Colorado Revised Statutes 2020

TITLE 14

DOMESTIC MATTERS

Cross references: For the "Colorado Children's Code", see title 19.

ADOPTION - ADULTS

ARTICLE 1

Adoption of Adults

14-1-101. Adoption of adults. (1) Any person desiring to adopt an adult as heir at law shall file his petition therefor in the juvenile court of the county of his residence or the county of the residence of the person sought to be adopted, and thereupon summons shall issue the same as provided in the Colorado rules of civil procedure and be served on the person sought to be adopted. Such person shall file in the court a written answer to the petition within the time required by the summons and shall either consent to such adoption or deny or disclaim all desire to be adopted by such person.

(2) Upon the filing, by the person sought to be adopted, of a disclaimer of all desire to become the heir at law of the petitioner, the petition shall be dismissed by the court, but upon the filing of a consent to such adoption, whether by the person sought to be adopted or by a legally qualified conservator or other representative if such person is non compos mentis at the time, the prayer of the petition shall be granted, and a decree of adoption shall be rendered and entered by the court declaring such person the heir at law of the petitioner and entitled to inherit from the petitioner any property in all respects as if such adopted person had been the petitioner's child born in lawful wedlock, and such decree may or may not change the name of such adopted person, as the court rendering the decree may deem advisable; and such decree or a certified copy thereof may be used as primary evidence in any court establishing the status of the person so adopted.

(3) Any action for adoption pursuant to this section shall follow the same procedure insofar as practicable as provided in part 2 of article 5 of title 19, C.R.S., concerning the adoption of children.

Source: L. 67: p. 1055, § 1. **C.R.S. 1963:** § 4-2-1. **L. 87:** (3) amended, p. 815, § 14, effective October 1.

MARRIAGE AND RIGHTS OF MARRIED PERSONS

ARTICLE 2

Marriage and Rights
of Married Persons

PART 1

UNIFORM MARRIAGE ACT

Editor's note: This part 1 was numbered as article 1 of chapter 90, C.R.S. 1963. The provisions of this part 1 were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

Annotator's note. For legality of common-law marriages in this state, see Graham v. Graham, 130 Colo. 225, 274 P.2d 605 (1954).

14-2-101. Short title. This part 1 shall be known and may be cited as the "Uniform Marriage Act".

Source: L. 73: R&RE, p. 1016, § 1. **C.R.S. 1963:** § 90-1-1.

14-2-102. Purposes - rules of construction. (1) This part 1 shall be liberally construed and applied to promote its underlying purposes.

(2) Its underlying purposes are:

(a) To strengthen and preserve the integrity of marriage and to safeguard meaningful family relationships;

(b) To provide adequate procedures for the solemnization and registration of marriage.

Source: L. 73: R&RE, p. 1016, § 1. **C.R.S. 1963:** § 90-1-2.

14-2-103. Uniformity of application and construction. This part 1 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this part 1 among those states which enact it.

Source: L. 73: R&RE, p. 1016, § 1. **C.R.S. 1963:** § 90-1-3.

14-2-104. Formalities. (1) Except as otherwise provided in subsection (3) of this section, a marriage is valid in this state if:

(a) It is licensed, solemnized, and registered as provided in this part 1; and

(b) It is only between one man and one woman.

(2) Notwithstanding the provisions of section 14-2-112, any marriage contracted within or outside this state that does not satisfy paragraph (b) of subsection (1) of this section shall not be recognized as valid in this state.

(3) Nothing in this section shall be deemed to repeal or render invalid any otherwise valid common law marriage between one man and one woman:

(a) Entered into prior to September 1, 2006; or

(b) Entered into on or after September 1, 2006, that complies with section 14-2-109.5.

Source: L. 73: R&RE, p. 1016, § 1. **C.R.S. 1963:** § 90-1-4. **L. 2000:** Entire section amended, p. 1054, § 1, effective May 26. **L. 2006, 1st Ex. Sess.:** (3) amended, p. 9, § 1, effective July 18.

Cross references: For the validity or recognition of marriages in this state, see section 31 of article II of the state constitution; for cases construing constitutional and statutory provisions similar to section 31 of article II of the state constitution, see the editor's note under section 31 of article II.

14-2-105. Marriage license and marriage certificate. (1) The executive director of the department of public health and environment shall prescribe the form for an application for a marriage license, which must include the following information:

(a) Name, sex, address, last four digits of the social security number, and date and place of birth of each party to the proposed marriage, which proof of identity and date of birth may be by a birth certificate, a driver's license, a passport, or other comparable evidence;

(b) If either party has previously been married, such party's married name and the date, place, and court in which the marriage was dissolved or declared invalid or the date and place of death of the former spouse;

(b.5) If either party has previously been a partner in a civil union and, if so, the name of the other partner in the civil union, or the date, place, and court in which the civil union was dissolved or declared invalid, or the date and place of death of the former partner in the civil union;

(c) Name and address of the parents or guardian of each party;

(d) Whether the parties are related to each other and, if so, their relationship, or, if the parties are currently married to each other, a statement to that effect.

(2) The executive director of the department of public health and environment shall prescribe the forms for the marriage license, the marriage certificate, and the consent to marriage.

Source: L. 73: R&RE, p. 1016, § 1. **C.R.S. 1963:** § 90-1-5. **L. 93:** (1)(b) and (1)(d) amended, p. 437, § 1, effective July 1. **L. 94:** IP(1) and (2) amended, p. 2731, § 347, effective July 1. **L. 2016:** IP(1) amended and (1)(b.5) added, (SB 16-150), ch. 263, p. 1080, § 2, effective June 8. **L. 2019:** (1)(a) amended, (HB 19-1316), ch. 380, p. 3421, § 5, effective August 2.

