such times as the judge or magistrate may determine or as the supreme court may order.

13-6-407. Parties - representation. (1) Any natural person, corporation, partnership, association, or other organization may commence or defend an action in the small claims court, but no assignee or other person not a real party to the transaction which is the subject of the action may commence an action therein, except as a court-appointed personal representative, conservator, or guardian of the real party in interest.

(2) (a) (I) Notwithstanding the provisions of article 5 of title 12, C.R.S., in the small claims court, an individual shall represent himself or herself; a partnership shall be represented by an active general partner or an authorized full-time employee; a union shall be represented by an authorized active union member or full-time employee; a for-profit corporation shall be represented by one of its full-time officers or full-time employees; an association shall be represented by one of its active members or by a full-time employee of the association; and any other kind of organization or entity shall be represented by one of its active members or full-time employees or, in the case of a nonprofit corporation, a duly elected nonattorney officer or an employee.

(II) It is the intent of this section that no attorney, except pro se or as an authorized full-time employee or active general partner of a partnership, an authorized active member or full-time employee of a union, a full-time officer or full-time employee of a for-profit corporation, or a full-time employee or active member of an association, which partnership, union, corporation, or association is a party, shall appear or take any part in the filing or prosecution or defense of any matter in the small claims court, except as permitted by supreme court rule.

(b) In actions arising under part 1 of article 12 of title 38, C.R.S., including, but

not limited to, actions involving claims for the recovery of a security deposit or for damage to property arising from a landlord-tenant relationship, a property manager who has received security deposits, rents, or both, or who has signed a lease agreement on behalf of the owner of the real property that is the subject of the small claims action, shall be permitted to represent the owner of the property in such action.

(3) In any action to which the federal "Soldiers' and Sailors' Civil Relief Act of 1940", as amended, 50 App. U.S.C. sec. 521, is applicable, the court may enter a default against a defendant who is in the military without entering judgment, and the court shall appoint an attorney to represent the interests of the defendant prior to the entry of judgment against the defendant.

(4) If an attorney appears, as permitted in subsection (2) or (3) of this section, the other party or parties in the case may be represented by counsel, if such party or parties so choose.

(5) Nothing contained in this section is intended to limit or otherwise interfere with a party's right to assign, or to employ counsel to pursue that party's rights and remedies subsequent to the entry of judgment by a small claims court.

(6) Any small claims court action in which an attorney appears shall be processed and tried pursuant to the statutes and court rules governing small claims court actions.

13-6-408. Counterclaims exceeding jurisdiction of small claims court - procedures - sanctions for improper assertion. Counterclaims exceeding the jurisdiction of the small claims court shall be removed to the county or district court of appropriate jurisdiction pursuant to rule of the supreme court. If a county or district court determines that a plaintiff who originally filed a claim in the small claims court is entitled to judgment and also that a counterclaim against the same plaintiff in the small claims action was filed solely to defeat the jurisdiction of the small claims court and was without merit, the county or district court may also award the plaintiff costs, including reasonable attorney fees, incurred in prosecuting the action in the county or district court.

13-6-409. Trial procedure. The judge or magistrate shall conduct the trial in such manner as to do justice between the parties and shall not be bound by formal rules or statutes of procedure or pleading or the technical rules of evidence, except for rules promulgated by the supreme court controlling the conduct of proceedings in the small claims court.

13-6-410. Appeal of a claim. A record shall be made of all small claims court proceedings, and either the plaintiff or the defendant may appeal pursuant to county court

rules. Upon appeal, all provisions of law and rules concerning appeals from the county court shall apply, including right to counsel. A tape recording of the trial proceedings shall satisfy any requirements of a transcript for appeal, upon the payment of a nominal fee by the appellant.

13-6-411. Limitation on number of claims filed. (1) No plaintiff may file more than two claims per month, eighteen claims per year, in the small claims court of any county. Each claim filed in any small claims court shall contain a certification by the plaintiff that the plaintiff has not filed any more than two claims during that month and eighteen claims in that year in the small claims court of that county.

(2) The limitation imposed by subsection (1) of this section shall not apply to a state-supported institution of higher education which files claims to recover loans or other outstanding obligations due to such institution; except that no such state-supported institution of higher education shall file more than a total of thirty such claims per month in all small claims courts in Colorado.

13-6-411.5. Place of trial. (1) Except as provided in subsection (2) of this section, all actions in the small claims court shall be brought in the county in which any defendant at the time of filing of the claim resides, is regularly employed, is a student at an institution of higher education, or has an office for the transaction of business.

(2) Actions to enforce restrictive covenants and actions arising under part 1 of article 12 of title 38, C.R.S., including, but not limited to, actions involving claims for the recovery of a security deposit or for damage to property arising from a landlord-tenant relationship, may be brought in the county in which the defendant's property that is the subject of the action is situated.

(3) If a defendant appears and defends a small claims action on the merits at trial, such defendant shall be deemed to have waived any objection to the place of trial permitted under this section.

13-6-412. Notice to public. The clerk of the small claims court shall publicize in an appropriate manner the existence of the small claims court, its procedures, and its hours of operation. Such publication shall be made so as to bring the court's existence to the attention of the entire community. The state court administrator shall publish a small claims court handbook outlining the procedures of the court in layman's language.

13-6-413. Supreme court shall promulgate rules. The supreme court shall

implement this part 4 by appropriate rules of procedure for the small claims court.

13-6-414. No jury trial. There shall be no right to a trial by jury in the small claims court.

13-6-415. Service of process. Every defendant shall be notified that an action has been filed against that defendant in the small claims court either by certified mail, return receipt requested, or by personal service of process, as provided by the rules of procedure for the small claims court. The clerk of the small claims court shall collect, in advance, the fee provided for in section 13-32-104 (1) (i) for each service of process attempted by certified mail.

13-6-416. Facilities. No county shall be required to furnish new facilities pursuant to this part 4.

13-6-417. Execution and proceedings subsequent to judgment. Execution and proceedings subsequent to judgment entered in the small claims division may be processed in the small claims division and shall be the same as in a civil action in the county court as provided by law.

PART 5

MAGISTRATE ADJUDICATION SYSTEM

13-6-501. County court magistrates - qualifications - duties. (1) In Class A counties, as defined in section 13-6-201, county court magistrates may be appointed by the presiding judge.

(2) In Class B counties, as defined in section 13-6-201, county court magistrates may be appointed pursuant to section 13-3-105, if approved by the chief justice.

(3) Any county court magistrate shall be a qualified attorney-at-law admitted to practice in the state of Colorado and in good standing; except that a county court magistrate who hears only class A and class B traffic infraction matters need not be an attorney-at-law and except that any duly appointed county judge may act as a traffic magistrate regardless of whether he is an attorney-at-law.

(4) Subject to the provision that no magistrate may preside in any trial by jury, county court magistrates shall have power to hear the following matters:

(a) Class 2 misdemeanor traffic offenses and class A and class B traffic

infractions, as defined in section 42-4-1701, C.R.S.;

(b) Such other matters as determined by rule of the supreme court.

(4.5) County court magistrates shall have the power to solemnize marriages pursuant to the procedures in section 14-2-109, C.R.S.

(4.7) County court magistrates shall have the power to preside over matters specified in section 13-17.5-105.

(5) Except in class A and class B traffic infraction matters, before a county court magistrate may hear any matter, all parties thereto shall have waived, on the record, their right to proceed before a county judge. If any party fails to waive such right, or objects to the magistrate, that party's case shall be rereferred to a county judge.

(6) Magistrates, when handling county court matters and class A and class B traffic infraction matters and where the parties to such proceedings, other than traffic infraction matters, shall have waived their right to proceed before a county judge, shall have all the jurisdiction and power of a county judge, and their orders and judgments shall be those of the county court.

(7) Procedure in matters heard by a county court magistrate shall be determined by statute and by rules promulgated by the supreme court and by local rules.

(8) The duties, qualifications, compensation, conditions of employment, and other administrative details concerning magistrates who hear traffic infraction matters not set forth in this part 5 shall be established in accordance with the provisions of section 13-3-105.

(9) The supreme court shall adopt such rules and regulations as it deems necessary or proper to carry out the provisions of this part 5 relating to traffic infraction matters, including, but not limited to, procedural matters.

(10) Existing space provided by a county, including already existing courtroom and administrative space, shall be used to the maximum extent possible for hearings on traffic infraction matters.

(11) Before any county court magistrate is appointed pursuant to the provisions of this part 5, the judicial department shall consult with the board of county commissioners of the affected county or counties regarding any additional space or facilities that may be required. All feasible alternatives shall be considered and the least costly alternative shall be accepted by the department whenever practicable.

13-6-502. Jury trials. Notwithstanding the provisions of section 16-10-109, C.R.S., or any other provision of law, the right to a jury trial shall not be available at a hearing before a magistrate where the cited person is charged with a class A or a class B traffic infraction.

13-6-503. Evidence offered by officer. At any hearing on a class A or class B traffic infraction, the officer who issued the citation shall offer evidence of the facts concerning the alleged infraction either in person or by affidavit, as such affidavit may be established by rules adopted by the supreme court pursuant to section 13-6-501 (9). If such officer appears personally, the magistrate and the cited person may then examine such officer. The cited party shall have the right to call the officer by subpoena as in the case of other civil matters.

13-6-504. Appeals procedure. (1) Any appeal, either by the state or the cited person, from a judgment entered pursuant to this part 5 shall be processed as an appeal from the county court.

(2) The district attorney or deputy district attorney shall represent the state on the appeal.

(3) The state may appeal only a ruling by a magistrate that declares a state statute unconstitutional or unenforceable. Whether or not to appeal shall be in the discretion of the district attorney.

ARTICLE 7

Superior Courts

13-7-101 to 13-7-112. (Repealed)

ARTICLE 8

Juvenile Court of Denver

13-8-101. Establishment. Pursuant to the provisions of section 1 of article VI of the Colorado constitution, there is hereby established the juvenile court of the city and county of Denver.

13-8-102. Court of record - powers. The juvenile court shall be a court of record with such powers as are inherent in constitutionally created courts and with such legal and equitable powers to effectuate its jurisdiction and carry out its orders, judgments, and

decrees as are possessed by the district courts.

13-8-103. Jurisdiction. The jurisdiction of the juvenile court of the city and county of Denver is as set forth in sections 19-1-104, 19-2-104, and 19-4-109, C.R.S., for juvenile courts, as defined in section 19-1-103 (70), C.R.S.

13-8-104. Number of judges. There shall be three judges of the juvenile court of the city and county of Denver.

13-8-105. Qualifications of judges. A judge of the juvenile court shall be a qualified elector of the city and county of Denver at the time of his election or selection and shall have been licensed to practice law in the state of Colorado for five years at such time. He shall be a resident of the city and county of Denver during his term of office.

13-8-106. Activities of judge. A judge of the juvenile court shall devote his full time to judicial duties and shall not engage in the private practice of law while serving in office.

13-8-107. Term of office. The term of office of a judge of the juvenile court of the city and county of Denver shall be six years.

13-8-108. Vacancies. If the office of juvenile court judge becomes vacant because of death, resignation, failure to be retained in office pursuant to section 25 of article VI of the state constitution, or other cause, the vacancy shall be filled by the governor as provided in section 20 of article VI of the state constitution.

13-8-109. Magistrates. The judges of the juvenile court of the city and county of Denver may appoint magistrates, as provided in section 19-1-108, C.R.S.

13-8-110. Clerk. (1) The judges of the juvenile court shall appoint a clerk of the juvenile court pursuant to the provisions of section 13-3-105.

(2) Repealed.

(3) The powers and duties of the clerk of the juvenile court shall be similar to the powers and duties of the clerk of the district court. The duties of the clerk of the juvenile court shall also include such matters as may be assigned to him by law, by court rules, and by the juvenile judges.

13-8-111. Other employees. The judges of the juvenile court shall also appoint, pursuant to the provisions of section 13-3-105, probation officers and such other employees as may be necessary to carry out the functions and duties of the juvenile court, including the clerk's office thereof.

13-8-112. Judges may sit en banc - presiding judge. The judges of the juvenile court may sit en banc for the purpose of making rules of court, the appointment of a clerk and other employees pursuant to section 13-3-105, and the conduct of other business relating to the administration of the court, including the selection of a presiding judge, as authorized by and subject to the approval of the chief justice of the supreme court.

13-8-113. Judges to sit separately. In the juvenile court, each of the judges shall sit separately for the trial of cases and the transaction of judicial business, and each of the courts so held shall be known as the juvenile court. Each judge shall have all of the powers which he might have if he were the sole judge of the court, including the power to vacate his own judgments, decrees, or orders, or those of a predecessor when permitted by law, but not juvenile court orders of another judge of the juvenile court who is still in office.

13-8-114. Practice and procedure. Practice and procedure in the juvenile court shall be conducted in accordance with the provisions of this article and title 19, C.R.S.

13-8-115. Rules of court. The juvenile court has the power to make rules for the conduct of its business to the extent that such rules are not in conflict with the rules of the supreme court or the laws of the state but are supplementary thereto. Juvenile court rules are subject to review by the supreme court.

13-8-116. Terms. Terms of the juvenile court shall be fixed by rule of court; but at least one term shall be held each year.

13-8-117. Seal. The juvenile court shall have a seal, bearing upon the face thereof the words "The Juvenile Court of the City and County of Denver, Colorado".

13-8-118. Process. The juvenile court has the power to issue process necessary to acquire jurisdiction, to require attendance, and to enforce all orders, decrees, and judgments. Such process runs to any county within the state and, when authorized by law in special proceedings or, in the absence thereof, by the Colorado rules of civil procedure in civil cases, or the Colorado rules of criminal procedure in criminal cases, may be served outside of the state. Any sheriff to whom process is directed is authorized and required to execute the same and shall be entitled to the same fees as are allowed by law for serving like process from the district court. Persons other than the sheriff or his deputies also may serve process from the juvenile court when permitted by law in special proceedings or, in the absence thereof, by the Colorado rules of civil procedure in civil cases or the Colorado rules of criminal procedure in criminal cases.

13-8-119. Venue. Venue in the juvenile court shall be as provided in sections 19-2-105, 19-3-201, 19-4-109, 19-5-102, 19-5-204, and 19-6-102, C.R.S.

13-8-120. Sheriff to attend. It is the duty of the sheriff of the city and county of Denver to attend in the juvenile court.

13-8-121. Appearance by district attorney and city attorney. Upon the request of the court, the district attorney shall represent the state in the interest of the child in any proceedings brought under section 19-1-104 (1) (a), C.R.S., and the city attorney shall represent the state in the interest of the child in any other proceedings.

13-8-122. Juries. When required, juries may be selected and summoned as provided for courts of record in articles 71 to 74 of this title. With the permission of the district court, the juvenile court may use the panel of jurors summoned for the district court of the second judicial district.

13-8-123. Judgments. The judgments of the juvenile court shall be enforceable in the same manner as judgments of the district court and, when appropriate, may be made

liens upon real estate or other property in the manner provided by law for judgments of the district court.

13-8-124. Appellate review. Appellate review of any order, decree, or judgment may be taken to the supreme court or the court of appeals, as provided by law and the Colorado appellate rules. Initials shall appear on the record on appeal in place of the name of the child. Appeals from orders or decrees concerning legal custody, the allocation of parental responsibilities, termination of parent-child legal relationships, and adoptions shall be advanced upon the calendar of the supreme court or of the court of appeals and shall be decided at the earliest practicable time.

13-8-125. Fees. The fees charged by the juvenile court and the clerk thereof shall be those provided in article 32 of this title.

13-8-126. Supervision by supreme court. The supervisory powers of the supreme court established by article 3 of this title shall extend to the juvenile court.

ARTICLE 9

Probate Court of Denver

13-9-101. Establishment. Pursuant to the provisions of section 1 of article VI of the Colorado constitution, there is hereby established the probate court of the city and county of Denver.

13-9-102. Court of record - powers. The probate court shall be a court of record with such powers as are inherent in constitutionally created courts and with such legal and equitable powers to effectuate its jurisdiction and carry out its orders, judgments, and decrees as are possessed by the district courts.

13-9-103. Jurisdiction. (1) The probate court of the city and county of Denver has original and exclusive jurisdiction in said city and county of:

(a) The administration, settlement, and distribution of estates of decedents, wards,

and absentees;

(b) Property vested in any person under a legal disability but paid to or held by another for such person's use or benefit as authorized by court order or as authorized by a power contained in a will or trust instrument;

(c) Property vested in any minor pursuant to the "Colorado Uniform Transfers to Minors Act", or any predecessor act thereto, or any act having a substantially similar legal effect;

(d) The probate of wills;

(e) The granting of letters testamentary, of administration, of guardianship, and of conservatorship;

(f) The administration of guardianships of minors and of mentally competent persons and of conservatorships of persons with mental illness or mentally deficient persons and of absentees;

(g) Proceedings under article 23 of title 17 and articles 10 to 15 of title 27, C.R.S.;

(h) The determination of heirship in probate proceedings and the devolution of title to property in probate proceedings;

(i) Actions on the official bonds of fiduciaries appointed by it;

(j) The construction of wills;

(k) The administration of testamentary trusts, except as provided in subsection (2) of this section; and

(l) All other probate matters.

(2) If a testamentary trust is established by the will of the decedent and if it appears that it was not the intention of the testator that the court should continue the administration of the estate after the payment in full of all debts and legacies except the trust property, the court shall proceed to final settlement of such estate as in other cases, order the trust fund or property to be turned over to the trustee as such, and shall not require the filing of inventories and accounts, or supervise the administration of the trust; except that any party in interest of such trust, including the trustee thereof, may invoke the jurisdiction of the probate court with respect to any matters pertaining to the administration or distribution of such trust or to construe the will under which it was established.

(3) The court has jurisdiction to determine every legal and equitable question arising in connection with decedents', wards', and absentees' estates, so far as the question concerns any person who is before the court by reason of any asserted right in any of the property of the estate or by reason of any asserted obligation to the estate, including, without limiting the generality of the foregoing, the jurisdiction:

(a) To give full and complete legal and equitable relief in any case in which it is alleged that the decedent breached an agreement to make or not to make a will;

(b) In any case in which a district court could grant such relief in a separate action brought therein, to impose or raise a trust with respect to any of the property of the

decedent or any property in the name of the decedent, individually or in any other capacity, in any case in which the demand for such relief arises in connection with the administration of the estate of a decedent;

(c) To partition any of the real or personal property of any estate in connection with the settlement thereof.

(4) Nothing in this article shall prevent any district court sitting in law or equity from construing a will which is not before the probate court or from determining questions arising in connection with trusts which are not under the jurisdiction of the probate court.

(5) The court has jurisdiction to determine every legal and equitable question arising out of or in connection with express trusts.

(6) The provisions of articles 10 to 20 of title 15, article 23 of title 17, and articles 10 to 15 of title 27, C.R.S., shall govern the issuance and service and proof of service of any process, notice, citation, writ, or order of court and shall govern all other proceedings had pursuant to the powers of the court recited in subsections (1) and (2) of this section. The Colorado rules of civil procedure shall govern such matters when the proceedings are had pursuant to the powers granted to the court under any of the other provisions of this section.

(7) With respect to any trust established by or for an individual with his or her assets, income, or property of any kind, notwithstanding any statutory provision to the contrary, the court shall not authorize, direct, or ratify any trust that either has the effect of qualifying or purports to qualify the trust beneficiary for federal supplemental security income, or public or medical assistance pursuant to title 26, C.R.S., unless the trust meets the criteria set forth in sections 15-14-412.6 to 15-14-412.9, C.R.S., and any rule adopted by the medical services board pursuant to section 25.5-6-103, C.R.S.

13-9-104. Number of judges. There shall be one judge of the probate court of the city and county of Denver.

13-9-105. Qualifications of judges. A judge of the probate court shall be a qualified elector of the city and county of Denver at the time of his selection and shall have been licensed to practice law in the state of Colorado for five years at such time. He shall be a resident of the city and county of Denver during his term of office. He shall not engage in the private practice of law while serving in office.

13-9-106. Compensation of judges. A probate judge shall receive an annual salary as provided by law.

13-9-107. Appointment and term of office. (1) The term of office of a probate judge shall be six years.

(2) A probate judge shall be appointed for the probate court of the city and county of Denver in the same manner provided for the appointment of district judges.

13-9-108. Vacancies. If the office of probate court judge becomes vacant because of death, resignation, failure to be retained in office pursuant to section 25 of article VI of the state constitution, or other cause, the vacancy shall be filled by the governor as provided in section 20 of article VI of the state constitution.

13-9-109. Clerk. (1) The judge of the probate court shall appoint a clerk of the probate court pursuant to section 13-3-105.

(2) Repealed.

(3) The powers and duties of the clerk of the probate court shall be similar to the powers and duties of the clerk of the district court including such powers as may be delegated to the clerk of the district court in probate matters. The duties of the clerk of the probate court shall also include such matters as may be assigned to him by law, by court rules, and by the probate judge.

13-9-110. Other employees. The judge of the probate court shall appoint pursuant to section 13-3-105 such deputy clerks, assistants, reporters, stenographers, and bailiffs as may be necessary for the transaction of the business of the court.

13-9-111. Practice and procedure. Practice and procedure in the probate court shall be conducted in accordance with laws providing special proceedings for matters within its jurisdiction and with the Colorado rules of civil procedure.

13-9-112. Rules of court. The probate court has the power to make rules for the conduct of its business to the extent that such rules are not in conflict with the rules of the supreme court or the laws of the state but are supplementary thereto. Probate court rules are subject to review by the supreme court.

13-9-113. Terms. Terms of the probate court shall be fixed by rule of court, but at

least one term shall be held each year.

13-9-114. Seal. The probate court shall have a seal, bearing upon the face thereof the words: "The Probate Court of the City and County of Denver, Colorado".

13-9-115. Process. The probate court has the power to issue process necessary to acquire jurisdiction, to require attendance, and to enforce all its orders, decrees, and judgments. Such process runs to any county within the state and, when authorized by law in special proceedings or, in the absence thereof, by the Colorado rules of civil procedure, may be served outside the state. Any sheriff to whom process is directed is authorized and required to execute the same and shall be entitled to the same fees as are allowed by law for serving like process from the district court. Persons other than the sheriff or his deputies also may serve process from the probate court when permitted by law in special proceedings or, in the absence thereof, by the Colorado rules of civil procedure.

13-9-116. Venue. Venue in the probate court shall be determined as provided in articles 10 to 20 of title 15, C.R.S., or by other applicable statutes prescribing special proceedings or, in the absence thereof, by the Colorado rules of civil procedure.

13-9-117. Juries. When required, juries may be selected and summoned as provided for courts of record in articles 71 to 74 of this title. With the permission of the district court, the probate court may use the panel of jurors summoned for the district court of the second judicial district.

13-9-118. Judgments. The judgments of the probate court shall be enforceable in the same manner as judgments of the district court and may be made liens upon real estate or other property in the manner provided by law for judgments of the district court.

13-9-119. Appeals. Appellate review of final judgments of the probate court shall be by the supreme court or by the court of appeals, as provided by law, and shall be conducted in the same manner as prescribed by the Colorado appellate rules for review by the court of appeals and the supreme court of final judgments of the district courts.

13-9-120. Fees. The fees charged by the probate court and the clerk thereof shall be those provided in article 32 of this title.

13-9-121. Funds. Funds for the operation of the probate court, including the salaries of the employees thereof, shall be provided in the same manner as funds are provided for the establishment and operation of the district courts for the second judicial district.

13-9-122. Supervision by supreme court. The supervisory powers of the supreme court established by article 3 of this title extend to the probate court.

13-9-123. National instant criminal background check system - reporting. (1) On and after March 20, 2013, the state court administrator shall send electronically the following information to the Colorado bureau of investigation created pursuant to section 24-33.5-401, C.R.S., referred to within this section as the "bureau":

(a) The name of each person who has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;

(b) The name of each person who has been committed by order of the court to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 27-81-112 or 27-82-108, C.R.S.; and

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of mental illness pursuant to section 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to section 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to section 27-65-109, C.R.S.

(1.5) Not more than forty-eight hours after receiving notification of a person who satisfies the description in paragraph (a), (b), or (c) of subsection (1) of this section, the state court administrator shall report such fact to the bureau.

(2) Any report made by the state court administrator pursuant to this section shall describe the reason for the report and indicate that the report is made in accordance with 18 U.S.C. sec. 922 (g) (4).

(3) The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

(a) The person to whom the record pertains makes a written request to the state court administrator; and

(b) No less than three years before the date of the written request:

(I) The court entered an order pursuant to section 15-14-318, C.R.S., terminating a guardianship on a finding that the person is no longer an incapacitated person, if the record in the national instant criminal background check system is based on a finding of incapacity;

(II) The period of commitment of the most recent order of commitment or recommitment expired, or the court entered an order terminating the person's incapacity or discharging the person from commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of commitment to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse; except that the state court administrator shall not cancel any record pertaining to a person with respect to whom two recommitment orders have been entered under section 27-81-112 (7) and (8), C.R.S., or who was discharged from treatment under section 27-81-112 (11), C.R.S., on the grounds that further treatment will not be likely to bring about significant improvement in the person's condition; or

(III) The record in the case was sealed pursuant to section 27-65-107 (7), C.R.S., or the court entered an order discharging the person from commitment in the nature of habeas corpus pursuant to section 27-65-113, C.R.S., if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of mental illness.

(4) Pursuant to section 102 (c) of the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180), a court, upon becoming aware that the basis upon which a record reported by the state court administrator pursuant to subsection (1) of this section does not apply or no longer applies, shall:

(a) Update, correct, modify, or remove the record from any database that the federal or state government maintains and makes available to the national instant criminal background check system, consistent with the rules pertaining to the database; and

(b) Notify the attorney general that such basis does not apply or no longer applies.

13-9-124. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration. (1) **Legislative declaration.** The purpose of this section is to set forth a judicial process whereby a person may apply or petition for relief from federal firearms prohibitions imposed pursuant to 18 U.S.C. sec. 922 (d) (4) and (g) (4), as permitted by the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180, sec. 105).

(2) **Eligibility.** A person may petition for relief pursuant to this section if:

(a) (I) He or she has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;

(II) He or she has been committed by order of the court to the custody of the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 27-81-112 or 27-82-108, C.R.S.; or

(III) The court has entered an order for the person's involuntary certification for short-term treatment of mental illness pursuant to section 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to section 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to section 27-65-109, C.R.S.; and

(b) He or she is a person to whom the sale or transfer of a firearm or ammunition is prohibited by 18 U.S.C. sec. 922 (d) (4), or who is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. sec. 922 (g) (4).

(3) **Due process.** In a court proceeding pursuant to this section:

(a) The petitioner shall have an opportunity to submit his or her own evidence to the court concerning his or her petition;

(b) The court shall review the evidence; and

(c) The court shall create and thereafter maintain a record of the proceeding.

(4) **Proper record.** In determining whether to grant relief to a petitioner pursuant to this section, the court shall receive evidence concerning, and shall consider:

(a) The circumstances regarding the firearms prohibitions imposed by 18 U.S.C. sec. 922 (g) (4);

(b) The petitioner's record, which must include, at a minimum, the petitioner's mental health records and criminal history records; and

(c) The petitioner's reputation, which the court shall develop, at a minimum, through character witness statements, testimony, or other character evidence.

(5) **Proper findings.** (a) Before granting relief to a petitioner pursuant to this section, the court shall issue findings that:

(I) The petitioner is not likely to act in a manner that is dangerous to public safety; and

(II) Granting relief to the petitioner is not contrary to the public interest.

(b) (I) If the court denies relief to a petitioner pursuant to this section, the petitioner may petition the court of appeals to review the denial, including the record of the denying court.

(II) A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court.

(III) In reviewing a denial, the court of appeals has discretion, but is not required, to receive additional evidence necessary to conduct an adequate review.

MUNICIPAL COURTS

ARTICLE 10

Municipal Courts

13-10-101. Legislative declaration. The general assembly finds that the right to a trial by jury for petty offenses, as defined in section 16-10-109, C.R.S., is of vital concern to all of the people of the state of Colorado and that the interests of the state as a whole are so great that the general assembly shall retain sole legislative jurisdiction over the matter, which is hereby declared to be of statewide concern.

13-10-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Municipal court" includes police courts and police magistrate courts created or existing under previous laws or under a municipal charter and ordinances.

(2) "Municipal judges" includes police magistrates as defined and used in previous laws.

(3) "Qualified municipal court of record" means a municipal court established by, and operating in conformity with, either local charter or ordinances containing provisions requiring the keeping of a verbatim record of the proceedings and evidence at trials by either electric devices or stenographic means, and requiring as a qualification for the office of judge of such court that he has been admitted to, and is currently licensed in, the practice of law in Colorado.

13-10-103. Applicability. This article shall apply to and govern the operation of municipal courts in the cities and towns of this state. Except for the provisions relating to the method of salary payment for municipal judges, the incarceration of children provided for in sections 19-2-402 and 19-2-508, C.R.S., the appearance of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense as required by section 13-10-111, the right to a trial by jury for petty offenses provided for in section 16-10-109, C.R.S., rules of procedure promulgated by the supreme court, and appellate procedure, this article may be superseded by charter or ordinance enacted by a home rule city.

13-10-104. Municipal court created - jurisdiction. The municipal governing body of each city or town shall create a municipal court to hear and try all alleged

violations of ordinance provisions of such city or town.

13-10-105. Municipal judge - appointment - removal. (1) (a) Unless otherwise provided in the charter of a home rule city, the municipal court shall be presided over by a municipal judge who shall be appointed by the municipal governing body for a specified term of not less than two years and who may be reappointed for a subsequent term; except that the initial appointment under this section may be for a term of office which expires on the date of the next election of the municipal governing body. Any vacancy in the office of municipal judge shall be filled by appointment of the municipal governing body for the remainder of the unexpired term.

(b) The municipal governing body may appoint such assistant judges as may be necessary to act or such substitute judges as circumstances may require in case of temporary absence, sickness, disqualification, or other inability of the presiding or assistant municipal judges to act.

(c) In the event that more than one municipal judge is appointed, the municipal governing body shall designate a presiding municipal judge, who shall serve in this capacity during the term for which he was appointed.

(2) A municipal judge may be removed during his term of office only for cause. A judge may be removed for cause if:

(a) He is found guilty of a felony or any other crime involving moral turpitude;

(b) He has a disability which interferes with the performance of his duties and which is or is likely to become of a permanent character;

(c) He has willfully or persistently failed to perform his duties;

(d) He is habitually intemperate; or

(e) The municipality required the judge, at the time of appointment, to be a resident of the municipality, or county in which the municipality is located, and he subsequently becomes a nonresident of the municipality or the county during his term of office.

13-10-106. Qualifications of municipal judges. (1) A municipal judge shall have the same qualifications as a county judge in a Class D county, as set forth in section 13-6-203 (3).

(2) Preference shall be given by the municipal governing body, when possible, to the appointment of a municipal judge who is licensed to practice law in Colorado or who is trained in the law.

(3) The municipal governing body may appoint a county judge in a Class C or D county, as defined in section 13-6-203, to serve as a municipal judge.

(4) The municipal governing body may require that the municipal judge be a

qualified elector of the municipality or the county in which the municipality is located.

13-10-107. Compensation of municipal judges. (1) The municipal governing body shall provide by ordinance for the salary of the municipal and assistant judges. Such salary shall be a fixed annual compensation and payable on a monthly or other periodic basis. The municipal governing body may pay any substitute judge appointed pursuant to section 13-10-105 (1) (b) based upon the number of court sessions served by such judge.

(2) (Deleted by amendment, L. 91, p. 742, § 2, effective April 4, 1991.)

13-10-108. Clerk of the municipal court. (1) The municipal governing body shall establish the position of clerk of the municipal court, except that the municipal judge shall serve as ex officio clerk if the business of the court is insufficient to warrant a separate full-time or part-time clerk.

(2) The clerk of the municipal court shall be appointed by the presiding municipal judge and shall have such duties as are delegated to him by law, court rule, or the presiding municipal judge.

(3) The municipal governing body shall provide for the salary of the clerk of the municipal court in the same manner as specified in section 13-10-107; except that if the municipal judge serves as ex officio clerk, he shall not receive any additional compensation.

13-10-109. Bond. (1) The clerk of the municipal court shall give a performance bond in the sum of two thousand dollars, or in such amount as may be set by ordinance, to the city or town for which he is appointed.

(2) The performance bond shall be approved by the municipal governing body and be conditioned upon the faithful performance of his duties, and for the faithful accounting for, and payment of, all funds deposited with or received by the court.

(3) When the municipal judge serves as clerk of the municipal court, as provided in section 13-10-108 (3), he shall execute the performance bond required by this section.

(4) The governing body of the city or town may waive the bond required by this section.

13-10-110. Court facilities and supplies. (1) The municipal governing body shall furnish the municipal court with suitable courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies, and furniture for the proper conduct of the business of the court.

(2) In order to carry out the provisions of subsection (1) of this section, the municipal governing body may locate court facilities outside of the municipality or county in which the municipality is located, if such facilities are in reasonable proximity to the municipality and the governing body determines that suitable facilities cannot be provided within the municipality.

(3) Any two or more governments may cooperate or contract, pursuant to part 2 of article 1 of title 29, C.R.S., to provide joint court facilities and supplies. Such joint facilities may be located outside of any or all of the cooperating or contracting governments but shall be located within reasonable proximity to each of the cooperating or contracting governments.

(4) Where, pursuant to this section, a municipality locates its court facilities outside of its boundaries, any reference in this article to the municipality in which the court is located shall mean the municipality creating the municipal court, and any reference in this article to the county in which the municipal court is located shall mean the county in which the municipality creating the court is located.

13-10-111. Commencement of actions - process. (1) Any action or summons brought in any municipal court to recover any fine or enforce any penalty or forfeiture under any ordinance shall be filed in the corporate name of the municipality in which the court is located by and on behalf of the people of the state of Colorado.

(2) Any process issued from a municipal court runs in the corporate name of the municipality by and on behalf of the people of the state of Colorado. Processes from any municipal court shall be executed by any authorized law enforcement officer from the municipality in which the court is located.

(3) Any authorized law enforcement officer may execute within such officer's jurisdiction any summons, process, writ, or warrant issued by a municipal court from another jurisdiction arising under the ordinances of such municipality for an offense which is criminal or quasi-criminal. For the purposes of this subsection (3), traffic offenses shall not be considered criminal or quasi-criminal offenses unless penalty points may be assessed under section 42-2-127 (5) (a) to (5) (cc), C.R.S. The issuing municipality shall be liable for and pay all costs, including costs of service or incarceration incurred in connection with such service or execution.

(4) The clerk of the municipal court shall issue a subpoena for the appearance of any witness in municipal court upon the request of either the prosecuting municipality or the defendant. The subpoena may be served upon any person within the jurisdiction of the court in the manner prescribed by the rules of procedure applicable to municipal courts. Any person subpoenaed to appear as a witness in municipal court shall be paid a witness fee in the amount of five dollars.

(5) Upon the request of the municipal court, the prosecuting municipality, or the

defendant, the clerk of the municipal court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense. Whenever a person who is issued a subpoena pursuant to this subsection (5) fails, without good cause, to appear, the court may issue an order for the person to show cause to the court as to why the person should not be held in contempt. Following a show cause hearing, the court may make findings of fact and conclusions of law and may enter an appropriate order, which may include finding the person in contempt.

13-10-112. Powers and procedures. (1) The municipal judge of any municipal court has all judicial powers relating to the operation of his court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado supreme court. The presiding municipal judge of any municipal court has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado supreme court.

(2) The judicial powers of any municipal judge shall include the power to enforce subpoenas issued by any board, commission, hearing officer, or other body or officer of the municipality authorized by law or ordinance to issue subpoenas.

13-10-113. Fines and penalties. (1) (a) Except as provided in paragraph (b) of this subsection (1), any person convicted of violating a municipal ordinance in a municipal court of record may be incarcerated for a period not to exceed one year or fined an amount not to exceed two thousand six hundred fifty dollars, or both.

(b) (I) The limitation on municipal court fines set forth in paragraph (a) of this subsection (1) shall be adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter.

(II) As used in this paragraph (b), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(1.5) Any person convicted of violating a municipal ordinance in a municipal court which is not of record may be incarcerated for a period not to exceed ninety days or fined an amount not to exceed three hundred dollars, or both.

(2) In sentencing or fining a violator, the municipal judge shall not exceed the sentence or fine limitations established by ordinance. Any other provision of the law to the contrary notwithstanding, the municipal judge may suspend the sentence or fine of any violator and place him on probation for a period not to exceed one year.

(3) The municipal judge is empowered in his discretion to assess costs, as established by the municipal governing body by ordinance, against any defendant who

pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.

(4) Notwithstanding any provision of law to the contrary, a municipal court has the authority to order a child under eighteen years of age confined in a juvenile detention facility operated or contracted by the department of human services or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order of the court, including an order to pay a fine. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours.

(5) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (18), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of human services or a temporary holding facility operated by or under contract with a municipal government that shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to section 19-2-508, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services. In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the municipal court has jurisdiction over the juvenile pursuant to section 19-2-104 (1) (a) (II), C.R.S., a municipal court does not have the authority to order a child under eighteen years of age to a juvenile detention facility operated or contracted by the department of human services.

(6) Whenever the judge in a municipal court of record imposes a fine for a nonviolent municipal ordinance or code offense, if the person who committed the offense is unable to pay the fine at the time of the court hearing or if he or she fails to pay any fine imposed for the commission of such offense, in order to guarantee the payment of such fine, the municipal judge may compel collection of the fine in the manner provided in section 18-1.3-506, C.R.S. For purposes of this subsection (6), "nonviolent municipal ordinance or code offense" means a municipal ordinance or code offense which does not involve the use or threat of physical force on or to a person in the commission of the offense.

(7) Notwithstanding subsections (1) and (1.5) of this section, the municipal judge of each municipality which implements an industrial wastewater pretreatment program pursuant to the federal act, as defined in section 25-8-103 (8), C.R.S., may provide such relief and impose such penalties as are required by such federal act and its implementing regulations for such programs.

(8) If, as a condition of or in connection with any sentence imposed pursuant to

this section, a municipal court judge requires a juvenile who is younger than eighteen years of age to attend school, the municipal court shall notify the school district in which the juvenile is enrolled of such requirement.

13-10-114. Trial by jury. (1) In any action before municipal court in which the defendant is entitled to a jury trial by the constitution or the general laws of the state, such party shall have a jury upon request. The jury shall consist of three jurors unless, in the case of a trial for a petty offense, a greater number, not to exceed six, is requested by the defendant.

(2) In municipalities having less than five thousand population, juries may be summoned by the issuance of venire to a police officer or marshal. In municipalities having a population of five thousand or more, juries shall be selected from a jury list as is provided for courts of record.

(3) Jurors shall be paid the sum of six dollars per day for actual jury service and three dollars for each day of service on the jury panel alone; except that the governing body of a municipality may, by resolution or ordinance, set higher or lower fees for attending its municipal court.

(4) For the purposes of this section, a defendant waives his or her right to a jury trial under subsection (1) of this section unless, within twenty-one days after entry of a plea, the defendant makes a request to the court for a jury trial, in writing, and tenders to the court a fee of twenty-five dollars, unless the fee is waived by the judge because of the indigence of the defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant having paid the jury fee files with the court at least seven days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded.

(5) At the time of arraignment for any petty offense in this state, the judge shall advise any defendant not represented by counsel of the defendant's right to trial by jury; of the requirement that the defendant, if he or she desires to invoke his or her right to trial by jury, request such trial by jury within twenty-one days after entry of a plea, in writing; of the number of jurors allowed by law; and of the requirement that the defendant, if he or she desires to invoke his or her right to trial by jury, tender to the court within twenty-one days after entry of a plea a jury fee of twenty-five dollars, unless the fee is waived by the judge because of the indigence of the defendant.

13-10-115. Fines and costs. All fines and costs collected or received by the municipal court shall be reported and paid monthly, or at such other intervals as may be provided by an ordinance of the municipality, to the treasurer of the municipality and deposited in the general fund of the municipality.

13-10-116. Appeals. (1) Appeals may be taken by any defendant from any judgment of a municipal court which is not a qualified municipal court of record to the county court of the county in which such municipal court is located, and the cause shall be tried de novo in the appellate court.

(2) Appeals taken from judgments of a qualified municipal court of record shall be made to the district court of the county in which the qualified municipal court of record is located. The practice and procedure in such case shall be the same as provided by section 13-6-310 and applicable rules of procedure for the appeal of misdemeanor convictions from the county court to the district court, and the appeal procedures set forth in this article shall not apply to such case.

(3) No municipality shall have any right to appeal from any judgment of a municipal court, not of record, concerning a violation of any charter provision or ordinance, but this subsection (3) shall not be construed to prevent a municipality from maintaining any action to construe, interpret, or determine the validity of any ordinance or charter provision involved in such proceeding. Nothing in this subsection (3) shall be construed to prevent a municipality from appealing any question of law arising from a proceeding in a qualified municipal court of record.

(4) If, in any municipal court, a defendant is denied a jury trial to which he is entitled under section 13-10-114, he is entitled to a trial by jury under section 16-10-109, C.R.S., and to a trial de novo upon application therefor on appeal.

(5) Notwithstanding any provision of law to the contrary, if confinement of a child is ordered pursuant to a contempt conviction as set forth in section 13-10-113 (4), appeal shall be to the juvenile court for the county in which the municipal court is located. Such appeals shall be advanced on the juvenile court's docket to the earliest possible date. Procedures applicable to such appeals shall be in the same manner as provided in subsections (1) and (2) of this section for appeals to the county court.

13-10-117. Time - docket fee - bond. Appeals may be taken within fourteen days after entry of any judgment of a municipal court. No appeal shall be allowed until the appellant has paid to the clerk of the municipal court one dollar and fifty cents as a fee for preparing the transcript of record on appeal. If the municipal court is a court of record, the clerk of the municipal court is entitled to the same additional fees for preparing the record, or portions thereof designated, as is the clerk of the county court on the appeal of misdemeanors, but said fees shall be refunded to the defendant if the judgment is set aside on appeal. No stay of execution shall be granted until the appellant has executed an approved bond as provided in sections 13-10-120 and 13-10-121.

13-10-118. Notice - scope. (1) Appeals may be taken by filing with the clerk of the municipal court a notice of appeal, in duplicate. The notice of appeal shall set forth

the title of the case; the name and address of the appellant and appellant's attorney, if any; identification of the offense or violation of which the appellant was convicted; a statement of the judgment, including its date and any fines or sentences imposed; and a statement that the appellant appeals from the judgment. The notice of appeal shall be signed by the appellant or his attorney.

(2) The taking of an appeal shall not permit the retrial of any matter of which the appellant has been acquitted, or any conjoined charge from the conviction of which he does not seek to appeal.

13-10-119. Certification to appellate court. Upon payment of the fee provided in section 13-10-117, and filing of notice as provided in section 13-10-118, the original papers in the municipal court file, together with a transcript of the record of the municipal court, and a duplicate notice of appeal shall be certified to the appropriate appellate court pursuant to section 13-10-116 by the municipal court.

13-10-120. Bond - approval of sureties - forfeitures. (1) When an appellant desires to stay the judgment of the municipal court, he shall execute a bond to the municipality in which the municipal court is located, in such penal sum as may be fixed by the municipal court, and in such form and with sureties qualified as the municipality may, by ordinance, designate.

(2) Sureties shall be approved by a judge of the municipal court from which the appeal is taken.

(3) The amount of bond shall not exceed double the amount of the judgment for fines and costs, plus an amount commensurate with any jail sentence, which latter amount shall be not less than fifty dollars nor more than a sum equal to two dollars for each day of jail sentence imposed.

13-10-121. Conditions of bond - forfeiture - release. (1) The bond shall be conditioned that the appellant will duly prosecute such appeal and satisfy any judgment that may be rendered upon trial of the case in the appropriate appellate court to which appeal is taken pursuant to section 13-10-116 and that the appellant will surrender himself in satisfaction of such judgment if that is required.

(2) If the bond is forfeited, the appellate court, upon motion of the municipality, shall enter judgment against the appellant and sureties on the bond for the amount of such bond. The appellate court, with the consent of the municipality, shall enter judgment against the appellant and sureties on the bond for the amount of such bond. The appellate court, with the consent of the municipality, may set aside or modify the judgment.

(3) Any municipality may provide by ordinance such other bond terms and conditions as are not inconsistent with the provisions of this article. The filing of such bond or any notice thereof of record shall not constitute any lien against any property of the sureties.

(4) When the condition of the bond has been satisfied or the forfeiture thereof set aside or remitted, the municipal court shall exonerate the obligors and release the bond. At any time before final judgment in the appellate court, a surety may be exonerated by a deposit of cash in the amount of the bond or by timely surrender of the appellant into custody.

13-10-122. Docket fee - dismissal. The appellant shall pay a docket fee as provided by law to the clerk of the appellate court, within fourteen days from the date he or she ordered the transcript of record. If he or she does not do so, his or her appeal may be dismissed on motion of the municipality.

13-10-123. Procedendo on dismissal. Upon dismissal of an appeal, the clerk of the appellate court shall at once issue a procedendo to the municipal court from the judgment on which appeal was taken, to the amount of the judgment and all costs incurred before the municipal court.

13-10-124. Action on bond in name of municipality. Action may be instituted upon any bond under this article in the name of the municipality in whose favor it is executed.

13-10-125. Judgment. Upon trial de novo of the case on appeal to the appellate court, if a jury has been demanded, the duties of the jurors shall be to determine only whether the appellant has violated the ordinance charged. Upon a verdict of guilty, the judge shall then hear and consider any material facts in mitigation or aggravation of the offense and shall impose a penalty as provided by ordinance.

13-10-126. Prostitution offender program authorized - reports. (1) Subject to the provisions of this section, a municipal or county court, or multiple municipal or county courts, may create and administer a program for certain persons who are charged with soliciting for prostitution, as described in section 18-7-202, C.R.S., patronizing a prostitute, as described in section 18-7-205, C.R.S., or any corresponding municipal code

or ordinance.

(2) A program created and administered by a municipal or county court or multiple municipal or county courts pursuant to subsection (1) of this section shall:

(a) Permit enrollment in the program only by an offender who either:

(I) (A) Has no prior convictions or any charges pending for any felony; for any offense described in section 18-3-305, 18-3-306, or 18-13-128, C.R.S., in part 4 or 5 of article 3 of title 18, C.R.S., in part 3, 4, 6, 7, or 8 of article 6 of title 18, C.R.S., in section 18-7-201.7, 18-7-203, 18-7-205.7, or 18-7-206, C.R.S., or in part 3, 4, or 5 of article 7 of title 18, C.R.S.; or for any offense committed in another state that would constitute such an offense if committed in this state; and

(B) Has been offered and has agreed to a deferred sentencing arrangement as described in subsection (3) of this section; or

(II) (A) Has at least one prior conviction for any offense described in section 18-7-201, 18-7-202, 18-7-204, 18-7-205, or 18-7-207, C.R.S.; or for any offense committed in another state that would constitute such an offense if committed in this state; and

(B) Has been sentenced by a court to complete the program as part of the penalty imposed for a subsequent conviction for soliciting for prostitution, as described in section 18-7-202, C.R.S., patronizing a prostitute, as described in section 18-7-205, C.R.S., or any corresponding municipal code or ordinance.

(b) Permit the court or courts to require each offender who enrolls in the program to pay an administration fee, which fee the court or courts shall use to pay the costs of administering the program;

(c) To the extent practicable, be available to offenders, courts, and prosecutors of other jurisdictions; and

(d) Be administered by the court or courts with assistance from one or more municipal prosecutor's offices, one or more district attorney's offices, one or more state or local law enforcement agencies, and one or more nonprofit corporations, as defined in section 7-121-401, C.R.S., which nonprofit corporations have a stated mission to reduce human trafficking or prostitution. The court or courts are encouraged to consult, in addition to the aforementioned entities, recognized criminology experts and mental health professionals.

(3) (a) Enrollment in the program shall be offered to each offender at the sole discretion of the prosecuting attorney in each offender's case.

(b) If the prosecuting attorney offers enrollment in the program to an offender as a condition of a plea bargain agreement as described in subparagraph (I) of paragraph (a) of subsection (2) of this section, the agreement shall include at a minimum the following stipulations:

(I) The offender shall enter a plea of guilty to the prostitution-related offense or offenses with which he or she is charged;

(II) The court shall defer judgment and sentencing of the offender for a period not

to exceed two years, as described in section 18-1.3-102 (1), C.R.S., during which time the offender shall enroll in and complete the program and may be required to pay an administration fee, as described in paragraph (b) of subsection (2) of this section;

(III) Upon the offender's satisfactory completion of the program, the court shall dismiss with prejudice the prostitution-related charge or charges;

(IV) The offender shall waive his or her right to a speedy trial; and

(V) If the offender fails to complete the program or fails to satisfy any other condition of the plea bargain agreement, he or she shall be sentenced for the offenses to which he or she has pleaded guilty and shall be required to pay a fine of not less than two thousand five hundred dollars and not more than five thousand dollars, or the maximum amount available to a municipal or county court, in the discretion of the court, in addition to any other sentence imposed by the court.

(c) If the prosecuting attorney offers enrollment in the program to an offender pursuant to subparagraph (II) of paragraph (a) of subsection (2) of this section and the offender fails to complete the program, the offender shall be required to pay a fine of not less than two thousand five hundred dollars and not more than five thousand dollars, or the maximum amount available to the municipal or county court, in the discretion of the court, in addition to any other sentence imposed by the court.

(4) If a municipal or county court or multiple municipal or county courts create and administer a program pursuant to subsection (1) of this section, the court or courts shall prepare and submit a report to the judiciary committees of the house of representatives and senate, or any successor committees, concerning the effectiveness of the program. The court or courts shall submit the report not less than two years nor more than three years after the creation of the program. The report shall include information concerning:

(a) The cost of the program and the extent to which the cost is mitigated by the imposition of the fees described in paragraph (b) of subsection (2) of this section; and

(b) The effectiveness of the program in reducing recidivism among persons who commit prostitution-related offenses.

CIVIL PROTECTION ORDERS

ARTICLE 14

Civil Protection Orders

13-14-100.2. Legislative declaration. (1) The general assembly hereby finds that the issuance and enforcement of protection orders are of paramount importance in the

state of Colorado because protection orders promote safety, reduce violence and other types of abuse, and prevent serious harm and death. In order to improve the public's access to protection orders and to ensure careful judicial consideration of requests and effective law enforcement, there shall be two processes for obtaining protection orders within the state of Colorado, a simplified civil process and a mandatory criminal process.

(2) The general assembly further finds and declares that domestic abuse is not limited to physical threats of violence and harm but also includes mental and emotional abuse, financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs. Many victims of domestic abuse are unable to access the resources necessary to seek lasting safety options. Victims need additional provisions in protection orders so that they can meet their immediate needs of food, shelter, transportation, medical care, and childcare for their appearance at protection order hearings. These needs may exist not only in cases that may end in dissolution of marriage but also in other circumstances, including cases in which reconciliation may occur.

(3) Additionally, the general assembly finds and declares that sexual assault affects Coloradans of all ages, backgrounds, and circumstances and is one of the most under-reported of all crimes. Sexual violence may occur in any type of relationship; however, the majority of sexual assault is perpetrated by someone whom the victim knows. Victims of sexual assault who do not report the crime, as well as victims who do report but whose case is not prosecuted, still need and deserve protection from future interactions with the perpetrator, as many victims experience long-lasting physical and emotional trauma from unwanted contact with the perpetrator.

(4) Finally, the general assembly finds and declares that stalking is a dangerous, high-risk crime that frequently escalates over time and that sometimes leads, tragically, to sexual assault or homicide. Countless youth and adults in Colorado have faced the fear, isolation, and danger of being victims of stalking, and many of these incidents go unreported and are not prosecuted. While stalking behaviors may appear innocuous to outside observers, the victims often endure intense physical and emotional distress that affects all aspects of their lives and are more likely than others to express anxiety, depression, and social dysfunction.

13-14-101. Definitions. For purposes of this article, unless the context otherwise requires:

(1) "Abuse of the elderly or of an at-risk adult" means mistreatment of a person who is sixty years of age or older or who is an at-risk adult as defined in section 26-3.1-101 (1), C.R.S., including but not limited to repeated acts that:

(a) Constitute verbal threats or assaults;

(b) Constitute verbal harassment;

(c) Result in the inappropriate use or the threat of inappropriate use of

medications;

(d) Result in the inappropriate use of physical or chemical restraints;

(e) Result in the misuse of power or authority granted to a person through a power of attorney or by a court in a guardianship or conservatorship proceeding that results in unreasonable confinement or restriction of liberty; or

(f) Constitute threats or acts of violence against, or the taking, transferring, concealing, harming, or disposing of, an animal owned, possessed, leased, kept, or held by the elderly or at-risk adult, which threats or acts are intended to coerce, control, punish, intimidate, or exact revenge upon the elderly or at-risk adult.

(1.5) "Adult" means a person eighteen years of age or older.

(1.7) "Contact" or "contacting" means any interaction or communication with another person, directly or indirectly through a third party, and electronic and digital forms of communication, including but not limited to interaction or communication through social media.

(2) "Domestic abuse" means any act, attempted act, or threatened act of violence, stalking, harassment, or coercion that is committed by any person against another person to whom the actor is currently or was formerly related, or with whom the actor is living or has lived in the same domicile, or with whom the actor is involved or has been involved in an intimate relationship. A sexual relationship may be an indicator of an intimate relationship but is never a necessary condition for finding an intimate relationship. For purposes of this subsection (2), "coercion" includes compelling a person by force, threat of force, or intimidation to engage in conduct from which the person has the right or privilege to abstain, or to abstain from conduct in which the person has a right or privilege to engage. "Domestic abuse" may also include any act, attempted act, or threatened act of violence against:

(a) The minor children of either of the parties; or

(b) An animal owned, possessed, leased, kept, or held by either of the parties or by a minor child of either of the parties, which threat, act, or attempted act is intended to coerce, control, punish, intimidate, or exact revenge upon either of the parties or a minor child of either of the parties.

(2.2) "Minor child" means a person under eighteen years of age.

(2.3) "Protected person" means the person or persons identified in a protection order as the person or persons for whose benefit the protection order was issued.

(2.4) (a) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, touching, stalking, or sexually assaulting or abusing any protected person or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, or from taking, transferring, concealing, harming, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by a protected person, or any other provision to protect the protected person from imminent danger to life or health that

is issued by a court of this state or a municipal court and that is issued pursuant to:

(I) This article, section 18-1-1001, C.R.S., section 19-2-707, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(II) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

(III) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(IV) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, touching, stalking, or sexually assaulting or abusing a person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, or from taking, transferring, concealing, harming, disposing of or threatening to harm an animal owned, possessed, leased, kept, or held by a person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(b) For purposes of this article only, "protection order" includes any order that amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any emergency protection order, as described in section 13-14-103, any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-110.

(2.8) "Restrained person" means a person identified in a protection order as a person prohibited from doing a specified act or acts.

(2.9) "Sexual assault or abuse" means any act, attempted act, or threatened act of unlawful sexual behavior, as described in section 16-11.7-102 (3), C.R.S., by any person against another person regardless of the relationship between the actor and the petitioner.

(3) "Stalking" means any act, attempted act, or threatened act of stalking as described in section 18-3-602, C.R.S.

13-14-102. Civil protection orders - legislative declaration. (Repealed)

13-14-103. Emergency protection orders. (1) (a) Any county or district court shall have the authority to enter an emergency protection order pursuant to the provisions of this subsection (1).

(b) An emergency protection order issued pursuant to this subsection (1) may include:

(I) Restraining a party from contacting, harassing, injuring, intimidating, threatening, molesting, touching, stalking, sexually assaulting or abusing any other party, a minor child of either of the parties, or a minor child who is in danger in the reasonably

foreseeable future of being a victim of an unlawful sexual offense or domestic abuse;

(II) Excluding a party from the family home or from the home of another party upon a showing that physical or emotional harm would otherwise result;

(III) Awarding temporary care and control of any minor child of a party involved;

(IV) Enjoining an individual from contacting a minor child at school, at work, or wherever he or she may be found;

(V) Restraining a party from molesting, injuring, killing, taking, transferring, encumbering, concealing, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult; or

(VI) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult.

(c) In cases involving a minor child, the juvenile court and the district court shall have the authority to issue emergency protection orders to prevent an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or to prevent domestic abuse, as defined in section 13-14-101 (2), when requested by the local law enforcement agency, the county department of social services, or a responsible person who asserts, in a verified petition supported by affidavit, that there are reasonable grounds to believe that a minor child is in danger in the reasonably foreseeable future of being the victim of an unlawful sexual offense or domestic abuse, based upon an allegation of a recent actual unlawful sexual offense or domestic abuse or threat of the same. Any emergency protection order issued pursuant to this subsection (1) shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected person.

(d) The chief judge in each judicial district shall be responsible for making available in each judicial district a judge to issue, by telephone, emergency protection orders at all times when the county and district courts are otherwise closed for judicial business. Such judge may be a district court or county court judge or a special associate, an associate, an assistant county judge, or a magistrate.

(e) When the county, district, and juvenile courts are unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week and a peace officer asserts reasonable grounds to believe that an adult is in immediate and present danger of domestic abuse, assault, stalking, sexual assault or abuse, or that a minor child is in immediate and present danger of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or of domestic abuse, as defined in section 13-14-101 (2), a judge made available pursuant to paragraph (d) of this subsection (1) may issue a written or verbal ex parte emergency protection order. Any written emergency protection order issued pursuant to this subsection (1) shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected person.

(f) An emergency protection order issued pursuant to this subsection (1) shall expire not later than the close of judicial business on the next day of judicial business following the day of issue, unless otherwise continued by the court. The court may continue an emergency protection order filed to prevent abuse pursuant to this subsection (1) only if the judge is unable to set a hearing on plaintiff's request for a temporary protection order on the day the complaint was filed pursuant to section 13-14-104.5; except that this limitation on a court's power to continue an emergency protection order shall not apply to an emergency protection order filed to protect a minor child from an unlawful sexual offense or domestic abuse. For any emergency protection order continued pursuant to the provisions of this paragraph (f), following two days' notice to the party who obtained the emergency protection order or on such shorter notice to said party as the court may prescribe, the adverse party may appear and move its dissolution or modification. The motion to dissolve or modify the emergency protection order shall be set down for hearing at the earliest possible time and shall take precedence over all matters except older matters of the same character, and the court shall determine such motions as expeditiously as the ends of justice require.

(2) (a) A verbal emergency protection order may be issued pursuant to subsection (1) of this section only if the issuing judge finds that an imminent danger in close proximity exists to the life or health of one or more persons or that a danger exists to the life or health of the minor child in the reasonably foreseeable future.

(b) Any verbal emergency protection order shall be reduced to writing and signed by the officer or other person asserting the grounds for the order and shall include a statement of the grounds for the order asserted by the officer or person. The officer or person shall not be subject to civil liability for any statement made or act performed in good faith. The emergency protection order shall be served upon the respondent with a copy given to the protected party and filed with the county or district court as soon as practicable after issuance. Any written emergency protection order issued pursuant to this subsection (2) shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected person.

(3) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party or his or her parent or an individual acting in the place of a parent who is not the respondent.

(4) If any person named in an order issued pursuant to this section has not been served personally with such order but has received actual notice of the existence and substance of such order from any person, any act in violation of such order may be deemed sufficient to subject the person named in such order to any penalty for such violation.

(5) Venue for filing a complaint pursuant to this section is proper in any county where the acts that are the subject of the complaint occur, in any county where one of the

parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(6) A person failing to comply with any order of the court issued pursuant to this section shall be found in contempt of court and, in addition, may be punished as provided in section 18-6-803.5, C.R.S.

(7) At any time that the law enforcement agency having jurisdiction to enforce the emergency protection order has cause to believe that a violation of the order has occurred, it shall enforce the order. If the order is written and has not been personally served, a member of the law enforcement agency shall serve a copy of said order on the person named respondent therein. If the order is verbal, a member of the law enforcement agency shall notify the respondent of the existence and substance thereof.

(8) The availability of an emergency protection order shall not be affected by the person seeking protection leaving his or her residence to avoid harm.

(9) The issuance of an emergency protection order shall not be considered evidence of any wrongdoing.

(10) If three emergency protection orders are issued within a one-year period involving the same parties within the same jurisdiction, the court shall summon the parties to appear before the court at a hearing to review the circumstances giving rise to such emergency protection orders.

(11) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

13-14-104. Foreign protection orders. (Repealed)

13-14-104.5. Procedure for temporary civil protection order. (1) (a) Any municipal court of record, if authorized by the municipal governing body; any county court; and any district, probate, or juvenile court shall have original concurrent jurisdiction to issue a temporary or permanent civil protection order against an adult or against a juvenile who is ten years of age or older for any of the following purposes:

(I) To prevent assaults and threatened bodily harm;

(II) To prevent domestic abuse;

(III) To prevent emotional abuse of the elderly or of an at-risk adult;

(IV) To prevent sexual assault or abuse; and

(V) To prevent stalking.

(b) To be eligible for a protection order, the petitioner does not need to show that he or she has reported the act that is the subject of the complaint to law enforcement, that charges have been filed, or that the petitioner is participating in the prosecution of a

criminal matter.

(2) Any civil protection order issued pursuant to this section shall be issued using the standardized set of forms developed by the state court administrator pursuant to section 13-1-136.

(3) Venue for filing a motion or complaint pursuant to this section is proper in any county where the acts that are the subject of the motion or complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(4) A motion for a temporary civil protection order shall be set for hearing at the earliest possible time, which hearing may be ex parte, and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

(5) Any district court, in an action commenced under the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., shall have authority to issue temporary and permanent protection orders pursuant to the provisions of subsection (1) of this section. Such protection order may be as a part of a motion for a protection order accompanied by an affidavit filed in an action brought under article 10 of title 14, C.R.S. Either party may request the court to issue a protection order consistent with any other provision of this article.

(6) At the time a protection order is requested pursuant to this section, the court shall inquire about, and the requesting party and such party's attorney shall have an independent duty to disclose, knowledge such party and such party's attorney may have concerning the existence of any prior protection or restraining order of any court addressing in whole or in part the subject matter of the requested protection order. In the event there are conflicting restraining or protection orders, the court shall consider, as its first priority, issues of public safety. An order that prevents assaults, threats of assault, or other harm shall be given precedence over an order that deals with the disposition of property or other tangible assets. Every effort shall be made by judicial officers to clarify conflicting orders.

(7) (a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil protection order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider all relevant evidence concerning the safety and protection of the persons seeking the protection order. The court shall not deny a petitioner the relief requested because of the length of time between an act of abuse or threat of harm and the filing of the petition for a protection order.

(b) If the judge or magistrate finds that an imminent danger exists to the employees of a business entity, he or she may issue a civil protection order in the name of

the business for the protection of the employees. An employer is not be liable for failing to obtain a civil protection order in the name of the business for the protection of the employees and patrons.

(8) Upon the filing of a complaint duly verified, alleging that the respondent has committed acts that would constitute grounds for a civil protection order, any judge or magistrate, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary civil protection order to prevent the actions complained of and a citation directed to the respondent commanding the respondent to appear before the court at a specific time and date and to show cause, if any, why said temporary civil protection order should not be made permanent. In addition, the court may order any other relief that the court deems appropriate. Complaints may be filed by persons seeking protection for themselves or for others as provided in section 26-3.1-102 (1) (b) and (1) (c), C.R.S.

(9) A copy of the complaint, a copy of the temporary civil protection order, and a copy of the citation must be served upon the respondent and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or rule 4 of the Colorado rules of civil procedure. The citation must inform the respondent that, if the respondent fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the respondent, and the temporary protection order previously entered by the court made permanent without further notice or service upon the respondent.

(10) The return date of the citation must be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the respondent in that period, the court shall extend the temporary protection order previously issued, continue the show of cause hearing, and issue an alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, and the court may grant, additional continuances as needed if the petitioner has still been unable to serve the respondent.

(11) (a) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, is permitted to return to the shared residence one time to obtain sufficient undisputed personal effects as are necessary for the person to maintain a normal standard of living during any period prior to a hearing concerning the order. The person against whom a temporary protection order is issued is permitted to return to the shared residence only if the person is accompanied at all times by a peace officer while the person is at or in the shared residence.

(b) When any person is served with a temporary protection order issued against the person excluding the person from a shared residence, the temporary protection order must contain a notification in writing to the person of the person's ability to return to the

shared residence pursuant to paragraph (a) of this subsection (11). The written notification shall be in bold print and conspicuously placed in the temporary protection order. A judge, magistrate, or other judicial officer shall not issue a temporary protection order that does not comply with this section.

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes the person from a shared residence, may avail himself or herself of the forcible entry and detainer remedies available pursuant to article 40 of this title. However, such person is not entitled to return to the residence until such time as a valid writ of restitution is executed and filed with the court issuing the protection order and, if necessary, the protection order is modified accordingly. A landlord whose lessee has been excluded from a residence pursuant to the terms of a protection order may also avail himself or herself of the remedies available pursuant to article 40 of this title.

13-14-105. Provisions relating to civil protection orders. (1) A municipal court of record that is authorized by its municipal governing body to issue protection or restraining orders and any county court, in connection with issuing a civil protection order, has original concurrent jurisdiction with the district court to include any provisions in the order that the municipal or county court deems necessary for the protection of persons, including but not limited to orders:

(a) Restraining a party from threatening, molesting, or injuring any other party or the minor child of either of the parties;

(b) Restraining a party from contacting any other party or the minor child of either of the parties;

(c) Excluding a party from the family home upon a showing that physical or emotional harm would otherwise result;

(d) Excluding a party from the home of another party upon a showing that physical or emotional harm would otherwise result;

(e) (I) Awarding temporary care and control of any minor children of either party involved for a period of not more than one year.

(II) If temporary care and control is awarded, the order may include parenting time rights for the other party involved and any conditions of such parenting time, including the supervision of parenting time by a third party who agrees to the terms of the supervised parenting time and any costs associated with supervised parenting time, if necessary. If the restrained party is unable to pay the ordered costs, the court shall not place such responsibility with publicly funded agencies. If the court finds that the safety of any child or the protected party cannot be ensured with any form of parenting time reasonably available, the court may deny parenting time.

(III) The court may award interim decision-making responsibility of a child to a person entitled to bring an action for the allocation of parental responsibilities under

section 14-10-123, C.R.S., when such award is reasonably related to preventing domestic abuse as defined in section 13-14-101 (2), or preventing the child from witnessing domestic abuse.

(IV) Temporary care and control or interim decision-making responsibility must be determined in accordance with the standard contained in section 14-10-124, C.R.S.

(f) Restraining a party from interfering with a protected person at the person's place of employment or place of education or from engaging in conduct that impairs the protected person's employment, educational relationships, or environment;

(g) Restraining a party from molesting, injuring, killing, taking, transferring, encumbering, concealing, disposing of or threatening harm to an animal owned, possessed, leased, kept, or held by any other party or a minor child of any other party;

(h) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party or a minor child of any other party;

(i) Granting such other relief as the court deems appropriate;

(j) (I) Entering a temporary injunction restraining the respondent from ceasing to make payments for mortgage or rent, insurance, utilities or related services, transportation, medical care, or child care when the respondent has a prior existing duty or legal obligation or from transferring, encumbering, concealing, or in any way disposing of personal effects or real property, except in the usual course of business or for the necessities of life and requiring the restrained party to account to the court for all extraordinary expenditures made after the injunction is in effect.

(II) Any injunction issued pursuant to this paragraph (j) is effective upon personal service or upon waiver and acceptance of service by the respondent for a period of time determined appropriate by the court not to exceed one year after the issuance of the permanent civil protection order.

(III) The provisions of the injunction must be printed on the summons, and the petition and the injunction become an order of the court upon fulfillment of the requirements of subparagraph (I) of this paragraph (j).

(IV) Nothing in this paragraph (j) precludes either party from applying to the district court for further temporary orders, an expanded temporary injunction, or modification or revocation. Any subsequent order issued by the district court as part of a domestic matter involving the parties supersedes an injunction made pursuant to this paragraph (j).

(2) Any order for temporary care and control issued pursuant to subsection (1) of this section is governed by the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14, C.R.S.

13-14-105.5. Civil protection orders - prohibition on possessing or purchasing a firearm. (1) If the court subjects a person to a civil protection order pursuant to a provision of this article and the protection order qualifies as an order described in 18

U.S.C. sec. 922 (d) (8) or (g) (8), the court, as part of such order:

(a) Shall order the person to:

(I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and

(II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control; and

(b) May require that before the person is released from custody on bond, the person shall relinquish, for the duration of the order, any firearm or ammunition in the person's immediate possession or control or subject to the person's immediate possession or control.

(2) (a) Except as described in paragraph (b) of this subsection (2), upon issuance of an order pursuant to subsection (1) of this section, the respondent shall relinquish any firearm or ammunition:

(I) Not more than twenty-four hours after being served with the order in open court; or

(II) Not more than forty-eight hours after being served with the order outside of the court.

(b) A court may allow a respondent up to seventy-two hours to relinquish a firearm or up to five days to relinquish ammunition pursuant to paragraph (a) of this subsection (2) if the respondent demonstrates to the satisfaction of the court that he or she is unable to comply within the time frame set forth in said subsection (2).

(c) To satisfy the requirement in paragraph (a) of this subsection (2), the respondent may:

(I) Sell or transfer possession of the firearm or ammunition to a federally licensed firearms dealer described in 18 U.S.C. sec. 923, as amended; except that this provision shall not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm or ammunition;

(II) Arrange for the storage of the firearm or ammunition by a law enforcement agency; except that this provision shall not be interpreted to require any law enforcement agency to provide storage of firearms or ammunition for any person; or

(III) Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition; except that a person who sells or transfers a firearm pursuant to this subparagraph (III) shall satisfy all of the provisions of section 18-12-112, C.R.S., concerning private firearms transfers, including but not limited to the performance of a criminal background check of the transferee.

(3) If a respondent is unable to satisfy the provisions of subsection (2) of this section because he or she is incarcerated or otherwise held in the custody of a law enforcement agency, the court shall require the respondent to satisfy such provisions not more than twenty-four hours after his or her release from incarceration or custody or be

held in contempt of court. Notwithstanding any provision of this subsection (3), the court may, in its discretion, require the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control before the end of the respondent's incarceration. In such a case, a respondent's failure to relinquish a firearm or ammunition as required shall constitute contempt of court.

(4) A federally licensed firearms dealer who takes possession of a firearm or ammunition pursuant to this section shall issue a receipt to the respondent at the time of relinquishment. The federally licensed firearms dealer shall not return the firearm or ammunition to the respondent unless the dealer:

(a) Contacts the bureau to request that a background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the background check.

(5) A local law enforcement agency may elect to store firearms or ammunition for persons pursuant to this section. If an agency so elects:

(a) The agency may charge a fee for such storage, the amount of which shall not exceed the direct and indirect costs incurred by the agency in providing such storage;

(b) The agency may establish policies for disposal of abandoned or stolen firearms or ammunition; and

(c) The agency shall issue a receipt to each respondent at the time the respondent relinquishes possession of a firearm or ammunition.

(6) If a local law enforcement agency elects to store firearms or ammunition for a person pursuant to this section, the law enforcement agency shall not return the firearm or ammunition to the respondent unless the agency:

(a) Contacts the bureau to request that a background check of the respondent be performed; and

(b) Obtains approval of the transfer from the bureau after the performance of the background check.

(7) (a) A law enforcement agency that elects to store a firearm or ammunition for a person pursuant to this section may elect to cease storing the firearm or ammunition. A law enforcement agency that elects to cease storing a firearm or ammunition for a person shall notify the person of such decision and request that the person immediately make arrangements for the transfer of the possession of the firearm or ammunition to the person or, if the person is prohibited from possessing a firearm, to another person who is legally permitted to possess a firearm.

(b) If a law enforcement agency elects to cease storing a firearm or ammunition for a person and notifies the person as described in paragraph (a) of this subsection (7), the law enforcement agency may dispose of the firearm or ammunition if the person fails to make arrangements for the transfer of the firearm or ammunition and complete said

transfer within ninety days of receiving such notification.

(8) If a respondent sells or otherwise transfers a firearm or ammunition to a private party who may legally possess the firearm or ammunition, as described in subparagraph (III) of paragraph (c) of subsection (2) of this section, the respondent shall acquire:

(a) From the transferee, a written receipt acknowledging the transfer, which receipt shall be dated and signed by the respondent and the transferee; and

(b) From the licensed gun dealer who requests from the bureau a background check of the transferee, as described in section 18-12-112, C.R.S., a written statement of the results of the background check.

(9) (a) Not more than three business days after the relinquishment, the respondent shall file a copy of the receipt issued pursuant to subsection (4), (5), or (8) of this section, and, if applicable, the written statement of the results of a background check performed on the respondent, as described in paragraph (b) of subsection (8) of this section, with the court as proof of the relinquishment. If a respondent fails to timely file a receipt or written statement as described in this subsection (9):

(I) The failure constitutes a violation of the protection order pursuant to section 18-6-803.5 (1) (c), C.R.S.; and

(II) The court shall issue a warrant for the respondent's arrest.

(b) In any subsequent prosecution for a violation of a protection order described in this subsection (9), the court shall take judicial notice of the defendant's failure to file a receipt or written statement, which will constitute prima facie evidence of a violation of the protection order pursuant to section 18-6-803.5 (1) (c), C.R.S., and testimony of the clerk of the court or his or her deputy is not required.

(10) Nothing in this section shall be construed to limit a respondent's right to petition the court for dismissal of a protection order.

(11) A person subject to a civil protection order issued pursuant to section 13-14-104.5 (1) (a) who possesses or attempts to purchase or receive a firearm or ammunition while the protection order is in effect violates the order pursuant to section 18-6-803.5 (1) (c), C.R.S.

(12) (a) A law enforcement agency that elects in good faith to not store a firearm or ammunition for a person pursuant to subparagraph (II) of paragraph (c) of subsection (2) of this section shall not be held criminally or civilly liable for such election not to act.

(b) A law enforcement agency that returns possession of a firearm or ammunition to a person in good faith as permitted by subsection (6) of this section shall not be held criminally or civilly liable for such action.

13-14-106. Procedure for permanent civil protection orders. (1) (a) On the return date of the citation, or on the day to which the hearing has been continued, the

judge or magistrate shall examine the record and the evidence. If upon such examination the judge or magistrate finds by a preponderance of the evidence that the respondent has committed acts constituting grounds for issuance of a civil protection order and that unless restrained will continue to commit such acts or acts designed to intimidate or retaliate against the protected person, the judge or magistrate shall order the temporary civil protection order to be made permanent or enter a permanent civil protection order with provisions different from the temporary civil protection order. A finding of imminent danger to the protected person is not a necessary prerequisite to the issuance of a permanent civil protection order. The judge or magistrate shall inform the respondent that a violation of the civil protection order constitutes a criminal offense pursuant to section 18-6-803.5, C.R.S., or constitutes contempt of court and subjects the respondent to such punishment as may be provided by law. If the respondent fails to appear before the court for the show cause hearing at the time and on the date identified in the citation issued by the court and the court finds that the respondent was properly served with the temporary protection order and such citation, it is not necessary to re-serve the respondent to make the protection order permanent. However, if the court modifies the protection order on the motion of the protected party, the modified protection order must be served upon the respondent.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the judge or magistrate, after examining the record and the evidence, for good cause shown, may continue the temporary protection order and the show cause hearing to a date certain not to exceed one year after the date of the hearing if he or she determines such continuance would be in the best interests of the parties and if both parties are present at the hearing and agree to the continuance. In addition, each party may request one continuance for a period not to exceed fourteen days, which the judge or magistrate, after examining the record and the evidence, may grant upon a finding of good cause. The judge or magistrate shall inform the respondent that a violation of the temporary civil protection order constitutes a criminal offense pursuant to section 18-6-803.5, C.R.S., or constitutes contempt of court and subjects the respondent to such punishment as may be provided by law.

(c) Notwithstanding the provisions of paragraph (b) of this subsection (1), for a protection order filed in a proceeding commenced under the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., the court may, on the motion of either party if both parties agree to the continuance, continue the temporary protection order until the time of the final decree or final disposition of the action.

(2) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party.

(3) A court shall not grant a mutual protection order to prevent domestic abuse for the protection of opposing parties unless each party has met his or her burden of proof as

described in section 13-14-104.5 (7) and the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order to prevent domestic abuse for the protection of opposing parties. A party may not waive the requirements set forth in this subsection (3).

13-14-107. Enforcement of protection order - duties of peace officer. (1) A person failing to comply with any order of the court issued pursuant to this article is in contempt of court or may be prosecuted for violation of a civil protection order pursuant to section 18-6-803.5, C.R.S.

(2) The duties of peace officers enforcing a civil protection order shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to that section.

(3) If a respondent has not been personally served with a protection order, a peace officer responding to a call for assistance shall serve a copy of the protection order on the respondent named in the protection order, shall write the time, date, and manner of service on the protected person's copy of the order, and shall sign the statement.

13-14-108. Modification and termination of civil protection orders. (1) Any order granted pursuant to section 13-14-105 (1) (c) or (1) (e) must terminate whenever a subsequent order regarding the same subject matter is granted pursuant to the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of title 14, C.R.S., or the "Colorado Children's Code", title 19, C.R.S.

(2) (a) Nothing in this article precludes the protected party from applying to the court at any time for modification, including but not limited to a modification of the duration of a protection order or dismissal of a temporary or permanent protection order issued pursuant to this section.

(b) The restrained party may apply to the court for modification, including but not limited to a modification of the duration of the protection order or dismissal of a permanent protection order pursuant to this section. However, if a permanent protection order has been issued or if a motion for modification or dismissal of a permanent protection order has been filed by the restrained party, whether or not it was granted, no motion to modify or dismiss may be filed by the restrained party within two years after issuance of the permanent order or after disposition of the prior motion.

(3) (a) (I) Notwithstanding any provision of subsection (2) of this section to the contrary, after issuance of the permanent protection order, if the restrained party has been convicted of or pled guilty to any misdemeanor or any felony against the protected person, other than the original offense, if any, that formed the basis for the issuance of the protection order, then the protection order remains permanent and must not be modified or dismissed by the court.

(II) Notwithstanding the prohibition in subparagraph (I) of this paragraph (a), a protection order may be modified or dismissed on the motion of the protected person, or the person's attorney, parent or legal guardian if a minor, or conservator or legal guardian if one has been appointed; except that this paragraph (a) does not apply if the parent, legal guardian, or conservator is the restrained person.

(b) A court shall not consider a motion to modify a protection order filed by a restrained party pursuant to paragraph (a) of this subsection (3) unless the court receives the results of a fingerprint-based criminal history record check of the restrained party that is conducted within ninety days prior to the filing of the motion. The fingerprint-based criminal history record check must include a review of the state and federal criminal history records maintained by the Colorado bureau of investigation and federal bureau of investigation. The restrained party shall be responsible for supplying fingerprints to the Colorado bureau of investigation and to the federal bureau of investigation and paying the costs of the record checks. The restrained party may be required by the court to provide certified copies of any criminal dispositions that are not reflected in the state or federal records and any other dispositions that are unknown.

(4) Except as otherwise provided in this article, the issuing court retains jurisdiction to enforce, modify, or dismiss a temporary or permanent protection order.

(5) The court shall hear any motion filed pursuant to subsection (2) of this section. The party moving for a modification or dismissal of a temporary or permanent protection order pursuant to subsection (2) of this section shall affect personal service on the other party with a copy of the motion and notice of the hearing on the motion, as provided by rule 4 (e) of the Colorado rules of civil procedure. The moving party shall bear the burden of proof to show, by a preponderance of the evidence, that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary. If the protected party has requested that his or her address be kept confidential, the court shall not disclose such information to the restrained party or any other person, except as otherwise authorized by law.

(6) In considering whether to modify or dismiss a protection order issued pursuant to this section, the court shall consider all relevant factors, including but not limited to:

(a) Whether the restrained party has complied with the terms of the protection order;

(b) Whether the restrained party has met the conditions associated with the protection order, if any;

(c) Whether the restrained party has been ordered to participate in and has completed a domestic violence offender treatment program provided by an entity approved pursuant to section 16-11.8-103, C.R.S., or has been ordered to participate in and has either successfully completed a sex offender treatment program provided by an entity approved pursuant to section 16-11.7-103, C.R.S., or has made significant progress in a sex offender treatment program as reported by the sex offender treatment provider;

(d) Whether the restrained party has voluntarily participated in any domestic violence offender treatment program provided by an entity approved pursuant to section 16-11.8-103, C.R.S., or any sex offender treatment program provided by an entity approved pursuant to section 16-11.7-103, C.R.S.;

(e) The time that has lapsed since the protection order was issued;

(f) When the last incident of abuse or threat of harm occurred or other relevant information concerning the safety and protection of the protected person;

(g) Whether, since the issuance of the protection order, the restrained person has been convicted of or pled guilty to any misdemeanor or any felony against the protected person, other than the original offense, if any, that formed the basis for the issuance of the protection order;

(h) Whether any other restraining orders, protective orders, or protection orders have been subsequently issued against the restrained person pursuant to this section or any other law of this state or any other state;

(i) The circumstances of the parties, including the relative proximity of the parties' residences and schools or work places and whether the parties have minor children together; and

(j) Whether the continued safety of the protected person depends upon the protection order remaining in place because the order has been successful in preventing further harm to the protected person.

13-14-109. Fees and costs. (1) The court may assess a filing fee against a petitioner seeking relief under this article; except that the court may not assess a filing fee against a petitioner if the court determines the petitioner is seeking the protection order as a victim of domestic abuse, domestic violence as defined in section 18-6-800.3 (1), C.R.S., stalking, or sexual assault or abuse. The court shall provide the necessary number of certified copies at no cost to petitioners.

(2) A state or public agency may not assess fees for service of process against a petitioner seeking relief under this article as a victim of conduct consistent with the following: Domestic abuse, domestic violence as defined in section 18-6-800.3 (1), C.R.S., stalking, or sexual assault or abuse.

(3) At the permanent protection order hearing, the court may require the respondent to pay the filing fee and service-of-process fees, as established by the state agency, political subdivision, or public agency pursuant to a fee schedule, and to reimburse the petitioner for costs incurred in bringing the action.

13-14-110. Foreign protection orders. (1) **Definitions.** As used in this section, "foreign protection order" means any protection or restraining order, injunction, or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person,

including temporary or final orders, other than child support or custody orders, issued by a civil or criminal court of another state, an Indian tribe, or a United States territory or commonwealth.

(2) **Full faith and credit.** Courts of this state shall accord full faith and credit to a foreign protection order as if the order were an order of this state, notwithstanding section 14-11-101, C.R.S., and article 53 of this title, if the order meets all of the following conditions:

(a) The foreign protection order was obtained after providing the person against whom the protection order was sought reasonable notice and an opportunity to be heard sufficient to protect his or her due process rights. If the foreign protection order is an ex parte injunction or order, the person against whom it was obtained must have been given notice and an opportunity to be heard within a reasonable time after the order was issued sufficient to protect his or her due process rights.

(b) The court that issued the order had jurisdiction over the parties and over the subject matter; and

(c) The order complies with section 13-14-106 (3).

(3) **Process.** A person entitled to protection under a foreign protection order may, but is not required to, file such order in the district or county court by filing with such court a certified copy of such order, which must be entered into the central registry of protection orders created in section 18-6-803.7, C.R.S. The certified order must be accompanied by an affidavit in which the protected person affirms to the best of his or her knowledge that the order has not been changed or modified since it was issued. There shall be no filing fee charged. It is the responsibility of the protected person to notify the court if the protection order is subsequently modified.

(4) **Enforcement.** Filing of the foreign protection order in the central registry or otherwise domesticating or registering the order pursuant to article 53 of this title or section 14-11-101, C.R.S., is not a prerequisite to enforcement of the foreign protection order. A peace officer shall presume the validity of, and enforce in accordance with the provisions of this article, a foreign protection order that appears to be an authentic court order that has been provided to the peace officer by any source. If the protected party does not have a copy of the foreign protection order on his or her person and the peace officer determines that a protection order exists through the central registry, the national crime information center as described in 28 U.S.C. sec. 534, or through communication with appropriate authorities, the peace officer shall enforce the order. A peace officer may rely upon the statement of any person protected by a foreign protection order that it remains in effect. A peace officer who is acting in good faith when enforcing a foreign protection order is not civilly liable or criminally liable pursuant to section 18-6-803.5 (5), C.R.S.

CHANGE OF NAME

ARTICLE 15

Change of Name

13-15-101. Petition - proceedings. (1) (a) (I) Every person desiring to change his or her name may present a petition to that effect, verified by affidavit, to the district or county court in the county of the petitioner's residence, except as otherwise provided in paragraph (a.5) of this subsection (1). The petition shall include:

(A) The petitioner's full name;

(B) The new name desired; and

(C) A concise statement of the reason for the name change.

(II) If the petitioner is over fourteen years of age, the petition shall also include the results of a certified, fingerprint-based criminal history record check conducted pursuant to paragraph (c) of this subsection (1) within ninety days prior to the date of the filing of the petition.

(III) If the petitioner is under nineteen years of age, the petition shall also include the caption of any proceeding in which a court has ordered child support, allocation of parental responsibilities, or parenting time regarding the petitioner.

(a.5) If the petitioner is under nineteen years of age and is the subject of an action concerning child support, allocation of parental responsibilities, or parenting time, then the petition for name change shall be filed in the court having jurisdiction over the action concerning child support, allocation of parental responsibilities, or parenting time.

(b) The fingerprint-based criminal history check shall include arrests, conviction records, any criminal dispositions reflected in the Colorado bureau of investigation and federal bureau of investigation records, and fingerprint processing by the federal bureau of investigation and the Colorado bureau of investigation. The petitioner shall be responsible for providing certified copies of any criminal dispositions that are not reflected in the Colorado bureau of investigation or federal bureau of investigation records and any other dispositions which are unknown.

(c) The petitioner shall be responsible for supplying fingerprints to the Colorado bureau of investigation and to the federal bureau of investigation and for obtaining the fingerprint-based criminal history record checks. The petitioner shall also be responsible for the cost of such checks.

(1.5) Unless the petitioner has shown good cause why the publication provisions of section 13-15-102 should not apply, the court shall order the petitioner to publish notice as provided in section 13-15-102 and file proof of the publication with the court.

(2) (a) Upon receipt of proof of publication or upon an order of the court stating that publication is not required, the court, except as otherwise provided in paragraphs (b)

and (c) of this subsection (2), shall order the name change to be made and spread upon the records of the court in proper form if the court is satisfied that the desired change would be proper and not detrimental to the interests of any other person.

(b) The court shall not grant a petition for a name change if the court finds the petitioner was previously convicted of a felony or adjudicated a juvenile delinquent for an offense that would constitute a felony if committed by an adult in this state or any other state or under federal law. If the certified, fingerprint-based criminal history check filed with the petition reflects a criminal charge for which there is no disposition shown, the court may grant the name change after affirmation in open court by the petitioner, or submission of a signed affidavit by the petitioner, stating he or she has not been convicted of a felony in this state or any other state or under federal law.

(c) (Deleted by amendment, L. 2005, p. 20, § 1, effective February 23, 2005.)

(3) Notwithstanding the provisions of paragraph (b) of subsection (2) of this section, the court may grant a petition for a change of name of a petitioner who was previously convicted of a felony in this state or any other state or adjudicated a juvenile delinquent for an offense that would constitute a felony if committed by an adult in this state or any other state or under federal law if the court finds that the petitioner must have a legal name change in order to be issued in that name a driver's license or identification card from the department of revenue and if all of the following requirements are met:

(a) The petitioner meets all of the requirements of subsections (1) and (1.5) of this section and paragraph (a) of subsection (2) of this section;

(b) The proposed name change is to a name under which the petitioner was convicted or adjudicated; except that, for good cause, the court may allow a change to a name other than a name under which the petitioner was convicted or adjudicated;

(c) Prior to filing the petition, the name change applicant:

(I) (A) Submits his or her fingerprints to the Colorado bureau of investigation and the federal bureau of investigation for purposes of obtaining a fingerprint-based criminal history records check along with a written request to add his or her proposed name as an alias to the name change applicant's criminal history record.

(B) The Colorado bureau of investigation is authorized to add an alias to a name change applicant's criminal history record upon request.

(II) (A) Notifies the district attorney's office in any district in which the applicant was convicted of a felony that he or she is requesting a name change pursuant to this subsection (3).

(B) If the district attorney's office has a record of any victim of the applicant's crime, the district attorney's office shall send notice of the proposed name change to the victim.

(III) If, at the time the petition is filed, the applicant is in custody of the department of corrections, under an order for probation or community corrections, or incarcerated in a county jail, the applicant provides written notice to the supervising

agency that he or she is requesting a change of name under this section; and

(IV) Provides the court with a copy of his or her criminal history record from both the Colorado bureau of investigation and the federal bureau of investigation and the criminal history report from the Colorado bureau of investigation reflects the addition of the proposed changed name as an alias; and

(d) The court finds that:

(I) The name change is not for the purpose of fraud, to avoid the consequences of a criminal conviction, or to facilitate a criminal activity; and

(II) The desired name change would be proper and not detrimental to the interests of any other person.

(4) The department of revenue shall not issue a driver's license or an identification card in the new name of a name change applicant unless the name change applicant submits a court order changing the applicant's name pursuant to this section.

13-15-102. Publication of change. (1) Public notice of a change of name shall be given at least three times within twenty-one days after the court orders publication pursuant to section 13-15-101 (1.5). The person changing his or her name shall cause such public notice to be given in a newspaper published in the county in which the person resides. If no newspaper is published in that county, such notice shall be published in a newspaper in such county as the court directs.

(2) Public notice of such name change through publication as required in subsection (1) of this section shall not be required if the petitioner has been:

(a) The victim of a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), C.R.S.;

(b) The victim of child abuse, as defined in section 18-6-401, C.R.S.; or

(c) The victim of domestic abuse as that term is defined in section 13-14-101 (2).

COSTS

ARTICLE 16

Costs - Civil Actions

13-16-101. Security for costs. (1) In all actions on official bonds for the use of any persons, actions on the bonds of executors, administrators, or guardians, and qui tam actions on any penal statute, the person or plaintiff for whose use the action is to be

commenced, before he or she institutes such suit, shall file or cause to be filed with the clerk of the court in which the action is to be commenced an instrument in writing as described in subsection (3) of this section for security for the payment of costs of suit.

(2) In all cases in law and equity where the plaintiff, or the person for whose use an action is to be commenced, is not a resident of this state, upon motion of the defendant or any officer of the court pursuant to section 13-16-102, the court may require the nonresident plaintiff to give an instrument in writing for the payment of costs of suit as described in subsection (3) of this section; except that, to ensure that access to the courts is not unreasonably denied, a court shall not require an instrument in writing for the payment of costs of suit in excess of five thousand dollars.

(3) As used in this section and section 13-16-102, "instrument in writing" means an instrument in writing of some responsible person, being a resident of this state, to be approved by the clerk, whereby such person shall acknowledge himself or herself bound to pay, or cause to be paid, all costs which may accrue in such action either to the opposite party or to any of the officers of such courts, which instrument may be in form as follows:

A. B.	)	
vs.	)	..... Court.
C. D.	)	

I do hereby enter myself security for costs in this case, and acknowledge myself bound to pay, or cause to be paid, all costs which may accrue in this action, either to the opposite party or to any of the officers of this court pursuant to the laws of this state.

.....

Dated this ..... day of ....., 20.. .

13-16-102. Motion to require cost bond. If an action described in section 13-16-101 (2) is commenced by a nonresident of this state without filing an instrument in writing, or if at any time after the commencement of any suit by a resident of this state he or she shall become nonresident, and the court is satisfied that the nonresident plaintiff is unable to pay the costs of suit, the court may, on motion of the defendant or any officer of the court, order the nonresident plaintiff, on or before the day in such order named, to give an instrument in writing for the payment of costs in the suit. To ensure that access to the courts is not unreasonably denied, a court shall not require an instrument in writing for the payment of costs of suit in excess of five thousand dollars. If the nonresident plaintiff neglects or refuses, on or before the day in such rule named, to file such

instrument, the court, on motion, shall dismiss the suit.

13-16-103. Costs of poor person. (1) If the judge or justice of any court, including the supreme court, is at any time satisfied that any person is unable to prosecute or defend any civil action or special proceeding because he is a poor person and unable to pay the costs and expenses thereof, the judge or justice, in his discretion, may permit such person to commence and prosecute or defend an action or proceeding without the payment of costs; but, in the event such person prosecutes or defends an action or proceeding successfully, there shall be a judgment entered in his favor for the amount of court costs which he would have incurred except for the provision of this section, and this judgment shall be first satisfied out of any money paid into court, and such costs shall be paid to the court before any such judgment is satisfied of record.

(2) In determining whether a plaintiff in an action brought pursuant to article 4 of title 14, C.R.S., may be permitted to proceed without the payment of costs, the court shall take into account only those assets to which the plaintiff has direct access. The court shall not consider assets which the plaintiff is unable to directly access even though the plaintiff may have an ownership interest in those assets.

13-16-104. When plaintiff recovers costs. If any person sues in any court of this state in any action, real, personal, or mixed, or upon any statute for any offense or wrong immediately personal to the plaintiff and recovers any debt or damages in such action, then the plaintiff or demandant shall have judgment to recover against the defendant his costs to be taxed; and the same shall be recovered, together with the debt or damages, by execution, except in the cases mentioned in this article.

13-16-105. When defendant recovers costs. If any person sues in any court of record in this state in any action wherein the plaintiff or demandant might have costs in case judgment is given for him and he is nonprossed, suffers a discontinuance, is nonsuited after appearance of the defendant, or a verdict is passed against him, then the defendant shall have judgment to recover his costs against the plaintiff, except against executors or administrators prosecuting in the right of their testator or intestate, or demandant, to be taxed; and the same shall be recovered of the plaintiff or demandant, by like process as the plaintiff or demandant might have had against the defendant, in case judgment has been given for the plaintiff or demandant.

13-16-106. Costs in replevin. Any person making justification or cognizance in

replevin, if the same is found for him, or the plaintiff is nonsuited or nonprossed, suffers discontinuance, or is otherwise barred, then such person shall recover his damages and costs against the plaintiff.

13-16-107. Costs on motion to dismiss. If, in any action, judgment upon motion to dismiss by either party to the action is given against the plaintiff, the defendant shall recover costs against the plaintiff; if such judgment is given for the plaintiff, he shall recover costs against the defendant.

13-16-108. When several matters pleaded. When any defendant in any action, or plaintiff in replevin, pleads several matters, and any of such matters upon demurrer joined are adjudged insufficient, or if a verdict is found in any issue of the cause for the plaintiff, costs shall be given at the discretion of the court.

13-16-109. Costs on several counts. Where there are several counts in any declaration, and any of them are adjudged insufficient, or a verdict on any issue joined thereon is found for the defendant, costs shall be awarded in the discretion of the court.

13-16-110. When several defendants. Where several persons are made defendants to any action of trespass, assault, false imprisonment, detinue, replevin, trover, or ejectment, and any one or more of them are upon trial acquitted by verdict, every person so acquitted shall recover his costs of suit in like manner as if such verdict or acquittal had been given in favor of the defendant.

13-16-111. Recovery of costs of suit. A plaintiff who obtains judgment or an award of execution in an action brought under subsection (4) or (5) of rule 106 (a), C.R.C.P., shall recover his costs of suit. The defendant shall recover his costs if the action brought under subsection (4) or (5) of rule 106 (a), C.R.C.P., is dismissed pursuant to rule 41, C.R.C.P.

13-16-112. Number of witness fees taxed. In no case in the district court shall the fees of more than four witnesses be taxed against the party against whom judgment is given for costs, unless the court certifies on its minutes that more than four witnesses were really necessary, in which case the clerk shall tax the costs of as many witnesses as

the court so certifies.

13-16-113. Costs upon dismissal or summary judgment. (1) In all cases where any action is dismissed for irregularity, or is nonprossed or nonsuited by reason that the plaintiff neglects to prosecute the same, the defendant shall have judgment for his costs.

(2) In all actions brought as a result of a death or an injury to person or property occasioned by the tort of any other person, where any such action is dismissed prior to trial under rule 12 (b) of the Colorado rules of civil procedure, the defendant shall have judgment for his costs. This subsection (2) shall not apply if a motion under rule 12 (b) (5) of the Colorado rules of civil procedure is treated as a motion for summary judgment and disposed of as provided in rule 56 of the Colorado rules of civil procedure.

13-16-114. Costs in equity. Upon the complainant dismissing his bill in equity or the defendant dismissing the same for want of prosecution, the defendant shall recover against the complainant full costs; and, in all other cases in equity not otherwise directed by law, it is in the discretion of the court to award costs or not.

13-16-115. In suit for use of another. When any suit is commenced in the name of one person to the use of another, the person to whose use the action is brought shall be held liable and bound for the payment of all costs which the plaintiff may be adjudged or bound to pay, to be recovered by civil action.

13-16-116. Costs in adverse suit. In all cases where any person makes an application for a patent to any lode, claim, placer claim, millsite, or other mining property under the mining laws of the United States, and any other person claiming adversely to such applicant files an adverse claim in the proper land office or brings a suit for the purpose of determining the title, or right of possession, to such mining property, or any part thereof, if such adverse claimant, being plaintiff in such suit, prevails, so as to recover costs therein, he shall also recover and be entitled to tax as a part of his said costs all disbursements and expense necessarily incurred and paid by him for plats, abstracts, and copies of papers filed in said land office with his adverse claim, and also a reasonable counsel fee, not exceeding fifty dollars in any case, for the expense of preparing his said adverse claim.

13-16-117. On appeal from decisions in probate. In all cases of appeal from the

decision of a court of probate, the assessment of costs shall be in the discretion of the court in which such appeal is heard.

13-16-118. Clerk to tax costs. The clerk of any court in the state is authorized and required to tax and subscribe all bills of costs arising in any cause or proceeding in the court of which he is clerk, agreeable to the rates which are allowed or specified by law.

13-16-119. Costs retaxed - forfeit by clerk. If any person feels aggrieved by the taxation of any bill of costs, he may apply to the court to have the same retaxed, and, if it appears that the party aggrieved has paid any higher charge than by law is allowed, the court may order that the clerk forfeit all fees allowed to him for taxation and pay to the party aggrieved the whole amount which he has paid by reason of the allowing of any unlawful charge.

13-16-120. Fee bill - precept - levy and return. The clerk shall make out a bill of costs as the same have been taxed in any cause against the party liable to pay the same and his security for costs, if any, together with his precept, directed to the sheriff of the proper county, commanding that, if the costs in the said bill of costs mentioned are not paid within thirty days after demand made therefor, he shall cause the same to be levied on the goods and chattels, lands and tenements, of the party so liable therefor, and his security, if any, named therein. Every such fee bill shall run in the name of the people, shall be under the seal of the court, and shall be returnable within ninety days from the date thereof, and the sheriff shall proceed to collect the same.

13-16-121. Costs allowed to defendants who prevail against public entities. (Repealed)

13-16-122. Items includable as costs. (1) Whenever any court of this state assesses costs pursuant to any provision of this article, such costs may include:

(a) Any docket fee required by article 32 of this title or any other fee or tax required by statute to be paid to the clerk of the court;

(b) The jury fees and expenses provided for in article 71 of this title;

(c) Any fees required to be paid to sheriffs pursuant to section 30-1-104, C.R.S.;

(d) Any fees of the court reporter for all or any part of a transcript necessarily

obtained for use in this case;

(e) The witness fees, including subsistence payments, mileage at the rate authorized by section 13-33-103, and charges for expert witnesses approved pursuant to section 13-33-102 (4);

(f) Any fees for exemplification and copies of papers necessarily obtained for use in the case;

(g) Any costs of taking depositions for the perpetuation of testimony, including reporters' fees, witness fees, expert witness fees, mileage for witnesses, and sheriff fees for service of subpoenas;

(h) Any attorney fees, when authorized by statute or court rule;

(i) Any fees for service of process or fees for any required publications;

(j) Any item specifically authorized by statute to be included as part of the costs.

13-16-123. Award of fees and costs to garnishee. In any action before the court in which a garnishee incurs attorney fees in excess of the cost of preparing and filing his answer, the court may order that the costs of the proceeding, mileage fees as a witness, and reasonable attorney fees be paid to the garnishee when the court finds that the bringing, maintaining, or defense of the action involving the garnishee was frivolous, groundless, or without reasonable basis. The award of costs and fees may be allocated among the parties as the court deems just.

13-16-124. Sheriff's fees charged to judicial department. Except as provided for by section 13-16-103, in any civil action in which civil process is delivered to a county or city and county sheriff by the judicial department for service of process, the court in which the civil action is pending shall assess as costs against the party or parties requesting such service to be paid to the court the fees charged by the sheriff pursuant to section 30-1-104 (1), C.R.S. No civil action may be dismissed until such costs have been paid to the court.

13-16-125. Limit on supersedeas bond. (1) In any civil action brought under any legal theory, the amount of a supersedeas bond necessary to stay execution of a judgment granting legal, equitable, or any other relief during the entire course of all appeals or discretionary reviews of the judgment by all appellate courts shall be set in accordance with applicable law; except that the total amount of the supersedeas bonds that are required collectively of all appellants during the appeal of a civil action may not exceed twenty-five million dollars in the aggregate, regardless of the amount of the judgment that is appealed.

(2) Notwithstanding the provisions of subsection (1) of this section, if an appellee proves by a preponderance of the evidence that an appellant who has posted a supersedeas bond is intentionally dissipating or diverting assets outside the ordinary course of its business for the purpose of avoiding payment of the judgment, a court may enter orders that are necessary to protect the appellee or that require the appellant to post a supersedeas bond in an amount up to and including the total amount of the judgment that is appealed.

ARTICLE 17

Attorney Fees

PART 1

FRIVOLOUS, GROUNDLESS, OR VEXATIOUS ACTIONS

13-17-101. Legislative declaration. The general assembly recognizes that courts of record of this state have become increasingly burdened with litigation which is straining the judicial system and interfering with the effective administration of civil justice. In response to this problem, the general assembly hereby sets forth provisions for the recovery of attorney fees in courts of record when the bringing or defense of an action, or part thereof (including any claim for exemplary damages), is determined to have been substantially frivolous, substantially groundless, or substantially vexatious. All courts shall liberally construe the provisions of this article to effectuate substantial justice and comply with the intent set forth in this section.

13-17-102. Attorney fees - definitions. (1) Subject to the provisions of this section, in any civil action of any nature commenced or appealed in any court of record in this state, the court may award, except as this article otherwise provides, as part of its judgment and in addition to any costs otherwise assessed, reasonable attorney fees.

(2) Subject to the limitations set forth elsewhere in this article, in any civil action of any nature commenced or appealed in any court of record in this state, the court shall award, by way of judgment or separate order, reasonable attorney fees against any attorney or party who has brought or defended a civil action, either in whole or in part, that the court determines lacked substantial justification.

(2.1) Notwithstanding any other provision of this part 1, the filing of a certificate of review pursuant to section 13-20-602 related to any licensed health care professional shall create a rebuttable presumption that the claim or action is not frivolous or

groundless, but it shall not relieve the plaintiff or his attorney from ongoing obligations under rule 11 of Colorado rules of civil procedure.

(3) When a court determines that reasonable attorney fees should be assessed, it shall allocate the payment thereof among the offending attorneys and parties, jointly or severally, as it deems most just, and may charge such amount, or portion thereof, to any offending attorney or party.

(4) The court shall assess attorney fees if, upon the motion of any party or the court itself, it finds that an attorney or party brought or defended an action, or any part thereof, that lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure or a designation by a defending party under section 13-21-111.5 (3) that lacked substantial justification. As used in this article, "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(5) No attorney fees shall be assessed if, after filing suit, a voluntary dismissal is filed as to any claim or action within a reasonable time after the attorney or party filing the dismissal knew, or reasonably should have known, that he would not prevail on said claim or action.

(6) No party who is appearing without an attorney shall be assessed attorney fees unless the court finds that the party clearly knew or reasonably should have known that his action or defense, or any part thereof, was substantially frivolous, substantially groundless, or substantially vexatious; except that this subsection (6) shall not apply to situations in which an attorney licensed to practice law in this state is appearing without an attorney, in which case, he shall be held to the standards established for attorneys elsewhere in this article.

(7) No attorney or party shall be assessed attorney fees as to any claim or defense which the court determines was asserted by said attorney or party in a good faith attempt to establish a new theory of law in Colorado.

(8) This section shall not apply to traffic offenses, matters brought under the provisions of the "Colorado Children's Code", title 19, C.R.S., or related juvenile matters, or matters involving violations of municipal ordinances.

13-17-103. Procedure for determining reasonable fee - judicial discretion. (1) In determining the amount of an attorney fee award, the court shall exercise its sound discretion. When granting an award of attorney fees, the court shall specifically set forth the reasons for said award and shall consider the following factors, among others, in determining whether to assess attorney fees and the amount of attorney fees to be assessed against any offending attorney or party:

(a) The extent of any effort made to determine the validity of any action or claim before said action or claim was asserted;

(b) The extent of any effort made after the commencement of an action to reduce the number of claims or defenses being asserted or to dismiss claims or defenses found not to be valid within an action;

(c) The availability of facts to assist a party in determining the validity of a claim or defense;

(d) The relative financial positions of the parties involved;

(e) Whether or not the action was prosecuted or defended, in whole or in part, in bad faith;

(f) Whether or not issues of fact determinative of the validity of a party's claim or defense were reasonably in conflict;

(g) The extent to which the party prevailed with respect to the amount of and number of claims in controversy;

(h) The amount and conditions of any offer of judgment or settlement as related to the amount and conditions of the ultimate relief granted by the court.

13-17-104. Fee arrangements between attorney and client. The attorney and his client shall remain free to negotiate in private the actual fee which the client is to pay his attorney.

13-17-105. Stipulation as to fees. With the approval of the court, two or more parties to an action may agree, by written stipulation filed with the court or by oral stipulation in open court, to no award of attorney fees or an award of attorney fees in a manner different from that provided in this article.

13-17-106. Applicability. This article shall apply in all cases covered by this article unless attorney fees are otherwise specifically provided by statute, in which case the provision allowing the greater award shall prevail.

PART 2

ATTORNEY FEES IN CIVIL ACTIONS IN GENERAL

13-17-201. Award of reasonable attorney fees in certain cases. In all actions brought as a result of a death or an injury to person or property occasioned by the tort of any other person, where any such action is dismissed on motion of the defendant prior to

trial under rule 12 (b) of the Colorado rules of civil procedure, such defendant shall have judgment for his reasonable attorney fees in defending the action. This section shall not apply if a motion under rule 12 (b) of the Colorado rules of civil procedure is treated as a motion for summary judgment and disposed of as provided in rule 56 of the Colorado rules of civil procedure.

13-17-202. Award of actual costs and fees when offer of settlement was made. (1) (a) Notwithstanding any other statute to the contrary, in any civil action of any nature commenced or appealed in any court of record in this state:

(I) If the plaintiff serves an offer of settlement in writing at any time more than fourteen days before the commencement of the trial that is rejected by the defendant, and the plaintiff recovers a final judgment in excess of the amount offered, then the plaintiff shall be awarded actual costs accruing after the offer of settlement to be paid by the defendant.

(II) If the defendant serves an offer of settlement in writing at any time more than fourteen days before the commencement of the trial that is rejected by the plaintiff, and the plaintiff does not recover a final judgment in excess of the amount offered, then the defendant shall be awarded actual costs accruing after the offer of settlement to be paid by the plaintiff. However, as provided in section 13-16-104, if the plaintiff is the prevailing party in the action, the plaintiff's final judgment shall include the amount of the plaintiff's actual costs that accrued prior to the offer of settlement.

(III) If an offer of settlement is not accepted in writing within fourteen days after service of the offer, the offer shall be deemed rejected, and the party who made the offer is not precluded from making a subsequent offer. Evidence thereof is not admissible except in a proceeding to determine costs.

(IV) If an offer of settlement is accepted in writing within fourteen days after service of the offer, the offer of settlement shall constitute a binding settlement agreement, fully enforceable by the court in which the civil action is pending.

(V) An offer of settlement under this section shall remain open for at least fourteen days from the date of service unless withdrawn by service of withdrawal of the offer of settlement.

(VI) An offer of settlement served at any time fourteen days or less before the commencement of the trial shall not be subject to this section, and evidence thereof is not admissible for any purpose.

(b) For purposes of this section, "actual costs" shall not include attorney fees but shall mean costs actually paid or owed by the party, or his or her attorneys or agents, in connection with the case, including but not limited to filing fees, subpoena fees, reasonable expert witness fees, copying costs, court reporter fees, reasonable investigative expenses and fees, reasonable travel expenses, exhibit or visual aid preparation or

presentation expenses, legal research expenses, and all other similar fees and expenses.

(2) When comparing the amount of any offer of settlement to the amount of a final judgment actually awarded, any amount of the final judgment representing interest subsequent to the date of the offer in settlement shall not be considered.

(3) When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of settlement, which shall have the same effect as an offer made before trial (except with respect to costs already incurred) if it is served pursuant to subsection (1) of this section.

13-17-203. Limitation on attorney fees in class action litigation against public entities. If the plaintiffs prevail in any class action litigation brought against any public entity, as defined in section 24-10-103 (5), C.R.S., the amount of attorney fees which the plaintiffs' attorney is entitled to receive out of any award to the plaintiffs shall be determined by the court; except that such amount shall not exceed two hundred fifty thousand dollars. Such limitation shall apply where the public entity pays the attorney fees directly to the plaintiffs' attorneys or where the public entity is required to pay the attorney fees indirectly through any program it administers by reducing the benefits or amounts due to the individual plaintiffs.

PART 3

RETENTION OF ATTORNEYS BY GOVERNMENTAL ENTITIES - LIMITATION ON CONTINGENT FEE CONTRACTS

13-17-301. Short title. This part 3 shall be known and may be cited as the "Government Attorney Ethics Act".

13-17-302. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) In recent years, it has become increasingly common for governmental entities to retain attorneys pursuant to contingent fee contracts and disputes have arisen in several states regarding the amount and propriety of contingent fees;

(b) Contingent fees are intended to enable persons of modest means to obtain legal representation that they might not otherwise be able to afford but governmental entities have resources that are unavailable to individual citizens;

(c) Governmental entities should be required to fully consider the costs and risks

of litigation before retaining an attorney pursuant to a contingent fee contract;

(d) The department of law ordinarily represents the interests of the state of Colorado;

(e) Governmental officials, including attorneys who represent governmental entities on a contractual basis, are entrusted to protect the health, safety, and well-being of citizens and it is the policy of the state that a person who exercises authority on behalf of a governmental entity generally should not have a personal financial stake in the outcome of litigation initiated on behalf of the governmental entity;

(f) A contingent fee contract that gives an attorney who is retained to represent a governmental entity a direct personal stake in the outcome of legal proceedings is potentially unfair to the citizens or businesses against whom the governmental entity has filed suit and may not serve the best interests of the citizens or businesses on whose behalf the governmental entity initiates legal proceedings;

(g) Because contingent fee contracts do not require the appropriation of moneys, such contracts circumvent the system of checks and balances that ordinarily provides accountability for decisions of governmental entities and it is appropriate to limit contingent fee contracts to ensure that the decision-making process is protected;

(h) A contingent fee contract may result in the payment of excessive attorney fees by a governmental entity, thereby denying citizens represented by government the full measure of justice awarded by the courts;

(i) It is in the best interest of the people of Colorado to limit the circumstances in which governmental entities may retain private attorneys pursuant to contingent fee contracts.

13-17-303. Definitions. As used in this article, unless the context otherwise requires:

(1) "Contingent fee" means a fee for legal services that is contingent in whole or in part upon the successful outcome of the matter for which the legal services were retained.

(2) "Contingent fee contract" or "contract" means a contract for legal services in which the amount of the fee to be paid for the legal services depends in whole or in part upon the successful outcome of the matter for which the services were obtained. The term also includes any contract that specifies that fees for legal services will be determined by a court or an arbitrator or any provision of a settlement agreement that requires the opposing party to pay fees for legal services directly to a private attorney retained by a governmental entity pursuant to a contingent fee contract.

(3) "Governmental entity" means the state, any department or agency of the state, and any state-sponsored institution of higher education.

13-17-304. Limitation on contingent fees - applicability. (1) (a) Except as otherwise provided in subsections (2) and (3) of this section, and notwithstanding any other provision of law, a contingent fee contract between a governmental entity and a private attorney shall:

(I) Require the private attorney to maintain and provide to the governmental entity on a monthly basis a contemporaneous record of the hours of legal services provided by individual attorneys, the nature of such services, and any court costs incurred during each month and in the aggregate from the effective date of the contingent fee contract;

(II) Require the private attorney, upon the successful resolution of the matter for which the private attorney was retained, to provide to the governmental entity a statement of the hours of legal services provided by attorneys, the nature of such services, the amount of court costs incurred, the total amount of the contingent fee, and the average hourly rate for legal services provided by attorneys; and

(III) Specify an alternative hourly rate, not to exceed one thousand dollars per hour, at which the attorney shall be compensated in the event that the statement provided by the attorney indicates an average hourly rate for legal services provided by attorneys of more than one thousand dollars per hour.

(b) The average hourly rate for legal services provided by attorneys shall be determined by dividing the amount of the contingent fee, less the amount of court costs incurred if said amount is part of the contingent fee, by the number of hours of legal services provided by attorneys. Clerical work, including but not limited to transcription, photocopying, and document filing and organization, shall not be considered legal services provided by attorneys even if an attorney performs such work.

(2) The limitations and requirements of subsection (1) of this section shall not apply to any contingent fee contract entered into by a governmental entity prior to August 6, 2003.

(3) The limitations and requirements of subsection (1) of this section shall not apply to any contingent fee contract entered into by a governmental entity if the contract is for legal services performed by an attorney in connection with the collection of debts or taxes owed to a governmental entity and was entered into pursuant to section 23-3.1-104 (1) (f) or (2) (i), 23-5-113 (1), 24-30-202.4, or 39-21-114, C.R.S., or any other statutory provision that expressly authorizes or requires the payment of a portion of the moneys collected to an attorney retained to collect such debts or taxes.

(4) Compliance with this part 3 does not relieve a contracting attorney of any obligation or legal responsibility imposed by the Colorado rules of professional conduct or any provision of law.

ARTICLE 17.5

Costs - Attorney Fees -

13-17.5-101. Legislative declaration. (1) The general assembly declares that the state has a strong interest in limiting substantially frivolous, groundless, or vexatious inmate lawsuits that impose an undue burden on the state judicial system. While recognizing an inmate's right to access the courts for relief from unlawful state actions, the general assembly finds that a significant number of inmates file substantially frivolous, groundless, or vexatious lawsuits.

(2) The general assembly, therefore, determines that it is necessary to enact legislation that promotes efficiency in the disposition of inmate lawsuits by providing for preliminary matters to be determined by magistrates and to provide for sanctions against inmates who are allowed to file claims against public defendants and whose claims are dismissed as frivolous.

13-17.5-102. Definitions. As used in this article only:

(1) "Civil action" means the filing of a complaint, petition, writ, or motion with any court within the state, including any appellate court; except that "civil action" does not include any criminal action or an action for habeas corpus under article 45 of this title.

(1.5) "Detaining facility" means any state correctional facility, as defined in section 17-1-102 (1.7), C.R.S., including the youthful offender system, any private correctional facility housing state prisoners pursuant to part 2 of article 1 of title 17, C.R.S., any local jail, as defined in section 16-11-308.5 (1.5), C.R.S., or any community corrections program, established in article 27 of title 17, C.R.S. A detaining facility shall not include any juvenile detention facility that detains only juveniles.

(2) "Inmate" means a person who is sentenced or is awaiting sentencing to any detaining facility.

(3) "Public defendant" means any state, county, or municipal agency, any state, county, or municipal official or employee acting within the scope of his or her authority, or any agent acting on behalf of any state, county, or municipal agency.

13-17.5-102.3. Exhaustion of remedies. (1) No inmate shall bring a civil action based upon prison conditions under any statute or constitutional provision until all available administrative remedies have been exhausted in a timely fashion by the entity operating the detaining facility and inmate. For purposes of this subsection (1), an inmate shall be considered to have exhausted all available administrative remedies when the inmate has completed the last step in the inmate grievance process as set forth in the

regulations promulgated by the entity operating the detaining facility. Failure to allege in the civil action that all available administrative remedies have been exhausted in accordance with this subsection (1) shall result in dismissal of the civil action.

(2) Notwithstanding subsection (1) of this section, if a court finds that a claim filed by an inmate is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from monetary relief, a court may dismiss the claim without first requiring exhaustion of administrative remedies.

13-17.5-102.7. Successive claims. (1) No inmate who on three or more occasions has brought a civil action based upon prison conditions that has been dismissed on the grounds that it was frivolous, groundless, or malicious or failed to state a claim upon which relief may be granted or sought monetary relief from a defendant who is immune from such relief, shall be permitted to proceed as a poor person in a civil action based upon prison conditions under any statute or constitutional provision.

(2) Notwithstanding the provisions of subsection (1) of this section, an inmate may proceed as a poor person in a civil action if the judge finds that the action alleges sufficient facts which, if assumed to be true, would demonstrate that the inmate is in imminent danger of serious physical injury.

(3) (a) A copy of any court order that dismisses an inmate's civil action on the grounds that it is frivolous, groundless, or malicious or fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief shall be mailed by the court clerk to the Colorado attorney general, whether or not the attorney general entered an appearance in the civil action, and whether or not the civil action involved a state correctional facility or state defendant. The attorney general shall monitor the dismissals described in this paragraph (a).

(b) The attorney general shall inform the state judicial department or the chief judge of each judicial district whenever the attorney general becomes aware that an inmate has been assessed three or more dismissals as described in paragraph (a) of this subsection (3). Each judicial district shall maintain a registry of such information. An inmate listed in the registry who brings a civil action shall be subject to the provisions of subsections (1) and (2) of this section.

13-17.5-103. Filing fees. (1) An inmate who seeks to proceed in any civil action without prepayment of fees, in addition to filing any required affidavit, shall submit a copy of the inmate's account statement for the six-month period immediately preceding the filing of the civil action, certified by an appropriate official at the detaining facility. If the inmate account demonstrates that the inmate has sufficient funds to pay the filing fee, or if the action on its face is frivolous, groundless, or malicious, or fails to state a claim

upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief, the motion to proceed as a poor person shall be denied.

(2) Any inmate who is allowed to proceed in the civil action as a poor person shall be required to pay the full amount of the filing fee and service of process fees previously paid by the court in the following installments:

(a) If the inmate has ten dollars or more in his or her inmate account, make an initial partial payment in accordance with the order of the court; and

(b) Regardless if the inmate has ten dollars in his or her inmate account at the time of the filing of the civil action, make continuing monthly payments to the court equal to twenty percent of the preceding month's deposits in the inmate's account until the filing fee and service of process fees previously paid by the court are paid in full.

(2.5) The court shall include in its order granting permission to proceed as a poor person the requirement that the inmate comply with the provisions of subsection (2) of this section.

(2.7) A copy of any order granting an inmate's motion to proceed in a civil action as a poor person shall be forwarded by the court to the detaining facility that has custody of the inmate. Upon receipt of the order, the detaining facility shall forward payments from the inmate's account to the court in accordance with the order granting leave to proceed as a poor person.

(3) In no event shall an inmate be prohibited from filing a civil action or appealing a civil or criminal judgment because the inmate has no assets and no means by which to pay the initial partial payment.

13-17.5-104. Stay of state judicial proceedings. If the court determines, during the course of a state civil action by an inmate against any public defendant, that a federal civil action or grievance procedure is pending that involves the inmate and any of the same issues raised in the state civil action, the court shall stay the state civil action until the federal civil action or the grievance procedure is completed and all rights of appeal have been exhausted.

13-17.5-105. Proceedings before magistrate. As provided by sections 13-5-201 and 13-6-501, district and county court magistrates may preside over inmate motions filed pursuant to section 13-16-103 and motions filed pursuant to the Colorado rules of civil procedure to dispose of the inmate's action without the necessity of trial.

13-17.5-106. Assessment of costs and attorney fees - review of inmate spending from account - recovery of costs from inmate accounts - alternative

sanctions - continuing garnishment authorized. (1) (a) In any action based upon prison conditions brought under any statute or constitutional provision, if attorney fees are recoverable pursuant to any state or federal statute, no attorney fees shall be awarded to an inmate, except to the extent that:

(I) The fees were directly and reasonably incurred in proving an actual violation of the inmate's rights protected by the constitution or statute; and

(II) (A) The amount of the fees is proportionately related to the court-ordered relief for the violation; or

(B) The fees were directly and reasonably incurred in enforcing the relief ordered for the violation.

(b) No award of attorney fees under paragraph (a) of this subsection (1) shall be based on an hourly rate in excess of one hundred fifty percent of the hourly rate paid to court-appointed counsel in the district in which the action was filed.

(c) Whenever a separate monetary judgment is awarded in an action in which attorney fees are awarded under paragraph (a) of this subsection (1), a portion of the judgment not to exceed twenty-five percent shall be applied to reduce the amount of attorney fees awarded against the defendant.

(d) Nothing in this subsection (1) shall prohibit an inmate from entering into an agreement to pay an attorney fee in excess of the amount authorized in this subsection (1), if the fee is paid by the individual rather than by a defendant.

(2) The court may also enter judgment against an inmate who has been allowed to proceed as a poor person pursuant to section 13-16-103 for the amount of court costs and fees that the inmate would have incurred except for the provisions of that section, if the court awards attorney fees pursuant to subsection (1) of this section. The judgment entered by the court shall be collected and applied in accordance with subsection (3) of this section.

(3) If judgment for costs and attorney fees is awarded to a public defendant or to the court, pursuant to subsection (1) or (2) of this section, the court, pursuant to section 13-54.5-102, shall issue a writ of continuing garnishment of the inmate's account with the detaining facility, which garnishment shall continue until the judgment is paid in full, notwithstanding the requirement set forth in section 13-54.5-103 that the garnishment be renewed.

13-17.5-106.5. Court-ordered payment. Any compensatory damages awarded to an inmate in connection with a civil action brought against any federal, state, or local jail, prison, or facility or against any official or agent of a jail, prison, or facility, after deduction for any award of attorney fees pursuant to section 13-17.5-106 (1) (c), shall be paid directly to satisfy any outstanding court-ordered payments pending against the inmate, including but not limited to restitution or child support. The remainder of the

award after full payment of all pending court orders shall be forwarded to the inmate.

13-17.5-107. Construction of article - severability. Nothing in this article shall be construed to impede an inmate's constitutional right of access to the courts. If any provision of this section or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this section which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are declared to be severable.

13-17.5-108. Teleconferenced hearings. The department of law, the department of corrections, and the state judicial department shall cooperate to determine the cost of and actively pursue federal funding and contributions from any public or private entity for the purpose of developing, implementing, and maintaining a teleconferencing system for conducting proceedings in connection with state or federal civil actions filed by an inmate against a public defendant. On or before December 1, 1996, the state judicial department shall inform the judiciary committees of the general assembly of the progress made in pursuing funds for the development of the system. On or before March 1, 1996, the state judicial department shall submit a detailed plan to implement the use of a teleconferencing system for all proceedings in which an inmate is a witness or a party.

DAMAGES

Regulation of Actions and Proceedings

ARTICLE 20

Actions

PART 1

SURVIVAL OF ACTIONS

13-20-101. What actions survive. (1) All causes of action, except actions for slander or libel, shall survive and may be brought or continued notwithstanding the death of the person in favor of or against whom such action has accrued, but punitive damages shall not be awarded nor penalties adjudged after the death of the person against whom such punitive damages or penalties are claimed; and, in tort actions based upon personal

injury, the damages recoverable after the death of the person in whose favor such action has accrued shall be limited to loss of earnings and expenses sustained or incurred prior to death and shall not include damages for pain, suffering, or disfigurement, nor prospective profits or earnings after date of death. An action under this section shall not preclude an action for wrongful death under part 2 of article 21 of this title.

(2) Any action under this section may be brought or the court on motion may allow the action to be continued by or against the personal representative of the deceased. Such action shall be deemed a continuing one and to have accrued to or against such personal representative at the time it would have accrued to or against the deceased if he had survived. If such action is continued against the personal representative of the deceased, a notice shall be served on him as in cases of original process, but no judgment shall be collectible against a deceased person's estate or personal representative unless a claim, for the amount of such judgment as may be recovered in such continuing action, has been presented within the time and in the manner required for other claims against an estate.

13-20-102. Effect of repeal. The repeal of part 3 of this article concerning informed consent to medical procedures shall not have the effect of invalidating any previous judicial decision relating to requirements for informed consent or liability imposed for the lack thereof.

PART 2

ACTIONS ABOLISHED - MARITAL

13-20-201. Legislative declaration. The remedies provided by law on or before April 27, 1937, for the enforcement of actions based upon alleged alienation of affections, criminal conversation, seduction, and breach of contract to marry have been subjected to grave abuses, caused extreme annoyance, embarrassment, humiliation, and pecuniary damage to many persons wholly innocent and free of any wrongdoing who were merely the victims of circumstances, and have been exercised by unscrupulous persons for their unjust enrichment, and have furnished vehicles for the commission or attempted commission of crime and in many cases have resulted in the perpetration of frauds, it is hereby declared as the public policy of the state that the best interests of the people of the state will be served by the abolition thereof. Consequently, in the public interest, the necessity for the enactment of this part 2 is hereby declared as a matter of legislative determination.

13-20-202. Civil causes abolished. All civil causes of action for breach of promise to marry, alienation of affections, criminal conversation, and seduction are hereby abolished.

13-20-203. Breach of contract to marry not actionable. No act done within this state shall operate to give rise, either within or without this state, to any of the rights of action abolished by this part 2. No contract to marry made or entered into in this state shall operate to give rise, either within or without this state, to any cause or right of action for the breach thereof, nor shall any contract to marry made in any other state give rise to any cause of action within this state for the breach thereof.

13-20-204. Certain contracts made in settlement of claims void. (1) All contracts and instruments of every kind, name, nature, or description which may be executed within this state in payment, satisfaction, settlement, or compromise of any claim or cause of action abolished or barred by this part 2, whether such claim or cause of action arose within or without this state, are declared to be contrary to the public policy of this state and absolutely void. It is unlawful to cause, induce, or procure any person to execute such a contract or instrument; or cause, induce, or procure any person to give, pay, transfer, or deliver any money or thing of value in payment, satisfaction, settlement, or compromise of any such claim or cause of action; or to receive, take, or accept any such money or thing of value as such payment, satisfaction, settlement, or compromise. It is unlawful to commence or cause to be commenced, either as party, attorney, or agent or otherwise in behalf of either, in any court of this state any proceeding or action seeking to enforce or recover upon any such contract or instrument, knowing it to be such, whether the same was executed within or without this state.

(2) This section shall not apply to the payment, satisfaction, settlement, or compromise of any causes of action which are not abolished or barred by this part 2, or any contracts or instruments executed on or before April 27, 1937, or to the bona fide holder in due course of any negotiable instrument which may be executed in pursuance of this statute.

13-20-205. Unlawful to file pleading. It is unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed in any court of this state any pleading or paper setting forth or seeking to recover upon any cause of action abolished or barred by this part 2, whether such cause of action arose within or without this state.

13-20-206. Unlawful to name corespondent. It is unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed in any court of this state any pleading or paper naming or describing in such manner as to identify any person as corespondent or participant in misconduct of the adverse party in any action for dissolution of marriage, legal separation, declaration of invalidity of marriage, or the allocation of parental responsibilities or support of children, or in any citation or proceeding ancillary or subsequent to such action. In all such cases it is sufficient for such pleader to designate any such corespondent or third party in general language that is not sufficient for identification, and such general language shall operate with the same legal effect as complete naming and identification of the person would do; except that the adverse party may file a motion for a bill of particulars to secure such name, identity, or other facts. The granting of such motion, in whole or in part, rests in the sound discretion of the court; and, if ordered granted, the bill of particulars shall set forth the information specifically required by said order, but no further, and when filed the same shall be sealed, not to be opened without an order of the court. If the motion for a bill of particulars is granted, the party named in said bill of particulars shall be given five days' notice in writing prior to the filing of the same, said notice to be given either by personal service or by registered mail addressed to his last-known address.

13-20-207. Corespondent not to be disclosed - cross-examination - effect. (1) No attorney appearing in any of the proceedings mentioned in section 13-20-206 on behalf of a party thereto asserting misconduct by the adverse party shall ask of any witness any question intended or calculated to disclose the name or identity of any third person charged as corespondent or participant in any such misconduct, nor shall any party or witness testifying on behalf of a party asserting misconduct by the adverse party name or identify any third person charged as a corespondent or participant in any such misconduct; except that, if the court in the exercise of sound discretion so orders, counsel for any party charged with any act of misconduct with a third person may be permitted to cross-examine a witness who has testified to any such act of misconduct concerning the identity of any such third person and, within such limits as the court may prescribe, such witness may make answer to questions so asked.

(2) In all testimony in such actions, proceedings, and citations, designation of such corespondent or other alleged participant in misconduct by general language not sufficient for identification operates with the same legal effect as complete identification. The discretion vested in the court by this section shall be exercised in such manner as to avoid injustice to litigants, while at the same time avoiding so far as possible the public revelation of the name or identity of such third person, and to this end the court, in all such cases, may impound pleadings or other documents in the case and hear such testimony in chambers. This section shall not be construed to change the grounds for

dissolution of marriage or impair the substantive rights of parties in those cases, but to regulate pleading, practice, and testimony therein so as to eliminate criminal intimidation and public scandal. The provisions of this section apply as well to the taking of testimony by deposition as to proceedings before the court. The deposition of any corespondent or participant in misconduct shall be taken behind closed doors and, when filed in court, shall be sealed, not to be opened without the order of the court. Any willful violation of any provision of this section by any attorney, party, or witness constitutes a direct contempt of the court having jurisdiction of the proceedings in which the same occurs and may be punished by the court with a fine not exceeding five hundred dollars as the court deems proper.

13-20-208. Penalty for violations. Any person who violates any provision of sections 13-20-204 to 13-20-206 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

PART 3

INFORMED CONSENT TO MEDICAL PROCEDURES

13-20-301 to 13-20-305. (Repealed)

PART 4

WRITTEN INFORMED CONSENT TO ELECTROCONVULSIVE TREATMENTS

13-20-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Electroconvulsive treatment" means electroshock therapy, shock treatment, shock therapy, ECT, or EST and is the passage of electrical current through a patient's head in a voltage sufficient to induce a seizure.

(2) "Patient" means the person upon whom a proposed electroconvulsive treatment is to be performed; except that nothing in this part 4 shall be construed to supersede the provisions of article 65 of title 27, C.R.S., or any rule or regulation adopted by the department of human services pursuant to section 27-65-116 (2), C.R.S., with regard to the care and treatment of any person unable to exercise written informed consent or of a person with a mental illness.

(3) "Physician" means a person licensed to practice medicine or osteopathy.

(4) "Sufficient information relating to the proposed electroconvulsive treatment"

means information provided to the patient including, but not limited to, the following:

(a) The reason for such treatment;

(b) The nature of the procedures to be used in such treatment, including its probable frequency and duration;

(c) The probable degree and duration of improvement or remission expected with or without such treatment;

(d) The nature, degree, duration, and probability of the side effects and significant risks of such treatment commonly known by the medical profession, especially noting the possible degree and duration of memory loss, the possibility of permanent irrevocable memory loss, and the remote possibility of death;

(e) The reasonable alternative treatments and why the physician is recommending electroconvulsive treatment;

(f) That the patient has the right to refuse or accept the proposed treatment and has the right to revoke his consent for any reason at any time, either orally or in writing;

(g) That there is a difference of opinion within the medical profession on the use of electroconvulsive treatment.

(5) "Written informed consent" means consent to the proposed electroconvulsive treatment which a person knowingly and intelligently, without duress of any sort, clearly and explicitly manifests to the treating physician in writing and which is otherwise given in compliance with the provisions of this part 4.

13-20-402. Physician to provide information for written informed consent. At any time prior to performance of electroconvulsive treatment, a physician shall provide his patient with sufficient information relating to the proposed electroconvulsive treatment to enable said patient to give written informed consent to the proposed electroconvulsive treatment. The written informed consent shall be given by such patient on a standard written consent form to be prepared by the department of human services and shall be for a maximum number of treatments over a specified period of time.

13-20-403. Restrictions on electroconvulsive treatment - rights of minors. (1) Under no circumstances shall an electroconvulsive treatment be performed on a minor under sixteen years of age.

(2) Electroconvulsive treatment may be performed on a minor who is sixteen years of age or older but under eighteen years of age only if such treatment is performed with the concurring approval of two persons licensed to practice medicine and specializing in psychiatry and a parent or guardian of such minor.

(3) Electroconvulsive treatment may be performed on a person who is eighteen years of age or older only in those cases where two or more persons licensed to practice

medicine and specializing in psychiatry determine that such treatment is the most preferred form of treatment.

PART 5

ACTIONS AGAINST ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

13-20-501. (Repealed)

PART 6

ACTIONS AGAINST LICENSED PROFESSIONALS

13-20-601. Legislative declaration. The general assembly hereby declares that, in enacting this part 6, the general assembly has determined that the certificate of review requirement should be utilized in civil actions for negligence brought against those professionals who are licensed by this state to practice a particular profession and regarding whom expert testimony would be necessary to establish a prima facie case.

13-20-602. Actions against licensed professionals and acupuncturists - certificate of review required. (1) (a) In every action for damages or indemnity based upon the alleged professional negligence of an acupuncturist regulated pursuant to article 29.5 of title 12, C.R.S., or a licensed professional, the plaintiff's or complainant's attorney shall file with the court a certificate of review for each acupuncturist or licensed professional named as a party, as specified in subsection (3) of this section, within sixty days after the service of the complaint, counterclaim, or cross claim against such person unless the court determines that a longer period is necessary for good cause shown.

(b) A certificate of review shall be filed with respect to every action described in paragraph (a) of this subsection (1) against a company or firm that employed a person specified in such paragraph (a) at the time of the alleged negligence, even if such person is not named as a party in such action.

(2) In the event of failure to file a certificate of review in accordance with this section and if the acupuncturist or licensed professional defending the claim believes that an expert is necessary to prove the claim of professional negligence, the defense may move the court for an order requiring filing of such a certificate. The court shall give priority to deciding such a motion, and in no event shall the court allow the case to be set for trial without a decision on such motion.

(3) (a) A certificate of review shall be executed by the attorney for the plaintiff or complainant declaring:

(I) That the attorney has consulted a person who has expertise in the area of the alleged negligent conduct; and

(II) That the professional who has been consulted pursuant to subparagraph (I) of this paragraph (a) has reviewed the known facts, including such records, documents, and other materials which the professional has found to be relevant to the allegations of negligent conduct and, based on the review of such facts, has concluded that the filing of the claim, counterclaim, or cross claim does not lack substantial justification within the meaning of section 13-17-102 (4).

(b) The court, in its discretion, may require the identity of the acupuncturist or licensed professional who was consulted pursuant to subparagraph (I) of paragraph (a) of this subsection (3) to be disclosed to the court and may verify the content of such certificate of review. The identity of the professional need not be identified to the opposing party or parties in the civil action.

(c) In an action alleging professional negligence of a physician, the certificate of review shall declare that the person consulted meets the requirements of section 13-64-401; or in any action against any other professional, that the person consulted can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience, the consultant is competent to express an opinion as to the negligent conduct alleged.

(4) The failure to file a certificate of review in accordance with this section shall result in the dismissal of the complaint, counterclaim, or cross claim.

(5) These provisions shall not affect the rights and obligations under section 13-17-102.

PART 7

ACTIONS BASED ON ENVIRONMENTAL LIABILITY

13-20-701. Legislative declaration. Federal and state environmental laws provide that the owner of real property is liable for cleanup of property contamination and define who is the owner of such property. If a borrower defaults on a loan, a lender must decide whether to foreclose and potentially become the owner. For fear of becoming liable for conditions they did not create, lenders are showing a reluctance to foreclose, thus leaving no one responsible for the cleanup. So that lenders can predict with more certainty what their costs will be when they foreclose, it is the intent of the general assembly to limit third-party liability for lenders who comply with certain conditions to the cost of cleaning up contaminants or pollution pursuant to federal, state, and local laws. In addition such limitations may also make lenders more willing to lend to certain types of businesses.

13-20-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Contaminate or pollute", "contaminating or polluting", or "contamination or pollution" means contamination or pollution of air, water, real or personal property, animals, or human beings from a location in the state of Colorado, including, without limitation, contamination or pollution from hazardous waste and substances.

(2) "Lender-owner" means any person or entity which has a bona fide security interest in or mortgage or lien on, and which forecloses on or receives an assignment or deed in lieu of foreclosure and becomes the owner of, real or personal property and the foreclosure, deed in lieu, or assignment is not primarily for the purposes of avoiding third-party liability.

(3) "Representative" means any person or entity acting in the capacity of a receiver, conservator, guardian ad litem, personal representative of a deceased person, or trustee or fiduciary of real or personal property; except that the terms trustee and fiduciary shall be limited to entities acting as trustee or fiduciary and which are chartered by the division of banking or division of financial services, the office of the United States comptroller of the currency, or the office of thrift supervision.

(4) "Third parties" means persons or entities other than governmental entities seeking to enforce federal, state, or local environmental statutes, ordinances, regulations, permits, or orders.

(5) "Third-party liability" means liability to third parties for any claims arising out of or resulting from contamination or pollution, including, without limitation, claims for personal injury, consequential damages, lost profits, exemplary damages, or property damages, but does not include liability for the cost of cleaning up contamination or pollution.

13-20-703. Environmental third-party liability - ownership. (1) Except as preempted by federal law, no person or entity shall be deemed to be an owner or operator of real or personal property who, without participating in the management of the subject real or personal property, holds indicia of ownership primarily to protect a security or lienhold interest in the subject real or personal property or in the property in which the subject real or personal property is located.

(2) No lender-owner or representative shall, by virtue of becoming the owner of real or personal property, be liable for any third-party liability arising from contamination or pollution emanating from said property prior to the date that title vests in the lender-owner or representative.

(3) No lender-owner or representative shall, by virtue of becoming the owner of real or personal property, be liable for any third-party liability arising from contamination or pollution emanating from said property during the period of ownership so long as, and

to the extent that, it does not knowingly or recklessly cause new contamination or pollution or does not knowingly or recklessly allow others to cause new contamination or pollution if lender-owner has caused an environmental professional to conduct a visual inspection of the property and a record search of the recorded chain of title documents regarding the real property for the prior fifty years to determine the presence and condition of hazardous waste or substances, obvious contamination, or pollution and, if found by the enforcing agency to be in noncompliance with federal or state laws, takes steps to assure compliance with applicable laws. This subsection (3) shall apply to the lender-owner as long as it makes reasonable efforts to resell the property.

(4) This section shall not affect any liability expressly created under federal or state health or environmental statutes, regulations, permits, or orders.

PART 8

CONSTRUCTION DEFECT ACTIONS FOR PROPERTY LOSS AND DAMAGE

13-20-801. Short title. This part 8 shall be known and may be cited as the "Construction Defect Action Reform Act".

13-20-802. Legislative declaration. The general assembly hereby finds, declares, and determines that changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged construction defects. It is the intent of the general assembly that this part 8 apply to these types of civil actions while preserving adequate rights and remedies for property owners who bring and maintain such actions.

13-20-802.5. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Action" means a civil action or an arbitration proceeding for damages, indemnity, or contribution brought against a construction professional to assert a claim, counterclaim, cross-claim, or third party claim for damages or loss to, or the loss of use of, real or personal property or personal injury caused by a defect in the design or construction of an improvement to real property.

(2) "Actual damages" means the fair market value of the real property without the alleged construction defect, the replacement cost of the real property, or the reasonable cost to repair the alleged construction defect, whichever is less, together with relocation costs, and, with respect to residential property, other direct economic costs related to loss of use, if any, interest as provided by law, and such costs of suit and reasonable attorney

fees as may be awardable pursuant to contract or applicable law. "Actual damages" as to personal injury means those damages recoverable by law, except as limited by the provisions of section 13-20-806 (4).

(3) "Claimant" means a person other than the attorney general or the district attorneys of the several judicial districts of the state who asserts a claim against a construction professional that alleges a defect in the construction of an improvement to real property.

(4) "Construction professional" means an architect, contractor, subcontractor, developer, builder, builder vendor, engineer, or inspector performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property. If the improvement to real property is to a commercial property, the term "construction professional" shall also include any prior owner of the commercial property, other than the claimant, at the time the work was performed. As used in this subsection (4), "commercial property" means property that is zoned to permit commercial, industrial, or office types of use.

(5) "Notice of claim" means a written notice sent by a claimant to the last known address of a construction professional against whom the claimant asserts a construction defect claim that describes the claim in reasonable detail sufficient to determine the general nature of the defect, including a general description of the type and location of the construction that the claimant alleges to be defective and any damages claimed to have been caused by the defect.

13-20-803. List of defects required. (1) In addition to the notice of claim required by section 13-20-803.5, in every action brought against a construction professional, the claimant shall file with the court or arbitrator and serve on the construction professional an initial list of construction defects in accordance with this section.

(2) The initial list of construction defects shall contain a description of the construction that the claimant alleges to be defective. The initial list of construction defects shall be filed with the court and served on the defendant within sixty days after the commencement of the action or within such longer period as the court in its discretion may allow.

(3) The initial list of construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant. In no event shall the court allow the case to be set for trial before the initial list of construction defects is filed and served.

(4) If a subcontractor or supplier is added as a party to an action under this section, the claimant making the claim against such subcontractor or supplier shall file with the court and serve on the defendant an initial list of construction defects in

accordance with this section within sixty days after service of the complaint against the subcontractor or supplier or within such longer period as the court in its discretion may allow. In no event shall the filing of a defect list under this subsection (4) delay the setting of the trial.

13-20-803.5. Notice of claim process. (1) No later than seventy-five days before filing an action against a construction professional, or no later than ninety days before filing the action in the case of a commercial property, a claimant shall send or deliver a written notice of claim to the construction professional by certified mail, return receipt requested, or by personal service.

(2) Following the mailing or delivery of the notice of claim, at the written request of the construction professional, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's property during normal working hours to inspect the property and the claimed defect. The inspection shall be completed within thirty days of service of the notice of claim.

(3) Within thirty days following the completion of the inspection process conducted pursuant to subsection (2) of this section, or within forty-five days following the completion of the inspection process in the case of a commercial property, a construction professional may send or deliver to the claimant, by certified mail, return receipt requested, or personal service, an offer to settle the claim by payment of a sum certain or by agreeing to remedy the claimed defect described in the notice of claim. A written offer to remedy the construction defect shall include a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction work necessary to remedy the defect described in the notice of claim and all damage to the improvement to real property caused by the defect, and a timetable for the completion of the remedial construction work.

(4) Unless a claimant accepts an offer made pursuant to subsection (3) of this section in writing within fifteen days of the delivery of the offer, the offer shall be deemed to have been rejected.

(5) A claimant who accepts a construction professional's offer to remedy or settle by payment of a sum certain a construction defect claim shall do so by sending the construction professional a written notice of acceptance no later than fifteen days after receipt of the offer. If an offer to settle is accepted, then the monetary settlement shall be paid in accordance with the offer. If an offer to remedy is accepted by the claimant, the remedial construction work shall be completed in accordance with the timetable set forth in the offer unless the delay is caused by events beyond the reasonable control of the construction professional.

(6) If no offer is made by the construction professional or if the claimant rejects an offer, the claimant may bring an action against the construction professional for the

construction defect claim described in the notice of claim, unless the parties have contractually agreed to a mediation procedure, in which case the mediation procedure shall be satisfied prior to bringing an action.

(7) If an offer by a construction professional is made and accepted, and if thereafter the construction professional does not comply with its offer to remedy or settle a claim for a construction defect, the claimant may file an action against the construction professional for claims arising out of the defect or damage described in the notice of claim without further notice.

(8) After the sending of a notice of claim, a claimant and a construction professional may, by written mutual agreement, alter the procedure for the notice of claim process described in this section.

(9) Any action commenced by a claimant who fails to comply with the requirements of this section shall be stayed, which stay shall remain in effect until the claimant has complied with the requirements of this section.

(10) A claimant may amend a notice of claim to include construction defects discovered after the service of the original notice of claim. However, the claimant must otherwise comply with the requirements of this section for the additional claims.

(11) For purposes of this section, actual receipt by any means of a written notice, offer, or response prepared pursuant to this section within the time prescribed for delivery or service of the notice, offer, or response shall be deemed to be sufficient delivery or service.

(12) Except as provided in section 13-20-806, a claimant shall not recover more than actual damages in an action.

13-20-804. Restriction on construction defect negligence claims. (1) No negligence claim seeking damages for a construction defect may be asserted in an action if such claim arises from the failure to construct an improvement to real property in substantial compliance with an applicable building code or industry standard; except that such claim may be asserted if such failure results in one or more of the following:

(a) Actual damage to real or personal property;

(b) Actual loss of the use of real or personal property;

(c) Bodily injury or wrongful death; or

(d) A risk of bodily injury or death to, or a threat to the life, health, or safety of, the occupants of the residential real property.

(2) Nothing in this section shall be construed to prohibit, limit, or impair the following:

(a) The assertion of tort claims other than claims for negligence;

(b) The assertion of contract or warranty claims; or

(c) The assertion of claims that arise from the violation of any statute or ordinance

other than claims for violation of a building code.

13-20-805. Tolling of statutes of limitation. If a notice of claim is sent to a construction professional in accordance with section 13-20-803.5 within the time prescribed for the filing of an action under any applicable statute of limitations or repose, then the statute of limitations or repose is tolled until sixty days after the completion of the notice of claim process described in section 13-20-803.5.

13-20-806. Limitation of damages. (1) A construction professional otherwise liable shall not be liable for more than actual damages, unless and only if the claimant otherwise prevails on the claim that a violation of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S., has occurred; and if:

(a) The construction professional's monetary offer, made pursuant to section 13-20-803.5 (3), to settle for a sum certain a construction defect claim described in a notice of claim is less than eighty-five percent of the amount awarded to the claimant as actual damages sustained exclusive of costs, interest, and attorney fees; or

(b) The reasonable cost, as determined by the trier of fact, to complete the construction professional's offer, made pursuant to section 13-20-803.5, to remedy the construction defect described in the notice of claim is less than eighty-five percent of the amount awarded to the claimant as actual damages sustained exclusive of costs, interest, and attorney fees.

(2) If a construction professional does not substantially comply with the terms of an accepted offer to remedy or an accepted offer to settle a claim for a construction defect made pursuant to section 13-20-803.5 or if a construction professional fails to respond to a notice of claim, the construction professional shall be subject to the treble damages provision of section 6-1-113 (2) (a) (III), C.R.S.; except that a construction professional shall be subject to the treble damages provision only if the claimant otherwise prevails on the claim that a violation of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S., has occurred.

(3) Notwithstanding any other provision of law, the aggregate amount of treble damages awarded in an action under section 6-1-113 (2) (a) (III), C.R.S., and attorney fees awarded to a claimant under section 6-1-113 (2) (b), C.R.S., shall not exceed two hundred fifty thousand dollars in any action against a construction professional.

(4) (a) In an action asserting personal injury or bodily injury as a result of a construction defect in which damages for noneconomic loss or injury or derivative noneconomic loss or injury may be awarded, such damages shall not exceed the sum of two hundred fifty thousand dollars. As used in this subsection (4), "noneconomic loss or injury" has the same meaning as set forth in section 13-21-102.5 (2) (b), and "derivative

noneconomic loss or injury" has the same meaning as set forth in section 13-21-102.5 (2) (a).

(b) The limitations on noneconomic damages set forth in this subsection (4) shall be adjusted for inflation as of July 1, 2003, and as of July 1 of each year thereafter until and including July 1, 2008. The adjustment made pursuant to this paragraph (b) shall be rounded upward or downward to the nearest ten dollar increment.

(c) As used in paragraph (b) of this subsection (4), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(d) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and such adjusted limitation on damages shall be the limitation applicable to all claims for relief that accrue on or after July 1, 2003.

(5) Claims for personal injury or bodily injury as a result of a construction defect shall not be subject to the treble damages provisions of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S.

(6) In any case in which the court determines that the issue of a violation of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S., will be submitted to a jury, the court shall not disclose nor allow disclosure to the jury of an offer of settlement or offer to remedy made under section 13-20-803.5 that was not accepted by the claimant.

(7) (a) In order to preserve Colorado residential property owners' legal rights and remedies, in any civil action or arbitration proceeding described in section 13-20-802.5 (1), any express waiver of, or limitation on, the legal rights, remedies, or damages provided by the "Construction Defect Action Reform Act", this part 8, or provided by the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S., as described in this section, or on the ability to enforce such legal rights, remedies, or damages within the time provided by applicable statutes of limitation or repose are void as against public policy.

(b) A waiver, limitation, or release contained in a written settlement of claims, and any recorded notice of such settlement, between a residential property owner and a construction professional after such a claim has accrued shall not be rendered void by this subsection (7).

(c) This subsection (7) applies only to the legal rights, remedies, or damages of claimants asserting claims arising out of residential property and shall not apply to sales or donations of property or services by a bona fide charitable organization that is in compliance with the registration and reporting requirements of article 16 of title 6, C.R.S.

(d) Notwithstanding any provision of this subsection (7) to the contrary, this subsection (7) shall apply only to actions that are governed by the provisions of this part 8, also known as the "Construction Defect Action Reform Act", and shall not be deemed

to alter or amend the limitations on damages contained in this part 8, including the limitations on treble damages and attorney fees set forth in this section.

(e) Nothing contained in this section shall be deemed to render void any requirement to participate in mediation prior to filing a suit or arbitration proceeding.

13-20-807. Express warranty - not affected. The provisions of this part 8 are not intended to abrogate or limit the provisions of any express warranty or the obligations of the provider of such warranty. The provisions of this part 8 shall apply to those circumstances where an action is filed asserting one or more claims for relief including a claim for breach of warranty; except that, in any such action, section 13-20-806 (7) shall not apply to breach of express warranty claims except to the extent that provisions of the express warranty purport to waive or limit claims for relief other than the breach of express warranty claim. The provisions of this part 8 shall not be deemed to require a claimant who is the beneficiary of an express warranty to comply with the notice provisions of section 13-20-803.5 to request ordinary warranty service in accordance with the terms of such warranty. A claimant who requires warranty service shall comply with the provisions of such warranty.

13-20-808. Insurance policies issued to construction professionals. (1) (a) The general assembly finds and determines that:

(I) The interpretation of insurance policies issued to construction professionals is of vital importance to the economic and social welfare of the citizens of Colorado and in furthering the purposes of this part 8.

(II) Insurance policies issued to construction professionals have become increasingly complex, often containing multiple, lengthy endorsements and exclusions conflicting with the reasonable expectations of the insured.

(III) The correct interpretation of coverage for damages arising out of construction defects is in the best interest of insurers, construction professionals, and property owners.

(b) The general assembly declares that:

(I) The policy of Colorado favors the interpretation of insurance coverage broadly for the insured.

(II) The long-standing and continuing policy of Colorado favors a broad interpretation of an insurer's duty to defend the insured under liability insurance policies and that this duty is a first-party benefit to and claim on behalf of the insured.

(III) The decision of the Colorado court of appeals in *General Security Indemnity Company of Arizona v. Mountain States Mutual Casualty Company,* 205 P.3d 529 (Colo. App. 2009) does not properly consider a construction professional's reasonable expectation that an insurer would defend the construction professional against an action

or notice of claim contemplated by this part 8.

(IV) For the purposes of guiding pending and future actions interpreting liability insurance policies issued to construction professionals, what has been and continues to be the policy of Colorado is hereby clarified and confirmed in the interpretation of insurance policies that have been and may be issued to construction professionals.

(2) For the purposes of this section:

(a) "Insurance" has the same meaning as set forth in section 10-1-102, C.R.S.

(b) "Insurance policy" means a contract of insurance.

(c) "Insurer" has the same meaning as set forth in section 10-1-102, C.R.S.

(d) "Liability insurance policy" means a contract of insurance that covers occurrences of damage or injury during the policy period and insures a construction professional for liability arising from construction-related work.

(3) In interpreting a liability insurance policy issued to a construction professional, a court shall presume that the work of a construction professional that results in property damage, including damage to the work itself or other work, is an accident unless the property damage is intended and expected by the insured. Nothing in this subsection (3):

(a) Requires coverage for damage to an insured's own work unless otherwise provided in the insurance policy; or

(b) Creates insurance coverage that is not included in the insurance policy.

(4) (a) Upon a finding of ambiguity in an insurance policy, a court may consider a construction professional's objective, reasonable expectations in the interpretation of an insurance policy issued to a construction professional.

(b) In construing an insurance policy to meet a construction professional's objective, reasonable expectations, the court may consider the following:

(I) The object sought to be obtained by the construction professional in the purchase of the insurance policy; and

(II) Whether a construction defect has resulted, directly or indirectly, in bodily injury, property damage, or loss of the use of property.

(c) In construing an insurance policy to meet a construction professional's objective, reasonable expectations, a court may consider and give weight to any writing concerning the insurance policy provision in dispute that is not protected from disclosure by the attorney-client privilege, work-product privilege, or article 72 of title 24, C.R.S., and that is generated, approved, adopted, or relied on by the insurer or its parent or subsidiary company; or an insurance rating or policy drafting organization, such as the insurance services office, inc., or its predecessor or successor organization; except that such writing shall not be used to restrict, limit, exclude, or condition coverage or the insurer's obligation beyond that which is reasonably inferred from the words used in the insurance policy.

(5) If an insurance policy provision that appears to grant or restore coverage conflicts with an insurance policy provision that appears to exclude or limit coverage, the

court shall construe the insurance policy to favor coverage if reasonably and objectively possible.

(6) If an insurer disclaims or limits coverage under a liability insurance policy issued to a construction professional, the insurer shall bear the burden of proving by a preponderance of the evidence that:

(a) Any policy's limitation, exclusion, or condition in the insurance policy bars or limits coverage for the insured's legal liability in an action or notice of claim made pursuant to section 13-20-803.5 concerning a construction defect; and

(b) Any exception to the limitation, exclusion, or condition in the insurance policy does not restore coverage under the policy.

(7) (a) An insurer's duty to defend a construction professional or other insured under a liability insurance policy issued to a construction professional shall be triggered by a potentially covered liability described in:

(I) A notice of claim made pursuant to section 13-20-803.5; or

(II) A complaint, cross-claim, counterclaim, or third-party claim filed in an action against the construction professional concerning a construction defect.

(b) (I) An insurer shall defend a construction professional who has received a notice of claim made pursuant to section 13-20-803.5 regardless of whether another insurer may also owe the insured a duty to defend the notice of claim unless authorized by law. In defending the claim, the insurer shall:

(A) Reasonably investigate the claim; and

(B) Reasonably cooperate with the insured in the notice of claims process.

(II) This paragraph (b) does not require the insurer to retain legal counsel for the insured or to pay any sums toward settlement of the notice of claim that are not covered by the insurance policy.

(III) An insurer shall not withdraw its defense of an insured construction professional or commence an action seeking reimbursement from an insured for expended defense cost unless authorized by law and unless the insurer has reserved such right in writing when accepting or assuming the defense obligation.

PART 9

CLASS ACTIONS

13-20-901. Class actions - appellate review. (1) A court of appeals may, in its discretion, permit an interlocutory appeal of a district court's order that grants or denies class action certification under court rule so long as application is made to the court of appeals within ten days after entry of the district court's order.

(2) An appeal that is allowed under subsection (1) of this section shall not stay

proceedings in the district court unless the district court or the court of appeals so orders. If a stay is ordered, all discovery and other proceedings shall be stayed during the pendency of an appeal taken pursuant to this section unless the court ordering the stay finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to such party.

PART 10

INJURIES OCCURRING OUT OF STATE

13-20-1001. Short title. This part 10 shall be known and may be cited as the "Colorado Citizens' Access to Colorado Courts Act".

13-20-1002. Legislative declaration. (1) The general assembly finds and declares:

(a) The courts of this state are overworked and subject to overloaded dockets;

(b) Section 6 of article II of the Colorado constitution guarantees citizens of this state access to the courts of this state; and

(c) Cases filed by nonresidents of Colorado and having no meaningful relationship to this state are clogging the dockets of the courts and causing delays in cases filed by residents of Colorado.

(2) The general assembly finds that the purposes of this part 10 are:

(a) To ensure access of Colorado citizens to the courts of Colorado; and

(b) To avoid burdening the courts of this state with cases involving injuries suffered outside of the state that may be resolved elsewhere.

13-20-1003. Definitions. As used in this part 10, unless the context otherwise requires:

(1) (a) "Alternative forum" means a functioning governmental division with judicial powers that may provide redress for a claim, without regard to whether the redress provided is equivalent to the redress provided under Colorado law, and that may exercise jurisdiction over the parties.

(b) An alternative forum shall still be an alternative forum if the statute of limitations for that forum has expired.

(2) "Discovery" means the procedures described in chapter 4 of the Colorado rules of civil procedure.

(3) "Resident" means a resident of the state of Colorado or a person who intends

to return to Colorado despite establishing temporary residency elsewhere or despite a temporary absence from Colorado, without regard to the person's country of citizenship or national origin. "Resident" does not mean a person who adopts a residence in Colorado in whole or in part to avoid the application of this part 10.

13-20-1004. Forum non conveniens. (1) In any action otherwise properly filed in a court of this state, a motion to dismiss without prejudice under the doctrine of forum non conveniens shall be granted if:

(a) The claimant or claimants named in the motion are not residents of the state of Colorado;

(b) An alternative forum exists;

(c) The injury or damage alleged to have been suffered occurred outside of the state of Colorado;

(d) A substantial portion of the witnesses and evidence is outside of the state of Colorado; and

(e) There is a significant possibility that Colorado law will not apply to some or all of the claims.

(2) In any action otherwise properly filed in a court of this state, a motion to dismiss without prejudice under the doctrine of forum non conveniens may be granted if the court finds that the factor specified in paragraph (a) of subsection (1) of this section is present and that at least one or more but fewer than all of the factors specified in paragraphs (b) to (e) of subsection (1) of this section are present, and based upon such factors, the court finds that in the interest of judicial economy or for the convenience of the parties, a party's claim or action should be heard in a forum outside of Colorado.

(3) In determining whether the factors specified in subsection (1) of this section are present, the court may consider evidence outside of the pleadings, but no formal discovery shall be permitted.

(4) (a) The court may set conditions for dismissing a claim or action under this section as the interests of justice may require.

(b) If the statute of limitations in the alternative forum expires while the claim is pending in a court in Colorado, the court shall grant a dismissal under this section only if each defendant waives all defenses that the statute of limitation in the alternative forum has expired.

Damages

ARTICLE 21

Damages

PART 1

GENERAL PROVISIONS

13-21-101. Interest on damages. (1) In all actions brought to recover damages for personal injuries sustained by any person resulting from or occasioned by the tort of any other person, corporation, association, or partnership, whether by negligence or by willful intent of such other person, corporation, association, or partnership and whether such injury has resulted fatally or otherwise, it is lawful for the plaintiff in the complaint to claim interest on the damages alleged from the date said suit is filed; and, on and after July 1, 1979, it is lawful for the plaintiff in the complaint to claim interest on the damages claimed from the date the action accrued. When such interest is so claimed, it is the duty of the court in entering judgment for the plaintiff in such action to add to the amount of damages assessed by the verdict of the jury, or found by the court, interest on such amount calculated at the rate of nine percent per annum on actions filed on or after July 1, 1975, and at the legal rate on actions filed prior to such date, and calculated from the date such suit was filed to the date of satisfying the judgment and to include the same in said judgment as a part thereof. On actions filed on or after July 1, 1979, the calculation shall include compounding of interest annually from the date such suit was filed. On and after January 1, 1983, if a judgment for money in an action brought to recover damages for personal injuries is appealed by the judgment debtor, interest, whether prejudgment or postjudgment, shall be calculated on such sum at the rate set forth in subsections (3) and (4) of this section from the date the action accrued and shall include compounding of interest annually from the date such suit was filed.

(2) (a) If a judgment for money in an action brought to recover damages for personal injuries is appealed by a judgment debtor and the judgment is affirmed, interest, as set out in subsections (3) and (4) of this section, shall be payable from the date the action accrued until satisfaction of the judgment.

(b) If a judgment for money in an action to recover damages for personal injuries is appealed by a judgment debtor and the judgment is modified or reversed with a direction that a judgment for money be entered in the trial court, interest, as set out in subsections (3) and (4) of this section, shall be payable from the date the action accrued until the judgment is satisfied. This interest shall be payable on the amount of the final judgment.

(3) The rate of interest shall be certified on each January 1 by the secretary of state to be two percentage points above the discount rate, which discount rate shall be the rate of interest a commercial bank pays to the federal reserve bank of Kansas City using a government bond or other eligible paper as security, and shall be rounded to the nearest

full percent. Such annual rate of interest shall be so established as of December 31, 1982, to become effective January 1, 1983. Thereafter, as of December 31 of each year, the annual rate of interest shall be established in the same manner, to become effective on January 1 of the following year.

(4) The rate at which interest shall accrue during each year shall be the rate which the secretary of state has certified as the annual interest rate under subsection (3) of this section.

13-21-102. Exemplary damages. (1) (a) In all civil actions in which damages are assessed by a jury for a wrong done to the person or to personal or real property, and the injury complained of is attended by circumstances of fraud, malice, or willful and wanton conduct, the jury, in addition to the actual damages sustained by such party, may award him reasonable exemplary damages. The amount of such reasonable exemplary damages shall not exceed an amount which is equal to the amount of the actual damages awarded to the injured party.

(b) As used in this section, "willful and wanton conduct" means conduct purposefully committed which the actor must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

(1.5) (a) A claim for exemplary damages in an action governed by this section may not be included in any initial claim for relief. A claim for exemplary damages in an action governed by this section may be allowed by amendment to the pleadings only after the exchange of initial disclosures pursuant to rule 26 of the Colorado rules of civil procedure and the plaintiff establishes prima facie proof of a triable issue. After the plaintiff establishes the existence of a triable issue of exemplary damages, the court may, in its discretion, allow additional discovery on the issue of exemplary damages as the court deems appropriate.

(b) The provisions of paragraph (a) of this subsection (1.5) shall not apply to any civil action or arbitration proceeding described in section 13-21-203 (3) (c) or 13-64-302.5 (3).

(2) Notwithstanding the provisions of subsection (1) of this section, the court may reduce or disallow the award of exemplary damages to the extent that:

(a) The deterrent effect of the damages has been accomplished; or

(b) The conduct which resulted in the award has ceased; or

(c) The purpose of such damages has otherwise been served.

(3) Notwithstanding the provisions of subsection (1) of this section, the court may increase any award of exemplary damages, to a sum not to exceed three times the amount of actual damages, if it is shown that:

(a) The defendant has continued the behavior or repeated the action which is the

subject of the claim against the defendant in a willful and wanton manner, either against the plaintiff or another person or persons, during the pendency of the case; or

(b) The defendant has acted in a willful and wanton manner during the pendency of the action in a manner which has further aggravated the damages of the plaintiff when the defendant knew or should have known such action would produce aggravation.

(4) Repealed.

(5) Unless otherwise provided by law, exemplary damages shall not be awarded in administrative or arbitration proceedings, even if the award or decision is enforced or approved in an action commenced in a court.

(6) In any civil action in which exemplary damages may be awarded, evidence of the income or net worth of a party shall not be considered in determining the appropriateness or amount of such damages.

13-21-102.5. Limitations on damages for noneconomic loss or injury. (1) The general assembly finds, determines, and declares that awards in civil actions for noneconomic losses or injuries often unduly burden the economic, commercial, and personal welfare of persons in this state; therefore, for the protection of the public peace, health, and welfare, the general assembly enacts this section placing monetary limitations on such damages for noneconomic losses or injuries.

(2) As used in this section:

(a) "Derivative noneconomic loss or injury" means nonpecuniary harm or emotional stress to persons other than the person suffering the direct or primary loss or injury.

(b) "Noneconomic loss or injury" means nonpecuniary harm for which damages are recoverable by the person suffering the direct or primary loss or injury, including pain and suffering, inconvenience, emotional stress, and impairment of the quality of life. "Noneconomic loss or injury" includes a damage recovery for nonpecuniary harm for actions brought under section 13-21-201 or 13-21-202.

(3) (a) In any civil action other than medical malpractice actions in which damages for noneconomic loss or injury may be awarded, the total of such damages shall not exceed the sum of two hundred fifty thousand dollars, unless the court finds justification by clear and convincing evidence therefor. In no case shall the amount of noneconomic loss or injury damages exceed five hundred thousand dollars. The damages for noneconomic loss or injury in a medical malpractice action shall not exceed the limitations on noneconomic loss or injury specified in section 13-64-302.

(b) In any civil action, no damages for derivative noneconomic loss or injury may be awarded unless the court finds justification by clear and convincing evidence therefor. In no case shall the amount of such damages exceed two hundred fifty thousand dollars.

(c) (I) The limitations on damages set forth in paragraphs (a) and (b) of this

subsection (3) shall be adjusted for inflation as of January 1, 1998, and January 1, 2008. The adjustments made on January 1, 1998, and January 1, 2008, shall be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in paragraphs (a) and (b) of this subsection (3). The adjustments made pursuant to this subparagraph (I) shall be rounded upward or downward to the nearest ten-dollar increment.

(II) As used in this paragraph (c), "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(III) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and:

(A) The adjusted limitation on damages shall be the limitation applicable to all claims for relief that accrue on or after January 1, 1998, and before January 1, 2008; and

(B) The adjusted limitation on damages as of January 1, 2008, shall be the limitation applicable to all claims for relief that accrue on and after January 1, 2008.

(IV) Nothing in this subsection (3) shall change the limitations on damages set forth in section 13-64-302, or the limitation on damages set forth in section 33-44-113, C.R.S.

(4) The limitations specified in subsection (3) of this section shall not be disclosed to a jury in any such action, but shall be imposed by the court before judgment.

(5) Nothing in this section shall be construed to limit the recovery of compensatory damages for physical impairment or disfigurement.

(6) (a) (I) In any claim for breach of contract, damages for noneconomic loss or injury or for derivative noneconomic loss or injury are recoverable only if:

(A) The recovery for such damages is specifically authorized in the contract that is the subject of the claim; or

(B) In any first-party claim brought against an insurer for breach of an insurance contract, the plaintiff demonstrates by clear and convincing evidence that the defendant committed willful and wanton breach of contract.

(II) For purposes of this paragraph (a), "willful and wanton breach of contract" means that:

(A) The defendant intended to breach the contract;

(B) The defendant breached the contract without any reasonable justification; and

(C) The contract clearly indicated that damages for noneconomic loss or injury or for derivative noneconomic damages or loss were within the contemplation or expectation of the parties.

(b) Except for the breach of contract damages that are permitted pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (a) of this subsection (6), nothing in this subsection (6) shall be construed to prohibit one or more parties from waiving the recovery of damages for noneconomic loss or injury or for derivative noneconomic loss

or injury on a breach of contract claim so long as the waiver is explicit and in writing.

(c) The limitations on damages set forth in subsection (3) of this section shall apply in any civil action to the aggregate sum of any noneconomic damages awarded under this section for breach of contract including but not limited to bad faith breach of contract.

(d) In any civil action in which an award of damages for noneconomic loss or injury or for derivative noneconomic loss or injury is made on a breach of contract claim, the court shall state such award in the judgment separately from any other damages award.

(e) Except as otherwise provided in paragraph (c) of this subsection (6), nothing in this subsection (6) shall be construed to govern the recovery of noneconomic damages on a tort claim for bad faith breach of contract.

13-21-103. Damages for selling liquor to drunkard. Every husband, wife, child, parent, guardian, employer, or other person who is injured in person, or property, or means of support by any intoxicated person, or in consequence of the intoxication of any person, has a right of action, in his name, against any person who, by selling or giving away intoxicating liquors to any habitual drunkard, causes the intoxication, in whole or in part, of such habitual drunkard; and all damages recovered by a minor under this section shall be paid either to the minor or to his parent, guardian, or next friend, as the court directs. The unlawful sale or giving away of intoxicating liquors works a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises. No liability shall accrue against any such person as provided unless the husband, wife, child, parent, guardian, or employer first, by written or printed notice, has notified such person, or his agents or employees, not to sell or give away any intoxicating liquors to any habitual drunkard.

13-21-104. Damages for using animal left for keeping. If any person keeping a public ranch or stable uses or allows to be used, without the consent of the owner, any horse, ox, mule, or ass that may have been left with him to be ranched or fed, he shall forfeit to the owner all ranch or stable fees that may be due upon such animal used and the additional sum of five dollars for each day such animal has been used, to be collected in the same manner as other debts.

13-21-105. Damages from fire set in woods or prairie - treble damages during drought conditions. (1) If any person sets fire to any woods or prairie so as to damage any other person, such person shall make satisfaction for the damage to the party injured,

to be recovered in an action before any court of competent jurisdiction.

(2) (a) If a state of emergency or disaster due to drought has been declared by the governor at the time a person knowingly sets fire to any woods or prairie as described in subsection (1) of this section, such person may be held liable for treble damages to any injured party.

(b) (I) The provisions of paragraph (a) of this subsection (2) shall not apply to any open burning conducted in the course of agricultural operations or to any state, municipal, or county fire management operations.

(II) Paragraph (a) of this subsection (2) does not apply to any other person seeking to conduct other prescribed or controlled fires such as grassland, forest, or habitat management activities, if such person has first obtained written authority from the director of the division of fire prevention and control in the department of public safety.

13-21-105.5. Infant crib safety act - legislative declaration - definitions - safety standards - exemptions - action for damages. (1) This section shall be known and may be cited as the "Infant Used Crib Safety Act of 1998".

(2) The general assembly hereby finds that parents' use of used infant cribs occasionally results in crib accidents that may lead to infants' injuries or deaths, and therefore such used cribs pose a serious threat to the public health, safety, and welfare. The general assembly further finds that the majority of parents use secondhand, hand-me-down, or heirloom cribs for their infants and therefore it is especially important to raise public awareness of the dangers of used cribs in order to prevent the injuries or deaths that may result from their use. The general assembly finds that the design and construction of infant cribs must ensure that they are safe for an infant's use, thereby providing the infant's parent or other caregiver some degree of confidence in using the crib. The general assembly therefore concludes that discouraging the sale, lease, or subletting of unsafe used cribs will significantly reduce the number of injuries and deaths caused by used infant cribs.

(3) As used in this section, unless the context otherwise requires:

(a) "Commercial dealer" means any person or entity who:

(I) Regularly deals in used full-size or nonfull-size cribs; or

(II) Regularly sells, leases, sublets, or otherwise places in the stream of commerce used full-size or nonfull-size cribs; or

(III) Purchases one or more used full-size or nonfull-size cribs for the purpose of resale.

(b) "Crib" means a bed or containment designed to accommodate an infant.

(c) "Full-size crib" means a full-size crib as defined in 16 CFR sec. 1508.1 (a), regarding the requirements for full-size cribs.

(d) "Infant" means any person less than thirty-five inches tall and less than three

years of age.

(e) "Nonfull-size crib" means a nonfull-size crib as defined in 16 CFR sec. 1509.2 (b), regarding the requirements for nonfull-size cribs.

(f) "Used" means previously owned by a consumer.

(4) No commercial dealer may sell, contract to sell or resell, lease, sublet, or otherwise place in the stream of commerce a used full-size or nonfull-size crib that is unsafe at the time of sale or lease, as provided in subsection (6) of this section.

(5) (a) The consumer protection division of the Colorado department of public health and environment shall make available to the public a copy of the federal standards and a copy of the voluntary standards of the American society for testing materials as specified in paragraph (b) of this subsection (5). One copy shall also be provided to the state publications depository and distribution center. The state librarian shall retain a copy of the material and shall make a copy available for interlibrary loans.

(b) The provisions of this subsection (5) apply to the following materials:

(I) 16 CFR sec. 1508 et seq., and any subsequent amendments or additions to said sections;

(II) 16 CFR sec. 1509 et seq., and any subsequent amendments or additions to said sections;

(III) 16 CFR sec. 1303 et seq., and any subsequent amendments or additions to said sections; and

(IV) The voluntary standards of the American society for testing materials or any successor organization.

(6) Any used crib that has any of the following dangerous features or characteristics at the time of sale or lease shall be presumed to be unsafe pursuant to this section:

(a) Corner posts that extend more than one-sixteenth of an inch;

(b) Spaces between side slats that are wider than two and three-eighths inches;

(c) Mattress supports that may be easily dislodged from any point of the crib. A mattress segment may be easily dislodged if it cannot withstand at least a twenty-five pound upward force from underneath the crib.

(d) Cutout designs on the end panels of the crib;

(e) Rail height dimensions that do not conform to the following:

(I) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least twenty-two and eight tenths centimeters or nine inches;

(II) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least sixty-six centimeters or twenty-six inches;

(f) Any screws, bolts, or hardware that are loose and not secured;

(g) Sharp edges, points, or rough surfaces or any wood surfaces that are not

smooth and free from splinters, splits, or cracks;

(h) Nonfull-size cribs with tears in mesh or fabric sides.

(7) A crib is exempt from the provisions of this section if:

(a) It is not intended for use by an infant; and

(b) At the time of selling, reselling, leasing, or subletting the crib or otherwise placing the crib in the stream of commerce, the commercial dealer attaches a written notice to the crib declaring that it is not intended to be used for an infant and is unsafe for use by an infant.

(8) (a) A person who is a parent or guardian of an infant and who purchases a used crib on or after July 1, 1998, that, at the time of sale or lease, is presumed to be unsafe as provided in subsection (6) of this section may bring an action, on the parent's or guardian's own behalf and on behalf of the infant, against the commercial dealer from whom the parent or guardian purchased the used crib. In such action, the parent or guardian may seek to enjoin the commercial dealer from selling, contracting to sell, contracting to resell, leasing, or subletting any used full-size or nonfull-size crib that, at the time of sale or lease, is presumed to be unsafe as provided in subsection (6) of this section.

(b) In addition to an injunction, the parent or guardian may seek return of the purchase price of the crib, reasonable attorney fees and costs, and, if the infant has sustained injury or death as a result of using the crib, such additional damages as are provided by law.