Cross references: For the legislative declaration contained in the 1994 act amending the introductory portion to subsection (1) and subsection (2), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 16-150, see section 1 of chapter 263, Session Laws of Colorado 2016.

14-2-106. License to marry. (1) (a) When a marriage license application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the county clerk and recorder and has paid the marriage license fee of seven dollars, a fee of twenty dollars to be transmitted by the county clerk and recorder to the state treasurer and credited by the treasurer to the Colorado domestic abuse program fund created in section 39-22-802 (1), and an additional amount established pursuant to section 25-2-121, such amount to be credited to the vital statistics records cash fund pursuant to section 25-2-121, the county clerk shall issue a license to marry and a marriage certificate form upon being furnished:

(I) Satisfactory proof that each party to the marriage will have attained the age of eighteen years at the time the marriage license becomes effective; or, if over the age of sixteen years but has not attained the age of eighteen years, has judicial approval, as provided in section 14-2-108; and

(II) Satisfactory proof that the marriage is not prohibited, as provided in section 14-2-110.

(b) Violation of subsection (1)(a)(I) of this section makes the marriage voidable.

(2) Repealed.

Source: L. 73: R&RE, p. 1017, § 1. **C.R.S. 1963:** § 90-1-6. **L. 75:** (2)(a) amended, p. 583, § 1, effective April 10. **L. 79:** (2)(a), (2)(b), and (2)(d) R&RE, p. 635, § 1, effective July 1. **L. 84:** (1)(a)(III) amended, p. 1118, § 9, effective June 7; IP(1)(a) amended, p. 742, § 1, effective July 1. **L. 86:** (1)(a)(III) amended, p. 711, § 1, effective July 1; (2)(a), (2)(b), (2)(d), (2)(f), and (2)(g) amended and (2)(h) added, p. 711, § 1, effective July 1. **L. 89:** IP(1)(a) amended and (1)(c) added, p. 936, § 2, effective July 1. **L. 93:** (1)(c) amended, p. 927, § 4, effective May 28. **L. 98:** (1)(a)(I) amended, p. 1394, § 30, effective February 1, 1999. **L. 2000:** IP(1)(a) and (1)(c) amended, p. 1571, § 8, effective July 1. **L. 2009:** IP(1)(a) amended, (SB 09-068), ch. 264, p. 1211, § 5, effective July 1. **L. 2019:** Entire section amended, (HB 19-1316), ch. 380, p. 3419, § 1, effective August 2.

Editor's note: Subsection (2)(h) provided for the repeal of subsection (2), effective July 1, 1989. (See L. 86, p. 711.)

14-2-107. When licenses to marry issued - validity. Licenses to marry shall be issued by the county clerk and recorder only during the hours that the office of the county clerk and recorder is open as prescribed by law and at no other time, and such licenses shall show the exact date and hour of their issue. A license shall not be valid for use outside the state of Colorado. Within the state, such licenses shall not be valid for more than thirty-five days after the date of issue. If any license to marry is not used within thirty-five days, it is void and shall be returned to the county clerk and recorder for cancellation.

Source: L. 73: R&RE, p. 1018, § 1. **C.R.S. 1963:** § 90-1-7. **L. 75:** Entire section amended, p. 583, § 2, effective April 10. **L. 93:** Entire section amended, p. 437, § 2, effective July 1. **L. 2012:** Entire section amended, (SB 12-175), ch. 208, p. 829, § 22, effective July 1.

14-2-108. Judicial approval. (1) The juvenile court, as defined in section 19-1-103 (17), after a reasonable effort has been made to notify the parents or legal guardians of each

underage party, may order the county clerk and recorder pursuant to subsection (2) of this section to issue a marriage license and a marriage certificate form to a party sixteen or seventeen years of age.

(2) (a) The court may order the county clerk and recorder to issue a marriage license under subsection (1) of this section only if the court finds, after reviewing the report of the guardian ad litem appointed pursuant to subsection (2)(b) of this section, that the underage party is capable of assuming the responsibilities of marriage and the marriage would serve the underage party's best interests. Pregnancy alone does not establish that the best interests of the party would be served.

(b) (I) Prior to ordering the issuance of a marriage license to an underage party, the court shall appoint a guardian ad litem for the underage party and direct the guardian ad litem to investigate the best interests of the underage party and to file a report with the court addressing the factors set forth in subsection (2)(b)(II) of this section and stating a position as to whether the issuance of a marriage license to the underage party is in the underage party's best interests.

(II) The court shall consider all relevant factors, including:

(A) The wishes of the underage party;

(B) The view of the parents or legal guardians of the underage party, if known;

(C) The ability of the underage party to assume the responsibilities of marriage;

(D) The circumstances surrounding the marriage; and

(E) The ability of the underage party to manage the underage party's financial, personal, social, educational, and nonfinancial affairs independent of the underage party's intended spouse both during the marriage or upon dissolution of the marriage.

(3) The district court or the juvenile court, as the case may be, shall authorize performance of a marriage by proxy upon the showing required by the provisions on solemnization, being section 14-2-109.

Source: L. 73: R&RE, p. 1018, § 1. **C.R.S. 1963:** § 90-1-8. **L. 87:** IP(1) amended, p. 815, § 15, effective October 1. **L. 98:** (1)(b) amended, p. 1394, § 31, effective February 1, 1999. **L. 2019:** (1) and (2) amended, (HB 19-1316), ch. 380, p. 3420, § 2, effective August 2.