13-21-106. Broadcasting defamatory statements. The owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations and the agent or employees of any such owner, licensee, or operator shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast by one other than such owner, licensee, or operator, or agent or employee thereof, if, in any action brought to recover such damages, such owner, licensee, or operator, or agent or employee thereof, alleges and proves that he exercised due care to prevent the publication or utterance of such statement in such broadcast; except that, in no event shall any owner, licensee, or operator, or the agents or employees thereof, be held liable for any damages for any defamatory statement uttered over the facilities of such station or network of stations by any candidate for public office or by any other person speaking for, or on behalf of, any candidate for public office where, by any federal law, rule, or regulation censorship of such political statements in advance of such utterance or publication is prohibited.

13-21-106.5. Civil damages for destruction or bodily injury caused by a bias-motivated crime. (1) The victim, or a member of the victim's immediate family, is

entitled to recover damages from any person, organization, or association that commits or incites others to commit the offense of a bias-motivated crime as described in section 18-9-121 (2), C.R.S. Such person, organization, or association shall be civilly liable to the victim or a member of the victim's immediate family for the actual damages, costs, and expenses incurred in connection with said action. For purposes of this section, "immediate family" includes the victim's spouse and the victim's parent, sibling, or child who is living with the victim.

(2) A conviction for a criminal bias-motivated crime pursuant to section 18-9-121, C.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

(3) In any civil action brought pursuant to this section in which damages are assessed by a jury, upon proof of the knowledge and intent described in section 18-9-121 (2), C.R.S., in addition to the actual damages, the jury may award punitive damages. Said punitive damages shall not be subject to the limitations in section 13-21-102 or section 13-21-102.5.

13-21-106.7. Civil damages for preventing passage to and from a health care facility and engaging in prohibited activity near facility. (1) A person is entitled to recover damages and to obtain injunctive relief from any person who commits or incites others to commit the offense of preventing passage to or from a health care facility or engaging in prohibited activity near a health care facility, as defined in section 18-9-122 (2), C.R.S.

(2) A conviction for criminal obstruction of passage to or from a health care facility pursuant to section 18-9-122, C.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

13-21-107. Damages for destruction or bodily injury caused by minors. (1) The state or any county, city, town, school district, or other political subdivision of the state, or any person, partnership, corporation, association, or religious organization, whether incorporated or unincorporated, is entitled to recover damages in an amount not to exceed three thousand five hundred dollars in a court of competent jurisdiction from the parents of each minor under the age of eighteen years, living with such parents, who maliciously or willfully damages or destroys property, real, personal, or mixed, belonging to the state, or to any such county, city, town, or other political subdivision of the state, or to any such person, partnership, corporation, association, or religious organization or who maliciously or willfully damages or destroys any such property belonging to or used by such school district. The recovery shall be the actual damages in an amount not to exceed three thousand five hundred dollars, in addition to

court costs and reasonable attorney fees.

(2) Any person is entitled to recover damages in an amount not to exceed three thousand five hundred dollars in a court of competent jurisdiction from the parents of each minor under the age of eighteen years, living with such parents, who knowingly causes bodily injury to that person, including bodily injury occurring on property belonging to or used by a school district. The recovery shall be the actual damages in an amount not to exceed three thousand five hundred dollars, in addition to court costs and reasonable attorney fees.

13-21-107.5. Civil damages for loss caused by theft. (1) As used in this section, unless the context otherwise requires:

(a) "Emancipated minor" means an individual under the age of eighteen years whose parents or guardian have surrendered parental responsibilities or custody, the right to the care, and earnings of such individual and are no longer under a duty to support or maintain such individual.

(b) "Mercantile establishment" means any place where merchandise is displayed, held, or offered for sale either at retail or at wholesale.

(c) "Merchandise" means all things movable and capable of manual delivery and offered for sale either at retail or wholesale.

(2) An adult or an emancipated minor who takes possession of any merchandise from any mercantile establishment without the consent of the owner, without paying the purchase price, and with the intention of converting such merchandise to his own use or who alters the price indicia of any merchandise shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of not less than one hundred dollars nor more than two hundred fifty dollars.

(3) The parents or guardian having custody of or parental responsibilities with respect to an unemancipated minor who takes possession of any merchandise from any mercantile establishment without the consent of the owner, without paying the purchase price, and with the intention of converting such merchandise to his own use or who alters the price indicia of any merchandise shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of not less than one hundred dollars nor more than two hundred fifty dollars.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, any person who, without the consent of the owner, takes possession of a shopping cart from any mercantile establishment with the intent to convert such shopping cart to his own use or the use of another shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of one hundred dollars.

(5) A conviction for theft pursuant to part 4 of article 4 of title 18, C.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of

this section.

(6) Civil liability pursuant to the provisions of this section shall not be subject to the limitations on liability in section 13-21-107 or any other law that limits the liability of parents of an unemancipated minor for damages caused by such unemancipated minor.

13-21-108. Persons rendering emergency assistance exempt from civil liability. (1) Any person licensed as a physician and surgeon under the laws of the state of Colorado, or any other person, who in good faith renders emergency care or emergency assistance to a person not presently his patient without compensation at the place of an emergency or accident, including a health care institution as defined in section 13-64-202 (3), shall not be liable for any civil damages for acts or omissions made in good faith as a result of the rendering of such emergency care or emergency assistance during the emergency, unless the acts or omissions were grossly negligent or willful and wanton. This section shall not apply to any person who renders such emergency care or emergency assistance to a patient he is otherwise obligated to cover.

(2) Any person while acting as a volunteer member of a rescue unit, as defined in section 25-3.5-103 (11), C.R.S., notwithstanding the fact that such organization may recover actual costs incurred in the rendering of emergency care or assistance to a person, who in good faith renders emergency care or assistance without compensation at the place of an emergency or accident shall not be liable for any civil damages for acts or omissions in good faith.

(3) Any person, including a licensed physician, surgeon, or other medical personnel, while acting as a volunteer member of a ski patrol or ski area rescue unit, notwithstanding the fact that such person may receive free skiing privileges or other benefits as a result of his volunteer status, who in good faith renders emergency care or assistance without other compensation at the place of an emergency or accident shall not be liable for any civil damages for acts or omissions in good faith.

(4) (a) Notwithstanding the fact that the person may be reimbursed for the person's costs or that the nonprofit organization may receive a grant or other funding, any person who, while acting as a volunteer for any nonprofit organization operating a telephone hotline, answers questions of or provides counseling to members of the public in crisis situations shall not be liable for any civil damages for acts or omissions made in good faith as a result of discussions or counseling provided on the hotline.

(b) As used in this subsection (4), unless the context otherwise requires, "hotline" means a telephone line staffed by individuals who provide immediate assistance to callers in emergency or crisis situations.

(5) An employer shall not be liable for any civil damages for acts or omissions made by an employee while rendering emergency care or emergency assistance if the employee:

(a) Renders the emergency care or emergency assistance in the course of his or her employment for the employer; and

(b) Is personally exempt from liability for civil damages for the acts or omissions under subsection (1) of this section.

13-21-108.1. Persons rendering emergency assistance through the use of automated external defibrillators - limited immunity. (1) The general assembly hereby declares that it is the intent of the general assembly to encourage the use of automated external defibrillators for the purpose of saving the lives of people in cardiac arrest.

(2) As used in this section, unless the context otherwise requires:

(a) "AED" or "defibrillator" means an automated external defibrillator that:

(I) Has received approval of its premarket notification filed pursuant to 21 U.S.C. sec. 360 (k), from the federal food and drug administration;

(II) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(III) Upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

(b) "Licensed physician" means a physician licensed to practice medicine in this state.

(3) (a) In order to ensure public health and safety, a person or entity who acquires an AED shall ensure that:

(I) Expected AED users receive training in cardiopulmonary resuscitation (CPR) and AED use through a course that meets nationally recognized standards and is approved by the department of public health and environment;

(II) The defibrillator is maintained and tested according to the manufacturer's operational guidelines and that written records are maintained of this maintenance and testing;

(III) (Deleted by amendment, L. 2009, (SB 09-010), ch. 52, p. 186, § 1, effective March 25, 2009.)

(IV) Written plans are in place concerning the placement of AEDs, training of personnel, pre-planned coordination with the emergency medical services system, medical oversight, AED maintenance, identification of personnel authorized to use AEDs, and reporting of AED utilization, which written plans have been reviewed and approved by a licensed physician; and

(V) Any person who renders emergency care or treatment to a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible.

(b) Any person or entity that acquires an AED shall notify an agent of the applicable emergency communications or vehicle dispatch center of the existence, location, and type of AED.

(4) (a) Any person or entity whose primary duties do not include the provision of health care and who, in good faith and without compensation, renders emergency care or treatment by the use of an AED shall not be liable for any civil damages for acts or omissions made in good faith as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment, unless the acts or omissions were grossly negligent or willful and wanton.

(b) The limited immunity provided in paragraph (a) of this subsection (4) extends to:

(I) The licensed physician who reviewed and approved the written plans described in subparagraph (IV) of paragraph (a) of subsection (3) of this section;

(II) The person or entity who provides the CPR and AED site placement;

(III) Any person or entity that provides teaching or training programs for CPR to the site at which the AED is placed, which programs include training in the use of an AED; and

(IV) The person or entity responsible for the site where the AED is located.

(c) The limited immunity provided in this subsection (4) applies regardless of whether the requirements of subsection (3) of this section are met; except that the person or entity responsible for the site where the AED is located shall receive the limited immunity only if the requirements of subparagraph (II) of paragraph (a) of subsection (3) of this section are met.

(5) The requirements of subsection (3) of this section shall not apply to any individual using an AED during a medical emergency if that individual is acting as a good samaritan under section 13-21-108.

13-21-108.2. Persons rendering emergency assistance - competitive sports - exemption from civil liability. (1) (a) Except as provided in subsection (2) of this section, a person licensed as a physician, osteopath, chiropractor, nurse, physical therapist, podiatrist, dentist, or optometrist or certified as an emergency medical service provider under part 2 of article 3.5 of title 25, C.R.S., who, in good faith and without compensation, renders emergency care or emergency assistance, including sideline or on-field care as a team health care provider, to an individual requiring emergency care or emergency assistance as a result of having engaged in a competitive sport is not liable for civil damages as a result of acts or omissions by the physician, osteopath, chiropractor, nurse, physical therapist, podiatrist, dentist, or optometrist or person certified as an emergency medical service provider under part 2 of article 3.5 of title 25, C.R.S.

(b) The provisions of this subsection (1) apply to the rendering of emergency care or emergency assistance to a minor even if the physician, osteopath, chiropractor, nurse,

physical therapist, podiatrist, dentist, or optometrist or the person certified as an emergency service provider under part 2 of article 3.5 of title 25, C.R.S., does not obtain permission from the parent or legal guardian of the minor before rendering the care or assistance; except that, if a parent or guardian refuses the rendering of emergency care, this subsection (1) does not apply.

(2) The exemption from civil liability described in subsection (1) of this section does not apply to:

(a) Acts or omissions that constitute gross negligence or willful and wanton conduct; or

(b) Acts or omissions that are outside the scope of the license held by the physician, osteopath, chiropractor, nurse, physical therapist, podiatrist, dentist, or optometrist or outside the scope of the certificate held by a person who is certified as an emergency medical service provider under part 2 of article 3.5 of title 25, C.R.S.

(3) As used in this section, "competitive sport" means a sport conducted as part of a program sponsored by a public or private school that provides instruction in any grade from kindergarten through twelfth grade or sponsored by a public or private college or university or by any league, club, or organization that promotes sporting events.

(4) The general assembly declares that the intent of this section is to clarify and not to expand or limit the scope of section 13-21-108.

13-21-108.3. Architects, building code officials, professional engineers, and professional land surveyors rendering assistance during emergency or disaster - qualified immunity from civil liability. (1) An architect licensed pursuant to part 3 of article 25 of title 12, C.R.S., a building code official, a professional engineer licensed pursuant to part 1 of article 25 of title 12, C.R.S., or a professional land surveyor licensed pursuant to part 2 of article 25 of title 12, C.R.S., who voluntarily and without compensation provides architectural, damage assessment, engineering, or surveying services, respectively, at the scene of an emergency shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by an act or omission of the architect, building code official, engineer, or surveyor in performing such services.

(2) As used in this section, unless the context otherwise requires:

(a) "Building code official" means an individual maintaining a building inspector, building code official, or certified building official certification in good standing by the international code council or similar association of building code officials.

(b) "Emergency" means a disaster emergency declared by executive order or proclamation of the governor pursuant to section 24-33.5-704 (4), C.R.S.

(3) The immunity provided in subsection (1) of this section applies only to an architectural, damage assessment, or engineering service that:

(a) Concerns an identified building, structure, or other architectural or engineering

system, whether publicly or privately owned;

(b) Relates to the structural integrity of the building, structure, or system or to a nonstructural element thereof affecting life safety; and

(c) Is rendered during the time in which a state of disaster emergency exists, as provided in section 24-33.5-704 (4), C.R.S.

(4) Nothing in this section shall provide immunity for gross negligence or willful misconduct.

(5) Nothing in this section shall be construed to abrogate any provision of the "Colorado Governmental Immunity Act", provided in article 10 of title 24, C.R.S.

13-21-108.5. Persons rendering assistance relating to discharges of hazardous materials - legislative declaration - exemption from civil liability. (1) The general assembly hereby finds and declares that knowledgeable individuals and organizations should be encouraged to lend expert assistance in the event of accidental or threatened discharges of hazardous materials. The purpose of this section is to so encourage such individuals and organizations to lend assistance by providing them with limited immunity from civil liability.

(2) As used in this section:

(a) "Discharge" includes any spill, leakage, seepage, or other release.

(b) "Hazardous material" includes any material or substance which is designated or defined as hazardous by state or federal law or regulation.

(c) "Person" means individual, government or governmental subdivision or agency, corporation, partnership, or association or any other legal entity.

(3) (a) Notwithstanding any provision of law to the contrary, any person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of hazardous material, or in preventing, cleaning up, or disposing of or in attempting to prevent, clean up, or dispose of any such discharge, shall not be subject to civil liability for such assistance or advice, except as provided in subsection (4) of this section.

(b) Notwithstanding any provision of law to the contrary, any person who provides assistance upon request of any police agency, fire department, rescue or emergency squad, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of hazardous material, when the reasonably apparent circumstances require prompt decisions and actions, shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance, except as provided in subsection (4) of this section.

(4) The exemption from civil liability provided for in this section shall not apply to:

(a) Any person whose act or omission caused in whole or in part such discharge and who would otherwise be liable therefor;

(b) Any person other than the employee of a governmental subdivision or agency who receives compensation other than reimbursement for out-of-pocket expenses for his assistance or advice;

(c) Any person's gross negligence or reckless, wanton, or intentional misconduct.

(5) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to article 10 of title 24, C.R.S., the "Colorado Governmental Immunity Act".

13-21-108.7. Persons rendering emergency assistance through the administration of an opiate antagonist - limited immunity - legislative declaration - definitions. (1) **Legislative declaration.** The general assembly hereby encourages the administration of opiate antagonists for the purpose of saving the lives of people who suffer opiate-related drug overdose events. A person who administers an opiate antagonist to another person is urged to call for emergency medical services immediately.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed, certified, or otherwise authorized or permitted by law to provide medical treatment.

(b) (I) "Health care provider" means:

(A) A licensed or certified physician, nurse practitioner, physician assistant, or pharmacist; or

(B) A health maintenance organization licensed and conducting business in this state.

(II) "Health care provider" does not include a podiatrist, optometrist, dentist, or veterinarian.

(c) "Opiate" has the same meaning as set forth in section 18-18-102 (21), C.R.S.

(d) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal food and drug administration for the treatment of a drug overdose.

(e) "Opiate-related drug overdose event" means an acute condition, including but not limited to a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be an opiate-related drug overdose event that requires medical assistance.

(3) **General immunity.** A person other than a health care provider or a health care facility who acts in good faith to administer an opiate antagonist to another person whom the person believes to be suffering an opiate-related drug overdose event shall not be liable for any civil damages for acts or omissions made as a result of such act.

(4) **Licensed prescribers and dispensers.** (a) A person who is permitted by law to prescribe or dispense an opiate antagonist shall not be liable for any civil damages resulting from:

(I) Such prescribing or dispensing; or

(II) Any outcomes resulting from the eventual administration of the opiate antagonist by a layperson.

(b) A prescriber or dispenser who dispenses an opiate antagonist is strongly encouraged to educate persons receiving the opiate antagonist on the use of an opiate antagonist for overdose, including but not limited to instruction concerning risk factors for overdose, recognition of overdose, calling emergency medical services, rescue breathing, and administration of an opiate antagonist.

(5) The provisions of this section shall not be interpreted to establish any duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

13-21-109. Recovery of damages for checks, drafts, or orders not paid upon presentment. (1) Any person who obtains money, merchandise, property, or other thing of value, or who makes any payment of any obligation other than an obligation on a consumer credit transaction as defined in section 5-1-301, C.R.S., by means of making any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation which is not paid upon its presentment is liable to the holder of such check, draft, or order or any assignee for collection for one of the following amounts, at the option of the holder or such assignee:

(a) The face amount of the check, draft, or order plus actual damages determined in accordance with the provisions of the "Uniform Commercial Code", title 4, C.R.S.; or

(b) An amount equal to the face amount of the check, draft, or order and:

(I) The amount of any reasonable posted or contractual charge not exceeding twenty dollars; and

(II) If the check, draft, or order has been assigned for collection to a person licensed as a collection agency pursuant to article 14 of title 12, C.R.S., as costs of collection, twenty percent of the face amount of the check, draft, or order but not less than twenty dollars; or

(c) An amount as provided in subsection (2) of this section.

(2) (a) If notice of nonpayment on presentment of the check, draft, or order has been given in accordance with subsections (3) and (4) of this section and the total amount due as set forth in the notice has not been paid within fifteen days after such notice is given, instead of the amounts set forth in paragraph (a) or (b) of subsection (1) of this

section, the person shall be liable to the holder or any assignee for collection for three times the face amount of the check but not less than one hundred dollars and, with regard to a paycheck, actual damages caused by the nonpayment, including associated late fees.

(b) The person, also referred to in this section as the "maker", shall not be liable in accordance with the provisions of paragraph (a) of this subsection (2) if he establishes any one of the following:

(I) That the account contained sufficient funds or credit to cover the check, draft, or order at the time the check, draft, or order was made, plus all other checks, drafts, and orders on the account then outstanding and unpaid;

(II) That the check, draft, or order was not paid because a paycheck, deposited in the account in an amount sufficient to cover the check, draft, or order, was not paid upon presentment;

(III) That funds sufficient to cover the check, draft, or order were garnished, attached, or set off and the maker had no notice of such garnishment, attachment, or setoff at the time the check, draft, or order was made;

(IV) That the maker of the check, draft, or order was not competent or of full age to enter into a legal contractual obligation at the time the check, draft, or order was made;

(V) That the making of the check, draft, or order was induced by fraud or duress;

(VI) That the transaction which gave rise to the obligation for which the check, draft, or order was given lacked consideration or was illegal.

(3) Notice that a check, draft, or order has not been paid upon presentment shall be in writing and given in person and receipted for, or by personal service, or by depositing the notice by certified mail, return receipt requested and postage prepaid, or by regular mail supported by an affidavit of mailing sworn and retained by the sender, in the United States mail and addressed to the recipient's most recent address known to the sender. If the notice is mailed and not returned as undeliverable by the United States postal service, notice shall be conclusively presumed to have been given on the date of mailing. For the purpose of this subsection (3), "undeliverable" does not include unclaimed or refused.

(4) The notice given pursuant to subsection (3) of this section shall include the following information regarding the unpaid check, draft, or order:

(a) The date the check, draft, or order was issued;

(b) The name of the bank, depository, person, firm, or corporation on which it was drawn;

(c) The name of the payee;

(d) The face amount;

(e) A statement of the total amount due, which shall be itemized and shall not exceed the amount permitted under paragraph (a) or (b) of subsection (1) of this section;

(f) A statement that the maker has fifteen days from the date notice was given to make payment in full of the total amount due; and

(g) A statement that, if the total amount due is not paid within fifteen days after the date notice was given, the maker may be liable in a civil action for three times the face amount of the check but not less than one hundred dollars and that, in such civil action, the court may award court costs and reasonable attorney fees to the prevailing party.

(5) No holder or assignee for collection shall assert that any maker has liability for any amount set forth under subsection (2) of this section unless such liability has been determined by entry of a final judgment by a court of competent jurisdiction.

(6) In any civil action brought under this section, the prevailing party may recover court costs and reasonable attorney fees. In addition, in an action brought under paragraph (b) of subsection (1) of this section, if the holder or assignee for collection prevails, actual costs of collection may be recovered by the holder or assignee for collection if such actual costs of collection are greater than the costs of collection provided under such paragraph (b).

(7) Nothing in this section shall be deemed to apply to any check, draft, or order on which payment has been stopped by the maker by reason of a dispute relating to the money, merchandise, property, or other thing of value obtained by the maker.

(8) Nothing in this section applies to any criminal case or affects eligibility or terms of probation.

(9) Any limitation on a cause of action under this section, except a cause of action under subsection (2) of this section, shall be governed by the provisions of section 13-80-103.5. Any limitation on a cause of action under subsection (2) of this section shall be governed by the provisions of section 13-80-102.

13-21-109.5. Recovery of damages for fraudulent use of social security numbers. (1) No person shall buy or otherwise obtain or sell, offer for sale, take or give in exchange, pledge or give in pledge, or use any individual's social security account number, or any derivative of such number, for the purpose of committing fraud or fraudulently using or assuming said individual's identity.

(2) Any individual aggrieved by the act of any person in violation of subsection (1) of this section may bring a civil action in a court of competent jurisdiction to recover:

(a) Such preliminary and equitable relief as the court determines to be appropriate; and

(b) The greater of:

(I) Actual damages; or

(II) Liquidated damages of up to ten thousand dollars.

(3) In addition to any damages and other relief awarded pursuant to subsection (2) of this section, if the aggrieved individual prevails, the court may assess against the defendant reasonable attorney fees and any other litigation costs and expenses, including expert fees, reasonably incurred by the aggrieved individual.

(4) Any action brought pursuant to this section shall be in addition to, and not in lieu of, any criminal prosecution that may be brought under any state or federal law.

13-21-110. Medical committee - privileged communication - limitation on liability. (1) Any information, data, reports, or records made available to a utilization review committee of a hospital or other health care facility, as required by state or federal law, is confidential and shall be used by such committee and the members thereof only in the exercise of the proper functions of the committee. It shall not be a violation of a privileged communication for any physician, dentist, podiatrist, hospital, or other health care facility or person to furnish information, data, reports, or records to any such utilization review committee concerning any patient examined or treated by the same or confined in such hospital or facility, which information, data, reports, or records relate to the proper functions of the utilization review committee. No member of such a committee shall be liable for damages to or for any such patient by reason of recommendations made by the committee in the exercise of the proper function of the committee, except for willful or reckless disregard of the patient's safety.

(2) As used in this section, "utilization review committee" means a committee established for the purpose of evaluating the quantity, quality, and timeliness of health care services rendered under the "Colorado Medical Assistance Act" and in compliance with Titles XVIII and XIX of the federal "Social Security Act", as amended.

(3) The privilege created by subsection (1) of this section shall not prevent any such information, data, reports, or records which have been made available to a utilization review committee from being admitted in evidence or otherwise made available for use in the review process referred to in section 13-90-107 (1) (d) (III) and (1) (d) (IV).

13-21-111. Negligence cases - comparative negligence as measure of damages. (1) Contributory negligence shall not bar recovery in any action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not as great as the negligence of the person against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made.

(2) In any action to which subsection (1) of this section applies, the court, in a nonjury trial, shall make findings of fact or, in a jury trial, the jury shall return a special verdict which shall state:

(a) The amount of the damages which would have been recoverable if there had been no contributory negligence; and

(b) The degree of negligence of each party, expressed as a percentage.

(3) Upon the making of the finding of fact or the return of a special verdict, as is required by subsection (2) of this section, the court shall reduce the amount of the verdict in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made; but, if the said proportion is equal to or greater than the negligence of the person against whom recovery is sought, then, in such event, the court shall enter a judgment for the defendant.

(3.5) and (4) Repealed.

13-21-111.5. Civil liability cases - pro rata liability of defendants - shifting financial responsibility for negligence in construction agreements - legislative declaration. (1) In an action brought as a result of a death or an injury to person or property, no defendant shall be liable for an amount greater than that represented by the degree or percentage of the negligence or fault attributable to such defendant that produced the claimed injury, death, damage, or loss, except as provided in subsection (4) of this section.

(2) The jury shall return a special verdict, or, in the absence of a jury, the court shall make special findings determining the percentage of negligence or fault attributable to each of the parties and any persons not parties to the action of whom notice has been given pursuant to paragraph (b) of subsection (3) of this section to whom some negligence or fault is found and determining the total amount of damages sustained by each claimant. The entry of judgment shall be made by the court based on the special findings, and no general verdict shall be returned by the jury.

(3) (a) Any provision of the law to the contrary notwithstanding, the finder of fact in a civil action may consider the degree or percentage of negligence or fault of a person not a party to the action, based upon evidence thereof, which shall be admissible, in determining the degree or percentage of negligence or fault of those persons who are parties to such action. Any finding of a degree or percentage of fault or negligence of a nonparty shall not constitute a presumptive or conclusive finding as to such nonparty for the purposes of a prior or subsequent action involving that nonparty.

(b) Negligence or fault of a nonparty may be considered if the claimant entered into a settlement agreement with the nonparty or if the defending party gives notice that a nonparty was wholly or partially at fault within ninety days following commencement of the action unless the court determines that a longer period is necessary. The notice shall be given by filing a pleading in the action designating such nonparty and setting forth such nonparty's name and last-known address, or the best identification of such nonparty which is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault. Designation of a nonparty shall be subject to the provisions of section 13-17-102. If the designated nonparty is a licensed health care professional and the defendant designating such nonparty alleges professional negligence

by such nonparty, the requirements and procedures of section 13-20-602 shall apply.

(4) Joint liability shall be imposed on two or more persons who consciously conspire and deliberately pursue a common plan or design to commit a tortious act. Any person held jointly liable under this subsection (4) shall have a right of contribution from his fellow defendants acting in concert. A defendant shall be held responsible under this subsection (4) only for the degree or percentage of fault assessed to those persons who are held jointly liable pursuant to this subsection (4).

(5) In a jury trial in any civil action in which contributory negligence or comparative fault is an issue for determination by the jury, the trial court shall instruct the jury on the effect of its finding as to the degree or percentage of negligence or fault as between the plaintiff or plaintiffs and the defendant or defendants. However, the jury shall not be informed as to the effect of its finding as to the allocation of fault among two or more defendants. The attorneys for each party shall be allowed to argue the effect of the instruction on the facts which are before the jury.

(6) (a) The general assembly hereby finds, determines, and declares that:

(I) It is in the best interests of this state and its citizens and consumers to ensure that every construction business in the state is financially responsible under the tort liability system for losses that a business has caused;

(II) The provisions of this subsection (6) will promote competition and safety in the construction industry, thereby benefitting Colorado consumers;

(III) Construction businesses in recent years have begun to use contract provisions to shift the financial responsibility for their negligence to others, thereby circumventing the intent of tort law;

(IV) It is the intent of the general assembly that the duty of a business to be responsible for its own negligence be nondelegable;

(V) Construction businesses must be able to obtain liability insurance in order to meet their responsibilities;

(VI) The intent of this subsection (6) is to create an economic climate that will promote safety in construction, foster the availability and affordability of insurance, and ensure fairness among businesses;

(VII) If all businesses, large and small, are responsible for their own actions, then construction companies will be able to obtain adequate insurance, the quality of construction will be improved, and workplace safety will be enhanced.

(b) Except as otherwise provided in paragraphs (c) and (d) of this subsection (6), any provision in a construction agreement that requires a person to indemnify, insure, or defend in litigation another person against liability for damage arising out of death or bodily injury to persons or damage to property caused by the negligence or fault of the indemnitee or any third party under the control or supervision of the indemnitee is void as against public policy and unenforceable.

(c) The provisions of this subsection (6) shall not affect any provision in a

construction agreement that requires a person to indemnify and insure another person against liability for damage, including but not limited to the reimbursement of attorney fees and costs, if provided for by contract or statute, arising out of death or bodily injury to persons or damage to property, but not for any amounts that are greater than that represented by the degree or percentage of negligence or fault attributable to the indemnitor or the indemnitor's agents, representatives, subcontractors, or suppliers.

(d) (I) This subsection (6) does not apply to contract clauses that require the indemnitor to purchase, maintain, and carry insurance covering the acts or omissions of the indemnitor, nor shall it apply to contract provisions that require the indemnitor to name the indemnitee as an additional insured on the indemnitor's policy of insurance, but only to the extent that such additional insured coverage provides coverage to the indemnitee for liability due to the acts or omissions of the indemnitor. Any provision in a construction agreement that requires the purchase of additional insured coverage for damage arising out of death or bodily injury to persons or damage to property from any acts or omissions that are not caused by the negligence or fault of the party providing such additional insured coverage is void as against public policy.

(II) This subsection (6) also does not apply to builder's risk insurance.

(e) (I) As used in this subsection (6) and except as otherwise provided in subparagraph (II) of this paragraph (e), "construction agreement" means a contract, subcontract, or agreement for materials or labor for the construction, alteration, renovation, repair, maintenance, design, planning, supervision, inspection, testing, or observation of any building, building site, structure, highway, street, roadway bridge, viaduct, water or sewer system, gas or other distribution system, or other work dealing with construction or for any moving, demolition, or excavation connected with such construction.

(II) "Construction agreement" does not include:

(A) A contract, subcontract, or agreement that concerns or affects property owned or operated by a railroad, a sanitation district, as defined in section 32-1-103 (18), C.R.S., a water district, as defined in section 32-1-103 (25), C.R.S., a water and sanitation district, as defined in section 32-1-103 (24), C.R.S., a municipal water enterprise, a water conservancy district, a water conservation district, or a metropolitan sewage disposal district, as defined in section 32-4-502 (18), C.R.S.; or

(B) Any real property lease or rental agreement between a landlord and tenant regardless of whether any provision of the lease or rental agreement concerns construction, alteration, repair, improvement, or maintenance of real property.

(f) Nothing in this subsection (6) shall be construed to:

(I) Abrogate or affect the doctrine of respondeat superior, vicarious liability, or other nondelegable duties at common law;

(II) Affect the liability for the negligence of an at-fault party; or

(III) Abrogate or affect the exclusive remedy available under the workers'

compensation laws or the immunity provided to general contractors and owners under the workers' compensation laws.

(g) **Choice of law.** Notwithstanding any contractual provision to the contrary, the laws of the state of Colorado shall apply to every construction agreement affecting improvements to real property within the state of Colorado.

13-21-111.6. Civil actions - reduction of damages for payment from collateral source. In any action by any person or his legal representative to recover damages for a tort resulting in death or injury to person or property, the court, after the finder of fact has returned its verdict stating the amount of damages to be awarded, shall reduce the amount of the verdict by the amount by which such person, his estate, or his personal representative has been or will be wholly or partially indemnified or compensated for his loss by any other person, corporation, insurance company, or fund in relation to the injury, damage, or death sustained; except that the verdict shall not be reduced by the amount by which such person, his estate, or his personal representative has been or will be wholly or partially indemnified or compensated by a benefit paid as a result of a contract entered into and paid for by or on behalf of such person. The court shall enter judgment on such reduced amount.

13-21-111.7. Assumption of risk - consideration by trier of fact. Assumption of a risk by a person shall be considered by the trier of fact in apportioning negligence pursuant to section 13-21-111. For the purposes of this section, a person assumes the risk of injury or damage if he voluntarily or unreasonably exposes himself to injury or damage with knowledge or appreciation of the danger and risk involved. In any trial to a jury in which the defense of assumption of risk is an issue for determination by the jury, the court shall instruct the jury on the elements as described in this section.

13-21-111.8. Assumption of risk - shooting ranges. (1) Any person who engages in sport shooting activities at a qualifying sport shooting range, as defined under section 25-12-109 (2) (d), C.R.S., assumes the risk of injury or damage associated with sport shooting activities as set forth in section 13-21-111.7.

(2) For purposes of this section, "engages in sport shooting activities" means entering and exiting a qualifying sport shooting range, preparing to shoot, waiting to shoot, shooting, or assisting another person in shooting at a qualifying sport shooting range. The term includes being a spectator at a qualifying sport shooting range and being present in the range for any reason.

13-21-112. Ad damnum clauses in professional liability actions. In any professional liability action for damages, the ad damnum clause or prayer for damages in any pleading shall not recite any sum as alleged damages other than an allegation that damages are in excess of any minimum dollar amount necessary to establish the jurisdiction of the court.

13-21-113. Donation of items of food - exemption from civil and criminal liability. (1) No farmer, retail food establishment, or processor, distributor, wholesaler, or retailer of food who donates items of food to a nonprofit organization for use or distribution in providing assistance to needy or poor persons nor any nonprofit organization in receipt of such gleaned or donated food who transfers said food to another nonprofit organization for use or distribution in providing assistance to needy or poor persons shall be liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from the nature, age, condition, or packaging of such donated foods; except that this exemption shall not apply to the willful, wanton, or reckless acts of donors which result in injury to recipients of such donated foods. For the purposes of this section, "retail food establishment" shall have the same meaning as set forth in section 25-4-1602 (14), C.R.S., and "nonprofit organization" means any organization which is exempt from the income tax imposed under article 22 of title 39, C.R.S.; except that the term "nonprofit organization" does not include organizations which sell or offer to sell such donated items of food.

(2) Nothing in this section relieves any nonprofit organization that serves or provides food to needy persons for their consumption from any liability for any injury, including, but not limited to, injury resulting from ingesting donated foods, as a result of receiving, accepting, gathering, or removing any foods donated under this section; except that a nonprofit organization is not liable for any injury caused by donated food produced pursuant to the "Colorado Cottage Foods Act", section 25-4-1614, C.R.S., unless the nonprofit organization acted unreasonably.

(3) Any nonprofit organization that receives any donated items of food pursuant to this section shall not sell or offer to sell any such donated items of food. This prohibition shall not affect the transfer of such donated items of gleaned or donated food between nonprofit organizations, without contemplation of remuneration, for ultimate disposition in accordance with the provisions of this section.

(4) Nothing in this section is intended to restrict the authority of any appropriate agency to regulate or ban the use of such donated foods for human consumption.

13-21-113.3. Donation of firefighting equipment - exemption from civil and criminal liability - definitions - legislative declaration. (1) A fire department or other

person or entity that donates surplus firefighting equipment to a fire department shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from the nature, age, condition, or packaging of such equipment; except that this exemption shall not apply to the grossly negligent, willful, wanton, or reckless acts of donors that result in injury to recipients of such equipment.

(2) As used in this section:

(a) "Fire department" has the meaning set forth in section 24-33.5-1202, C.R.S., and includes a fire department that uses paid firefighters, volunteer firefighters, or both. The term includes, without limitation, not-for-profit nongovernmental entities that are organized to provide firefighting services.

(b) "Firefighting equipment" means any and all equipment designed for or typically used in the prevention and suppression of fire, the protection of firefighters, or the rescue and extrication of victims of fire or other emergencies, including without limitation hoses, fire trucks, rescue vehicles, extrication equipment, protective clothing, and breathing apparatus.

(3) A fire department that receives donated firefighting equipment pursuant to this section shall not sell or offer to sell any such donated equipment. This prohibition shall not affect the transfer of such donated equipment, without contemplation of remuneration, between fire departments for future use.

(4) Nothing in this section limits the authority of any appropriate agency to regulate, prohibit, or place conditions on the use of specific firefighting equipment.

(5) The general assembly intends that the provisions of this section and of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., be read together and harmonized. If any provision of this section is construed to conflict with a provision of the "Colorado Governmental Immunity Act", the provision that grants the greatest immunity shall prevail.

13-21-113.5. Use of school or nonprofit organization kitchen - exemption from civil and criminal liability. A school or nonprofit organization that provides one or more community kitchens used by producers to bake or process goods for sale pursuant to the "Colorado Cottage Foods Act", section 25-4-1614, C.R.S., is not liable for damages in any civil action or subject to prosecution in any criminal proceeding resulting from the use of its kitchens by producers preparing goods for direct sale to consumers, unless the school or nonprofit organization acted unreasonably. A school or nonprofit organization may require anyone using its kitchens for this purpose to show proof of liability insurance before using the kitchen. This section does not apply to an injury or death of the ultimate user of the product that results from an act or omission of the school or nonprofit organization constituting gross negligence or intentional misconduct.

13-21-113.7. Immunity of volunteer firefighters, incident management teams, and their employers or organizations - definitions - legislative declaration. (1) A volunteer firefighter who, in good faith, takes part in firefighting efforts or provides emergency care, rescue, assistance, or recovery services at the scene of an emergency, any incident management team, and any person who, in good faith, commands, directs, employs, sponsors, or represents any such volunteer firefighter or incident management team shall not be liable for civil damages as a result of an act or omission by such volunteer firefighter, incident management team, or other person in connection with the emergency; except that this exemption shall not apply to grossly negligent, willful, wanton, or reckless acts or omissions.

(2) As used in this section:

(a) "Emergency" means any incident to which a response by a fire department or incident management team is appropriate or requested, including, without limitation:

(I) A fire, fire alarm response, motor vehicle accident, rescue call, or hazardous materials incident;

(II) A natural or man-made disaster such as an earthquake, flood, or severe weather event;

(III) A terrorist attack; or

(IV) An outbreak of a harmful biological agent or infectious disease.

(b) "Fire department" has the meaning set forth in section 24-33.5-1202, C.R.S., and includes a fire department that uses paid firefighters, volunteer firefighters, or both. The term includes, without limitation, not-for-profit nongovernmental entities that are organized to provide firefighting services.

(c) "Incident management team" means an ad hoc or standing team of trained personnel from different departments, organizations, agencies, and jurisdictions activated to manage the logistical, fiscal, planning, operational, safety, and community issues related to an emergency or other incident.

(d) "Volunteer firefighter" has the meaning set forth in section 31-30-1102, C.R.S., and includes volunteer firefighters of not-for-profit nongovernmental entities that are organized to provide firefighting services.

(3) The general assembly intends that the provisions of this section and of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., be read together and harmonized. If any provision of this section is construed to conflict with a provision of the "Colorado Governmental Immunity Act", the provision that grants the greatest immunity shall prevail.

13-21-114. Immunity of mine rescue participants and their employers or organizations. No person engaged in mine rescue or recovery work who, in good faith, renders emergency care, rescue, assistance, or recovery services at the scene of any

emergency at or in a mine in this state or who employs, sponsors, or represents any person rendering emergency care, rescue, assistance, or recovery services shall be liable for any civil damages as a result of any act or omission by any person in rendering emergency care, rescue, assistance, or recovery service.

13-21-115. Actions against landowners. (1) For the purposes of this section, "landowner" includes, without limitation, an authorized agent or a person in possession of real property and a person legally responsible for the condition of real property or for the activities conducted or circumstances existing on real property.

(1.5) The general assembly hereby finds and declares:

(a) That the provisions of this section were enacted in 1986 to promote a state policy of responsibility by both landowners and those upon the land as well as to assure that the ability of an injured party to recover is correlated with his status as a trespasser, licensee, or invitee;

(b) That these objectives were characterized by the Colorado supreme court as "legitimate governmental interests" in **Gallegos v. Phipps**, No. 88 SA 141 (September 18, 1989);

(c) That the purpose of amending this section in the 1990 legislative session is to assure that the language of this section effectuates these legitimate governmental interests by imposing on landowners a higher standard of care with respect to an invitee than a licensee, and a higher standard of care with respect to a licensee than a trespasser;

(d) That the purpose of this section is also to create a legal climate which will promote private property rights and commercial enterprise and will foster the availability and affordability of insurance;

(e) That the general assembly recognizes that by amending this section it is not reinstating the common law status categories as they existed immediately prior to **Mile Hi Fence v. Radovich**, 175 Colo. 537, 489 P.2d 308 (1971) but that its purpose is to protect landowners from liability in some circumstances when they were not protected at common law and to define the instances when liability will be imposed in the manner most consistent with the policies set forth in paragraphs (a), (c), and (d) of this subsection (1.5).

(2) In any civil action brought against a landowner by a person who alleges injury occurring while on the real property of another and by reason of the condition of such property, or activities conducted or circumstances existing on such property, the landowner shall be liable only as provided in subsection (3) of this section. Sections 13-21-111, 13-21-111.5, and 13-21-111.7 shall apply to an action to which this section applies. This subsection (2) shall not be construed to abrogate the doctrine of attractive nuisance as applied to persons under fourteen years of age. A person who is at least fourteen years of age but is less than eighteen years of age shall be presumed competent

for purposes of the application of this section.

(3) (a) A trespasser may recover only for damages willfully or deliberately caused by the landowner.

(b) A licensee may recover only for damages caused:

(I) By the landowner's unreasonable failure to exercise reasonable care with respect to dangers created by the landowner of which the landowner actually knew; or

(II) By the landowner's unreasonable failure to warn of dangers not created by the landowner which are not ordinarily present on property of the type involved and of which the landowner actually knew.

(c) (I) Except as otherwise provided in subparagraph (II) of this paragraph (c), an invitee may recover for damages caused by the landowner's unreasonable failure to exercise reasonable care to protect against dangers of which he actually knew or should have known.

(II) If the landowner's real property is classified for property tax purposes as agricultural land or vacant land, an invitee may recover for damages caused by the landowner's unreasonable failure to exercise reasonable care to protect against dangers of which he actually knew.

(3.5) It is the intent of the general assembly in enacting the provisions of subsection (3) of this section that the circumstances under which a licensee may recover include all of the circumstances under which a trespasser could recover and that the circumstances under which an invitee may recover include all of the circumstances under which a trespasser or a licensee could recover.

(4) In any action to which this section applies, the judge shall determine whether the plaintiff is a trespasser, a licensee, or an invitee, in accordance with the definitions set forth in subsection (5) of this section. If two or more landowners are parties defendant to the action, the judge shall determine the application of this section to each such landowner. The issues of liability and damages in any such action shall be determined by the jury or, if there is no jury, by the judge.

(5) As used in this section:

(a) "Invitee" means a person who enters or remains on the land of another to transact business in which the parties are mutually interested or who enters or remains on such land in response to the landowner's express or implied representation that the public is requested, expected, or intended to enter or remain.

(b) "Licensee" means a person who enters or remains on the land of another for the licensee's own convenience or to advance his own interests, pursuant to the landowner's permission or consent. "Licensee" includes a social guest.

(c) "Trespasser" means a person who enters or remains on the land of another without the landowner's consent.

(6) If any provision of this section is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the section shall be deemed valid.

13-21-115.5. Volunteer service act - immunity - exception for operation of motor vehicles. (1) This section shall be known and may be cited as the "Volunteer Service Act".

(2) The general assembly finds and declares that:

(a) The willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;

(b) The contributions of programs, activities, and services to communities is diminished and worthwhile programs, activities, and services are deterred by the unwillingness of volunteers to serve as volunteers of nonprofit public and private organizations;

(c) It is in the public interest to strike a balance between the right of a person to seek redress for injury and the right of an individual to freely give time and energy without compensation as a volunteer in service to the community without fear of personal liability for acts undertaken in good faith absent willful and wanton conduct on the part of the volunteer; and

(d) The provisions of this section are intended to encourage volunteers to contribute their services for the good of their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

(3) As used in this section, unless the context otherwise requires:

(a) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, or which is listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation.

(b) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, or which is listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended, and any homeowners association, as defined in and which is exempt from taxation pursuant to section 528 of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 528.

(c) (I) "Volunteer" means a person performing services for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital without compensation, other than reimbursement for actual expenses incurred. The term excludes a volunteer serving as a director, officer, or trustee who shall be protected from civil liability in accordance with the provisions of sections 13-21-116 and 13-21-115.7.

(II) "Volunteer" includes:

(A) A licensed physician, a licensed physician assistant, and a licensed

anesthesiologist assistant governed by article 36 of title 12, C.R.S., performing the practice of medicine, as defined in section 12-36-106, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(B) A licensed chiropractor governed by article 33 of title 12, C.R.S., performing chiropractic, as defined in section 12-33-102, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(C) A registered midwife governed by article 37 of title 12, C.R.S., performing the practice of direct-entry midwifery, as defined in section 12-37-102, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(D) A licensed nurse governed by the "Nurse Practice Act", article 38 of title 12, C.R.S., performing the practice of practical nursing or the practice of professional nursing, as defined in section 12-38-103 (9) and (10), C.R.S., respectively, as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(E) A registered advance practice nurse governed by the "Nurse Practice Act", article 38 of title 12, C.R.S., performing nursing tasks within the scope of the person's nursing license and performing advanced practice under authority granted by the state board of nursing pursuant to sections 12-38-111.5 and 12-38-111.6, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(F) A licensed retired volunteer nurse governed by the provisions of article 38 of title 12, C.R.S., performing volunteer nursing tasks within the scope of the person's nursing license, as described in section 12-38-112.5, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(G) A certified nurse aide governed by the provisions of article 38.1 of title 12, C.R.S., performing the practice of a nurse aide, as defined in section 12-38.1-102 (5), C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(H) A licensed nursing home administrator and registered nursing home administrator-in-training governed by the provisions of article 39 of title 12, C.R.S., performing the practice of nursing home administration, as defined in section 12-39-102 (5), C.R.S., and the training of an administrator-in-training, as described in section 12-39-107, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(I) A licensed optometrist governed by the provisions of article 40 of title 12, C.R.S., performing the practice of optometry, as defined in section 12-40-102, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(J) A licensed physical therapist governed by the "Physical Therapy Practice Act", article 41 of title 12, C.R.S., performing physical therapy, as defined in section 12-41-103 (6), C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(K) A licensed respiratory therapist governed by the "Respiratory Therapy Practice Act", article 41.5 of title 12, C.R.S., performing respiratory therapy, as defined in section 12-41.5-103 (6), C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(L) A licensed psychiatric technician governed by the provisions of article 42 of title 12, C.R.S., performing the practice as a psychiatric technician, as defined in section 12-42-102 (4), C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(M) A licensed psychologist governed by the provisions of article 43 of title 12, C.R.S., performing the practice of psychology, as defined in section 12-43-303, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(N) A licensed social worker and licensed clinical social worker governed by the provisions of article 43 of title 12, C.R.S., performing social work practice, as defined in section 12-43-403, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(O) A licensed marriage and family therapist governed by the provisions of article 43 of title 12, C.R.S., performing marriage and family therapy practice, as defined in section 12-43-503, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(P) A licensed professional counselor governed by article 43 of title 12, C.R.S., practicing professional counseling as defined in section 12-43-602.5, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(Q) A licensed pharmacist governed by article 42.5 of title 12, C.R.S., performing the practice of pharmacy, as defined in section 12-42.5-102 (31), C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

(R) A licensed dentist or dental hygienist governed by article 35 of title 12, C.R.S., performing the practice of dentistry or dental hygiene, as defined in section 12-35-103, C.R.S., and as described in section 12-35-113, C.R.S., as a volunteer for a nonprofit organization, nonprofit corporation, governmental entity, or hospital; or a dentist or dental hygienist who holds a license in good standing from another state performing the practice of dentistry or dental hygiene, as defined in section 12-35-103, C.R.S., and as described in section 12-35-113, C.R.S., as a volunteer for a nonprofit organization, nonprofit corporation, governmental entity, or hospital pursuant to section 12-35-115 (1) (k), C.R.S.; and

(S) A licensed or certified addiction counselor governed by article 43 of title 12, C.R.S., performing addiction counseling, as defined in section 12-43-803, C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital.

(III) The nonprofit organization, nonprofit corporation, governmental entity, or hospital for which a volunteer performs shall annually verify that the volunteer holds an unrestricted Colorado license, registration, or certification to practice his or her respective profession.

(4) (a) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(I) The volunteer is immune from liability for the act or omission under the federal "Volunteer Protection Act of 1997", as from time to time may be amended, codified at 42 U.S.C. sec. 14501 et seq.; and

(II) The damage or injury was not caused by misconduct or other circumstances that would preclude immunity for such volunteer under the federal law described in subparagraph (I) of this paragraph (a).

(III) (Deleted by amendment, L. 2006, p. 531, § 1, effective July 1, 2006.)

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), nothing in this section shall be construed to bar any cause of action against a nonprofit organization, nonprofit corporation, governmental entity, or hospital or change the liability otherwise provided by law of a nonprofit organization, nonprofit corporation, governmental entity, or hospital arising out of an act or omission of a volunteer exempt from liability for negligence under this section.

(II) A nonprofit organization, nonprofit corporation, governmental entity, or hospital that is formed for the sole purpose of facilitating the volunteer provision of health care shall be immune from liability arising out of an act or omission of a volunteer who is immune from liability under this subsection (4).

(5) Notwithstanding the provisions of subsection (4) of this section, a plaintiff may sue and recover civil damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle during an activity; except that the amount recovered from such volunteer shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such volunteer with respect to the negligent operation of a motor vehicle in such circumstances. However, nothing in this section shall be construed to limit the right of a plaintiff to recover from a policy of uninsured or underinsured motorist coverage available to the plaintiff as a result of a motor vehicle accident.

13-21-115.6. Immunity from civil liability for school crossing guards and sponsors. (1) As used in this section:

(a) "School crossing guard" means any person eighteen years of age and older acting with or without compensation who supervises, directs, monitors, or otherwise assists school children at a street or intersection.

(b) "School crossing guard sponsor" means any governmental agency or

subdivision, including but not limited to any county, city, city and county, town, or school district, and any individual, volunteer group, club, or nonprofit corporation that sponsors, organizes, or provides for school crossing guards.

(2) Any school crossing guard and any school crossing guard sponsor shall be immune from civil liability for any act or omission that results in damage or injury if the school crossing guard was acting within the scope of such person's official functions and duties as a school crossing guard unless the damage or injury was caused by a willful and wanton act or omission of the school crossing guard.

(3) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

13-21-115.7. Immunity from civil liability for directors, officers, or trustees - nonprofit corporations or nonprofit organizations. (1) As used in this section, unless the context otherwise requires:

(a) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c) (2), (3), (4), (5), (6), (7), (8), (11), or (19) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation. The term includes a public hospital certified pursuant to section 25-1.5-103 (1) (a), C.R.S.

(b) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c) (2), (3), (4), (5), (6), (7), (8), (11), or (19) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended.

(2) In addition to the provisions of section 13-21-116 (2) (b), on and after April 23, 1992, any person who serves as a director, officer, or trustee of a nonprofit corporation or nonprofit organization and who is not compensated for serving as a director, officer, or trustee on a salary or prorated equivalent basis shall be immune from civil liability for any act or omission which results in damage or injury if such person was acting within the scope of such person's official functions and duties as a director, officer, or trustee unless such damage or injury was caused by the willful and wanton act or omission of such director, officer, or trustee.

(3) Nothing in this section shall be construed to establish, diminish, or abrogate any duties that a director, officer, or trustee of a nonprofit corporation or nonprofit organization has to the nonprofit corporation or nonprofit organization for which the director, officer, or trustee serves.

(4) For purposes of this section, a director, officer, or trustee shall not be

considered compensated solely by reason of:

(a) The payment of such person's actual expenses incurred in attending meetings or in executing such office;

(b) The receipt of meals at meetings; or

(c) The receipt of gifts up to but not exceeding a total value of one thousand dollars in any twelve consecutive months.

(5) The individual immunity granted by subsection (2) of this section shall not extend to any act or omission of such director, officer, or trustee which results in damage or injury caused by such director, officer, or trustee during the operation of any motor vehicle, airplane, or boat.

13-21-116. Actions not constituting an assumption of duty - board member immunity - immunity for volunteers assisting organizations for young persons. (1) It is the intent of the general assembly to encourage the provision of services or assistance by persons on a voluntary basis to enhance the public safety rather than to allow judicial decisions to establish precedents which discourage such services or assistance to the detriment of public safety.

(2) (a) To encourage the provision of services or assistance by persons on a voluntary basis, a person shall not be deemed to have assumed a duty of care where none otherwise existed when he performs a service or an act of assistance, without compensation or expectation of compensation, for the benefit of another person, or adopts or enforces a policy or a regulation to protect another person's health or safety. Such person providing such services or assistance or adopting or enforcing such a policy or regulation shall not be liable for any civil damages for acts or omissions in good faith. Such performance of a service or an act of assistance for the benefit of another person or adoption or enforcement of a policy or regulation for the protection of another person's health or safety shall not create any duty of care with respect to a third person, nor shall it create a duty for any person to perform such a service or an act of assistance nor to adopt or enforce such a policy or regulation.

(b) (I) No member of the board of directors of a nonprofit corporation or nonprofit organization shall be held liable for actions taken or omissions made in the performance of his or her duties as a board member except for wanton and willful acts or omissions. For purposes of this paragraph (b), "the board of directors of a nonprofit corporation or nonprofit organization" shall include, but not be limited to, the board of directors of a public hospital certified pursuant to section 25-1.5-103 (1) (a), C.R.S.

(II) For purposes of this paragraph (b), unless the context otherwise requires:

(A) "Nonprofit corporation" means any corporation which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c) of the federal

"Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended. The term includes a not-for-profit corporation.

(B) "Nonprofit organization" means any organization which is exempt from taxation pursuant to section 501(a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as an exempt organization in section 501(c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501(c), as amended.

(2.5) (a) No person who performs a service or an act of assistance, without compensation or expectation of compensation, as a leader, assistant, teacher, coach, or trainer for any program, organization, association, service group, educational, social, or recreational group, or nonprofit corporation serving young persons or providing sporting programs or activities for young persons shall be held liable for actions taken or omissions made in the performance of his duties except for wanton and willful acts or omissions; except that such immunity from liability shall not extend to protect such person from liability for acts or omissions which harm third persons.

(b) For the purposes of this subsection (2.5), "young persons" means persons who are eighteen years of age or younger.

(3) Nothing in this section shall be construed to supersede, abrogate, or limit any immunities or limitations of liability otherwise provided by law.

(4) As used in this section, "person" means an individual, corporation, partnership, or association.

13-21-117. Civil liability - mental health care providers - no duty. A physician, social worker, psychiatric nurse, psychologist, or other mental health professional and a mental health hospital, community mental health center or clinic, institution, or their staff shall not be liable for damages in any civil action for failure to warn or protect any person against a mental health patient's violent behavior, and any such person shall not be held civilly liable for failure to predict such violent behavior, except where the patient has communicated to the mental health care provider a serious threat of imminent physical violence against a specific person or persons. When there is a duty to warn and protect under the circumstances specified above, the duty shall be discharged by the mental health care provider making reasonable and timely efforts to notify any person or persons specifically threatened, as well as notifying an appropriate law enforcement agency or by taking other appropriate action including, but not limited to, hospitalizing the patient. A physician, social worker, psychiatric nurse, psychologist, or other mental health professional and a mental health hospital, community mental health center or clinic, institution, or their staff shall not be liable for damages in any civil action for warning any person against or predicting a mental health patient's violent behavior, and any such person shall not be subject to professional discipline for such warning or prediction. For the purposes of this section, "psychiatric nurse" means a registered professional nurse as

defined in section 12-38-103 (11), C.R.S., who by virtue of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing. The provisions of this section shall not apply to the negligent release of a mental health patient from any mental health hospital or ward or to the negligent failure to initiate involuntary seventy-two-hour treatment and evaluation after a personal patient evaluation determining that the person appears to have a mental illness and, as a result of the mental illness, appears to be an imminent danger to others.

13-21-117.5. Civil liability - intellectual and developmental disability service providers. (1) **Legislative declaration.** (a) In recognition of the varied, extensive, and substantial needs of persons with developmental disabilities, the general assembly hereby finds and declares that the purposes of this section are:

(I) To reaffirm the high value Colorado places on the rights of persons with developmental disabilities to receive services and supports that enable them to live in integrated community settings, to participate fully in community life, and to exercise choice and self-direction in their lives;

(II) To recognize that there are inherent risks in such integration, participation, and self-direction due to the cognitive limitations experienced by persons with developmental disabilities;

(III) To recognize that providers to such persons are exposed to risk of liability when they assist or permit persons with developmental disabilities to experience community integration, participation, and self-direction;

(IV) To recognize that providers provide essential services and functions and that unlimited liability could disrupt or make prohibitively expensive the provision of such essential services;

(V) To recognize that providers should be provided with protection from unlimited liability so that providers are not discouraged from providing such services and functions.

(b) The general assembly, therefore, declares that it is the intent of the general assembly to mitigate the risk of liability to providers to the developmentally disabled to the extent that such mitigation is reasonable and possible.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Community centered board" means a private corporation, for profit or not for profit, which, when designated pursuant to section 27-10.5-105, C.R.S., provides case management to persons with developmental disabilities, is authorized to determine eligibility of such persons within a specified geographical area, serves as the single point of entry for persons to receive services and supports under article 10.5 of title 27, C.R.S., and provides authorized services and supports to such persons either directly or by purchasing such services and supports from service agencies.

Editor's note: This version of paragraph (a) is effective until March 1, 2014.

(a) "Community-centered board" means a private corporation, for-profit or not-for-profit, which, when designated pursuant to section 25.5-10-209, C.R.S., provides case management to persons with intellectual and developmental disabilities, is authorized to determine eligibility of such persons within a specified geographical area, serves as the single point of entry for persons to receive services and supports under article 10 of title 25.5, C.R.S., and provides authorized services and supports to such persons either directly or by purchasing such services and supports from service agencies.

Editor's note: This version of paragraph (a) is effective March 1, 2014.

(b) "Department" means the department of human services.

(c) "Developmental disability" shall have the same meaning as defined in section 27-10.5-102 (11), C.R.S.

Editor's note: This version of paragraph (c) is effective until March 1, 2014.

(c) "Developmental disability" has the same meaning as "intellectual and developmental disability" as defined in section 25.5-10-202, C.R.S.

Editor's note: This version of paragraph (c) is effective March 1, 2014.

(d) "Family provider" means a member of a family of a person with a developmental disability who provides services to persons with developmental disabilities as a contractor under programs of the department.

(e) "Host home" means a private home that houses up to three persons with developmental disabilities and whose owner or renter provides residential services, as described in section 27-10.5-104 (1) (f), C.R.S., to those persons as an independent contractor of a community centered board or service agency.

Editor's note: This version of paragraph (e) is effective until March 1, 2014.

(e) "Host home" means a private home that houses up to three persons with intellectual and developmental disabilities and whose owner or renter provides residential services, as described in section 25.5-10-206 (1) (e), C.R.S., to those persons as an independent contractor of a community-centered board or service agency.

Editor's note: This version of paragraph (e) is effective March 1, 2014.

(f) "Provider" means any community centered board, service agency, host home,

family provider, and the directors, officers, and employees of these entities, who provide services or supports to persons with developmental disabilities pursuant to article 10.5 of title 27, C.R.S.

(g) "Service agency" means a privately operated program-approved service agency designated pursuant to the rules of the department.

(3) A person filing an action against a provider for injury which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant shall demonstrate liability by a preponderance of the evidence. If a provider raises the issue that a claimant cannot demonstrate liability by a preponderance of the evidence or raises any other limitation on liability pursuant to this section prior to or after the commencement of discovery, the court shall suspend discovery, except any discovery necessary to decide the issue of limitation of liability, and shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.

(4) **Duty of care.** The performance of a service or an act of assistance for the benefit of a person with a developmental disability or adoption or enforcement of a policy, procedure, guideline, or practice for the protection of any such person's health or safety by a provider shall not create any duty of care with respect to a third person, nor shall it create a duty for any provider to perform or sustain such a service or an act of assistance nor to adopt or enforce such a policy, procedure, guideline, or practice; however, nothing in this section shall be construed to relieve a provider of a duty of care expressly imposed by federal or state law or department rule, nor shall anything in this section be deemed to create any duty of care.

(5) No action in tort under this section may be maintained on behalf of, for, or by a person with a developmental disability or by a family member of a person with a developmental disability against a provider unless that person claiming to have suffered an injury or grievance or that person's guardian or representative has filed for dispute resolution or other applicable intervention, if any, by the department or community centered board pursuant to department rules promulgated under article 10.5 of title 27, C.R.S., within one year after the date of the discovery of the injury or grievance, regardless of whether the person then knew all of the elements of a claim or of a cause of action for such injury or grievance. Compliance with the provisions of this subsection (5), documented by a letter from the department certifying that any and all such interventions and dispute resolution procedures, with either the department or the community centered board, applicable to the matter at hand have been exhausted, or by submission of evidence that such an intervention or dispute resolution request has been filed and no action has been taken by the department within ninety days, shall be a jurisdictional prerequisite to any action brought under the provisions of this section, and failure of compliance shall forever bar any such action and shall result in a dismissal of any claim with prejudice. Certification by the department that all applicable interventions and dispute resolution

procedures have been exhausted shall not result in the department becoming a party to the tort claim action.

(6) A provider shall not be liable for damages in any civil action for failure to warn or protect any person against the violent, assaultive, disorderly, or harassing behavior of a person with a developmental disability, nor shall any such provider be held civilly liable for failure to predict or prevent such behavior, except there shall be a duty to warn where the person with the developmental disability has communicated to the provider a serious and credible threat of imminent physical violence and serious bodily injury against a specific person or persons. If there is a duty to warn as specified in this subsection (6), the duty shall be discharged by the provider making reasonable and timely efforts to notify any person or persons specifically threatened, except that if the person or persons threatened with imminent physical violence and serious bodily injury is a person with a developmental disability under the care of a provider, the provider shall take reasonable action to protect such person from serious bodily injury until the threat can reasonably be deemed to have abated. A provider shall not be liable for damages in any civil action for warning a person against or predicting violent, assaultive, disorderly, or harassing behavior of a person with a developmental disability, nor shall a provider be subject to professional discipline for such warning or prediction.

(7) In any civil action brought against a provider, a person with a developmental disability who is served in a residential setting owned or leased by a provider shall not be considered a tenant of the provider and statutes regarding landlord-tenant relationships shall not apply. The owner of a property leased by a provider for the purpose of providing services pursuant to article 10.5 of title 27, C.R.S., shall not be responsible for the provision or monitoring of such services. No real property rights shall accrue to a person with a developmental disability by virtue of placement in a residential setting.

(8) If a person with a developmental disability residing in a residential program operated by the department is referred by the department for community placement, the provider shall not be subject to civil liability for accepting that person for community placement.

(9) Claims predicated on an alleged deceptive trade practice pursuant to article 1 of title 6, C.R.S., shall not apply to providers engaged in the provision of services pursuant article 10.5 of title 27, C.R.S.

(10) Community centered boards and service agencies shall have the authority to remove a person with a developmental disability from any residential setting that they operate or for which they contract, directly or indirectly, if the community centered board or service agency believes that the person with a developmental disability may be at risk of abuse, neglect, mistreatment, exploitation, or other harm in such setting. In the absence of willful and wanton acts or omissions, community centered boards and service agencies shall have no civil liability for exercising such authority or for termination of any related contracts if such risk is substantiated by investigation pursuant to the rules of the

department.

(11) In the absence of willful and wanton acts or omissions, a provider shall not have civil liability for injurious consequences to a person with a developmental disability in the provider's care when that person having the legal capacity for such decisions at the time such decisions were made, or the person's guardian or other person or entity duly authorized to make medication or treatment decisions for the person, declines or obstructs the administration of prescribed medication or other treatment recommended by a licensed physician, licensed psychologist, or certified therapist.

(12) When a person with a developmental disability who has the legal capacity to make decisions, or that person's guardian, refuses to comply with restrictions established pursuant to an interdisciplinary team process that are designed to safeguard the health and safety of the person or others, and it can be shown that a provider has made reasonable efforts to secure such compliance from the person or has taken other reasonable actions to safeguard the person or others, a provider of services shall not have civil liability for injuries or damages to the person with a developmental disability that may arise from the refusal by the person with a developmental disability, or that person's guardian, to comply with such restrictions.

13-21-117.7. Civil actions against family foster care providers - limited liability. (1) A foster care provider shall be immune from civil liability for any acts or omissions committed by a foster child in his or her care, unless a court of competent jurisdiction determines that acts or omissions on the part of the foster care provider were negligent and that such foster care provider's acts or omissions were a cause of injuries, damages, or losses.

(2) If a plaintiff in a civil liability action described in subsection (1) of this section is a biological or adoptive parent or other relative of the foster child and such plaintiff is successful against the foster care provider for any actions or omissions regarding foster care, any monetary compensation received by the plaintiff as a result of the civil action shall be deposited in a trust account at a federally licensed and insured financial institution to be held in trust for the benefit of the foster care child. The amount so deposited shall be subject to the jurisdiction and oversight of the court having probate jurisdiction.

(3) For purposes of this section, "foster care provider" means a foster care parent or a family member living in a foster care home who provides care to one or more foster children in that home.

13-21-118. Actions based on flight in aircraft. No cause of action at law or in equity based upon flight in aircraft over lands or waters of this state shall be maintained

unless other than nominal damages result therefrom or unless irreparable damage will probably result therefrom.

13-21-119. Equine activities - llama activities - legislative declaration - exemption from civil liability. (1) The general assembly recognizes that persons who participate in equine activities or llama activities may incur injuries as a result of the risks involved in such activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the general assembly to encourage equine activities and llama activities by limiting the civil liability of those involved in such activities.

(2) As used in this section, unless the context otherwise requires:

(a) "Engages in a llama activity" means riding, training, assisting in medical treatment of, driving, or being a passenger upon a llama, whether mounted or unmounted or any person assisting a participant or show management. The term "engages in a llama activity" does not include being a spectator at a llama activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the llama activity.

(a.5) "Engages in an equine activity" means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted or any person assisting a participant or show management. The term "engages in an equine activity" does not include being a spectator at an equine activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.

(b) "Equine" means a horse, pony, mule, donkey, or hinny.

(c) "Equine activity" means:

(I) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;

(II) Equine training or teaching activities or both;

(III) Boarding equines;

(IV) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(V) Rides, trips, hunts, or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor; and

(VI) Placing or replacing horseshoes on an equine.

(d) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, an equine activity, including but not limited to: Pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including but not limited to stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held.

(e) "Equine professional" means a person engaged for compensation:

(I) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or

(II) In renting equipment or tack to a participant.

(f) "Inherent risks of equine activities" and "inherent risks of llama activities" means those dangers or conditions which are an integral part of equine activities or llama activities, as the case may be, including, but not limited to:

(I) The propensity of the animal to behave in ways that may result in injury, harm, or death to persons on or around them;

(II) The unpredictability of the animal's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals;

(III) Certain hazards such as surface and subsurface conditions;

(IV) Collisions with other animals or objects;

(V) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.

(f.1) "Llama" means a South American camelid which is an animal of the genus lama, commonly referred to as a "one llama", including llamas, alpacas, guanacos, and vicunas.

(f.2) "Llama activity" means:

(I) Llama shows, fairs, competitions, performances, packing events, or parades that involve any or all breeds of llamas;

(II) Using llamas to pull carts or to carry packs or other items;

(III) Using llamas to pull travois-type carriers during rescue or emergency situations;

(IV) Llama training or teaching activities or both;

(V) Taking llamas on public relations trips or visits to schools or nursing homes;

(VI) Participating in commercial packing trips in which participants pay a llama professional to be a guide on a hike leading llamas;

(VII) Boarding llamas;

(VIII) Riding, inspecting, or evaluating a llama belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the llama or is permitting a prospective purchaser of the llama to ride, inspect, or

evaluate the llama;

(IX) Using llamas in wool production;

(X) Rides, trips, or other llama activities of any type however informal or impromptu that are sponsored by a llama activity sponsor; and

(XI) Trimming the nails of a llama.

(f.3) "Llama activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, a llama activity, including but not limited to: Llama clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of llama facilities, including but not limited to stables, clubhouses, fairs, and arenas at which the activity is held.

(f.4) "Llama professional" means a person engaged for compensation:

(I) In instructing a participant or renting to a participant a llama for the purpose of riding, driving, or being a passenger upon the llama; or

(II) In renting equipment or tack to a participant.

(g) "Participant" means any person, whether amateur or professional, who engages in an equine activity or who engages in a llama activity, whether or not a fee is paid to participate in such activity.

(3) Except as provided in subsection (4) of this section, an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, a doctor of veterinary medicine, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities, or from the inherent risks of llama activities and, except as provided in subsection (4) of this section, no participant nor participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, a doctor of veterinary medicine, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities or resulting from any of the inherent risks of llama activities.

(4) (a) This section shall not apply to the horse racing industry as regulated in article 60 of title 12, C.R.S.

(b) Nothing in subsection (3) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, a llama activity sponsor, a llama professional, or any other person if the equine activity sponsor, equine professional, llama activity sponsor, llama professional, or person:

(I) (A) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or

(B) Provided the animal and failed to make reasonable and prudent efforts to

determine the ability of the participant to engage safely in the equine activity or llama activity and determine the ability of the participant to safely manage the particular animal based on the participant's representations of his ability;

(II) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to the equine activity sponsor, equine professional, llama activity sponsor, llama professional, or person and for which warning signs have not been conspicuously posted;

(III) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury;

(IV) Intentionally injures the participant.

(c) Nothing in subsection (3) of this section shall prevent or limit the liability of an equine activity sponsor, equine professional, llama activity sponsor, or llama professional:

(I) Under liability provisions as set forth in the products liability laws; or

(II) Under liability provisions in section 35-46-102, C.R.S.

(5) (a) Every equine professional shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (5). Such signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in paragraph (b) of this subsection (5) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in paragraph (b) of this subsection (5).

(b) The signs and contracts described in paragraph (a) of this subsection (5) shall contain the following warning notice:

WARNING

> Under Colorado Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-119, Colorado Revised Statutes.

(6) (a) Every llama professional shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (6). Such signs shall be placed in a clearly visible location on or near stables, corrals, pens, or arenas where the

llama professional conducts llama activities if such stables, corrals, pens, or arenas are owned, managed, or controlled by the llama professional. The warning notice specified in paragraph (b) of this subsection (6) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a llama professional for the providing of professional services, instruction, or the rental of equipment or tack or a llama to a participant, whether or not the contract involves llama activities on or off the location or site of the llama professional's business, shall contain in clearly readable print the warning notice specified in paragraph (b) of this subsection (6).

(b) The signs and contracts described in paragraph (a) of this subsection (6) shall contain the following warning notice:

WARNING

> Under Colorado Law, a llama professional is not liable for an injury to or the death of a participant in llama activities resulting from the inherent risks of llama activities, pursuant to section 13-21-119, Colorado Revised Statutes.

13-21-120. Colorado baseball spectator safety act - legislative declaration - limitation on actions - duty to post warning notice. (1) This section shall be known and may be cited as the "Colorado Baseball Spectator Safety Act of 1993".

(2) The general assembly recognizes that persons who attend professional baseball games may incur injuries as a result of the risks involved in being a spectator at such baseball games. However, the general assembly also finds that attendance at such professional baseball games provides a wholesome and healthy family activity which should be encouraged. The general assembly further finds that the state will derive economic benefit from spectators attending professional baseball games. It is therefore the intent of the general assembly to encourage attendance at professional baseball games. Limiting the civil liability of those who own professional baseball teams and those who own stadiums where professional baseball games are played will help contain costs, keeping ticket prices more affordable.

(3) As used in this section, unless the context otherwise requires:

(a) "Owner" means a person, including a corporation, partnership, or limited liability company, who is in lawful possession and control of a professional baseball team or a person, including a corporation, partnership, or limited liability company, who is in lawful possession and control of a stadium in which a professional baseball game is played. "Owner" shall also include the owner's shareholders, partners, directors, officers, employees, and agents.

(b) "Professional baseball game" means any baseball game, whether for exhibition or competition, in which the participating baseball teams are members of a league of

professional baseball clubs, commonly known as a major league or a minor league, and which teams are comprised of paid baseball players. "Professional baseball game" shall also include pregame activities and shall include any baseball game or pregame activity regardless of the time of day when the game is played.

(c) "Spectator" means a person who is present at a professional baseball game for the purpose of observing such game, whether or not a fee is paid by such "spectator".

(4) (a) Spectators of professional baseball games are presumed to have knowledge of and to assume the inherent risks of observing professional baseball games, insofar as those risks are obvious and necessary. These risks include, but are not limited to, injuries which result from being struck by a baseball or a baseball bat.

(b) Except as provided in subsection (5) of this section, the assumption of risk set forth in this subsection (4) shall be a complete bar to suit and shall serve as a complete defense to a suit against an owner by a spectator for injuries resulting from the assumed risks, notwithstanding the provisions of sections 13-21-111 and 13-21-111.5. Except as provided in subsection (5) of this section, an owner shall not be liable for an injury to a spectator resulting from the inherent risks of attending a professional baseball game, and, except as provided in subsection (5) of this section, no spectator nor spectator's representative shall make any claim against, maintain an action against, or recover from an owner for injury, loss, or damage to the spectator resulting from any of the inherent risks of attending a professional baseball game.

(c) Nothing in this section shall preclude a spectator from suing another spectator for any injury to person or property resulting from such other spectator's acts or omissions.

(5) Nothing in subsection (4) of this section shall prevent or limit the liability of an owner who:

(a) Fails to make a reasonable and prudent effort to design, alter, and maintain the premises of the stadium in reasonably safe condition relative to the nature of the game of baseball;

(b) Intentionally injures a spectator; or

(c) Fails to post and maintain the warning signs required pursuant to subsection (6) of this section.

(6) (a) Every owner of a stadium where professional baseball games are played shall post and maintain signs which contain the warning notice specified in paragraph (b) of this subsection (6). Such signs shall be placed in conspicuous places at the entrances outside the stadium and at stadium facilities where tickets to professional baseball games are sold. The warning notice specified in paragraph (b) of this subsection (6) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) The signs described in paragraph (a) of this subsection (6) shall contain the following warning notice:

WARNING

UNDER COLORADO LAW, A SPECTATOR OF PROFESSIONAL BASEBALL ASSUMES THE RISK OF ANY INJURY TO PERSON OR PROPERTY RESULTING FROM ANY OF THE INHERENT DANGERS AND RISKS OF SUCH ACTIVITY AND MAY NOT RECOVER FROM AN OWNER OF A BASEBALL TEAM OR AN OWNER OF A STADIUM WHERE PROFESSIONAL BASEBALL IS PLAYED FOR INJURY RESULTING FROM THE INHERENT DANGERS AND RISKS OF OBSERVING PROFESSIONAL BASEBALL, INCLUDING BUT NOT LIMITED TO, BEING STRUCK BY A BASEBALL OR A BASEBALL BAT.

(7) Insofar as any provision of law or statute is inconsistent with the provisions of this section, this section shall control.

13-21-121. Agricultural recreation activities - legislative declaration - inherent risks - limitation of civil liability - duty to post warning notice. (1) The general assembly recognizes that persons who participate in certain agricultural recreation activities may incur injuries as a result of the inherent risks involved with these activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from these activities. It is, therefore, the intent of the general assembly to encourage these activities by limiting the civil liability of certain persons involved in providing the opportunity to participate in these activities.

(2) As used in this section, unless the context otherwise requires:

(a) "Activity instructor or equipment provider" means an individual, facility person, group, club, association, partnership, or corporation, whether or not engaged for compensation, that instructs a participant or that rents, sells, or otherwise provides equipment to a participant for the purpose of engaging in an agricultural recreation activity.

(b) "Agricultural recreation activity" means an activity related to the normal course of agriculture, as defined in section 35-1-102 (1), C.R.S., which activity is engaged in by participants for entertainment, pleasure, or other recreational purposes, or for educational purposes, regardless of whether a fee is charged to the participants. "Agricultural recreation activity" also means hunting, shooting, swimming, diving, tubing, and riding or operating a motorized recreational vehicle that occurs on or in proximity to the property of an agricultural operation or an adjacent roadway. "Agricultural recreation activity" includes, but is not limited to planting, cultivation, irrigation, or harvesting of crops; acceptable practices of animal husbandry; rodeo and livestock activities; and maintenance of farm or ranch equipment.

(c) "Equipment" means a device used to engage in an agricultural recreation activity.

(d) "Facility" means a privately owned and operated farm, ranch, or a public property that is leased or rented and under the control of the person defined in paragraph (e) of this subsection (2) on which the opportunity to engage in one or more agricultural recreation activities is offered to a participant, regardless of whether it is situated in an incorporated area or unincorporated area.

(e) "Facility person" means a person who owns, leases, operates, manages, or is employed at or who volunteers at a facility. For purposes of this paragraph (e) only, "person" includes any individual, corporation, partnership, association, cooperative, or commercial entity.

(f) "Inherent risks of agricultural recreation activities" means those dangers or conditions that are an integral part of such activities, including but not limited to:

(I) The varied degrees of the skill and experience of the participants;

(II) The nature of the activity, including but not limited to the equipment used and the location where the activity is conducted;

(III) Certain hazards, such as ground conditions, surface grade, weather conditions, and animal behavior;

(IV) Collisions with other persons or objects;

(V) The types and the complexity of equipment used by the participants;

(VI) Malfunctions with equipment used by the participants;

(VII) The potential of a participant to act in a negligent manner that may contribute to injury incurred by the participant or others, such as imprudent showmanship, failing to maintain control over his or her equipment, or not acting within his or her ability.

(g) "Participant" means a person who engages in an agricultural recreation activity, whether or not a fee is paid to participate in the activity.

(3) Except as provided in subsections (4) and (5) of this section, an activity instructor or equipment provider or facility person shall not be civilly liable for an injury to or the death of a participant resulting from the inherent risks of agricultural recreation activities performed or conducted on or in a facility. A participant or a participant's representative may not make any claim against, maintain an action against, or recover from an activity instructor or equipment provider or facility person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of agricultural recreation activities performed or conducted on or in a facility.

(4) (a) Nothing in subsection (3) of this section shall prevent or limit the liability of an activity instructor or equipment provider or facility person if the activity instructor or equipment provider or facility person:

(I) Rented, sold, or otherwise provided equipment to a participant, and knew that the equipment was faulty, and such equipment was faulty to the extent that it caused the

injury;

(II) Committed an act or omission that constituted gross negligence or willful or wanton disregard for the safety of the participant, and the act or omission was the cause of the injury; or

(III) Intentionally injured the participant.

(b) Nothing in subsection (3) of this section shall prevent or limit the liability of an activity instructor or equipment provider or facility person under liability provisions set forth in the product liability laws.

(c) A participant is not precluded under this section from suing and recovering from another participant for injury to person or property resulting from the other participant's act or omission. Notwithstanding any provision of law to the contrary, the risk of injury from another participant shall not be considered an inherent risk or a risk assumed by a participant in an action by the participant against another participant.

(5) The operator of a facility shall exercise reasonable care to protect against dangers of which he or she actually knew or shall give warning of any dangers that are ordinarily present on the property.

13-21-122. Civil liability for unlawful use of personal identifying information. (1) Notwithstanding any other remedies provided under this article, a person who suffers damages as a result of a crime described in article 5 of title 18, C.R.S., in which personal identifying information was used in the commission of the crime, shall have a private civil right of action against the perpetrator who committed the crime, regardless of whether the perpetrator was convicted of the crime. In such action, the plaintiff shall be entitled to actual damages, including, but not limited to damage to reputation or credit rating, punitive damages, and attorney fees and costs.

(2) For purposes of this section, "personal identifying information" means any information that may be used, alone or in conjunction with any other information, to identify a specific individual, including but not limited to: Name; date of birth; social security number; personal identification number; password; pass code; official state-issued or government-issued driver's license or identification card number; government passport number; biometric data; employer, student, or military identification number; or financial transaction device as defined in section 18-5-701 (3), C.R.S.

13-21-122.5. Civil liability for trading in telephone records. (1) In addition to any other remedies provided under this article, a person who suffers damages as a result of a violation of section 18-13-125, C.R.S., shall have a private civil right of action against the perpetrator who committed the crime, regardless of whether the perpetrator was convicted of the crime. In such action, the plaintiff shall be entitled to actual

damages, including, but not limited to, damage to reputation or credit rating, punitive damages, and attorney fees and costs. If such damages are less than five thousand dollars per telephone record, the plaintiff shall be entitled to statutory damages of five thousand dollars per telephone record procured, bought, sold, possessed, or received in violation of section 18-13-125, C.R.S.

(2) No telecommunications provider shall be liable for damages in a claim based, in whole or in part, on acts of third parties that violate section 18-13-125, C.R.S.

(3) This section shall not be construed to create a new duty or expand the existing duty of a telecommunications provider to protect telephone records beyond those otherwise established by Colorado law, any other state law, or federal law, including, without limitation, the rules promulgated by the federal communications commission.

(4) This section shall not apply to a telecommunications provider or its agents or representatives who reasonably and in good faith act pursuant to Colorado law, any other state law, or federal law, including, without limitation, the rules promulgated by the federal communications commission, notwithstanding a later determination that the act was not authorized by such law.

13-21-123. Civil liability for newspaper theft. (Repealed)

13-21-124. Civil actions against dog owners. (1) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

(b) "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

(c) "Dog owner" means a person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of, a dog.

(d) "Serious bodily injury" has the same meaning as set forth in section 18-1-901 (3) (p), C.R.S.

(2) A person or a personal representative of a person who suffers serious bodily injury or death from being bitten by a dog while lawfully on public or private property shall be entitled to bring a civil action to recover economic damages against the dog owner regardless of the viciousness or dangerous propensities of the dog or the dog owner's knowledge or lack of knowledge of the dog's viciousness or dangerous propensities.

(3) In any case described in subsection (2) of this section in which it is alleged and proved that the dog owner had knowledge or notice of the dog's viciousness or

dangerous propensities, the court, upon a motion made by the victim or the personal representative of the victim, may enter an order that the dog be euthanized by a licensed veterinarian or licensed shelter at the expense of the dog owner.

(4) For purposes of this section, a person shall be deemed to be lawfully on public or private property if he or she is in the performance of a duty imposed upon him or her by local, state, or federal laws or regulations or if he or she is on property upon express or implied invitation of the owner of the property or is on his or her own property.

(5) A dog owner shall not be liable to a person who suffers bodily injury, serious bodily injury, or death from being bitten by the dog:

(a) While the person is unlawfully on public or private property;

(b) While the person is on property of the dog owner and the property is clearly and conspicuously marked with one or more posted signs stating "no trespassing" or "beware of dog";

(c) While the dog is being used by a peace officer or military personnel in the performance of peace officer or military personnel duties;

(d) As a result of the person knowingly provoking the dog;

(e) If the person is a veterinary health care worker, dog groomer, humane agency staff person, professional dog handler, trainer, or dog show judge acting in the performance of his or her respective duties; or

(f) While the dog is working as a hunting dog, herding dog, farm or ranch dog, or predator control dog on the property of or under the control of the dog's owner.

(6) Nothing in this section shall be construed to:

(a) Affect any other cause of action predicated on other negligence, intentional tort, outrageous conduct, or other theories;

(b) Affect the provisions of any other criminal or civil statute governing the regulation of dogs; or

(c) Abrogate any provision of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

13-21-125. Civil actions for theft in the mortgage lending process. A person who suffers damages as a result of a violation of section 18-4-401, C.R.S., in the mortgage lending process, as defined by section 18-4-401 (9) (e) (I), C.R.S., shall have a private civil right of action against the perpetrator, regardless of whether the perpetrator was convicted of the crime. A claim arising under this section shall not be asserted against a bona fide purchaser of a mortgage contract.

13-21-126. Funeral picketing - legislative declaration - definitions - damages. (1) The general assembly finds and declares that:

(a) One of the fundamental reasons we humans organize ourselves into societies is to ritually assist in and recognize the grieving process;

(b) Funeral picketing disrupts that fundamental grieving process;

(c) Funeral picketing intentionally inflicts severe emotional distress on the mourners; and

(d) Full opportunity exists under the terms and provisions of this section for the exercise of freedom of speech and other constitutional rights other than at and during the funeral.

(2) The general assembly, therefore, determines it is necessary to enact this section in order to:

(a) Protect the privacy of the mourners during the funeral; and

(b) Preserve a funeral-site atmosphere that enhances the grieving process.

(3) As used in this section:

(a) "Funeral" means the ceremonies, rituals, processions, and memorial services held in connection with the burial, cremation, or memorial of a deceased person, including the assembly and dispersal of the mourners.

(b) "Funeral picketing" means a public demonstration at a funeral site during the funeral that is reasonably calculated to inflict severe emotional distress on the mourners.

(c) "Funeral site" means a church, synagogue, mosque, funeral home, mortuary, gravesite, mausoleum, or other place where a funeral is being conducted.

(d) "Mourner" means a member of the decedent's immediate family at the funeral.

(4) It is unlawful for a person to knowingly engage in funeral picketing within one hundred feet of the funeral site or to engage in electronically amplified funeral picketing within one hundred fifty feet of the funeral site.

(5) (a) Each mourner shall be entitled to recover reasonable damages, but not less than one thousand dollars, together with reasonable attorney fees and costs from each person who violates subsection (4) of this section.

(b) The court shall impose joint and several liability on any person who:

(I) Violates subsection (4) of this section by acting in concert with one or more other persons; or

(II) Consciously conspires with one or more other persons and deliberately pursues a common plan or design to commit a violation of subsection (4) of this section.

13-21-127. Civil damages for human trafficking and involuntary servitude. (1) A person is entitled to recover damages and to obtain injunctive relief from any person who commits trafficking in adults, as described in section 18-3-501, C.R.S.; trafficking in children, as described in section 18-3-502, C.R.S.; or coercion of involuntary servitude, as described in section 18-3-503, C.R.S.

(2) A conviction for trafficking in adults, as described in section 18-3-501, C.R.S.;

trafficking in children, as described in section 18-3-502, C.R.S.; or coercion of involuntary servitude, as described in section 18-3-503, C.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

PART 2

DAMAGES FOR DEATH BY NEGLIGENCE

13-21-201. Damages for death. (1) When any person dies from any injury resulting from or occasioned by the negligence, unskillfulness, or criminal intent of any officer, agent, servant, or employee while running, conducting, or managing any locomotive, car, or train of cars, or of any driver of any coach or other conveyance operated for the purpose of carrying either freight or passengers for hire while in charge of the same as a driver, and when any passenger dies from an injury resulting from or occasioned by any defect or insufficiency in any railroad or any part thereof, or in any locomotive or car, or other conveyance operated for the purpose of carrying either freight or passengers for hire, the corporation or individuals in whose employ any such officer, agent, servant, employee, master, pilot, engineer, or driver is at the time such injury is committed, or who owns any such railroad, locomotive, car, or other conveyance operated for the purpose of carrying either freight or passengers for hire at the time any such injury is received, and resulting from or occasioned by the defect or insufficiency above described shall forfeit and pay for every person and passenger so injured the sum of not exceeding ten thousand dollars and not less than three thousand dollars, which may be sued for and recovered:

(a) In the first year after such death:

(I) By the spouse of the deceased;

(II) Upon the written election of the spouse, by the spouse and the heir or heirs of the deceased;

(III) Upon the written election of the spouse, by the heir or heirs of the deceased; or

(IV) If there is no spouse, by the heir or heirs of the deceased or the designated beneficiary, if there is one designated pursuant to article 22 of title 15, C.R.S., with the right to bring an action pursuant to this section, and if there is no designated beneficiary, by the heir or heirs of the deceased;

(b) (I) In the second year after such death:

(A) By the spouse of the deceased;

(B) By the heir or heirs of the deceased;

(C) By the spouse and the heir or heirs of the deceased; or

(D) By the designated beneficiary of the deceased, if there is one designated pursuant to article 22 of title 15, C.R.S., with the right to bring an action pursuant to this

section, and the heir or heirs of the deceased.

(II) However, if the heir or heirs of the deceased commence an action under the provisions of sub-subparagraph (B) of subparagraph (I) of this paragraph (b), the spouse or the designated beneficiary of the deceased, if there is one designated pursuant to article 22 of title 15, C.R.S., with the right to bring an action pursuant to this section, upon motion filed within ninety days after service of written notice of the commencement of the action upon the spouse or designated beneficiary, shall be allowed to join the action as a party plaintiff.

(c) (I) If the deceased is an unmarried minor without descendants or an unmarried adult without descendants and without a designated beneficiary pursuant to article 22 of title 15, C.R.S., by the father or mother who may join in the suit. Except as provided in subparagraphs (II) and (III) of this paragraph (c), the father and mother shall have an equal interest in the judgment, or if either of them is dead, then the surviving parent shall have an exclusive interest in the judgment.

(II) For cases in which the father and mother are divorced, separated, or living apart, a motion may be filed by either the father or the mother prior to trial requesting the court to apportion fairly any judgment awarded in the case. Where such a motion is filed, the court shall conduct a post-judgment hearing at which the father and the mother shall have the opportunity to be heard and to produce evidence regarding each parent's relationship with the deceased child.

(III) On conclusion of the post-judgment hearing conducted pursuant to subparagraph (II) of this paragraph (c), the court shall fairly determine the percentage of the judgment to be awarded to each parent. In making such a determination, the court shall consider each parent's relationship with the deceased, including custody, control, support, parental responsibility, and any other factors the court deems pertinent. The court's determination of the percentage of the judgment awarded to each parent shall not be disturbed absent an abuse of discretion.

(d) For purposes of this section, "father or mother" means a natural parent of the deceased or a parent of the deceased by adoption. "Father or mother" does not include a person whose parental rights concerning the deceased were terminated pursuant to the provisions of title 19, C.R.S.

(2) In suits instituted under this section, it is competent for the defendant for his defense to show that the defect or insufficiency named in this section was not a negligent defect or insufficiency. The judgment obtained in an action under this section shall be owned by such persons as are heirs at law of the deceased under the statutes of descent and distribution and shall be divided among such heirs at law in the same manner as real estate is divided according to said statute of descent and distribution.

13-21-202. Action notwithstanding death. When the death of a person is caused

by a wrongful act, neglect, or default of another, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person who or the corporation which would have been liable, if death had not ensued, shall be liable in an action for damages notwithstanding the death of the party injured.

13-21-203. Limitation on damages. (1) (a) All damages accruing under section 13-21-202 shall be sued for and recovered by the same parties and in the same manner as provided in section 13-21-201, and in every such action the jury may give such damages as they may deem fair and just, with reference to the necessary injury resulting from such death, including damages for noneconomic loss or injury as defined in section 13-21-102.5 and subject to the limitations of this section and including within noneconomic loss or injury damages for grief, loss of companionship, pain and suffering, and emotional stress, to the surviving parties who may be entitled to sue; and also having regard to the mitigating or aggravating circumstances attending any such wrongful act, neglect, or default; except that, if the decedent left neither a widow, a widower, minor children, nor a dependent father or mother, the damages recoverable in any such action shall not exceed the limitations for noneconomic loss or injury set forth in section 13-21-102.5, unless the wrongful act, neglect, or default causing death constitutes a felonious killing, as defined in section 15-11-803 (1) (b), C.R.S., and as determined in the manner described in section 15-11-803 (7), C.R.S., in which case there shall be no limitation on the damages for noneconomic loss or injury recoverable in such action. No action shall be brought and no recovery shall be had under both section 13-21-201 and section 13-21-202, and in all cases the plaintiff is required to elect under which section he or she will proceed. There shall be only one civil action under this part 2 for recovery of damages for the wrongful death of any one decedent. \pard softlineNotwithstanding anything in this section or in section 13-21-102.5 to the contrary, there shall be no recovery under this part 2 for noneconomic loss or injury in excess of two hundred fifty thousand dollars, unless the wrongful act, neglect, or default causing death constitutes a felonious killing, as defined in section 15-11-803 (1) (b), C.R.S., and as determined in the manner described in section 15-11-803 (7), C.R.S.

(b) The damages recoverable for noneconomic loss or injury in any medical malpractice action shall not exceed the limitations on noneconomic loss or injury set forth in section 13-64-302.

(2) This section shall apply to a cause of action based on a wrongful act, neglect, or default occurring on or after July 1, 1969. A cause of action based on a wrongful act, neglect, or default occurring prior to July 1, 1969, shall be governed by the law in force and effect at the time of such wrongful act, neglect, or default.

(3) (a) In all actions brought under section 13-21-201 or 13-21-202 in which

damages are assessed by the trier of fact, and the death complained of is attended by circumstances of fraud, malice, or willful and wanton conduct, the trier of fact, in addition to the actual damages, may award reasonable exemplary damages. The amount of such reasonable exemplary damages shall not exceed an amount that is equal to the amount of the actual damages awarded to the injured party.

(b) For purposes of this subsection (3), "willful and wanton conduct" shall have the same meaning as set forth in section 13-21-102 (1) (b).

(c) (I) A claim for exemplary damages in an action governed by this section may not be included in any initial claim for relief. A claim for exemplary damages in an action governed by this section shall be allowed by amendment to the pleadings only after the passage of sixty days following the exchange of initial disclosures pursuant to rule 26 of the Colorado rules of civil procedure and the plaintiff establishes prima facie proof of a triable issue. After the plaintiff establishes the existence of a triable issue of exemplary damages, the court may, in its discretion, allow additional discovery on the issue of exemplary damages as the court deems appropriate.

(II) A claim for exemplary damages in an action governed by this section shall not be time barred by the applicable provisions of law for the commencement of actions, so long as:

(A) The claim for exemplary damages arises, pursuant to paragraph (a) of this subsection (3), from the claim in such action that is brought under section 13-21-201 or 13-21-202; and

(B) The claim in such action that is brought under section 13-21-201 or 13-21-202 is not time barred.

(III) The assertion of a claim for exemplary damages in an action governed by this section shall not be rendered ineffective solely because the assertion was made after the applicable deadline contained in the court's case management order, so long as the plaintiff establishes that he or she did not discover, and could not have reasonably discovered prior to such deadline, the grounds for asserting the exemplary damages claim.

(4) Notwithstanding the provisions of subsection (3) of this section, the court may reduce or disallow the award of exemplary damages to the extent that:

(a) The deterrent effect of the damages has been accomplished; or

(b) The conduct that resulted in the award has ceased; or

(c) The purpose of such damages has otherwise been served.

(5) Notwithstanding the provisions of subsection (3) of this section, the court may increase any award of exemplary damages to a sum not to exceed three times the amount of actual damages, if it is shown that:

(a) The defendant has continued the behavior or repeated the action that is the subject of the claim against the defendant in a willful and wanton manner against another person or persons during the pendency of the case; or

(b) The defendant has acted in a willful and wanton manner during the pendency

of the action in a manner that has further aggravated the damages of the plaintiff when the defendant knew or should have known such action would produce aggravation.

(6) The provisions of this section shall not apply to a peace officer, as described in section 16-2.5-101, C.R.S., or to any firefighter, as defined in section 18-3-201 (1), C.R.S., for claims arising out of injuries sustained from an act or omission of such peace officer or firefighter acting in the performance of his or her duties and within the scope of his or her employment.

(7) Nothing in this section shall be construed to alter or amend the provisions of section 13-64-302.5 or the provisions of part 1 of article 10 of title 24, C.R.S.

13-21-203.5. Alternative means of establishing damages - solatium amount. In any case arising under section 13-21-202, the persons entitled to sue under the provisions of section 13-21-201 (1) may elect in writing to sue for and recover a solatium in the amount of fifty thousand dollars. Such solatium amount shall be in addition to economic damages and to reasonable funeral, burial, interment, or cremation expenses, which expenses may also be recovered in an action under this section. Such solatium amount shall be in lieu of noneconomic damages recoverable under section 13-21-203 and shall be awarded upon a finding or admission of the defendant's liability for the wrongful death.

13-21-203.7. Adjustments of dollar limitations for effects of inflation. (1) The limitations on noneconomic damages set forth in section 13-21-203 (1) (a) and the amount of the solatium set forth in section 13-21-203.5 shall be adjusted for inflation as of January 1, 1998, and January 1, 2008. The adjustments made on January 1, 1998, and January 1, 2008, shall be based on the cumulative annual adjustment for inflation for each year since the effective date of the damages limitations in sections 13-21-203 (1) (a) and 13-21-203.5. The adjustments made pursuant to this subsection (1) shall be rounded upward or downward to the nearest ten-dollar increment.

(2) As used in this section, "inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

(3) The secretary of state shall certify the adjusted limitation on damages within fourteen days after the appropriate information is available, and:

(a) The adjusted limitation on damages shall be the limitation applicable to all claims for relief that accrue on or after January 1, 1998, and before January 1, 2008; and

(b) The adjusted limitation on damages as of January 1, 2008, shall be the limitation applicable to all claims for relief that accrue on and after January 1, 2008.

13-21-204. Limitation of actions. All actions provided for by this part 2 shall be brought within the time period prescribed in section 13-80-102.

PART 3

SETTLEMENTS, RELEASES, AND STATEMENTS

13-21-301. Settlements, releases, and statements of injured persons. (1) If a person is injured as a result of an occurrence which might give rise to liability and said person is a patient under the care of a practitioner of the healing arts or is hospitalized, no person or agent of any person whose interest is adverse to the injured person shall:

(a) Within thirty days after the date of the occurrence causing the injury, negotiate or attempt to negotiate a settlement with the injured patient;

(b) Within thirty days after the date of the occurrence causing the injury, obtain or attempt to obtain a general release of liability from the injured patient; or

(c) Within fifteen days after the date of the occurrence causing the injury, obtain or attempt to obtain any statement, either written, oral, recorded, or otherwise, from the injured patient for use in negotiating a settlement or obtaining a release except as provided by the Colorado rules of civil procedure.

(2) Any settlement agreement entered into or any general release of liability given by the injured patient in violation of this section shall be void. Any statement, written, oral, recorded, or otherwise, which is given by the injured party in violation of this section may not be used in evidence against the interest of the injured party in any civil action relating to the injury.

(3) Nothing in this section shall preclude the taking of statements by peace officers, as defined in section 24-31-301 (5), C.R.S., acting in their official capacity in the ordinary course of their employment, and nothing shall preclude the use of such statements for any purpose permitted by statute or rule of court applying to the admission of evidence.

PART 4

PRODUCT LIABILITY ACTIONS - GENERAL PROVISIONS

13-21-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Manufacturer" means a person or entity who designs, assembles, fabricates, produces, constructs, or otherwise prepares a product or a component part of a product prior to the sale of the product to a user or consumer. The term includes any seller who has actual knowledge of a defect in a product or a seller of a product who creates and

furnishes a manufacturer with specifications relevant to the alleged defect for producing the product or who otherwise exercises some significant control over all or a portion of the manufacturing process or who alters or modifies a product in any significant manner after the product comes into his possession and before it is sold to the ultimate user or consumer. The term also includes any seller of a product who is owned in whole or significant part by the manufacturer or who owns, in whole or significant part, the manufacturer. A seller not otherwise a manufacturer shall not be deemed to be a manufacturer merely because he places or has placed a private label on a product if he did not otherwise specify how the product shall be produced or control, in some significant manner, the manufacturing process of the product and the seller discloses who the actual manufacturer is.

(2) "Product liability action" means any action brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories upon which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formula, installation, preparation, assembly, testing, packaging, labeling, or sale of any product, or the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product.

(3) "Seller" means any individual or entity, including a manufacturer, wholesaler, distributor, or retailer, who is engaged in the business of selling or leasing any product for resale, use, or consumption.

13-21-402. Innocent seller. (1) No product liability action shall be commenced or maintained against any seller of a product unless said seller is also the manufacturer of said product or the manufacturer of the part thereof giving rise to the product liability action. Nothing in this part 4 shall be construed to limit any other action from being brought against any seller of a product.

(2) If jurisdiction cannot be obtained over a particular manufacturer of a product or a part of a product alleged to be defective, then that manufacturer's principal distributor or seller over whom jurisdiction can be obtained shall be deemed, for the purposes of this section, the manufacturer of the product.

13-21-402.5. Product misuse. A product liability action may not be commenced or maintained against a manufacturer or seller of a product that caused injury, death, or property damage if, at the time the injury, death, or property damage occurred, the product was used in a manner or for a purpose other than that which was intended and which could not reasonably have been expected, and such misuse of the product was a cause of the injury, death, or property damage.

13-21-403. Presumptions. (1) In any product liability action, it shall be rebuttably presumed that the product which caused the injury, death, or property damage was not defective and that the manufacturer or seller thereof was not negligent if the product:

(a) Prior to sale by the manufacturer, conformed to the state of the art, as distinguished from industry standards, applicable to such product in existence at the time of sale; or

(b) Complied with, at the time of sale by the manufacturer, any applicable code, standard, or regulation adopted or promulgated by the United States or by this state, or by any agency of the United States or of this state.

(2) In like manner, noncompliance with a government code, standard, or regulation existing and in effect at the time of sale of the product by the manufacturer which contributed to the claim or injury shall create a rebuttable presumption that the product was defective or negligently manufactured.

(3) Ten years after a product is first sold for use or consumption, it shall be rebuttably presumed that the product was not defective and that the manufacturer or seller thereof was not negligent and that all warnings and instructions were proper and adequate.

(4) In a product liability action in which the court determines by a preponderance of the evidence that the necessary facts giving rise to a presumption have been established, the court shall instruct the jury concerning the presumption.

13-21-404. Inadmissible evidence. In any product liability action, evidence of any scientific advancements in technical or other knowledge or techniques, or in design theory or philosophy, or in manufacturing or testing knowledge, techniques, or processes, or in labeling, warnings of risks or hazards, or instructions for the use of such product, where such advancements were discovered subsequent to the time the product in issue was sold by the manufacturer, shall not be admissible for any purpose other than to show a duty to warn.

13-21-405. Report to general assembly. (Repealed)

13-21-406. Comparative fault as measure of damages. (1) In any product liability action, the fault of the person suffering the harm, as well as the fault of all others who are parties to the action for causing the harm, shall be compared by the trier of fact in accordance with this section. The fault of the person suffering the harm shall not bar such

person, or a party bringing an action on behalf of such a person, or his estate, or his heirs from recovering damages, but the award of damages to such person or the party bringing the action shall be diminished in proportion to the amount of causal fault attributed to the person suffering the harm. If any party is claiming damages for a decedent's wrongful death, the fault of the decedent, if any, shall be imputed to such party.

(2) Where comparative fault in any such action is an issue, the jury shall return special verdicts, or, in the absence of a jury, the court shall make special findings determining the percentage of fault attributable to each of the persons to whom some fault is attributed and determining the total amount of damages sustained by each of the claimants. The entry of judgment shall be made by the court, and no general verdict shall be returned by the jury.

(3) Repealed.

(4) The provisions of section 13-21-111 do not apply to any product liability action.

PART 5

PRODUCT LIABILITY ACTIONS - FIREARMS AND AMMUNITION

13-21-501. Legislative declaration. (1) The general assembly hereby declares that it shall be the policy in this state that product liability for injury, damage, or death caused by the discharge of a firearm or ammunition shall be based only upon an actual defect in the design or manufacture of such firearm or ammunition and not upon the inherent potential of a firearm or ammunition to cause injury, damage, or death when discharged.

(2) The general assembly further finds that it shall be the policy of this state that a civil action in tort for any remedy arising from physical or emotional injury, physical damage, or death caused by the discharge of a firearm or ammunition shall be based only upon an actual defect in the design or manufacture of such firearm or ammunition or upon the commission of a violation of a state or federal statute or regulation and not upon any other theory of liability. The general assembly also finds that under no theory shall a firearms or an ammunition manufacturer, importer, or dealer be held liable for the actions of another person.

13-21-502. "Product liability action" - definition. As used in this part 5, unless the context otherwise requires, "product liability action" means a claim for damages brought against the manufacturer, distributor, importer, or seller of firearms or ammunition alleging a defect in the design or manufacture of a firearm or ammunition.

13-21-503. Determination of defect - burden of proof. (1) In a product liability action, whether a firearm or ammunition shall be deemed defective in design shall not be based upon its potential to cause injury, damage, or death when discharged.

(2) The burden shall be on the plaintiff to prove, in addition to any other elements required to be proven:

(a) In a product liability action alleging a design defect, that the actual design was defective and that such defective design was the proximate cause of the injury, damage, or death;

(b) In a product liability action alleging a defect in manufacture, that the firearm or ammunition was manufactured at variance from its design and that such defective manufacture was the proximate cause of the injury, damage, or death.

(3) The inherent potential of a firearm or ammunition to cause injury, damage, or death when discharged shall not be a basis for a finding that the product is defective in design or manufacture.

13-21-504. Proximate cause. (1) In a product liability action, the actual discharge of a firearm or ammunition shall be the proximate cause of injury, damage, or death resulting from the use of such product and not the inherent capability of the product to cause injury, damage, or death.

(2) The manufacturer's, importer's, or distributor's placement of a firearm or ammunition in the stream of commerce, even if such placement is found to be foreseeable, shall not be conduct deemed sufficient to constitute the proximate cause of injury, damage, or death resulting from a third party's use of the product.

(3) In a product liability action concerning the accidental discharge of a firearm, the manufacturer's, importer's, or distributor's placement of the product in the stream of commerce shall not be conduct deemed sufficient to constitute proximate cause, even if accidental discharge is found to be foreseeable.

(4) In addition to any limitation of an action set forth in section 13-80-119, in a product liability action brought by the criminal, it shall be an absolute defense that the injury, damage, or death immediately resulted from the use of the firearm or ammunition during the commission of the criminal act which is a felony or a class 1 or class 2 misdemeanor.

13-21-504.5. Limitations on actions - award of fees. (1) A person or other public or private entity may not bring an action in tort, other than a product liability action, against a firearms or ammunition manufacturer, importer, or dealer for any remedy arising from physical or emotional injury, physical damage, or death caused by the discharge of a firearm or ammunition.

(2) In no type of action shall a firearms or ammunition manufacturer, importer, or dealer be held liable as a third party for the actions of another person.

(3) The court, upon the filing of a motion to dismiss pursuant to rule 12 (b) of the Colorado rules of civil procedure, shall dismiss any action brought against a firearms or ammunition manufacturer, importer, or dealer that the court determines is prohibited under subsection (1) or (2) of this section. Upon dismissal pursuant to this subsection (3), the court shall award reasonable attorney fees, in addition to costs, to each defendant named in the action.

(4) Notwithstanding the provisions of subsection (1) of this section, a firearms or ammunition manufacturer, importer, or dealer may be sued in tort for any damages proximately caused by an act of the manufacturer, importer, or dealer in violation of a state or federal statute or regulation. In any action brought pursuant to the provisions of this subsection (4), the plaintiff shall have the burden of proving by clear and convincing evidence that the defendant violated the state or federal statute or regulation.

13-21-505. Applicability of this part 5. Nothing contained in this part 5 shall be construed to bar recovery where the plaintiff proves that the proximate cause of the injury, damage, or death was a firearm or ammunition which contained a defect in manufacture causing it to be at variance from its design or which was designed so that it did not function in the manner reasonably expected by the ordinary consumer of such product.

PART 6

LIABILITY FOR ELECTRONIC COMPUTING DEVICE FAILURES ASSOCIATED WITH THE YEAR 2000 DATE CHANGE

13-21-601 to 13-21-604. (Repealed)

PART 7

YEAR 2000 CITIZENS' PROTECTION ACT

13-21-701 to 13-21-705. (Repealed)

PART 8

DRUG DEALER LIABILITY ACT

13-21-801. Short title. This part 8 shall be known and may be cited as the "Drug

Dealer Liability Act".

13-21-802. Legislative declaration. (1) The general assembly hereby declares that the purpose of this part 8 is:

(a) To provide a civil remedy for damages to persons in this state injured as a result of the use of an illegal drug;

(b) To shift, to the extent possible, the cost of damage caused by the market for illegal drugs in the state to those who illegally profit from that market; and

(c) To deter those who have not yet entered into the distribution market for illegal drugs by establishing the prospect of substantial monetary loss.

13-21-803. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Illegal drug" means a controlled substance as defined in section 18-18-102 (5), C.R.S.

(2) "Individual illegal drug user" means the individual whose use of a specified illegal drug is the basis of an action brought under this part 8.

(3) "Participate in the marketing of illegal drugs" means to transport, import into this state, sell, possess with the intent to sell, furnish, administer, or give away, import into this state, sell, furnish, administer, or give away an illegal drug. "Participate in the marketing of illegal drugs" does not include the purchase or receipt of an illegal drug for personal use.

(4) "Period of illegal drug use" means, in relation to the individual illegal drug user, the period of time from the individual's first use of a specified illegal drug to the accrual of the cause of action. The period of illegal drug use is presumed to commence two years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

(5) "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association existing under or authorized by the laws of this state, another state, or a foreign country.

(6) "Specified illegal drug" means the type of illegal drug used by an individual illegal drug user whose use is the basis of an action brought under section 13-21-804 (2) (b).

13-21-804. Damages - persons injured by an individual illegal drug user. (1) Any one or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug within this state:

(a) A parent, legal guardian, child, spouse, or sibling of the individual illegal drug

user;

(b) An employer of an individual illegal drug user;

(c) A medical facility, insurer, governmental entity, employer, or other entity that funded a drug treatment program or employee assistance program for the individual illegal drug user or that otherwise expended money on behalf of the individual illegal drug user or a dependent of the individual illegal drug user; and

(d) A person injured as a result of the willful, reckless, or negligent actions of an individual illegal drug user.

(2) (a) A person entitled to seek damages under this section may seek damages from one or more of the following:

(I) A person who sold, administered, or furnished, or is in the chain of distribution of, an illegal drug used by the individual illegal drug user;

(II) A person who knowingly participated in the marketing or distribution in the state of Colorado of the specified illegal drug used by an individual illegal drug user during the individual drug user's period of illegal drug use.

(b) Nothing in this section shall be deemed to authorize a suit against an employer of a person described in paragraph (a) of this subsection (2) if the employer had no knowledge of the actions of the person giving rise to the claim under this section.

(3) The standard of proof for establishing liability under this section shall be by clear and convincing evidence.

(4) A person entitled to bring an action under this section may recover all of the following damages:

(a) Economic damages, including but not limited to the cost of treatment and rehabilitation, medical expenses, or any other pecuniary loss proximately caused by an individual's use of an illegal drug;

(b) Noneconomic damages, including but not limited to pain and suffering, disfigurement, loss of enjoyment, loss of companionship and consortium, and other nonpecuniary loss proximately caused by an individual's use of an illegal drug;

(c) Exemplary damages;

(d) Reasonable attorney fees incurred as a result of bringing an action under this section; and

(e) Costs of suit, including but not limited to expenses for expert witnesses and expenses for investigative services to determine the identity of the defendants and the location of any assets of the defendants.

13-21-805. Nonexclusiveness - exceptions to liability - joinder. (1) Any cause of action established by this part 8 shall be in addition to and not in lieu of any other cause of action available to a plaintiff.

(2) A person whose possession, use, or distribution of illegal drugs is authorized

by law is not liable for damages under this part 8.

(3) A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for participating in the marketing of illegal drugs if the participation is in furtherance of an official investigation.

(4) Two or more persons may join together in one action under section 13-21-804 if any portion of the period of illegal drug use of the individual illegal drug user whose actions resulted in the damages to one plaintiff overlaps with the period of illegal drug use of the individual illegal drug users whose actions resulted in the damages to every other plaintiff.

(5) A third party shall not pay damages awarded under this part 8 or provide a defense or money for a defense on behalf of an insured under a contract of insurance or indemnification.

13-21-806. Comparative negligence. (1) An action under this part 8 is governed by the principles of comparative negligence.

(2) The burden of proving the comparative negligence of the plaintiff shall be on the defendant by clear and convincing evidence.

13-21-807. Contribution among and recovery from multiple defendants. Notwithstanding the provisions of section 13-50.5-102 (3), a person subject to liability under this part 8 has a right of contribution against any other person subject to liability under this part 8. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery against a person whom a defendant has asserted a right of contribution in accordance with this part 8 and other laws.

13-21-808. Effect of criminal drug conviction. (1) (a) A person against whom recovery is sought is estopped from denying participation in the marketing of illegal drugs if the person has a criminal conviction based on the same circumstances that are the basis for the claim for damages. Said conviction must be for other than mere possession of the specified illegal drug:

(I) That is a felony under the "Comprehensive Drug Abuse Prevention and Control Act of 1970", 21 U.S.C. sec. 801, et seq.;

(II) Under section 18-18-405 or 18-18-406, C.R.S.; or

(III) That is a felony related to participation in the marketing of illegal drugs under the laws of another state.

(b) Such a conviction is also prima facie evidence of the person's participation in

the marketing of illegal drugs during the two years preceding the date of an act giving rise to a conviction.

(2) The absence of a conviction of a person against whom recovery is sought does not bar an action against that person.

13-21-809. Prejudgment attachment and execution on judgments. (1) (a) Except as provided in subsection (3) of this section, a plaintiff under this part 8 may request an ex parte, prejudgment order of attachment under rule 102 of the Colorado rules of civil procedure against all of the assets of a defendant sufficient to satisfy a potential award. If attachment is issued, a defendant is entitled to an immediate hearing. The attachment may be removed if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

(b) Prior to the payment of any judgment awarded pursuant to this part 8, payment shall first be made to satisfy any order or judgment entered against the defendant in a criminal proceeding for restitution, including any contributions to a crime victim compensation fund pursuant to article 4.1 of title 24, C.R.S., or to a victims and witnesses assistance and law enforcement fund pursuant to article 4.2 of title 24, C.R.S.

(2) A person against whom a judgment has been rendered under this part 8 is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment.

(3) Any assets sought to satisfy a judgment under this part 8 that have been named in a forfeiture action pending on the date that the attachment under subsection (1) of this section is sought or have been seized for forfeiture by any state or federal agency may not be attached or used to satisfy a judgment under this part 8 unless and until the assets have been released following conclusion of the forfeiture action or released by the agency that seized the assets.

13-21-810. Statute of limitations. (1) Except as otherwise provided by this section, a claim under this part 8 shall not be brought more than four years after the cause of action accrues. A cause of action accrues under this part 8 when a person who may recover has reason to know of the harm from illegal drug use that is the basis of the cause of action and has reason to know that the illegal drug use is the cause of the harm.

(2) For a defendant, the statute of limitations under this section does not expire until six months after the individual potential defendant is convicted of a criminal offense or as otherwise provided by law.

13-21-811. Stay of action. On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this part 8 shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

13-21-812. Nonretroactive. No cause of action shall accrue based upon any act by a defendant that occurred prior to June 2, 1999.

13-21-813. Severability. If any provision of this part 8 or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this part 8 that can be given effect without the invalid provision or application, and to this end the provisions of this part 8 are declared to be severable.

PART 9

LIABILITY OF HOSPITAL ENTERPRISES FOR ELECTRONIC COMPUTING DEVICE FAILURES ASSOCIATED WITH THE YEAR 2000 DATE CHANGE

13-21-901 and 13-21-902. (Repealed)

PART 10

LIABILITY FOR COMPUTER DISSEMINATION OF INDECENT MATERIAL TO CHILDREN

13-21-1001. Definitions. As used in this article, unless the context otherwise requires:

(1) "Child" means a person under eighteen years of age.

(2) "Sexual contact", "sexual intrusion", and "sexual penetration" shall have the same meanings as set forth in section 18-3-401 (4), (5), and (6), C.R.S., respectively.

13-21-1002. Computer dissemination of indecent material to a child - prohibition. (1) A person commits computer dissemination of indecent material to a child when:

(a) Knowing the character and content of the communication which, in whole or

in part, depicts actual or simulated nudity, or sexual conduct, as defined in section 19-1-103 (97), C.R.S., the person willfully uses a computer, computer network, telephone network, data network, or computer system allowing the input, output, examination, or transfer of computer data or computer programs from one computer to another or a text-messaging or instant-messaging system to initiate or engage in such communication with a person he or she believes to be a child; and

(b) By means of such communication the person importunes, invites, entices, or induces a person he or she believes to be a child to engage in sexual contact, sexual intrusion, or sexual penetration with the person, or to engage in a sexual performance or sexual conduct, as defined in section 19-1-103 (97), C.R.S., for the person's benefit.

(2) Computer dissemination of indecent material to a child is prohibited. A person who violates the provisions of subsection (1) of this section shall be subject to a civil penalty as provided in section 13-21-1003.

(3) It shall not be an affirmative defense in a civil action brought under this part 10 that the person the defendant believed to be a child in fact was not a child.

13-21-1003. Civil penalty - action for recovery - distribution of proceeds - attorney fees. (1) A person who is found in a civil action brought under this part 10 to have committed computer dissemination of indecent material to a child in violation of section 13-21-1002 shall forfeit and pay a civil penalty established pursuant to verdict or judgment.

(2) (a) An action to recover a civil penalty under this part 10 may be brought by any private individual. Venue for the action shall be proper in the district court for the county in which the defendant resides or maintains a principal place of business in this state, or in the county in which the defendant sent the communication, or in the county in which the recipient received the communication.

(b) The action shall be brought in the name of the person seeking recovery of the civil penalty.

(3) In determining the liability for or the amount of a civil penalty pursuant to this section, the court or jury shall consider the nature, circumstances, and gravity of the alleged violation and the alleged violator's degree of culpability, history of prior violations, criminal convictions, and level of cooperation with any investigation of the alleged violation.

(4) No action may be brought or maintained pursuant to this section without the written consent of the child 's parent or guardian, which consent may be withdrawn at any time.

(5) A child alleged to be a victim of computer dissemination of indecent material to a child, or his or her parent or guardian, shall have the right to intervene and assume control of any case brought pursuant to this section.

(6) In a case in which the court awards a civil penalty pursuant to this section, the court shall order the distribution as follows:

(a) In a case brought by a child or other recipient of indecent material as described in subsection 13-21-1002 (1), one hundred percent to the plaintiff;

(b) In a case brought by a plaintiff other than a child or recipient of indecent material, forty percent to the plaintiff and sixty percent to the child or recipient;

(c) In a case initiated by a plaintiff and in which the child's parent or guardian has intervened, eighty percent to the child and twenty percent to the plaintiff.

(7) If a plaintiff is awarded a distribution of the civil penalty pursuant to subsection (6) of this section, the court shall award judgment to the plaintiff for the plaintiff's reasonable attorney fees and costs.

(8) Nothing in this part 10 shall be construed to limit or abrogate:

(a) A criminal action brought to prosecute an act described in the criminal laws of this state;

(b) Any right or cause of action that a person, on the person's own behalf or on behalf of another, may have;

(c) The ability to include in a civil action brought under this part 10 additional claims that are otherwise permitted by law to be brought in a civil action.

PART 11

COMMONSENSE CONSUMPTION ACT

13-21-1101. Short title. This part 11 shall be known and may be cited as the "Commonsense Consumption Act".

13-21-1102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Obesity and many other conditions that are detrimental to the health and well-being of individuals are frequently long-term manifestations of poor choices that are habitually made by those individuals;

(b) Despite commercial influences, individuals remain ultimately responsible for the choices they make regarding their body; and

(c) Excessive litigation restricts the wide range of choices otherwise available to individuals who consume products responsibly.

13-21-1103. Definitions. For the purposes of this part 11, unless the context

otherwise requires:

(1) "Claim" means any claim by or on behalf of a natural person and any derivative or other claim arising therefrom that is asserted by or on behalf of any other person.

(2) "Food" means any food or beverage, including chewing gum, intended for human consumption and articles used for components of any such food or beverage.

(3) "Injury caused by or likely to result from long-term consumption" means an injury or condition resulting or likely to result from the cumulative effect of consumption and not from a single instance of consumption.

(4) "Other person" means any individual, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity, including any governmental entity or private attorney general.

13-21-1104. Actions against food providers that comply with applicable state and federal laws - exemptions. (1) Except as otherwise provided in subsection (2) of this section, a manufacturer, packer, distributor, carrier, holder, or seller of a food, or an association of one or more such entities, shall not be subject to civil liability for any claim arising from weight gain, obesity, a health condition associated with weight gain or obesity, or other injury caused by or likely to result from the long-term consumption of the food.

(2) The provisions of subsection (1) of this section shall not preclude civil liability of a manufacturer, packer, distributor, carrier, holder, or seller of a food in cases in which a claim of injury not related to weight gain, obesity, or a health condition associated with weight gain or obesity is based on a material violation of a composition, branding, or labeling standard prescribed by state or federal law and the claimed injury was actual and proximately caused by such violation.

13-21-1105. Pleading requirements. (1) In any action permitted under section 13-21-1104 (2), the plaintiff shall state the following with particularity in the complaint:

(a) The statute, regulation, or other provision of state or federal law that was allegedly violated;

(b) The facts that are alleged to constitute a material violation of such law; and

(c) The facts that are alleged to demonstrate that the material violation proximately caused actual injury to the plaintiff.

(2) In addition to the requirements set forth in subsection (1) of this section, the complaint shall state with particularity facts sufficient to support a reasonable inference that the violation was knowing and willful.

(3) For purposes of applying this part 11:

(a) The pleading requirements contained in this section shall be regarded as jurisdictional prerequisites to the bringing of an action and not merely procedural provisions; and

(b) The requirements of actual injury, knowledge and willfulness, and proximate cause as described in this section shall apply to all actions commenced under this part 11 notwithstanding any provision of law of another state that may be inconsistent with or contrary to such requirements.

13-21-1106. Stay of proceedings pending motion to dismiss. (1) In any action brought against a manufacturer, packer, distributor, carrier, holder, or seller of a food for claims related to the long-term consumption of food, all proceedings including but not limited to discovery shall be stayed during the pendency of a motion to dismiss unless the court finds for good cause shown on the motion of any party that limited discovery is necessary to preserve evidence or to prevent undue prejudice to the movant.

(2) During a stay of discovery, unless otherwise ordered by the court, any party in the case, including any plaintiff and any defendant that has been properly served with the complaint, shall preserve all documents, data compilations including but not limited to electronically recorded data and electronically stored data, and tangible objects that are in the custody or control of such party and that are relevant to the allegations in the complaint as though a request for production of those documents and things had been served pursuant to court rule.

CONTRACTS AND AGREEMENTS

ARTICLE 22

Age of Competence - Arbitration
- Mediation

PART 1

AGE OF COMPETENCE - TRANSPLANT AND TRANSFUSION LIMITATION

13-22-101. Competence of persons eighteen years of age or older. (1) Notwithstanding any other provision of law enacted or any judicial decision made prior to July 1, 1973, every person, otherwise competent, shall be deemed to be of full age at the age of eighteen years or older for the following specific purposes:

(a) To enter into any legal contractual obligation and to be legally bound thereby

to the full extent as any other adult person; but such obligation shall not be considered a family expense of the parents of the person who entered into the contract, under section 14-6-110, C.R.S.;

(b) To manage his estate in the same manner as any other adult person. This section shall not apply to custodial property given or held under the terms of the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., or property held for a protected person under the "Colorado Probate Code", article 14 of title 15, C.R.S., unless otherwise permitted in said articles;

(c) To sue and be sued in any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem or someone acting in his behalf;

(d) To make decisions in regard to his own body and the body of his issue, whether natural or adopted by such person, to the full extent allowed to any other adult person.

13-22-102. Minors - consent for medical care and treatment for addiction to or use of drugs. Notwithstanding any other provision of law, any physician licensed to practice in this state, upon consultation by a minor as a patient, with the consent of such minor patient, may examine, prescribe for, and treat such minor patient for addiction to or use of drugs without the consent of or notification to the parent, parents, or legal guardian of such minor patient, or to any other person having custody or decision-making responsibility with respect to the medical care of such minor patient. In any such case the physician or any person acting pursuant to the minor's direction shall incur no civil or criminal liability by reason of having made such examination or prescription or having rendered such treatment, but this immunity shall not apply to any negligent acts or omissions by the physician or any person acting pursuant to the physician's direction.

13-22-103. Minors - consent for medical, dental, and related care. (1) Except as otherwise provided in sections 18-1.3-407 (4.5), 25-4-402, and 12-34-104, C.R.S., a minor eighteen years of age or older, or a minor fifteen years of age or older who is living separate and apart from his or her parent, parents, or legal guardian, with or without the consent of his or her parent, parents, or legal guardian, and is managing his or her own financial affairs, regardless of the source of his or her income, or any minor who has contracted a lawful marriage may give consent to organ or tissue donation or the furnishing of hospital, medical, dental, emergency health, and surgical care to himself or herself. Such consent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor shall have the same rights, powers, and obligations as if he or she had obtained majority. Consent to organ or tissue donation may be revoked

pursuant to section 12-34-106, C.R.S.

(2) The consent of the parent, parents, or legal guardian of a minor described in subsection (1) of this section shall not be necessary in order to authorize organ or tissue donation or hospital, medical, dental, emergency health, or surgical care, and no hospital, physician, surgeon, dentist, trained emergency health care provider, or agent or employee thereof who, in good faith, relies on such a minor's consent shall be liable for civil damages for failure to secure the consent of such a minor's parent, parents, or legal guardian prior to rendering such care. The parent, parents, or legal guardian of a minor described in subsection (1) of this section shall not be liable to pay the charges for the care provided the minor on said minor's consent, unless said parent, parents, or legal guardian agrees to be so liable.

(3) In addition to the authority granted in section 25-4-1704 (2.5), C.R.S., any parent, including a parent who is a minor, may request and consent to organ or tissue donation of his or her child or the furnishing of hospital, medical, dental, emergency health, and surgical care to his or her child or ward. The consent of a minor parent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor parent has the same rights, powers, and obligations as if he or she were of legal age.

13-22-103.5. Minors - consent for medical care - pregnancy. Notwithstanding any other provision of law, a pregnant minor may authorize prenatal, delivery, and post-delivery medical care for herself related to the intended live birth of a child.

13-22-104. Transplants and transfusions generally - declaration of policy - limit on liability of minors. (1) The availability of scientific knowledge, skills, and materials for the transplantation, injection, transfusion, or transfer of human tissue, organs, blood, or components thereof is important to the health and welfare of the people of this state. Equally important is the duty of those performing such service or providing such materials to exercise due care under the attending circumstances to the end that those receiving health care will benefit and adverse results therefrom will be minimized by the use of available and proven scientific safeguards. The imposition of legal liability without fault upon the persons and organizations engaged in such scientific procedures may inhibit the exercise of sound medical judgment and restrict the availability of important scientific knowledge, skills, and materials. It is, therefore, the public policy of this state to promote the health and welfare of the people by emphasizing the importance of exercising due care, and by limiting the legal liability arising out of such scientific procedures to instances of negligence or willful misconduct.

(2) The donation, whether for or without valuable consideration, the acquisition,

preparation, transplantation, injection, or transfusion of any human tissue, organ, blood, or component thereof for or to a human being is the performance of a medical service and does not, in any way, constitute a sale. No physician, surgeon, hospital, blood bank, tissue bank, or other person or entity who donates, obtains, prepares, transplants, injects, transfuses, or otherwise transfers, or who assists or participates in donating, obtaining, preparing, transplanting, injecting, transfusing, or transferring any tissue, organ, blood, or component thereof from one or more human beings, living or dead, to another living human being for the purpose of therapy or transplantation needed by him for his health or welfare shall be liable for any damages of any kind or description directly or indirectly caused by or resulting from any such activity; except that each such person or entity remains liable for his or its own negligence or willful misconduct.

(3) Any provision of the law to the contrary notwithstanding, any minor who has reached the age of eighteen years may give consent to the donation of his or her blood, organs, or tissue and to the penetration of tissue which is necessary to accomplish such donation. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or legal guardian of such a minor shall not be necessary in order to authorize such donation of blood, organs, or tissue and penetration of tissue.

(4) Any provision of the law to the contrary notwithstanding, a minor who is at least sixteen years of age but is less than eighteen years of age may give consent to the donation of his or her blood and to the penetration of tissue that is necessary to accomplish the donation, so long as the minor's parent or legal guardian consents to authorize the donation of the minor's blood and the penetration of tissue. A minor's consent shall not be subject to disaffirmance because of minority.

13-22-105. Minors - birth control services rendered by physicians. Birth control procedures, supplies, and information may be furnished by physicians licensed under article 36 of title 12, C.R.S., to any minor who is pregnant, or a parent, or married, or who has the consent of his parent or legal guardian, or who has been referred for such services by another physician, a clergyman, a family planning clinic, a school or institution of higher education, or any agency or instrumentality of this state or any subdivision thereof, or who requests and is in need of birth control procedures, supplies, or information.

13-22-106. Minors - consent - sexual offense. (1) Any physician licensed to practice in this state, upon consultation by a minor as a patient who indicates that he or she was the victim of a sexual offense pursuant to part 4 of article 3 of title 18, C.R.S., with the consent of such minor patient, may perform customary and necessary examinations to obtain evidence of the sexual offense and may prescribe for and treat the patient for any immediate condition caused by the sexual offense.

(2) (a) Prior to examining or treating a minor pursuant to subsection (1) of this section, a physician shall make a reasonable effort to notify the parent, parents, legal guardian, or any other person having custody or decision-making responsibility with respect to the medical care of such minor of the sexual offense.

(b) So long as the minor has consented, the physician may examine and treat the minor as provided for in subsection (1) of this section whether or not the physician has been able to make the notification provided for in paragraph (a) of this subsection (2) and whether or not those notified have given consent, but, if the person having custody or decision-making responsibility with respect to the minor's medical care objects to treatment, then the physician shall proceed under the provisions of part 3 of article 3 of title 19, C.R.S.

(c) Nothing in this section shall be deemed to relieve any person from the requirements of the provisions of part 3 of article 3 of title 19, C.R.S., concerning child abuse.

(3) If a minor is unable to give the consent required by this section by reason of age or mental or physical condition and it appears that the minor has been the victim of a sexual assault, the physician shall not examine or treat the minor as provided in subsection (1) of this section but shall proceed under the provisions of part 3 of article 3 of title 19, C.R.S.

(4) A physician shall incur no civil or criminal liability by reason of having examined or treated a minor pursuant to subsection (1) of this section, but this immunity shall not apply to any negligent acts or omissions by the physician.

13-22-107. Legislative declaration - definitions - children - waiver by parent of prospective negligence claims. (1) (a) The general assembly hereby finds, determines, and declares it is the public policy of this state that:

(I) Children of this state should have the maximum opportunity to participate in sporting, recreational, educational, and other activities where certain risks may exist;

(II) Public, private, and non-profit entities providing these essential activities to children in Colorado need a measure of protection against lawsuits, and without the measure of protection these entities may be unwilling or unable to provide the activities;

(III) Parents have a fundamental right and responsibility to make decisions concerning the care, custody, and control of their children. The law has long presumed that parents act in the best interest of their children.

(IV) Parents make conscious choices every day on behalf of their children concerning the risks and benefits of participation in activities that may involve risk;

(V) These are proper parental choices on behalf of children that should not be ignored. So long as the decision is voluntary and informed, the decision should be given the same dignity as decisions regarding schooling, medical treatment, and religious

education; and

(VI) It is the intent of the general assembly to encourage the affordability and availability of youth activities in this state by permitting a parent of a child to release a prospective negligence claim of the child against certain persons and entities involved in providing the opportunity to participate in the activities.

(b) The general assembly further declares that the Colorado supreme court's holding in case number 00SC885, 48 P.3d 1229 (Colo. 2002), has not been adopted by the general assembly and does not reflect the intent of the general assembly or the public policy of this state.

(2) As used in this section, unless the context otherwise requires:

(a) "Child" means a person under eighteen years of age.

(b) For purposes of this section only, "parent" means a parent, as defined in section 19-1-103 (82), C.R.S., a person who has guardianship of the person, as defined in section 19-1-103 (60), C.R.S., a person who has legal custody, as defined in section 19-1-103 (73), C.R.S., a legal representative, as defined in section 19-1-103 (73.5), C.R.S., a physical custodian, as defined in section 19-1-103 (84), C.R.S., or a responsible person, as defined in section 19-1-103 (94), C.R.S.

(3) A parent of a child may, on behalf of the child, release or waive the child's prospective claim for negligence.

(4) Nothing in this section shall be construed to permit a parent acting on behalf of his or her child to waive the child's prospective claim against a person or entity for a willful and wanton act or omission, a reckless act or omission, or a grossly negligent act or omission.

PART 2

UNIFORM ARBITRATION ACT

13-22-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(3) "Court" means a court of competent jurisdiction in this state.

(4) "Knowledge" means actual knowledge.

(5) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other

legal or commercial entity.

(6) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

13-22-202. Notice. (1) Except as otherwise provided in this part 2, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(2) A person has notice if the person has knowledge of the notice or has received notice.

(3) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

13-22-203. Applicability. (1) Except as otherwise provided in subsection (2) of this section, this part 2 shall govern an agreement to arbitrate made on or after August 4, 2004.

(2) This part 2 shall govern an agreement to arbitrate made before August 4, 2004, if all parties to the agreement or to the arbitration proceeding so agree in a record.

13-22-204. Effect of agreement to arbitrate - nonwaivable provisions. (1) Except as otherwise provided in subsections (2) and (3) of this section, a party to an agreement to arbitrate or to an arbitration proceeding may waive, or, the parties may vary the effect of, the requirements of this part 2 to the extent permitted by law.

(2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) Waive or agree to vary the effect of the requirements of section 13-22-205 (1), 13-22-206 (1), 13-22-208, 13-22-217 (1) or (2), 13-22-226, or 13-22-228;

(b) Agree to unreasonably restrict the right under section 13-22-209 to notice of the initiation of an arbitration proceeding;

(c) Agree to unreasonably restrict the right under section 13-22-212 to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under section 13-22-216 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this part 2, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), a party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 13-22-203 (1), 13-22-207, 13-22-214, 13-22-218, 13-22-220 (4) or (5), 13-22-222, 13-22-223, 13-22-224, 13-22-225 (1) or (2), or 13-22-229.

(b) If the parties to an agreement to arbitrate or to an arbitration proceeding are a government, governmental subdivision, governmental agency, governmental instrumentality, public corporation, or any commercial entity, the parties may waive the requirements of section 13-22-223 except if the award was procured by corruption or fraud.

13-22-205. Application for judicial relief. (1) Except as otherwise provided in section 13-22-228, an application for judicial relief under this part 2 must be made by motion to the court and heard in the manner provided by law or court rule for making and hearing motions.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this part 2 must be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by law or court rule for serving motions in pending cases.

13-22-206. Validity of agreement to arbitrate. (1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(2) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

13-22-207. Motion to compel or stay arbitration. (1) On the motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate

pursuant to the agreement:

(a) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate; and

(b) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(2) On the motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is not an agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(3) If the court finds that there is no enforceable agreement, it may not invoke the provisions of subsection (1) or (2) of this section to order the parties to arbitrate.

(4) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or because one or more grounds for the claim have not been established.

(5) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion made under this section shall be filed with that court. Otherwise, a motion made under this section may be filed in any court pursuant to section 13-22-227.

(6) If a party files a motion with the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the ordering court renders a final decision under this section.

(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

13-22-208. Provisional remedies. (1) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(2) After an arbitrator is appointed and is authorized and able to act:

(a) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(b) A party to an arbitration proceeding may request the court to issue an order for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely

or the arbitrator cannot provide an adequate remedy.

(3) A party does not waive a right of arbitration by making a motion under subsection (1) or (2) of this section.

13-22-209. Initiation of arbitration. (1) A person may initiate an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of an agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized by law for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

(2) Unless a person objects to the lack of notice or the insufficiency of notice under section 13-22-215 (3) not later than the beginning of the arbitration hearing, a person who appears at the arbitration hearing waives any objection to the lack of notice or insufficiency of notice.

13-22-210. Consolidation of separate arbitration proceedings. (1) Except as otherwise provided in subsection (3) of this section, upon the motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if all parties in the arbitration proceedings consent and:

(a) There are separate agreements to arbitrate or separate arbitration proceedings between or among the same persons or one of the persons is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(2) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

13-22-211. Appointment of arbitrator - service as a neutral arbitrator. (1) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, the method shall be followed unless the method fails. If the parties have not agreed on a

method, or the agreed method fails, or an appointed arbitrator fails to act or is unable to act and a successor has not been appointed, the court, on the motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator appointed pursuant to this subsection (1) shall have all the powers of an arbitrator designated in an agreement to arbitrate or appointed pursuant to an agreed method.

(2) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator if the agreement requires the arbitrator to be neutral.

13-22-212. Disclosure by arbitrator. (1) Before accepting an appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(a) A financial or personal interest in the outcome of the arbitration proceeding; and

(b) A current or previous relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or another arbitrator.

(2) An arbitrator shall have a continuing obligation to disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(3) If an arbitrator discloses a fact required to be disclosed by subsection (1) or (2) of this section and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under section 13-22-223 (1) (b) for vacating an award made by an arbitrator.

(4) If the arbitrator does not disclose a fact as required by subsection (1) or (2) of this section, upon timely objection by a party, the court may vacate an award under section 13-22-223 (1) (b).

(5) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party shall be presumed to act with evident partiality under section 13-22-223 (1) (b).

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 13-22-223 (1) (b).

13-22-213. Action by majority. If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, except that all of the arbitrators shall conduct the hearing under the provisions of section 13-22-215 (3).

13-22-214. Immunity of arbitrator - competency to testify - attorney fees and costs. (1) An arbitrator or an arbitration organization acting in the capacity of an arbitrator is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity afforded by this section is in addition to, and not in lieu of, or in derogation of, immunity conferred under any other provision of law.

(3) The failure of an arbitrator to make a disclosure required by section 13-22-212 shall not cause any loss of immunity that is granted under this section.

(4) (a) In a judicial proceeding, administrative proceeding, or other similar proceeding, an arbitrator or representative of an arbitration organization shall not be competent to testify and may not be required to produce records as to any statement, conduct, decision, or ruling that occurred during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) This subsection (4) shall not apply:

(I) To the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(II) To a hearing on a motion to vacate an award under section 13-22-223 (1) (a) or (1) (b) if the movant makes a prima facie showing that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (4) of this section, and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and reasonable expenses of litigation.

13-22-215. Arbitration process. (1) An arbitrator may conduct an arbitration in a manner that the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator by this part 2 shall include, but not be limited to, the power to hold conferences with the parties to the arbitration

proceeding before the hearing and the power to determine the admissibility, relevance, materiality, and weight of any evidence.

(2) An arbitrator may decide a request for summary disposition of a claim or particular issue:

(a) If all interested parties agree; or

(b) Upon request of one or more parties to the arbitration proceeding if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing shall waive the objection. Upon the request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced even if a party who was duly notified of the arbitration proceeding does not appear. The court, on motion, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(4) At a hearing under subsection (3) of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed in accordance with section 13-22-211 to continue the proceeding and to resolve the controversy.

13-22-216. Representation by attorney. A party to an arbitration proceeding may be represented by an attorney.

13-22-217. Witnesses - subpoenas - depositions - discovery. (1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena issued under this section shall be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or by the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(2) In order to make the proceedings fair, expeditious, and cost effective, upon the request of a party or a witness in an arbitration proceeding, an arbitrator may permit a

deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for a hearing or who is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(3) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost effective.

(4) If an arbitrator permits discovery under subsection (3) of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a non-complying party to the extent a court could take such action if the controversy were the subject of a civil action; except that the arbitrator shall not have the power of contempt.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action.

(6) All provisions of law that compel a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness shall apply to an arbitration proceeding in the same manner as if the controversy were the subject of a civil action.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action.

13-22-218. Judicial enforcement of pre-award ruling by arbitrator. If an arbitrator makes a pre-award ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 13-22-219. A prevailing party may make a motion to the court for an expedited order to confirm the award under section 13-22-222, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under section 13-22-223 or 13-22-224.

13-22-219. Award. (1) An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend the time or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party shall be deemed to have waived any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

13-22-220. Change of award by arbitrator. (1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(a) Upon a ground stated in section 13-22-224 (1) (a) or (1) (c);

(b) If the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(2) A motion made under subsection (1) of this section shall be made and notice shall be given to all parties within twenty days after the movant receives notice of the award.

(3) A party to the arbitration proceeding shall give notice of any objection to the motion within ten days after receipt of the notice.

(4) If a motion to the court is pending under section 13-22-222, 13-22-223, or 13-22-224, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in section 13-22-224 (1) (a) or (1) (c);

(b) If the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(5) An award modified or corrected pursuant to this section is subject to the provisions of sections 13-22-219 (1), 13-22-222, 13-22-223, and 13-22-224.

13-22-221. Remedies - fees and expenses of arbitration proceeding. (1) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(2) An arbitrator's expenses and fees, together with other expenses, shall be paid as provided in the award.

(3) Nothing in this section shall be construed to alter or amend the provisions of section 13-21-102 (5).

13-22-222. Confirmation of award. (1) After a party to an arbitration proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to section 13-22-220 or 13-22-224 or is vacated pursuant to section 13-22-223.

(2) Repealed.

13-22-223. Vacating award. (1) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if the court finds that:

(a) The award was procured by corruption, fraud, or other undue means;

(b) There was:

(I) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(II) Corruption by an arbitrator; or

(III) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 13-22-215, so as to prejudice substantially the rights of a party to the arbitration proceeding;

(d) An arbitrator exceeded the arbitrator's powers;

(e) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 13-22-215 (3) not later than the beginning of the arbitration hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in section 13-22-209 so as to substantially prejudice the rights of a party to the arbitration proceeding.

(1.5) Notwithstanding the provisions of subsection (1) of this section, the fact that the relief was such that it could not or would not be granted by a court of law or equity is not grounds for vacating or refusing to confirm the award.

(2) A motion made under this section shall be filed within ninety-one days after the movant receives notice of the award pursuant to section 13-22-219 or within ninety-one days after the movant receives notice of a modified or corrected award pursuant to

section 13-22-220, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion must be made within ninety-one days after either the ground is known or by the exercise of reasonable care should have been known by the movant.

(3) If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection (1) of this section, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection (1) of this section, the rehearing shall be held before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d), or (f) of subsection (1) of this section, the rehearing may be held before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in section 13-22-219 (2) for an award.

(4) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

13-22-224. Modification or correction of award. (1) Upon motion made within ninety-one days after the movant receives notice of the award pursuant to section 13-22-219 or within ninety-one days after the movant receives notice of a modified or corrected award pursuant to section 13-22-220, the court shall modify or correct the award if:

(a) There is an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(b) The arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or

(c) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(2) If a motion made under subsection (1) of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(3) A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

13-22-225. Judgment on award - attorney fees and litigation expenses. (1) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(2) A court may award the reasonable costs of the motion and subsequent judicial

proceedings.

(3) On the application of a prevailing party to a contested judicial proceeding under section 13-22-222, 13-22-223, or 13-22-224, the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

13-22-226. Jurisdiction. (1) A court having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(2) An agreement to arbitrate providing for arbitration in this state confers jurisdiction on the court to enter judgment on an award under this part 2.

13-22-227. Venue. A motion pursuant to section 13-22-205 shall be made in a court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in a court of the county in which it was held. Otherwise, a motion pursuant to section 13-22-205 may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in a court of any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

13-22-228. Appeals. (1) An appeal may be taken from:

(a) An order denying a motion to compel arbitration;

(b) An order granting a motion to stay arbitration;

(c) An order confirming or denying confirmation of an award;

(d) An order modifying or correcting an award;

(e) An order vacating an award without directing a rehearing; or

(f) A final judgment entered pursuant to this part 2.

(2) An appeal under this section shall be taken in the same manner as an appeal of an order or judgment in a civil action.

13-22-229. Uniformity of application and construction. In applying and construing this part 2, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

13-22-230. Savings clause. This part 2 shall not affect an action or proceeding commenced or a right accrued before this part 2 takes effect. Except as otherwise provided in section 13-22-203, an arbitration agreement made before August 4, 2004, is governed by the "Uniform Arbitration Act of 1975".

PART 3

DISPUTE RESOLUTION ACT

13-22-301. Short title. This part 3 shall be known and may be cited as the "Dispute Resolution Act".

13-22-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Arbitration" means the referral of a dispute to one or more neutral third parties for a decision based on evidence and testimony provided by the disputants.

(1.3) "Chief justice" means the chief justice of the Colorado supreme court.

(1.7) "Director" means the director of the office of dispute resolution.

(2) "Early neutral evaluation" means an early intervention in a lawsuit by a court-appointed evaluator to narrow, eliminate, and simplify issues and assist in case planning and management. Settlement of the case may occur under early neutral evaluation.

(2.1) "Fact finding" means an investigation of a dispute by a public or private body that examines the issues and facts in a case and may or may not recommend settlement procedures.

(2.3) "Med-arb" means a process in which parties begin by mediation, and failing settlement, the same neutral third party acts as arbitrator of the remaining issues.

(2.4) "Mediation" means an intervention in dispute negotiations by a trained neutral third party with the purpose of assisting the parties to reach their own solution.

(2.5) "Mediation communication" means any oral or written communication prepared or expressed for the purposes of, in the course of, or pursuant to, any mediation services proceeding or dispute resolution program proceeding, including, but not limited to, any memoranda, notes, records, or work product of a mediator, mediation organization, or party; except that a written agreement to enter into a mediation service proceeding or dispute resolution proceeding, or a final written agreement reached as a result of a mediation service proceeding or dispute resolution proceeding, which has been fully executed, is not a mediation communication unless otherwise agreed upon by the parties.

(2.7) "Mediation organization" means any public or private corporation, partnership, or association which provides mediation services or dispute resolution

programs through a mediator or mediators.

(3) "Mediation services" or "dispute resolution programs" means a process by which parties involved in a dispute, whether or not an action has been filed in court, agree to enter into one or more settlement discussions with a mediator in order to resolve their dispute.

(4) "Mediator" means a trained individual who assists disputants to reach a mutually acceptable resolution of their disputes by identifying and evaluating alternatives.

(4.3) "Mini-trial" means a structured settlement process in which the principals involved meet at a hearing before a neutral advisor to present the merits of each side of the dispute and attempt to formulate a voluntary settlement.

(4.5) "Multi-door courthouse concepts" means that form of alternative dispute resolution in which the parties select any combination of problem solving methods designed to achieve effective resolution, including, but not limited to, arbitration, early neutral evaluation, med-arb, mini-trials, settlement conference, special masters, and summary jury trials.

(5) "Office" means the office of dispute resolution.

(6) "Party" means a mediation participant other than the mediator and may be a person, public officer, corporation, partnership, association, or other organization or entity, either public or private.

(7) "Settlement conference" means an informal assessment and negotiation session conducted by a legal professional who hears both sides of the case and may advise the parties on the law and precedent relating to the dispute and suggest a settlement.

(8) "Special master" means a court-appointed magistrate, auditor, or examiner who, subject to specifications and limitations stated in the court order, shall exercise the power to regulate all proceedings in every hearing before such special master, and to do all acts and take all measures necessary or proper for compliance with the court's order.

(9) "Summary jury trial" means summary presentations in complex cases before a jury empaneled to make findings which may or may not be binding.

13-22-303. Office of dispute resolution - establishment. There is hereby established in the judicial department the office of dispute resolution, the head of which shall be the director of the office of dispute resolution, who shall be appointed by the chief justice of the supreme court and who shall receive such compensation as determined by the chief justice.

13-22-304. Director - assistants. The director shall be an employee of the judicial department and shall be responsible to the chief justice for the administration of the office. The director may be but need not be an attorney and shall be hired on the basis of

training and experience in management and mediation. The director, subject to the approval of the chief justice, may appoint such additional employees as deemed necessary for the administration of the office of dispute resolution.

13-22-305. Mediation services. (1) In order to resolve disputes between persons or organizations, dispute resolution programs shall be established or made available in such judicial districts or combinations of such districts as shall be designated by the chief justice of the supreme court, subject to moneys available for such purpose. For all office of dispute resolution programs, the director shall establish rules, regulations, and procedures for the prompt resolution of disputes. Such rules, regulations, and procedures shall be designed to establish a simple nonadversary format for the resolution of disputes by neutral mediators in an informal setting for the purpose of allowing each participant, on a voluntary basis, to define and articulate the participant's particular problem for the possible resolution of such dispute.

(2) Persons involved in a dispute shall be eligible for the mediation services set forth in this section before or after the filing of an action in either the county or the district court.

(3) Each party who uses the mediation services or ancillary forms of alternative dispute resolution in section 13-22-313 of the office of dispute resolution shall pay a fee as prescribed by order of the supreme court. Fees shall be set at a level necessary to cover the reasonable and necessary expenses of operating the program. Any fee may be waived at the discretion of the director. The fees established in this part 3 shall be transmitted to the state treasurer, who shall credit the same to the dispute resolution fund created in section 13-22-310.

(4) All rules, regulations, and procedures established pursuant to this section shall be subject to the approval of the chief justice.

(5) No adjudication, sanction, or penalty may be made or imposed by any mediator or the director.

(6) The liability of mediators shall be limited to willful or wanton misconduct.

13-22-306. Office of dispute resolution programs - mediators. In order to implement the dispute resolution programs described in section 13-22-305, the director may contract with mediators or mediation organizations on a case-by-case or service or program basis. Such mediators or mediation organizations shall be subject to the rules, regulations, procedures, and fees set by the director. The tasks of the mediators or mediation organizations shall be defined by the director. The director may also use qualified volunteers to assist in mediation service or dispute resolution program efforts.

13-22-307. Confidentiality. (1) Dispute resolution meetings may be closed at the discretion of the mediator.

(2) Any party or the mediator or mediation organization in a mediation service proceeding or a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any mediation communication or any communication provided in confidence to the mediator or a mediation organization, unless and to the extent that:

(a) All parties to the dispute resolution proceeding and the mediator consent in writing; or

(b) The mediation communication reveals the intent to commit a felony, inflict bodily harm, or threaten the safety of a child under the age of eighteen years; or

(c) The mediation communication is required by statute to be made public; or

(d) Disclosure of the mediation communication is necessary and relevant to an action alleging willful or wanton misconduct of the mediator or mediation organization.

(3) Any mediation communication that is disclosed in violation of this section shall not be admitted into evidence in any judicial or administrative proceeding.

(4) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a mediation service proceeding or dispute resolution proceeding.

(5) Nothing in this section shall prevent the gathering of information for research or educational purposes, or for the purpose of evaluating or monitoring the performance of a mediator, mediation organization, mediation service, or dispute resolution program, so long as the parties or the specific circumstances of the parties' controversy are not identified or identifiable.

13-22-308. Settlement of disputes. (1) If the parties involved in a dispute reach a full or partial agreement, the agreement upon request of the parties shall be reduced to writing and approved by the parties and their attorneys, if any. If reduced to writing and signed by the parties, the agreement may be presented to the court by any party or their attorneys, if any, as a stipulation and, if approved by the court, shall be enforceable as an order of the court.

(2) (Deleted by amendment, L. 91, p. 371, § 5, effective July 1, 1991.)

13-22-309. Reports. (Repealed)

13-22-310. Dispute resolution fund - creation - source of funds. (1) There is hereby created in the state treasury a fund to be known as the dispute resolution fund, which fund shall consist of:

(a) All moneys collected pursuant to section 13-22-305 (3);

(b) Any moneys appropriated by the general assembly for credit to the fund; and

(c) Any moneys collected by the office from federal grants and other contributions, grants, gifts, bequests, and donations.

(2) (a) All moneys in the fund shall be subject to annual appropriation by the general assembly. Any moneys not appropriated shall remain in the fund at the end of any fiscal year and shall not revert to the general fund.

(b) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, on April 20, 2009, the state treasurer shall transfer the balance of moneys in the dispute resolution fund to the general fund.

13-22-311. Court referral to mediation - duties of mediator. (1) Any court of record may, in its discretion, refer any case for mediation services or dispute resolution programs, subject to the availability of mediation services or dispute resolution programs; except that the court shall not refer the case to mediation services or dispute resolution programs where one of the parties claims that it has been the victim of physical or psychological abuse by the other party and states that it is thereby unwilling to enter into mediation services or dispute resolution programs. In addition, the court may exempt from referral any case in which a party files with the court, within five days of a referral order, a motion objecting to mediation and demonstrating compelling reasons why mediation should not be ordered. Compelling reasons may include, but are not limited to, that the costs of mediation would be higher than the requested relief and previous attempts to resolve the issues were not successful. Parties referred to mediation services or dispute resolution programs may select said services or programs from mediators or mediation organizations or from the office of dispute resolution. This section shall not apply in any civil action where injunctive or similar equitable relief is the only remedy sought.

(2) Upon completion of mediation services or dispute resolution programs, the mediator shall supply to the court, unless counsel for a party is required to do so by local rule or order of the court, a written statement certifying that parties have met with the mediator.

(3) In the event the mediator and the parties agree and inform the court that the parties are engaging in good faith mediation, any pending hearing in the action filed by the parties shall be continued to a date certain.

(4) In no event shall a party be denied the right to proceed in court in the action filed because of failure to pay the mediator.

13-22-312. Applicability. This part 3 shall apply to all mediation services or

dispute resolution programs conducted in this state, whether conducted through the office of dispute resolution or through a mediator or mediation organization.

13-22-313. Judicial referral to ancillary forms of alternative dispute resolution. (1) Any court of record, in its discretion, may refer a case to any ancillary form of alternative dispute resolution; except that the court shall not refer the case to any ancillary form of alternative dispute resolution where one of the parties claims that it has been the victim of physical or psychological abuse by the other party and states that it is thereby unwilling to enter into ancillary forms of alternative dispute resolution. In addition, the court may exempt from referral any case in which a party files with the court, within five days of a referral order, a motion objecting to ancillary forms of alternative dispute resolution and demonstrating compelling reasons why ancillary forms of alternative dispute resolution should not be ordered. Compelling reasons may include, but are not limited to, that the costs of ancillary forms of alternative dispute resolution would be higher than the requested relief and previous attempts to resolve the issues were not successful. Such forms of alternative dispute resolution may include, but are not limited to: arbitration, early neutral evaluation, med-arb, mini-trial, multi-door courthouse concepts, settlement conference, special master, summary jury trial, or any other form of alternative dispute resolution which the court deems to be an effective method for resolving the dispute in question. Parties and counsel are encouraged to seek the most appropriate forum for the resolution of their dispute. Judges may provide guidance or suggest an appropriate forum. However, nothing in this section shall impinge upon the right of parties to have their dispute tried in a court of law, including trial by jury.

(2) Ancillary programs may be established, made available, and promoted in any judicial district or combination of districts as designated by the chief judge of the affected district. Rules and regulations for ancillary forms of alternative dispute resolution shall be promulgated by the director of the office of dispute resolution.

(3) All rules, regulations, and procedures established pursuant to this section shall be subject to the approval of the chief justice.

(4) Nothing in this section shall preclude any court from making a referral to mediation services provided for in this article.

(5) All referrals under this section shall be made subject to the availability of alternative dispute resolution programs. Parties referred to ancillary forms of alternative dispute resolution may select services offered by the office of dispute resolution or by other individuals or organizations.

(6) This section shall not apply in any civil action where injunctive or similar equitable relief is the only remedy sought.

PART 4

MANDATORY ARBITRATION - CIVIL ACTIONS

13-22-401 to 13-22-411. (Repealed)

PART 5

COLORADO INTERNATIONAL DISPUTE RESOLUTION ACT

13-22-501. Short title. This part 5 shall be known and may be cited as the "Colorado International Dispute Resolution Act".

13-22-502. Legislative declaration. The general assembly finds and declares that it is the policy of the state of Colorado to encourage parties to international commercial or noncommercial agreements or transactions to resolve disputes arising from such agreements or transactions, when appropriate, through arbitration, mediation, or conciliation. Therefore, it is the intent of the general assembly that arbitration and ancillary forms of alternative dispute resolution be made available to resolve international disputes.

13-22-503. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Arbitration" means the referral of a dispute to one or more neutral third parties for a decision based on evidence and testimony provided by the disputants.

(2) "Conciliation" means all forms of dispute resolution including, but not limited to, arbitration and mediation.

(3) "International dispute" means any dispute which involves the following:

(a) A dispute between persons who are residents of more than one country or entities which have facilities or operations relevant to the dispute located in more than one country;

(b) A dispute in which the parties have expressly agreed that the subject matter relates to interests in more than one country; or

(c) A dispute which is otherwise related to interests in more than one country.

(4) "Mediation" means an intervention in dispute negotiations by a trained, neutral third party with the purpose of assisting the parties to reach their own solution.

13-22-504. Agreement for alternative dispute resolution. The parties to an

international dispute may agree to submit such dispute to arbitration, mediation, or conciliation for resolution of such dispute by means other than by litigation. Such dispute resolution pursuant to this part 5 shall be subject to any treaties or agreements which are in force and effect between the United States and any other country.

13-22-505. Applicability. The provisions of part 2 of this article and sections 13-22-307 and 13-22-308 shall apply to any international dispute submitted to alternative dispute resolution pursuant to this part 5.

13-22-506. Choice of language. The parties to any international dispute submitted for alternative dispute resolution pursuant to this part 5 may agree upon the language or languages to be used in the dispute resolution proceedings.

13-22-507. Immunity. None of the arbitrators, mediators, conciliators, witnesses, parties, or representatives of the parties involved in the arbitration, mediation, or conciliation of an international dispute pursuant to this part 5 shall be subject to service of process on any civil matter while such persons are present in this state for the purpose of participating in the arbitration, mediation, or conciliation of that international dispute.

PART 6

MARIJUANA CONTRACTS ENFORCEABLE

13-22-601. Contracts pertaining to marijuana enforceable. It is the public policy of the state of Colorado that a contract is not void or voidable as against public policy if it pertains to lawful activities authorized by section 16 of article XVIII of the state constitution and article 43.4 of title 12, C.R.S.

ARTICLE 23

Structured Settlement Protection Act

13-23-101. Short title. This article shall be known and may be cited as the "Structured Settlement Protection Act".

13-23-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) "Dependent" means a payee's spouse, minor child, or any person for whom the payee is legally obligated to provide support, including maintenance.

(3) "Discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States internal revenue service.

(4) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions are made from such consideration.

(5) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

(6) "Interested parties" means the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party who has continuing rights or obligations under such structured settlement. If a delegate child support enforcement unit is enforcing a payee's legal obligation to support his or her dependent children, pursuant to section 26-13-105, C.R.S., "interested parties" shall also include the delegate child support enforcement unit.

(7) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 13-23-103.

(8) "Payee" means an individual who is receiving tax-free payments under a structured settlement and who proposes to make a transfer of payment rights thereunder.

(9) "Periodic payment" means a recurring payment or a scheduled future lump-sum payment.

(10) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of section 130 of the federal "Internal Revenue Code of 1986", as amended.

(11) "Responsible administrative authority" means any government authority vested by law with exclusive jurisdiction over the settled claim resolved by such structured settlement.

(12) "Settled claim" means the original tort claim resolved by a structured settlement.

(13) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in

resolution of a tort claim.

(14) "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(15) "Structured settlement obligor" means the party who has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(16) "Structured settlement payment right" means the right to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(a) The payee is domiciled in Colorado or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is Colorado; or

(b) The structured settlement agreement was approved by a court or responsible administrative authority in Colorado; or

(c) The structured settlement agreement is expressly governed by the laws of Colorado.

(17) "Terms of the structured settlement" means the terms of the structured settlement agreement, the annuity contract, a qualified assignment agreement, and any order or other approval of a court or responsible administrative authority or other government authority that authorized or approved such structured settlement.

(18) "Transfer" means a sale, assignment, pledge, hypothecation, or other alienation or encumbrance of a structured settlement payment right made by a payee for consideration; except that the term "transfer" does not include the creation or perfection of a security interest in a structured settlement payment right under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

(19) "Transfer agreement" means the agreement providing for a transfer of a structured settlement payment right.

(20) "Transferee" means a party acquiring or proposing to acquire a structured settlement payment right through a transfer.

(21) "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. "Transfer expenses" does not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

13-23-103. Required disclosures to payee. (1) Not fewer than three days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen points, setting forth:

(a) The amounts and due dates of the structured settlement payments to be transferred;

(b) The aggregate amount of such payments;

(c) The discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities", and the amount of the applicable federal rate used in calculating such discounted present value;

(d) The gross advance amount;

(e) An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements, payable in connection with the transferee's application for approval of the transfer and the transferee's best estimate of the amount of any attorney fees and related disbursements;

(f) The net advance amount;

(g) The amount of any penalties or liquidated damages payable by the payee in the event of a breach of the transfer agreement by the payee; and

(h) A statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

13-23-104. Approval of transfers of structured settlement payment rights. (1) A direct or indirect transfer of a structured settlement payment right shall not be effective and a structured settlement obligor or annuity issuer shall not be required to make a payment directly or indirectly to a transferee of a structured settlement payment right unless the transfer has been approved in advance in a final court order or order of a responsible administrative authority based on express findings by such court or responsible administrative authority that:

(a) The transfer is in the best interests of the payee, taking into account the welfare and support of the payee's dependents;

(b) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly and willingly waived such advice in writing; and

(c) The transfer does not contravene any applicable statute or the order of any court or other government authority.

13-23-105. Effect of transfer of structured settlement payment right. (1) Following a transfer of a structured settlement payment right pursuant to this article:

(a) The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from all liability for the transferred payments;

(b) The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(I) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by such parties as a consequence of the transfer; and

(II) For any other liabilities or costs, including reasonable costs and attorney fees, arising from compliance by such parties with the order of the court or responsible administrative authority or arising as a consequence of the transferee's failure to comply with the provisions of this article;

(c) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and a transferee or assignee or between two or more transferees or assignees; and

(d) Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this article.

13-23-106. Procedure for approval of transfer. (1) An application under this article for approval of a transfer of a structured settlement payment right shall be made by the transferee and may be brought:

(a) In the district court for the county in which the payee resides;

(b) In the district court for the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business; or

(c) In any court or before any responsible administrative authority that approved the structured settlement agreement.

(2) Not fewer than twenty days prior to the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under section 13-23-104, the transferee shall file with the court or responsible administrative authority and serve on all interested parties a notice of the proposed transfer and the application for its authorization. The transferee shall file and serve:

(a) A copy of the transferee's application;

(b) A copy of the transfer agreement;

(c) A copy of the disclosure statement required pursuant to section 13-23-103;

(d) A listing of each of the payee's dependents, together with each dependent's age;

(e) A notification that any interested party is entitled to support, oppose, or

otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority or by participating in the hearing; and

(f) A notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not fewer than fifteen days after service of the transferee's notice, in order to be considered by the court or responsible administrative authority.

13-23-107. General provisions - construction. (1) The provisions of this article may not be waived by any payee.

(2) Any transfer agreement entered into on or after July 1, 2004, by a payee who resides in Colorado shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of Colorado. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(3) A transfer of structured settlement payment rights shall not extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for periodically confirming the payee's survival and giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(4) A payee who proposes to make a transfer of a structured settlement payment right shall not incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on a failure of such transfer to satisfy the conditions of this article.

(5) Nothing contained in this article shall be construed to authorize a transfer of a structured settlement payment right in contravention of any law or to imply that a transfer under a transfer agreement entered into prior to July 1, 2004, is valid or invalid.

(6) Compliance with the requirements set forth in section 13-23-103 and fulfillment of the conditions set forth in section 13-23-104 shall be solely the responsibility of the transferee in a transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear responsibility for, or any liability arising from, noncompliance with such requirements or failure to fulfill such conditions.

13-23-108. Exceptions - judgment for periodic payment against a health care professional or institution - assignment of workers' compensation benefits. Nothing in this article shall apply to a judgment entered pursuant to the provisions of part 2 of

article 64 of this title or to compensation or benefits due under articles 40 to 47 of title 8, C.R.S.

EVIDENCE

ARTICLE 25

Evidence - General Provisions

13-25-101. Printed statutes - reports of decisions. The printed statute books of the United States and of the several states and territories, printed under the authority of such states and territories, and the books of reports of decisions of the supreme courts of the United States and of the several states and territories, published by authority of such courts, may be read as evidence in all courts of this state of such acts and decisions.

13-25-102. Mortality table as evidence. In all civil actions, special proceedings, or other modes of litigation in courts of justice or before magistrates or other persons having power and authority to receive evidence, when it is necessary to establish the expectancy of continued life of any person from any period of such person's life, whether he is living at the time or not, the table set out in section 13-25-103 shall be received as evidence, together with other evidence as to health, constitution, habits, and occupation of such person of such expectancy.

13-25-103. Mortality table. The table referred to in section 13-25-102 is as follows:

Completed Age	Expectancy of Life, U.S. Life Table: 1998
0	76.7
1	76.3
2	75.3
3	74.3
4	73.4
5	72.4
6	71.4
7	70.4

8	69.4
9	68.4
10	67.4
11	66.4
12	65.5
13	64.5
14	63.5
15	62.5
16	61.5
17	60.6
18	59.6
19	58.7
20	57.7
21	56.8
22	55.8
23	54.9
24	53.9
25	53.0
26	52.0
27	51.1
28	50.1
29	49.2
30	48.2
31	47.3
32	46.3
33	45.4
34	44.4
35	43.5
36	42.6
37	41.6
38	40.7
39	39.8
40	38.8
41	37.9
42	37.0
43	36.1
44	35.2
45	34.3
46	33.4
47	32.5

48	31.6
49	30.7
50	29.8
51	29.0
52	28.1
53	27.2
54	26.4
55	25.5
56	24.7
57	23.9
58	23.1
59	22.3
60	21.5
61	20.7
62	20.0
63	19.2
64	18.5
65	17.8
66	17.1
67	16.4
68	15.7
69	15.0
70	14.3
71	13.7
72	13.1
73	12.5
74	11.9
75	11.3
76	10.7
77	10.2
78	9.6
79	9.1
80	8.6
81	8.1
82	7.6
83	7.1
84	6.7
85	6.3
86	6.0
87	5.6

88	5.3
89	5.0
90	4.7
91	4.4
92	4.1
93	3.9
94	3.7
95	3.5
96	3.3
97	3.1
98	2.9
99	2.7
100	2.6

13-25-104. Proof of handwriting. Comparison of a disputed writing, with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by witnesses in all trials and proceedings, and the evidence of witnesses respecting the same may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute.

13-25-105. Certificate of register - patent. The official certificate of any register or receiver of any land office of the United States to any fact or matter on record in his office shall be received and held competent to prove the fact as certified. The certificate of any such register of the entry or purchase of any tract of land within his district shall be taken to be evidence of title in the party who made such entry or purchase, or his heirs and assigns; but a patent for land shall be considered a better legal and paramount title in the patentee, his heirs, or his assigns than such register's certificate of the entry and purchase of the same land.

13-25-106. Judicial notice of laws of other jurisdictions. (1) Every court of this state shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States.

(2) The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

(3) The determination of such laws shall be made by the court and not by the jury and is reviewable.

(4) Any party may also present to the trial court any admissible evidence of such

laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in the pleadings or otherwise.

(5) The law of a jurisdiction other than those referred to in subsection (1) of this section is an issue for the court but shall not be subject to the foregoing provisions concerning judicial notice.

(6) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and may be cited as the "Uniform Judicial Notice of Foreign Law Act".

13-25-107. Proceedings of cities and towns. Copies of all papers, books, or proceedings or parts thereof appertaining to transactions in their corporate capacity of any town or city incorporated under any general or special law of this state, certified to be true copies by the clerk or keeper of the same, under the seal of such town or city, or under the private seal of said clerk or keeper if there is no public seal, the clerk or keeper also certifying that he is entrusted with the safekeeping of the original, shall be received as prima facie evidence of the facts so certified in any court in this state.

13-25-108. Evidence of assessment. In all actions in all courts of record, the original assessment, or a certified copy thereof purporting to be made by the corporate authorities of any municipality in this state, under a statute authorizing the same, which determines the cost and expense due from any piece of real estate, or from the owner thereof, because of the construction of any kind of local improvement in the taxing district wherein such property is located, or in front of, abutting upon, or adjacent to said realty within any such municipality shall be accepted and treated by such tribunals as prima facie evidence of the lawful existence, and due and proper performance of all preliminary steps essential to make such assessment a legal and valid assessment against the realty or owner thereof, or both, against whom it appears to be made.

13-25-109. Recording of patents to land. Any person to whom any patent to any land, whether agricultural or mineral, situate in this state, has been issued from the government of the United States may have same recorded in the office of the recorder of deeds of the county wherein such lands are situate upon presentation of the same at the proper office.

13-25-110. Patent - copy of record. Any patent may be read in evidence in the

first instance without further proof of its execution. Copy of the record of such patent is entitled to be read in evidence under such regulations as are provided for the admission of a copy of the record of deeds.

13-25-111. Patents already recorded. The provisions of sections 13-25-109 and 13-25-110 apply to patents already recorded.

13-25-112. Fees of recorder. The fees of the recorder of deeds for the record of such patents are the same as fixed for the record of deeds.

13-25-113. Lost deed - bond - note - affidavit. When, in the progress of any suit in any court in this state, either party thereto relies for its maintenance or defense, in whole or in part, on any deed, bond, note, draft, bill of exchange, letter, or any other writing alleged to have been executed, signed, or written by the adverse party, and to have been lost or destroyed, the party so relying on the same as evidence in his behalf in the trial of the cause shall not be permitted to give evidence of the contents thereof by a competent witness until said party or his agent or attorney first makes an oath to the loss or destruction thereof, and to the substance of the same.

13-25-114. Certificate of publisher. When any notice or advertisement is required by law or order of court to be published in any newspaper, the certificate of the printer or publisher with a printed copy of such notice or advertisement annexed, stating the number of times which the same has been published and the dates of the first and last paper containing the same, shall be sufficient evidence of the publication therein set forth. Such notices and certificates of the publication thereof, when so certified, shall be a part of the records of the court.

13-25-115. Certificate of head officer. Where a subpoena is issued to a state agency of an executive department seeking an appearance in any court of record, and the evidence sought is proof of the absence of a public record or entry, or the foundation for or the authenticity of the documents which are otherwise admissible pursuant to the Colorado rules of evidence, such subpoena may be complied with by the submission of the documents under the official certificate of the head officer, or acting head officer, or official custodian acting under the authority of the head officer of any executive department of the government of the state of Colorado, as provided for in this section,

without an appearance by the personnel of such agency. Nothing in this section shall be construed to restrict the right of any party to any legal proceeding to subpoena a state employee to testify to matters going beyond the foundation or authenticity of the records of the executive department.

13-25-116. Water officials' records. In all civil actions, special proceedings, or other modes of litigation before a water judge or referee having power to receive evidence, all records, reports, tables, and other documents of division engineers and water commissioners of the state of Colorado and all records, streamflow tables, rating curves, automatic water register sheets, and special reports of the state engineer and his deputies, hydrographers, and employees, and of the division engineers of the several divisions, and all records of canal headgate keepers, reservoir outlet keepers, gauge readers, and other systematically compiled records or reports of diversions, storage, and discharge of waters or of the flows of streams on file in or constituting a part of the records and files of the state engineer of the state of Colorado, and all copies duly certified as correct by the state engineer or his deputy shall be admitted as evidence of the facts contained therein.

13-25-117. Parties plaintiff. In trials of actions upon contracts, expressed or implied, where the action is brought by partners or by joint payees or obligees, it shall not be necessary for the plaintiff, in order to maintain any such action, to prove the partnership of the individuals named in such action or to prove the first names or surnames of such partners or of joint payees or obligees, but the names of the partners or joint payees or obligees shall be presumed to be truly set forth in the declaration, petition, or bill. Nothing in this section shall prevent the defendant from pleading in abatement or proving on the trial that more persons should have been made plaintiffs, or that more persons have been made plaintiffs than have the legal right to sue, in which event the defendant's right shall be as at common law.

13-25-118. Joint defendants. In actions upon express contracts against two or more defendants alleged to have been made or executed by such defendants as partners or joint obligors or payors, proof of the joint liability or partnership of the defendants, or their first names or surnames, shall not in the first instance be required to entitle the plaintiff to judgment, unless such proof is rendered necessary by the filing of pleas denying the execution of such writing, verified by affidavit as required by law.

13-25-119. Dying declarations. (1) The dying declarations of a deceased person

are admissible in evidence in all civil and criminal trials and other proceedings before courts, commissions, and other tribunals to the same extent and for the same purposes that they might have been admissible had the deceased survived and been sworn as a witness in the proceedings, under the following restrictions. To render the declarations of the deceased competent evidence, it must be satisfactorily proved:

(a) That at the time of the making of such declaration he was conscious of approaching death and believed there was no hope of recovery;

(b) That such declaration was voluntarily made, and not through the persuasion of any person;

(c) That such declaration was not made in answer to interrogatories calculated to lead the deceased to make any particular statement;

(d) That he was of sound mind at the time of making the declaration.

13-25-120. Corporate resolutions and minutes. (1) A certified copy of a resolution purportedly adopted by a meeting of the board of directors, or by a meeting of the stockholders of a corporation, or of the minutes or of a portion of the minutes of a meeting of the board of directors or stockholders of a corporation, when the same purports to be certified by an officer of such corporation and purports to have the seal of such corporation affixed to such certification, shall be admissible in evidence as prima facie evidence of the adoption of such resolution or as prima facie evidence of the truth of the statements or recitals contained in such minutes or portion of such minutes insofar as the same may affect the title to real estate, and it shall not be necessary to prove any facts as the foundation for the admission of the same in evidence. If any such certified copy has been filed for record in the office of the county clerk and recorder of the county where the real estate affected thereby is situate, the record thereof in the office of said clerk and recorder, or a certified copy of such record certified by the county clerk and recorder, shall be admissible in evidence in the same manner as the certified copy itself.

(2) The word "corporation" as used in this section shall include both foreign and domestic corporations. The words "board of directors" as used in this section shall include both a board of directors and any other board or body of a corporation which has powers and duties similar to those exercised by a board of directors. The word "stockholders" as used in this section shall include both stockholders and members of corporations.

(3) The provisions of this section apply to certified copies of resolutions adopted prior to April 16, 1941, as well as those adopted after such date, and to certified copies of minutes of meetings or portions of minutes of meetings held prior to April 16, 1941, as well as those held after such date, and to certified copies which were certified prior to April 16, 1941, as well as those which were certified after such date.

13-25-121. Reports of death. A written finding of actual death, made by the secretary of the Army, the secretary of the Navy, or other officer or employee of the United States authorized to make such finding pursuant to the federal missing persons act (50 U.S.C. app. supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding may be received in any court, office, or other place in this state as evidence of the death of the person therein found to be dead in place of and with like effect as a state certificate of death. A written finding by such federal officer or employee of presumed death because missing in action or a duly certified copy of such finding after one year from the cessation of war in that theatre of war where missing may be received in any court, office, or other place in this state as evidence of the death of the person therein found presumed dead and the date, circumstances, and place of disappearance.