14-2-109. Solemnization and registration of marriages - proxy marriage. (1) A marriage may be solemnized by a judge of a court, by a court magistrate, by a retired judge of a court, by a public official whose powers include solemnization of marriages, by the parties to the marriage, or in accordance with any mode of solemnization recognized by any religious denomination or Indian nation or tribe. Either the person solemnizing the marriage or, if no individual acting alone solemnized the marriage, a party to the marriage shall complete the marriage certificate form and forward it to the county clerk and recorder within sixty-three days after the solemnization. Any person who fails to forward the marriage certificate to the county clerk and recorder as required by this section shall be required to pay a late fee in an amount of not less than twenty dollars. An additional five-dollar late fee may be assessed for each additional day of failure to comply with the forwarding requirements of this subsection (1) up to a maximum of fifty dollars. For purposes of determining whether a late fee shall be assessed pursuant to this subsection (1), the date of forwarding shall be deemed to be the date of postmark.

(2) (a) The requirements for applying for a marriage license for a proxy marriage are the following:

(I) One party to the proxy marriage is a resident of the state of Colorado;

(II) One party to the proxy marriage appears in person to apply for the marriage license and pays the fees required in section 14-2-106 (1);

(III) The signatures of both parties to the proxy marriage are required, and the party present shall sign the marriage license application, as prescribed in section 14-2-105 (2), and provide an absentee affidavit form, as prescribed by the state registrar, containing the notarized signature of the absent party, along with proper identification documents as specified in section 14-2-105 (1)(a) for the absent party; and

(IV) Both parties to the proxy marriage are eighteen years of age or older.

(b) If a party to a marriage is unable to be present at the solemnization, the absent party may authorize in writing a third person to act as the absent party's proxy for purposes of solemnization of the marriage, if the absent party is:

(I) A member of the armed forces of the United States who is stationed in another country or in another state in support of combat or another military operation; or

(II) An individual who is a government contractor, or an employee of a government contractor, working in support of the armed forces of the United States or in support of United States military operations in another country or in another state and who supplies proper identification of that status.

(c) If the person solemnizing the marriage is satisfied that the absent party is unable to be present and has consented to the marriage, such person may solemnize the marriage by proxy. If such person is not satisfied, the parties may petition the district court for an order permitting the marriage to be solemnized by proxy.

(3) Upon receipt of the marriage certificate, the county clerk and recorder shall register the marriage.

Source: L. 73: R&RE, p. 1019, § 1. **C.R.S. 1963:** § 90-1-9. **L. 79:** (1) amended, p. 637, § 1, effective May 25. **L. 89:** (1) amended, p. 781, § 1, effective April 4. **L. 91:** (1) amended, p. 359, § 19, effective April 9. **L. 93:** Entire section amended, p. 438, § 3, effective July 1. **L. 2012:** (1) amended, (SB 12-175), ch. 208, p. 829, § 23, effective July 1. **L. 2015:** (2) amended, (HB 15-1327), ch. 229, p. 851, § 1, effective May 27. **L. 2019:** (2)(a)(IV) amended, (HB 19-1316), ch. 380, p. 3421, § 3, effective August 2.

14-2-109.3. Rights of underage married persons. (1) In addition to any rights established in law, a married person who has not attained eighteen years of age has the following rights:

(a) The right to establish a domicile separate from the married person's parents;

(b) The right to file motions and petitions with a court in the married person's name and on the married person's own behalf;

(c) The right to enter into enforceable contracts, including but not limited to leases for housing; and

(d) The right to consent to and make decisions concerning the married person's own medical care.

Source: L. 2019: Entire section added, (HB 19-1316), ch. 380, p. 3421, § 4, effective August 2.

14-2-109.5. Common law marriage - age restrictions. (1) A common law marriage entered into on or after September 1, 2006, shall not be recognized as a valid marriage in this state unless, at the time the common law marriage is entered into:

(a) Each party is eighteen years of age or older; and

(b) The marriage is not prohibited, as provided in section 14-2-110.

(2) Notwithstanding the provisions of section 14-2-112, a common law marriage contracted within or outside this state on or after September 1, 2006, that does not satisfy the requirements specified in subsection (1) of this section shall not be recognized as valid in this state.

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 9, § 2, effective July 18.

14-2-110. Prohibited marriages. (1) The following marriages are prohibited:

(a) A marriage entered into prior to the dissolution of an earlier marriage of one of the parties, except a currently valid marriage between the parties;

(a.5) A marriage entered into prior to the dissolution of an earlier civil union of one of the parties, except a currently valid civil union between the same two parties;

(b) A marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood;

(c) A marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures.

(2) Repealed.

Source: L. 73: R&RE, p. 1019, § 1. **C.R.S. 1963:** § 90-1-10. **L. 78:** (1)(b) amended, p. 262, § 47, effective May 23. **L. 93:** (1)(a) amended, p. 438, § 4, effective July 1. **L. 2016:** (1)(a.5) added, (SB 16-150), ch. 263, p. 1080, § 3, effective June 8. **L. 2018:** (2) repealed, (SB 18-095), ch. 96, p. 753, § 5, effective August 8.

Cross references: (1) For criminal penalties for the offense of bigamy, see § 18-6-201; for criminal penalties for the offense of incest, see § 18-6-301.

(2) For the legislative declaration in SB 16-150, see section 1 of chapter 263, Session Laws of Colorado 2016. For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of Colorado 2018.

14-2-111. Putative spouse. A person who has cohabited with another to whom he or she is not legally married in the good faith belief that he or she was married to that person is a putative spouse until knowledge of the fact that he or she is not legally married terminates his or her status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of his or her status, whether or not the marriage is prohibited under section 14-2-110, declared invalid, or otherwise terminated by court action. If there is a legal spouse or other putative spouses, rights

acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court shall apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

Source: L. 73: R&RE, p. 1019, § 1. **C.R.S. 1963:** § 90-1-11. **L. 2018:** Entire section amended, (SB 18-095), ch. 96, p. 753, § 6, effective August 8.

Cross references: For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of Colorado 2018.

14-2-112. Application. All marriages contracted within this state prior to January 1, 1974, or outside this state that were valid at the time of the contract or subsequently validated by the laws of the place in which they were contracted or by the domicile of the parties are valid in this state.

Source: L. 73: R&RE, p. 1020, § 1. **C.R.S. 1963:** § 90-1-12.

14-2-113. Violation - penalty. Except as provided in section 14-2-109 (1), any person who knowingly violates any provision of this part 1 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars.

Source: L. 73: R&RE, p. 1020, § 1. **C.R.S. 1963:** § 90-1-13.

PART 2

RIGHTS OF MARRIED PERSONS

Cross references: For the legislative declaration in SB 18-090, see section 1 of chapter 72, Session Laws of Colorado 2018.

14-2-201. Property ownership. The property, real and personal, that a person in this state owns at the time of his or her marriage, and the rents, issues, profits, and proceeds thereof, and any real, personal, or mixed property that comes to him or her by descent, devise, or bequest, or the gift of any person except his or her husband or wife, including presents or gifts from his or her husband or wife, such as jewelry, silver, tableware, watches, money, and apparel, remains his or her sole and separate property, notwithstanding his or her marriage, and is not subject to the disposal of his or her husband or wife or liable for his or her debts.

Source: R.S. p. 454, § 1. **G.L.** § 1747. **G.S.** § 2266. **R.S. 08:** § 4181. **C.L.** § 5576. **CSA:** C. 108, § 1. **CRS 53:** § 90-2-1. **C.R.S. 1963:** § 90-2-1. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 637, § 2, effective August 8.

14-2-202. Married person may sue and be sued. A person, while married, may sue and be sued, in all matters having relation to his or her property, person, or reputation, in the same manner as if he or she were unmarried.

Source: R.S. p. 455, § 3. **G.L.** § 1749. **G.S.** § 2268. **R.S. 08:** § 4182. **C.L.** § 5577. **CSA:** C. 108, § 2. **CRS 53:** § 90-2-2. **C.R.S. 1963:** § 90-2-2. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

Cross references: For the rule of civil procedure authorizing married women to sue as if sole, see C.R.C.P. 17(b).

14-2-203. Rights in separate business. A married person may carry on any trade or business and perform any labor or services on his or her sole and separate account, and the earnings of a married person from his or her trade, business, labor, or services is his or her sole and separate property and may be used and invested by him or her in his or her own name. Property acquired by trade, business, and services by the married person and the proceeds may be taken on any execution against the person.

Source: R.S. p. 455, § 6. **G.L.** § 1752. **G.S.** § 2271. **R.S. 08:** § 4183. **C.L.** § 5578. **CSA:** C. 108, § 3. **CRS 53:** § 90-2-3. **C.R.S. 1963:** § 90-2-3. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-204. Not to affect marriage settlements. Nothing in sections 14-2-201 to 14-2-206 invalidates any marriage settlement or contract.

Source: R.S. p. 455, § 7. **G.L.** § 1753. **G.S.** § 2272. **R.S. 08:** § 4184. **C.L.** § 5579. **CSA:** C. 108, § 4. **CRS 53:** § 90-2-4. **C.R.S. 1963:** § 90-2-4. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-205. Married person's land subject to judgment. When a person against whom liability exists marries and has or acquires lands, judgment on such liability may be rendered against him or her and his or her husband or wife jointly, to be levied on such lands only.

Source: R.S. p. 455, § 10. **G.L.** § 1756. **G.S.** § 2275. **R.S. 08:** § 4187. **C.L.** § 5582. **CSA:** C. 108, § 7. **CRS 53:** § 90-2-7. **C.R.S. 1963:** § 90-2-7. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-206. Spouse cannot convey other spouse's lands. The separate deed of a spouse conveys no interest in the other spouse's lands.

Source: R.S. p. 455, § 12. **G.L.** § 1757. **G.S.** § 2276. **R.S. 08:** § 4188. **C.L.** § 5583. **CSA:** C. 108, § 8. **CRS 53:** § 90-2-8. **C.R.S. 1963:** § 90-2-8. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-207. Spouse may convey lands as if unmarried. A person, while married, may bargain, sell, and convey his or her real and personal property and enter into any contract in reference to the same as if he or she were unmarried.

Source: R.S. p. 455, § 2. **L. 1874:** p. 185, § 1. **G.L.** § 1759. **G.S.** § 2278. **R.S. 08:** § 4190. **C.L.** § 5585. **CSA:** C. 108, § 10. **CRS 53:** § 90-2-9. **C.R.S. 1963:** § 90-2-9. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-208. Married person may contract. A person, while married, may contract debts in his or her own name and upon his or her own credit, and may execute promissory notes, bonds, bills of exchange, and other instruments in writing, and may enter into any contract the same as if he or she were unmarried. In all cases where any suit or other legal proceedings are instituted against the married person and any judgment, decree, or order is rendered or pronounced against the married person, the same may be enforced by execution or other process against the married person as if he or she were unmarried.

Source: L. 1874: p. 185, § 3. **G.L.** § 1761. **G.S.** § 2280. **R.S. 08:** § 4191. **C.L.** § 5586. **CSA:** C. 108, § 11. **CRS 53:** § 90-2-10. **C.R.S. 1963:** § 90-2-10. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-209. Loss of consortium. In all actions for a tort by a married person, both spouses have an equal right to recover for loss of consortium of his or her spouse.

Source: L. 61: p. 560, § 1. **CRS 53:** § 90-2-11. **C.R.S. 1963:** § 90-2-11. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

14-2-210. Domicile. The right of a person to become a resident domiciled in the state of Colorado must not be denied or abridged because of sex or marital status, and the common law rule that the domicile of a married person is that of his or her spouse is no longer in effect in this state.

Source: L. 69: p. 824, § 1. **C.R.S. 1963:** § 90-2-12. **L. 73:** p. 1022, § 1. **L. 2018:** Entire part amended, (SB 18-090), ch. 72, p. 638, § 2, effective August 8.