13-25-122. Person missing, interned, or captured. An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive made by any officer or employee of the United States authorized by the act referred to in section 13-25-121, or by any other law of the United States to make the same, may be received in any court, office, or other place in this state as evidence that such person was, on the date of the certificate, missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or was dead, or was alive, as the case may be.

13-25-123. Report deemed pursuant to law. For purposes of sections 13-25-121 and 13-25-122, any finding, report, or record, or duly certified copy thereof, purporting to have been signed by an officer or employee of the United States as described in sections 13-25-121 and 13-25-122 shall prima facie be deemed to have been signed and issued by such officer or employee pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, that certified copy shall be prima facie evidence of his authority to so certify.

13-25-124. Libel and slander - how pleaded. In an action for libel or slander, it shall not be necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose. It shall be sufficient to state generally that the same was published or spoken concerning the plaintiff; and, if such allegation is controverted, the plaintiff shall establish on the trial that it was so published or spoken.

13-25-125. Justification - pleaded and proved. In an action for libel or slander, the defendant, in his answer, may allege both the truth of the matter charged as defamatory and any mitigating circumstances to reduce the amount of damages; and, whether he proves the justification or not, he may give in evidence the mitigating circumstances.

13-25-125.5. Libel and slander - self-publication. No action for libel or slander may be brought or maintained unless the party charged with such defamation has published, either orally or in writing, the defamatory statement to a person other than the person making the allegation of libel or slander. Self-publication, either orally or in writing, of the defamatory statement to a third person by the person making such allegation shall not give rise to a claim for libel or slander against the person who originally communicated the defamatory statement.

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.

(b) The tests shall be conducted by a laboratory approved by an accreditation body designated by the secretary of the federal department of health and human services, utilizing any genetic test of a type generally acknowledged as reliable by such accreditation body. Costs of any such expert witness for the first test administered shall be fixed at a reasonable amount and shall be paid as the court orders. If the results of the tests or the expert analysis of inherited characteristics are disputed by any party, the court shall order that an additional test be made by the same or another laboratory at the expense of the party disputing the test results or analysis.

(c) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that makes the results of genetic testing admissible without testimony:

(I) The names and photographs of the individuals from whom specimens have been taken;

(II) The names of the individuals who collected the specimens;

(III) The places at which and dates on which the specimens were collected;

(IV) The names of the individuals who received the specimens in the testing laboratory; and

(V) The dates the specimens were received.

(d) A specimen used in genetic testing may consist of one or more samples or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(e) Specimens and reports are confidential. An individual who intentionally releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen commits a class 1 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501 (1), C.R.S.

(f) A report of genetic testing shall be in a record, defined in section 19-1-103 (91.5), C.R.S., and signed under penalty of perjury by a designee of the testing laboratory. A report made pursuant to the requirements of this article is self-authenticating.

(g) Under this section, a man is presumed to be the father of a child if the genetic testing complies with the requirements of this section and the results disclose that the man is not excluded and that the man has at least a ninety-seven percent probability of paternity.

(h) A man presumed to be the father of the child pursuant to paragraph (g) of this subsection (1) may rebut the genetic testing results only by other genetic testing that satisfies the requirements of this section and that:

(I) Excludes the man as the genetic father of the child; or

(II) Identifies another man as the father of the child.

(i) The presumption of legitimacy of a child born during wedlock may be overcome, as provided in section 19-4-105 (2) (a), C.R.S., if the court finds that the conclusion of the experts conducting the tests, as disclosed by the evidence based upon the tests, shows that the husband or wife is not the parent of the child.

(2) Any objection to genetic testing results shall be made in writing not less than fifteen days before the first scheduled hearing at which the results may be introduced into evidence or fifteen days after motion for summary judgment is served on such person; except that a person shall object to the genetic testing results not less than twenty-four hours prior to the first scheduled hearing if such person did not receive the results fifteen

or more days before such hearing. The test results shall be admissible as evidence of paternity in an action filed pursuant to article 10 of title 14, C.R.S., article 4 of title 19, C.R.S., or article 13.5 of title 26, C.R.S., without the need for foundation testimony or other proof of authenticity or accuracy.

(3) For good cause shown, the court may order genetic testing of a deceased individual.

(4) The court may order genetic testing of a brother of a man presumed to be the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child. If genetic testing excludes none of the brothers as the genetic father, and each brother satisfies the requirements as the presumed father of the child under section 19-4-105, C.R.S., without consideration of another identical brother being presumed to be the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

13-25-126.5. Documents arising from environmental self-evaluation - admissibility in evidence. (1) The general assembly hereby finds and declares that protection of the environment is enhanced by the public's voluntary compliance with environmental laws and that the public will benefit from incentives to identify and remedy environmental compliance issues. It is further declared that limited expansion of the protection against disclosure will encourage such voluntary compliance and improve environmental quality and that the voluntary provisions of this act will not inhibit the exercise of the regulatory authority by those entrusted with protecting our environment.

(2) For the purposes of this section, unless the context otherwise requires:

(a) "Administrative law judge" means any person appointed to be an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S.

(b) "Environmental audit report" means any document, including any report, finding, communication, or opinion or any draft of a report, finding, communication, or opinion, related to and prepared as a result of a voluntary self-evaluation that is done in good faith.

(c) "Environmental law" means any requirement contained in article 20.5 of title 8, C.R.S., articles 7, 8, 11, and 15 of title 25, C.R.S., or article 20 of title 30, C.R.S., in regulations promulgated under such provisions, or in any orders, permits, licenses, or closure plans under such provisions.

(d) "In camera review" means a hearing or review in a courtroom, hearing room, or chambers to which the general public is not admitted. After such hearing or review, the content of the oral and other evidence and statements of the judge and counsel shall be held in confidence by those participating in or present at the hearing or review, and any transcript of the hearing or review shall be sealed and not considered a public record,

until and unless its contents are disclosed by a court or administrative law judge having jurisdiction over the matter.

(e) "Voluntary self-evaluation" means a self-initiated assessment, audit, or review, not otherwise expressly required by environmental law, that is performed by any person or entity, for itself, either by an employee or employees employed by such person or entity who are assigned the responsibility of performing such assessment, audit, or review or by a consultant engaged by such person or entity expressly and specifically for the purpose of performing such assessment, audit, or review to determine whether such person or entity is in compliance with environmental laws. Once initiated, such voluntary self-evaluation shall be completed within a reasonable period of time. Nothing in this section shall be construed to authorize uninterrupted voluntary self-evaluations.

(3) An environmental audit report is privileged and is not admissible in any legal action or administrative proceeding and is not subject to any discovery pursuant to the rules of civil procedure, criminal procedure, or administrative procedure, unless:

(a) The entity or person for whom the environmental audit report was prepared, whether the environmental audit report was prepared by the entity or by a consultant hired by the entity, waives the privilege under this section;

(b) (I) A court of record, or, pursuant to section 24-4-105, C.R.S., an administrative law judge, after an in camera review, determines that:

(A) The environmental audit report shows evidence that the person or entity for which the environmental audit report was prepared is not or was not in compliance with an environmental law; and

(B) The person or entity did not initiate appropriate efforts to achieve compliance with the environmental law or complete any necessary permit application promptly after the noncompliance with the environmental law was discovered and, as a result, the person or entity did not or will not achieve compliance with the environmental law or complete the necessary permit application within a reasonable amount of time.

(II) For the purposes of this paragraph (b) only, if the evidence shows noncompliance by a person or entity with more than one environmental law, the person or entity may demonstrate that appropriate efforts to achieve compliance were or are being taken by instituting a comprehensive program that establishes a phased schedule of actions to be taken to bring the person or entity into compliance with all of such environmental laws.

(c) A court of record, or, pursuant to section 24-4-105, C.R.S., an administrative law judge, after an in camera review, determines that compelling circumstances exist that make it necessary to admit the environmental audit report into evidence or that make it necessary to subject the environmental audit report to discovery procedures;

(d) A court of record, or, pursuant to section 24-4-105, C.R.S., an administrative law judge, after an in camera review, determines that the privilege is being asserted for a fraudulent purpose or that the environmental audit report was prepared to avoid disclosure

of information in an investigative, administrative, or judicial proceeding that was underway, that was imminent, or for which the entity or person had been provided written notification that an investigation into a specific violation had been initiated; or

(e) A court of record, or, pursuant to section 24-4-105, C.R.S., an administrative law judge, after an in camera review, determines that the information contained in the environmental audit report demonstrates a clear, present, and impending danger to the public health or the environment in areas outside of the facility property.

(4) The self-evaluation privilege created by this section does not apply to:

(a) Documents or information required to be developed, maintained, or reported pursuant to any environmental law or any other law or regulation;

(b) Documents or other information required to be available or furnished to a regulatory agency pursuant to any environmental law or any other law or regulation;

(c) Information obtained by a regulatory agency through observation, sampling, or monitoring;

(d) Information obtained through any source independent of the environmental audit report or any person covered under section 13-90-107 (1) (j) (I) (A);

(e) Documents existing prior to the commencement of and independent of the voluntary self-evaluation;

(f) Documents prepared subsequent to the completion of and independent of the voluntary self-evaluation; or

(g) Any information, not otherwise privileged, including the privilege created by this section, that is developed or maintained in the course of regularly conducted business activity or regular practice.

(5) (a) Upon a showing by any party, based upon independent knowledge, that probable cause exists to believe that an exception to the self-evaluation privilege under subsection (3) of this section is applicable to an environmental audit report or that the privilege does not apply to the environmental audit report pursuant to the provisions of subsection (4) of this section, then a court of record or, pursuant to section 24-4-105, C.R.S., any administrative law judge, may allow such party limited access to the environmental audit report for the purposes of an in camera review only. The court of record or the administrative law judge may grant such limited access to all or part of the environmental audit report under the provisions of this subsection (5) upon such conditions as may be necessary to protect the confidentiality of the environmental audit report. A moving party who obtains access to an environmental audit report pursuant to the provisions of this subsection (5) may not divulge any information from the report except as specifically allowed by the court or administrative law judge.

(b) (I) If any party divulges all or any part of the information contained in an environmental audit report in violation of the provisions of paragraph (a) of this subsection (5) or if any other person or entity knowingly divulges or disseminates all or any part of the information contained in an environmental audit report that was provided

to such person or entity in violation of the provisions of paragraph (a) of this subsection (5), such party or other person or entity is liable for any damages caused by the divulgence or dissemination of the information that are incurred by the person or entity for which the environmental audit report was prepared.

(II) If any public entity, public employee, or public official divulges all or any part of the information contained in an environmental audit report in violation of the provisions of paragraph (a) of this subsection (5) or knowingly divulges or disseminates all or any part of the information contained in an environmental audit report that was provided to such public entity, public employee, or public official in violation of the provisions of paragraph (a) of this subsection (5), such public entity, public employee, or public official shall be guilty of a class 1 misdemeanor, may be found in contempt of court by a court of record, and may be assessed a penalty not to exceed ten thousand dollars by a court of record or an administrative law judge.

(6) Nothing in this section limits, waives, or abrogates the scope or nature of any statutory or common-law privilege.

(7) A person or entity asserting a voluntary self-evaluation privilege has the burden of proving a prima facie case as to the privilege. A party seeking disclosure of an environmental audit report has the burden of proving that such privilege does not exist under this section.

(8) Notwithstanding the provisions of subsection (3) of this section, the existence of an environmental audit report shall be subject to discovery proceedings pursuant to the rules of civil procedure, criminal procedure, or administrative procedure; except that the contents of such a report or any other privileged information contained therein shall remain confidential.

(9) This section applies to voluntary self-evaluations that are performed on or after June 1, 1994.

13-25-127. Civil actions - degree of proof required. (1) Any provision of the law to the contrary notwithstanding and except as provided in subsection (2) of this section, the burden of proof in any civil action shall be by a preponderance of the evidence. The provisions of this subsection (1) shall not apply to the burden of proof required in determining the validity of any legislative enactment.

(2) Exemplary damages against the party against whom the claim is asserted shall only be awarded in a civil action when the party asserting the claim proves beyond a reasonable doubt the commission of a wrong under the circumstances set forth in section 13-21-102. Nothing in this subsection (2) shall be construed as preventing a party asserting the claim from being awarded money damages or other appropriate relief, other than exemplary damages, if he sustains the burden of proof by a preponderance of the evidence.

(3) (Deleted by amendment, L. 95, p. 15, § 5, effective March 9, 1995.)

(4) This section became effective July 1, 1972, and applies only to civil actions which accrue on or after such date.

13-25-128. Rules of evidence - grant of authority subject to reservation. The supreme court of the state of Colorado shall have the power to prescribe general rules of evidence for the courts of record in the state of Colorado. Such rules of evidence shall be construed to be rules of practice and procedure and shall not be construed in such manner that such rules would fix, abridge, enlarge, modify, or diminish any substantive rights. The general assembly specifically reserves to itself the power to enact laws relating to substantive rights including, but not limited to, laws modifying or eliminating said rules of evidence.

13-25-129. Statements of child victim of unlawful sexual offense against a child or of child abuse - hearsay exception. (1) An out-of-court statement made by a child, as child is defined under the statutes which are the subject of the action, describing any act of sexual contact, intrusion, or penetration, as defined in section 18-3-401, C.R.S., performed with, by, on, or in the presence of the child declarant, not otherwise admissible by a statute or court rule which provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceedings in which a child is a victim of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or is a victim of incest, as defined in section 18-6-301, C.R.S., when the victim was less than fifteen years of age at the time of the commission of the offense, or in which a child is the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., and an out-of-court statement by a child, as child is defined under the statutes which are the subject of the action, describing any act of child abuse, as defined in section 18-6-401, C.R.S., to which the child declarant was subjected or which the child declarant witnessed, not otherwise admissible by a statute or court rule which provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceedings in which a child is a victim of child abuse or the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., and an out-of-court statement made by a person under thirteen years of age describing all or part of an offense contained in part 1 of article 3 of title 18, C.R.S., or describing an act of domestic violence as defined in section 18-6-800.3 (1), C.R.S., not otherwise admissible by statute or court rule which provides an exception to the objection of hearsay is admissible in evidence in any criminal, delinquency, or civil proceeding, if:

(a) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of

reliability; and

(b) The child either:

(I) Testifies at the proceedings; or

(II) Is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(2) If a statement is admitted pursuant to this section, the court shall instruct the jury in the final written instructions that during the proceeding the jury heard evidence repeating a child's out-of-court statement and that it is for the jury to determine the weight and credit to be given the statement and that, in making the determination, the jury shall consider the age and maturity of the child, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(3) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

13-25-129.5. Statements of persons with intellectual and developmental disabilities - hearsay exception. (1) An out-of-court statement made by a person with a developmental disability, as defined in section 27-10.5-102 (11) (a), C.R.S., not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay is admissible in any criminal or delinquency proceeding in which the person is alleged to have been a victim if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of subsection (1) is effective until March 1, 2014.

(1) An out-of-court statement made by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26) (a), C.R.S., not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay is admissible in any criminal or delinquency proceeding in which the person is alleged to have been a victim if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of subsection (1) is effective March 1, 2014.

(2) (a) An out-of-court statement made by a person with a developmental disability, as defined in section 27-10.5-102 (11) (a), C.R.S.,that describes all or part of an offense described in paragraph (b) of this subsection (2) performed with, by, on, or in the presence of the declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of paragraph (a) is effective until March 1, 2014.

(a) An out-of-court statement made by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26) (a), C.R.S., that describes all or part of an offense described in paragraph (b) of this subsection (2) performed with, by, on, or in the presence of the declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of paragraph (a) is effective March 1, 2014.

(b) The exception described in paragraph (a) of this subsection (2) applies to an out-of-court statement made by a person with a developmental disability, which statement describes all or part of any of the following offenses:

(I) Sexual assault, as described in section 18-3-402, C.R.S.;

(II) Unlawful sexual contact, as described in section 18-3-404, C.R.S.;

(III) Sexual assault on a child, as described in section 18-3-405, C.R.S.;

(IV) Sexual assault on a child by one in a position of trust, as described in section 18-3-405.3, C.R.S.;

(V) Internet sexual exploitation of a child, as described in section 18-3-405.4, C.R.S.;

(VI) Sexual assault on a client by a psychotherapist, as described in section 18-3-405.5, C.R.S.;

(VII) Incest, as described in section 18-6-301, C.R.S.;

(VIII) Aggravated incest, as described in section 18-6-302, C.R.S.;

(IX) Trafficking in children, as described in section 18-3-502, C.R.S.;

(X) Sexual exploitation of a child, as described in section 18-6-403, C.R.S.;

(XI) Indecent exposure, as described in section 18-7-302, C.R.S.; or

(XII) Criminal attempt to commit any of the acts specified in this paragraph (b).

(3) An out-of-court statement by a person with a developmental disability, as defined in section 27-10.5-102 (11) (a), C.R.S., that describes any act of child abuse, as defined in section 18-6-401, C.R.S., to which the declarant was subjected or which the declarant witnessed, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding in which a child is alleged to be a victim of child abuse or the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of subsection (3) is effective until March 1, 2014.

(3) An out-of-court statement by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26) (a), C.R.S., that describes any act of child abuse, as defined in section 18-6-401, C.R.S., to which the declarant was subjected or which the declarant witnessed, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding in which a child is alleged to be a victim of child abuse or the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of subsection (3) is effective March 1, 2014.

(4) An out-of-court statement made by a person with a developmental disability, as defined in section 27-10.5-102 (11) (a), C.R.S., that describes all or part of an offense contained in part 1 of article 3 of title 18, C.R.S., or that describes an act of domestic violence as defined in section 18-6-800.3 (1), C.R.S., not otherwise admissible by statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of subsection (4) is effective until March 1, 2014.

(4) An out-of-court statement made by a person with an intellectual and developmental disability, as defined in section 25.5-10-202 (26) (a), C.R.S., that describes all or part of an offense contained in part 1 of article 3 of title 18, C.R.S., or that describes an act of domestic violence as defined in section 18-6-800.3 (1), C.R.S., not otherwise admissible by statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

Editor's note: This version of subsection (4) is effective March 1, 2014.

(5) The exceptions to the objection of hearsay described in subsections (1), (2), (3), and (4) of this section shall apply only if the court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and either:

(a) The statement is a nontestimonial statement; or

(b) (I) The declarant testifies at the proceedings; or

(II) If the declarant is unavailable to testify, the defendant has had an opportunity to cross-examine the declarant in a previous proceeding and there is corroborative

evidence of the act which is the subject of the statement.

(6) If a statement is admitted pursuant to this section, the court shall instruct the jury in the final written instructions that during the proceeding the jury heard evidence repeating a person's out-of-court statement, that it is for the jury to determine the weight and credit to be given the statement, and that, in making the determination, the jury shall consider the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(7) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.

13-25-130. Criminal actions - use of photographs, video tapes, or films of property. (1) Photographs, video tapes, or films of property over which a person is alleged to have exerted unauthorized control or otherwise to have obtained unlawfully are competent evidence if the photographs, video tapes, or films are admissible into evidence under the rules of law governing the admissibility of photographs, video tapes, or films into evidence. Any photographic, video tape, or film record, when satisfactorily identified and authenticated, is as admissible in evidence as the property itself.

(2) (a) Any photograph may bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the name of the accused, the name of the arresting law enforcement officer, the date of the photograph, and the signature of the photographer.

(b) Any video tape or film may include, as a segment of the tape or film, a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the name of the accused, the name of the arresting law enforcement officer, the date the tape or film was produced, and a segment showing the signature of the photographer.

(3) A law enforcement agency which is holding property over which a person is alleged to have exerted unauthorized control or otherwise to have obtained unlawfully may return that property to its owner if:

(a) The appropriately identified photographs, video tapes, or films are filed and retained by the law enforcement agency;

(b) Satisfactory proof of ownership of the property is shown by the owner;

(c) A declaration of ownership is signed under penalty of perjury;

(d) The defendant, if a defendant has been filed upon, has been notified that such photographs, video tapes, or films have been taken, recorded, or produced; and

(e) A receipt for the property is obtained from the owner upon delivery by the law enforcement agency.

13-25-131. Civil actions - sexual assault - certain evidence presumed

irrelevant. (1) In any civil action for damages by an alleged victim which alleges damages resulting from a sexual assault on a client by any person who enters into a professional-client relationship that permits professional physical access to the client's person or the opportunity to affect or influence the thought processes or emotions of such client, including, but not limited to, actions for professional malpractice or assault and battery, evidence of specific instances of the victim's prior or subsequent sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall be presumed to be irrelevant, except as provided in subsections (2) and (4) of this section. The persons to whom this subsection (1) applies in a civil action against such persons shall include any psychotherapist as defined in section 18-3-405.5, C.R.S., any medical professional, any member of the clergy, or any person acting under the color of a religious organization. This subsection (1) shall also apply in a civil action against a parent or other person in a position of trust, power, or authority over any child or other person, in a civil action by or on behalf of such child or such other person.

(2) Subsection (1) of this section notwithstanding, in any of the civil actions described in such subsection (1), evidence of the following shall be presumed to be relevant:

(a) Evidence of the victim's prior or subsequent sexual conduct with the defendant in such civil action;

(b) Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, disease, or any similar evidence of sexual intercourse, including, but not limited to, genetic testing pursuant to section 13-25-126, offered for the purpose of showing that the act or acts alleged were or were not committed by the defendant in such civil action.

(3) In any civil action described in subsection (1) of this section, evidence of specific instances of the alleged victim's prior or subsequent sexual conduct is not subject to discovery.

(4) Notwithstanding subsections (1) and (3) of this section, evidence of specific instances of the alleged victim's prior or subsequent sexual conduct may be determined to be subject to discovery or offered as evidence, if the defendant or plaintiff requests a hearing prior to conducting discovery or attempting to admit such evidence and makes an offer of proof of the relevancy of such evidence and the court finds that the evidence is relevant and the probative value of such evidence outweighs its prejudicial effect. Such hearing shall be held no later than thirty days prior to trial. In making an order that such evidence is relevant, the court shall detail the information or conduct that is subject to discovery or which may be admitted into evidence.

13-25-132. Criminal actions - video tape depositions - use at trial. (1) (a) In any criminal action, if the court finds, upon application of the prosecution, that there is

substantial risk of physical harm or intimidation of a witness, the court may enter an order that a deposition be taken of that witness' testimony and that the deposition be recorded and preserved on video tape.

(b) For the purposes of this section, "intimidation" means to, directly or indirectly, by oneself or through any other person in one's behalf, make use of any force, violence, restraint, abduction, duress, or forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm, or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent, or otherwise interfere with the testimony of the witness, or to compel, induce, or prevail upon any witness to give or refrain from giving testimony in any criminal action.

(2) The prosecution shall apply for the order specified in subsection (1) of this section in writing at least three days prior to the taking of the deposition. The defendant shall receive reasonable notice of the taking of the deposition. The defendant shall have a right to be present and represented by counsel at the deposition.

(3) Upon timely receipt of the application, the court shall make a preliminary finding regarding whether, at the time of trial, there is likely to be a substantial risk of physical harm or intimidation of a witness. If the court so finds, it shall order that the deposition be taken, pursuant to rule 15 (d) of the Colorado rules of criminal procedure, and preserved on video tape. The prosecution shall transmit the video tape to the clerk of the court in which the action is pending.

13-25-133. Telecommunications devices for the deaf and teletype - inadmissibility in evidence - exception. (1) Except as provided in subsection (3) of this section, the contents of any communication made directly or indirectly through a telecommunications device for the deaf (commonly known as TDD) or teletype (commonly known as TTY) and any writing or recording resulting from the communication are inadmissible as evidence of the existence or contents of the communication in any court of law, legal proceeding, or administrative hearing.

(2) For the purposes of this section, "telecommunications device for the deaf or teletype" means any auxiliary aid or service consisting of listening or transcription systems that allow the reception or transmission of aurally delivered communication and materials for the benefit of individuals with hearing, speech, or physical impairments.

(3) The provisions of this section do not apply to any communication intercepted pursuant to a lawful court order.

13-25-134. Electronic records and signatures - admissibility in evidence - originals. Pursuant to the provisions of article 71.3 of title 24, C.R.S., in any legal proceeding, nothing in the application of the rules of evidence shall apply so as to deny

the admissibility of an electronic record or electronic signature into evidence on the sole ground that it is an electronic record or electronic signature or on the grounds that it is not in its original form or is not an original.

13-25-135. Evidence of admissions - civil proceedings - unanticipated outcomes - medical care. (1) In any civil action brought by an alleged victim of an unanticipated outcome of medical care, or in any arbitration proceeding related to such civil action, any and all statements, affirmations, gestures, or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health care provider or an employee of a health care provider to the alleged victim, a relative of the alleged victim, or a representative of the alleged victim and which relate to the discomfort, pain, suffering, injury, or death of the alleged victim as the result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(2) For purposes of this section, unless the context otherwise requires:

(a) "Health care provider" means any person licensed or certified by the state of Colorado to deliver health care and any clinic, health dispensary, or health facility licensed by the state of Colorado. The term includes any professional corporation or other professional entity comprised of such health care providers as permitted by the laws of this state.

(b) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes said relationships that are created as a result of adoption. In addition, "relative" includes any person who has a family-type relationship with a victim.

(c) "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

(d) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

13-25-136. Criminal actions - prenatal drug and alcohol screening - admissibility of evidence. A court shall not admit in a criminal proceeding information relating to substance use not otherwise required to be reported pursuant to section 19-3-304, C.R.S., obtained as part of a screening or test performed to determine pregnancy or to provide prenatal care for a pregnant woman. This section shall not be interpreted to prohibit prosecution of any claim or action related to such substance use based on evidence obtained through methods other than the screening or testing described in this section.

13-25-137. Admissibility of commercial packaging. (1) Labels or packages listing, indicating, or describing the contents or ingredients of any commercially packaged item are admissible in evidence to prove that the item contains the contents or ingredients listed on the label or package. A label or package listing that identifies the contents or ingredients of a container or package constitutes prima facie evidence that the items in the container or package were composed in whole or in part of the contents.

(2) Prior to the admission of evidence pursuant to this section, the court shall make a preliminary determination as to whether the item constitutes a commercially packaged item as described in subsection (1) of this section. This determination may include any evidence the court deems appropriate, including but not limited to evidence of where the item is available for purchase, whether the item is subject to state or federal regulation, or any other evidence observable on the package that indicates or constitutes indicia of the label's or package's reliability. Extrinsic evidence that an item is commercially packaged is not a prerequisite to the court's determination.

ARTICLE 26

Uniform Photographic Records Act

13-26-101. Short title. This article shall be known and may be cited as the "Uniform Photographic Copies of Business and Public Records as Evidence Act".

13-26-102. Business and public records as evidence. If any business, institution, or member of a profession or calling or any department or agency of government in the regular course of business or activity keeps or records any memorandum, writing, entry, print, or representation, or combination thereof, of any act, transaction, occurrence, or event and in the regular course of business has caused any of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, optical disk, or other form of mass storage, electronic imaging, electronic data processing, electronically transmitted facsimile, printout, or other reproduction of electronically stored data, or other process which accurately reproduces or forms a durable medium for reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not, and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence

and available for inspection under direction of court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original. This shall not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence.

13-26-103. Records of trust departments or companies not excepted. The records of the trust department of a bank or trust company are not such records as are excepted under the phrase "held in a custodial or fiduciary capacity" in section 13-26-102. The originals of such trust records may be reproduced at any time and destroyed at any time, if done in good faith and without wrongful intent. Neither the manner in which an original is destroyed, whether voluntarily or by casualty or otherwise, nor the fact that it may have been destroyed while it was held in a custodial or fiduciary capacity shall affect the admissibility of a reproduction.

13-26-104. Uniform construction. This article shall be so interpreted and construed as to effectuate its general purpose of making uniform the law of those states which enact it.

FEES AND SALARIES

ARTICLE 30

Compensation of Justices
and Judges

13-30-101. Short title. This article shall be known and may be cited as the "Colorado Judicial Compensation Act".

13-30-102. Legislative declaration. In carrying out its responsibility to provide for judicial salaries pursuant to section 18 of article VI of the state constitution, the general assembly hereby declares that the purpose of this article is to set the amount of judicial compensation for justices of the supreme court, judges of the court of appeals, judges of the district courts, judges of the county courts, and judges of the probate and juvenile courts of the city and county of Denver.

13-30-103. Compensation of justices and judges. (1) In addition to the provisions of section 13-30-104, the following salaries for the following officers shall apply:

(a) The chief justice of the supreme court shall receive effective July 1, 1991, an annual salary of seventy-nine thousand dollars, and effective July 1, 1992, an annual salary of eighty-two thousand dollars.

(b) Each associate justice of the supreme court shall receive effective July 1, 1991, an annual salary of seventy-six thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy-nine thousand five hundred dollars.

(c) The chief judge of the court of appeals shall receive effective July 1, 1991, an annual salary of seventy-four thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy-seven thousand five hundred dollars.

(d) Each judge of the court of appeals, other than the chief judge, shall receive effective July 1, 1991, an annual salary of seventy-two thousand dollars, and effective July 1, 1992, an annual salary of seventy-five thousand dollars.

(e) The judges of the district courts shall each receive effective July 1, 1991, an annual salary of sixty-seven thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy thousand five hundred dollars.

(f) Each judge of the juvenile court of the city and county of Denver shall receive effective July 1, 1991, an annual salary of sixty-seven thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy thousand five hundred dollars.

(g) The judge of the probate court of the city and county of Denver shall receive effective July 1, 1991, an annual salary of sixty-seven thousand five hundred dollars, and effective July 1, 1992, an annual salary of seventy thousand five hundred dollars.

(h) Repealed.

(i) Each judge of the county court of the city and county of Denver shall receive an annual salary as provided by the ordinances of said city and county.

(j) The annual salary of judges of the county court in Class B counties, as defined in section 13-6-201, effective July 1, 1991, shall be sixty thousand five hundred dollars, and effective July 1, 1992, shall be sixty-three thousand five hundred dollars.

(k) Repealed.

(l) (I) Effective July 1, 1998, the annual salary of judges of the county court in each Class C or Class D county, as defined in section 13-6-201, and the annual salaries of all special associate, associate, and assistant county judges shall be determined annually by the chief justice and certified to the general assembly and the controller pursuant to procedures approved by the supreme court. The certification shall include the workload measures developed pursuant to subparagraph (II) of this paragraph (l). In determining the salaries to take effect on July 1 of each year, the chief justice shall use the average number of cases filed annually in each county court during the three-year period ending on the previous December 31.

(II) Procedures used to calculate incremental part-time county judge workload salary levels shall be based on the method used to determine the need for full-time county judges as established and approved by the supreme court and shall take into account case types, case processing requirements, support staff assistance, travel, and such other factors as are relevant to workload assessment. Salaries for part-time county judges shall begin at twenty percent of the amount of a full-time county judge salary, as specified in paragraph (j) of this subsection (1) and section 13-30-104, and increase by five percent increments commensurate with increases in the part-time county judge's workload, up to ninety percent of a full-time county judge workload.

(III) When the workload for a part-time county judge reaches eighty percent of a full-time county judge workload, the chief justice may assign the part-time county judge to serve on a full-time basis, so long as the part-time county judge meets the qualifications established for county judges in Class A and Class B counties, as specified in section 13-6-203. Upon assignment to serve on a full-time basis, the part-time county judge shall be paid the full amount of a county judge salary as specified in paragraph (j) of this subsection (1) and section 13-30-104. Assignment of a part-time county judge to serve on a full-time basis pursuant to this subparagraph (III) shall not affect the statutory classification of the county in which the part-time county judge serves, as specified in section 13-6-201.

(IV) Notwithstanding the provisions of subparagraph (I) of this paragraph (l), the salary of a county judge or special associate, associate, or assistant county judge serving in office as of June 30, 1998, may not be reduced while such judge remains in office. Any reduction in salary for a judge appointed after June 30, 1998, shall take effect at the beginning of such judge's next term of office.

(1.5) Notwithstanding the provisions of subsection (1) of this section, for the fiscal year commencing July 1, 1999, and each fiscal year thereafter, the increase over and above the provisions set forth in this section and section 13-30-104, if any, in compensation of justices and judges shall be determined by the general assembly as set forth in the annual general appropriations bill. Any increase in judicial compensation set forth in an annual general appropriations bill shall be an increase only for the fiscal year of the annual general appropriations bill in which the amount is specified and shall not constitute an increase for any other fiscal year. It is the intent of the general assembly that an increase in judicial compensation specified in an annual general appropriations bill shall be added to the compensation set forth in this section and section 13-30-104 and shall not represent a statutory change.

(2) The annual salaries under this section and as increased by the annual general appropriations bill for the fiscal year commencing July 1, 1999, and for each fiscal year thereafter, shall be paid in equal monthly amounts.

13-30-104. Judicial compensation adjustment - annual general appropriations bill. (1) Effective July 1, 1988, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1) (a) to (1) (g) and (1) (j), shall be increased by four thousand five hundred dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1) (k).

(2) (a) Effective July 1, 1995, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1) (a) to (1) (g) and (1) (j) and subsection (1) of this section, shall be increased by four thousand dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1) (k).

(b) Effective July 1, 1996, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1) (a) to (1) (g) and (1) (j), subsection (1) of this section, and paragraph (a) of this subsection (2), shall be increased by three thousand dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1) (k).

(c) Effective July 1, 1997, the annual compensation of justices and judges in effect on the preceding June 30, as provided in section 13-30-103 (1) (a) to (1) (g) and (1) (j), subsection (1) of this section, and paragraphs (a) and (b) of this subsection (2), shall be increased by three thousand dollars, and the annual compensation of all special associate, associate, and assistant county judges shall be adjusted as a percentage of such amount as provided in section 13-30-103 (1) (k).

(3) For the fiscal year commencing July 1, 1999, and for each fiscal year thereafter, the increase over and above the provisions set forth in this section and section 13-30-103, if any, in compensation of justices and judges shall be determined by the general assembly as set forth in the annual general appropriations bill. Any increase in judicial compensation set forth in an annual general appropriations bill shall be an increase only for the fiscal year of the annual general appropriations bill in which the amount is specified and shall not constitute an increase for any other fiscal year. It is the intent of the general assembly that an increase in judicial compensation specified in an annual general appropriations bill shall be added to the compensation set forth in this section and section 13-30-103 and shall not represent a statutory change.

ARTICLE 31

Compensation of Clerks of Courts
and Other Assistants

13-31-101 to 13-31-109. (Repealed)

ARTICLE 32

Fees of Clerks of Court

13-32-101. Docket fees in civil actions - judicial stabilization cash fund - support registry fund created. (1) At the time of first appearance in all civil actions and special proceedings in all courts of record, except in the supreme court and the court of appeals, and except in the probate proceedings in the district court or probate court of the city and county of Denver, and except as provided in subsection (3) of this section and in sections 13-32-103 and 13-32-104, there shall be paid in advance the total docket fees, as follows:

(a) On and after July 1, 2009, by the petitioner in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage and by the petitioner in an action for a declaratory judgment concerning the status of marriage, a fee of two hundred thirty dollars;

(a.5) On and after October 1, 2013, by the petitioner in a proceeding for dissolution of a civil union, legal separation of a civil union, or declaration of invalidity of a civil union and by the petitioner in an action for a declaratory judgment concerning the status of a civil union, a fee of two hundred thirty dollars;

(b) On and after July 1, 2009, by the respondent in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage and by the respondent to an action for a declaratory judgment concerning the status of marriage, a fee of one hundred sixteen dollars;

(b.5) On and after October 1, 2013, by the respondent in a proceeding for dissolution of a civil union, legal separation of a civil union, or declaration of invalidity of a civil union and by the respondent to an action for a declaratory judgment concerning the status of a civil union, a fee of one hundred sixteen dollars;

(c) (I) and (II) Repealed.

(III) Except as provided in subparagraph (IV) of this paragraph (c):

(A) On and after July 1, 2010, by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim, when a money judgment sought is fifteen thousand dollars or less and such action is commenced in a court of record of appropriate limited jurisdiction, a fee in the amount of ninety-seven dollars.

(B) On and after July 1, 2010, by each defendant, respondent, third-party defendant, or other party in such court not filing a cross claim or counterclaim, when a money judgment sought is fifteen thousand dollars or less and such action is commenced

in a court of record of appropriate limited jurisdiction, a fee in the amount of ninety-two dollars.

(C) Repealed.

(IV) The general assembly hereby declares that docket fees for actions filed in the small claims division of the county court should reflect the range of the monetary jurisdictional limit established for such actions and that such fees should promote access to the courts and reflect appropriate contributions from litigants using the court system based on the money judgment sought in an action. The general assembly hereby declares that it is appropriate to establish docket fees for the small claims division of the county court as follows:

(A) On and after July 1, 2008, when the money judgment sought by the plaintiff in an action filed in the small claims division of the county court is five hundred dollars or less, a plaintiff shall pay a fee of thirty-one dollars.

(B) On and after July 1, 2008, when the money judgment sought by the plaintiff in an action filed in the small claims division of the county court is five hundred dollars or less, a defendant filing an answer without a counterclaim in such an action shall pay a fee of twenty-six dollars.

(C) On and after July 1, 2008, when the money judgment sought in an action filed in the small claims division of the county court exceeds five hundred dollars and is no more than seven thousand five hundred dollars, a plaintiff shall pay a fee of fifty-five dollars.

(D) On and after July 1, 2008, when the money judgment sought in an action filed in the small claims division of the county court exceeds five hundred dollars and is no more than seven thousand five hundred dollars, a defendant filing an answer without a counterclaim in such an action shall pay a fee of forty-one dollars.

(E) On and after July 1, 2008, if a defendant files an answer with a counterclaim in an action in the small claims division of the county court and the amount sought in the action and amount sought in the counterclaim are each five hundred dollars or less, the fee for such answer and counterclaim shall be thirty-one dollars.

(F) On and after July 1, 2008, if a defendant files an answer with a counterclaim in an action in the small claims division of the county court and the amount sought in either the action or the counterclaim is more than five hundred dollars and is not more than seven thousand five hundred dollars, the fee for such answer and counterclaim shall be forty-six dollars.

(d) On and after July 1, 2008, by each plaintiff, petitioner, third-party plaintiff, and party filing a cross claim or counterclaim filed in a district court of the state, a fee of two hundred twenty-four dollars;

(e) On and after July 1, 2008, by each appellant, a fee of one hundred sixty-three dollars;

(f) On and after July 1, 2008, by an appellee and by each defendant or respondent

not filing a cross claim or counterclaim, a fee of one hundred fifty-eight dollars;

(g) On and after July 1, 2008, by a petitioner in adoption proceedings, a fee of one hundred sixty-seven dollars.

(2) On and after July 1, 2008, in any proceeding held pursuant to articles 5, 10, 11, 13, and 14 of title 14, C.R.S., where a decree or final or permanent order has been entered and more than sixty days have passed, there shall be assessed at the time of filing a motion to modify, amend, or alter said decree or order a fee of one hundred five dollars.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, if parties appear jointly, only one fee shall be charged or paid, and no fee shall be charged in any event for the filing of a disclaimer, or for an acknowledgment of service for the purpose of conferring jurisdiction, or for an appearance or answer filed by a guardian ad litem, or by an attorney appointed by the court to represent and protect the interest of any defendant.

(b) (I) No docket fee shall be charged in mental health proceedings under article 10 or 10.5 of title 27, C.R.S.; but, where an estate is thereafter probated for any mental incompetent, the committing court has a claim against such estate, as a cost of the mental health proceedings, in the sum of twenty dollars, in addition to any other expense of commitment allowed and paid by the county, to be paid by the conservator of such estate as a claim pursuant to section 15-14-429, C.R.S.

(II) On and after July 1, 2009, all claims of twenty dollars that are paid to and collected by the committing court under subparagraph (I) of this paragraph (b) shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in subsection (6) of this section.

(c) No docket fee shall be charged in proceedings concerning dependent or neglected children, relinquishment of children, or delinquent children.

(4) (a) In a civil case in which there is a contested trial to the court or a trial to a jury and a monetary judgment rendered which is paid in whole or in part in cash or other property, there shall be assessed, against the judgment debtor, by the clerk of the court an additional fee as provided in paragraph (b) of this subsection (4). This additional fee shall be paid to the clerk of the district court upon request for full or partial satisfaction of judgment and before the certificate of satisfaction of judgment is issued.

(b) The additional fee to be paid by the judgment debtor, as provided in paragraph (a) of this subsection (4), is as follows:

(I) Judgments over $5,000 and not more than $10,000, a total additional fee of $10;

(II) Judgments over $10,000 and not more than $20,000, a total additional fee of $30;

(III) Judgments over $20,000 and not more than $30,000, a total additional fee of $50;

(IV) Judgments over $30,000 and not more than $50,000, a total additional fee of

$90;

(V) Judgments over $50,000, $90 plus an additional fee of $2 for each $1,000 above $50,000.

(5) (a) Each fee collected pursuant to paragraph (a) or (a.5) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Fifteen dollars shall be deposited in the Colorado children's trust fund created in section 19-3.5-106, C.R.S.;

(II) One hundred fifteen dollars shall be deposited in the performance-based collaborative management incentive cash fund created in section 24-1.9-104, C.R.S.;

(III) Fifty dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section;

(IV) Five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204;

(V) Twenty-six dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section;

(VI) One dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.;

(VII) Pursuant to section 25-2-107 (2) or 25-2-107.5, C.R.S., three dollars shall be deposited in the vital statistics records cash fund created in section 25-2-121, C.R.S.;

(VIII) Five dollars shall be deposited in the displaced homemakers fund created in section 8-15.5-108, C.R.S.;

(IX) Five dollars shall be deposited in the Colorado domestic abuse program fund created in section 39-22-802 (1), C.R.S.; and

(X) Five dollars shall be deposited in the family violence justice fund created in section 14-4-107 (1), C.R.S.

(b) Each fee collected pursuant to paragraph (b) or (b.5) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, seventy-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, twenty-six dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, five dollars shall be deposited in the Colorado domestic abuse program fund created in section 39-22-802 (1), C.R.S., and five dollars shall be deposited in the family violence justice fund created in section 14-4-107 (1), C.R.S.

(c) to (f) Repealed.

(g) Each fee collected pursuant to sub-subparagraph (A) of subparagraph (III) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and fifty-four dollars shall be deposited in the judicial stabilization cash fund created in

subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, thirty-seven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(h) Each fee collected pursuant to sub-subparagraph (B) of subparagraph (III) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and fifty dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and thirty-seven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(i) Each fee collected pursuant to sub-subparagraph (A) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, fourteen dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(j) Each fee collected pursuant to sub-subparagraph (B) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ten dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(k) Each fee collected pursuant to sub-subparagraph (C) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, thirty-eight dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(l) Each fee collected pursuant to sub-subparagraph (D) of subparagraph (IV) of

paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, twenty-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(m) Each fee collected pursuant to sub-subparagraph (E) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, fifteen dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(n) Each fee collected pursuant to sub-subparagraph (F) of subparagraph (IV) of paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, thirty dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and eleven dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(o) Each fee collected pursuant to paragraph (d) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, one hundred fifty dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, sixty-eight dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(p) Each fee collected pursuant to paragraph (e) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ninety dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be

deposited in the court security cash fund established pursuant to section 13-1-204, and sixty-eight dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(q) Each fee collected pursuant to paragraph (f) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, eighty-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and sixty-eight dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(r) Each fee collected pursuant to paragraph (g) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section, five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section, one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S., and three dollars shall be deposited in the vital statistics records cash fund created in section 25-2-121, C.R.S.

(s) Each fee collected pursuant to subsection (2) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ninety-five dollars shall be deposited in the judicial stabilization cash fund created in subsection (6) of this section and ten dollars shall be deposited in the justice center cash fund created in paragraph (a) of subsection (7) of this section.

(6) There is hereby created in the state treasury the judicial stabilization cash fund, referred to in this subsection (6) as the "fund", that shall consist of all fees required to be deposited in the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the expenses of trial courts in the judicial department. Any moneys in the fund not expended for the purpose of this subsection (6) may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(7) (a) There is hereby created in the state treasury the justice center cash fund, referred to in this subsection (7) as the "fund", that shall consist of all fees required by

law to be deposited in the fund and any lease payments received by the judicial department from agencies occupying the state justice center. The moneys in the fund shall be subject to annual appropriation by the general assembly for the expenses related to the design, construction, maintenance, operation, and interim accommodations for the state justice center, including but not limited to payments on any lease-purchase agreements entered into pursuant to the provisions of section 2 of Senate Bill 08-206, as enacted at the second regular session of the sixty-sixth general assembly, collectively referred to in this subsection (7) as "lease-purchase agreements". Any moneys in the fund not expended for the purpose of this subsection (7) may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) (I) The general assembly hereby finds and declares:

(A) The state judicial department is in need of additional space;

(B) The state museum and the offices of the state historical society occupy a building on the same block at Fourteenth avenue and Broadway as the current offices of the Colorado supreme court, the Colorado court of appeals, and the supreme court library;

(C) By building a new facility on the entire block at Fourteenth avenue and Broadway, the judicial department will consolidate its offices into a single location and the state judicial department will operate more efficiently and cost-effectively; and

(D) It is appropriate for the judicial department to pay the state museum and the state historical society for its building and for vacating its current location at Fourteenth avenue and Broadway and to assist in relocation expenses so that the entire block is available for use by the state judicial department.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (7):

(A) For the fiscal year commencing July 1, 2008, as moneys become available in the fund, the state treasurer shall transfer from the fund to the state museum cash fund, created in section 24-80-214, C.R.S., all moneys in the fund up to fifteen million dollars.

(B) For the fiscal year commencing July 1, 2009, as moneys become available in the fund, the state treasurer shall transfer from the fund to the state museum cash fund all moneys in the fund up to ten million dollars.

(C) For the fiscal year commencing July 1, 2010, as moneys become available in the fund, the state treasurer shall transfer from the fund to the state museum cash fund all moneys in the fund up to the difference between twenty-five million dollars and the amount of moneys transferred from the fund to the state museum cash fund pursuant to sub-subparagraphs (A) and (B) of this subparagraph (II) for the fiscal years commencing July 1, 2008, and July 1, 2009.

(c) (I) For the fiscal year commencing July 1, 2014, and each fiscal year thereafter so long as there are any payments due under any lease-purchase agreements, the executive

director of the department of personnel shall calculate the net savings to the state by locating the department of law and any other executive branch agency in the new state justice center.

(II) For the fiscal year commencing July 1, 2014, and each year thereafter so long as there are payments due on any lease-purchase agreements, the general assembly shall appropriate from the general fund to the fund the amount of savings calculated by the executive director of the department of personnel pursuant to subparagraph (I) of this paragraph (c). Any moneys received in the fund pursuant to this paragraph (c) shall be used to prepay any obligations due pursuant to any lease-purchase agreement.

(8) At the time of filing a motion pursuant to section 19-4-107.3 or 14-10-122 (6), C.R.S., seeking to set aside a final or permanent order concerning parentage based upon DNA evidence establishing the exclusion of the petitioner as the biological father of a child, or to terminate an order requiring the petitioner to pay child support for that child, the petitioner shall pay a fee of seventy dollars. The fee collected pursuant to this subsection (8) shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in subsection (6) of this section.

13-32-102. Fees in probate proceedings. (1) On and after July 1, 2008, for services rendered by judges and clerks of district or probate courts in all counties of the state of Colorado in proceedings had pursuant to articles 10 to 17 of title 15, C.R.S., the following fees shall be charged:

. . . . . (a) Docket fee at the time of filing first papers in any decedent's estate eligible for summary administrative procedures under section 15-12-1203, C.R.S., or in any small estate . . . of a person under disability qualifying under section 15-14-118, C.R.S., which estates . . . . . involve no real property
$ 68.00

. . . . . (b) Docket fee at time of filing first papers in any estate not coming within the . . . . . provisions of paragraph (a) of this subsection (1)
164.00

. . . . . (c) Additional fee payable by petitioner at time of filing petition for supervised administration of a decedent's estate pursuant to sections 15-12-501 and 15-12-502, C.R.S., ... except for contested claims
163.00

. . . . . (d) Docket fee to be paid by the claimant prior to hearing on any contested claim, which fee shall be taxed by the district or probate court in the same manner as costs in civil . . . . . actions
163.00

. . . . . (e) Registration fee for registration of trust pursuant to article 16 of title 15, C.R.S.
163.00

. . . . . (f) Docket fee at time of filing first papers in each action relating to a trust 164.00

. . . (g) Nonrefundable fee for any demand for notice filed pursuant to section 15-12-204, ... C.R.S. 30.00

. . . . . (h) A fee to be paid by the testator at the time of depositing a will with the court . . . . . during the testator's lifetime pursuant to section 15-11-515, C.R.S. 15.00

(2) Repealed.

(3) to (5) (Deleted by amendment, L. 2008, p. 2129, § 8, effective June 4, 2008.)

(6) (a) Each fee collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, forty-eight dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a), and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(c) Each fee collected pursuant to paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(d) Each fee collected pursuant to paragraph (d) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and

fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(e) Each fee collected pursuant to paragraph (e) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(f) Each fee collected pursuant to paragraph (f) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, one hundred forty-three dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a), and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(g) Each fee collected pursuant to paragraph (g) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, twenty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204.

(h) Each fee collected pursuant to paragraph (h) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, ten dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204.

13-32-103. Docket fees in special proceedings. (1) (a) On and after July 1, 2008, if an appeal is taken from a judgment of a county court in a criminal matter or from a judgment of a municipal court, the appellant shall pay a docket fee of seventy dollars. Such an appeal shall not be subject to the tax imposed by section 2-5-119, C.R.S., for the use of the committee on legal services.

(b) Each fee collected pursuant to paragraph (a) of this subsection (1) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, forty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(2) (a) On and after July 1, 2008, in cases where a motion to dismiss for failure to file a complaint is filed, the defendant shall pay a docket fee of fifty-five dollars.

(b) Each fee collected pursuant to paragraph (a) of this subsection (2) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, thirty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(3) (a) On and after July 1, 2008, in cases where a motion to authorize a sale in accordance with the provisions of rule 120, Colorado rules of civil procedure, is filed, the applicant shall pay a docket fee of two hundred twenty-four dollars.

(b) Each fee collected pursuant to paragraph (a) of this subsection (3) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, one hundred fifty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, sixty-eight dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a), and one dollar shall be deposited in the general fund pursuant to section 2-5-119, C.R.S.

(4) This section shall not apply to the fee charged for filing the record of any birth or death or changes in any certificate thereof.

(5) In cases of domestic abuse pursuant to article 4 of title 14, C.R.S., the plaintiff shall not be required to pay the docket fee set forth in section 13-32-101. At the first hearing held in connection with the action, the court shall set a date for payment of the docket fee unless the court determines that the plaintiff is unable to pay the docket fee pursuant to section 13-16-103.

(6) (a) On and after July 1, 2008, in any supplemental proceeding held pursuant to rule 69, Colorado rules of civil procedure, or rule 369, Colorado rules of county court civil procedure, the judgment creditor, upon commencement of the proceeding, shall pay a docket fee of seventy dollars.

(b) Each fee collected pursuant to paragraph (a) of this subsection (6) shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2010, forty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(7) (Deleted by amendment, L. 2008, p. 2134, § 9, effective June 4, 2008.)

13-32-104. Additional fees of clerks of courts. (1) On and after July 1, 2008, in addition to the fees provided in sections 13-32-101, 13-32-103, and 13-32-105 (1), the following fees shall be paid to the clerk of the court by the party ordering the same:

(a) For preparing any record on appellate review, or for a copy of any record, proceeding, or paper on file, where the copy is not furnished by the party ordering the same, thirty cents per folio or seventy-five cents per page for photographic copies;

(b) For issuing and docketing each execution, and for filing the sheriff's return of the same, a fee of forty-five dollars;

(c) For a certificate of dismissal or no suit pending, a fee of twenty dollars;

(d) For a certificate of satisfaction of judgment, a fee of twenty dollars;

(e) For taking acknowledgment of any deed or other conveyance, including clerk's certificate thereof, a fee of one dollar;

(f) For certifying a copy of any record, proceeding, or paper on file, a fee of twenty dollars;

(g) For preparing and issuing a transcript of judgment, a fee of twenty-five dollars; except that this fee shall not be charged for a judgment entered pursuant to section 18-1.3-701, C.R.S.;

(h) For a certificate of exemplification of any record, proceeding, or paper on file, a fee of twenty dollars;

(i) For each service of process attempted pursuant to section 13-6-415, a fee of the actual charge of the United States postal service for certified mail;

(j) For issuing a writ of garnishment, a fee of forty-five dollars for each garnishee named in the writ;

(k) For issuing a writ of attachment, a fee of sixty-five dollars.

(2) The clerk of the court shall assess a fifty-dollar penalty against any person who issues a check returned for insufficient funds in payment of any court fees. The penalty provided in this section shall be assessed in addition to any other penalties or interest provided by law. For purposes of this section, the term "insufficient funds" means not having a sufficient balance in account with a bank or other drawee for the payment of a check when presented for payment within thirty days after issue.

(3) (a) Each fee collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, the entire fee amount shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, thirty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(c) Each fee collected pursuant to paragraph (c) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(d) Each fee collected pursuant to paragraph (d) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(e) Each fee collected pursuant to paragraph (e) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, the entire fee amount shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

(f) Each fee collected pursuant to paragraph (f) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(g) Each fee collected pursuant to paragraph (g) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, twenty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(h) Each fee collected pursuant to paragraph (h) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifteen dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and five dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(i) Each fee collected pursuant to paragraph (i) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, the entire fee amount shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

(j) Each fee collected pursuant to paragraph (j) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, thirty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(k) Each fee collected pursuant to paragraph (k) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, fifty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(4) Each penalty collected pursuant to subsection (2) of this section shall be transmitted to the state treasurer and divided as follows:

(a) Repealed.

(b) On and after July 1, 2009, forty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) and ten dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

13-32-105. Docket fees in criminal actions. (1) (a) At the time of the first appearance of the defendant in all criminal actions in all courts of record, except the county court, court of appeals, and the supreme court, there shall be charged against the defendant a total docket fee of thirty dollars, which shall be payable upon conviction of the defendant. In county courts, the total docket fee in criminal actions shall be eighteen dollars, which shall be payable by the defendant upon conviction. These fees shall cover all clerks' fees prior to judgment.

(b) On and after June 6, 2003, the docket fee in all criminal actions in all courts of record, except the county court, court of appeals, and the supreme court, shall be increased by five dollars and the docket fee in county court criminal actions shall be increased by three dollars. The additional revenue generated by the docket fee increases shall be transmitted to the state treasurer for deposit in the state commission on judicial

performance cash fund created in section 13-5.5-107.

(c) Except as otherwise provided in paragraph (b) of this subsection (1), on and after July 1, 2008, all fees collected under this section shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-101 (6).

(2) Repealed.

(3) Pursuant to section 13-1-204 (1) (b), a five-dollar surcharge shall be assessed and collected on each docket fee described in this section concerning criminal convictions entered on and after July 1, 2007.

13-32-105.5. Docket fees - reduction by rule. Notwithstanding the amount specified for any fee in this article, the chief justice of the supreme court by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the chief justice by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.

13-32-106. Fee bill and application of fees. Any person in interest in any cause is entitled to a certified bill of costs or fees specifically itemized. All fees collected by any clerk or judge shall be paid over to the state treasurer as provided by law, except as provided in section 30-1-112, C.R.S. No clerk of any court of record shall certify a record to the supreme court or to any other court until he collects all clerk's costs and fees then due and payable from the person ordering the record, unless otherwise ordered by the court in which the record reposes or by the court to which the cause was transferred or appealed, or from which appellate review as provided by law and the Colorado appellate rules may issue.

13-32-107. Fee book a public record. The fee book to be kept by each clerk is a public record and subject to public inspection as are all other records of his office, except those specifically excluded by statute or order of court.

13-32-108. Unclaimed funds - district court. All fees, court costs, trust funds, and other moneys paid to the clerks of the district courts or into the registry of said courts, which have been or shall be unclaimed, for a period of two years after the final determination of any case in which said fees were collected or money paid, may be

disposed of as provided in section 13-32-109.

13-32-109. Report of unclaimed funds - district court. (1) Within sixty days from January 1 in each year, the clerk of the district court of every judicial district shall report to the judge what sums of money are held unclaimed in the clerk's accounts or the registry of the court, for a period of more than two years after the final determination of the case in which said moneys have been paid or deposited, and, if it appears to the court sitting en banc that no claim for said moneys has been presented to the clerk of the court for more than two years, then the court may order that said moneys be paid by the clerk to the state treasurer for deposit in the state general fund; but, if it appears to the court by specific order made in any case, or from any other cause or circumstances, the court in its discretion may withhold making such order in any case.

(2) On and after July 1, 2010, all moneys paid to the state treasurer pursuant to subsection (1) of this section shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6).

13-32-110. Actions for funds barred in two years. Any claim for such moneys shall be made within two years from and after the payment thereof into the state general fund and unless so presented to the court shall be forever barred unless the court by proper order made in any case otherwise decrees.

13-32-111. Refund by decree of court - when. If any such moneys have been paid into the state general fund and a claimant appears therefor, if the court upon consideration of the circumstances finds that such claim is valid and should be paid, in that event the state shall refund the same unto the claimant as required by the decree of court.

13-32-112. Unclaimed funds - county court. (1) All moneys in the possession of the clerk of any county court, subject to the provisions of section 13-3-104, as unearned fees of the clerk or judge of such court, that remain in possession of said clerk for a period of two years after the final determination of the cause or proceeding in which such fees were collected shall be paid over by the clerk into the state general fund, except as otherwise provided in subsection (2) of this section.

(2) On and after July 1, 2010, all fees required to be paid over by the clerk into the state general fund pursuant to subsection (1) of this section shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-

101 (6).

13-32-113. Exemption from fees. Delegate child support enforcement units shall be exempt from the payment of any fees authorized in this article when they file proceedings in connection with the establishment and enforcement of child support pursuant to article 13 of title 26, C.R.S., or pursuant to article 5 of title 14, C.R.S.

13-32-114. Judicial department information technology cash fund - creation - uses. (1) There is hereby created in the state treasury the judicial department information technology cash fund, which shall be referred to in this section as the "fund". The judicial department shall transmit to the state treasurer for deposit in the fund all fees and cost recoveries, which are not otherwise required by law to be deposited in another fund, related to:

(a) Electronic filings;

(b) Network access and searches of court databases;

(c) Electronic searches of court records; and

(d) Any other information technology services.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department for any expenses related to the department's information technology needs. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(3) Repealed.

ARTICLE 33

Fees of Jurors and Witnesses

13-33-101. Fees of jurors. (1) Trial and grand jurors serving in any court, as defined in the "Colorado Uniform Jury Selection and Service Act", article 71 of this title, shall receive compensation as provided for in that article.

(2) Jury fees for attending any court of record other than a municipal court shall be paid by the state pursuant to section 13-3-104.

(3) Municipalities shall set and pay fees for juror service in a municipal court.

(4) Jurors attending inquests over dead bodies before coroners shall receive the same fees as provided in subsection (1) of this section, which fees shall be paid by the county in which the inquest is held.

13-33-102. Fees of witnesses.

(1) to (3) (Deleted by amendment, L. 2010, (HB 10-1291), ch. 325, p. 1505, § 1, effective July 1, 2010.)

(4) Witnesses in courts of record called to testify only to an opinion founded on special study or experience in any branch of science or to make scientific or professional examinations and state the result thereof shall receive compensation, to be fixed by the court, with reference to the value of the time employed and the degree of learning or skill required.

(5) Witness fees for attending criminal trials in any court of record, except a municipal court or the county court of the city and county of Denver, shall be paid as costs as provided in section 16-18-101, C.R.S.

(6) Notwithstanding the provisions of subsections (4) and (5) of this section, the witness fee specified in this section shall not be paid to any witness who at the time of testifying is in the legal custody of any state or federal agency or any local law enforcement agency and whose transportation to court is provided at government expense.

13-33-103. Mileage fees of jurors and witnesses. (1) All jurors entitled to compensation for mileage in accordance with the "Colorado Uniform Jury Selection and Service Act", article 71 of this title, and all witnesses shall receive, in counties of every class, the same base mileage allowance amount as provided for state officers and employees under section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going from his or her place of residence to the place named in the summons or subpoena and in returning to such place of residence.

(2) No officer of the courts, in which the cause is pending and on which he is in actual attendance in his official capacity, including clerks, sheriffs, bailiffs, jurors, and police officers, shall be entitled to witnesses' fees or mileage as a witness in any criminal case.

(3) No witness before a coroner, commissioner, or magistrate shall be allowed fees unless such witness claims the same under oath before the adjournment of the court.

(4) No witness in any court of record shall be allowed fees unless such witness claims the same under oath, then only for the number of days such witness actually attended such court in the capacity of a witness.

(5) No witness testifying in more than one criminal case on the same day shall be entitled to receive fees as a witness for more than one day by reason thereof, nor more than one day's attendance on any day, though attending in several cases.

(6) The mileage fee shall not be paid to any witness who at the time of testifying is in the legal custody of any state or federal agency or any local law enforcement agency and whose transportation to court is provided at government expense.

13-33-104. Witness fees paid into treasury - when. Any witness fee collected by a clerk of any district court or county court shall be paid to the person entitled to the witness fee, when claimed. Any witness fee collected and not paid to a witness claimant in the same month shall be paid by the clerk of the court to the state treasurer pursuant to section 30-1-112 (2), C.R.S.

13-33-105. Witness fees - claim for. If any person entitled to a witness fee in any district court or county court makes an application to the clerk of such court for payment of the fee, the clerk, if the witness fee claimed was previously collected by him, shall pay the witness claimant the witness fee due. If the fee was not previously collected by the clerk, the state shall pay the witness claimant pursuant to section 13-3-104.

13-33-106. Failure of clerk to comply - penalty. Any such clerk who fails to comply with the provisions of sections 13-33-104 and 13-33-105 shall be liable to the state in the penal sum of five hundred dollars for each offense, to be collected as other like fines.

FORCIBLE ENTRY AND DETAINER

ARTICLE 40

Forcible Entry and Detainer -
General Provisions

13-40-101. Forcible entry and detainer defined. (1) If any person enters upon or into any lands, tenements, mining claims, or other possessions with force or strong hand or multitude of people, whether any person is actually upon or in the same at the time of such entry, or if any person by threats of violence or injury to the party in

possession or by such words or actions as have a natural tendency to excite fear or apprehension of danger gains possession of any lands, tenements, mining claims, or other possessions and detains and holds the same, such person so offending is guilty of a forcible entry and detainer within the meaning of this article.

(2) If any person enters peaceably upon any lands, tenements, mining claims, or other possessions, whether any person is actually in or upon the same at the time of such entry and by force turns the party in possession out or, by threats or by words or actions which have a natural tendency to excite fear or apprehension of danger, frightens the party out of possession and detains and holds the same, such person so offending is guilty of a forcible detainer within the meaning of this article.

(3) If any person enters upon or into any lands, tenements, mining claims, or other possessions by force or by threats of violence, or words or actions which have a natural tendency to excite fear or apprehension of danger, and intimidates the party entitled to possession from returning upon or possessing the same, such person so offending is guilty of a forcible entry within the meaning of this article.

13-40-102. Forcible entry prohibited. No person shall enter into or upon any real property, except in cases where entry is allowed by law, and in such cases not with strong hand or with a multitude of people, but only in a peaceable manner.

13-40-103. Forcible detention prohibited. No person, having peaceably entered into or upon any real property without right to the possession thereof, shall forcibly hold or detain the same as against the person who has a lawful right to such possession.

13-40-104. Unlawful detention defined. (1) Any person is guilty of an unlawful detention of real property in the following cases:

(a) When entry is made, without right or title, into any vacant or unoccupied lands or tenements;

(b) When entry is made, wrongfully, into any public lands, tenements, mining claims, or other possessions which are claimed or held by a person who may have located, entered, or settled upon the same in conformity with the laws, rules, and regulations of the United States, or of this state, in relation thereto;

(c) When any lessee or tenant at will, or by sufferance, or for any part of a year, or for one or more years, of any real property, including a specific or undivided portion of a building or dwelling, holds over and continues in possession of the demised premises, or any portion thereof, after the expiration of the term for which the same were leased, or after such tenancy, at will or sufferance, has been terminated by either party;

(d) When such tenant or lessee holds over without permission of his landlord after any default in the payment of rent pursuant to the agreement under which he holds, and three days' notice in writing has been duly served upon the tenant or lessee holding over, requiring in the alternative the payment of the rent or the possession of the premises. No such agreement shall contain a waiver by the tenant of the three days' notice requirement of this paragraph (d). It shall not be necessary, in order to work a forfeiture of such agreement, for nonpayment of rent, to make a demand for such rent on the day on which the same becomes due; but a failure to pay such rent upon demand, when made, works a forfeiture.

(d.5) When such tenant or lessee holds over, without the permission of the landlord, contrary to any condition or covenant the violation of which is defined as a substantial violation in section 13-40-107.5, and notice in writing has been duly served upon such tenant or lessee in accordance with section 13-40-107.5;

(e) When such tenant or lessee holds over, without such permission, contrary to any other condition or covenant of the agreement under which such tenant or lessee holds, and three days' notice in writing has been duly served upon such tenant or lessee requiring in the alternative the compliance with such condition or covenant or the delivery of the possession of the premises so held;

(e.5) (I) When a tenant or lessee has previously been served with the notice described in paragraph (e) of this subsection (1) requiring compliance with a condition or covenant of the agreement, and subsequent to that notice holds over, without permission of the tenant or lessee's landlord, contrary to the same condition or covenant.

(II) A tenancy may be terminated at any time pursuant to this paragraph (e.5) on the basis of a subsequent violation. The termination shall be effective three days after service of written notice to quit.

(f) When the property has been duly sold under any power of sale, contained in any mortgage or trust deed that was executed by such person, or any person under whom such person claims by title subsequent to date of the recording of such mortgage or trust deed, and the title under such sale has been duly perfected and the purchaser at such sale, or his or her assigns, has duly demanded the possession thereof;

(g) When the property has been duly sold under the judgment or decree of any court of competent jurisdiction and the party or privies to such judgment or decree, after the expiration of the time of redemption when redemption is allowed by law, refuse or neglect to surrender possession thereof after demand therefor has been duly made by the purchaser at such sale, or his or her assigns;

(h) When an heir or devisee continues in possession of any premises sold and conveyed by any personal representative with authority to sell, after demand therefor is duly made;

(i) When a vendee having obtained possession under an agreement to purchase lands or tenements, and having failed to comply with his agreement, withholds possession

thereof from his vendor, or assigns, after demand therefor is duly made.

(2) and (3) Repealed.

(4) (a) It shall not constitute an unlawful detention of real property as described in paragraph (d.5), (e), or (e.5) of subsection (1) of this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, C.R.S., or of domestic abuse, as that term is defined in section 13-14-101 (2), which domestic violence or domestic abuse was the cause of or resulted in the alleged unlawful detention and which domestic violence or domestic abuse has been documented by the following:

(I) A police report; or

(II) A valid civil or emergency protection order.

(b) A person is not guilty of an unlawful detention of real property pursuant to paragraph (a) of this subsection (4) if the alleged violation of the rental or lease agreement is a result of domestic violence or domestic abuse against the tenant or lessee.

(c) A rental, lease, or other such agreement shall not contain a waiver by the tenant or lessee of the protections provided in this subsection (4).

(d) Nothing in this subsection (4) shall prevent the landlord from seeking judgment for possession against the tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged unlawful detention.

13-40-105. Crops of possessor. In all cases arising under section 13-40-104 (1) (c) to (1) (i), the person in possession is entitled to cultivate and gather the crops, if any, planted or sown by him previous to the service of the demand to deliver up possession, and then grown or growing on the premises, and shall have the right to enter such premises for the purpose of cultivating or removing such crops, first paying or tendering to the party entitled to the possession of said premises a reasonable compensation for the use of the land before removing such crops.

13-40-106. Written demand. The demand required by section 13-40-104 shall be made in writing, specifying the grounds of the demandant's right to the possession of such premises, describing the same, and the time when the same shall be delivered up, and shall be signed by the person claiming such possession, his agent, or his attorney.

13-40-107. Notice to quit. (1) A tenancy may be terminated by notice in writing, served not less than the respective period fixed before the end of the applicable tenancy, as follows:

(a) A tenancy for one year or longer, ninety-one days;

(b) A tenancy of six months or longer but less than a year, twenty-eight days;

(c) A tenancy of one month or longer but less than six months, seven days;

(d) A tenancy of one week or longer but less than one month, or a tenancy at will, three days;

(e) A tenancy for less than one week, one day.

(2) Such notice shall describe the property and the particular time when the tenancy will terminate and shall be signed by the landlord or tenant, the party giving such notice or his agent or attorney.

(3) Any person in possession of real property with the assent of the owner is presumed to be a tenant at will until the contrary is shown.

(4) No notice to quit shall be necessary from or to a tenant whose term is, by agreement, to end at a time certain.

(5) Except as otherwise provided in section 38-33-112, C.R.S., the provisions of subsections (1) and (4) of this section shall not apply to the termination of a residential tenancy during the ninety-day period provided for in said section.

13-40-107.5. Termination of tenancy for substantial violation - definition - legislative declaration. (1) The general assembly finds and declares that:

(a) Violent and antisocial criminal acts are increasingly committed by persons who base their operations in rented homes, apartments, and commercial properties;

(b) Such persons often lease such property from owners who are unaware of the dangerous nature of such persons until after the persons have taken possession of the property;

(c) Under traditional landlord and tenant law, such persons may have established the technical, legal right to occupy the premises for a fixed term which continues long after they have demonstrated themselves unfit to coexist with their neighbors and co-tenants; furthermore, such persons often resist eviction as long as possible;

(d) In certain cases it is necessary to curtail the technical, legal right of occupancy of such persons in order to protect the equal or greater rights of neighbors and co-tenants, the interests of property owners, the values of trust and community within neighborhoods, and the health, safety, and welfare of all the people of this state.

(2) It is declared to be an implied term of every lease of real property in this state that the tenant shall not commit a substantial violation while in possession of the premises.

(3) As used in this section, "substantial violation" means any act or series of acts by the tenant or any guest or invitee of the tenant that, when considered together:

(a) Occurs on or near the premises and endangers the person or willfully and substantially endangers the property of the landlord, any co-tenant, or any person living on or near the premises; or

(b) Occurs on or near the premises and constitutes a violent or drug-related felony

prohibited under article 3, 4, 6, 7, 9, 10, 12, or 18 of title 18, C.R.S.; or

(c) Occurs on the tenant's leased premises or the common areas, hallway, grounds, parking lot, or other area located in the same building or complex in which the tenant's leased premises are located and constitutes a criminal act in violation of federal or state law or local ordinance that:

(I) Carries a potential sentence of incarceration of one hundred eighty days or more; and

(II) Has been declared to be a public nuisance under state law or local ordinance based on a state statute.

(4) (a) A tenancy may be terminated at any time on the basis of a substantial violation. The termination shall be effective three days after service of written notice to quit.

(b) The notice to quit shall describe the property, the particular time when the tenancy will terminate, and the grounds for termination. The notice shall be signed by the landlord or by the landlord's agent or attorney.

(5) (a) In any action for possession under this section, the landlord has the burden of proving the occurrence of a substantial violation by a preponderance of the evidence.

(b) In any action for possession under this section, it shall be a defense that:

(I) (Deleted by amendment, L. 2005, p. 402, § 2, effective July 1, 2005.)

(II) The tenant did not know of, and could not reasonably have known of or prevented, the commission of a substantial violation by a guest or invitee but immediately notified a law enforcement officer of his or her knowledge of the substantial violation.

(c) (I) The landlord shall not have a basis for possession under this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, C.R.S., or of domestic abuse, as that term is defined in section 13-14-101 (2), which domestic violence or domestic abuse was the cause of or resulted in the alleged substantial violation and which domestic violence or domestic abuse has been documented pursuant to the provisions set forth in section 13-40-104 (4).

(II) Nothing in this paragraph (c) shall prevent the landlord from seeking possession against a tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged substantial violation.

13-40-108. Service of notice to quit. A notice to quit or demand for possession of real property may be served by delivering a copy thereof to the tenant or other person occupying such premises, or by leaving such copy with some person, a member of the tenant's family above the age of fifteen years, residing on or in charge of the premises, or, in case no one is on the premises at the time service is attempted, by posting such copy in some conspicuous place on the premises.

13-40-109. Jurisdiction of courts. The district courts in their respective districts and county courts in their respective counties have jurisdiction of all cases of forcible entry, forcible detainer, or unlawful detainer arising under this article, and the person entitled to the possession of any premises may recover possession thereof by action brought in any of said courts in the manner provided in this article. On and after January 1, 1991, in all actions brought before county courts under section 13-40-104 (1) (f) to (1) (i), where the allegations of the complaint are put in issue by a verified answer and in actions in which the verified answer alleges a monthly rental value of the property in excess of fifteen thousand dollars, the county court, upon the filing of said answer, shall suspend all proceedings therein and certify said cause and transmit the papers therein to the district court of the same county. Causes so certified by the county court shall be proceeded within the courts to which they have been so certified in all respects as if originally begun in the court to which they have been certified. On and after January 1, 1991, the jurisdiction of the county court to enter judgment for rent, or damages, or both and to render judgment on a counterclaim in forcible entry and detainer shall be limited to a total of fifteen thousand dollars in favor of either party, exclusive of costs and attorney fees.

13-40-110. Action - how commenced. (1) An action under this article is commenced by filing with the court a complaint in writing describing the property with reasonable certainty, the grounds for the recovery thereof, the name of the person in possession or occupancy, and a prayer for recovery of possession. The complaint may also set forth the amount of rent due, the rate at which it is accruing, the amount of damages due, and the rate at which they are accruing and may include a prayer for rent due or to become due, present and future damages, costs, and any other relief to which plaintiff is entitled.

(2) In an action for termination of a tenancy in a mobile home park, the complaint, in addition to the requirements of subsection (1) of this section, shall specify the particular reasons for termination as such reasons are stated in section 38-12-203, C.R.S. Such complaint shall specify the approximate time, place, and manner in which the tenant allegedly committed the acts giving rise to the complaint. If the action is based on the mobile home or mobile home lot being out of compliance with the rules and regulations adopted pursuant to section 38-12-203 (1) (c), C.R.S., the complaint shall specify that the home owner was given thirty days from the date of service or posting of the notice to quit to cure the noncompliance and that thirty days have passed and the noncompliance has not been cured.

13-40-111. Issuance and return of summons. (1) Upon filing the complaint as

provided in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons shall command the defendant to appear before the court at a place named in such summons and at a time and on a day which shall be not less than seven days nor more than fourteen days from the day of issuing the same to answer the complaint of plaintiff. The summons shall also contain a statement addressed to the defendant stating: "If you fail to file with the court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the plaintiff is entitled. If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises."

(2) Repealed.

(3) For actions commenced pursuant to section 13-40-104 (1) (f) and (1) (g) only, if no answer to the complaint is filed as provided in subsection (1) of this section, the court shall examine the complaint, and, if satisfied that venue is proper and the plaintiff is entitled to possession of the premises, the court shall dispense with appearances by the plaintiff or a hearing and shall forthwith enter a judgment for possession, present or future damages, and costs.

13-40-112. Service. (1) Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.

(2) If personal service cannot be had upon the defendant by a person qualified under the Colorado rules of civil procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the plaintiff shall mail, no later than the next business day following the day on which he or she files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the defendant at the premises by postage prepaid, first-class mail.

(3) Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

(4) For purposes of this section, "business days" means any calendar day excluding Saturdays, Sundays, and legal holidays.

13-40-113. Answer of defendant - additional and amended pleadings. (1) The defendant shall file with the court, at or before the time specified for his appearance in the summons, an answer in writing setting forth the grounds on which he bases his claim for possession and admitting or denying all of the material allegations of the complaint and presenting every defense which then exists and upon which he intends to rely, either by including the same in his answer or by filing simultaneously therewith motions setting forth every such defense.

(2) The court for good cause may permit the filing of additional and amended pleadings where such will not result in delay prejudicial to the defendant.

13-40-114. Delay in trial - undertaking. If either party requests a delay in trial longer than five days, the court in its discretion may, upon good cause shown, require either of the parties to give bond or other security approved and fixed by the court in an amount for the payment to the opposite party of such sum as he may be damaged due to the delay.

13-40-115. Judgment - writ of restitution. (1) Upon the trial of any action under this article if service was had only by posting in accordance with section 13-40-112 (2) and if the court finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. The court may also continue the case for further hearing from time to time and may issue alias and pluries summonses until personal service upon the defendant is had.

(2) Upon such trial or further hearing under this article after personal service is had upon the defendant in accordance with section 13-40-112 (1), if the court or jury has not already tried the issue of unlawful detainer, it may do so, and, if it finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. In addition to such judgment for restitution, the court or jury shall further find the amount of rent, if any, due to the plaintiff from the defendant at the time of trial, the amount of damages, if any, sustained by the plaintiff to the time of the trial on account of the unlawful detention of the property by the defendant, and damages sustained by the plaintiff to the time of trial on account of injuries to the property, and judgment shall enter for such amounts, together with reasonable attorney's fees and costs, upon which judgment execution shall issue as in other civil actions. Nothing in this section shall be construed to permit the entry of judgment in excess of the jurisdictional limit of the court.

(3) A writ of restitution that is issued by the court pursuant to subsection (1) or (2)

of this section shall remain in effect for forty-nine days after issuance and shall automatically expire thereafter.

13-40-116. Dismissal. If the plaintiff's action brought for any of the causes mentioned in this article, upon the trial thereon, is dismissed or the action fails to prove the plaintiff's right to the possession of the premises described in the complaint, the defendant shall have judgment and execution for his costs.

13-40-117. Appeals. (1) If either party feels aggrieved by the judgment rendered in such action before the county court, he may appeal to the district court, as in other cases tried before the county court, with the additional requirements provided in this article.

(2) Upon the court's taking such appeal, all further proceedings in the case shall be stayed, and the appellate court shall thereafter issue all needful writs and process to carry out any judgment which may be rendered thereon in the appellate court.

(3) If the appellee believes that he may suffer serious economic harm during the pendency of the appeal, he may petition the court taking the appeal to order that an additional undertaking be required of the appellant to cover the anticipated harm. The court shall order such undertaking only after a hearing and upon a finding that the appellee has shown a substantial likelihood of suffering such economic harm during the pendency of the appeal and that he will not adequately be protected under the appeals bond and the other requirements for appeal pursuant to sections 13-40-118, 13-40-120, and 13-40-123.

13-40-118. Deposit of rent. In all appeals from the judgment of a county court, in an action founded upon section 13-40-104 (1) (d), the defendant, at the time of the filing thereof, shall deposit with the court the amount of rent found due and specified in such judgment. Unless such deposit is made, the appeal is not perfected, and proceedings upon such judgment shall thereupon be had accordingly. If the appeal is perfected, the court shall transmit such deposit to the clerk of the appellate court, with the papers in such case; and the appellant thereafter, at the time when the rents become due as specified in the judgment appealed from and as often as the same become due, shall deposit the amount thereof with the clerk of such appellate court. In case the appellant, at any time during the pendency of such appeal and before final judgment therein, neglects or fails to make any deposit of rent, falling due at the time specified in the judgment appealed from, the court in which such appeal is pending, upon such fact being made to appear and upon motion of the appellee, shall affirm the judgment appealed from with costs; and proceedings

thereupon shall be had as in like cases determined upon the merits.

13-40-119. Rules of practice. In all actions brought under any provision of this article in any court, the proceedings shall be governed by the rules of practice and the provisions of law concerning civil actions in such court, except as may be otherwise provided in this article.

13-40-120. Appellate review. Appellate review of the judgment of the district courts of this state, in proceedings under this article, is allowed as provided by law and the Colorado appellate rules. In cases of appeal from judgments founded upon causes of action embraced in section 13-40-104 (1) (d), the deposit of rent money during pendency of appeal shall be made, or judgment of affirmance shall be entered, in the manner provided in section 13-40-118.

13-40-121. When deposit of rent is paid. The rent money deposited, as provided for in this article, shall be paid to the landlord entitled thereto, upon the order of the court wherein the same is deposited and at such time and in such manner as the court determines necessary to protect the rights of the parties.

13-40-122. Writ of restitution after judgment. (1) No writ of restitution shall issue upon any judgment entered in any action under the provisions of this article out of any court until after the expiration of forty-eight hours from the time of the entry of such judgment; and such writs shall be executed by the officer having the same only in the daytime and between sunrise and sunset. Any writ of restitution governed by this section may be executed by the county sheriff's office in which the property is located by a sheriff, undersheriff, or deputy sheriff, as described in section 16-2.5-103 (1) or (2), C.R.S., while off duty or on duty at rates charged by the employing sheriff's office in accordance with section 30-1-104 (1) (gg), C.R.S.

(2) The officer that executes a writ of restitution under subsection (1) of this section and the law enforcement agency that employs such officer shall be immune from civil liability for any damage to a tenant's personal property that was removed from the premises during the execution of the writ. A landlord who complies with the lawful directions of the officer executing a writ of restitution shall be immune from civil and criminal liability for any act or omission related to a tenant's personal property that was removed from the premises during or after the execution of a writ of restitution.

(3) A landlord has no duty to store or maintain a tenant's personal property that is

removed from the premises during or after the execution of a writ of restitution. Regardless of whether a landlord elects to store or maintain the personal property so removed, the landlord shall have no duty to inventory the personal property or to determine ownership of or the condition of the personal property. Such storage shall not create either an implied or express bailment of the personal property, and the landlord shall be immune from liability for any loss or damage to the personal property.

(4) A landlord who elects to store a tenant's personal property that was removed from the premises during or after the execution of a writ of restitution may charge the tenant the reasonable costs of storing the personal property. To recover such costs, the landlord may either dispose of the personal property under any lien rights the landlord has under part 1 of article 20 of title 38, C.R.S., or the landlord may allow the tenant to recover the personal property after paying the reasonable storage charges incurred by the landlord.

13-40-123. Damages. The prevailing party in any action brought under the provisions of this article is entitled to recover damages, reasonable attorney fees, and costs of suit; except that a residential landlord or tenant who is a prevailing party shall not be entitled to recover reasonable attorney fees unless the residential rental agreement between the parties contains a provision for either party to obtain attorney fees. Nothing in this section shall be construed to permit the entry of judgments in any single proceeding in excess of the jurisdictional limit of said court.

13-40-124. Qualified farm owner-tenant defined. (Repealed)

13-40-125. Rights of qualified farm owner-tenant. (Repealed)

13-40-125.5. Possession pursuant to agreement - enforcement. (Repealed)

13-40-126. Priority of proceedings. (Repealed)

HABEAS CORPUS

ARTICLE 45

Habeas Corpus - General

13-45-101. Petition for writ - criminal cases. (1) If any person is committed or detained for any criminal or supposed criminal matter, it is lawful for him to apply to the supreme or district courts for a writ of habeas corpus, which application shall be in writing and signed by the prisoner or some person on his behalf setting forth the facts concerning his imprisonment and in whose custody he is detained, and shall be accompanied by a copy of the warrant of commitment, or an affidavit that the said copy has been demanded of the person in whose custody the prisoner is detained, and by him refused or neglected to be given. The court to which the application is made shall forthwith award the writ of habeas corpus, unless it appears from the petition itself, or from the documents annexed, that the party can neither be discharged nor admitted to bail nor in any other manner relieved. Said writ, if issued by the court, shall be under the seal of the court, and directed to the person in whose custody the prisoner is detained, and made returnable forthwith.

(2) To the intent that no officer, sheriff, jailer, keeper, or other person to whom such writ is directed may pretend ignorance thereof, every writ shall be endorsed with the words "by the habeas corpus act". When the writ is served by any person upon the sheriff, jailer, or keeper, or other person to whom the same is directed, or brought to him, or left with any of his underofficers or deputies at the jail or place where the prisoner is detained, he or some of his underofficers or deputies, upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the court awarding the said writ and endorsed thereon not exceeding fifteen cents per mile and upon sufficient security given to pay the charges of carrying him back if he is remanded, shall make return of the writ and bring, or cause to be brought, the body of the prisoner before the court which granted the writ and certify the true cause of his imprisonment within three days thereafter, unless the commitment of such person is in a place beyond the distance of twenty miles from the place where the writ is returnable; if it is beyond the distance of twenty miles and not above one hundred miles, the writ shall be returned within ten days and, if beyond the distance of one hundred miles, within twenty days after the delivery of the writ, and not longer.

13-45-102. Petition for relief - civil cases. When any person not being committed or detained for any criminal or supposed criminal matter is confined or restrained of his liberty under any color or pretense whatever, he may proceed by appropriate action as prescribed by the Colorado rules of civil procedure in the nature of habeas corpus which petition shall be in writing, signed by the party or some person on his behalf, setting forth

the facts concerning his imprisonment and wherein the illegality of such imprisonment consists, and in whose custody he is detained. The petition shall be verified by the oath or affirmation of the party applying or some other person on his behalf. If the confinement or restraint is by virtue of any judicial process or order, a copy thereof shall be annexed thereto or an affidavit made that the same has been demanded and refused. The same proceedings shall thereupon be had in all respects as are directed in section 13-45-101.

13-45-103. Hearing - pleadings - discharge. (1) Upon the return of the writ of habeas corpus, a day shall be set for the hearing of the cause of imprisonment or detainer not exceeding five days thereafter, unless the prisoner requests a longer time. The prisoner may deny any of the material facts set forth in the return or may allege any fact to show either that the imprisonment or detention is unlawful or that he is then entitled to his discharge, which allegations or denials shall be made on oath. The return may be amended by leave of the court, before or after the same is filed as also may all suggestions made against it, that thereby all material facts may be ascertained. The court shall proceed in a summary way to settle the facts by hearing the testimony and arguments of all parties interested civilly, if there are any, as well as of the prisoner and the person who holds him in custody and shall dispose of the prisoner as the case may require.

(2) If it appears that the prisoner is in custody by virtue of process from any court legally constituted, he can be discharged only for some of the following causes:

(a) Where the court has exceeded the limit of its jurisdiction, either as to the matter, place, sum, or person;

(b) Where, though the original imprisonment was lawful, yet by some act, omission, or event which has subsequently taken place, the party has become entitled to his discharge;

(c) Where the process is defective in some substantial form required by law;

(d) Where the process, though in proper form, has been issued in a case or under circumstances where the law does not allow process or orders for imprisonment or arrest to issue;

(e) Where, although in proper form, the process has been issued or executed by a person either unauthorized to issue or execute the same or where the person having the custody of the prisoner under such process is not the person empowered by law to detain him;

(f) Where the process appears to have been obtained by false pretense or bribery;

(g) Where there is no general law, nor any judgment, order, or decree of a court to authorize the process, if in a civil suit, nor any conviction if in a criminal proceeding.

(3) No court on the return of a habeas corpus shall inquire into the legality or justice of a judgment or decree of a court legally constituted, in any other manner. In all cases where the imprisonment is for a criminal or supposed criminal matter, if it appears

to the court that there is sufficient legal cause for the commitment of the prisoner although such commitment may have been informally made, or without due authority, or the process may have been executed by a person not authorized, the court shall make a new commitment, in proper form and directed to the proper officer, or admit the party to bail if the case is bailable.