PART 3

UNIFORM PREMARITAL AND MARITAL AGREEMENTS ACT

Editor's note: This part 3 was added in 1986. It was repealed and reenacted in 2013, effective July 1, 2014, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 3 prior to 2013, consult the 2012 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Law reviews: For article, "Marital Agreements", see 18 Colo. Law. 31, (1989); for article, "Update on Ethics and Malpractice Avoidance in Family Law -- Parts I and II", see 19 Colo. Law. 465 and 647 (1990); for article, "An Historical Perspective on Marital Agreements",

see 20 Colo. Law. 467 (1991); for article, "Prenuptial Agreements and the Dead Man's Statute", see 23 Colo. Law. 357 (1994); for article, "Beware of the Trap -- Marital Agreements and ERISA Benefits", see 23 Colo. Law. 577 (1994); for article, "Marital Agreements and the Colorado Marital Agreement Act", see 32 Colo. Law. 59 (Aug. 2003); for article, "Prenuptial Agreements and Retirement Plan Assets", see 33 Colo. Law. 43 (Feb. 2004); for article, "Marital Agreements in Colorado", see 36 Colo. Law. 53 (Feb. 2007); for article, "Benefits Issues Arise When Same-Sex Relationships End", see 42 Colo. Law. 77 (Aug. 2013); for article, "Colorado's New Uniform Premarital and Marital Agreements Act", see 43 Colo. Law. 57 (March 2014).

14-2-301. Short title. This part 3 may be cited as the "Uniform Premarital and Marital Agreements Act".

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1159, § 1, effective July 1, 2014.

Editor's note: This section is similar to former § 14-2-301 as it existed prior to 2013.

14-2-302. Definitions. In this part 3:

(1) "Amendment" means a modification or revocation of a premarital agreement or marital agreement.

(2) "Marital agreement" means an agreement between spouses who intend to remain married which affirms, modifies, or waives a marital right or obligation during the marriage or at legal separation, marital dissolution, death of one of the spouses, or the occurrence or nonoccurrence of any other event. The term includes an amendment, signed after the spouses marry, of a premarital agreement or marital agreement.

(3) "Marital dissolution" means the ending of a marriage by court decree. The term includes a divorce, dissolution, and annulment.

(4) "Marital right or obligation" means any of the following rights or obligations arising between spouses because of their marital status:

(a) Spousal maintenance;

(b) A right to property, including characterization, management, and ownership;

(c) Responsibility for a liability;

(d) A right to property and responsibility for liabilities at legal separation, marital dissolution, or death of a spouse; or

(e) An award and allocation of attorney's fees and costs.

(5) "Premarital agreement" means an agreement between individuals who intend to marry which affirms, modifies, or waives a marital right or obligation during the marriage or at legal separation, marital dissolution, death of one of the spouses, or the occurrence or nonoccurrence of any other event. The term includes an amendment, signed before the individuals marry, of a premarital agreement.

(6) "Property" means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein, including income and earnings.

(7) "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.

(8) "Sign" means with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1159, § 1, effective July 1, 2014.

Editor's note: This section is similar to former §§ 14-2-302 and 14-2-306 as they existed prior to 2013.

14-2-303. Scope. (1) This part 3 applies to a premarital agreement or marital agreement signed on or after July 1, 2014.

(2) This part 3 does not affect any right, obligation, or liability arising under a premarital agreement or marital agreement signed before July 1, 2014.

(3) This part 3 does not apply to:

(a) An agreement between spouses which affirms, modifies, or waives a marital right or obligation and requires court approval to become effective; or

(b) An agreement between spouses who intend to obtain a marital dissolution or court-decreed legal separation which resolves their marital rights or obligations and is signed when a proceeding for marital dissolution or court-decreed legal separation is anticipated or pending.

(4) This part 3 does not affect adversely the rights of a bona fide purchaser for value to the extent that this part 3 applies to a waiver of a marital right or obligation in a transfer or conveyance of property by a spouse to a third party.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1160, § 1, effective July 1, 2014.

14-2-303.5. Applicability of part and case law to agreements relating to civil unions. Prospective parties to a civil union and present parties to a civil union may contract to make an agreement relating to the civil union that includes any of the rights and obligations that may be included in a premarital agreement or marital agreement pursuant to this part 3. The provisions of this part 3 and any case law construing this part 3 apply to any agreement made by prospective parties to a civil union or between present parties to a civil union.

Source: L. 2013: Entire section added with relocations, (HB 13-1204), ch. 239, p. 1164, § 2, effective July 1, 2014. **L. 2015:** Entire section amended, (SB 15-264), ch. 259, p. 950, § 34, effective August 5.

Editor's note: This section is similar to former § 14-2-307.5 as it existed prior to 2013.

14-2-304. Governing law. (1) The validity, enforceability, interpretation, and construction of a premarital agreement or marital agreement are determined:

(a) By the law of the jurisdiction designated in the agreement if the jurisdiction has a significant relationship to the agreement or either party at the time the agreement was signed and the designated law is not contrary to section 14-2-309 or to a fundamental public policy of this state; or

(b) Absent an effective designation described in paragraph (a) of this subsection (1), by the law of this state, including the choice-of-law rules of this state.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1161, § 1, effective July 1, 2014.

14-2-305. Principles of law and equity. Unless displaced by a provision of this part 3, principles of law and equity supplement this part 3.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1161, § 1, effective July 1, 2014.

14-2-306. Formation requirements. A premarital agreement or marital agreement must be in a record and signed by both parties. The agreement is enforceable without consideration.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1161, § 1, effective July 1, 2014.

Editor's note: This section is similar to former § 14-2-303 as it existed prior to 2013.

14-2-307. When agreement effective. A premarital agreement is effective on marriage. A marital agreement is effective on signing by both parties.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1161, § 1, effective July 1, 2014.

Editor's note: This section is similar to former § 14-2-305 as it existed prior to 2013.

14-2-308. Void marriage. If a marriage is determined to be void, a premarital agreement or marital agreement is enforceable to the extent necessary to avoid an inequitable result.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1161, § 1, effective July 1, 2014.

Editor's note: This section is similar to former § 14-2-308 as it existed prior to 2013.

14-2-309. Enforcement. (1) A premarital agreement or marital agreement is unenforceable if a party against whom enforcement is sought proves:

(a) The party's consent to the agreement was involuntary or the result of duress;

(b) The party did not have access to independent legal representation under subsection (2) of this section;

(c) Unless the party had independent legal representation at the time the agreement was signed, the agreement did not include a notice of waiver of rights under subsection (3) of this section or an explanation in plain language of the marital rights or obligations being modified or waived by the agreement; or

(d) Before signing the agreement, the party did not receive adequate financial disclosure under subsection (4) of this section.

(2) A party has access to independent legal representation if:

(a) Before signing a premarital or marital agreement, the party has a reasonable time to:

(I) Decide whether to retain a lawyer to provide independent legal representation; and

(II) Locate a lawyer to provide independent legal representation, obtain the lawyer's advice, and consider the advice provided; and

(b) The other party is represented by a lawyer and the party has the financial ability to retain a lawyer or the other party agrees to pay the reasonable fees and expenses of independent legal representation.

(3) A notice of waiver of rights under this section requires language, conspicuously displayed, substantially similar to the following, as applicable to the premarital agreement or marital agreement:

If you sign this agreement, you may be:

Giving up your right to be supported by the person you are marrying or to whom you are married.

Giving up your right to ownership or control of money and property.

Agreeing to pay bills and debts of the person you are marrying or to whom you are married.

Giving up your right to money and property if your marriage ends or the person to whom you are married dies.

Giving up your right to have your legal fees paid.

(4) A party has adequate financial disclosure under this section if the party:

(a) Receives a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party; or

(b) [Reserved]

(c) Has adequate knowledge or a reasonable basis for having adequate knowledge of the information described in paragraph (a) of this subsection (4).

(5) A premarital agreement or marital agreement or amendment thereto or revocation thereof that is otherwise enforceable after applying the provisions of subsections (1) to (4) of this section is nevertheless unenforceable insofar, but only insofar, as the provisions of such agreement, amendment, or revocation relate to the determination, modification, limitation, or elimination of spousal maintenance or the waiver or allocation of attorney fees, and such

provisions are unconscionable at the time of enforcement of such provisions. The issue of unconscionability shall be decided by the court as a matter of law.

(6) [Reserved]

(7) [Reserved]

(8) A premarital or marital agreement, or an amendment of either, that is not in a record and signed by both parties is unenforceable.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1161, § 1, effective July 1, 2014. **L. 2015:** (5) amended, (SB 15-264), ch. 259, p. 950, § 35, effective August 5.

Editor's note: This section is similar to former § 14-2-307 as it existed prior to 2013.

14-2-310. Unenforceable terms. (1) In this section, "custodial responsibility" means parental rights and responsibilities, parenting time, access, visitation, or other custodial right or duty with respect to a child.

(2) A term in a premarital agreement or marital agreement is not enforceable to the extent that it:

(a) Adversely affects a child's right to support;

(b) Limits or restricts a remedy available to a victim of domestic violence under law of this state other than this part 3;

(c) Purports to modify the grounds for a court-decreed legal separation or marital dissolution available under law of this state other than this part 3;

(d) Penalizes a party for initiating a legal proceeding leading to a court-decreed legal separation or marital dissolution; or

(e) Violates public policy.

(3) A term in a premarital agreement or marital agreement which defines the rights or duties of the parties regarding custodial responsibility is not binding on the court.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1163, § 1, effective July 1, 2014.

14-2-311. Limitation of action. A statute of limitations applicable to an action asserting a claim for relief under a premarital agreement or marital agreement is tolled during the marriage of the parties to the agreement, but equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1163, § 1, effective July 1, 2014.

Editor's note: This section is similar to former § 14-2-309 as it existed prior to 2013.

14-2-312. Uniformity of application and construction. In applying and construing this uniform act, consideration may be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1164, § 1, effective July 1, 2014.

14-2-313. Relation to electronic signatures in global and national commerce act. This part 3 modifies, limits, or supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

Source: L. 2013: Entire part R&RE, (HB 13-1204), ch. 239, p. 1164, § 1, effective July 1, 2014.

DOMESTIC ABUSE

ARTICLE 4

Domestic Abuse

Cross references: For the "Child Protection Act of 1987", see part 3 of article 3 of title 19; for jurisdiction of county and district courts to issue orders to prevent domestic abuse, see article 14 of title 13; for provisions relating to domestic abuse programs, see article 7.5 of title 26.

14-4-101. Definitions. (Repealed)

Source: L. 82: Entire article added, p. 299, § 1, effective April 23. **L. 89:** (2) amended, p. 783, § 1, effective April 19. **L. 95:** (2) amended, p. 513, § 1, effective July 1. **L. 2004:** Entire section repealed, p. 554, § 5, effective July 1.