13-45-104. Witnesses - duty of sheriff. When a habeas corpus is issued to bring the body of any prisoner committed as aforesaid, unless the court issuing the same deems it wholly unnecessary and useless, the court shall issue a subpoena to the sheriff of the county where said person is confined, commanding him to summon the witnesses therein named to appear before the court at the time and place where such habeas corpus is returnable. It is the duty of the sheriff to serve such subpoena, if it is possible, in time to enable such witnesses to attend. It is the duty of the witnesses thus served with said subpoena to attend and give evidence before the court issuing the same on pain of being deemed guilty of a contempt of court and proceeded against accordingly by said court.

13-45-105. Court to examine witnesses. On the hearing of any habeas corpus, it is the duty of the court who hears the same to examine the witnesses aforesaid, and such other witnesses as the prisoner may request, touching any offense named in the warrant of commitment whether or not said offense is technically set out in the commitment.

13-45-106. Bail - recognizance - binding witness. (1) When any person is admitted to bail on habeas corpus, he shall enter into recognizance with one or more securities in such sum as the court directs, having regard to the circumstances of the prisoner and the nature of the offense, conditioned upon his appearance at the district court held in and for the county where the offense was committed or where the same is to be tried. Where any court admits to bail or remands any prisoner brought before it on any writ of habeas corpus, it is the duty of the court to bind all such persons who declare anything material to prove the offense with which the prisoner is charged by recognizance to appear at the proper court having cognizance of the offense, upon a date certain, to give evidence touching the offense and not to depart the court without leave.

(2) The recognizance so taken, together with the recognizance entered into by the prisoner when he is admitted to bail, shall be certified and returned to the proper court. If any such witness neglects or refuses to enter into a recognizance when required, it is lawful for the court to commit him to jail until he enters into such recognizance or he is otherwise discharged by due course of law. If any judge neglects or refuses to bind any such witness or prisoner by recognizance when taken as aforesaid, he is guilty of a

misdemeanor in office and shall be proceeded against accordingly.

13-45-107. Remand - second writ - offenses not bailable. When any prisoner brought up on a habeas corpus is remanded to prison, it is the duty of the court remanding him to make out and deliver to the sheriff, or other person to whose custody he is remanded, an order in writing stating the cause of remanding him. If such prisoner obtains a second writ of habeas corpus, it is the duty of such sheriff or other person to whom the same is directed to return therewith the order aforesaid. If it appears that the prisoner was remanded for any offense not bailable, it shall be taken and received as conclusive, and the prisoner shall be remanded without further proceedings.

13-45-108. Second writ - bailable offense. It is unlawful for any court, on a second writ of habeas corpus obtained by the prisoner to discharge the prisoner if he is clearly and specifically charged in the warrant of commitment with a criminal offense; but the court on the return of such second writ has power only to admit such prisoner to bail, where the offense is bailable by law, or remand him to prison where the offense is not bailable or where such prisoner fails to give the bail required.

13-45-109. Once discharged - reimprisonment. (1) No person who has been discharged by order of a court on a habeas corpus shall be again imprisoned, restrained, or kept in custody for the same cause, unless he is afterwards indicted for the same offense or unless by the legal order or process of the court wherein he is bound by recognizance to appear.

(2) The following shall not be deemed to be the same cause:

(a) If, after a discharge for a defect of proof or on any material defect in the commitment in a criminal case, the prisoner is again arrested on sufficient proof and committed by legal process for the same offense;

(b) If, in a civil suit, the party has been discharged for any illegality in the judgment or process and is afterwards imprisoned by legal process for the same cause of action;

(c) Generally, when the discharge has been ordered on account of the nonobservance of any of the forms required by law, the party may be a second time imprisoned if the cause is legal and the forms required by law observed.

13-45-110. Prisoner not to be removed - when. To prevent any person from avoiding or delaying his trial, it is unlawful to remove any prisoner on habeas corpus

under this article out of the county in which he is confined within fifteen days next preceding the date certain set for trial except if it is to convey him into the county where the offense with which he stands charged is properly cognizable.

13-45-111. Removal of prisoners - causes. Any person committed to any prison or in the custody of any officer, sheriff, jailer, keeper, or other person, or his underofficer or deputy, for any criminal or supposed criminal matter shall not be removed from the prison or custody into any other prison or custody, unless it is by habeas corpus or some other legal writ; or where the prisoner is delivered to some common jail; or is removed from one place to another within the county, in order to effect his discharge or trial in due course of law; or in case of sudden fire, infection, or other necessity; or where the sheriff commits such prisoner to the jail of an adjoining county for the want of a sufficient jail in his own county, as provided in section 17-26-119, C.R.S.; or where the prisoner, in pursuance of a law of the United States, is claimed or demanded by the executive of the United States or territories. If any person, after such commitment, makes out, signs, or countersigns any warrant for such removal except as before excepted, then he shall forfeit to the prisoner or aggrieved party a sum not exceeding three hundred dollars to be recovered by the prisoner or party aggrieved in the manner provided in section 13-45-117.

13-45-112. Judge refusing or delaying writ - penalty. Any judge of a court empowered by this article to issue writs of habeas corpus who corruptly refuses to issue such writ when legally applied for in a case where such writ may lawfully issue or who, for the purpose of oppression, unreasonably delays the issuing of such writ shall for every such offense forfeit to the prisoner or party aggrieved a sum not exceeding five hundred dollars.

13-45-113. Failure to obey writ - penalty. If any officer, sheriff, jailer, keeper, or other person to whom any such writ is directed neglects or refuses to make the returns or to bring the body of the prisoner according to the command of said writ within the time required by this article, such officer, sheriff, jailer, keeper, or other person is guilty of contempt of the court which issued said writ; whereupon the court shall issue an attachment against such officer, sheriff, jailer, keeper, or other person and cause him to be committed to the jail of the county, there to remain without bail, until he obeys the writ. Such officer, sheriff, jailer, keeper, or other person shall also forfeit to the prisoner or aggrieved party a sum not exceeding five hundred dollars and shall be incapable of holding or executing his said office.

13-45-114. Avoiding writ - penalty. Anyone having a person in his or her custody or under his or her restraint, power, or control for whose relief a writ of habeas corpus is issued who, with the intent to avoid the effect of such writ, transfers such person to the custody, or places him or her under the control, of another or conceals him or her or changes the place of his or her confinement with intent to avoid the operation of such a writ or with intent to remove him or her out of this state commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S. In any prosecution for the penalty incurred under this section, it shall not be necessary to show that the writ of habeas corpus had issued at the time of the removal, transfer, or concealment therein mentioned if it is proved that the acts therein forbidden were done with the intent to avoid the operation of such writ.

13-45-115. Failure to deliver process - penalty. (Repealed)

13-45-116. Detention after release - penalty. Any person, knowing that another has been discharged by order of a competent tribunal on a habeas corpus, who, contrary to the provisions of this article, arrests or detains him again, for the same cause which was shown on the return of such writ, shall forfeit five hundred dollars for the first offense and one thousand dollars for every subsequent offense.

13-45-117. Forfeitures go to use of prisoner. All pecuniary forfeitures under this article shall inure to the use of the party for whose benefit the writ of habeas corpus issued and shall be sued for and recovered, with costs, in the name of the state by every person aggrieved.

13-45-118. Recovery of forfeiture not bar to civil suit. The recovery of the said penalties shall not be a bar to a civil suit for damages.

13-45-119. Writ to testify or be surrendered - run to any county - copy - fees. The supreme and district courts within this state have power to issue writs of habeas corpus to bring the body of any person confined in any jail before them to testify or to be surrendered in discharge of bail. When a writ of habeas corpus is issued to bring into court any person to testify, or the principal to be surrendered in discharge of bail and such principal or witness is confined in any jail in this state out of the county in which such principal or witness is required to be surrendered or to testify, the writ may run into any

county in this state and there be executed and returned by any officer to whom it is directed. The principal, after being surrendered or his bail discharged, or a person testifying as aforesaid shall be returned by the officer executing such writ by virtue of an order of the court for the purpose aforesaid, an attested copy of which, lodged with the jailer, exonerates such jailer of liability for an escape. The party praying out such writ of habeas corpus shall pay to the officer executing the same a reasonable sum for his services as adjudged by the courts respectively.

13-45-120. When county court can issue writ. (Repealed)

13-45-121. Powers of county court. (Repealed)

JOINT RIGHTS AND OBLIGATIONS

ARTICLE 50

Joint Rights and Obligations

13-50-101. Joint obligations and covenants. All joint obligations and covenants shall be taken and held to be joint and several obligations and covenants.

13-50-102. Joint debtors - release - effect. A creditor of joint debtors may release one or more of such debtors, and such release shall operate as a full discharge of such debtor so released, but such release shall not release or discharge or affect the liability of the remaining debtor. Such release shall be taken and held to be a payment in the indebtedness of the full proportionate share of the debtor so released.

13-50-103. Liability of remaining debtor. In case one or more joint debtors are released, no one of the remaining debtors shall be liable for more than his proportionate share of the indebtedness, unless he is the principal debtor and the debtor released was his surety, in which case the principal debtor is liable for the whole of the remainder of the indebtedness.

13-50-104. Right of surety. Nothing in sections 13-50-102 to 13-50-104 affects or changes the right of a surety who has paid his proportionate share of an indebtedness of recovering the same from his principal debtor.

13-50-105. Actions by and against partnerships and associations - what property bound by judgment. A partnership or other unincorporated association may sue or be sued in an action in its common name to enforce for or against it a substantive right; except that in such action only the property of the partnership or other unincorporated association, the joint property of the associates, and the separate property of any individual member thereof who is named as a party individually and over whom individually the court has acquired jurisdiction either by entry of appearance or by service of process may be bound by the judgment therein.

ARTICLE 50.5

Uniform Contribution Among
Tortfeasors

13-50.5-101. Short title. This article shall be known and may be cited as the "Uniform Contribution Among Tortfeasors Act".

13-50.5-102. Right to contribution - contract or agreement provision to indemnify or hold harmless void against public policy. (1) Except as otherwise provided in this article, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tortfeasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(3) There is no right of contribution in favor of any tortfeasor who has intentionally, willfully, or wantonly caused or contributed to the injury or wrongful death.

(4) A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability for the injury or wrongful death is not extinguished by the settlement nor in respect to any amount paid in a

settlement which is in excess of what was reasonable.

(5) A liability insurer, who by payment has discharged in full or in part the liability of a tortfeasor and has thereby discharged in full its obligation as insurer, is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(6) This article does not impair any right of indemnity under existing law. Where one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(7) This article shall not apply to breaches of trust or of other fiduciary obligation.

(8) In the event that a public contract or agreement for the construction, alteration, repair, or maintenance of any building, structure, highway bridge, viaduct, water, sewer, or gas distribution system, or other works dealing with construction, or any moving, demolition, or excavation connected with such construction, contains any covenant, promise, agreement, or combination thereof to indemnify or hold harmless any public entity from that public entity's own negligence, then such covenant, promise, agreement, or combination thereof is void as against public policy and wholly unenforceable. This subsection (8) shall not apply to construction bonds, contracts of insurance, contract clauses regarding insurance, or contract clauses regarding costs of defense of litigation arising out of the work or to any covenant, promise, agreement, or combination thereof to indemnify or hold harmless a contracting party against claims arising out of the negligent acts of the indemnitor and its subcontractors in the performance of the work under the contract. However, no contracting party shall be required to indemnify or hold harmless from any liability or damages arising from the negligent acts of the indemnified party. This subsection (8) is intended only to affect the contractual relationship between the parties relating to indemnification of public entities for the negligent acts of the public entity, and nothing in this subsection (8) shall affect any other rights or remedies of public entities or contracting parties.

13-50.5-103. Pro rata shares. The relative degrees of fault of the joint tortfeasors shall be used in determining their pro rata shares.

13-50.5-104. Enforcement. (1) Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate action.

(2) Where a judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced in that

action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(4) If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, his right of contribution is barred unless he has either:

(a) Discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment; or

(b) Agreed while action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(6) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution.

13-50.5-105. Release or covenant not to sue. (1) When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(a) It does not discharge any of the other tortfeasors from liability for their several pro rata shares of liability for the injury, death, damage, or loss unless its terms so provide; but it reduces the aggregate claim against the others to the extent of any degree or percentage of fault or negligence attributable by the finder of fact, pursuant to section 13-21-111 (2) or (3) or section 13-21-111.5, to the tortfeasor to whom the release or covenant is given; and

(b) It discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

13-50.5-106. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

JUDGMENTS AND EXECUTIONS

ARTICLE 51

Declaratory Judgments

13-51-101. Short title. This article shall be known and may be cited as the "Uniform Declaratory Judgments Law".

13-51-102. Legislative declaration. This article is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and it is to be liberally construed and administered.

13-51-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Person" means any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

13-51-104. Interpretation and construction. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

13-51-105. Power and force of declaration. Courts of record within their respective jurisdictions have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

13-51-106. Who may obtain declaration. Any person interested under a deed, will, written contract, or other writings constituting a contract or whose rights, status, or

other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

13-51-107. Contract construed any time. A contract may be construed either before or after there has been a breach thereof.

13-51-108. Purposes of declaration. (1) Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust or of the estate of a decedent, an infant, a mental incompetent, or an insolvent may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or other; or

(b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

13-51-109. Not a limitation. The enumeration in sections 13-51-106 to 13-51-108 does not limit or restrict the exercise of the general powers conferred in section 13-51-105, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

13-51-110. When court may refuse. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

13-51-111. Review. All orders, judgments, and decrees under this article may be reviewed as other orders, judgments, and decrees.

13-51-112. Further relief. Further relief based on a declaratory judgment or decree may be granted when necessary or proper. The application therefor shall be by

petition to a court having jurisdiction to grant the relief. If the application is deemed sufficient, the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith.

13-51-113. Issues of fact. When a proceeding under this article involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of facts are tried and determined in other civil actions in the court in which the proceeding is pending.

13-51-114. Costs. In any proceeding under this article, the court may make such award of costs as may seem equitable and just.

13-51-115. Parties - ordinances - statutes. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party and is entitled to be heard, and, if the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

ARTICLE 51.5

Review of Land Use Decisions

13-51.5-101. Scope and purpose of article. This article applies to judicial review of local land use decisions in cases where it is alleged that a governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion and there is no plain, speedy, and adequate remedy otherwise provided by law. Review shall be limited to a determination of whether the body or officer has exceeded its jurisdiction or abused its discretion, based on the evidence in the record before the defendant body or officer.

13-51.5-102. Definitions. As used in this article, unless the context otherwise

requires:

(1) "Development permit" means any zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of a governmental entity that has the effect of authorizing the development of real property. "Development permit" does not include a building permit.

(2) "Governmental entity" includes any municipal, county, or regional government with the authority to plan and zone land. "Governmental entity" does not include the state of Colorado, any agency of the state of Colorado, the United States, or any agency of the United States.

(3) "Local land use decision" means any action of a governmental entity that has or will have the effect of granting, denying, or granting with conditions an application for a development permit.

13-51.5-103. Request for administrative record - certification - time limits. (1) Unless the court specifically orders otherwise upon a showing of good cause for delay, a defendant governmental body or officer shall file the record pursuant to rule 106 (a) (4) (III), C.R.C.P., or any successor rule thereto within thirty-five days after the filing of the complaint.

(2) Except as otherwise provided in this section, all aspects of the proceeding shall be conducted in accordance with the Colorado rules of civil procedure, including without limitation C.R.C.P. 106 and any successor thereto.

ARTICLE 52

Property Subject to Levy

13-52-101. Property first levied on. The judgment creditor in execution may elect on what property he will have the same levied except the land on which the judgment debtor resides, which shall be last taken in execution, excepting and reserving, however, to the judgment debtor in execution such property as is, or may be, by law exempted from execution.

13-52-102. Property subject to execution - lien - real estate. (1) All goods and chattels, lands, tenements, and real estate of every person against whom any judgment is obtained in any court of record in this state, either at law or in equity, or against whom any foreign judgment is filed with the clerk of any court of this state in accordance with

the provisions of the "Uniform Enforcement of Foreign Judgments Act" pursuant to article 53 of this title, which judgment, in either case, is for any debt, damages, costs, or other sum of money are liable to be sold on execution to be issued upon such judgment. A transcript of the judgment record of such judgment, certified by the clerk of such court, may be recorded in any county; and from the time of recording such transcript, and not before, the judgment shall become a lien upon all the real estate, not exempt from execution in the county where such transcript of judgment is recorded, owned by such judgment debtor or which such judgment debtor may afterwards acquire in such county, until such lien expires. The lien of such judgment shall expire six years after the entry of judgment unless, prior to the expiration of such six-year period, such judgment is revived as provided by law and a transcript of the judgment record of such revived judgment, certified by the clerk of the court in which such revived judgment was entered, is recorded in the same county in which the transcript of the original judgment was recorded, in which event the lien shall continue for six years from the entry of the revived judgment. A lien may be obtained with respect to a revived judgment in the same manner as an original judgment and the lien of a revived judgment may be continued in the same manner as the lien of an original judgment. The lien of any judgment shall expire if the judgment is satisfied or considered as satisfied as provided in this section. The lien created by recording a notice of lien of a judgment for child support or maintenance or arrears thereof or child support debt pursuant to section 14-10-122, C.R.S., shall be governed by such section. The lien created by recording a transcript of an order for restitution pursuant to section 16-18.5-104 (5) (a), C.R.S., shall be governed by article 18.5 of title 16, C.R.S.

(2) (a) Except as provided in paragraph (b) of this subsection (2), execution may issue on any judgment described in subsection (1) of this section to enforce the same at any time within twenty years from the entry thereof, but not afterwards, unless revived as provided by law, and, after twenty years from the entry of final judgment in any court of this state, the judgment shall be considered as satisfied in full, unless so revived.

(b) (I) With respect to judgments entered in county courts on or after July 1, 1981, the time limitation within which execution may issue is six years from the entry thereof, but not afterwards, unless revived as provided by law, and, after six years from the entry of final judgment in any county court of this state, the judgment shall be considered as satisfied in full, unless so revived.

(II) The twenty-year limitation contained in paragraph (a) of this subsection (2) shall not apply to judgments entered for restitution pursuant to article 18.5 of title 16, C.R.S. Execution may issue on judgments for restitution at any time until paid in full.

(c) If, after the date that a transcript of judgment is recorded in a county, some portion or all of such county is merged with, annexed to, or otherwise becomes part of some other county or city and county, whether then existing or newly formed, then:

(I) It shall not be necessary to record the transcript of judgment in such other

county or city and county in order to continue the lien of the judgment and the priority thereof as to any real estate that the judgment debtor acquired before or acquires after the date of recording of the transcript of judgment if such real estate was in the county in which the transcript of judgment was recorded on or after the date of recording of the transcript of judgment; and

(II) If such judgment is revived as provided by law, timely recording of a transcript of the revived judgment in such other county or city and county is necessary to continue the lien of the original judgment and the priority thereof with respect to any real estate that was in the county in which the transcript of the original judgment was recorded on or after the date of recording the transcript of the original judgment but, at the time of recording of the transcript of the revived judgment, is in such other county or city and county.

(3) The term "real estate" as used in this section includes all interests of the defendant or any person to his use held or claimed by virtue of any deed, bond, covenant, or otherwise for a conveyance or as mortgagor of lands in fee, for life, or for years.

(4) (a) Any person, including a title insurance company as defined by article 11 of title 10, C.R.S., who makes representations concerning the existence of any judgment lien on the real property of another shall have the duty to make a bona fide good faith effort, prior to the making of such representations, to determine whether the person against whom the judgment was obtained is the same person as the person who holds an interest in the real property which is the subject of the representation. If a bona fide good faith effort is made and such effort fails to disclose satisfactory information as to whether or not the person against whom the judgment was obtained is the same person as the person who holds an interest in the real property which is the subject of the representation, then, in that event, the person or title insurance company who makes the representation may require the person who holds an interest in the real property which is the subject of the representation to provide satisfactory evidence or information that he is not the same person as the judgment debtor.

(b) Any person, including a title insurance company as defined by article 11 of title 10, C.R.S., who makes representations concerning the existence of any judgment lien on the real property of another without making a bona fide good faith effort, prior to the making of such representations, to determine whether the person against whom the judgment was obtained is the same person as the person who holds an interest in the real property which is the subject of the representation is liable to any person damaged by the failure to make such effort in a sum of not less than one hundred dollars nor more than one thousand dollars for his actual and exemplary damages. The prevailing party shall recover the costs of the action together with reasonable attorney fees, as determined by the court. No action pursuant to this paragraph (b) shall be brought more than one year after the date of the representation concerning the existence of the judgment lien.

(c) As used in this subsection (4), "bona fide good faith effort" means honesty in

fact in the effort to discover and determine the actual and true identity of the judgment debtor against whom the judgment lien attaches. The effort shall include but need not be limited to an examination of the judgment debtor's social security number, his driver's license, his address, his birth record, and the court record in the action which resulted in the judgment lien, if available.

13-52-103. Change of name of debtor - record. If a transcript of judgment is placed of record against any judgment debtor who, after the rendition of the judgment, changes his name and by such new name acquires real estate, the judgment creditor, or someone in his behalf, shall record in the office of the recorder of the county where such real estate is located notice of such judgment and change of name. Unless such notice and change of name are recorded, such judgment shall not be operative against an innocent purchaser of such property for value without actual or constructive notice of such lien and change of name.

13-52-104. Transcript of federal judgment filed - lien. (1) A transcript of the docket entry of any judgment or decree, either at law or in equity, for any debt, damages, costs, or other sum of money, entered or registered in any district court of the United States within this state, duly certified by the clerk of such district court of the United States, may be recorded in any county in the same manner as the transcript of the judgment record of any similar judgment of the court of general jurisdiction of this state may be recorded.

(2) From the time of the recording of such transcript, and not before, such judgment or decree shall be a lien upon all the real estate, not exempt from execution in the county where such transcript of judgment is recorded, owned by the judgment debtor or which the judgment debtor may afterwards acquire in such county, in the same manner and to the same extent and under the same conditions as if such judgment or decree had been entered by a court of general jurisdiction of this state.

13-52-105. Legal and equitable interests. Every interest in land, legal and equitable, shall be subject to levy and sale under execution, and the claim or possessory right of any defendant in execution in or to any public lands may be levied upon and sold under execution in the same manner as if the same were held by such defendant in fee simple. Nothing contained in articles 51 to 61 of this title and part 2 of article 41 of title 38, C.R.S., shall be so construed as to give any plaintiff in execution the right to levy on any lands filed on by any person in the Colorado state office of the bureau of land management, department of the interior, and occupied as a homestead by the defendant in

execution.

13-52-106. Certificate holders included. The legal holder by record of any certificate of purchase of lands of the United States shall be deemed to be within the true intent and meaning of articles 51 to 61 of this title and part 2 of article 41 of title 38, C.R.S.

13-52-107. What moneys may be levied on. All paper currency, coins, bank bills, and other evidence of debt used or circulated or intended to be used or circulated as money and issued by any corporation or state, or by the United States, may be levied upon under any execution or writ of attachment as other personal property is levied upon or attached and shall be returned by the officer making such levy as so much money collected without sale.

13-52-108. Concerning garnishment and attachment prior to judgment. (1) No order of attachment prior to judgment on any garnishee shall be made out or issued in any court of record in this state for any sum less than twenty dollars.

(2) Wages, fees, or commissions shall not be subject to a writ of garnishment made out or issued in any court of record in this state until a complaint has been filed. After a defendant in any case has become subject to the jurisdiction of a court of record in this state, no wages, fees, or commissions shall be subject to any writ of garnishment theretofore or thereafter made out or issued in such case except in aid of execution of judgment.

(3) The provisions of this section shall not apply to methods of enforcing collections provided in article 79 of title 8, C.R.S.

(4) The provisions of this section shall be subject to article 5 of the "Uniform Consumer Credit Code".

13-52-109. Property sold in parcels. When any real or personal property is taken in execution, if such property is susceptible of division, it shall be sold in such quantities as may be necessary to satisfy such execution and costs.

13-52-110. Execution to any county. It is lawful for the party in whose favor any judgment may be obtained to have executions in the usual form directed to any county in this state against the goods, chattels, lands, and tenements of such party defendant, or

upon his body, when the same is authorized by law.

13-52-111. Return - endorsement - entry. All executions shall be made returnable ninety days after date, and no writ of execution shall bind the personal property, goods, or chattels of any person against whom such writ is issued until the writ is delivered to the sheriff or other officer for execution. For a better manifestation of the time, the sheriff or other officer, on receipt of every such writ, shall endorse upon the back thereof the hour, day of the month, and the year when the same was received by him and shall immediately enter the receipt of said writ and the time of receiving it in a book to be kept for that purpose at the office of the sheriff. Said book shall be a public record and open to the inspection of the public. The execution shall be returned within ninety days from date of issue, unless sale is pending under levy made.

ARTICLE 53

Uniform Enforcement of Foreign
Judgments

13-53-101. Short title. This article shall be known and may be cited as the "Uniform Enforcement of Foreign Judgments Act".

13-53-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court, except a protection order or a restraining order as described in section 13-14-104 that is entitled to full faith and credit in this state.

13-53-103. Filing and status of foreign judgments. A copy of any foreign judgment authenticated in accordance with the act of congress or the laws of this state may be filed in the office of the clerk of any court of this state which would have had jurisdiction over the original action had it been commenced first in this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the court of this state in which filed and may be enforced or satisfied in like manner.

13-53-104. Notice of filing. (1) At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the name and last-known post-office address of the judgment debtor and the judgment creditor.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(3) No execution or other process for enforcement of a foreign judgment filed under this article shall issue until ten days after the date the judgment is filed.

13-53-105. Stay. (1) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(2) If the judgment debtor shows the court any ground upon which enforcement of a judgment of a court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period upon requiring the same security for satisfaction of the judgment which is required in this state.

13-53-106. Fees. (1) (a) On and after July 1, 2008, any person filing a foreign judgment shall pay to the clerk of the court one hundred sixty-six dollars.

(b) Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the courts of this state.

(c) Each fee collected pursuant to paragraph (a) of this subsection (1) shall be transmitted to the state treasurer and divided as follows:

(I) Ninety dollars shall be deposited in the general fund;

(II) Sixty dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6);

(III) Fifteen dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a); and

(IV) One dollar shall be deposited in the general fund pursuant to section 2-5-119,

C.R.S.

(2) Notwithstanding the amount specified for the fee in subsection (1) of this section, the chief justice of the supreme court by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the chief justice by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

13-53-107. Optional procedure. The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this article remains unimpaired.

13-53-108. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

ARTICLE 54

Property and Earnings Exempt

13-54-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Debtor" means a person whose property or earnings are subject to attachment, execution, or garnishment.

(2) "Dependent" means a person who receives more than one-half of his support from the debtor.

(2.5) "Disabled debtor", "disabled spouse", or "disabled dependent" means a debtor, spouse, or dependent who has a physical or mental impairment that is disabling and that, because of other factors such as age, training, experience, or social setting, substantially precludes the debtor, spouse, or dependent from engaging in a useful occupation as a homemaker, a wage-earner, or a self-employed person in any employment that exists in the community for which he or she has competence.

(3) "Earnings" means wages, salaries, commissions, fees, and all crops, livestock, poultry, dairy products, and agricultural products grown, raised, or produced by any debtor as a result of the personal efforts of a debtor or any dependent of such debtor.

(3.5) "Elderly debtor", "elderly spouse", or "elderly dependent" means a debtor, spouse, or dependent who is sixty years of age or older.

(4) "Household goods" means, by way of illustration, household furniture, furnishings, dishes, utensils, cutlery, tableware, napery, pictures, prints, appliances, stoves, microwave ovens, beds and bedding, freezers, refrigerators, washing machines, dryers, exercise equipment, musical instruments, bicycles, sewing machines, toys, and home electronics, including but not limited to cameras, television sets, radios, stereos, computers, facsimile machines, telephones, and other audio and video equipment.

(5) "Value" means the fair market value of any property less the amount of any lien thereon valid as between the owner of the property and the holder of any such lien.

13-54-102. Property exempt. (1) The following property is exempt from levy and sale under writ of attachment or writ of execution:

(a) The necessary wearing apparel of the debtor and each dependent to the extent of one thousand five hundred dollars in value;

(b) Watches, jewelry, and articles of adornment of the debtor and each dependent to the extent of two thousand dollars in value;

(c) The library, family pictures, and school books of the debtor and the debtor's dependents to the extent of one thousand five hundred dollars in value; except that this paragraph (c) shall not apply to any such property constituting all or part of the stock in trade of the debtor;

(d) Burial sites, including spaces in mausoleums, to the extent of one site or space for the debtor and each dependent;

(e) The household goods owned and used by the debtor or the debtor's dependents to the extent of three thousand dollars in value;

(f) Provisions and fuel on hand for the use or consumption of the debtor or the debtor's dependents to the extent of six hundred dollars in value;

(g) (I) Except as otherwise provided in subparagraph (II) of this paragraph (g), in the case of every debtor engaged in agriculture as the debtor's principal occupation, including but not limited to farming, ranching, dairy production, and the raising of livestock or poultry, all livestock, poultry, or other animals and all tractors, farm implements, trucks used in agricultural operations, harvesting equipment, seed, and agricultural machinery and tools in the aggregate value of fifty thousand dollars.

(II) Only one exemption in the aggregate value of fifty thousand dollars shall be allowed for a debtor and his or her spouse under subparagraph (I) of this paragraph (g). In the event that property is claimed as exempt by a debtor or his or her spouse under subparagraph (I) of this paragraph (g), no exemption shall be allowed for such debtor or his or her spouse under paragraph (i) of this subsection (1).

(h) Except for amounts due under court-ordered support of children or spouse

which are subject to the exemption provisions of section 13-54-104, all money received by any person as a pension, compensation, or allowance for any purpose on account or arising out of the services of such person as a member of the armed forces of the United States in time of war or armed conflict, and whether in the actual possession of the recipient thereof or deposited or loaned by him, and a like exemption to the unremarried widow or widower and the children of such person who receive a pension, compensation, or allowance of any kind from the United States on account or arising out of such service by a deceased member of such armed forces; and when a debtor entitled to exemption under this paragraph (h) dies or leaves his family said exemption shall extend to the dependents of said debtor;

(h.5) The articles of military equipment personally owned by members of the National Guard;

(i) The stock in trade, supplies, fixtures, maps, machines, tools, electronics, equipment, books, and business materials of any debtor used and kept for the purpose of carrying on any gainful occupation in the aggregate value of twenty thousand dollars; except that exempt property described in this paragraph (i) may not also be claimed as exempt pursuant to paragraph (j) of this subsection (1);

(j) (I) One or more motor vehicles or bicycles kept and used by any debtor in the aggregate value of five thousand dollars; or

(II) (A) One or more motor vehicles kept and used by any elderly or disabled debtor, or by any debtor with an elderly or disabled spouse or dependent, in the aggregate value of ten thousand dollars.

(B) (Deleted by amendment, L. 2007, p. 876, § 3, effective May 14, 2007.)

(k) The library of any debtor who is a professional person, including a minister or priest of any faith, kept and used by the debtor in carrying on his or her profession, in the value of three thousand dollars; except that exemptions with respect to any of the property described in this paragraph (k) may not also be claimed under paragraph (i) of this subsection (1);

(l) (I) (A) The cash surrender value of policies or certificates of life insurance to the extent of one hundred thousand dollars for writs of attachment or writs of execution issued against the insured; except that there is no exemption for increases in cash value from moneys contributed to a policy or certificate of life insurance during the forty-eight months prior to the issuance of the writ of attachment or writ of execution; and

(B) The proceeds of policies or certificates of life insurance paid upon the death of the insured to a designated beneficiary, without limitation as to amount, for writs of attachment or writs of execution issued against the insured.

(II) The provisions of this paragraph (l) shall not be interpreted to provide an exemption for attachment or execution of the proceeds of any policy or certificate of life insurance to pay the debts of a beneficiary of such policy or certificate.

(III) The provisions of this paragraph (l) shall not provide an exemption for

attachment or execution of the proceeds of any policy or certificate of life insurance if the beneficiary of such policy or certificate is the estate of the insured.

(m) The proceeds of any claim for loss, destruction, or damage and the avails of any fire or casualty insurance payable because of loss, destruction, or damage to any property which would have been exempt under this article to the extent of the exemptions incident to such property;

(n) The proceeds of any claim for damages for personal injuries suffered by any debtor except for obligations incurred for treatment of any kind for such injuries or collection of such damages;

(o) The full amount of any federal or state income tax refund attributed to an earned income tax credit or a child tax credit;

(p) Professionally prescribed health aids for the debtor or a dependent of the debtor;

(q) The debtor's right to receive, or property that is traceable to, an award under a crime victim's reparation law;

(r) For purposes of garnishment proceedings pursuant to the provisions of article 54.5 of this title, any amount held by a third party as a security deposit, as defined in section 38-12-102 (2), C.R.S., or any amount held by a third party as a utility deposit to secure payment for utility goods or services used or consumed by the debtor or his dependents;

(s) Property, including funds, held in or payable from any pension or retirement plan or deferred compensation plan, including those in which the debtor has received benefits or payments, has the present right to receive benefits or payments, or has the right to receive benefits or payments in the future and including pensions or plans which qualify under the federal "Employee Retirement Income Security Act of 1974", as amended, as an employee pension benefit plan, as defined in 29 U.S.C. sec. 1002, any individual retirement account, as defined in 26 U.S.C. sec. 408, any Roth individual retirement account, as defined in 26 U.S.C. sec. 408A, and any plan, as defined in 26 U.S.C. sec. 401, and as these plans may be amended from time to time;

(t) All property which is subject to a judgment against a debtor for failure to pay state income tax to a state for periods when such individual was not a resident of such state on benefits received from a pension or other retirement plan;

(u) Any court-ordered domestic support obligation or payment, including a maintenance obligation or payment or a child support obligation or payment, if the child support obligation or payment meets the requirements of section 13-54-102.5;

(v) Any claim for public or private disability benefits due, or any proceeds thereof, not otherwise provided for under law, up to three thousand dollars per month. Any claim or proceeds in excess of this amount shall be subject to garnishment in accordance with section 13-54-104.

(2) Notwithstanding the provisions of paragraph (h) of subsection (1) of this

section and section 13-54-104, military pensions shall be subject to court-ordered support of children or spouse.

(3) Notwithstanding the provisions of paragraph (s) of subsection (1) of this section, any pension or retirement benefit or payment shall be subject to attachment or levy in satisfaction of a judgment taken for arrearages for child support or for child support debt, subject to the limitations contained in section 13-54-104.

(4) Notwithstanding anything to the contrary in this section, all property of a person who has committed a felonious killing, as defined in section 15-11-803 (1) (b), C.R.S., and as determined in the manner described in section 15-11-803 (7), C.R.S., shall be subject to attachment or levy in satisfaction of a judgment awarded pursuant to section 13-21-201 or section 13-21-202 for such felonious killing.

(5) (a) As provided in the exception contained in 11 U.S.C. sec. 522 (f) (3), as amended, a debtor shall not avoid a consensual lien on property otherwise eligible to be claimed as exempt property.

(b) As used in this subsection (5), unless the context otherwise requires, "consensual lien" means a lien on property granted with the consent and approval of the owner.

13-54-102.5. Child support payments - exemption - deposit into custodial account. (1) Any past or present child support obligation owed by a parent or child support payment made by a parent that is required by a support order is exempt from levy under writ of attachment or writ of execution for any debt owed by either parent. A child support payment is no longer exempt under the provisions of this section if the recipient of the payment intermingles the payment with any other moneys.

(2) A child support payment is only exempt under the provisions of subsection (1) of this section after the payment is deposited in a bank, savings and loan, or credit union account if the account is a custodial account for the benefit of the child designated for child support payments and if no moneys other than child support payments made pursuant to a support order or interest earned on the moneys in the account are deposited into the account.

13-54-103. No exemption for purchase price. None of the property described in section 13-54-102 shall be exempt from levy and sale on writ of attachment or writ of execution for the purchase price of such property.

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(a) "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld and after the deduction of the cost of any health insurance provided by the individual pursuant to section 14-14-112, C.R.S. In the case of an order for the support of a spouse, former spouse, or dependent child, "disposable earnings" includes moneys voluntarily deposited in tax-deferred compensation funds.

(b) (I) "Earnings" means:

(A) Compensation paid or payable for personal services, whether denominated as wages, salary, commission, or bonus;

(B) Funds held in or payable from any health, accident, or disability insurance.

(II) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain, "earnings" also means:

(A) Workers' compensation benefits;

(B) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, C.R.S., and articles 30.5 and 31 of title 31, C.R.S.;

(C) Payment to an independent contractor for labor or services, dividends, severance pay, royalties, monetary gifts, monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office, taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies, interest, trust income, annuities, capital gains, or rents;

(D) Any funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; and

(E) Tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater.

(III) For the purposes of writs of garnishment issued by the state agency responsible for administering the state medical assistance program, which writs are issued as a result of a judgment for medical support for child support or for medical support debt, "earnings" includes:

(A) Payments received from a third party to cover the health care cost of the child but which payments have not been applied to cover the child's health care costs;

(A.5) Unemployment insurance benefits; and

(B) State tax refunds.

(IV) For the purposes of writs of garnishment issued by a county department of social services responsible for administering the state public assistance programs, which writs are issued as a result of a judgment for a debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible, "earnings" shall include workers' compensation benefits.

(V) For the purposes of attachments of earnings or writs of garnishment that are the result of a judgment taken for court assessments including fines, fees, costs, restitution, and surcharges pursuant to section 16-11-101.6 or section 16-18.5-105, C.R.S., "earnings" also means those enumerated under subparagraph (I) of this paragraph (b).

(1.1) Repealed.

(2) (a) Except as provided in subsection (3) of this section, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment or levy under execution or attachment may not exceed:

(I) For debts other than debts under subparagraph (II) of this paragraph (a), the lesser of:

(A) Twenty-five percent of the individual's disposable earnings for that week; or

(B) The amount by which the individual's disposable earnings for that week exceed thirty times the federal minimum hourly wage prescribed by section 206 (a) (1) of title 29 of the United States Code in effect at the time the earnings are payable; or

(C) The amount by which the individual's disposable earnings for that week exceed thirty times the state minimum hourly wage pursuant to section 15 of article XVIII of the state constitution in effect at the time the earnings are payable;

(II) For debts for fraudulently obtained public assistance or fraudulently obtained overpayments collected pursuant to section 26-2-128 (1) (a), C.R.S., the lesser of:

(A) Thirty-five percent of the individual's disposable earnings for that week; or

(B) The amount by which the individual's disposable earnings for that week exceed thirty times the federal minimum hourly wage prescribed by section 206 (a) (1) of title 29 of the United States Code in effect at the time the earnings are payable; or

(C) The amount by which the individual's disposable earnings for that week exceed thirty times the state minimum hourly wage pursuant to section 15 of article XVIII of the state constitution in effect at the time the earnings are payable.

(b) In the case of earnings for any pay period other than a week, a multiple of the federal minimum hourly wage or the state minimum hourly wage, equivalent in effect to that set forth in paragraph (a) of this subsection (2) shall be used.

(3) (a) The restrictions of subsection (2) of this section do not apply in the case of:

(I) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure which is established by state law, which affords substantial due process, and which is subject to judicial review;

(II) Any order of any court of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code, the federal bankruptcy code of 1978;

(III) Any debt due for any state or federal tax.

(b) (I) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or levy under execution or attachment to enforce any order for the support of any person shall not exceed:

(A) Where such individual is supporting his spouse or dependent child, other than a spouse or child with respect to whose support such order is used, fifty percent of such individual's disposable earnings for that week; and

(B) Where such individual is not supporting a spouse or dependent child as described in sub-subparagraph (A) of this subparagraph (I), sixty percent of such individual's disposable earnings for that week.

(II) With respect to the disposable earnings of any individual for any workweek, the fifty percent specified in sub-subparagraph (A) of subparagraph (I) of this paragraph (b) shall be deemed to be fifty-five percent, and the sixty percent specified in sub-subparagraph (B) of subparagraph (I) of this paragraph (b) shall be deemed to be sixty-five percent if and to the extent that such earnings are subject to garnishment or wage assignment or income assignment or levy under execution or attachment to enforce a support order with respect to a period that is prior to the twelve-week period that ends with the beginning of such workweek.

(III) Notwithstanding the maximum part of the aggregate disposable earnings of an individual which is subject to garnishment as provided in this paragraph (b), a debtor who is totally and permanently disabled and who establishes that at least seventy-five percent of his income is derived from any disability income or benefits may object to the amount of the aggregate disposable earnings subject to garnishment under this paragraph (b). The court, upon consideration of the circumstances of the parties, may provide for garnishment in an amount less than such maximum amounts.

(4) The restrictions established by this section shall be adhered to whether or not the employer of the debtor is subject to garnishee process.

13-54-105. No exemption for taxes. Nothing in this article shall be construed to exempt any property of any debtor from sale for the payment of any taxes legally assessed.

13-54-106. Exemptions applicable to all writs - exception for child support. The exemptions provided by this article shall extend and apply to writs of attachment, execution, and garnishment issued out of any court of record and by

municipal courts, except those writs which are the result of a judgment taken for arrearages for child support or for child support debt which are subject to the exemptions set forth in section 13-54-104 (3).

13-54-107. Exemptions in bankruptcy. The exemptions provided in section 522 (d) of the federal bankruptcy code of 1978, title 11 of the United States Code, as amended, are denied to residents of this state. Exemptions authorized to be claimed by residents of this state shall be limited to those exemptions expressly provided by the statutes of this state.

ARTICLE 54.5

Garnishment

13-54.5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Continuing garnishment" means any procedure for withholding the earnings of a judgment debtor for successive pay periods for payment of a judgment debt.

(2) (a) "Earnings" means:

(I) Compensation paid or payable for personal services, whether denominated as wages, salary, commission, or bonus;

(II) Funds held in or payable from any health, accident, or disability insurance.

(b) For the purposes of writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain, "earnings" also means:

(I) Workers' compensation benefits;

(II) Any pension or retirement benefits or payments, including but not limited to those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, C.R.S., and articles 30.5 and 31 of title 31, C.R.S.;

(III) Payment to an independent contractor for labor or services, dividends, severance pay, royalties, monetary gifts, monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office, taxable distributions from general partnerships, limited partnerships, closely held corporations, or limited liability companies, interest, trust income, annuities, capital gains,

or rents;

(IV) Any funds held in or payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages; and

(V) Tips declared by the individual for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater.

(c) For the purposes of writs of garnishment issued by the state agency responsible for administering the state medical assistance program, which writs are issued as a result of a judgment for medical support for child support or for medical support debt, "earnings" includes:

(I) Payments received from a third party to cover the health care cost of the child but which payments have not been applied to cover the child's health care costs; and

(II) State tax refunds.

(d) For the purposes of writs of garnishment issued by a county department of social services responsible for administering the state public assistance programs, which writs are issued as a result of a judgment for a debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible, "earnings" shall include workers' compensation benefits.

(e) For the purposes of attachments of earnings or writs of garnishment that are the result of a judgment taken for court assessments including fines, fees, costs, restitution, and surcharges pursuant to section 16-11-101.6 or section 16-18.5-105, C.R.S., "earnings" also means those enumerated under paragraph (a) of this subsection (2).

(3) "Garnishee" means a person other than a judgment creditor or judgment debtor who is in possession of earnings or property of the judgment debtor and who is subject to garnishment in accordance with the provisions of this article.

(4) "Garnishment" means any procedure through which the property or earnings of an individual in the possession or control of a garnishee are required to be withheld for payment of a judgment debt.

(5) "Judgment creditor" means any individual, corporation, partnership, or other legal entity that has recovered a money judgment against a judgment debtor in a court of competent jurisdiction.

(6) "Judgment debtor" means any person, including a corporation, partnership, or other legal entity, who has a judgment entered against him in a court of competent jurisdiction.

(7) "Notice of exemption and pending levy" means the document required to be served on the judgment debtor in any garnishment proceeding, except continuing garnishment, as soon as practicable following the service of the writ of garnishment on

the garnishee. A "notice of exemption and pending levy" includes a statement that the judgment creditor intends to satisfy the judgment against the judgment debtor out of the judgment debtor's personal property held by a third party and that the judgment debtor has the right to claim certain property as exempt.

13-54.5-102. Continuing garnishment - creation of lien. (1) In addition to garnishment proceedings otherwise available under the laws of this state in any case in which a money judgment is obtained in a court of competent jurisdiction, the judgment creditor or its assignees shall be entitled, on notice to the judgment debtor required by section 13-54.5-105, to apply to the clerk of such court for garnishment against any garnishee. To the extent that the earnings are not exempt from garnishment, such garnishment shall be a lien and continuing levy upon the earnings due or to become due from the garnishee to the judgment debtor.

(2) Garnishment pursuant to subsection (1) of this section shall be a lien and continuing levy against said earnings due for one hundred eighty-two days following service of the writ or for one hundred eighty-two days following the expiration of any writs with a priority under section 13-54.5-104, but such lien shall be terminated earlier than one hundred eighty-two days if earnings are no longer due, the underlying judgment is vacated, modified, or satisfied in full, or the writ is dismissed; except that a continuing garnishment may be suspended for a specified period of time by the judgment creditor upon agreement with the judgment debtor, which agreement shall be in writing and filed by the judgment creditor with the clerk of the court in which the judgment was entered and a copy of which shall be delivered by the judgment creditor to the garnishee.

(3) Garnishment pursuant to subsection (1) of this section shall apply only to proceedings against the earnings of a judgment debtor who is a natural person.

13-54.5-103. Property or earnings subject to garnishment. (1) Any earnings owed by the garnishee to the judgment debtor at the time of service of the writ of continuing garnishment upon the garnishee and all earnings accruing from the garnishee to the judgment debtor from such date of service up to and including the ninetieth day thereafter shall be subject to the process of continuing garnishment. A garnishee shall not be required to collect, possess, or control the judgment debtor's tips, and any such tips shall not be owed by a garnishee to a judgment debtor.

(2) Any indebtedness, intangible personal property, or tangible personal property capable of manual delivery, other than earnings, owned by the judgment debtor and in the possession and control of the garnishee at the time of service of the writ of garnishment upon the garnishee shall be subject to the process of garnishment.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the

exemptions from garnishment required or allowed by law, including but not limited to exemptions provided by sections 13-54-102 and 13-54-104 and 15 U.S.C. sec. 1671 et seq., shall apply to all garnishments.

13-54.5-104. Priority between multiple garnishments. (1) (a) Only one writ of continuing garnishment against earnings due the judgment debtor shall be satisfied at one time. When more than one writ of continuing garnishment has been issued against earnings due the same judgment debtor, they shall be satisfied in the order of service on the garnishee. Except as provided in this subsection (1), a lien and continuing levy obtained pursuant to this article shall have priority over any subsequent garnishment lien or wage attachment.

(b) Where a continuing garnishment has been suspended for a specific period of time by agreement of the parties pursuant to the provisions of section 13-54.5-102 (2), such suspended continuing garnishment shall have priority over any writ of continuing garnishment served on the garnishee after such suspension has expired.

(c) (I) Notwithstanding any other provision of this subsection (1), a continuing garnishment obtained pursuant to section 14-14-105, C.R.S., for the satisfaction of debts or judgments for child support shall have priority over any other continuing garnishment.

(II) Notwithstanding any other provision of this subsection (1), a continuing garnishment obtained pursuant to section 26-2-128 (1) (a), C.R.S., for the satisfaction of a judgment for fraudulently obtained public assistance or fraudulently obtained overpayments has priority over any other continuing garnishment other than a garnishment for collection of child support under subparagraph (I) of this paragraph (c).

(2) (a) Any writ of continuing garnishment served upon a garnishee while any previous writ is still in effect shall be answered by the garnishee with a statement that he has been served previously with one or more writs of continuing garnishment against earnings due the judgment debtor and specifying the date on which all such liens are expected to terminate.

(b) Upon the termination of a lien and continuing levy obtained pursuant to this article, any other writ of continuing garnishment which has been issued or which is issued subsequently against earnings due the judgment debtor shall have priority in the order of service on the garnishee, and no priority shall be given to any previous continuing lienholder whose lien has terminated. The person who serves a writ of continuing garnishment on a garnishee shall note the date and time of such service.

13-54.5-105. Notice to judgment debtor in continuing garnishment. In a case of continuing garnishment, the judgment creditor shall serve two copies of the writ of continuing garnishment upon the garnishee, one copy of which the garnishee shall deliver

to the judgment debtor as provided in section 13-54.5-107. Such writ shall include notice to the judgment debtor of the formula used to calculate the amount of exempt earnings owed to the judgment debtor for a single pay period and the amount of nonexempt earnings payable to the judgment creditor for a single pay period, and such writ shall contain notice to the judgment debtor of his right to object to such calculation of exempt and nonexempt earnings and his right to a hearing on such objection.

13-54.5-106. Notice to judgment debtor in other garnishment. (1) In a case where personal property of the judgment debtor other than earnings is subject to garnishment, following the service of the writ of garnishment on the garnishee, the person who served said writ shall, as soon as practicable, serve a copy of the writ of garnishment, together with a notice of exemption and pending levy, upon each judgment debtor whose property is subject to garnishment by said writ. The notice of exemption and pending levy shall inform the judgment debtor that the judgment creditor intends to seek satisfaction of any judgment rendered in its favor against the judgment debtor out of the judgment debtor's personal property in the possession or control of the garnishee and shall inform the judgment debtor of his right to claim exempt property.

(2) The notice of exemption and pending levy in such garnishment proceeding against the personal property of a judgment debtor who is a natural person shall contain the following:

(a) The judgment creditor's name and business address;

(b) The original amount of the judgment;

(c) The amount, if any, paid on the principal of the judgment as of the date of the notice;

(d) The principal balance due on the judgment;

(e) The interest, if any, due on the judgment;

(f) The itemized taxable costs, if any, including the estimated costs of serving the notice;

(g) The total amount due and owing on the judgment;

(h) The date of entry of the judgment;

(i) The name of the court in which the judgment was entered;

(j) A statement of the judgment debtor's right to claim any property levied upon as exempt, including, but not limited to:

(I) Exempt property under section 13-54-102 and exempt earnings under section 13-54-104;

(II) Workers' compensation benefits under section 8-42-124, C.R.S.;

(III) Unemployment compensation benefits under section 8-80-103, C.R.S.;

(IV) Group life insurance proceeds under section 10-7-205, C.R.S.;

(V) Health insurance benefits under section 10-16-212, C.R.S.;

(VI) Fraternal society benefits under section 10-14-403, C.R.S.;

(VII) Family allowances under section 15-11-404, C.R.S.;

(VIII) Repealed.

(IX) Public employees' retirement benefits pursuant to sections 24-51-212 and 24-54-111, C.R.S., social security benefits pursuant to 42 U.S.C. sec. 407, and railroad employee retirement benefits pursuant to 45 U.S.C. sec. 231m;

(X) Public assistance benefits under section 26-2-131, C.R.S.;

(XI) Police officers' and firefighters' pension fund payments under section 31-30.5-208, C.R.S.;

(XII) Utility and security deposits under section 13-54-102 (1) (r);

(j.5) A statement that, notwithstanding the debtor's right to claim any property levied upon as exempt for the property specified in paragraph (j) of this subsection (2), no exemption other than the exemptions set forth in section 13-54-104 (3) may be claimed for a writ which is the result of a judgment taken for arrearages for child support or for child support debt;

(k) The method of claiming an exemption and the time therefor; and

(l) The right to a hearing on any such claim of exemption and the time within which such hearing must be held.

(3) Any notice to the judgment debtor required in the case of a garnishment proceeding against the assets of a judgment debtor other than a natural person shall be as prescribed by the supreme court pursuant to section 13-54.5-111.

13-54.5-107. Service of notice upon judgment debtor. (1) In a case of continuing garnishment, the garnishee shall deliver a copy of the writ of garnishment required by section 13-54.5-105 to the judgment debtor at the time the judgment debtor receives earnings for the first pay period affected by such writ of continuing garnishment.

(2) In cases where the judgment debtor's personal property, other than earnings, is subject to garnishment, service of the notice of exemption and pending levy required by section 13-54.5-106 shall be made by delivering a copy of such notice to the judgment debtor personally or by leaving a copy of such notice at the usual abode of the judgment debtor with some member of his or her family over the age of eighteen years. In the event that personal service cannot be made upon the judgment debtor, upon a showing that due diligence has been used to obtain personal service, the court shall order service of such notice of exemption and pending levy to be made, in accordance with section 24-70-106, C.R.S., by publication thereof for a period of fourteen days in some newspaper of general circulation published in the county in which said property was so levied upon or, if there is no such newspaper published in such county, by publication in a newspaper of general circulation in an adjoining county, and the court shall order the clerk of the court in which the judgment was entered to mail a copy of such notice to the judgment debtor at his or

her last-known address, postage prepaid. Such notice, with proof of service thereof, and, in the case of publication, an affidavit of publication and an affidavit of the mailing of notice shall be filed with the clerk of the court in which the judgment was entered.

(3) Compliance with this section and sections 13-54.5-105 and 13-54.5-106 by the judgment creditor shall be deemed to give sufficient notice to the judgment debtor of the garnishment proceedings against him, and no further notice shall be required under this article.

13-54.5-108. Judgment debtor to file written objection or claim of exemption. (1) (a) In a case of continuing garnishment where the judgment debtor objects to the calculation of the amount of exempt earnings, the judgment debtor shall have seven days from receipt of the copy of the writ of continuing garnishment required by section 13-54.5-105 within which to resolve the issue of such miscalculation, by agreement with the garnishee, during which time the garnishee shall not tender any moneys to the clerk of the court. If such objection is not resolved within seven days and after good faith effort, the judgment debtor may file a written objection with the clerk of the court in which the judgment was entered setting forth with reasonable detail the grounds for such objection. The judgment debtor shall, by certified mail, return receipt requested, deliver immediately a copy of such objection to the judgment creditor or his or her attorney of record.

(b) In a case where a garnishee, pursuant to a writ of garnishment, holds any personal property of the judgment debtor other than earnings which the judgment debtor claims to be exempt, said judgment debtor, within fourteen days after being served with the notice of exemption and pending levy required by section 13-54.5-106, shall make and file with the clerk of the court in which the judgment was entered a written claim of exemption setting forth with reasonable detail a description of the property claimed to be exempt, together with the grounds for such exemption. The judgment debtor shall, by certified mail, return receipt requested, deliver immediately a copy of such claim to the judgment creditor or his or her attorney of record.

(2) Upon the filing of a written objection or claim of exemption, all further proceedings with relation to the sale or other disposition of said property or earnings shall be stayed until the matter of such objection or claim of exemption is determined.

(3) Notwithstanding the provisions of subsection (1) of this section, a judgment debtor failing to make a written objection or claim of exemption may, at any time within one hundred eighty-two days from receipt of a copy of the writ of continuing garnishment required by section 13-54.5-105 or from service of the notice of exemption and pending levy required by section 13-54.5-106 and for good cause shown, move the court in which the judgment was entered to hear an objection or a claim of exemption as to any earnings or property levied in garnishment, the amount of which the judgment debtor claims to

have been miscalculated or which the judgment debtor claims to be exempt. Such hearing may be granted upon a showing of mistake, accident, surprise, irregularity in proceedings, newly discovered evidence, events not in the control of the judgment debtor, or such other grounds as the court may allow.

13-54.5-108.5. Garnishee not required to assert exemption. A garnishee shall not be required to deduct, set up, or plead any exemption for or on behalf of a judgment debtor, except as set forth in the writ.

13-54.5-109. Hearing on objection or claim of exemption. (1) (a) Upon the filing of an objection pursuant to section 13-54.5-108 (1) (a) or the filing of a claim of exemption pursuant to section 13-54.5-108 (1) (b), the court in which the judgment was entered shall set a time for the hearing of such objection or claim, which shall be not more than fourteen days after filing. The clerk of the court where such objection or claim is filed shall immediately inform the judgment creditor or his or her attorney of record and the judgment debtor or his or her attorney of record by telephone, by mail, or in person of the date set for such hearing.

(b) The certificate of the clerk of the court that service of notice of such hearing has been made in the manner and form stated in paragraph (a) of this subsection (1), which certificate has been attached to the court file, shall constitute prima facie evidence of such service, and such certificate of service filed with the clerk of the court is sufficient return of such service.

(2) Upon such hearing, the court shall summarily try and determine whether the amount of the judgment debtor's exempt earnings was correctly calculated by the garnishee or whether the property held by the garnishee is exempt and shall enter an order or judgment setting forth the determination of the court. If the amount of exempt earnings is found to have been miscalculated or if said property is found to be exempt, the court shall order the clerk of the court to remit the amount of over-garnished earnings, or the garnishee to remit such exempt property, to the judgment debtor within seven days.

(3) Where the judgment debtor moves the court to hear an objection or claim of exemption within the time provided by section 13-54.5-108 (3) and the judgment giving rise to such claim has been satisfied against property or earnings of the judgment debtor, the court shall hear and summarily try and determine whether the amount of the judgment debtor's earnings paid to the judgment creditor was correctly calculated and whether the judgment debtor's property sold in execution was exempt and shall issue an order setting forth the determination of the court. If such amount of earnings is found to have been miscalculated or if such property is found to be exempt, the court shall order the judgment creditor to remit the amount of the over-garnished earnings or such exempt property or

the value thereof to the judgment debtor within seven days.

(4) Any order or judgment entered by the court as provided for in subsections (2) and (3) of this section is a final judgment or order for the purpose of appellate review.

13-54.5-110. No discharge from employment for any garnishment - general prohibition. (1) No employer shall discharge an employee for the reason that a creditor of the employee has subjected or attempted to subject unpaid earnings of the employee to any garnishment or like proceeding directed to the employer for the purpose of paying any judgment.

(2) If an employer discharges an employee in violation of the provisions of this section, the employee may, within ninety-one days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

13-54.5-111. Supreme court rules. The practice and procedure in garnishment actions instituted pursuant to this article, and all forms in connection therewith, shall be in accordance with rules prescribed by the supreme court pursuant to article 2 of this title.

ARTICLE 55

Method of Claiming Exemption

13-55-101. Defendant to file written claim. Except in cases of garnishment pursuant to article 54.5 of this title, in cases where a sheriff or other officer by virtue of a writ of execution, writ of attachment, or other order of court issued by a court of record or clerk thereof levies upon, seizes, or takes into his possession any property of the defendant debtor, which said property, or part thereof, the defendant claims as exempt under the provisions of the statutes of the state, said defendant debtor, within fourteen days after being served with notice of such levy or seizure, shall make and file with the clerk of the court of record out of which such writ of execution, writ of attachment, or other order was issued a written claim of such exemption setting forth with reasonable detail the description of the property so claimed to be exempt together with the grounds of such claim of exemption.

13-55-102. Service of notice of levy. Notice of such levy or seizure of any property under a writ of execution, writ of attachment, or other order of court shall be served upon the defendant debtor by delivering a copy of such notice to the defendant debtor personally or by leaving a copy of such notice at the usual abode of the defendant debtor with some member of his family over the age of fifteen years. In the event the defendant is a nonresident, or absent from the state or conceals himself or herself so personal service cannot be had upon him or her, then service of such notice of levy or seizure shall be made by publication thereof for a period of fourteen days in some newspaper published in the county in which said property was so levied upon or seized, or, if there is no newspaper published in such county, then like publication shall be made in a newspaper in an adjoining county, and the clerk of the court of record shall mail a copy of such notice to the defendant debtor directed to him or her at his or her last-known address, postage prepaid. Such notice, with proof of service thereof and, in case of publication, affidavit of publication and affidavit of mailing of notice shall be filed with the clerk of the court of record from which such writ of execution, writ of attachment, or other order of court was issued.

13-55-103. Proceedings for sale stayed. Upon the filing of a written claim of exemption, all further proceedings with relation to the sale or other disposition of said property shall be stayed until the matter of such claim of exemption is determined.

13-55-104. Hearing on claim. (1) Upon the filing of such claim of exemption, the court of record shall set a time for the hearing of such claim of exemption, which shall not be less than seven days nor more than fourteen days thereafter. A written notice of the time and place of such hearing shall be given by the defendant or his or her attorney to the officer who made such levy or seizure, and to the plaintiff in said action or his or her attorney of record, by leaving a copy of such notice with said officer or his deputy at his office and by leaving a copy thereof with the plaintiff or his or her attorney of record, or notice may be given to the plaintiff by mailing a copy of such notice of hearing to the attorney of record of the plaintiff at least seven days in advance of date set for the hearing.

(2) The affidavit of the defendant or his attorney that service of notice of such hearing has been made in the manner and form stated, attached to the original notice, shall constitute prima facie evidence of such service, and such affidavit of service filed with the clerk of the court is sufficient return of such service. Such hearing may be continued from time to time in the discretion of the court. In case of the absence of the district judge from the county in which said claim of exemption has been filed with the clerk of the district court or in case of other inability of the district judge to act, the county

judge of such county if possessing the qualifications of a district judge in cases of claims for exemption arising therein may set the time of hearing and hear and determine such claims, sitting as a judge of the district court, and his judgment, findings, or orders entered therein shall be of the same force and effect as though made by the district judge.

13-55-105. Court enters order or judgment. Upon such hearing, the court shall summarily try and determine the question as to whether or not the property, or any part thereof, so levied upon, seized, and taken into possession by the officer making such levy, as set forth in said written claim of exemption, is exempt and shall enter an order or judgment setting forth the determination of the court. If any of said property is found to be exempt, the court shall order the sheriff or other officer to return such property so found to be exempt to the defendant within forty-eight hours, unless same is ordered sold as provided in section 13-55-109.

13-55-106. Order or judgment is final. Any order or judgment entered by the court as provided for by section 13-55-105 is a final judgment or order for the purpose of appellate review.

13-55-107. Failure to claim - effect. In case the defendant debtor fails to make written claim of exemption as provided in section 13-55-101, he conclusively waives his right of exemption under the statutes of this state and has no right of action against the officer making such levy or seizure or against the plaintiff on account of such levy or seizure on the ground of levying upon exempt property.

13-55-108. Damages. If, after hearing of claim of exemption, the court determines that the property levied upon and seized, or any part thereof, is exempt and the officer making the levy in all matters obeys and abides by the order or judgment of the court, no right of action for other than actual damages suffered by the defendant shall exist against said officer or the plaintiff on account of such levy or seizure upon the ground of levying upon or seizure of exempt property. If such officer does not return the property seized and so found to be exempt within forty-eight hours, unless same is ordered sold as provided in section 13-55-109, then he is liable in damages for three times the value of the property seized.

13-55-109. Court may order sale - proceeds. In case the court finds that a

portion of such property is exempt to such value as is by statute fixed as being exempt but that the property seized is of a greater value and said property so seized cannot be readily divided, the court may order said property to be sold, and out of the first proceeds of said sale the defendant debtor shall be paid the amount, as is provided by statute, of his exemption. The disposal of the balance of the proceeds of said sale shall await the further order of the court. If such property is divisible, the court shall fix the value of each item thereof and shall require the defendant to select therefrom such items as the defendant may choose of an aggregate value not to exceed the amount of his exemptions, and the disposal of the balance of such property shall await the further order of the court. No sale of property seized or levied upon under a writ of attachment shall be ordered sold until after final judgment in said action has been rendered in favor of the plaintiff.

13-55-110. Appeals. Appellate review may be had from the final order or judgment entered in pursuance of this article as in other cases.

ARTICLE 56

Levy and Sale - Real Estate

PART 1

CERTIFICATES OF LEVY

13-56-101. Certificate of levy - notice. When in any case a writ of attachment or a writ of execution is issued from any district or county court and a levy thereunder is made upon real estate, it is the duty of the sheriff or officer making the levy to file a certificate of such fact with the recorder of the county where such real estate is situate, and, from and after the filing, such levy shall take effect as to creditors and bona fide purchasers without notice and not before.

13-56-102. Writs from other county. Writs of attachment and writs of execution may issue from any district or county court of any county to the sheriff or other proper officer of such county or any other county, and, when in such cases a levy is made upon real estate in such other county, it is the duty of the sheriff or other officer making such levy to file a certificate of such fact with the recorder of his county, and, from and after the filing of the same, such levy shall take effect as to creditors and bona fide purchasers without notice and not before.

13-56-103. Lien of six years' duration. The lien of an attachment or execution levied on real estate shall continue for six years from the filing of the certificate thereof, as provided in section 13-56-101, unless the same is sooner released or discharged or unless the judgment in the case is satisfied.

13-56-104. Recorder to file and record. It is the duty of the recorder of the proper county to file and record the certificates mentioned in this part 1 in a book to be kept for that purpose, for which he shall be entitled to the same fees as for recording other papers, to be paid by the plaintiff in such execution or attachment and taxed and collected by the sheriff as other costs.

PART 2

SALE OF LANDS

13-56-201. Hours - notice - penalty - irregularity. (1) No lands or tenements shall be sold by virtue of any execution unless such sale is at public venue and between the hours of nine in the morning and the setting of the sun on the same day nor unless the time and place of holding such sale has been previously advertised for the space of twenty days, by publishing notices of the time and place thereof in some daily or weekly newspaper printed and published in the county where such lands and tenements are situate or, if there is no such newspaper printed in the county, by posting such notices, printed or written, or partly printed and partly written, in three of the most public places in the county where the lands may be situated specifying the names of the plaintiff and defendant in the execution. In all such notices, the lands or tenements to be sold shall be described with reasonable certainty by setting forth their number or by some other appropriate description, and such notices shall comply with section 24-70-109, C.R.S.

(2) If any sheriff or other officer sells any lands or tenements by virtue of any such execution, otherwise than in the manner aforesaid, or without such previous notice, the sheriff or other officer so offending shall forfeit and pay the sum of fifty dollars for every offense to be recovered, with costs of suit, in any court of record in this state by the person whose lands were advertised and sold. No such offense nor any irregularity on the part of the sheriff or other officer having the execution shall affect the validity of any sale made under it, unless it appears that the purchaser had notice of such irregularity.

ARTICLE 57

Sale of Chattels

13-57-101. Ten days' notice of sale. No goods or chattels shall be sold by virtue of any execution unless previous notice of such sale has been given for at least ten days successively in the same manner as required in the sale of real estate upon execution.

13-57-102. Future delivery bond - conditions. When a sheriff or other officer has levied an execution, issued out of any court of record, upon the personal property of a defendant, or is about to make such levy and the defendant is desirous of retaining the property in his possession, such sheriff shall take a bond from the defendant with security that the property shall be forthcoming or delivered at such time and place as is named in the condition and that the property shall not be disposed of nor injured. A bond so taken shall not be considered void as taken by color of office.

13-57-103. Breach of bond - levy on security - sale. Where bonds are taken by a sheriff for the future delivery of property and the defendant or his security does not return the property named in the bond conformably to the condition thereof, the officer having such execution may proceed to execute the same in the same manner as if no levy had been made. In case the defendant's property, or a sufficiency thereof, cannot be found, the officer may proceed to levy on so much of the property of the security in the delivery bond as will make the amount called for in such bond. The property which may be so taken may be sold, by giving notice thereof, as prescribed in section 13-57-101, and no future delivery bond shall be allowed.

ARTICLE 58

Death of Parties

13-58-101. Death of debtor - filing claim. When a judgment is obtained in any court of record in this state against any person who after the rendition of said judgment dies, a claim based upon such judgment may be filed against the estate of the deceased judgment debtor without first reviving the judgment against his heirs or personal representatives.

13-58-102. Execution to issue after one year. When any judgment becomes a lien and the defendant dies before execution is issued thereon, the remedy of the person in whose favor the judgment has been rendered shall not be delayed nor suspended by reason of the nonage of any heir of such defendant. No execution shall issue upon such judgment until the expiration of one year after the death of the defendant, nor shall any law of this state which gives no preference to the claims of a creditor of a deceased debtor be so construed as to impair or affect the lien of any judgment.

13-58-103. Death of plaintiff - substitution. The collection of the judgments of courts of record shall not be delayed nor hindered by the death of the plaintiff or person in whose name the judgment exists, but the executor or administrator, as the case may be, may cause the letters testamentary or of administration to be recorded in the court in which the judgment exists, after which execution may issue and proceedings had thereon in the name of the executor or administrator as such, in the same manner that could or might be done, if the judgment exists or remains in the name and in favor of the executor or administrator in his capacity as such executor or administrator.

13-58-104. Lien of judgment not abated by death. The lien created by law on property shall not abate or cease by reason of the death of any plaintiff, but the same shall survive in favor of the executor or administrator of the testator or intestate, whose duty it is to have the judgment enforced in the manner provided in section 13-58-103.

13-58-105. Administrator to buy on execution. When it is necessary in order to secure the collection of any judgment in favor of any executor or administrator, it is the duty of such executor or administrator to bid for and become the purchaser of real estate at a sheriff's sale, which real estate so purchased shall be assets in his hands and may be again sold by him upon the order of the court of probate, and the moneys arising from such sale shall be paid over and accounted for as other moneys in his hands.

ARTICLE 59

Execution Against the Body

13-59-101. No imprisonment for debt. There shall be no imprisonment or arrest for debt in this state in any case upon any contract, expressed or implied.

13-59-102. Execution against the body. No execution shall issue against the body of any defendant in a civil action.

13-59-103. Body execution in tort, when. (Repealed)

13-59-104. Finding - term - release. (Repealed)

13-59-105. Plaintiff to pay costs, unless. (Repealed)

ARTICLE 60

Judgments Against Municipal
Corporations

13-60-101. Levy to pay judgment against municipality - procedure. (1) When a judgment for the payment of money is given and rendered against any municipal or quasi-municipal corporation of the state, or against any officer thereof, in an action prosecuted by or against him in his official capacity or name of office, such judgment being an obligation of such municipality, and when by reason of vacancy in office or for any other cause the duly constituted tax assessing and collecting officers fail or neglect to provide for the payment of such judgment or fail to make a tax levy to pay such judgment, the judgment creditor may file a transcript of such judgment with the board of county commissioners of the county, and counties if more than one, in which such public corporation is situated. Thereupon, the county commissioners shall levy a tax as provided in subsection (2) of this section upon all the taxable property within the limits of such public corporation for the purpose of making provision for the payment of such judgment, which tax shall be collected by the county treasurer, and, when collected by the county treasurer, it shall be paid over, as fast as collected by him, to the judgment creditor, or his assigns, upon the execution and delivery of proper vouchers therefor.

(2) The power conferred to pay such judgment by special levy of such tax is in addition to the taxing power given and granted to such public corporation to levy taxes for other purposes. The board of county commissioners shall levy under this section on all taxable property within said municipal or quasi-municipal corporation such taxes as are sufficient to discharge such judgment in the next fiscal year; but in no event shall such

annual levy pursuant to this section and section 24-10-113, C.R.S., exceed a total of ten mills for one or more judgments, exclusive of mill levies for other purposes of such public corporation. The board of county commissioners shall continue to levy such taxes not to exceed a total of ten mills annually, exclusive of mill levies for other purposes of such public corporation, but in no event less than ten mills if such judgment will not be discharged by a lesser levy, until such judgment is discharged.

(3) Any taxes levied to pay the last payment upon or to pay any such judgment shall be valid, whether or not the sum sought to be raised thereby exceeds the sum due on such judgment, principal, and interest. Such excess of the sum required shall not exceed a sum equal to ten percent of such required sum, and no sale of real estate made to make such taxes shall be invalid by reason of such excess if the same is within said specified limit. All levies to pay judgments shall be made as near as possible to raise a sum equal to that due on the judgment to pay for which the tax is levied. Nevertheless, any excess levied, if such excess does not exceed ten percent of the sum due and desired to be paid, shall not invalidate any tax levy upon or tax sale of real or personal estate made to raise, make, or collect the sum due and excess. Any excess collected by the county treasurer remaining in his hands after paying all judgments in full, transcripts thereof having been filed with the county commissioners, shall be paid by him to the treasurer of such public corporation and become part of the general fund of such public corporation. This section shall not prevent said public corporation from paying any judgment from any other funds it may have in its treasury available for that purpose. The provisions of this section shall not apply to counties.

ARTICLE 61

Garnishment of Public Servants

13-61-101. Funds subject to garnishment. The state of Colorado, municipal corporations, quasi-municipal corporations, and any officer, board, or commission thereof, having the control of the disbursing of any fund, whether the same be derived from appropriations, levies, fees, licenses, special taxes, or otherwise within the state of Colorado, shall be subject to garnishment upon writs of attachment and execution in the same manner as private corporations are subject to garnishment under such writs; except that the state of Colorado shall not be subject to garnishment regarding salaries or fees due to any officer designated as such and whose salary or fees are fixed by the provisions of the constitution of the state of Colorado.

13-61-102. Other salaries, wages, and fees. It is declared that no provision of this article is contrary to public policy and that the provisions of this article are meant to apply to all salaries, wages, fees, credits, and choses in action other than such as are exempt under the provisions of section 13-61-101, whether collection of the same might be enforced under any action in court, by an action in the nature of mandamus, or in any manner whatsoever.

13-61-103. Summons - how served. Garnishee summons issued upon writs of attachment and execution shall be served upon the officer of such state, municipal corporation, quasi-municipal corporation, or board or commission thereof, whose duty it is to issue warrants, checks, or money for the payment to any officer, employee, or other person whose salary, wages, earnings, or money due him is sought to be held. Service of such garnishee summons on such officer shall be made by leaving a copy thereof with him personally or, in the event of his absence from his office, then by leaving a copy thereof in his office with the chief clerk, deputy, or other employee of the office then in charge thereof.

13-61-104. Garnishee to answer. It is the duty of such officer to answer any garnishee summons served upon him under the provisions of this article in the same manner as is provided by law for the answer of garnishee summons by private corporations. If such answer is accompanied by a certificate of such officer that the same is true, such answer need not be under oath or affirmation, and such officer shall not be required to appear and answer in person, but may file his answer in writing or submit the same by United States mail to the court, or clerk thereof, designated in such summons. The officer need not include as money due the amount of any warrant or check drawn and signed prior to the time of the service of such garnishee summons.

13-61-105. Order of court. Such officer shall abide by the order of the court with regard to paying into court any amount ordered, not, however, in excess of the salary, wages, earnings, or money due such officer, employee, or other person whose salary, wages, or money due him is sought to be held to the time of the service of such garnishee summons.

ARTICLE 62

Uniform Foreign-country Money
Judgments Recognition Act

13-62-101. Short title. This article may be cited as the "Uniform Foreign-country Money Judgments Recognition Act".

13-62-102. Definitions. In this article:

(1) "Foreign-country" means a government other than:

(a) The United States;

(b) A state, district, commonwealth, territory, or insular possession of the United States; or

(c) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States constitution.

(2) "Foreign-country judgment" means a judgment of a court of a foreign country.

13-62-103. Applicability. (1) Except as otherwise provided in subsection (2) of this section, this article applies to a foreign-country judgment to the extent that the judgment:

(a) Grants or denies recovery of a sum of money; and

(b) Under the law of the foreign country where rendered, is final, conclusive, and enforceable.

(2) This article does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

(a) A judgment for taxes;

(b) A fine or other penalty; or

(c) A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(3) A party seeking recognition of a foreign-country judgment has the burden of establishing that this article applies to the foreign-country judgment.

13-62-104. Standards for recognition of foreign-country judgment. (1) Except as otherwise provided in subsections (2) and (3) of this section, a court of this state shall recognize a foreign-country judgment to which this article applies.

(2) A court of this state may not recognize a foreign-country judgment if:

(a) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(b) The foreign court did not have personal jurisdiction over the defendant; or

(c) The foreign court did not have jurisdiction over the subject matter.

(3) A court of this state need not recognize a foreign-country judgment if:

(a) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;

(b) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;

(c) The judgment or the claim for relief on which the judgment is based is repugnant to the public policy of this state or of the United States;

(d) The judgment conflicts with another final and conclusive judgment;

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(g) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

(h) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (2) or (3) of this section exists.

13-62-105. Personal jurisdiction. (1) A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:

(a) The defendant was served with process personally in the foreign country;

(b) The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(c) The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(d) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

(e) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign country; or

(f) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a claim for relief arising out of that operation.

(2) The list of bases for personal jurisdiction in subsection (1) of this section is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (1) of this section as sufficient to support a foreign-country judgment.

13-62-106. Procedure for recognition of foreign-country judgment. (1) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

(2) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

13-62-107. Effect of recognition of foreign-country judgment. (1) If the court in a proceeding under section 13-62-106 finds that the foreign-country judgment is entitled to recognition under this article then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

(a) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(b) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

13-62-108. Stay of proceedings pending appeal of foreign-country judgment. If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

13-62-109. Statute of limitations. An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or fifteen years from the date that the foreign-country judgment became effective in the foreign country.

13-62-110. Uniformity of interpretation. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

13-62-111. Saving clause. This article does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this article.

13-62-112. Applicability. This article applies to all actions commenced on or after August 5, 2008, in which the issue of recognition of a foreign-country judgment is raised.

ARTICLE 62.1

Uniform Foreign-Money Claims Act

13-62.1-101. Definitions. In this article:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with this article, is:

(a) Paid to a claimant in an action or distribution proceeding;

(b) Paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(c) Used to recoup, set-off, or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to

section 13-62.1-104.

(9) "Person" means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

13-62.1-102. Scope. (1) This article applies only to a foreign-money claim in an action or distribution proceeding.

(2) This article applies to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding.

13-62.1-103. Variation by agreement. (1) The effect of this article may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

13-62.1-104. Determining money of the claim. (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of

the claim, as in each case may be appropriate, is the money:

(a) Regularly used between the parties as a matter of usage or course of dealing;

(b) Used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) In which the loss was ultimately felt or will be incurred by the party claimant.

13-62.1-105. Determining amount of the money of certain contract claims. (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding thirty days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

13-62.1-106. Asserting and defending foreign-money claim. (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

13-62.1-107. Judgments and awards on foreign-money claims; times of money conversion; form of judgment. (1) Except as provided in subsection (3) of this section, a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) A judgment or award made in an action or distribution proceeding on both (i) a defense, set-off, recoupment, or counterclaim and (ii) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(6) A judgment substantially in the following form complies with subsection (1) of this section:

[IT IS ADJUDGED AND ORDERED, that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate - see Section 9) percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.] [Note: States should insert their customary forms of judgment with appropriate modifications.]

(7) If a contract claim is of the type covered by section 13-62.1-105 (1) or (2), the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment must be [filed] [docketed] [recorded] and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

13-62.1-108. Conversions of foreign money in distribution proceeding. The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

13-62.1-109. Pre-judgment and judgment interest. (1) With respect to a foreign-money claim, recovery of pre-judgment or pre-award interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (2) of this section, are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this state.

(2) The court or arbitrator shall increase or decrease the amount of pre-judgment or pre-award interest otherwise payable in a judgment or award in foreign-money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(3) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

13-62.1-110. Enforcement of foreign judgments. (1) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in section 13-62.1-107, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(2) A foreign judgment may be [filed] [docketed] [recorded] in accordance with any rule or statute of this state providing a procedure for its recognition and enforcement.

(3) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(4) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only.

13-62.1-111. Determining United States dollar value of foreign-money claims for limited purposes. (1) Computations under this section are for the limited purposes of the section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(2) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, must be ascertained as provided in subsections (3) and (4) of this section.

(3) A party seeking process, costs, bond, or other undertaking under subsection (2)

of this section shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) of this section shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

13-62.1-112. Effect of currency revalorization. (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) of this section occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

13-62.1-113. Supplementary general principles of law. Unless displaced by particular provisions of this article, the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

13-62.1-114. Uniformity of application and construction. This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

13-62.1-115. Short title. This article may be cited as the "Uniform Foreign-Money Claims Act".

13-62.1-116. Severability clause. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

13-62.1-117. Effective date. This article becomes effective on January 1, 1991.

13-62.1-118. Transitional provision. This article applies to actions and distribution proceedings commenced after January 1, 1991.

ARTICLE 63

Default Judgments Based on
Affidavits

13-63-101. Default judgments in civil actions - affidavit. (1) In every civil action in which the default of a party against whom a judgment for affirmative relief is sought has been entered, the court may enter judgment based upon affidavit of the party seeking such affirmative relief.

(2) The court may require such supporting evidence as it may deem helpful to the disposition of the issues in addition to an affidavit and may, upon its own motion, require that a formal hearing be held to determine any and all issues presented by the pleadings.

ARTICLE 64

Health Care Availability Act

PART 1

SHORT TITLE - LEGISLATIVE DECLARATION

13-64-101. Short title. This article shall be known and may be cited as the "Health Care Availability Act".

<P =N"(1)"> **13-64-102. Legislative declaration.** (1) The general assembly

determines and declares that it is in the best interests of the citizens of this state to assure the continued availability of adequate health care services to the people of this state by containing the significantly increasing costs of malpractice insurance for medical care institutions and licensed medical care professionals, and that such is rationally related to a legitimate state interest. To attain this goal and in recognition of the exodus of professionals from health care practice or from certain portions or specialties thereof, the general assembly finds it necessary to enact this article limited to the area of medical malpractice to preserve the public peace, health, and welfare.

(2) The general assembly further determines and declares:

(a) The purpose of enacting the "Health Care Availability Act" and amendments thereto is to clearly and unequivocally state the intent of the general assembly that, in order to promote the purposes set forth in subsection (1) of this section, the limitations of liability set forth in section 13-64-302 are hereby reaffirmed; and

(b) All noneconomic damages of any kind whatsoever, whether direct or derivative, including but not limited to grief, loss of companionship, pain and suffering, inconvenience, emotional stress, impairment of quality of life, physical impairment, disfigurement, and damages for any other nonpecuniary harm awarded in a medical malpractice action, shall not exceed the limitations on noneconomic loss or injury specified in section 13-64-302.

PART 2

PERIODIC PAYMENTS OF TORT JUDGMENTS

13-64-201. Legislative declaration. (1) The general assembly declares the purposes of enacting this part 2 are to:

(a) Alleviate the practical problems incident to the unpredictability of future losses;

(b) Effectuate more precise awards of damages for actual losses;

(c) Pay damages as the losses are found to accrue;

(d) Assure that payments of damages more nearly serve the purposes for which they are awarded;

(e) Reduce the burden on public assistance costs created by the dissipation of lump-sum payments; and

(f) Conform to the income tax policies in the federal "Internal Revenue Code of 1986" and the laws of this state with respect to compensation for personal injuries.

13-64-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Economic loss" means pecuniary harm for which damages are recoverable under the laws of this state.

(2) "Future damages" means damages of any kind arising from personal injuries which the trier of fact finds will accrue after the damages findings are made.

(3) "Health care institution" means any licensed or certified hospital, health care facility, dispensary, other institution for the treatment or care of the sick or injured, or a laboratory certified under the federal "Clinical Laboratories Improvement Act of 1967", as amended, 42 U.S.C. sec. 263a, to perform high complexity testing.

(4) (a) "Health care professional" means any person licensed in this state or any other state to practice medicine, chiropractic, nursing, physical therapy, podiatry, dentistry, pharmacy, optometry, or other healing arts. The term includes any professional corporation or other professional entity comprised of such health care providers as permitted by the laws of this state.

(b) Repealed.

(c) Nothing in this subsection (4) shall be construed to create an exception to the corporate practice of medicine doctrine.

(5) "Noneconomic loss" means nonpecuniary harm for which damages are recoverable under the laws of this state, but the term does not include punitive or exemplary damages.

(6) "Past damages" means damages that have accrued before the damages findings are made, including any punitive or exemplary damages allowed by the laws of this state.

(7) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the judgment is entered.

(8) "Qualified insurer" means an insurance company licensed to do business in this state or any self-insurer, assignee, plan, or arrangement approved by the court.

13-64-203. Periodic payments. (1) In any civil action for damages in tort brought against a health care professional or a health care institution, the trial judge shall enter a judgment ordering that awards for future damages be paid by periodic payments rather than by a lump-sum payment if the award for future damages exceeds the present value of one hundred fifty thousand dollars, as determined by the court.

(2) In any such action in which the award for future damages is one hundred fifty thousand dollars or less, present value, the trial judge may order that awards for future damages be paid by periodic payments.

13-64-204. Special damages findings required. (1) If liability is found in a trial

under this part 2, the trier of fact, in addition to other appropriate findings, shall make separate findings for each claimant specifying the amount of:

(a) Any past damages for each of the following types:

(I) Medical and other costs of health care;

(II) Other economic loss except loss of earnings;

(III) Loss of earnings; and

(IV) Noneconomic loss;

(b) Any future damages and the period of time over which they will be paid, for each of the following types:

(I) Medical and other costs of health care;

(II) Other economic loss except loss of future earnings which would be incurred for the life of the claimant or any lesser period;

(III) Loss of future earnings which would be incurred for the work life expectancy of the claimant or a lesser period; and

(IV) Noneconomic loss which would be incurred for the life of the claimant or any lesser period.

(2) The calculation of all future damages under subparagraphs (I), (II), and (IV) of paragraph (b) of subsection (1) of this section shall reflect the costs and losses during the period of time, including life expectancy, if appropriate, that the claimant will sustain those costs and losses. The calculation of loss under subparagraph (III) of paragraph (b) of subsection (1) of this section shall be based on loss during the period of time the claimant would have earned income but for the injury upon which the claim is based.

(3) The fact that payment of any judgment will be paid by periodic payments shall not be disclosed to a jury.

13-64-205. Determination of judgment to be entered. (1) In order to determine what judgment is to be entered on a verdict requiring findings of special damages under this part 2, the court shall proceed as follows:

(a) The court shall apply to the findings of past and future damages any applicable rules of law, including setoffs, credits, comparative fault, additurs, and remittiturs in calculating the respective amounts of past and future damages each claimant is entitled to recover and each party is obligated to pay. The court shall preserve the rights of any subrogee to be paid in a lump sum.

(b) The court shall specify the payment of attorney fees and litigation expenses in a manner separate from the periodic installments payable to the claimant, either in a lump sum or by periodic installments, pursuant to any agreement entered into between the claimant or beneficiary and his attorney, computed in accordance with the applicable principles of law.

(c) The court shall enter judgment in a lump sum for past damages and for any

damages payable in lump sum or otherwise under paragraphs (a) and (b) of this subsection (1).

(d) After hearing relevant expert testimony, the jury shall determine the present value of future damages and, except as provided in paragraphs (e) and (f) of this subsection (1), the court shall enter judgment for the periodic payment of future damages. The court, in considering evidence of the need for one or more future major medical proceedings or services, may enter judgment for lump-sum payment therefor, payable either immediately or at some designated date or dates in the future.

(e) Upon petition of a party before entry of judgment and a finding of incapacity to fund the periodic payments, the court, at the election of the claimant or at the election of the beneficiaries in an action for wrongful death, shall enter a judgment for the present value of the periodic payments.

(f) The plaintiff who meets the criteria set forth in this subsection (1) may elect to receive the immediate payment to the plaintiff of the present value of the future damage award in a lump-sum amount in lieu of periodic payments. In order to exercise this right, the plaintiff must either:

(I) (A) Have reached his or her eighteenth birthday by the time the periodic payment order is entered;

(B) Not be an incapacitated person, as defined in section 15-14-102 (5), C.R.S.; and

(C) Have been provided financial counseling and must be making an informed decision; or

(II) Be a person under disability who has a legal representative authorized to take action on his or her behalf, as described in section 13-81-102.

(2) For purposes of paragraph (f) of subsection (1) of this section, "legal representative", "person under disability", and "take action" shall have the same meanings as provided in section 13-81-101.

13-64-206. Periodic installment obligations. (1) A judgment for periodic payments under this part 2 shall provide that:

(a) Such periodic payments are fixed and determinable as to amount and time of payment;

(b) Such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments; and

(c) The recipient of such payments shall be a general creditor of the qualified insurer.

(2) Unless the court directs otherwise and the parties otherwise agree, payments shall be scheduled at one-month intervals. Payments for damages accruing during the scheduled intervals are due at the beginning of the intervals. For good cause shown, the

court may direct that periodic payments shall continue for an initial term of years notwithstanding the death of the judgment creditor during that term.

(3) Money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor. Any such remaining periodic payments shall be paid to the heirs and devisees of the judgment creditor. Payments for future damages other than loss of future earnings shall cease at the death of the judgment creditor.

13-64-207. Form of funding. (1) A judgment for periodic payments entered in accordance with this part 2 shall provide for payments to be funded in one or more of the following forms approved by the court:

(a) Annuity contract issued by a company licensed to do business as an insurance company under the laws of this state;

(b) An obligation or obligations of the United States;

(c) Evidence of applicable and collectible liability insurance from one or more qualified insurers;

(d) An agreement by one or more personal injury liability assignees to assume the obligation of the judgment debtor;

(e) An obligation of the state of Colorado or of a public entity other than the state which is self-insured as provided in section 24-10-115, 24-10-115.5, or 24-10-116, C.R.S.; or

(f) Any other satisfactory form of funding.

(2) The court shall require that the annuity contract or other form of funding permitted by subsection (1) of this section show that portion of each periodic payment which is attributable to loss of future earnings and that portion attributable to all other future damages.

13-64-208. Funding the obligation. (1) If the court enters a judgment for periodic payments under this part 2, then each party liable for all or a portion of the judgment, unless found to be incapable of doing so, shall separately or jointly with one or more others provide the funding for the periodic payments in a form prescribed in section 13-64-207, within sixty days after the date the judgment is entered. A liability insurer having a contractual obligation and any other person adjudged to have an obligation to pay all or part of a judgment for periodic payments on behalf of a judgment debtor is obligated to provide such funding to the extent of its contractual or adjudged obligation if the judgment debtor has not done so.

(2) A judgment creditor or successor in interest and any party having rights under subsection (4) of this section may move that the court find that funding has not been

provided with regard to a judgment obligation owing to the moving party. Upon so finding, the court shall order that funding complying with this article be provided within thirty days. If funding is not provided within that time and subsection (3) of this section does not apply, then the court shall calculate the present value of the periodic payment obligation and enter a judgment for that amount in favor of the moving party.

(3) If a judgment debtor who is the only person liable for a portion of a judgment for periodic payments fails to provide funding, then the right to present value payment described in subsection (2) of this section applies only against that judgment debtor and the portion of the judgment so owed.

(4) If more than one party is liable for all or a portion of a judgment requiring funding under this part 2 and the required funding is provided by one or more but fewer than all of the parties liable, the funding requirements are satisfied and those providing funding may proceed under subsection (2) of this section to enforce rights for funding or present value payment to satisfy or protect rights of reimbursement from a party not providing funding.

13-64-209. Assignment of periodic payments. (1) An assignment by a judgment creditor or an agreement by such person to assign any right to receive periodic payments for future damages contained in a judgment entered under this part 2 is enforceable only as to amounts:

(a) To secure payment of alimony, maintenance, or child support;

(b) For the costs of products, services, or accommodations provided or to be provided by the assignee for medical or other health care; or

(c) For attorney fees and other expenses of litigation incurred in securing the judgment.

13-64-210. Exemption of benefits. Except as provided in section 13-64-209, periodic payments for future damages contained in a judgment entered under this part 2 for loss of earnings are exempt from garnishment, attachment, execution, and any other process or claim to the extent that wages or earnings are exempt.

13-64-211. Settlement agreements and consent judgments. Nothing in this part 2 is to be construed to limit or affect the settlement of actions triable under this part 2 nor shall it apply to the settlement of actions except as otherwise agreed to by the parties. Parties to an action on a claim for personal injury may, but are not required to, file with the clerk of the court in which the action is pending or, if none is pending, with the clerk of a court of competent jurisdiction over the claim a settlement agreement for future

damages payable in periodic payments. The settlement agreement may provide that one or more sections of this part 2 apply to it.

13-64-212. Satisfaction of judgment. Upon entry of an order by the court that the form of funding complies with section 13-64-207 and that the funding of the obligation complies with section 13-64-208, the court shall order a satisfaction of judgment and discharge of the judgment debtor.

13-64-213. Effective date - applicability of part. This part 2 shall take effect July 1, 1988, and shall apply to acts or omissions occurring on or after said date.

PART 3

FINANCIAL LIABILITY
REQUIREMENTS - LIMITATIONS

13-64-301. Financial responsibility. (1) As a condition of active licensure or authority to practice in this state, every physician or dentist, and every health care institution as defined in section 13-64-202, except as provided in section 13-64-303.5, that provides health care services shall establish financial responsibility, as follows:

(a) (I) If a dentist, by maintaining commercial professional liability insurance coverage with an insurance company authorized to do business in this state or an eligible nonadmitted insurer allowed to insure in Colorado pursuant to article 5 of title 10, C.R.S., in a minimum indemnity amount of five hundred thousand dollars per incident and one million five hundred thousand dollars annual aggregate per year; except that this requirement is not applicable to a dentist who is a public employee under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(II) The board of dental examiners may, by rule, exempt from or establish lesser financial responsibility standards than those prescribed in this section for classes of dentists who:

(A) Perform dental services as employees of the United States government;

(B) Render limited or occasional dental services;

(C) Perform less than full-time active dental services because of administrative or other nonclinical duties or partial or complete retirement; or

(D) Provide uncompensated dental care to patients but do not otherwise provide any compensated dental care to patients.

(III) The board of dental examiners may exempt from or establish lesser financial responsibility standards for a dentist for reasons other than those described in

subparagraph (II) of this paragraph (a) that render the limits provided in subparagraph (I) of this paragraph (a) unreasonable or unattainable.

(IV) Nothing in this paragraph (a) shall preclude or otherwise prohibit a licensed dentist from rendering appropriate patient care on an occasional basis when the circumstances surrounding the need for care so warrant.

(a.5) (I) If a physician, by maintaining commercial professional liability insurance coverage with an insurance company authorized to do business in this state or an eligible nonadmitted insurer allowed to insure in Colorado pursuant to article 5 of title 10, C.R.S., in a minimum indemnity amount of one million dollars per incident and three million dollars annual aggregate per year; except that this requirement is not applicable to a physician who is a public employee under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(II) The Colorado medical board may, by rule, exempt from or establish lesser financial responsibility standards than those prescribed in this paragraph (a.5) for classes of physicians who:

(A) Perform medical services as employees of the United States government;

(B) Render limited or occasional medical services;

(C) Perform less than full-time active medical services because of administrative or other nonclinical duties or partial or complete retirement; or

(D) Provide uncompensated health care to patients but do not otherwise provide any compensated health care to patients.

(III) The Colorado medical board may exempt from or establish lesser financial responsibility standards for a physician for reasons other than those described in subparagraph (II) of this paragraph (a.5) that render the limits provided in subparagraph (I) of this paragraph (a.5) unreasonable or unattainable.

(IV) Nothing in this paragraph (a.5) shall preclude or otherwise prohibit a licensed physician from rendering appropriate patient care on an occasional basis when the circumstances surrounding the need for care so warrant.

(b) If a health care institution, by maintaining, as a condition of licensure, certification, or other authority to render health care services in this state, commercial professional liability insurance coverage with an insurance company authorized to do business in this state or an eligible nonadmitted insurer allowed to insure in Colorado pursuant to article 5 of title 10, C.R.S., in a minimum indemnity amount of five hundred thousand dollars per incident and three million dollars annual aggregate per year; except that this requirement is not applicable to a certified health care institution that is a public entity under the "Colorado Governmental Immunity Act". In the event a health care institution does not have a commercial professional liability insurance policy in compliance with this paragraph (b), or the limits of professional liability insurance coverage are in excess of any self-insured retention amount, or there is a deductible other than zero dollars, the health care institution shall procure evidence that the commissioner

of insurance has accepted and approved an alternative form of establishing financial responsibility in compliance with paragraph (c), (d), or (e) of this subsection (1), in accordance with applicable rules promulgated by the division of insurance. The health care institution shall furnish evidence of alternative financial responsibility compliance to the department of public health and environment as part of the health care institution's application for an initial or renewal license, certification, or other authority.

(c) In the alternative, by maintaining a surety bond in a form acceptable to the commissioner of insurance in the amounts set forth in paragraph (a), (a.5), or (b) of this subsection (1);

(d) As an alternative, by depositing cash or cash equivalents as security with the commissioner of insurance in such applicable amounts;

(e) As an alternative, any other security acceptable to the commissioner of insurance, which may include approved plans of self-insurance.

(2) Each such physician or dentist, as a condition of receiving and maintaining an active or inactive license or other authority to provide health care services and each health care institution, as a condition of receiving and maintaining an active license, certification, or other authority to provide health care services in this state, shall furnish the appropriate authority which issues and administers such license, certification, or other authority with evidence of compliance with subsection (1) of this section. No such license, certification, or other authority shall be issued or renewed unless such evidence of compliance has been furnished.

(3) Notwithstanding the minimum amount specified in paragraph (a.5) of subsection (1) of this section, if the Colorado medical board receives two or more reports pursuant to section 13-64-303 during any twelve-month period regarding a physician, the minimum amount of financial responsibility for that physician shall be twice the amount specified in paragraph (a.5) of subsection (1) of this section. The Colorado medical board may reduce the additional amount if the physician, upon motion, presents sufficient evidence to the Colorado medical board that one or more of the reports involved an action or claim that did not represent any substantial failure to adhere to accepted professional standards of care. The board may reduce the additional amount to an amount that would be fair and conscionable.

(4) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1963, § 33, effective July 1, 2010.)

13-64-302. Limitation of liability - interest on damages. (1) (a) As used in this section:

(I) "Derivative noneconomic loss or injury" means noneconomic loss or injury to persons other than the person suffering the direct or primary loss or injury. "Derivative noneconomic loss or injury" does not include punitive or exemplary damages.

(II) (A) "Direct noneconomic loss or injury" means nonpecuniary harm for which damages are recoverable by the person suffering the direct or primary loss or injury, including pain and suffering, inconvenience, emotional stress, physical impairment or disfigurement, and impairment of the quality of life. "Direct noneconomic loss or injury" does not include punitive or exemplary damages.

(B) Nothing in this section shall be construed to prohibit a recovery for economic damages, whether past or future, resulting from physical impairment or disfigurement.

(b) The total amount recoverable for all damages for a course of care for all defendants in any civil action for damages in tort brought against a health care professional, as defined in section 13-64-202, or a health care institution, as defined in section 13-64-202, or as a result of binding arbitration, whether past damages, future damages, or a combination of both, shall not exceed one million dollars, present value per patient, including any claim for derivative noneconomic loss or injury, of which not more than two hundred fifty thousand dollars, present value per patient, including any derivative claim, shall be attributable to direct or derivative noneconomic loss or injury; except that, if, upon good cause shown, the court determines that the present value of past and future economic damages would exceed such limitation and that the application of such limitation would be unfair, the court may award in excess of the limitation the present value of additional past and future economic damages only. The limitations of this section are not applicable to a health care professional who is a public employee under the "Colorado Governmental Immunity Act" and are not applicable to a certified health care institution which is a public entity under the "Colorado Governmental Immunity Act". For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7). The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

(c) Effective July 1, 2003, the damages limitation of two hundred fifty thousand dollars described in paragraph (b) of this subsection (1) shall be increased to three hundred thousand dollars, which increased amount shall apply to acts or omissions occurring on or after said date. It is the intent of the general assembly that the increase reflect an adjustment for inflation to the damages limitation.

(2) In any civil action described in subsection (1) of this section, prejudgment interest awarded pursuant to section 13-21-101 that accrues during the time period beginning on the date the action accrued and ending on the date of filing of the civil action is deemed to be a part of the damages awarded in the action for the purposes of this section and is included within each of the limitations on liability that are established pursuant to subsection (1) of this section.

13-64-302.5. Exemplary damages - legislative declaration - limitations - distribution of damages collected. (1) The general assembly hereby finds, determines,

and declares that it is in the public interest to establish a consistent and uniformly applicable standard for the determination, amount, imposition, and distribution of exemplary monetary damages arising from civil actions and arbitration proceedings alleging professional negligence in the practice of medicine. It is the intent of the general assembly that any such exemplary damages serve the public purposes of deterring negligent acts and where appropriate provide a form of punishment that is in addition to the disciplinary and licensing sanctions available to the Colorado medical board.

(2) Notwithstanding any other provision of law to the contrary, the exemplary damages provided for in this section and authorized to be imposed upon a health care professional shall be the only such damages imposed as a result of the negligence claim.

(3) In any civil action or arbitration proceeding alleging negligence against a health care professional, exemplary damages may not be included in any initial claim for relief. A claim for such exemplary damages may be asserted by amendment to the pleadings only after the substantial completion of discovery and only after the plaintiff establishes prima facie proof of a triable issue. If the court or arbitrator allows such an amendment to the complaint under this subsection (3), it may also, in its discretion, permit additional discovery on the question of exemplary damages.

(4) (a) In any civil action or arbitration proceeding in which compensatory damages are assessed against a health care professional, the judge or arbitrator, in his discretion, and only if it is shown at the trial or proceeding that the action complained of was attended by circumstances of fraud, malice, or willful and wanton conduct, may allow the trier of fact to impose reasonable exemplary damages, as provided in this subsection (4). The degree of proof shall be as provided in section 13-25-127 (2).

(b) The standards for awarding and the amount of exemplary damages, if imposed upon such health care professional, shall be as provided in sections 13-21-102 and 13-25-127 (2).

(5) (a) No exemplary damages shall be imposed under subsection (4) of this section which were the result of the use of any drug or product approved for use by any state or federal regulatory agency and used within the approved standards therefor, or used in accordance with standards of prudent health care professionals.

(b) No exemplary damages shall be imposed under subsection (4) of this section which were the result of the use of any drug or product subject to the provisions of paragraph (a) of this subsection (5) when the clinically justified use of such drug or product is beyond the regulatory approvals or standards therefor and is in accordance with standards of prudent health care professionals, and when such use has been agreed to pursuant to the written informed consent of the recipient.

(6) No exemplary damages shall be assessed against a health care professional as a result of the acts of others unless he specifically directed the act to be done or ratified the same.

(7) For the purposes of this section, unless the context otherwise requires, "health

care professional" has the same meaning set forth in section 13-64-202 (4).

13-64-303. Judgments and settlements - reported. Any final judgment, settlement, or arbitration award against any health care professional or health care institution for medical malpractice shall be reported within fourteen days by such professional's or institution's medical malpractice insurance carrier in accordance with section 10-1-120, 10-1-121, 10-1-124, or 10-1-125, C.R.S., or by such professional or institution if there is no commercial medical malpractice insurance coverage to the licensing agency of the health care professional or health care institution for review, investigation, and, where appropriate, disciplinary or other action. Any health care professional, health care institution, or insurance carrier that knowingly fails to report as required by this section shall be subject to a civil penalty of not more than two thousand five hundred dollars. Such penalty shall be determined and collected by the district court in the city and county of Denver. All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund.

13-64-303.5. Exclusion - mental health care facilities. The provisions of section 13-64-301 do not apply to any outpatient mental health care facility, including but not limited to a community mental health center or clinic, and to any extended care facility or hospice with sixteen or fewer inpatient beds, including but not limited to nursing homes or rehabilitation facilities. The department of public health and environment shall by rule establish financial responsibility standards which are less than those prescribed in this section for classes of health care institutions which have less risk of exposure to medical malpractice claims or for other reasons that render the limits provided in section 13-64-301 (1) (b) unreasonable or unattainable.

13-64-304. Effective date - applicability of part. This part 3 shall take effect January 1, 1989, and shall apply to acts or omissions occurring on or after said date and to licenses, certification, or other authority granted on or after said date.

PART 4

PROCEDURES AND EVIDENCE IN MEDICAL MALPRACTICE ACTIONS

13-64-401. Qualifications as expert witness in medical malpractice actions or proceedings. No person shall be qualified to testify as an expert witness concerning issues of negligence in any medical malpractice action or proceeding against a physician

unless he not only is a licensed physician but can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the action or proceeding against the physician defendant, he was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the claim on the date of the incident. The court shall not permit an expert in one medical subspecialty to testify against a physician in another medical subspecialty unless, in addition to such a showing of substantial familiarity, there is a showing that the standards of care and practice in the two fields are similar. The limitations in this section shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

13-64-402. Collateral source evidence. (1) In any action in a court or arbitration proceeding for personal injury against a health care provider for professional negligence, the plaintiff shall, within sixty days after the commencement thereof, serve written notice thereof to the third party payor or provider of any amount paid or payable as a medical benefit pursuant to any health, sickness, or accident insurance or plan, which provides health benefits, or any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services, and shall file a copy thereof with the court or arbitrator. Such service shall be made pursuant to section 10-3-107 (1) or (1.5), C.R.S., or pursuant to the Colorado rules of civil procedure.

(2) If such third party payor or provider of such benefits has a right of subrogation for such payments, it shall file with the court or arbitrator written notice of such subrogated claim, without specifying a definite amount, within ninety days after receipt of the notice required in subsection (1) of this section, and transmit a copy thereof to the party plaintiff. Failure to file such written notice shall constitute a waiver of such right of subrogation as to such action.

(3) Before entering final judgment, the court shall determine the amount, if any, due the third party payor or provider and enter its judgment in accordance with such finding.

(4) The provisions of this section shall not apply to section 25.5-4-301, C.R.S.

13-64-403. Agreement for medical services - alternative arbitration procedures - form of agreement - right to rescind. (1) It is the intent of the general assembly that an arbitration agreement be a voluntary agreement between a patient and a health care provider and no medical malpractice insurer shall require a health care provider to utilize arbitration agreements as a condition of providing medical malpractice

insurance to such health care provider. Making the use of arbitration agreements a condition to the provision of medical malpractice insurance shall constitute an unfair insurance practice and shall be subject to the provisions, remedies, and penalties prescribed in part 11 of article 3 of title 10, C.R.S.

(1.5) Exemplary damages may be awarded in any arbitration proceeding held pursuant to this section in accordance with section 13-21-102 (1) to (3) and (6). Any award of exemplary damages in a proceeding held pursuant to this section may be modified by the district court upon petition to the district court alleging that the award of such damages was either excessive or inadequate.

(2) Any agreement for the provision of medical services which contains a provision for binding arbitration of any dispute as to professional negligence of a health care provider that conforms to the provisions of this section shall not be deemed contrary to the public policy of this state, except as provided in subsection (10) of this section.

(3) Any such agreement shall have the following statement set forth as part of the agreement: "It is understood that any claim of medical malpractice, including any claim that medical services were unnecessary or unauthorized or were improperly, negligently, or incompetently rendered or omitted, will be determined by submission to binding arbitration in accordance with the provisions of part 2 of article 22 of this title, and not by a lawsuit or resort to court process except as Colorado law provides for judicial review of arbitration proceedings. The patient has the right to seek legal counsel concerning this agreement, and has the right to rescind this agreement by written notice to the physician within ninety days after the agreement has been signed and executed by both parties unless said agreement was signed in contemplation of the patient being hospitalized, in which case the agreement may be rescinded by written notice to the physician within ninety days after release or discharge from the hospital or other health care institution. Both parties to this agreement, by entering into it, have agreed to the use of binding arbitration in lieu of having any such dispute decided in a court of law before a jury."

(4) Immediately preceding the signature lines for such an agreement, the following notice shall be printed in at least ten-point, bold-faced type:

> **NOTE: BY SIGNING THIS AGREEMENT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL BINDING ARBITRATION RATHER THAN BY A JURY OR COURT TRIAL.**
>
> **YOU HAVE THE RIGHT TO SEEK LEGAL COUNSEL AND YOU HAVE THE RIGHT TO RESCIND THIS AGREEMENT WITHIN NINETY DAYS FROM THE DATE OF SIGNATURE BY BOTH PARTIES UNLESS THE AGREEMENT WAS SIGNED IN CONTEMPLATION OF HOSPITALIZATION IN WHICH CASE**

YOU HAVE NINETY DAYS AFTER DISCHARGE OR RELEASE FROM THE HOSPITAL TO RESCIND THE AGREEMENT.

NO HEALTH CARE PROVIDER SHALL WITHHOLD THE PROVISION OF EMERGENCY MEDICAL SERVICES TO ANY PERSON BECAUSE OF THAT PERSON'S FAILURE OR REFUSAL TO SIGN AN AGREEMENT CONTAINING A PROVISION FOR BINDING ARBITRATION OF ANY DISPUTE ARISING AS TO PROFESSIONAL NEGLIGENCE OF THE PROVIDER.

NO HEALTH CARE PROVIDER SHALL REFUSE TO PROVIDE MEDICAL CARE SERVICES TO ANY PATIENT SOLELY BECAUSE SUCH PATIENT REFUSED TO SIGN SUCH AN AGREEMENT OR EXERCISED THE NINETY-DAY RIGHT OF RESCISSION.

(5) Once signed, the agreement shall govern all subsequent provision of medical services for which the agreement was signed until or unless rescinded by written notice. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor. Where the agreement is one for medical services to a minor, it shall not be subject to disaffirmation by the minor if signed by the minor's parent or legal guardian.

(6) The patient shall be provided with a written copy of any agreement subject to the provisions of this section at the time that it is signed by the parties.

(7) No health care provider shall refuse to provide medical care services to any patient solely because such patient refused to sign such an agreement or exercised the ninety-day right of rescission.

(8) No health care provider shall withhold the provision of emergency medical services to any person because of that person's failure or refusal to sign an agreement containing a provision for binding arbitration of any dispute arising as to professional negligence of the provider.

(9) If a health care provider refuses to provide medical care services to any patient in violation of subsection (7) of this section or withholds the provision of emergency medical services to any person in violation of subsection (8) of this section or fails to comply with the requirements of subsection (3) or (4) or both of this section, such refusal or withholding of services shall constitute unprofessional conduct as such term is used under the relevant licensing statute governing that particular care provider, and the appropriate authority which conducts disciplinary proceedings relating to such health care provider shall consider and take appropriate disciplinary action against such health care provider as provided under the relevant licensing statute.

(10) Even where it complies with the provisions of this section, such an agreement may nevertheless be declared invalid by a court if it is shown by clear and convincing evidence that:

(a) The agreement failed to meet the standards for such agreements as specified in this section; or

(b) The execution of the agreement was induced by fraud; or

(c) The patient executed the agreement as a direct result of the willful or negligent disregard of the patient's right to refrain from such execution; or

(d) The patient executing the agreement was not able to communicate effectively in spoken and written English, unless the agreement is written in his native language.

(11) No such agreement may be submitted to a patient for approval when the patient's condition prevents the patient from making a rational decision whether or not to execute such an agreement.

(12) For the purposes of this section:

(a) (I) "Health care provider" means any person licensed or certified by the state of Colorado to deliver health care and any clinic, health dispensary, or health facility licensed by the state of Colorado. The term includes any professional corporation or other professional entity comprised of such health care providers as permitted by the laws of this state.

(II) (A) Nothing in this paragraph (a) shall be construed to permit a professional service corporation, as described in section 12-36-134, C.R.S., to practice medicine.

(B) Nothing in this paragraph (a) shall be construed to otherwise create an exception to the corporate practice of medicine doctrine.

(b) "Professional negligence" means a negligent act or omission by a health care provider in the rendering of professional services, which act or omission is the proximate cause of personal injury or wrongful death, as long as such services are within the scope of services for which the provider is licensed.

13-64-404. Effective date - applicability of part. This part 4 shall take effect July 1, 1988, and shall apply to acts or omissions occurring on or after said date and shall apply to agreements for medical services containing a binding arbitration provision on or after said date.

PART 5

LIMITATION ON ACTIONS BROUGHT

13-64-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Health care institution" means any licensed or certified hospital, health care facility, dispensary, or other institution for the treatment or care of the sick or injured.

(2) "Health care professional" means any person licensed in this state or any other state to practice medicine, chiropractic, or nursing.

13-64-502. Limitation on actions. (1) No claimant, including an infant or his personal representative, parents, or next of kin, may recover for any damage or injury arising from genetic counseling and screening and prenatal care, or arising from or during the course of labor, delivery, or the period of postnatal care in a health care institution, where such damage or injury was the result of genetic disease or disorder or other natural causes, unless the claimant can establish by a preponderance of the evidence that the damage or injury could have been prevented or avoided by ordinary standard of care of the physician or other health care professional or health care institution.

(2) (a) Medical records of or any other medical information concerning a person whose alleged death or injury is the subject matter of a civil action under subsection (1) of this section shall be discoverable by a party defendant under the provisions of the Colorado rules of civil procedure and shall not be inadmissible in evidence because of the provisions of section 13-90-107 (1) (d).

(b) Medical records and information concerning such person's genetic siblings, parents, and grandparents may be discoverable as provided in paragraph (a) of this subsection (2) if the defendant, after reasonable efforts, is unable to obtain appropriate releases and makes a showing to the court of the possible relevancy of such records or information. In such case, the court may order the production of such records. If deemed necessary, the court may hold an in camera proceeding on the relevancy of such records. No liability shall attach to any physician, health care professional, or health care institution as a result of the release of such medical records or information.

13-64-503. Effective date - applicability of part. This part 5 shall take effect July 1, 1988, and shall apply to acts or omissions occurring on or after said date.

ARTICLE 65

Compensation for Certain Exonerated Persons

13-65-101. Definitions. As used in this article, unless the context otherwise requires:

(1) (a) "Actual innocence" means a finding by clear and convincing evidence by a district court pursuant to section 13-65-102 that a person is actually innocent of a crime such that:

(I) His or her conviction was the result of a miscarriage of justice;

(II) He or she presented reliable evidence that he or she was factually innocent of any participation in the crime at issue;

(III) He or she did not solicit, pursuant to 18-2-301, C.R.S., the commission of the crime at issue or any crime factually related to the crime at issue;

(IV) He or she did not conspire, pursuant to 18-2-202, C.R.S., to commit the crime at issue or any crime factually related to the crime at issue;

(V) He or she did not act as a complicitor, pursuant to 18-1-603, C.R.S., in the commission of the crime at issue or any crime factually related to the crime at issue;

(VI) He or she did not act as an accessory, pursuant to 18-8-105, C.R.S., in the commission of the crime at issue or any crime factually related to the crime at issue; and

(VII) He or she did not attempt to commit, pursuant to 18-2-101, C.R.S., the crime at issue or any crime factually related to the crime at issue.

(b) A court may not reach a finding of actual innocence pursuant to this section merely:

(I) Because the court finds the evidence legally insufficient to support the petitioner's conviction;

(II) Because the court reversed or vacated the petitioner's conviction because of a legal error unrelated to the petitioner's actual innocence or because of uncorroborated witness recantation alone; or

(III) On the basis of uncorroborated witness recantation alone.

(c) As used in this subsection (1), "reliable evidence" may include but is not limited to exculpatory scientific evidence, trustworthy eyewitness accounts, and critical physical evidence.

(2) "Custodial child" means any individual:

(a) Who was conceived or adopted prior to the date upon which the exonerated person was incarcerated for the act or offense that served as the basis for his or her conviction, which conviction and incarceration is the subject of his or her petition;

(b) Whose principal residence is the home of an exonerated person;

(c) Who receives more than half of his or her financial support from the exonerated person each year; and

(d) Who is either:

(I) Less than nineteen years of age at the end of the current year; or

(II) Less than twenty-four years of age at the end of the current year and a full-time student.

(3) "Exonerated person" means a person who has been determined by a district court pursuant to section 13-65-102 to be actually innocent.

(4) "Immediate family member" means a spouse, a parent, a child, a grandparent, or a sibling of a deceased person who would be eligible for relief pursuant to section 13-65-102 if he or she were alive. The provisions of article 11 of title 15, C.R.S., shall govern which immediate family member or members have proper standing to act as a petitioner.

(5) "Incarceration" means a person's custody in a county jail or a correctional facility while he or she serves a sentence issued pursuant to a felony conviction in this state or pursuant to the person's adjudication as a juvenile delinquent for the commission of one or more offenses that would be felonies if committed by a person eighteen years of age or older. For the purposes of this section, "incarceration" includes placement as a juvenile to the custody of the state department of human services or a county department of social services pursuant to such an adjudication.

(6) "Personal financial management instruction course" means a personal financial management instruction course that has been approved by the United States trustee's office pursuant to 11 U.S.C. sec. 111.

(7) "Petition" means a petition for compensation based on actual innocence filed pursuant to the provisions of section 13-65-102.

(8) "Petitioner" means a person who petitions for relief pursuant to section 13-65-102. "Petitioner" includes the immediate family members of a deceased person who would be eligible for relief pursuant to section 13-65-102 if he or she were alive.

(9) "Qualified health plan" means a health plan that satisfies the definition of a qualified health plan set forth in the federal "Patient Protection and Affordable Care Act", P.L. 111-148, 42 U.S.C. 18021 (a) (1).

(10) "State's duty of monetary compensation" means the total amount of monetary compensation owed by the state to an exonerated person.

13-65-102. Process for petitioning for compensation - eligibility to petition - actual innocence required - jurisdiction. (1) (a) Notwithstanding the provisions of article 10 of title 24, C.R.S., a person who has been convicted of a felony in this state and sentenced to a term of incarceration as a result of that conviction and has served all or part of such sentence, or an immediate family member of such person, may be eligible for compensation as set forth in this article upon a finding that the person was actually innocent of the crime for which he or she was convicted.

(b) A petition for compensation based on actual innocence filed pursuant to this section is a civil claim for relief.

(2) A petition may be filed pursuant to this section only:

(a) When no further criminal prosecution of the petitioner for the crimes charged, or for crimes arising from the same criminal episode in the case that is the subject of the petition, has been initiated by the district attorney or the attorney general and subsequent to one of the following:

(I) A court vacating or reversing all convictions in the case based on reasons other than legal insufficiency of evidence or legal error unrelated to the petitioner's actual innocence and following an order of dismissal of all charges; or

(II) A court vacating or reversing all convictions in the case based on reasons other than legal insufficiency of evidence or legal error unrelated to the petitioner's actual innocence and following an acquittal of all charges after retrial; and

(b) Either:

(I) If the conditions described in paragraph (a) of this subsection (2) are met on or after the effective date of this section, not more than two years after said conditions are met; or

(II) If the conditions described in paragraph (a) of this subsection (2) are met before the effective date of this section, not more than two years after the effective date of this section.

(3) The district court shall not declare a person to be actually innocent unless, based on evidence supporting the petitioner's allegation of innocence, including but not limited to an analysis of the person's DNA profile, the court determines that:

(a) The person committed neither the act or offense that served as the basis for the conviction and incarceration that is the subject of the petition, nor any lesser included offense thereof; and

(b) The person meets the definition of actual innocence in section 13-65-101 (1).

(4) (a) A petitioner is not eligible for compensation pursuant to this article if:

(I) He or she does not meet the definition of actual innocence in section 13-65-101 (1);

(II) He or she committed or suborned perjury during any proceedings related to the case that is the subject of the claim; or

(III) To avoid prosecution in another case for which the petitioner has not been determined to be actually innocent, he or she pled guilty in the case that served as the basis for the conviction and incarceration that is the subject of the petition.

(b) Notwithstanding subparagraphs (I) to (III) of paragraph (a) of this subsection (4), conduct described in said subparagraphs shall not include a confession or an admission that was later determined by a court of competent jurisdiction, or by stipulation of the parties, to be false or coerced by any governmental agent.

(5) (a) A petitioner shall file his or her petition in the district court in the county in which the case originated, to the district court judge who presided over the original proceeding if such judge is available; except that, if either party objects to such judge presiding over this civil claim for relief, then another district judge of the district court shall preside over the matter.

(b) The petition shall name the state of Colorado as the respondent. The attorney general and the district attorney of the judicial district in which the case originated shall each have a separate and concurrent authority to intervene as parties to a petition, and a

copy of the petition shall be served on the attorney general and the district attorney.

(c) A petition shall contain a recitation of facts necessary to an understanding of the petitioner's claim of actual innocence. The petition may be supported by DNA evidence, if applicable, expert opinion, previously unknown or unavailable evidence, and the existing court record. The petitioner shall attach to the petition:

(I) A copy of any expert report relied upon by the petitioner to support his or her claim of actual innocence;

(II) Any documentation supporting the recitation of facts in the claim;

(III) A record from the county jail, state correctional facility, or other state facility documenting the amount of time that the petitioner was incarcerated; and

(IV) A sworn affidavit of the petitioner asserting his or her actual innocence as defined in section 13-65-101 (1).

(d) Upon receipt of a petition, the attorney general and the district attorney shall each have sixty days to file a response in the district court. A joint response may be filed. The court may grant the responding party, for good cause shown, no more than one extension of time, not exceeding forty-five days, in which to file a response. The response shall contain a statement that:

(I) Based upon the petition and verifiable and substantial evidence of actual innocence, no further criminal prosecution of the petitioner for the crimes charged can or will be initiated by the district attorney or the attorney general, that no questions of fact remain as to the petitioner's actual innocence, and that the petitioner is eligible to seek compensation under the provisions of this section; or

(II) The responding party contests the nature, significance, or effect of the evidence of actual innocence, the facts related to the petitioner's alleged wrongful conviction, or whether the petitioner is eligible to seek compensation under the provisions of this section. The response shall include a recitation of facts necessary to an understanding as to why the petition is being contested.

(e) If the responding party contests the actual innocence of the petitioner, the district court may order that the responding party be allowed to retest any evidence at issue in the claim if such evidence remains to be tested and testing such evidence will not consume the remainder of the sample.

(f) (I) If a petition is contested, the petitioner shall ensure that the district court has, or has available, the transcript from the original trial if the petitioner was convicted at trial, the post-conviction motion or appeal that resulted in a dismissal of the case that is the subject of the petition and the transcript of any hearings associated with such motion or appeal; and any other pleadings or transcripts from proceedings that the petitioner seeks the district court to consider.

(II) The district court shall use any transcripts that are within the court records for the judicial district of any proceeding involving the case that is the subject of the petition that the petitioner or the respondent wants the district court to consider.

(g) Except as otherwise provided in this section, the Colorado rules of civil procedure shall apply to petitions filed pursuant to this section. The district court may consider any relevant evidence regardless of whether it was admissible in, or excluded from, the criminal trial in which the petitioner was convicted. No evidence shall be excluded on grounds that it was seized or obtained in violation of the United States constitution or the state constitution. The district court may consider the ongoing investigation and prosecution of any other individual for the crimes committed when determining the timing and scope of the hearing if the claim is uncontested or the trial if the claim is contested.

(6) As soon as practicable given the unique circumstances of claims filed pursuant to this section, the district court shall act as follows:

(a) Upon receipt of an uncontested response to a petition, the district court shall issue a final order on the petition, finding that the petitioner is actually innocent. If the district court issues a final order pursuant to this paragraph (a), the district court shall include directions to the state court administrator to act as described in section 13-3-114.

(b) Upon receipt of a response contesting the petitioner's declaration of actual innocence or his or her eligibility for compensation regardless of petitioner's claim of actual innocence, or both, the district court shall set the matter for a trial to the district court or, at the written election of either party, to a trial to a jury of six, at which trial the burden shall be on the petitioner to show by clear and convincing evidence that he or she is actually innocent of all crimes that are the subject of the petition, and that he or she is eligible to receive compensation pursuant to this article. A trial to a jury of six must result in a unanimous verdict. Following a trial to the district court, the court shall issue a final order on the petition, which order shall include findings of fact as to whether the petitioner has established by clear and convincing evidence that he or she is actually innocent and whether the petitioner is eligible for compensation under this article. If the court finds that the petitioner is actually innocent and eligible for compensation pursuant to this article, the district court shall issue a final order awarding the petitioner compensation pursuant to section 13-65-103. Upon a finding by a jury of actual innocence, the district court shall also issue an order awarding the petitioner compensation pursuant to section 13-65-103.

(7) (a) Either party has a right to an appeal.

(b) If the petitioner appeals the amount of compensation awarded, the state court administrator shall not delay in paying the petitioner pursuant to the directions of the district court while the appeal is pending.

(c) If the attorney general or a district attorney appeals the outcome of the trial described in subsection (6) of this section, the state court administrator shall not delay in paying the petitioner pursuant to the directions of the district court while the appeal is pending.

(d) In the event that the attorney general or district attorney prevails in an appeal,

the court may take such action as is necessary to recover the amount of any compensation awarded to the petitioner pursuant to section 13-65-103.

13-65-103. Compensation for certain exonerated persons - monetary compensation - financial literacy training - penalty for lack of a qualified health plan - expungement of records - damages awarded in civil actions. (1) Except as otherwise provided in this article, a district court shall direct the state court administrator to compensate an exonerated person, or an immediate family member of an exonerated person, who is determined by a district court pursuant to section 13-65-102 to be actually innocent and eligible to receive compensation pursuant to this article.

(2) A district court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person pursuant to this section shall reduce the directions to writing and include within the directions:

(a) The exonerated person's name;

(b) The date upon which the order is issued;

(c) The felony or felonies, if any, of which the exonerated person has been exonerated and each conviction or adjudication of the exonerated person, if any, that has been vacated or reversed;

(d) The date upon which the exonerated person was convicted or adjudicated and the dates during which the exonerated person was incarcerated as a result of such conviction or adjudication;

(e) A statement that the exonerated person, or the immediate family member of the exonerated person, is entitled to compensation from the state, which compensation shall include:

(I) An award of monetary compensation, as described in subsection (3) of this section;

(II) Tuition waivers at state institutions of higher education for the exonerated person and for any children and custodial children of his or hers who were conceived or legally adopted before the exonerated person was incarcerated or placed in state custody for the offense of which he or she has been exonerated, as described in section 23-1-132, C.R.S.; except that:

(A) No other immediate family members of the exonerated person shall be eligible for such tuition waivers; and

(B) Notwithstanding any other provision of this section, neither an exonerated person nor a child or custodial child of an exonerated person shall be eligible for a tuition waiver pursuant to this subparagraph (II) unless the exonerated person was wrongfully incarcerated for at least three years.

(III) Compensation for child support payments owed by the exonerated person that became due during his or her incarceration or placement in state custody, and interest on child support arrearages that accrued during his or her incarceration or placement in state

custody but which have not been paid;

(IV) Reasonable attorney fees for bringing a claim under this section; and

(V) The amount of any fine, penalty, court costs, or restitution imposed upon and paid by the exonerated person as a result of his or her wrongful conviction or adjudication. This subparagraph (V) shall not be interpreted to require the reimbursement of restitution payments by any party to whom the exonerated person made restitution payments as a result of his or her wrongful conviction or adjudication.

(f) A statement notifying the person and the state court administrator that, pursuant to section 24-30-209 (4), C.R.S., the exonerated person is required to complete a personal financial management instruction course before the state court administrator may issue to the exonerated person more than one annual payment of monetary compensation;

(g) A statement notifying the exonerated person and the state court administrator that, pursuant to section 13-3-114, in each year in which an exonerated person receives any annual payment from the state court administrator, the exonerated person's annual payment shall be reduced by ten thousand dollars if the exonerated person fails to present to the state court administrator a policy or certificate showing that the exonerated person has purchased or otherwise acquired a qualified health plan for himself or herself and his or her dependents that is valid for at least six months.

(3) (a) Except as limited by the provisions of this article, an exonerated person shall receive monetary compensation in an amount of seventy thousand dollars for each year that he or she was incarcerated for the felony of which he or she has been exonerated. In addition to this amount, an exonerated person shall receive compensation in an amount of:

(I) Fifty thousand dollars for each year that he or she was incarcerated and sentenced to execution pursuant to part 12 of article 1.3 of title 18, C.R.S.; and

(II) Twenty-five thousand dollars for each year that he or she served on parole, on probation, or as a registered sex offender after a period of incarceration as a result of the felony of which he or she has been exonerated and not for any other criminal offense.

(b) Except as limited by the provisions of this article, in addition to the amount described in paragraph (a) of this subsection (3), an exonerated person shall receive compensation in a prorated amount that is proportionate to the length of:

(I) Each partial year that he or she was incarcerated or placed in state custody;

(II) Each partial year that he or she was incarcerated and sentenced to execution pursuant to part 12 of article 1.3 of title 18, C.R.S.; and

(III) Each partial year that he or she served on parole, on probation, or as a registered sex offender after a period of incarceration as a result of the felony of which he or she has been exonerated and not for any other criminal offense.

(4) A court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person shall submit copies of the directions to:

(a) The exonerated person or immediate family member of the exonerated person;

(b) The state court administrator;

(c) The attorney general;

(d) The district attorney of the judicial district in which the case originated;

(e) The state department of corrections;

(f) The state department of labor and employment;

(g) The state department of revenue; and

(h) The Colorado commission on higher education.

(5) Notwithstanding any provision of this article to the contrary, a court shall not direct the state court administrator to compensate any exonerated person or immediate family member of an exonerated person for any period of incarceration during which the person was concurrently serving a sentence for an offense of which he or she has not been exonerated.

(6) The amount of monetary compensation awarded to an exonerated person pursuant to this section shall not be subject to:

(a) Any cap applicable to private parties in civil lawsuits; or

(b) Any state income tax, except as to those portions of the judgment awarded as attorneys' fees for bringing a claim under this section as described in section 39-22-104 (4) (q), C.R.S.

(7) (a) A court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person shall order all records relating to the exonerated person's wrongful conviction or adjudication to be expunged as if such events had never taken place and such records had never existed. The court shall direct such an expungement order to every person or agency that may have custody of any part of any records relating to the exonerated person's wrongful conviction or adjudication.

(b) If a court issues an expungement order pursuant to paragraph (a) of this subsection (7), a court, law enforcement agency, or other state agency that maintains records relating to the exonerated person's wrongful conviction or adjudication shall physically seal such records and thereafter treat the records as confidential. Records that have been sealed pursuant to this subsection (7) shall be made available to a court or a law enforcement agency, including but not limited to a district attorney's office or the attorney general, upon a showing of good cause.

(8) (a) A court that directs the state court administrator to compensate an exonerated person or an immediate family member of an exonerated person shall reduce the exonerated person's award of monetary compensation, as described in paragraph (b) of this subsection (8), if, prior to the issuance of the award:

(I) The exonerated person prevails in or settles a civil action against the state or against any other government body in a civil action concerning the same acts that are the bases for the petition for compensation; and

(II) The judgment rendered in the civil action or the settlement of the civil action includes an award of monetary damages to the exonerated person.

(b) Under the circumstances described in paragraph (a) of this subsection (8), the court shall reduce an exonerated person's award of monetary compensation by an amount that is equal to the amount of monetary damages that the exonerated person is awarded and collects in the civil action; except that a court shall not offset any amount exceeding the total amount of monetary compensation awarded to the exonerated person pursuant to this section.

(9) (a) Except when procured by fraud, a court's finding that a person is actually innocent and eligible for compensation pursuant to this article shall be deemed a final and conclusive disposition of the matter of the exonerated person's wrongful incarceration or placement in state custody.

(b) A court's finding that a person is actually innocent and eligible for compensation pursuant to this article shall not be interpreted to limit the person's ability to pursue an action for damages against an entity that is not an employee, agent, or agency of the state government.

JURIES AND JURORS

ARTICLE 70

Juries and Jurors - General Provisions and Fees

13-70-101 to 13-70-106. (Repealed)

ARTICLE 71

Colorado Uniform Jury Selection
and Service Act

13-71-101. Short title. This article shall be known and may be cited as the "Colorado Uniform Jury Selection and Service Act".

13-71-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Clerk" and "clerk of the court" include any deputy clerk or the jury commissioner.

(2) "Court" means a district or county court of this state and includes any judge of the court.

(2.5) "Juror service" means the period of time during which a person is committed to serving upon a jury, from the time the person reports and checks in on his or her designated reporting date through and until he or she is released by the court or by the jury commissioner. "Juror service" includes any time that a person spends in the jury selection process and any time that a person spends in a trial.

(3) "Juror wheel" means any electronic automated system for the storage of the names or identifying numbers of prospective jurors.

(4) "Master juror list" means the voter registration lists for the county, which shall be supplemented with names from other sources prescribed pursuant to section 13-71-107 in order to foster the policy and protect the rights secured by this article.

(5) "Master juror wheel" means the juror wheel in which are placed names or identifying numbers of prospective jurors taken from the master list.

(6) "Voter registration lists" means the official records of persons registered to vote in the most recent general election.

13-71-103. Number of trial jurors. A jury in civil cases shall consist of six persons, unless the parties agree to a smaller number, which shall be not less than three.

13-71-104. Eligibility for juror service - prohibition of discrimination. (1) Juror service is a duty that every qualified person has an obligation to perform when selected.

(2) All trial and grand jurors shall be selected at random from a fair cross section of the population of the area served by the court. All selected and summoned jurors shall serve, except as otherwise provided in this article or by court rule.

(3) (a) No person shall be exempted or excluded from serving as a trial or grand juror because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, economic status, or occupation.

(b) A person with a disability shall serve except:

(I) As otherwise provided in section 13-71-105 or 13-71-119.5; or

(II) Where the court finds that such person's disability prevents the person from performing the duties and responsibilities of a juror.

(c) Before dismissing a person with a disability pursuant to paragraph (b) of this subsection (3), the court shall interview the person to determine the reasonable accommodations, if any, consistent with federal and state law, that the court may make

available to permit the person to perform the duties of a juror.

(4) The court shall strictly enforce the provisions of this article; except that the supreme court may provide by rule for the exclusion in a criminal trial of a juror who is employed by a public law enforcement agency or public defender's office.

13-71-105. Qualifications for juror service. (1) Any person who is a United States citizen and resides in a county or lives in such county more than fifty percent of the time, whether or not registered to vote, shall be qualified to serve as a trial or grand juror in such county. Citizenship and residency status on the date that the jury service is to be performed shall control.

(2) A prospective trial or grand juror shall be disqualified, based on the following grounds:

(a) Being under the age of eighteen;

(b) Inability to read, speak, and understand the English language;

(c) Inability, by reason of a physical or mental disability, to render satisfactory juror service. Any person claiming this disqualification shall submit a letter, if the jury commissioner requests it, from a licensed physician, licensed advanced practice nurse, or authorized Christian science practitioner, stating the nature of the disability and an opinion that such disability prevents the person from rendering satisfactory juror service. The physician, licensed advanced practice nurse, or authorized Christian science practitioner shall apply the following guideline: A person shall be capable of rendering satisfactory juror service if the person is able to perform a sedentary job requiring close attention for three consecutive business days for six hours per day, with short breaks in the morning and afternoon sessions.

(d) Sole responsibility for the daily care of a permanently disabled person living in the same household to the extent that the performance of juror service would cause a substantial risk of injury to the health of the disabled person. Jurors who are regularly employed at a location other than their households may not be disqualified for this reason. Any person claiming this disqualification shall, if the jury commissioner requests it, submit a letter from a licensed physician, licensed advanced practice nurse, or authorized Christian science practitioner stating the name, address, and age of the disabled person, the nature of care provided by the prospective juror, and an opinion that the performance of juror service would cause a substantial risk of injury to the disabled person.

(e) Residence outside of the county with no intention of returning to the county at any time during the succeeding twelve months;

(f) Selection and service as an impaneled trial or grand juror in any municipal, tribal, military, state, or federal court within the preceding twelve months or being scheduled for juror service within the next twelve months. Any person claiming this disqualification must submit a letter or other formal acknowledgment from the

appropriate authority verifying his or her prior or pending juror service.

(g) Appearance as a prospective juror in state court in accordance with the provisions of section 13-71-120 within the current calendar year. Any person claiming this disqualification shall submit a letter or other formal acknowledgment from the appropriate authority verifying such prior juror appearance. This exemption, however, does not apply in emergency circumstances as provided for in section 13-71-112.

(h) (Deleted by amendment, L. 2000, p. 32, § 2, effective August 2, 2000.)

(3) A prospective grand juror shall be disqualified if he or she has previously been convicted of a felony in this state, any other state, the United States, or any territory under the jurisdiction of the United States.

13-71-106. Jury commissioners. The chief judge of each judicial district shall appoint a jury commissioner for each county within that judicial district. Each jury commissioner shall be compensated as determined by the supreme court pursuant to section 13-3-105, but no court employee who serves as a jury commissioner shall receive any compensation in addition to a regular salary.

13-71-107. Master juror list. (1) Each year, the state court administrator shall obtain from the secretary of state a voter registration list for each county in the state. The state court administrator shall also obtain licensed driver lists from the department of revenue, and, where available, the department of revenue shall match said drivers license records with the most recent address of the individual used for income tax purposes and supply any additional income tax address to the court administrator. The state court administrator may obtain other lists of residents of the state as necessary and desirable. The voter registration lists, as supplemented and modified by other lists, may be used to compile the master juror list for the following year. A copy of the master juror list that does not contain addresses of the jurors shall be open to the public for examination as a public record.

(2) Any person who has custody, possession, or control of any list to be used in compiling the master juror list shall furnish, upon request, a copy of that list to the state court administrator.

13-71-108. Master juror wheel. (1) The state court administrator shall use an electronic automated system to compile and maintain a master juror wheel. The wheel shall consist of names, addresses, dates of birth, identifying numbers, and jury histories for prospective jurors taken from the master juror list. Each year, the master juror wheel shall be emptied and refilled in compliance with the provisions of this article. Jurors

receiving cancellations or postponements of juror appearance and service may be replaced on the master juror wheel for the succeeding year and shall receive new summonses for their new dates in the succeeding year.

(2) In order to more equitably distribute the responsibility for juror appearance and service throughout the qualified population of each county and to avoid repeatedly summoning the same individuals for jury appearance and service, the state court administrator shall implement reasonable procedures to match prior year records of juror selection, appearance, and service in the state courts with the prospective juror names included in the master juror wheel. To the extent practical, the prior juror selection and service records shall be used to prioritize the juror names in the master juror wheel. To the extent practical, individuals with the least amount of jury appearances or service in the most recent years shall be summoned prior to individuals who have appeared or served more recently.

13-71-109. Random selection from master juror list. If all prospective jurors on the master juror list are not needed, selection of the names or identifying numbers of prospective jurors to be placed on the master juror wheel shall be by a random selection method which ensures equal probability of selection.

13-71-110. Juror selection and summoning. A jury commissioner shall specify the number of trial jurors needed for each day's juror pool or for selection of a grand jury within that commissioner's county. The state court administrator shall then randomly select the specified number of jurors required from the master juror wheel and shall issue a summons to each selected prospective juror, either personally or by mail addressed to the usual residence or post-office address of the prospective juror.

13-71-111. Contents of juror summons. (1) The juror summons shall state: Whether the anticipated service is that of a trial or grand juror; the beginning date of the juror service; the name, address, hour, and room number, if any, of the courthouse or office to which the juror shall report on the first day of service; the fact that a knowing failure to obey the summons without justifiable excuse is a violation of section 18-8-612, C.R.S., and a class 3 misdemeanor punishable as provided in section 18-1.3-501, C.R.S.; and such other information and instructions as are deemed appropriate by the state court administrator or the jury commissioner.

(2) Every prospective juror shall also receive with the summons:

(a) Notice of the qualifications for juror service; and

(b) Instructions to jurors for retrieving juror service acknowledgment information,

as described in section 13-71-132.

13-71-112. Emergency summonses. In order to meet emergency needs of the court, the state court administrator or a jury commissioner, by any means of notice including notice by telephone, may summon additional trial or grand jurors to appear for juror service at a time certain and shall inform the juror at which courthouse to appear.

13-71-113. Modification of juror service. In order to meet the urgent needs of the court, a jury commissioner may modify the date, location, or other condition of trial or grand juror service and may notify the prospective juror of the modification by telephone or other appropriate means.

13-71-114. Cancellation of juror service. Whenever it appears that the number of jurors scheduled to appear is in excess of the number needed, a jury commissioner may cancel the trial or grand juror service of a prospective juror and may notify the juror by telephone or other appropriate means. Any juror whose service has been cancelled is not considered disqualified under section 13-71-105 (2) (f) but may be randomly reselected for further service within the succeeding twelve months.

13-71-115. Juror questionnaires. (1) On or before the first day of the term of trial or grand juror service, each juror shall be given a juror questionnaire requesting the following information about the juror: Name, sex, date of birth, age, residence, and marital status; the number and ages of children; educational level and occupation; whether the juror is regularly employed, self-employed, or unemployed; spouse's occupation; previous juror service; present or past involvement as a party or witness in a civil or criminal proceeding; and such other information as the jury commissioner deems appropriate after consulting with the judges in the judicial district. The questionnaire shall contain a declaration by the juror that the information supplied is, to the best of the juror's knowledge, true and an acknowledgment that a willful misrepresentation of a material fact is a class 3 misdemeanor punishable as provided in section 18-1.3-501, C.R.S. Immediately below the declaration, the questionnaire shall contain a place for the signature of the juror. A notice that the completed questionnaire is not a public record shall appear prominently on its face.

(2) Unless the court orders otherwise, the jury commissioner shall provide copies of the appropriate completed questionnaires to the trial judge and counsel for use during jury selection. With the exception of the names of qualified jurors and disclosures made

during jury selection, information on the questionnaires shall be held in confidence by the court, the parties, trial counsel, and their agents. Upon the completion of jury selection, the parties and their counsel shall return all copies of the completed questionnaires to the court for immediate destruction. The original completed questionnaires for all prospective jurors shall be sealed in an envelope and retained in the court's file but shall not constitute a public record.

(3) If a person's answers to a questionnaire indicate that the person is disqualified or disabled from performing jury service pursuant to section 13-71-104 (3), 13-71-105, or 13-71-119.5 or, in the opinion of the court, state grounds sufficient to be excused from jury service pursuant to section 13-71-119.5, the person's name shall not be included in the juror pool and the court shall notify the person that he or she is excused from jury service.

13-71-116. Trial juror's right to one postponement. A trial juror shall have the right to one postponement of the term of juror service. Such postponement shall not last more than six months, but may extend into the next calendar year. To exercise this right, the juror shall notify the jury commissioner by telephone or in writing requesting an alternate date to which juror service may be postponed. A jury commissioner, in his or her discretion, may set the date to which the juror's service is postponed. A jury commissioner shall notify the juror by telephone or in writing of the new date.

13-71-116.5. Postponement related to co-employee jury service. Upon notice by an employee, a jury commissioner shall postpone and reschedule the service of a summoned juror who is regularly employed by an employer with five or fewer full-time employees or their equivalent if, during the same period, another employee of the employer has been summoned for jury service. A postponement issued pursuant to this section shall not affect a person's right to a postponement of jury service pursuant to section 13-71-116.

13-71-117. Assignment of courthouse location. Every trial and grand juror shall be notified on the summons, or otherwise, to perform juror service at a designated court location within each county. The jury commissioner or the court may permit a juror to serve at a different courthouse location within the county upon a finding that service at the original location would be a hardship.

13-71-118. Telephone notice. The jury commissioner or the court may permit a

trial or grand juror to be available for juror service or continued juror service upon telephone notice. Such a juror shall provide the court with a telephone number at which the juror may be reached, with certainty, and shall agree to resume juror service, if necessary, not more than one hour after receiving telephone notice.

13-71-119. Deferments and excuses - limitations. (1) It shall be the policy of this article that every trial juror shall be prepared to serve three trial days except as otherwise provided in this section or in section 13-71-104, 13-71-105, or 13-71-119.5.

(2) The court or the jury commissioner may defer or advance the term of service of the trial or grand juror upon a finding as provided in section 13-71-104, 13-71-105, or 13-71-119.5. The court may excuse a juror from grand juror service upon a finding of hardship or inconvenience, taking into consideration the length of grand juror service. The court may excuse a juror from trial juror service upon a finding of extreme hardship. The court may dismiss a trial or grand juror at any time in the best interest of justice.

(3) The court, after a hearing, may excuse and discharge an impaneled juror prior to jury deliberation upon a finding of extreme hardship, and such discharge shall not be grounds for objection or a mistrial as long as the statutorily or constitutionally required number of jurors remain able to proceed with the trial and deliberation. The court, after a hearing, may excuse and discharge a juror participating in jury deliberation only upon a finding of an emergency or for any other compelling reason. If the statutorily or constitutionally required number of jurors does not remain to hear evidence or to participate in jury deliberation after the discharge of a juror, the trial may continue with the lesser number of jurors only upon agreement of all parties on the record. The court may discharge an impaneled juror who has not appeared for juror service upon a finding that there is a strong likelihood that an unreasonable delay in the trial would occur if the court were to await the appearance of the juror. The court may exercise any authority granted in this section at any time before or during a juror's term of service.

13-71-119.5. Persons entitled to be excused from jury service. (1) The general assembly finds and declares that it is the policy of this state that all qualified citizens have an obligation to serve on juries when summoned by the courts of this state unless excused in accordance with the provisions of this article.

(2) (a) (I) A person shall be excused temporarily from service as a juror if his or her jury service would cause undue or extreme physical hardship to him or her or to another person under his or her direct care or supervision.

(II) The provisions of this subsection (2) shall apply notwithstanding the fact that the person does not have sole responsibility for the care of another person as described in section 13-71-105 (2) (d).

(b) A judge or jury commissioner of the court for which a person was summoned for jury service shall determine whether jury service would cause the prospective juror or another person under his or her direct care undue or extreme physical hardship.

(c) A person who requests to be excused under this subsection (2) shall take all actions necessary to obtain a determination on the request before the date on which the person is scheduled to appear for jury duty.

(d) For purposes of this subsection (2), undue or extreme physical hardship shall be limited to circumstances in which a person:

(I) Would be required to abandon a person under his or her direct care or supervision because of the inability to obtain an appropriate substitute care provider during the period of jury service; or

(II) Would suffer physical hardship possibly resulting in illness or disease.

(e) A person who requests to be excused under the provisions of this subsection (2) may provide the judge or jury commissioner documentation that supports the request to be excused, including but not limited to medical statements from licensed physicians, proof of dependency or guardianship, or other similar documents. The judge or jury commissioner may excuse a person if the documentation clearly supports the request to be excused. The documents comprising the documentation described in this subsection (2) shall not be deemed public records and shall not be disclosed to the public.

(3) A person who is temporarily excused pursuant to this section shall become eligible for qualification as a juror when the temporary excuse expires, as determined by the court. A person may be permanently excused only if the judge or jury commissioner determines that the grounds for being excused from jury service are permanent in nature.

(4) The provisions of this section shall not apply to impaneled jurors or to deliberating jurors described in section 13-71-119.

13-71-120. Length of juror service. Trial juror service shall be for a one-day term unless a juror is assigned to or impaneled on an incompleted trial when the one-day term ends, or unless the court orders otherwise. Nothing shall prevent a trial juror from serving on more than one jury or participating in more than one trial during the term; except that a trial juror whose deliberation ended with a verdict shall not be required to participate in a second trial even though the juror may not have completed the first day of juror service at the time of the commencement of the second trial. Jurors awaiting assignment to a trial shall be discharged as early as possible after it has been determined that their services will not be needed. Grand juror service shall be for a term of twelve months unless the court discharges the jurors earlier or enlarges such term upon a finding that the efficient administration of justice so requires; except that in no event shall a grand jury serve for longer than eighteen months.

13-71-121. Extended trials. Before a jury is impaneled, the court shall inform the jurors if a trial is expected to last more than three trial days and may excuse a juror from performing juror service in that trial upon a finding of hardship or inconvenience, taking into account the expected length of the trial. Any juror so excused shall otherwise complete the term of juror service.

13-71-122. Failure to appear - delinquency notice. The jury commissioner may send a delinquency notice by certified or first-class mail to any trial or grand juror who has failed to appear for juror service. The purposes of delinquency notices shall be only to notify the jurors of their delinquent status and to rectify the problem by appropriate means. The jury commissioner shall have discretionary authority to resolve delinquent juror problems.

13-71-123. Enforcement of juror duties. The court shall take whatever action may be appropriate to enforce the provisions of this article. Upon a finding that a juror will not appear to perform or complete juror service or in response to the court's order, the court may take such action as is likely to compel the juror to appear.

13-71-124. Delegation of authority to jury commissioner. The state court administrator or the court may delegate to jury commissioners such authority as is appropriate for the efficient administration of this article.

13-71-125. Compensation and reimbursement. The compensation and reimbursement policy of this article shall be to prevent, insofar as possible, financial hardship for any juror because of the performance of juror service. Where financial hardship exists, the court shall attempt to place the juror in the same financial position as such juror would have been were it not for the performance of juror service.

13-71-126. Compensation of employed jurors during first three days of service. All regularly employed trial or grand jurors shall be paid regular wages, but not to exceed fifty dollars per day unless by mutual agreement between the employee and employer, by their employers for the first three days of juror service or any part thereof. Regular employment shall include part-time, temporary, and casual employment if the employment hours may be determined by a schedule, custom, or practice established during the three-month period preceding the juror's term of service.

13-71-127. Financial hardship of employer or self-employed juror. The court shall excuse an employer or a self-employed juror from the duty of compensation for trial or grand juror service upon a finding that it would cause financial hardship. When such a finding is made, a juror shall receive reasonable compensation in lieu of wages from the state for the first three days of juror service or any part thereof. Such award shall not exceed fifty dollars per day of juror service. A court hearing on an employer's extreme financial hardship shall occur no later than thirty days after the tender of the juror service acknowledgment information to the employer. The request for a court hearing shall be made in writing to the jury commissioner.

13-71-128. Reimbursement of unemployed jurors during first three days of service. Each trial or grand juror who is unemployed may apply to the jury commissioner on the first day of juror service and shall be reimbursed by the state for reasonable travel, child care, and other necessary out-of-pocket expenses, except food, for the first three days of juror service or any part thereof. The state court administrator shall establish guidelines for the reimbursement of unemployed trial and grand jurors. No award for an unemployed juror shall exceed fifty dollars per day of juror service, and the court shall approve, prior to reimbursement, any award which is outside the guidelines. Any juror who is not regularly employed, including, but not limited to, retired persons, homemakers, students, unemployed persons, and persons receiving unemployment benefits, shall be entitled to reimbursement under this section. Juror service shall not cause a person to lose unemployment benefits.

13-71-129. Compensation of jurors after first three days of service. The state shall pay each trial or grand juror who serves more than three days for the fourth day of service and each day thereafter at the rate of fifty dollars per day. A trial or grand juror receiving payment under this section shall not be entitled to additional reimbursement for travel or other out-of-pocket expenses.

13-71-129.5. Public transportation for jurors. In all judicial districts with one or more publicly owned or operated systems of public transportation, the office of the state court administrator shall work with officials of the public transportation system or systems to create and implement a plan whereby each juror may obtain transportation at no cost to the juror to the vicinity of the courthouse or other place of juror service, and return, using the regular routes and schedules of the public transportation system.

13-71-130. Limitations on juror compensation. The state shall compensate and credit each juror for only those days on which the juror appeared as directed to perform juror service. Holidays and business days on which a trial has been recessed are excluded.

13-71-131. Special awards of compensation and reimbursement. Notwithstanding any other provisions of this article, the court is authorized to make special awards of compensation and reimbursement to any juror based upon unusual circumstances or to effect the purposes of this article. By appropriate order, the court may make special arrangements for physically impaired and elderly jurors and may provide for the other needs of jurors. The court shall provide for reasonable costs of jury sequestration.

13-71-132. Juror service acknowledgment information - requests - payment. (1) The juror service acknowledgment shall contain the following information: The name of the juror; the jury commissioner contact information and the number of days of juror service performed; a declaration of the duty of the employer to compensate an employed juror for the first three days, or any part thereof, of juror service; the right of an employer to be excused from such duty by the court upon a showing of extreme financial hardship; and any other information deemed appropriate by the jury commissioner. The jury commissioner shall retain juror service acknowledgment information for each juror and make it available electronically via the internet for twelve months after the juror completes his or her service.

(2) If a juror requests juror service acknowledgment information relating to his or her juror service at any time during the twelve-month period described in subsection (1) of this section, the jury commissioner shall provide the information within sixty days after the request.

(3) Trial juror payments for each juror's service shall be processed by the state by check or electronic funds transfer within ten days after the conclusion of the juror's service. The state shall process grand juror payments at least on a monthly basis. Each payment shall include all compensation for juror service and reimbursement for authorized expenses incurred by the juror during the previous time period. The state court administrator shall prepare and disburse these payments based upon information received from jury commissioners.

13-71-133. Enforcement of employer's duty to compensate jurors. Any employer who fails to compensate an employed juror under the applicable provisions of this article and who has not been excused from such duty of compensation shall be liable

to the employed juror. If the employer fails to compensate a juror within thirty days after tender of the juror service acknowledgment information, the juror may commence a civil action in any court having jurisdiction over the parties. Extreme financial hardship on the part of the employer shall not be a defense to such an action. The court may award treble damages and reasonable attorney fees to the juror upon a finding of willful misconduct by the employer.

13-71-134. Penalties and enforcement remedies for harassment by employer. (1) An employer shall not deprive an employed juror of employment or any incidents or benefits thereof, nor shall an employer harass, threaten, or coerce an employee because the employee receives a juror summons, responds thereto, performs any obligation or election of juror service as a trial or grand juror, or exercises any right under any section of this article. An employer shall make no demands upon any employed juror which will substantially interfere with the effective performance of juror service. The employed juror may commence a civil action for such damages or injunctive relief or both, as may be appropriate, for a violation of this section. The court may award treble damages and reasonable attorney fees to the juror upon a finding of willful misconduct by the employer. Any trial of such an action shall be to the court without a jury.

(2) Any employer who willfully violates this section commits willful harassment of a juror by an employer, as defined in section 18-8-614, C.R.S., which is a class 2 misdemeanor punishable as provided in section 18-1.3-501, C.R.S.

13-71-135. Juror orientation program. The office of the state court administrator shall establish guidelines for the orientation of prospective jurors.

13-71-136. Availability of juror list. (1) Absent a court order to the contrary, upon request, the jury commissioner shall make available for inspection by parties, counsel, or their agents a list of prospective jurors containing the jurors' names. The jury commissioner shall assure that the juror resides in the proper county.

(2) Absent a court order to the contrary, upon request, the jury commissioner shall make available for inspection by counsel or pro se parties a list of prospective jurors containing the jurors' names and addresses.

(3) Upon request, the jury commissioner shall make available for inspection by members of the public a list of prospective jurors containing only the jurors' name and juror number.

13-71-137. Duties and responsibilities of interpreters for jurors who are deaf

or hard of hearing. The court may provide, through the list of available resources coordinated through the Colorado commission for the deaf and hard of hearing pursuant to section 26-21-106 (4), C.R.S., a qualified interpreter, as defined in section 13-90-202 (8), to assist during a trial a juror who is deaf or hard of hearing. In the presence of the jury, the court shall instruct the qualified interpreter to make true and complete translations of all court proceedings to the juror who is deaf or hard of hearing to the best of the qualified interpreter's ability. The qualified interpreter shall be subject to the same orders and admonitions given to the jurors. The court shall permit a qualified interpreter to be present and assist a juror who is deaf or hard of hearing during the deliberations of the jury. In the presence of the jury, the court shall instruct the qualified interpreter to refrain from participating in any manner in the deliberation of the jury and to refrain from having any communications with any member of the jury regarding deliberation, except for true and complete translations of jurors' remarks made during deliberation. A jury verdict reached in the presence of a qualified interpreter, during deliberation, shall be valid.

13-71-138. Preservation of juror records. All official records and papers compiled and maintained by the state court administrator concerning jurors shall be preserved for three years after the calendar year to which they apply. Official records shall include records in automated form on magnetic tapes and disks.

13-71-139. Challenge of juror pool. (1) Any party to a civil or criminal action may challenge by written motion the composition of the juror pool for substantial failure to comply with the requirements of this article. The written motion shall be filed prior to the swearing in of the jury selected to try the case and shall be accompanied by one or more affidavits specifying the supporting facts and demographic data. If the court finds that the affidavit or affidavits, if true, demonstrate such a substantial failure, the moving party shall be entitled to present testimony by any person responsible for the implementation of this article, any records used in the selection and summoning of jurors, and any other relevant evidence. If the court determines, by a preponderance of the evidence, that in selecting the jury there has been a substantial failure to comply with this article, the court shall discharge the jury panel and stay proceedings pending the summoning of a new juror pool.

(2) The procedures described in this section shall be the exclusive means by which a party may challenge a jury on the ground that the juror pool was not selected in conformity with this article.

13-71-140. Irregularity in selecting, summoning, and managing jurors. The court shall not declare a mistrial or set aside a verdict based upon allegations of any irregularity in selecting, summoning, and managing jurors, or in limiting the length of any term of juror service, or based upon any other defect in any procedure performed under this article unless the moving party objects to such irregularity or defect as soon as possible after its discovery and demonstrates specific injury or prejudice.

13-71-141. Authority to contract and accept gifts. The state court administrator, and district administrators with the approval of the state court administrator, may enter into contracts and agreements with, and accept gifts, grants, contributions, and bequests of funds from, any department, agency, or political subdivision of the federal, state, county, or municipal government or from any individual, foundation, corporation, association, or public authority to implement the provisions of this article or to improve the jury system.

13-71-142. Alternate jurors. In all civil and criminal trials, the court may call and impanel alternate jurors to replace jurors who are disqualified or who the court may determine are unable to perform their duties prior to deliberation. Alternate jurors shall be summoned in the same manner, have the same qualifications, be subject to the same examination and challenges, take the same oath, and have the same functions, powers, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged at the time the jury retires to consider its verdict, unless otherwise provided by law, by agreement of the parties, or by order of the court. The seating of an alternate juror entitles each party to an additional peremptory challenge, which may be exercised as to any prospective jurors.

13-71-143. Grand jurors - vacancies. Vacancies which exist on a grand jury panel shall be filled in accordance with section 13-72-106.

13-71-144. Jury fees to be assessed in civil cases - repeal. (1) (a) On and after July 1, 2008, any party demanding a trial by jury as provided by statute shall pay to the clerk of the court a fee of one hundred ninety dollars in district court cases at the time the demand is made pursuant to the Colorado rules of civil procedure.

(b) On and after July 1, 2008, any party demanding a trial by jury as provided by statute shall pay to the clerk of the court a fee of ninety-eight dollars in county court cases at the time the demand is made pursuant to the Colorado rules of civil procedure.

(c) Each party to an action who does not affirmatively waive, in writing, the right to a trial by jury on all issues which are so triable shall pay the jury fee. Failure to pay the jury fee at the time of filing the demand, and no later than ten days after the service of the last pleading directed to any issue triable by a jury, shall constitute a waiver of a jury trial by the demanding, nonpaying party.

(2) (a) Each fee collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, one hundred sixty-five dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6), five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and twenty dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(b) Each fee collected pursuant to paragraph (b) of subsection (1) of this section shall be transmitted to the state treasurer and divided as follows:

(I) Repealed.

(II) On and after July 1, 2009, eighty-four dollars shall be deposited in the judicial stabilization cash fund created in section 13-32-101 (6) , five dollars shall be deposited in the court security cash fund established pursuant to section 13-1-204, and nine dollars shall be deposited in the justice center cash fund created in section 13-32-101 (7) (a).

(3) (Deleted by amendment, L. 2008, p. 2142, § 12, effective June 4, 2008.)

13-71-145. Expense of meals and provisions to be taxed. In all civil cases if any expenses are incurred in furnishing meals or provisions to jurors impaneled to try such causes, such expenses shall be taxed as costs in the suit against the unsuccessful party. When collected, the same shall be paid to the clerk of the court for deposit in the state general fund or to reimburse an employer in an amount not to exceed fifty dollars per day for the first three days served by the employee. In the first instance the same shall be paid by the court pursuant to the provisions of section 13-3-106.

ARTICLE 72

Grand Jurors

13-72-101. Grand jurors - term - additional juries. (1) Grand juries shall not be drawn, summoned, or required to attend the sitting of any court in any county in this state unless specially ordered by the court having jurisdiction to make such an order and

except as provided in subsection (2) of this section. The length of term served by a grand jury shall be as provided in section 13-71-120.

(2) In counties with a population of one hundred thousand persons or more, according to the latest federal census, a grand jury shall be drawn and summoned by the court to attend the sitting of said court at the first term of such court in each year.

(3) In all other counties, the grand jury shall be called and shall sit at such times and for such periods as the court may order on its own motion or upon motion by the district attorney of the judicial district in which the county is located.

(4) Upon motion of the district attorney and for good cause shown, the court may cause to be drawn and summoned an additional grand jury.

(5) A grand jury shall be impaneled, sworn and charged in, and report to such court, as the judges of the judicial district among themselves agree or as they may by rule provide.

13-72-102. Number of jurors. A grand jury shall consist of twelve persons, and the assent of nine jurors shall be necessary for the returning of a true bill; but, upon motion of the district attorney and for good cause shown, the court may cause to be convened, impaneled, and sworn a grand jury consisting of twenty-three members, and the assent of twelve members shall be necessary for the returning of a true bill when said grand jury consists of twenty-three members. At any meeting of the grand jury at least nine grand jurors shall constitute a quorum.

13-72-103. Selection of jury panel. In drawing the list of jurors, the court shall select from no less than seventy-five names thereon and from such additional lists of names as the court may order, or from such lesser number as may be called to serve as jurors, the names of either twelve or twenty-three persons who shall constitute a grand jury and four alternate grand jurors. The members of the county grand jury shall be selected by the chief judge with the advice of the district attorney. The court may close to the public part or all of the selection process when reasonably necessary to protect the grand jury process or the security of the grand jurors. The length of term served by a county grand jury shall be as provided in section 13-71-120. The court, upon its own motion or at the request of the district attorney, shall enter an order to preserve the confidentiality of all information that might identify grand jurors when reasonably necessary to protect the grand jury process or the security of the grand jurors. In the absence of such an order, upon request, the jury commissioner shall make available for inspection by members of the public a list of grand jurors containing only the grand jurors' names and juror numbers. The court may strike the name of any juror who appears to the court to be incompetent or unqualified to serve.

13-72-104. Foreman appointed - duties. Before a grand jury at any term of court is sworn or affirmed, the court shall appoint a foreman of such jury and an alternate foreman to act in the absence of the foreman, and such foreman or alternate foreman has power to administer an oath or affirmation to any and all witnesses who may be required to testify before such jury. He shall also endorse upon every bill that may be presented to a grand jury the finding of such jury that the same is "a true bill" or "not a true bill", as the case may be, and sign his name thereto before the same is returned into court.

13-72-105. Oath of foreman - jurors. (1) Before a grand jury enters upon its duties, an oath or affirmation shall be administered to the foreman, as follows:

"You, as foreman of this inquest, do solemnly swear or affirm that you will diligently inquire into, and true presentment make, of all such matters and things as shall be given you in charge, or shall otherwise come to your knowledge touching the present service; you will present no person through malice, hatred, or ill will, and that you will leave no one unpresented through fear, favor, or affection, or for any fee or reward or the hope or promise thereof; that you will keep secret your own counsel and that of your fellows touching the present service, and that in all your presentments, you will present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, so help you God."

(2) An oath or affirmation shall be administered to the other grand jurors as follows:

"You and each of you do solemnly swear or affirm that you will well and truly keep and observe the oath that" A.B.,"your foreman, has just taken before you, so help you God."

13-72-106. Attendance excused - discharged - prospective jurors. At any time for cause shown, the court may excuse a grand juror permanently and, if so excused, the court shall select a replacement grand juror from one of the four alternate grand jurors chosen pursuant to section 13-72-103. The excuse or discharge of a grand juror shall be in accordance with the procedures specified in the "Colorado Uniform Jury Selection and Service Act", article 71 of this title. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such charge.

13-72-107. Juror giving information - oath. When any member of a grand jury gives information touching any matter pending before such jury, he shall take an oath or affirmation in the same manner as other witnesses.

13-72-108. Sealing of indictment. The court, upon motion of the district attorney, shall order the indictment to be sealed and no person may disclose the existence of the indictment until the defendant is in custody or has been admitted to bail except when necessary for the issuance or execution of a warrant or summons.

13-72-109. Impaneling of judicial district grand jury - county grand jury unnecessary. If a judicial district grand jury is impaneled pursuant to article 74 of this title, there is no need to impanel a county grand jury pursuant to this article.

ARTICLE 73

Statewide Grand Juries

13-73-101. Petition for impaneling - determination by chief judge. (1) The general assembly finds that the state grand jury exists because of the need to investigate and prosecute crime without regard to county or judicial district boundaries in cases involving organized crime, criminal activity in more than one judicial district, or unusual difficulties in the investigation or adjudication of a matter or cases in which the attorney general has authority to prosecute. The state grand jury is intended, therefore, to be a law enforcement tool with statewide jurisdiction.

(2) When the attorney general deems it to be in the public interest to convene a grand jury that has jurisdiction extending beyond the boundaries of any single county, the attorney general may petition the chief judge of any district court for an order in accordance with the provisions of this article. Said chief judge may, for good cause shown, order the impaneling of a state grand jury that shall have statewide jurisdiction. In making a determination as to the need for impaneling a state grand jury, the judge shall require a showing that the matter cannot be effectively handled by a grand jury impaneled pursuant to article 72 or 74 of this title, such grand juries being referred to in this article as a "county grand jury" or a "judicial district grand jury", respectively.

13-73-102. Powers and duties - applicable law - rules and regulations. A state grand jury shall have the same powers and duties and shall function in the same manner as a county grand jury, except that its jurisdiction shall extend throughout the state. The law applicable to county grand juries shall apply to state grand juries except when such law is inconsistent with the provisions of this article. The supreme court may promulgate

such procedural rules as it deems necessary to govern the procedures of state grand juries.

13-73-103. List of prospective jurors - selection - membership - term. The state court administrator, upon receipt of an order of a chief judge of the district court granting a petition to impanel a state grand jury, shall prepare a list of prospective state grand jurors drawn from existing jury lists of the several counties. In preparing the list of prospective state grand jurors, the state court administrator need not include names of jurors from every county within the state, but the state court administrator may select jurors from counties near the county in which the chief judge requesting the list presides. The chief judge granting the order shall impanel the state grand jury from the list compiled by the state court administrator. A state grand jury shall be composed of twelve or twenty-three members, as provided in section 13-72-102, but not more than one-fourth of the members of the state grand jury shall be residents of any one county. The members of the state grand jury shall be selected by the chief judge with the advice of the attorney general. The chief judge may close to the public part or all of the selection process when reasonably necessary to protect the grand jury process or the security of the grand jurors. The length of term served by a state grand jury shall be as provided in section 13-71-120. The court, upon its own motion or at the request of the attorney general, shall enter an order to preserve the confidentiality of all information that might identify state grand jurors when reasonably necessary to protect the state grand jury process or the security of the state grand jurors. In the absence of such an order, upon request, the state court administrator shall make available for inspection by members of the public a list of state grand jurors containing only the state grand jurors' names and juror numbers.

13-73-104. Summoning of jurors. The jury commissioner of the court in which the petition for impaneling the state grand jury is filed shall cause said prospective jurors to be summoned for service in the manner provided in section 13-71-110.

13-73-105. Judicial supervision. Judicial supervision of the state grand jury shall be maintained by the chief judge who issued the order impaneling such grand jury, and all indictments, reports, and other formal returns of any kind made by such grand jury shall be returned to that judge.

13-73-106. Presentation of evidence. The presentation of the evidence shall be made to the state grand jury by the attorney general or his designee.

13-73-107. Return of indictment or presentment - designation of venue - consolidation of indictments - sealing of indictment. (1) Any indictment by a state grand jury shall be returned to the chief judge who is supervising the statewide grand jury without any designation of venue. Thereupon, the chief judge shall, by order, designate any county in the state as the county of venue for the purpose of trial. Once venue is designated by the chief judge, a change of venue may be granted only as provided by article 6 of title 16, C.R.S. The chief judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a state grand jury and fix venue for trial.

(2) The court, upon motion of the attorney general, shall order the indictment to be sealed and no person may disclose the existence of the indictment until the defendant is in custody or has been admitted to bail except when necessary for the issuance or execution of a warrant or summons.

13-73-108. Costs and expenses. The costs and expenses incurred in impaneling a state grand jury and in the performance of its functions and duties shall be paid by the state out of funds appropriated to the judicial department.

ARTICLE 74

Judicial District Grand Juries

13-74-101. Petition for impaneling - determination by chief judge. When the district attorney deems it to be in the public interest to convene a grand jury which has jurisdiction extending beyond the boundaries of any single county, he may petition the chief judge of any district court for an order in accordance with the provisions of this article. Said chief judge shall, for good cause shown, order the impaneling of a judicial district grand jury which shall have judicial districtwide jurisdiction. If a judicial district grand jury is impaneled pursuant to this article, there is no need to impanel a county grand jury pursuant to article 72 of this title.

13-74-102. Powers and duties - applicable law - rules and regulations. A judicial district grand jury shall have the same powers and duties and shall function in the same manner as a county grand jury; except that its jurisdiction shall extend throughout the judicial district. The law applicable to county grand juries shall apply to judicial district grand juries except when such law is inconsistent with the provisions of this

article. The supreme court may promulgate such procedural rules as it deems necessary to govern the procedures of judicial district grand juries.

13-74-103. List of prospective jurors - selection - membership - term. The state court administrator, upon receipt of an order of a chief judge of the district court granting a petition to impanel a judicial district grand jury, shall prepare a list of prospective judicial district grand jurors drawn from existing jury lists of the several counties within the district. In preparing the list of prospective judicial district grand jurors, the state court administrator need not include names of jurors from every county within the district, but the state court administrator may select jurors from counties near the county in which the chief judge requesting the list presides. The chief judge granting the order shall impanel the judicial district grand jury from the list compiled by the state court administrator. A judicial district grand jury shall be composed of twelve or twenty-three members, as provided in section 13-72-102. The members of the judicial district grand jury shall be selected by the chief judge with the advice of the district attorney. The chief judge may close to the public part or all of the selection process when reasonably necessary to protect the grand jury process or the security of the grand jurors. The length of term served by a judicial district grand jury shall be as provided in section 13-71-120. The court, upon its own motion or at the request of the district attorney, shall enter an order to preserve the confidentiality of all information that might identify judicial district grand jurors when reasonably necessary to protect the judicial district grand jury process or the security of the judicial district grand jurors. In the absence of such an order, upon request, the state court administrator shall make available for inspection by members of the public a list of judicial district grand jurors containing only the judicial district grand jurors' names and juror numbers.

13-74-104. Summoning of jurors. The jury commissioner of the court in which the petition for impaneling the judicial district grand jury is filed shall cause said prospective jurors to be summoned for service in the manner provided in section 13-71-110.

13-74-105. Judicial supervision. Judicial supervision of the judicial district grand jury shall be maintained by the chief judge who issued the order impaneling such grand jury, and all indictments, reports, and other formal returns of any kind made by such grand jury shall be returned to that judge.

13-74-106. Presentation of evidence. The presentation of the evidence shall be made to the judicial district grand jury by the district attorney or his designee.

13-74-107. Return of indictment - designation of venue - consolidation of indictments - sealing of indictments. (1) Any indictment by a judicial district grand jury shall be returned to the chief judge without any designation of venue. Thereupon, the judge shall, by order, designate the county of venue for the purpose of trial. The judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a judicial district grand jury and fix venue for trial.

(2) The court, upon motion of the district attorney, shall order the indictment to be sealed and no person may disclose the existence of the indictment until the defendant is in custody or has been admitted to bail except when necessary for the issuance or execution of a warrant or summons.

13-74-108. Costs and expenses. The costs and expenses incurred in impaneling a judicial district grand jury and in the performance of its functions and duties shall be paid by the state out of funds appropriated to the judicial department.

13-74-109. Applicability. The provisions of this article shall apply to all judicial districts.

13-74-110. Procedural matters. Procedural matters not specifically addressed by the provisions of this article shall be governed by the provisions of article 72 of this title and other applicable Colorado statutes and by the Colorado rules of criminal procedure relating to grand juries.

LIMITATION OF ACTIONS

ARTICLE 80

Limitations - Personal Actions

13-80-101. General limitation of actions - three years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is

brought, shall be commenced within three years after the cause of action accrues, and not thereafter:

(a) All contract actions, including personal contracts and actions under the "Uniform Commercial Code", except as otherwise provided in section 13-80-103.5;

(b) Repealed.

(c) All actions for fraud, misrepresentation, concealment, or deceit except those in section 13-80-102 (1) (j) or section 13-80-103 (1) (g);

(d) and (e) Repealed.

(f) All actions for breach of trust or breach of fiduciary duty;

(g) All claims under the "Uniform Consumer Credit Code", except section 5-5-201 (5), C.R.S.;

(h) All actions of replevin or for taking, detaining, or converting goods or chattels, except as otherwise provided in section 13-80-103.5;

(i) All actions under the "Motor Vehicle Financial Responsibility Act", article 7 of title 42, C.R.S.;

(j) All actions under part 6 of article 4 of title 10, C.R.S.;

(k) All actions accruing outside this state if the limitation of actions of the place where the cause of action accrued is greater than that of this state;

(l) All actions of debt under section 40-30-102, C.R.S.;

(m) All actions for recovery of erroneous or excessive refunds of any tax under section 39-21-102, C.R.S.;

(n) (I) All tort actions for bodily injury or property damage arising out of the use or operation of a motor vehicle including all actions pursuant to paragraph (j) of this subsection (1).

(II) The provisions of this paragraph (n) do not apply to any action for strict liability, absolute liability, or failure to instruct or warn governed by the provisions of section 13-80-102 (1) (b) or section 13-80-106.

(o) and (p) Repealed.

13-80-102. General limitation of actions - two years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within two years after the cause of action accrues, and not thereafter:

(a) Tort actions, including but not limited to actions for negligence, trespass, malicious abuse of process, malicious prosecution, outrageous conduct, interference with relationships, and tortious breach of contract; except that this paragraph (a) does not apply to any tort action arising out of the use or operation of a motor vehicle as set forth in section 13-80-101 (1) (n);

(b) All actions for strict liability, absolute liability, or failure to instruct or warn;

(c) All actions, regardless of the theory asserted, against any veterinarian;

(d) All actions for wrongful death;

(e) Repealed.

(f) All actions against any public or governmental entity or any employee of a public or governmental entity for which insurance coverage is provided pursuant to article 14 of title 24, C.R.S.;

(g) All actions upon liability created by a federal statute where no period of limitation is provided in said federal statute;

(h) All actions against any public or governmental entity or any employee of a public or governmental entity, except as otherwise provided in this section or section 13-80-103;

(i) All other actions of every kind for which no other period of limitation is provided;

(j) All actions brought under section 42-6-204, C.R.S.;

(k) All actions brought under section 13-21-109 (2).

13-80-102.5. Limitation of actions - medical or health care. (1) Except as otherwise provided in this section or section 25.5-4-307, C.R.S., no action alleging negligence, breach of contract, lack of informed consent, or other action arising in tort or contract to recover damages from any health care institution, as defined in paragraph (a) of subsection (2) of this section, or any health care professional, as defined in paragraph (b) of subsection (2) of this section, shall be maintained unless such action is instituted within two years after the date that such action accrues pursuant to section 13-80-108 (1), but in no event shall an action be brought more than three years after the act or omission which gave rise to the action.