14-4-102. Restraining orders to prevent domestic abuse. (Repealed)

Source: L. 82: Entire article added, p. 299, § 1, effective April 23. **L. 89:** Entire section R&RE, p. 783, § 2, effective April 19. **L. 91:** (1) and (5) amended, p. 743, § 5, effective April 4; (7.5) added, p. 420, § 4, effective May 31. **L. 93:** (2)(d)(II) and (7.5) amended, pp. 576, 1725, §§ 3, 2, effective July 1. **L. 94:** (2), (6), (7.5)(b), and (8) amended, p. 933, § 1, effective July 1; (2)(d)(II), (4), and (7) amended and (7.5)(c), (13), and (14) added, p. 2031, §§ 8, 9, effective July 1; (5), (9), and (10) amended and (15) added, p. 2007, § 2, effective January 1, 1995. **L. 95:** (14) amended, pp. 513, 568, §§ 2, 5, effective July 1. **L. 96:** (14) amended, p. 1688, § 17, effective January 1, 1997. **L. 98:** (1) and (5) amended, p. 244, § 3, effective April 13. **L. 99:** Entire section repealed, p. 501, § 6, effective July 1.

14-4-103. Emergency protection orders. (Repealed)

Source: L. 82: Entire article added, p. 300, § 1, effective April 23. **L. 83:** (3)(a) amended, p. 640, § 1, effective April 29. **L. 89:** (3)(a) and (4) amended, p. 785, § 3, effective

April 19. **L. 91:** (4) amended, p. 239, § 1, effective July 1. **L. 96:** (5) amended, p. 1840, § 1, effective July 1. **L. 99:** (4) amended, p. 501, § 7, effective July 1. **L. 2003:** (4) amended, p. 1010, § 12, effective July 1. **L. 2004:** Entire section repealed, p. 554, § 5, effective July 1.

14-4-104. Duties of peace officers - enforcement of emergency protection orders. (Repealed)

Source: L. 82: Entire article added, p. 301, § 1, effective April 23. **L. 85:** Entire section R&RE, p. 585, § 1, effective March 10. **L. 89:** Entire section amended, p. 785, § 4, effective April 19. **L. 91:** (1) amended, p. 420, § 5, effective May 31. **L. 92:** Entire section amended, p. 293, § 3, effective April 23; entire section amended, p. 175, § 1, effective July 1. **L. 94:** Entire section amended, p. 2033, § 10, effective July 1; entire section amended, p. 2007, § 3, effective January 1, 1995. **L. 99:** Entire section amended, p. 502, § 8, effective July 1. **L. 2004:** Entire section repealed, p. 554, § 5, effective July 1.

14-4-105. Violations of orders. A person failing to comply with any order of the court issued pursuant to this article shall be found in contempt of court and, in addition, may be punished as provided in section 18-6-803.5, C.R.S.

Source: L. 82: Entire article added, p. 301, § 1, effective April 23. **L. 91:** Entire section amended, p. 419, § 2, effective May 31.

14-4-106. Venue. (Repealed)

Source: L. 95: Entire section added, p. 569, § 7, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1422), ch. 419, p. 2069, § 24, effective August 11.

14-4-107. Family violence justice fund - creation - grants from fund - definitions. (1) There is hereby established in the state treasury the family violence justice fund, hereafter referred to as the "fund". Pursuant to subsection (3) of this section, the state court administrator is authorized to make grants from the fund directly to qualifying organizations providing civil legal services to indigent residents of the state of Colorado.

(2) Grants from the fund shall be used to fund qualifying organizations to provide legal advice, representation, and advocacy for and on behalf of indigent clients who are victims of family violence. Moneys from the fund may be provided for services that include, but are not limited to:

(a) The provision of direct legal representation to victims of family violence in resolving their civil legal matters and removing impediments to the elimination of family violence. Such representation may include, but need not be limited to, representation in any protection order proceeding; action for dissolution of marriage, legal separation, or declaration of invalidity of marriage; action for dissolution of a civil union, legal separation, or declaration of invalidity of a civil union; paternity action; child custody action; proceeding to establish or enforce child support; administrative hearings; or any other judicial actions in which family violence is an issue or in which legal representation is necessary to protect the interests of a victim of family violence.

(b) The provision of clinics designed to educate and assist indigent victims of family violence in the proceedings set forth in paragraph (a) of this subsection (2);

(c) The provision of legal information and advice to victims of family violence, referrals to appropriate persons or agencies, and the provision of emergency assistance in appropriate cases by telephone, electronic communication, or other appropriate means.

(3) A qualifying organization seeking to receive a grant from the fund shall submit an application each year to the state court administrator on a form provided by such administrator. The application form shall request any information which the administrator may need in determining the qualifications of the organization for receipt of a grant. Commencing July 1, 1999, and quarterly thereafter, the state court administrator shall distribute grants from the fund, subject to available appropriations, to a qualifying organization for each county or city and county based upon the following formula:

(a) The total moneys shall be disbursed in proportion to the number of persons living below the poverty line in each county or city and county as determined by the most recent census published by the bureau of the census of the United States department of commerce.

(b) If there is more than one qualifying organization within a county or city and county, the proportionate share of the fund for such county or city and county disbursed to each such qualifying organization shall be allocated in proportion to the number of indigent family violence clients served by each qualifying organization or its predecessor in the preceding year.

(4) (a) In addition to any appropriation from the general fund, the state court administrator is authorized to accept on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of implementing 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 violence justice fund.

(b) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this section. The state court administrator of the judicial department, subject to annual appropriation by the general assembly, is authorized to expend moneys appropriated to the department from the fund to qualifying organizations for the purposes described in this section; except that the amount expended for indirect costs associated with the administration of this section shall not exceed three percent of the moneys appropriated to the fund in any fiscal year. All investment earnings derived from the deposit and investment of the 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.

(4.5) Notwithstanding any other provision of this section, the state court administrator shall apply the moneys generated from fees collected pursuant to section 13-32-101 (1)(a), (1)(a.5), (1)(b), and (1)(b.5), C.R.S., and transferred pursuant to section 13-32-101 (5)(a)(X) and (5)(b)(II), C.R.S., to grants to qualifying organizations that provide services described in subsection (2) of this section for or on behalf of indigent persons or their families, which persons are married, separated, or divorced or parties to a civil union or an invalidated, legally separated, or dissolved civil union.