(2) For the purposes of this section:

(a) "Health care institution" means any hospital, health care facility, dispensary, clinic, or other institution which is licensed or certified as such under the laws of this state.

(b) "Health care professional" means any physician, nurse, dentist, chiropractor, pharmacist, optometrist, psychologist, podiatrist, physical therapist, or other health care practitioner who is licensed to perform such profession under the laws of this state.

(3) The limitation of actions provided in subsection (1) of this section shall not apply under the following circumstances:

(a) If the act or omission which gave rise to the cause of action was knowingly concealed by the person committing such act or omission, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or

(b) If the act or omission consisted of leaving an unauthorized foreign object in the body of the patient, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or

(c) If both the physical injury and its cause are not known or could not have been known by the exercise of reasonable diligence; or

(d) If the action is brought by or on behalf of:

(I) A minor under eight years of age who was under six years of age on the date of the occurrence of the act or omission for which the action is brought, in which case the action may be maintained at any time prior to his attaining eight years of age; or

(II) A person otherwise under disability as defined in section 13-81-101, in which case the action may be maintained within the time period as provided in section 13-81-103.

13-80-103. General limitation of actions - one year. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within one year after the cause of action accrues, and not thereafter:

(a) The following tort actions: Assault, battery, false imprisonment, false arrest, libel, and slander;

(b) All actions for escape of prisoners;

(c) All actions against sheriffs, coroners, police officers, firefighters, national guardsmen, or any other law enforcement authority;

(d) All actions for any penalty or forfeiture of any penal statutes;

(e) All actions under the "Motor Vehicle Repair Act of 1977", article 9 of title 42, C.R.S.;

(f) Repealed.

(g) All actions for negligence, fraud, willful misrepresentation, deceit, or conversion of trust funds brought under section 12-61-303, C.R.S.;

(h) All actions against a person alleging liability for a penalty for commission of a class A or a class B traffic infraction, as defined in section 42-4-1701, C.R.S.

13-80-103.5. General limitation of actions - six years. (1) The following actions shall be commenced within six years after the cause of action accrues and not thereafter:

(a) All actions to recover a liquidated debt or an unliquidated, determinable amount of money due to the person bringing the action, all actions for the enforcement of rights set forth in any instrument securing the payment of or evidencing any debt, and all

actions of replevin to recover the possession of personal property encumbered under any instrument securing any debt; except that actions to recover pursuant to section 38-35-124.5 (3), C.R.S., shall be commenced within one year;

(b) All actions for arrears of rent;

(c) All actions brought under section 13-21-109, except actions brought under section 13-21-109 (2);

(d) All actions by the public employees' retirement association to collect unpaid contributions from employers for persons who are not members or inactive members at the time the association first notifies an employer of its claim for unpaid contributions. This paragraph (d) shall apply to causes of action as provided in section 24-51-402 (2), C.R.S.

(e) Repealed.

13-80-103.7. General limitation of actions - sexual assault or sexual offense against a child - six years. (1) Notwithstanding any other statute of limitations specified in this article, or any other provision of law that can be construed to reduce the statutory period set forth in this section, any civil action based on a sexual assault or a sexual offense against a child shall be commenced within six years after a disability has been removed for a person under disability, as such term is defined in subsection (3.5) of this section, or within six years after a cause of action accrues, whichever occurs later, and not thereafter. Nothing in this section shall be construed to extend the statutory period with respect to vicarious liability.

(2) For the purpose of this section, "sexual assault" means subjecting another person of any age to sexual contact, as defined in section 18-3-401 (4), C.R.S.; sexual intrusion, as defined in section 18-3-401 (5), C.R.S.; or sexual penetration, as defined in section 18-3-401 (6), C.R.S.

(3) For the purposes of this section, "sexual offense against a child" shall include all offenses listed in section 18-3-411, C.R.S.

(3.5) (a) For the purpose of this section, "person under disability" means any person who is a minor under eighteen years of age, a mental incompetent, or a person under other legal disability and who does not have a legal guardian. "Person under disability" also includes a victim of a sexual assault when the victim is in a special relationship with the perpetrator of the assault or is a victim of a sexual offense against a child or is a victim who is residing in an institutional facility, such as a nursing home, regional center, or residential facility for the treatment and care of persons with mental illness or for the care of persons with developmental disabilities and where the victim is psychologically or emotionally unable to acknowledge the assault or offense and the harm resulting therefrom. For the purpose of this subsection (3.5), "special relationship" means a relationship between the victim and the perpetrator of the sexual assault which is a

confidential, trust-based relationship, such as attorney-client, doctor-patient, psychotherapist-patient, minister-parishioner, teacher-student, or familial relationship. It is the intent of the general assembly to leave in place the six-year limitation for adults subjected to a sexual assault except in the situations described in this paragraph (a) in which the victim is in a special relationship with the perpetrator of the assault. In the circumstances in which a victim is in a special relationship with the perpetrator of the assault or is a victim of a sexual offense against a child or a victim who is residing in an institutional facility, such as a nursing home, regional center, or residential facility for the treatment and care of persons with mental illness or for the care of persons with developmental disabilities and where the victim is psychologically or emotionally unable to acknowledge the assault or offense and the harm resulting therefrom, the six-year limitation shall be tolled until the disability is removed. For the purpose of this section, where the plaintiff is a victim of a series of sexual assaults or sexual offenses against a child, the plaintiff need not establish which act of a series of acts caused the plaintiff's injury, and the statute of limitations set forth in this section shall commence with the last in the series of acts, subject to the provisions of this section regarding disability. However, as elements of the cause of action, a person under disability who is psychologically or emotionally unable to acknowledge the assault or offense and the harm resulting therefrom shall have the burden of proving that the assault or offense occurred and that such person was actually psychologically or emotionally unable to acknowledge the assault or offense and the harm resulting therefrom.

(b) Notwithstanding the provisions of section 13-90-107, the filing of a claim pursuant to this subsection (3.5) is deemed to be a limited waiver of the doctor-patient privilege or the psychologist-patient privilege to persons who are necessary to resolve the claim, and a doctor or psychologist who provided medical care and treatment or counseling and treatment to the plaintiff for injuries upon which an action under this subsection (3.5) is based may be examined as a witness. All medical records pertaining to any relevant medical care and treatment or counseling and treatment of the plaintiff are admissible into evidence in an action brought pursuant to this subsection (3.5) and shall be available for inspection upon request by the parties to the action.

(c) If the plaintiff brings a civil action under this subsection (3.5) fifteen years or more after the plaintiff attains the age of eighteen, the plaintiff may only recover damages for medical and counseling treatment and expenses, plus costs and attorney fees.

(d) It is the intent of the general assembly in enacting this subsection (3.5) to extend the statute of limitations as to civil actions based on offenses described in subsection (1) of this section as amended on July 1, 1993, for which the applicable statute of limitations in effect prior to July 1, 1993, has not yet run on July 1, 1993.

(3.7) An action may not be brought pursuant to subsection (3.5) of this section if the defendant is deceased or is incapacitated to the extent that the defendant is incapable of rendering a defense to the action.

(4) It is the intent of the general assembly in enacting this section to extend the statute of limitations as to civil actions based on offenses described in subsection (1) of this section for which the applicable statute of limitations in effect prior to July 1, 1990, has not yet run on July 1, 1990.

(5) The provisions of this section shall not be construed to extend or suspend the statute of limitations or statute of repose applicable to a claim alleging negligence in the course of providing professional services in the practice of medicine. This subsection (5) shall not be construed to preclude pursuing a civil action pursuant to this section alleging a sexual offense based on a legal theory other than negligence in the course of providing professional services in the practice of medicine, unless the sexual assault forms the basis for a claim of such negligence.

13-80-103.8. Limitation of civil forfeiture actions related to criminal acts. (1) The following actions shall be commenced within five years after the cause of action accrues, and not thereafter:

(a) All actions brought pursuant to section 12-55.5-110 (2), C.R.S.;

(b) All actions brought pursuant to part 3 of article 13 of title 16, C.R.S.;

(c) All actions brought pursuant to part 5 of article 13 of title 16, C.R.S.;

(d) All civil actions brought pursuant to article 17 of title 18, C.R.S.;

(e) All civil actions brought pursuant to section 42-5-107, C.R.S.

(2) A cause of action shall be deemed to have accrued pursuant to subsection (1) of this section at such time as the alleged offense or conduct giving rise to the claim was discovered. If, when a cause of action accrues against a person pursuant to subsection (1) of this section, such person is out of this state and not subject to service of process or has concealed himself, or the property which is the subject of such a cause of action is concealed or absent from this state, the period limited for the commencement of the action by the statute of limitations pursuant to this section shall not begin to run until such person comes into this state or such property is no longer out of this state or concealed. If, after the cause of action accrues, such person departs from this state and is not subject to service of process or conceals himself, the time of his absence while not subject to service of process or the time of his concealment while not subject to service of process, or any period of time the property which is the subject of such cause of action is removed from this state, shall not be computed as a part of the period within which the action must be brought.

(3) For purposes of computing time pursuant to this section, possession or control of the following forms of property by any person subject to a cause of action pursuant to subsection (1) of this section shall be deemed to be a continuing offense or continuing conduct:

(a) All currency, negotiable instruments, securities, or other things of value

furnished or intended to be furnished by any person in exchange for any alleged offense or conduct giving rise to a cause of action;

(b) All proceeds of any alleged offense or conduct giving rise to a cause of action;

(c) All currency, negotiable instruments, or securities intended to be used to facilitate any alleged offense or conduct giving rise to a cause of action;

(d) All property derived from or realized through any alleged offense or conduct giving rise to a cause of action.

13-80-103.9. Limitation of actions - failure to perform a background check by a public entity - injury to a child. (1) As used in this section, unless the context otherwise requires:

(a) "Child" means a person under eighteen years of age.

(b) "Education employment required background check" means complying with sections 22-2-119 and 22-32-109.7, C.R.S.

(c) "Sexual offense against a child" shall include all offenses listed in section 18-3-411 (1), C.R.S.

(2) Notwithstanding any other statute of limitations specified in this article or any other provision of law, a civil action, as described in subsection (3) of this section, against a school district or charter school for failure to perform an education employment required background check may be brought at any time within two years after the age of majority of the plaintiff.

(3) In bringing a civil action for failure to perform an education employment required background check pursuant to this section, a plaintiff shall make a prima facie showing of the following facts and circumstances:

(a) The school district or charter school, in hiring an individual to work with children or in a setting with children, or the department of education did not perform an education employment required background check of the individual, and the failure to conduct the required background check was the result of the school district's or charter school's deliberate indifference or reckless disregard of its obligations to conduct the background check as provided by law; ordinary negligence or unintentional oversight is not sufficient.

(b) The individual, at the time of hiring, had a criminal record that included one or more convictions for the offense of sexual assault as described in section 18-3-402, C.R.S., for a sexual offense against a child, or for child abuse as described in section 18-6-401, C.R.S., or the individual had been dismissed or had resigned from a school district under the circumstances described in section 22-32-109.7 (1) (b), C.R.S.; and

(c) The individual committed one of the following offenses against a child with whom the individual came in contact in the course of his or her employment with the school district or charter school:

(I) Sexual assault as described in section 18-3-402, C.R.S.;

(II) Sexual offense against a child; or

(III) Child abuse as described in section 18-6-401, C.R.S.

(4) An action may not be brought pursuant to subsection (3) of this section if the defendant is deceased or is incapacitated to the extent that the school district or charter school is incapable of rendering a defense to the action.

13-80-104. Limitation of actions against architects, contractors, builders or builder vendors, engineers, inspectors, and others. (1) (a) Notwithstanding any statutory provision to the contrary, all actions against any architect, contractor, builder or builder vendor, engineer, or inspector performing or furnishing the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property shall be brought within the time provided in section 13-80-102 after the claim for relief arises, and not thereafter, but in no case shall such an action be brought more than six years after the substantial completion of the improvement to the real property, except as provided in subsection (2) of this section.

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), a claim for relief arises under this section at the time the claimant or the claimant's predecessor in interest discovers or in the exercise of reasonable diligence should have discovered the physical manifestations of a defect in the improvement which ultimately causes the injury.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (1), all claims, including, but not limited to indemnity or contribution, by a claimant against a person who is or may be liable to the claimant for all or part of the claimant's liability to a third person:

(A) Arise at the time the third person's claim against the claimant is settled or at the time final judgment is entered on the third person's claim against the claimant, whichever comes first; and

(B) Shall be brought within ninety days after the claims arise, and not thereafter.

(c) Such actions shall include any and all actions in tort, contract, indemnity, or contribution, or other actions for the recovery of damages for:

(I) Any deficiency in the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property; or

(II) Injury to real or personal property caused by any such deficiency; or

(III) Injury to or wrongful death of a person caused by any such deficiency.

(2) In case any such cause of action arises during the fifth or sixth year after substantial completion of the improvement to real property, said action shall be brought within two years after the date upon which said cause of action arises.

(3) The limitations provided by this section shall not be asserted as a defense by

any person in actual possession or control, as owner or tenant or in any other capacity, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or damage for which it is proposed to bring an action.

13-80-105. Limitation of actions against land surveyors. (1) Notwithstanding any statutory provision to the contrary, all actions against any land surveyor brought to recover damages resulting from any alleged negligent or defective land survey shall be brought within the time provided in section 13-80-101 after the person bringing the action either discovered or in the exercise of reasonable diligence and concern should have discovered the negligence or defect which gave rise to such action, and not thereafter, but in no case shall such an action be brought more than ten years after the completion of the survey upon which such action is based.

(2) For purposes of this section, "land survey" or "improvement survey" means any survey conducted by or under the direction and control of a land surveyor licensed pursuant to the provisions of part 2 of article 25 of title 12, C.R.S., and includes but is not limited to professional land surveying, as defined in section 12-25-202 (6), C.R.S. Nothing in this section shall be construed as extending the period or periods provided by the laws of Colorado or by agreement of the parties for bringing any action, nor shall this section be construed as creating any claim for relief not existing or recognized on or before July 1, 1979.

(3) (a) The limitations set forth in subsections (1) and (2) of this section shall not apply to any survey unless the documentary evidence of such land survey contains, clearly depicted thereon, the following statement:

> **NOTICE**: According to Colorado law you **must** commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

(b) If any survey is performed that does not require documentation, the limitations set forth in subsections (1) and (2) of this section shall nevertheless apply if, not more than ninety days after the completion of the survey, written notice of the provisions of this article is provided to all persons holding an interest in the property upon which such survey is conducted.

13-80-106. Limitation of actions against manufacturers or sellers of

products. (1) Notwithstanding any other statutory provisions to the contrary, all actions except those governed by section 4-2-725, C.R.S., brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories upon which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formula, installation, preparation, assembly, testing, packaging, labeling, or sale of any product, or the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product shall be brought within two years after the claim for relief arises and not thereafter.

(2) If any person entitled to bring any action mentioned in this section is under the age of eighteen years, mentally incompetent, imprisoned, or absent from the United States at the time the cause of action accrues and is without spouse or natural or legal guardian, such person may bring said action within the time limit specified in this section after the disability is removed. If such person has a legal representative, such person's representative shall bring the action within the period of limitation imposed by this section.

13-80-107. Limitation of actions against manufacturers, sellers, or lessors of new manufacturing equipment. (1) (a) Notwithstanding any statutory provision to the contrary, all actions for or on account of personal injury, death, or property damage brought against a person or entity on account of the design, assembly, fabrication, production, or construction of new manufacturing equipment, or any component part thereof, or involving the sale or lease of such equipment shall be brought within the time provided in section 13-80-102 and not thereafter.

(b) Except as provided in paragraph (c) of this subsection (1), no such action shall be brought on a claim arising more than seven years after such equipment was first used for its intended purpose by someone not engaged in the business of manufacturing, selling, or leasing such equipment, except when the claim arises from injury due to hidden defects or prolonged exposure to hazardous material.

(c) The time limitation specified in paragraph (b) of this subsection (1) shall not apply if the manufacturer, seller, or lessor intentionally misrepresented or fraudulently concealed any material fact concerning said equipment which is a proximate cause of the injury, death, or property damage.

(2) As used in this section, "manufacturing equipment" means equipment used in the operation or process of producing a new product, article, substance, or commodity for the purposes of commercial sale and different from and having a distinctive name, character, or use from the raw or prepared materials used in the operation or process.

(3) The provisions of subsection (1) of this section shall not apply to a claim against a manufacturer, seller, or lessor, who, in an express written warranty, warranted

manufacturing equipment to be free of defects in design, manufacture, or materials for a period of time greater than that set forth in paragraph (b) of subsection (1) of this section, if the injury complained of occurred and the claim for relief arose during the period of the express written warranty.

(4) The provisions of subsection (1) of this section shall not be applicable to indemnity actions brought by a manufacturer, seller, or lessor of manufacturing equipment or any other product against any other person who is or may be liable to said manufacturer, seller, or lessor for all or a portion of any judgment rendered against said manufacturer, seller, or lessor.

13-80-107.5. Limitation of actions for uninsured or underinsured motorist insurance. (1) Notwithstanding any statutory provision to the contrary, all actions or arbitrations under sections 10-4-609 and 10-4-610, C.R.S., pertaining to insurance protection against uninsured or underinsured motorists shall be commenced within the following time limitations and not thereafter:

(a) An action or arbitration of an "uninsured motorist" insurance claim, as defined in sections 10-4-609 and 10-4-610, C.R.S., shall be commenced or demanded by arbitration demand within three years after the cause of action accrues; except that, if the underlying bodily injury liability claim against the uninsured motorist is preserved by commencing an action against the uninsured motorist within the time limit specified in sections 13-80-101 (1) (n) and 13-80-102 (1) (d), then an action or arbitration of an uninsured motorist claim shall be timely if such action is commenced or such arbitration is demanded within two years after the insured knows that the particular tortfeasor is not covered by any applicable insurance. In no event shall the insured have less than three years after the cause of action accrues within which to commence such action or demand arbitration.

(b) An action or arbitration of an "underinsured motorist" insurance claim, as defined in section 10-4-609 (4), C.R.S., shall be commenced or demanded by arbitration demand within three years after the cause of action accrues; except that, if the underlying bodily injury liability claim against the underinsured motorist is preserved by commencing an action against the underinsured motorist or by payment of either the liability claim settlement or judgment within the time limit specified in sections 13-80-101 (1) (n) and 13-80-102 (1) (d), then an action or arbitration of an underinsured motorist claim shall be timely if such action is commenced or such arbitration is demanded within two years after the insured received payment of the settlement or judgment on the underlying bodily injury liability claim. In no event shall the insured have less than three years after the cause of action accrues within which to commence such action or demand arbitration.

(2) As used in this section, unless the context otherwise requires:

(a) "Action" means a lawsuit commenced in a court of competent jurisdiction; and

(b) "Arbitration demand" means a written demand for arbitration delivered to the insurer that reasonably identifies the person making the claim, the identity of the uninsured or underinsured motorist, if known, and the fact that an uninsured or underinsured motorist insurance arbitration is being demanded.

(3) An uninsured or underinsured motorist cause of action accrues after both the existence of the death, injury, or damage giving rise to the claim and the cause of the death, injury, or damage are known or should have been known by the exercise of reasonable diligence.

13-80-108. When a cause of action accrues. (1) Except as provided in subsection (12) of this section, a cause of action for injury to person, property, reputation, possession, relationship, or status shall be considered to accrue on the date both the injury and its cause are known or should have been known by the exercise of reasonable diligence.

(2) A cause of action for wrongful death shall be considered to accrue on the date of death.

(3) A cause of action for fraud, misrepresentation, concealment, or deceit shall be considered to accrue on the date such fraud, misrepresentation, concealment, or deceit is discovered or should have been discovered by the exercise of reasonable diligence.

(4) A cause of action for debt, obligation, money owed, or performance shall be considered to accrue on the date such debt, obligation, money owed, or performance becomes due.

(5) A cause of action for balance due on an open account for goods or services shall accrue at the time of the last item of goods or services proved in such account.

(6) A cause of action for breach of any express or implied contract, agreement, warranty, or trust shall be considered to accrue on the date the breach is discovered or should have been discovered by the exercise of reasonable diligence.

(7) A cause of action for wrongful possession of personal property, goods, or chattels shall accrue at the time the wrongful possession is discovered or should have been discovered by the exercise of reasonable diligence.

(8) A cause of action for losses or damages not otherwise enumerated in this article shall be deemed to accrue when the injury, loss, damage, or conduct giving rise to the cause of action is discovered or should have been discovered by the exercise of reasonable diligence.

(9) A cause of action for penalties shall be deemed to accrue when the determination of overpayment or delinquency for which such penalties are assessed is no longer subject to appeal.

(10) A cause of action for recovery of erroneous or excessive refunds of any tax

administered under section 39-21-102, C.R.S., shall accrue on the date the department of revenue issues said refund.

(11) A cause of action for a penalty for commission of a class A or a class B traffic infraction, as defined in section 42-4-1701, C.R.S., shall be deemed to accrue on the date the traffic infraction was committed.

(12) A cause of action for bodily injury or property damage arising out of the use or operation of a motor vehicle accrues on the date that both the existence of the injury or damage and the cause of the injury or damage are known or should have been known by the exercise of reasonable diligence.

(13) A cause of action by the public employees' retirement association against an employer for unpaid contributions shall accrue on the date the nonpayment of contributions is discovered or should have been discovered by the exercise of reasonable diligence. This subsection (13) shall apply to causes of action as provided in section 24-51-402 (2), C.R.S.

13-80-109. Limitations apply to noncompulsory counterclaims and setoffs. Except for causes of action arising out of the transaction or occurrence which is the subject matter of the opposing party's claim, the limitation provisions of this article shall apply to the case of any debt, contract, obligation, injury, or liability alleged by a defending party as a counterclaim or setoff. A counterclaim or setoff arising out of the transaction or occurrence which is the subject matter of the opposing party's claim shall be commenced within one year after service of the complaint by the opposing party and not thereafter.

13-80-110. Causes barred in state of origin. If a cause of action arises in another state or territory or in a foreign country and, by the laws thereof, an action thereon cannot be maintained in that state, territory, or foreign country by reason of lapse of time, the cause of action shall not be maintained in this state.

13-80-111. Commencement of new action upon involuntary dismissal. (1) If an action is commenced within the period allowed by this article and is terminated because of lack of jurisdiction or improper venue, the plaintiff or, if he dies and the cause of action survives, the personal representative may commence a new action upon the same cause of action within ninety days after the termination of the original action or within the period otherwise allowed by this article, whichever is later, and the defendant may interpose any defense, counterclaim, or setoff which might have been interposed in the original action.

(2) This section shall be applicable to all actions which are first commenced in a federal court as well as those first commenced in the courts of Colorado or of any other state.

13-80-112. When action survives death. If any person entitled to bring any action dies before the expiration of the time limited therefor and if the cause of action does by law survive, the action may be commenced by the personal representative of the deceased person at any time within one year after the date of death and not afterwards if barred by provision of this article.

13-80-113. New promise - effect of payment. No acknowledgment or promise shall be evidence of a new or continuing contract sufficient to take a case out of the operation of the statute of limitations, unless it is in writing signed by the party to be charged; but this section shall not alter the effect of a payment of principal or interest.

13-80-114. Promise by one of parties in joint interest. No joint debtor, obligor, or his personal representative or successor shall lose the benefit of the provisions of this article so as to be chargeable by reason only of any acknowledgment, promise, or payment made by any other of them.

13-80-115. Endorsement by payee - effect. Nothing in this article shall alter, take away, or lessen the effect of a payment of any principal or interest made by any person; but no endorsement or memorandum of any such payment, written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom such payment is made, or purports to be made, shall be deemed sufficient proof of the payment so as to take the case out of operation of the provisions of this article.

13-80-116. Action against joint debtors or obligors. If, in an action against joint debtors or obligors, the plaintiff is barred by the provisions of this article as to one or more of the debtors or obligors, but is entitled to recover against any other of them by virtue of a new acknowledgment, promise, or payment, the plaintiff shall be entitled to proceed as against that defendant.

13-80-117. No dismissal for nonjoinder. In an action on contract, it shall not be a

defense that the plaintiff failed to join a person against whom claim is barred by this article.

13-80-118. Absence or concealment of a party subject to suit. If, when a cause of action accrues against a person, the person is out of this state and not subject to service of process or has concealed himself, the period limited for the commencement of the action by any statute of limitations shall not begin to run until he comes into this state or while he is so concealed. If, after the cause of action accrues, he departs from this state and is not subject to service of process or conceals himself, the time of his absence while not subject to service of process or the time of his concealment while not subject to service of process shall not be computed as a part of the period within which the action must be brought.

13-80-119. Damages sustained during commission of a felonious act or in flight from the commission of a felonious act. (1) No person, his or her estate, or his or her personal representative shall have a right to recover damages sustained during the commission of or during immediate flight from an act that is defined by any law of this state or the United States to be a felony, if the conditions stipulated in this section apply.

(2) (a) The court shall dismiss the action for damages and award attorney fees and costs to the person against whom the action was brought if the person bringing the action, on whose behalf an action has been brought, or in the case of a wrongful death action, the decedent, has been convicted of the felony or has been adjudicated a delinquent as a result of the commission of the act, unless the damage was caused by the willful and deliberate act of another person; except that such exception shall not apply if the person who caused the injuries acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself or to others, using a degree of force that he or she reasonably believed necessary for that purpose; or

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that he or she reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is described in section 16-2.5-101, C.R.S., acting within the scope of the officer's employment and acting pursuant to section 18-1-707, C.R.S.

(a.5) The court shall dismiss the action for damages and award attorney fees and costs to the person against whom the action was brought if the person against whom the action was brought is found not guilty of criminal charges for causing the injuries sustained by the person who committed the felony or act that is defined as a felony, or in

the case of a wrongful death action for causing the decedent's death, as a result of the commission of the act, unless the damage was caused by the willful and deliberate act of another person; except that such exception shall not apply if the person who caused the injuries acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself or to others, using a degree of force that he or she reasonably believed necessary for that purpose; or

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that he or she reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is described in section 16-2.5-101, C.R.S., acting within the scope of the officer's employment and acting pursuant to section 18-1-707, C.R.S.

(a.6) For purposes of paragraph (a.5) of this subsection (2), a finding of not guilty of criminal charges does not include a finding of not guilty by reason of insanity or a finding of not guilty by reason of impaired mental condition.

(b) If paragraph (a.5) of this subsection (2) does not apply and if the person bringing the action for damages or on whose behalf an action has been brought is not convicted of a felony or adjudicated a delinquent as a result of the commission of the act or in the case of a wrongful death action, the court shall submit to the jury hearing the damages claim the issue of whether or not, by a preponderance of the evidence, the person committed an act that is defined by any law of this state or the United States to be a felony. The court shall dismiss the action and award attorney fees and costs to the person against whom the action was brought if the court or jury determines that the damage was sustained during the commission of or during immediate flight from an act that is defined by any law of this state or the United States to be a felony, unless the damage was caused by the willful and deliberate act of another person; except that such exception shall not apply if the person who caused the injury acted:

(I) Under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself or to others, using a degree of force that he or she reasonably believed necessary for that purpose; or

(II) Under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that he or she reasonably believed necessary for that purpose; or

(III) As a peace officer, as such person is described in section 16-2.5-101, C.R.S., acting within the scope of the officer's employment and acting pursuant to section 18-1-707, C.R.S.

ARTICLE 81

13-81-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Applicable statute of limitations" means any statute of limitations which would apply in a similar case to a person not a person under disability.

(2) "Legal representative" means a guardian, conservator, personal representative, executor, or administrator duly appointed by a court having jurisdiction of any person under disability or his estate.

(3) "Person under disability" means any person who is a minor under eighteen years of age, a mental incompetent, or a person under other legal disability and who does not have a legal guardian.

(4) "Take action" means the bringing, commencement, maintenance, or prosecution of any action, suit, or proceeding to enforce any right, or the assertion of any such right in any other manner, affirmatively or by way of defense. "Take action" shall also include exercising the right to elect to receive a lump-sum payment on behalf of the plaintiff in a civil action for purposes of section 13-64-205 (1) (f) when the legal representative determines that the election is in the best interest of the plaintiff.

13-81-101.5. Appointment of legal representative. Any real party in interest, including the party against whom an action may be brought, may apply to the court for the appointment of a legal representative.

13-81-102. Right of legal representative. (1) When there is a legal representative appointed for a person under disability, all rights to take action, except rights of the person under disability against the legal representative himself or herself, vest in said legal representative for the benefit of the person under disability, and the legal representative has authority to take action thereon in his or her own name.

(2) A legal representative may:

(a) Elect, on behalf of a plaintiff in a civil action, a form of funding of a judgment for periodic payments, as described in section 13-64-207;

(b) Elect to receive the immediate payment to the plaintiff of the present value of the future damage award in a lump-sum amount, in lieu of periodic payments;

(c) Petition a court of competent jurisdiction to establish a disability trust pursuant to section 15-14-412.8, C.R.S., funded by the proceeds of a settlement or judgment received by, or on behalf of, a person under disability who is under sixty-five years of age

and who is disabled, as defined in Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1382c (a) (3); or

(d) Petition a court of competent jurisdiction to establish a pooled trust account pursuant to section 15-14-412.9, C.R.S., funded by the proceeds of a settlement or judgment received by, or on behalf of, a person under disability who is disabled, as defined in Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1382c (a) (3).

13-81-103. Statute begins to run - when. (1) When in any of the statutes of the state of Colorado a limitation is fixed upon the time within which a right of action, right of redemption, or any other right may be asserted either affirmatively or by way of defense or an action, suit, or proceeding based thereon may be brought, commenced, maintained, or prosecuted and the true owner of said right is a person under disability at the time such right accrues, then:

(a) If such person under disability is represented by a legal representative at the time the right accrues, or if a legal representative is appointed for such person under disability at any time after the right accrues and prior to the termination of such disability, the applicable statute of limitations shall run against such person under disability in the same manner, for the same period, and with the same effect as it runs against persons not under disability. Such legal representative, or his successor in trust, in any event shall be allowed not less than two years after his appointment within which to take action on behalf of such person under disability, even though the two-year period expires after the expiration of the period fixed by the applicable statute of limitations.

(b) If the person under disability dies before the termination of his disability and before the expiration of the period of limitation in paragraph (a) of this subsection (1) and the right is one which survives to the executor or administrator of a decedent, such executor or administrator shall take action within one year after the death of such person under disability;

(c) If the disability of any person is terminated before the expiration of the period of limitation in paragraph (a) of this subsection (1) and no legal representative has been appointed for him, such person shall be allowed to take action within the period fixed by the applicable statute of limitations or within two years after the removal of the disability, whichever period expires later.

(2) After the expiration of the period fixed in paragraph (a), (b), or (c) of subsection (1) of this section, neither the person under disability, nor his legal representative, nor anyone for him shall be permitted or allowed to take action based on any such right.

13-81-104. Right of trustee. If by virtue of any agreement, trust indenture, will,

or other instrument in writing a trustee or other representative is or has been designated and appointed for any such person under disability and by the terms of such agreement, trust indenture, will, or other instrument in writing said trustee or other representative is vested with the right and power to take action, then the right to take action for any right which a person under disability may have arising in any way from said trust or agency shall vest in the trustee or other representative, and the applicable statute of limitations shall run against such person under disability and against such trustee or other representative as to all rights to take such action in the same manner, for the same period, and with the same effect as it runs against persons not under disability. After the expiration of the period fixed by such applicable statute of limitations, neither the person under disability, nor his trustee or other representative, nor anyone for him shall be permitted or allowed to take action based on any such right.

13-81-105. Failure of trustee to take action. When a legal representative, or trustee, or other representative appointed under any agreement, trust indenture, will, or other instrument in writing has been duly appointed for any person under disability and such legal representative, or trustee, or other representative does not promptly, after demand therefor by the person under disability or anyone for him, take action, then such person under disability by next friend may take action before the expiration of the periods fixed in this article for the taking of such action by any person under disability, or his legal representative, or trustee, or other representative, but not thereafter.

13-81-106. Removal of disability - effect. If before the expiration of the period fixed by the applicable statute of limitations the disability of any person under disability is removed, the fact of such removal shall not in any way affect or stop the running of the applicable statute of limitations, except as provided in section 13-81-103 (1) (c).

13-81-107. Action prosecuted to final decision. If any action or proceeding is begun within the period fixed by the applicable statute of limitations or the periods provided for in this article, then such action or proceeding may be prosecuted to final decision notwithstanding the fact that the period of limitation shall expire after the commencement and during the prosecution of such action or proceeding.

ARTICLE 82

Uniform Conflict of Laws -
Limitation Periods

13-82-101. Short title. This article shall be known and may be cited as the "Uniform Conflict of Laws - Limitations Act".

13-82-102. Uniformity of application and construction. This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

13-82-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Claim" means a right of action that may be asserted in a civil action or proceeding and includes a right of action created by statute.

(2) "State" means a state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, or a political subdivision of any of them.

13-82-104. Conflict of laws - limitation periods. (1) Except as provided in section 13-82-106, if a claim is substantively based:

(a) Upon the law of one other state, the limitation period of that state applies; or

(b) Upon the law of more than one state, the limitation period of one of those states chosen by the law of conflict of laws of this state applies.

(2) The limitation period of this state applies to all other claims.

13-82-105. Rules applicable to computation of limitation period. If the statute of limitations of another state applies to the assertion of a claim in this state, the other state's relevant statutes and other rules of law governing tolling and accrual apply in computing the limitation period, but its statutes and other rules of law governing conflict of laws do not apply.

13-82-106. Unfairness. If the court determines that the limitation period of another state applicable under sections 13-82-104 and 13-82-105 is substantially different from the limitation period of this state and has not afforded a fair opportunity to sue upon or imposes an unfair burden in defending against the claim, the limitation period of this

state applies.

13-82-107. Existing and future claims. (1) This article applies to claims:

(a) Accruing after July 1, 1984; or

(b) Asserted in a civil action or proceeding more than one year after July 1, 1984, but it does not revive a claim barred before July 1, 1984.

PRIORITY OF ACTIONS

ARTICLE 85

Priority of Certain Civil Actions

13-85-101. Legislative declaration. The general assembly hereby determines, finds, and declares that traffic congestion and other transportation difficulties in the Denver metropolitan area seriously threaten the public health and welfare. In an effort to reduce air pollution and stimulate the economic development of the Denver metropolitan area, the general assembly has directed the regional transportation district to proceed with the planning, construction, and operation of a fixed guideway mass transit system. Since the success of the mass transit system depends on its prompt construction and commencement of operation, the general assembly finds that it is necessary to avoid any possible delays in such construction and operation. To that end, the general assembly further finds that the trial of lawsuits arising out of the planning, development, financing, or construction of these projects should be given priority in the district and appellate courts of this state.

13-85-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Fixed guideway mass transit system" means the fixed guideway mass transit system authorized by section 32-9-107.5, C.R.S.

(2) Repealed.

(3) "Regional transportation district" means the regional transportation district established by article 9 of title 32, C.R.S.

(4) Repealed.

13-85-103. Civil actions entitled to priority. The trial of all civil actions pertaining to or arising out of the planning, development, financing, or construction of the mass transportation system in the Denver metropolitan area, or any election pertaining to said project, or any action against or pertaining to the authority of the regional transportation district to plan, develop, finance, or construct said system shall be entitled to priority in the county and district courts of this state.

13-85-104. Appellate review of certain actions entitled to priority. Appellate review in the district court, court of appeals, and supreme court of those actions entitled to priority pursuant to section 13-85-103 shall be entitled to priority in said courts.

WITNESSES

ARTICLE 90

Witnesses

PART 1

GENERAL PROVISIONS

13-90-101. Who may testify - interest. All persons, without exception, other than those specified in sections 13-90-102 to 13-90-108 may be witnesses. Neither parties nor other persons who have an interest in the event of an action or proceeding shall be excluded; nor those who have been convicted of crime; nor persons on account of their opinions on matters of religious belief. In every case the credibility of the witness may be drawn in question, as now provided by law, but the conviction of any person for any felony may be shown for the purpose of affecting the credibility of such witness. The fact of such conviction may be proved like any other fact, not of record, either by the witness himself, who shall be compelled to testify thereto, or by any other person cognizant of such conviction as impeaching testimony or by any other competent testimony. Evidence of a previous conviction of a felony where the witness testifying was convicted five years prior to the time when the witness testifies shall not be admissible in evidence in any civil action.

13-90-102. Testimony concerning oral statements made by person incapable of testifying - when allowed - definitions. (1) Subject to the law of evidence, in any

civil action or proceeding in which an oral statement of a person incapable of testifying is sought to be admitted into evidence, each party and person in interest with a party shall be allowed to testify regarding the oral statement if:

(a) The statement was made under oath at a time when such person was competent to testify;

(b) The testimony concerning the oral statement is corroborated by material evidence of a trustworthy nature;

(c) The opposing party introduces uncorroborated evidence of related communications through a party or person in interest with a party; or

(d) Such party or person testifies against his or her own interests.

(2) Questions of admissibility that arise under this section shall be determined by the court as a matter of law.

(3) For purposes of this section:

(a) "Corroborated by material evidence" means corroborated by evidence that supports one or more of the material allegations or issues that are raised by the pleadings and to which the witness whose evidence must be corroborated will testify. Such evidence may come from any other competent witness or other admissible source, including trustworthy documentary evidence, and such evidence need not be sufficient standing alone to support the verdict but must tend to confirm and strengthen the testimony of the witness and show the probability of its truth.

(b) "Person incapable of testifying" means any decedent or any person who is otherwise not competent to testify.

(c) "Person in interest with a party" means a person having a direct financial interest in the outcome of the civil action or proceeding, or having any other significant and non-speculative financial interest that makes the person's testimony, standing alone, untrustworthy. In a proceeding to construe, contest, modify, probate, reform, or rescind a governing instrument, as defined in section 15-10-201 (22), C.R.S., "person in interest with a party" does not include:

(I) An attorney who prepared the governing instrument;

(II) A personal representative who is not a successor of the decedent; or

(III) A person whose only interest is an expectation of just compensation for the value of services to be rendered by the person.

13-90-103. Book account, how identified. (Repealed)

13-90-104. Conversation of deceased partner. In any action, suit, or proceeding by or against any surviving partner or joint contractor, no adverse party or person adversely interested in the event thereof is a competent witness to testify, by virtue of

section 13-90-101, to any admission or conversation by any deceased partner or joint contractor, unless one or more of the surviving partners or joint contractors were also present at the time of such admission or conversation.

13-90-105. Incompetent not restored by release. In any civil action, suit, or proceeding, no person who would, if a party thereto, be incompetent to testify therein under the provisions of section 13-90-102 shall become competent by reason of any assignment or release of his claim made for the purpose of allowing such person to testify.

13-90-106. Who may not testify. (1) The following persons shall not be witnesses:

(a) Persons who are of unsound mind at the time of their production for examination;

(b) (I) Children under ten years of age who appear incapable of receiving just impressions of the facts respecting which they are examined or of relating them truly.

(II) This proscription does not apply to a child under ten years of age, in any civil or criminal proceeding for child abuse, sexual abuse, a sexual offense pursuant to part 4 of article 3 of title 18, C.R.S., or incest, when the child is able to describe or relate in language appropriate for a child of that age the events or facts respecting which the child is examined.

13-90-107. Who may not testify without consent - definitions. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(a) (I) Except as otherwise provided in section 14-13-310 (4), C.R.S., a husband shall not be examined for or against his wife without her consent nor a wife for or against her husband without his consent; nor during the marriage or afterward shall either be examined without the consent of the other as to any communications made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, a criminal action or proceeding for a crime committed by one against the other, or a criminal action or proceeding against one or both spouses when the alleged offense occurred prior to the date of the parties' marriage. However, this exception shall not attach if the otherwise privileged information is communicated after the marriage.

(II) The privilege described in this paragraph (a) does not apply to class 1, 2, or 3

felonies as described in section 18-1.3-401 (1) (a) (IV) and (1) (a) (V), C.R.S. In this instance, during the marriage or afterward, a husband shall not be examined for or against his wife as to any communications intended to be made in confidence and made by one to the other during the marriage without his consent, and a wife shall not be examined for or against her husband as to any communications intended to be made in confidence and made by one to the other without her consent.

(III) Communications between a husband and wife are not privileged pursuant to this paragraph (a) if such communications are made for the purpose of aiding the commission of a future crime or of a present continuing crime.

(IV) The burden of proving the existence of a marriage for the purposes of this paragraph (a) shall be on the party asserting the claim.

(V) Notice of the assertion of the marital privilege shall be given as soon as practicable but not less than ten days prior to assertion at any hearing.

(a.5) (I) Except as otherwise provided in section 14-13-310 (5), C.R.S., a partner in a civil union shall not be examined for or against the other partner in the civil union without the other partner's consent, nor during the civil union or afterward shall either be examined without the consent of the other as to any communications made by one to the other during the civil union; except that this exception does not apply to a civil action or proceeding by one against the other, a criminal action or proceeding for a crime committed by one against the other, or a criminal action or proceeding against one or both partners when the alleged offense occurred prior to the date of the parties' certification of the civil union. However, this exception shall not attach if the otherwise privileged information is communicated after the certification of the civil union.

(II) The privilege described in this paragraph (a.5) does not apply to class 1, 2, or 3 felonies as described in section 18-1.3-401 (1) (a) (IV) and (1) (a) (V), C.R.S. In this instance, during the civil union or afterward, a partner in a civil union shall not be examined for or against the other partner in the civil union as to any communications intended to be made in confidence and made by one to the other during the civil union without the other partner's consent.

(III) Communications between partners in a civil union are not privileged pursuant to this paragraph (a.5) if such communications are made for the purpose of aiding the commission of a future crime or of a present continuing crime.

(IV) The burden of proving the existence of a civil union for the purposes of this paragraph (a.5) shall be on the party asserting the claim.

(V) Notice of the assertion of the privilege described in this paragraph (a.5) shall be given as soon as practicable but not less than ten days prior to assertion at any hearing.

(VI) For the purposes of this paragraph (a.5), "partner in a civil union" means a person who has entered into a civil union established in accordance with the requirements of article 15 of title 14, C.R.S.

(b) An attorney shall not be examined without the consent of his client as to any

communication made by the client to him or his advice given thereon in the course of professional employment; nor shall an attorney's secretary, paralegal, legal assistant, stenographer, or clerk be examined without the consent of his employer concerning any fact, the knowledge of which he has acquired in such capacity.

(c) A clergy member, minister, priest, or rabbi shall not be examined without both his or her consent and also the consent of the person making the confidential communication as to any confidential communication made to him or her in his or her professional capacity in the course of discipline expected by the religious body to which he or she belongs.

(d) A physician, surgeon, or registered professional nurse duly authorized to practice his or her profession pursuant to the laws of this state or any other state shall not be examined without the consent of his or her patient as to any information acquired in attending the patient that was necessary to enable him or her to prescribe or act for the patient, but this paragraph (d) shall not apply to:

(I) A physician, surgeon, or registered professional nurse who is sued by or on behalf of a patient or by or on behalf of the heirs, executors, or administrators of a patient on any cause of action arising out of or connected with the physician's or nurse's care or treatment of such patient;

(II) A physician, surgeon, or registered professional nurse who was in consultation with a physician, surgeon, or registered professional nurse being sued as provided in subparagraph (I) of this paragraph (d) on the case out of which said suit arises;

(III) A review of a physician's or registered professional nurse's services by any of the following:

(A) The governing board of a hospital licensed pursuant to part 1 of article 3 of title 25, C.R.S., where said physician or registered professional nurse practices or the medical staff of such hospital if the medical staff operates pursuant to written bylaws approved by the governing board of such hospital;

(B) An organization authorized by federal or state law or contract to review physicians' or registered professional nurses' services or an organization which reviews the cost or quality of physicians' or registered professional nurses' services under a contract with the sponsor of a nongovernment group health care program;

(C) The Colorado medical board, the state board of nursing, or a person or group authorized by such board to make an investigation in its behalf;

(D) A peer review committee of a society or association of physicians or registered professional nurses whose membership includes not less than one-third of the medical doctors or doctors of osteopathy or registered professional nurses licensed to practice in this state and only if the physician or registered professional nurse whose services are the subject of review is a member of such society or association and said physician or registered professional nurse has signed a release authorizing such review;

(E) A committee, board, agency, government official, or court to which appeal

may be taken from any of the organizations or groups listed in this subparagraph (III);

(IV) A physician or any health care provider who was in consultation with the physician who may have acquired any information or records relating to the services performed by the physician specified in subparagraph (III) of this paragraph (d);

(V) A registered professional nurse who is subject to any claim or the nurse's employer subject to any claim therein based on a nurse's actions, which claims are required to be defended and indemnified by any insurance company or trust obligated by contract;

(VI) A physician, surgeon, or registered professional nurse who is being examined as a witness as a result of his consultation for medical care or genetic counseling or screening pursuant to section 13-64-502 in connection with a civil action to which section 13-64-502 applies.

(e) A public officer shall not be examined as to communications made to him in official confidence, when the public interests, in the judgment of the court, would suffer by the disclosure.

(f) (I) A certified public accountant shall not be examined without the consent of his or her client as to any communication made by the client to him or her in person or through the media of books of account and financial records or his or her advice, reports, or working papers given or made thereon in the course of professional employment; nor shall a secretary, stenographer, clerk, or assistant of a certified public accountant be examined without the consent of the client concerned concerning any fact, the knowledge of which he or she has acquired in such capacity.

(II) No certified public accountant in the employ of the state auditor's office shall be examined as to any communication made in the course of professional service to the legislative audit committee either in person or through the media of books of account and financial records or advice, reports, or working papers given or made thereon; nor shall a secretary, clerk, or assistant of a certified public accountant who is in the employ of the state auditor's office be examined concerning any fact, the knowledge of which such secretary, clerk, or assistant acquired in such capacity, unless such information has been made open to public inspection by a majority vote of the members of the legislative audit committee.

(III) (A) **Subpoena powers for public entity audit and reviews.** Subparagraph (I) of this paragraph (f) shall not apply to the Colorado state board of accountancy, nor to a person or group authorized by the board to make an investigation on the board's behalf, concerning an accountant's reports, working papers, or advice to a public entity that relate to audit or review accounting activities of the certified public accountant or certified public accounting firm being investigated.

(B) For the purposes of this subparagraph (III), a "public entity" shall include a governmental agency or entity; quasi-governmental entity; nonprofit entity; or public company that is considered an "issuer", as defined in section 2 of the federal "Sarbanes-

Oxley Act of 2002", 15 U.S.C. sec. 7201.

(IV) (A) **Subpoena powers for private entity audit and reviews.** Subparagraph (I) of this paragraph (f) shall not apply to the Colorado state board of accountancy, nor to a person or group authorized by the board to make an investigation on the board's behalf, concerning an accountant's reports or working papers of a private entity that is not publicly traded and relate to audit or review attest activities of the certified public accountant or certified public accounting firm being investigated. This subparagraph (IV) shall not be construed to authorize the Colorado state board of accountancy or its agent to subpoena or examine income tax returns.

(B) At the request of either the client of the certified public accountant or certified public accounting firm or the certified public accountant or certified public accounting firm subject to the subpoena pursuant to this subparagraph (IV), a second certified public accounting firm or certified public accountant with no interest in the matter may review the report or working papers for compliance with the provisions of article 2 of title 12, C.R.S. The second certified public accounting firm or certified public accountant conducting the review must be approved by the board prior to beginning its review. The approval of the second certified public accounting firm or certified public accountant shall be in good faith. The written report issued by a second certified public accounting firm or certified public accountant shall be in lieu of a review by the board. Such report shall be limited to matters directly related to the work performed by the certified public accountant or certified public accounting firm being investigated and should exclude specific references to client financial information. The party requesting that a second certified public accounting firm or certified public accountant review the reports and working papers shall pay any additional expenses related to retaining the second certified public accounting firm or certified public accountant by the party who made the request. The written report of the second certified public accounting firm or certified public accountant shall be submitted to the board. The board may use the findings of the second certified public accounting firm or certified public accountant as grounds for discipline pursuant to article 2 of title 12, C.R.S.

(V) Disclosure of information under subparagraph (III) or (IV) of this paragraph (f) shall not waive or otherwise limit the confidentiality and privilege of such information nor relieve any certified public accountant, any certified public accounting firm, the Colorado state board of accountancy, or a person or group authorized by such board of the obligation of confidentiality. Disclosure which is not in good faith of such information shall subject the board, a member thereof, or its agent to civil liability pursuant to section 12-2-103 (6), C.R.S.

(VI) Any certified public accountant or certified public accounting firm that receives a subpoena for reports or accountant's working papers related to the audit or review attest activities of the accountant or accounting firm pursuant to subparagraph (III) or (IV) of this paragraph (f) shall notify his or her client of the subpoena within three

business days after the date of service of the subpoena.

(VII) Subparagraph (III) or (IV) of this paragraph (f) shall not operate as a waiver, on behalf of any third party or the certified public accountant or certified public accounting firm, of due process remedies available under the "State Administrative Procedure Act", article 4 of title 24, C.R.S., the open records laws, article 72 of title 24, C.R.S., or any other provision of law.

(VIII) Prior to the disclosure of information pursuant to subparagraph (III) or (IV) of this paragraph (f), the certified public accountant, certified public accounting firm, or client thereof shall have the opportunity to designate reports or working papers related to the attest function under subpoena as privileged and confidential pursuant to this paragraph (f) or the open records laws, article 72 of title 24, C.R.S., in order to assure that the report or working papers shall not be disseminated or otherwise republished and shall only be reviewed pursuant to limited authority granted to the board under subparagraph (III) or (IV) of this paragraph (f).

(IX) No later than thirty days after the board of accountancy completes the investigation for which records or working papers are subpoenaed pursuant to subparagraph (III) or (IV) of this paragraph (f), the board shall return all original records, working papers, or copies thereof to the certified public accountant or certified public accounting firm.

(X) Nothing in subparagraphs (III) and (IV) of this paragraph (f) shall cause the accountant-client privilege to be waived as to customer financial and account information of depository institutions or to the regulatory examinations and other regulatory information relating to depository institutions.

(XI) For the purposes of subparagraphs (III) to (X) of this paragraph (f), "entity" shall have the same meaning as in section 7-90-102 (20), C.R.S.

(g) A licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, a registered psychotherapist, a certified addiction counselor, a psychologist candidate registered pursuant to section 12-43-304 (7), C.R.S., a marriage and family therapist candidate registered pursuant to section 12-43-504 (5), C.R.S., a licensed professional counselor candidate registered pursuant to section 12-43-603 (5), C.R.S., or a person described in section 12-43-215, C.R.S., shall not be examined without the consent of the licensee's, certificate holder's, registrant's, candidate's, or person's client as to any communication made by the client to the licensee, certificate holder, registrant, candidate, or person or the licensee's, certificate holder's, registrant's, candidate's, or person's advice given in the course of professional employment; nor shall any secretary, stenographer, or clerk employed by a licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, a registered psychotherapist, a certified addiction counselor, a psychologist candidate registered pursuant to section 12-43-304 (7), C.R.S., a marriage and family therapist candidate registered pursuant to section 12-43-504 (5), C.R.S., a licensed professional

counselor candidate registered pursuant to section 12-43-603 (5), C.R.S., or a person described in section 12-43-215, C.R.S., be examined without the consent of the employer of the secretary, stenographer, or clerk concerning any fact, the knowledge of which the employee has acquired in such capacity; nor shall any person who has participated in any psychotherapy, conducted under the supervision of a person authorized by law to conduct such therapy, including group therapy sessions, be examined concerning any knowledge gained during the course of such therapy without the consent of the person to whom the testimony sought relates.

(h) A qualified interpreter, pursuant to section 13-90-202, who is called upon to testify concerning the communications he interpreted between a hearing-impaired person and another person, one of whom holds a privilege pursuant to this subsection (1), shall not be examined without the written consent of the person who holds the privilege.

(i) A confidential intermediary, as defined in section 19-1-103 (26), C.R.S., shall not be examined as to communications made to him or her in official confidence when the public interests, in the judgment of the court, would suffer by the disclosure of such communications.

(j) (I) (A) If any person or entity performs a voluntary self-evaluation, the person, any officer or employee of the entity or person involved with the voluntary self-evaluation, if a specific responsibility of such employee was the performance of or participation in the voluntary self-evaluation or the preparation of the environmental audit report, or any consultant who is hired for the purpose of performing the voluntary self-evaluation for the person or entity may not be examined as to the voluntary self-evaluation or environmental audit report without the consent of the person or entity or unless ordered to do so by any court of record, or, pursuant to section 24-4-105, C.R.S., by an administrative law judge. For the purposes of this paragraph (j), "voluntary self-evaluation" and "environmental audit report" have the meanings provided for the terms in section 13-25-126.5 (2).

(B) This paragraph (j) does not apply if the voluntary self-evaluation is subject to an exception allowing admission into evidence or discovery pursuant to the provisions of section 13-25-126.5 (3) or (4).

(II) This paragraph (j) applies to voluntary self-evaluations that are performed on or after June 1, 1994.

(k) (I) A victim's advocate shall not be examined as to any communication made to such victim's advocate by a victim of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., or a victim of sexual assault, as described in sections 18-3-401 to 18-3-405.5, 18-6-301, and 18-6-302, C.R.S., in person or through the media of written records or reports without the consent of the victim.

(II) For purposes of this paragraph (k), a "victim's advocate" means a person at a battered women's shelter or rape crisis organization or a comparable community-based advocacy program for victims of domestic violence or sexual assault and does not include

an advocate employed by any law enforcement agency:

(A) Whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and

(B) Who has undergone not less than fifteen hours of training as a victim's advocate or, with respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim's advocate; and

(C) Who supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.

(l) (I) A parent may not be examined as to any communication made in confidence by the parent's minor child to the parent when the minor child and the parent were in the presence of an attorney representing the minor child, or in the presence of a physician who has a confidential relationship with the minor child pursuant to paragraph (d) of this subsection (1), or in the presence of a mental health professional who has a confidential relationship with the minor child pursuant to paragraph (g) of this subsection (1), or in the presence of a clergy member, minister, priest, or rabbi who has a confidential relationship with the minor child pursuant to paragraph (c) of this subsection (1). The exception may be waived by express consent to disclosure by the minor child who made the communication or by failure of the minor child to object when the contents of the communication are demanded. This exception does not relieve any physician, mental health professional, or clergy member, minister, priest, or rabbi from any statutory reporting requirements.

(II) This exception does not apply to:

(A) Any civil action or proceeding by one parent against the other or by a parent or minor child against the other;

(B) Any proceeding to commit either the minor child or parent, pursuant to title 27, C.R.S., to whom the communication was made;

(C) Any guardianship or conservatorship action to place the person or property or both under the control of another because of an alleged mental or physical condition of the minor child or the minor child's parent;

(D) Any criminal action or proceeding in which a minor's parent is charged with a crime committed against the communicating minor child, the parent's spouse, the parent's partner in a civil union, or a minor child of either the parent or the parent's spouse or the parent's partner in a civil union;

(E) Any action or proceeding for termination of the parent-child legal relationship;

(F) Any action or proceeding for voluntary relinquishment of the parent-child legal relationship; or

(G) Any action or proceeding on a petition alleging child abuse, dependency or neglect, abandonment, or non-support by a parent.

(III) For purposes of this paragraph (l):

(A) "Minor child" means any person under the age of eighteen years.

(B) "Parent" includes the legal guardian or legal custodian of a minor child as well as adoptive parents.

(C) "Partner in a civil union" means a person who has entered into a civil union in accordance with the requirements of article 15 of title 14, C.R.S.

(m) (I) A law enforcement or firefighter peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subparagraph (III) of this paragraph (m); nor shall a recipient of individual peer support services be examined as to any such communication without the recipient's consent.

(I.5) An emergency medical service provider or rescue unit peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subparagraph (III) of this paragraph (m); nor shall a recipient of individual peer support services be examined as to any such communication without the recipient's consent.

(II) For purposes of this paragraph (m):

(A) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting with a peer support team member.

(A.5) "Emergency medical service provider or rescue unit peer support team member" means an emergency medical service provider, as defined in section 25-3.5-103 (8), C.R.S., a regular or volunteer member of a rescue unit, as defined in section 25-3.5-103 (11), C.R.S., or other person who has been trained in peer support skills and who is officially designated by the supervisor of an emergency medical service agency as defined in section 25-3.5-103 (11.5), C.R.S., or a chief of a rescue unit as a member of an emergency medical service provider's peer support team or rescue unit's peer support team.

(B) "Law enforcement or firefighter peer support team member" means a peace officer, civilian employee, or volunteer member of a law enforcement agency or a regular or volunteer member of a fire department or other person who has been trained in peer support skills and who is officially designated by a police chief, the chief of the Colorado state patrol, a sheriff, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(III) The provisions of this paragraph (m) shall apply only to communications made during individual interactions conducted by a peer support team member:

(A) Acting in the person's official capacity as a law enforcement or firefighter peer support team member or an emergency medical service provider or rescue unit peer support team member; and

(B) Functioning within the written peer support guidelines that are in effect for the

person's respective law enforcement agency, fire department, emergency medical service agency, or rescue unit.

(IV) This paragraph (m) shall not apply in cases in which:

(A) A law enforcement or firefighter peer support team member or emergency medical service provider or rescue unit peer support team member was a witness or a party to an incident which prompted the delivery of peer support services;

(B) Information received by a peer support team member is indicative of actual or suspected child abuse, as described in section 18-6-401, C.R.S., or actual or suspected child neglect, as described in section 19-3-102, C.R.S.;

(C) Due to alcohol or other substance intoxication or abuse, as described in sections 27-81-111 and 27-82-107, C.R.S., the person receiving peer support is a clear and immediate danger to the person's self or others;

(D) There is reasonable cause to believe that the person receiving peer support has a mental illness and, due to the mental illness, is an imminent threat to himself or herself or others or is gravely disabled as defined in section 27-65-102, C.R.S.; or

(E) There is information indicative of any criminal conduct.

(2) The medical records produced for use in the review provided for in subparagraphs (III), (IV), and (V) of paragraph (d) of subsection (1) of this section shall not become public records by virtue of such use. The identity of any patient whose records are so reviewed shall not be disclosed to any person not directly involved in such review process, and procedures shall be adopted by the Colorado medical board or state board of nursing to ensure that the identity of the patient shall be concealed during the review process itself.

(3) The provisions of paragraph (d) of subsection (1) of this section shall not apply to physicians required to make reports in accordance with section 12-36-135, C.R.S. In addition, the provisions of paragraphs (d) and (g) of subsection (1) of this section shall not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6, C.R.S. Physicians and psychologists testifying concerning a criminal defendant's mental condition pursuant to section 16-8-103.6, C.R.S., do not fall under the attorney-client privilege in paragraph (b) of subsection (1) of this section.

13-90-108. Offer taken as consent. The offer of a person of himself as a witness shall be deemed a consent to the examination. The offer of a wife, husband, attorney, clergyman, physician, surgeon, certified public accountant, or certified psychologist as a witness shall be deemed a consent to the examination, within the meaning of section 13-90-107 (1) (a) to (1) (d), (1) (f), and (1) (g).

13-90-109. Estates of deceased persons, infants, and mentally incompetent persons. Nothing in this article shall in any manner affect the laws now existing relating to the settlement of estates of deceased persons, infants, or mentally incompetent persons or to the acknowledgment or proof of deeds and other conveyances relating to real estate, in order to entitle the same to be recorded, or to the attestation of the execution of the last wills and testaments or of any other instrument required by law to be attested.

13-90-110. Religious opinions of witness. No person shall be deemed incompetent to testify as a witness on account of his opinion in relation to the Supreme Being or a future state of rewards and punishments; nor shall any witness be questioned in regard to his religious opinions.

13-90-111. Power of court to enforce attendance. (Repealed)

13-90-112. Power to enforce subpoena duces tecum. The provisions of article 90.5 of this title shall also apply to a subpoena duces tecum.

13-90-113. Interpreters - compensation. Except as provided in section 13-90-210, when the judge of any court of record in this state has occasion to appoint an interpreter for his court, it is his duty to fix the compensation to be paid such interpreter for each day his services are required.

13-90-114. Paid by state. Except as provided in section 13-90-210, it is the duty of the state court administrator to audit the accounts of such interpreter, except for the Denver county court, as allowed by the judges of the courts of record of a county and to cause warrants to be drawn upon the state controller in payment thereof, in accordance with section 13-3-104, and the rules and regulations of the state court administrator.

13-90-115. Service of subpoena. The service of any subpoena in any of the courts of record in this state may be made by any person over the age of eighteen years not a party to the action or proceeding. Proof of service so made shall be by the affidavit of the person making the same showing the time, place, and manner in which and the person upon whom such service has been made.

13-90-116. Examination of party to record by adverse party. A party to the record of any civil action or proceeding, or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent, or managing agents of any corporation which is a party to the record in such action or proceeding may be examined upon the trial thereof, or upon deposition, or both, as if under cross-examination at the instance of the adverse party and for that purpose may be compelled in the same manner and subject to the same rules for examination as any other witness to testify, but the party calling for such examination shall not be concluded thereby but may rebut it by counter testimony.

13-90-117. Affirmation - form - perjury. (1) A witness who desires it, at his option, instead of taking an oath may make his solemn affirmation or declaration by assenting when addressed in the following form:

"You do solemnly affirm that the evidence you shall give in this issue (or matter), pending between ..... and ..... shall be the truth, the whole truth, and nothing but the truth."

(2) Assent to this affirmation shall be made by answer: "I do."
(3) A false affirmation or declaration is perjury in the first degree.

13-90-117.5. Oath or affirmation taken by a child. In lieu of an oath or affirmation, any child who testifies in any proceeding pursuant to section 13-90-106 (1) (b) (II) shall be asked the following: "Do you promise to tell the truth?". The court, in its discretion, may accept any indication of assent to this question by the child.

13-90-118. Witness immunity. (1) Whenever a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to a court or grand jury of the state of Colorado involving any laws of the state and the person presiding over the proceeding communicates to the witness an order as specified in subsection (2) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination; except that no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except a prosecution for perjury or false statement or otherwise failing to comply with the order.

(2) In the case of any individual who has been or may be called to testify or

provide other information at any proceeding before or ancillary to a court or grand jury of the state of Colorado, the district court for the judicial district in which the proceeding is or may be held, or the county court in which a misdemeanor proceeding is or may be held, may issue, upon request of any district attorney, attorney general, or special prosecutor of the state of Colorado, an order requiring such individual to give testimony or provide other information which he or she refuses to give or provide on the basis of the privilege against self-incrimination, such order to become effective as provided in subsection (1) of this section.

(3) A district attorney, attorney general, or special prosecutor of the state of Colorado may request an order as specified in subsection (2) of this section when in his or her judgment the testimony or other information from such individual may be necessary to the public interest and such individual has refused or is likely to refuse to testify or provide other information on the basis of the privilege against self-incrimination.

13-90-119. Privilege for newsperson. (1) As used in this section, unless the context otherwise requires:

(a) "Mass medium" means any publisher of a newspaper or periodical; wire service; radio or television station or network; news or feature syndicate; or cable television system.

(b) "News information" means any knowledge, observation, notes, documents, photographs, films, recordings, videotapes, audiotapes, and reports, and the contents and sources thereof, obtained by a newsperson while engaged as such, regardless of whether such items have been provided to or obtained by such newsperson in confidence.

(c) "Newsperson" means any member of the mass media and any employee or independent contractor of a member of the mass media who is engaged to gather, receive, observe, process, prepare, write, or edit news information for dissemination to the public through the mass media.

(d) "Press conference" means any meeting or event called for the purpose of issuing a public statement to members of the mass media, and to which members of the mass media are invited in advance.

(e) "Proceeding" means any civil or criminal investigation, discovery procedure, hearing, trial, or other process for obtaining information conducted by, before, or under the authority of any judicial body of the state of Colorado. Such term shall not include any investigation, hearing, or other process for obtaining information conducted by, before, or under the authority of the general assembly.

(f) "Source" means any person from whom or any means by or through which news information is received or procured by a newsperson, while engaged as such, regardless of whether such newsperson was requested to hold confidential the identity of such person or means.

(2) Notwithstanding any other provision of law to the contrary and except as provided in subsection (3) of this section, no newsperson shall, without such newsperson's express consent, be compelled to disclose, be examined concerning refusal to disclose, be subjected to any legal presumption of any kind, or be cited, held in contempt, punished, or subjected to any sanction in any judicial proceedings for refusal to disclose any news information received, observed, procured, processed, prepared, written, or edited by a newsperson, while acting in the capacity of a newsperson; except that the privilege of nondisclosure shall not apply to the following:

(a) News information received at a press conference;

(b) News information which has actually been published or broadcast through a medium of mass communication;

(c) News information based on a newsperson's personal observation of the commission of a crime if substantially similar news information cannot reasonably be obtained by any other means;

(d) News information based on a newsperson's personal observation of the commission of a class 1, 2, or 3 felony.

(3) Notwithstanding the privilege of nondisclosure granted in subsection (2) of this section, any party to a proceeding who is otherwise authorized by law to issue or obtain subpoenas may subpoena a newsperson in order to obtain news information by establishing by a preponderance of the evidence, in opposition to a newsperson's motion to quash such subpoena:

(a) That the news information is directly relevant to a substantial issue involved in the proceeding;

(b) That the news information cannot be obtained by any other reasonable means; and

(c) That a strong interest of the party seeking to subpoena the newsperson outweighs the interests under the first amendment to the United States constitution of such newsperson in not responding to a subpoena and of the general public in receiving news information.

(4) The privilege of nondisclosure established by subsection (2) of this section may be waived only by the voluntary testimony or disclosure of a newsperson that directly addresses the news information or identifies the source of such news information sought. A publication or broadcast of a news report through the mass media concerning the subject area of the news information sought, but which does not directly address the specific news information sought, shall not be deemed a waiver of the privilege of nondisclosure as to such specific news information.

(5) In any trial to a jury in an action in which a newsperson is a party as a result of such person's activities as a newsperson and in which the newsperson has invoked the privilege created by subsection (2) of this section, the jury shall be neither informed nor allowed to learn that such newsperson invoked such privilege or has thereby declined to

disclose any news information.

(6) Nothing in this section shall preclude the issuance of a search warrant in compliance with the federal "Privacy Protection Act of 1980", 42 U.S.C. sec. 2000aa.

PART 2

APPOINTMENT OF INTERPRETERS FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

13-90-201. Legislative declaration. The general assembly hereby finds and declares that it is the policy of this state to secure the rights of persons who are deaf or hard of hearing and cannot readily hear or understand or communicate in spoken language and who consequently cannot equally participate in or benefit from proceedings of the courts or any board, commission, agency, or licensing or law enforcement authority of the state unless qualified interpreters or auxiliary services are available to assist them.

13-90-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, agency, or licensing or law enforcement authority of the state.

(2) "Assistive listening device" means an amplification system that operates in conjunction with a hearing aid to increase the volume of sounds for the hearing aid only.

(3) "Auxiliary services" means those aids and services that assist in effective communication with a person who is deaf or hard of hearing, including but not limited to:

(a) The provision of a computer-aided realtime translations (CART) reporter;

(b) The provision of an assistive listening device; or

(c) The acquisition or modification of equipment or devices to assist in effective communication with a person who is deaf or hard of hearing.

(4) "Commission" means the Colorado commission for the deaf and hard of hearing in the department of human services created in section 26-21-104, C.R.S.

(5) "Computer-aided realtime translation (CART) reporter" means a word-for-word speech-to-text translation service for people who are deaf or hard of hearing.

(6) "Deaf or hard of hearing" means a person who has a functional hearing loss of sufficient severity to prevent aural comprehension, even with the assistance of hearing aids.

(7) "Effective communication" means those methods of communication that are individualized and culturally appropriate to a person who is deaf or hard of hearing so that he or she can easily understand all auditory information.

(8) "Qualified interpreter" means a person who has a valid certification of

competency accepted by the commission and includes, but is not limited to, oral interpreters, sign language interpreters, and intermediary interpreters.

(9) "State court system" means the system of courts, or any part thereof, established pursuant to articles 1 to 9 of this title and article VI of the state constitution. "State court system" shall not include the municipal courts or any part thereof.

13-90-203. Powers and duties of the department of human services. The department of human services shall promulgate rules pursuant to article 4 of title 24, C.R.S., which have been proposed by the commission as necessary for the implementation of this part 2. The rule-making process shall be open and available for input from the public, including but not limited to interpreters and consumers of interpreter services.

13-90-204. Appointment of auxiliary services - when. (1) A qualified interpreter or auxiliary service shall be provided by an appointing authority to interpret the proceedings to a person who is deaf or hard of hearing and to interpret the statements of the person who is deaf or hard of hearing in the following instances:

(a) When a person who is deaf or hard of hearing is present and participating as the principal party of interest or a witness at any civil or criminal proceeding, including but not limited to any criminal or civil court proceeding in the state court system; a court-ordered or court-provided alternative dispute resolution, mediation, arbitration, or treatment; an administrative, commission, or agency hearing; or a hearing of a licensing authority of the state;

(b) When a person who is deaf or hard of hearing is involved in any stage of grand jury or jury proceedings as a potential or selected juror;

(c) When a juvenile whose parent or parents are deaf or hard of hearing is brought before a court for any reason;

(d) When a person who is deaf or hard of hearing is arrested and taken into custody for an alleged violation of a criminal law of the state or any of its political subdivisions. Such appointment shall be made prior to any attempt to notify the arrestee of his or her constitutional rights and prior to any attempt to interrogate or to take a statement from such person; except that a person who is deaf or hard of hearing and who is otherwise eligible for release shall not be held pending the arrival of a qualified interpreter.

(e) (Deleted by amendment, L. 2006, p. 1088, § 4, effective May 25, 2006.)

(f) When effective communication cannot be established without an auxiliary service and when an alleged victim or witness is a person who is deaf or hard of hearing, who uses sign language for effective communication, and who is questioned or otherwise

interviewed by a person having a law enforcement or prosecutorial function in any criminal investigation, except where the length, importance, or complexity of the communication does not warrant provision of an auxiliary service. Assessment of whether the length, importance, or complexity of the communication warrants provision of an auxiliary service shall be made in accordance with United States department of justice regulations effectuating Title II of the federal "Americans with Disabilities Act of 1990", as from time to time may be amended, Pub.L. 101-336, codified at 42 U.S.C. sec. 12101, et seq., including regulations, analysis, and technical assistance.

(g) (Deleted by amendment, L. 2007, p. 2026, § 29, effective June 1, 2007.)

(1.5) Nothing in this part 2 shall be construed to provide less than is required by Title II of the federal "Americans with Disabilities Act of 1990", as from time to time may be amended, Pub.L. 101-336, codified at 42 U.S.C. sec. 12101 et seq., and its implementing regulations.

(2) Nothing contained in this section shall be construed to preclude the use of services of an interpreter in civil proceedings.

13-90-205. Coordination of interpreter and auxiliary services requests. (1) The commission, in collaboration with the judicial department, shall establish, monitor, coordinate, and publish a list of available resources regarding communication accessibility for persons who are deaf or hard of hearing, including but not limited to qualified interpreters and auxiliary services, for use by an appointing authority pursuant to section 13-90-204. Such list shall contain, but not be limited to, the names of private community programs and agencies that secure qualified interpreters and auxiliary services for assignment.

(2) Whenever a qualified interpreter or auxiliary service is required pursuant to section 13-90-204, the appointing authority shall secure such interpreter or auxiliary service through the list of available resources made available and coordinated by the commission.

13-90-206. Use of an intermediary interpreter. If the qualified interpreter makes a determination that he or she is unable to render a satisfactory interpretation without the aid of an intermediary interpreter, the appointing authority may appoint an intermediary interpreter to assist the qualified interpreter.

13-90-207. Requirements to be met prior to commencing proceedings. (1) Prior to commencing any proceedings pursuant to section 13-90-204 requiring a qualified interpreter or auxiliary service, the following conditions shall be

met:

(a) A qualified interpreter shall take an oath that he or she shall make a true interpretation in an understandable manner to the best of his or her skills, but such oath shall only be required if the entity presiding over the proceeding has been given, by statute, the authority to administer such an oath.

(b) The qualified interpreter or auxiliary service shall be in full view and spatially situated to assure effective communication with the person or persons who are deaf or hard of hearing.

(c) The appointing authority shall make a reasonable attempt to provide a qualified interpreter or auxiliary service that is effective to the person who is deaf or hard of hearing.

13-90-208. Waiver. The right of a person who is deaf or hard of hearing to a qualified interpreter or auxiliary service may not be waived except in writing by the person who is deaf or hard of hearing. Prior to executing such a waiver, a person who is deaf or hard of hearing may have access to counsel for advice and shall have actual, full knowledge of the right to effective communication. Such waiver is subject to the approval of counsel, if any, to the person who is deaf or hard of hearing and is also subject to the approval of the appointing authority. In no event is the failure of the person who is deaf or hard of hearing to request a qualified interpreter or auxiliary service deemed a waiver of this right.

13-90-209. Privileged communications. If a qualified interpreter is called upon to interpret privileged communications pursuant to section 13-90-107, the interpreter shall not testify without the written consent of the person who holds the privilege.

13-90-210. Compensation. Subject to the appropriations available to the commission, a qualified interpreter or computer-aided realtime translation reporter provided pursuant to section 13-90-204 shall be entitled to compensation for his or her services, including waiting time and necessary travel and subsistence expenses. The amount of compensation shall be based on a fee schedule for qualified interpreters and auxiliary services established by the commission.

ARTICLE 90.5

Uniform Interstate Depositions
and Discovery Act

13-90.5-101. Short title. This article may be cited as the "Uniform Interstate Depositions and Discovery Act".

13-90.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Foreign jurisdiction" means a state other than this state.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(a) Attend and give testimony at a deposition;

(b) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(c) Permit inspection of premises under the control of the person.

13-90.5-103. Issuance of subpoena. (1) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to the district court for the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena under subsection (2) of this section must:

(a) Incorporate the terms used in the foreign subpoena; and

(b) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

13-90.5-104. Service of subpoena. A subpoena issued by a clerk of court under section 13-90.5-103 must be served in compliance with section 13-90-115, rule 45 of the Colorado rules of civil procedure, and any other applicable statutes or rules of this state.

13-90.5-105. Deposition, production, and inspection. Section 13-90-112, rule 37 of the Colorado rules of civil procedure, and any other applicable statutes or rules of this state apply to subpoenas issued under section 13-90.5-103.

13-90.5-106. Application to court. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under section 13-90.5-103 must comply with the rules or statutes of this state and be submitted to the district court for the county in which discovery is to be conducted.

13-90.5-107. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

ARTICLE 91

Office of the Child's Representative

13-91-101. Short title. This article shall be known and may be cited as the "Office of the Child's Representative Act".

13-91-102. Legislative declaration. (1) (a) The general assembly hereby finds that the legal representation of and non-legal advocacy on behalf of children is a critical element in giving children a voice in the Colorado court system. The general assembly further finds that the representation of children is unique in that children often have no resources with which to retain the services of an attorney or advocate, they are unable to efficiently provide or communicate to such an attorney or advocate the information needed to effectively serve the best interests or desires of that child, and they lack the ability and understanding to effectively evaluate and, if necessary, complain about the quality of representation they receive. Accordingly, the general assembly finds that the

representation of children necessitates significant expertise as well as a substantial investment in time and fiscal resources. The general assembly finds that, to date, the state has been sporadic, at best, in the provision of qualified services and financial resources to this disadvantaged and voiceless population.

(b) Accordingly, the general assembly hereby determines and declares that it is in the best interests of the children of the state of Colorado, in order to reduce needless expenditures, establish enhanced funding resources, and improve the quality of representation and advocacy provided to children in the Colorado court system, that an office of the child's representative be established in the state judicial department.

(2) It is the intent of the general assembly that an office of the child's representative shall be established pursuant to this article and operational over the course of a two-year period. It is further the intent of the general assembly that a board and a director of the office shall be appointed as specified in section 13-91-104 and that the operational structure of the office shall be established during fiscal year 2000-01. The costs associated with the establishment of the office, including the associated FTE, shall be paid for by a transfer from the state judicial, trial courts, mandated costs line item. In addition, it is the intent of the general assembly that, for fiscal year 2001-02 and fiscal years thereafter, an appropriation shall be made to the office of the child's representative in the state judicial department for the purpose of payment of all financial obligations previously covered by the judicial department, trial courts, mandated costs line item relating to the provision of those legal services to children that are addressed in this article.

13-91-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Child" means a person under eighteen years of age.

(2) "Contract entity" means a nonprofit entity with which the state judicial department may contract for the coordination and support of CASA activities in the state of Colorado.

(3) "Court-appointed special advocate" or "CASA volunteer" means a trained volunteer appointed by the court pursuant to the provisions of part 2 of article 1 of title 19, C.R.S., section 14-10-116, C.R.S., or title 15, C.R.S., in a judicial district to aid the court by providing independent and objective information, as directed by the court, regarding children involved in actions brought pursuant to section 14-10-116, C.R.S., or title 15 or 19, C.R.S.

(4) "Guardian ad litem" or "GAL" means a person appointed by a court to act in the best interests of a child involved in a proceeding under title 19, C.R.S., or the "School Attendance Law of 1963", set forth in article 33 of title 22, C.R.S., and who, if appointed to represent a child in a dependency or neglect proceeding pursuant to article 3 of title 19,

C.R.S., shall be an attorney-at-law licensed to practice in Colorado.

(5) "Local CASA program" means a CASA program established pursuant to part 2 of article 1 of title 19, C.R.S.

(6) "Representative of a child" means an attorney appointed by a court pursuant to section 14-10-116, C.R.S., to represent the best interests of a minor or dependent child.

13-91-104. Office of the child's representative - board - qualifications of director. (1) The office of the child's representative is hereby created and established as an agency of the judicial department of state government. It shall be the responsibility of the office of the child's representative to work cooperatively with local judicial districts, attorneys, and any contract entity in order to form a partnership between those entities and persons and the state for the purpose of ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in Colorado.

(2) (a) The Colorado supreme court shall appoint a nine-member child's representative board, referred to in this article as the "board". No more than five members of the board shall be from the same political party. The members of the board shall be representative of each of the congressional districts in the state. Three members of the board shall be attorneys admitted to practice law in this state who have experience in representing children as guardians ad litem or as legal representatives of children. Three members of the board shall be citizens of Colorado not admitted to practice law in this state, who shall have experience at advocating for children in the court system. Three members of the board shall be citizens of the state who are not attorneys and who have not served as CASA volunteers or child and family investigators.

(b) Members of the board shall serve for terms of four years; except that, of the members first appointed, five shall serve for terms of two years. Vacancies on the board shall be filled by the supreme court for the remainder of any unexpired term. In making appointments to the board, the supreme court shall consider place of residence, gender, race, and ethnic background. The supreme court shall establish procedures for the operation of the board.

(c) Members of the board shall serve without compensation but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(d) Any expenses incurred for the board shall be paid from the general operating budget of the office of the child's representative.

(3) The board shall have the following responsibilities:

(a) (I) To appoint, and discharge for cause, a person to serve as the director of the office of the child's representative, referred to in this section as the "director".

(II) The director shall have been licensed to practice law in this state for at least five years prior to appointment and shall be familiar with the unique demands of

representing a child in the court system. The director shall devote his or her full time to the performance of his or her duties and shall not engage in the private practice of law.

(III) The compensation of the director shall be fixed by the general assembly and may not be reduced during the term of the director's appointment.

(b) To fill any vacancy in the directorship for the remainder of the unexpired term;

(c) To work cooperatively with the director to provide governance to the office of the child's representative, to provide fiscal oversight of the general operating budget of the office of the child's representative, to participate in funding decisions relating to the provision of GAL, CASA, and representative of the child services throughout the state, and to assist with the duties of the office of the child's representative concerning GAL and CASA training, as needed.

13-91-105. Duties of the office of the child's representative - guardian ad litem programs - CASA programs. (1) In addition to any responsibilities assigned to it by the chief justice, the office of the child's representative shall:

(a) Enhance the provision of GAL services in Colorado by:

(I) Ensuring the provision and availability of high-quality, accessible training throughout the state for persons seeking to serve as guardians ad litem as well as to judges and magistrates who regularly hear matters involving children and families;

(II) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of the minimum training requirements that an attorney seeking to serve as a guardian ad litem shall meet;

(III) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of standards to which attorneys serving as guardians ad litem shall be held, including but not limited to minimum practice standards, which standards shall include:

(A) Incorporation of the federal guidelines for persons serving as guardians ad litem as set forth in the federal department of health and human services' "Adoption 2002" guidelines and incorporation of the guidelines for guardians ad litem adopted by the Colorado bar association in 1993;

(B) Minimum duties of guardians ad litem in representing children involved in judicial proceedings;

(C) Minimum responsibilities of guardians ad litem in representing children involved in judicial proceedings; and

(D) A determination of an appropriate maximum-caseload limitation for persons serving as guardians ad litem;

(IV) Overseeing the practice of guardians ad litem to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures;

(V) Working cooperatively with the chief judge in each judicial district or group

of judicial districts to jointly establish a local body to oversee the provision of guardian ad litem services in that judicial district or districts, which oversight bodies would operate and report directly to the director concerning the practice of guardians ad litem in that judicial district or districts pursuant to oversight procedures established by the office of the child's representative;

(VI) Establishing fair and realistic state rates by which to compensate state-appointed guardians ad litem, which will take into consideration the caseload limitations placed on guardians ad litem and which will be sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem;

(VII) Seeking to enhance existing funding sources for the provision of high-quality guardian ad litem services in Colorado;

(VIII) Studying the availability of or developing new funding sources for the provision of guardian ad litem services in Colorado, including but not limited to, long-term pooling of funds programs;

(IX) Accepting grants, gifts, donations, and other nongovernmental contributions to be used to fund the work of the office of the child's representative relating to guardians ad litem. Such grants, gifts, donations, and other nongovernmental contributions shall be credited to the guardian ad litem fund, created in section 13-91-106 (1). Moneys in such fund shall be subject to annual appropriation by the general assembly for the purposes of this paragraph (a) and for the purposes of enhancing the provision of guardian ad litem services in Colorado; and

(X) Effective July 1, 2001, allocating moneys appropriated to the office of the child's representative in the state judicial department for the provision of GAL services;

(b) Enhance the CASA program in Colorado by:

(I) Working cooperatively with the contract entity to ensure the development of local CASA programs in each judicial district or in adjacent judicial districts;

(II) Seeking to enhance existing funding sources and to develop private-public partnership funding for the provision of high-quality, volunteer local CASA programs in each judicial district or in adjacent judicial districts;

(III) Studying the availability of or developing new funding sources for CASA programs, including but not limited to long-term pooling of funds programs;

(IV) Effective July 1, 2001, allocating moneys appropriated to the state judicial department for CASA programs to local CASA programs based upon recommendations made by the contract entity;

(V) Working cooperatively with the contract entity to ensure the provision and availability of high-quality, accessible training in locations of the state where CASA programs have been established for the benefit of persons seeking to serve as CASA volunteers as well as for judges and magistrates who regularly hear matters involving children and families;

(VI) Serving as a resource to the contract entity; and

(VII) Accepting grants, gifts, donations, and other nongovernmental contributions to be used to fund the work of the office of the child's representative relating to CASA programs. Such grants, gifts, donations, and other nongovernmental contributions shall be credited to the court-appointed special advocate (CASA) fund created in section 13-91-106 (2). Moneys in such fund shall be subject to annual appropriation by the general assembly for the purposes of this paragraph (b) and for the purposes of the local CASA programs.

(c) Enhance the provision of services in Colorado by attorneys appointed to serve as legal representatives of children pursuant to section 14-10-116, C.R.S., and attorneys appointed to serve as child and family investigators pursuant to section 14-10-116.5, C.R.S., when the costs of such appointments are borne by the state, by:

(I) Ensuring the provision and availability of high-quality, accessible training throughout the state for attorneys seeking to serve as legal representatives of children, and attorneys seeking to serve as child and family investigators, as well as to judges and magistrates who regularly hear domestic matters under article 10 of title 14, C.R.S.;

(II) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of the minimum training requirements that an attorney seeking to serve as a legal representative of a child and an attorney seeking to serve as a child and family investigator shall meet;

(III) Making recommendations to the chief justice concerning the establishment, by rule or chief justice directive, of standards to which attorneys serving as legal representatives of children and attorneys serving as child and family investigators shall be held;

(IV) Overseeing the practice of legal representatives of children appointed pursuant to section 14-10-116, C.R.S., and overseeing the practice of attorneys serving as child and family investigators appointed pursuant to section 14-10-116.5, C.R.S., to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures;

(V) Seeking to enhance existing funding sources for and studying the availability of or developing new funding sources for the provision of services by attorneys serving as court-appointed legal representatives of children and attorneys serving as court-appointed child and family investigators;

(VI) Effective July 1, 2001, allocating moneys appropriated to the office of the child's representative in the state judicial department for the provision of services by attorneys serving as court-appointed legal representatives of children and attorneys serving as court-appointed child and family investigators;

(d) Enforce, as appropriate, the provisions of this section;

(e) Work cooperatively with the judicial districts to establish pilot programs designed to enhance the quality of child representatives at the local level;

(f) Develop measurement instruments designed to assess and document the

effectiveness of various models of representation and the outcomes achieved by representatives and advocates for children, including collaborative models with local CASA programs;

(g) (Deleted by amendment, L. 2009, (SB 09-048), ch. 120, p. 500, § 1, effective August 5, 2009.)

(h) Cause a program review and outcome-based evaluation of the performance of the office of the child's representative to be conducted annually to determine whether the office is effectively and efficiently meeting the goals of improving child and family well-being and the duties set forth in this section, the reports for which shall be submitted to the members of the general assembly and the state court administrator's office, together with the reports specified in paragraph (i) of this subsection (1); and

(i) Report the activities of the office of the child's representative to the members of the general assembly and to the state court administrator's office, together with the reports specified in paragraph (h) of this subsection (1), on or before September 1, 2001, and on or before September 1 of each year thereafter.

13-91-106. Guardian ad litem fund - court-appointed special advocate (CASA) fund - created. (1) (a) There is hereby created in the state treasury the guardian ad litem fund, referred to in this subsection (1) as the "fund". The fund shall consist of such general fund moneys as may be appropriated thereto by the general assembly and any moneys received pursuant to section 13-91-105 (1) (a) (IX). The moneys in the fund shall be subject to annual appropriation by the general assembly to the state judicial department for allocation to the office of the child's representative for the purposes of funding the work of the office of the child's representative relating to the provision of guardian ad litem services and for the provision of guardian ad litem services in Colorado. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(b) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, on April 20, 2009, the state treasurer shall transfer the balance of moneys in the fund to the general fund.

(2) There is hereby created in the state treasury the court-appointed special advocate (CASA) fund referred to in this subsection (2) as the "fund". The fund shall consist of such general fund moneys as may be appropriated thereto by the general assembly and any moneys received pursuant to section 13-91-105 (1) (b) (VII). The moneys in the fund shall be subject to annual appropriation by the general assembly to the state judicial department for allocation to the office of the child's representative for the purposes of funding the CASA programs established in each judicial district, or in

adjacent judicial districts, pursuant to part 2 of article 1 of title 19, C.R.S., and the work of the office of the child's representative relating to the enhancement of CASA programs. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

13-91-107. Repeal of article. (Repealed)