(5) For purposes of this section:

(a) "Administrator" means the state court administrator in the state judicial department.

(b) "Family violence" has the same meaning as "domestic abuse" as set forth in section 13-14-101 (2), C.R.S.

(c) "Fund" means the family violence justice fund.

(d) "Indigent" means a person whose income does not exceed one hundred twenty-five percent of the current federal poverty guidelines determined annually by the United States department of health and human services.

(e) "Protection order" has the same meaning as set forth in section 18-6-803.7 (1)(b.5), C.R.S.

(f) "Qualifying organization" means an organization that:

(I) Provides full service civil legal services to indigent clients;

(II) Is based in Colorado;

(III) Is exempt from taxation pursuant to section 501 (c)(3) of the internal revenue code; and

(IV) Obtains more than thirty-three percent of its funding from sources other than grants from the fund.

Source: L. 99: Entire section added, p. 1178, § 5, effective June 2. **L. 2003:** (2)(a) and (5)(e) amended, p. 1010, § 13, effective July 1. **L. 2004:** (5)(b) amended, p. 554, § 9, effective July 1. **L. 2009:** (4.5) added, (SB 09-068), ch. 264, p. 1211, § 6, effective July 1. **L. 2010:** (3)(a) amended, (HB 10-1422), ch. 419, p. 2069, § 25, effective August 11. **L. 2011:** (4.5) amended, (HB 11-1303), ch. 264, p. 1153, § 22, effective August 10. **L. 2013:** (2)(a) and (4.5) amended, (SB 13-011), ch. 49, p. 162, § 12, effective May 1. **L. 2014:** (5)(e) amended, (HB 14-1363), ch. 302, p. 1263, § 10, effective May 31.

Editor's note: In 2003, subsection (5)(e), as enacted in 1999, was relettered on revision as (5)(f), and subsection (5)(f), as enacted in 1999 and as amended by House Bill 03-1117, was relettered on revision as (5)(e) to put the defined terms in alphabetical order. (For House Bill 03-1117, see L. 2003, p. 1010.)

Cross references: For the internal revenue code, see the federal "Internal Revenue Code of 1986", title 26 of the United States Code.

DESERTION AND NONSUPPORT

ARTICLE 5

Uniform Interstate Family
Support Act

Editor's note: (1) This article was numbered as article 2 of chapter 43, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1993, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1993, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers prior to 1993 are shown in editor's notes following those sections that were relocated.

(2) The numbering used in this article conforms to the numbering used in the National Uniform Act and may not parallel the numbering found elsewhere in Colorado Revised Statutes.

Law reviews: For article, "The Colorado Uniform Interstate Family Support Act", see 23 Colo. Law. 2535 (Nov. 1994); for article, "Interstate Family Law Jurisdiction: Simplifying Complex Questions", see 31 Colo. Law. 77 (Sept. 2002); for article, "Colorado's Uniform Interstate Family Support Act: 2004 Changes and Clarifications", see 33 Colo. Law. 99 (Nov. 2004).

PART 1

GENERAL PROVISIONS

Editor's note: (1) This article was repealed and reenacted in 1993, and this part 1 was subsequently amended with relocations in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the article heading. Former C.R.S. section numbers prior to 2003 are shown in editor's notes following those sections that were relocated.

(2) In 1961, this article was enacted as the Uniform Reciprocal Enforcement of Support Act. It was replaced by the Revised Uniform Reciprocal Enforcement of Support Act in 1971, which repealed and reenacted the act and was in effect until 1993 when it was repealed and reenacted into the Uniform Interstate Family Support Act as it existed until 2003 when the article was amended. For the Uniform Reciprocal Enforcement of Support Act, see article 2 of chapter 43, C.R.S. 1963 (L. 61, p. 356). For the Revised Uniform Reciprocal Enforcement of Support Act, see article 2 of chapter 43, C.R.S. 1963 or article 5 of title 14, C.R.S. 1973 (L. 71, p. 515).

14-5-101. Short title. This article shall be known and may be cited as the "Uniform Interstate Family Support Act".

Source: L. 2003: Entire part amended with relocations, p. 1241, § 2, effective July 1, 2004.

Editor's note: In 2003, the former § 14-5-101 was relocated to § 14-5-102.

14-5-102. Definitions. In this article:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(2.5) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(3.3) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(A) Which has been declared under the law of the United States to be a foreign reciprocating country;

(B) Which has established a reciprocal arrangement for child support with this state as provided in section 14-5-308;

(C) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this article; or

(D) In which the convention is in force with respect to the United States.

(3.4) "Foreign support order" means a support order of a foreign tribunal.

(3.5) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(4) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by the income-withholding law of this state, to withhold support from the income of the obligor.

(7) Repealed.

(8) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(8.5) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(9) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(10) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(A) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(B) A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(C) An individual seeking a judgment determining parentage of the individual's child; or

(D) A person that is a creditor in a proceeding under part 7 of this article.

(13) "Obligor" means an individual, or the estate of a decedent that:

(A) Owes or is alleged to owe a duty of support;

(B) Is alleged but has not been adjudicated to be a parent of a child;

(C) Is liable under a support order; or

(D) Is a debtor in a proceeding under part 7 of this article.

(13.5) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(14) "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.

(15) "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.

(16) "Register" means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(17) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(18) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(19) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(20) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(21) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(22) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

(A) Seek enforcement of support orders or laws relating to the duty of support;

(B) Seek establishment or modification of child support;

(C) Request determination of parentage of a child;

(D) Attempt to locate obligors or their assets; or

(E) Request determination of the controlling child support order.

(23) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

(24) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Source: L. 2003: Entire part amended with relocations, p. 1241, § 2, effective July 1, 2004. **L. 2015:** (2), (4), (8), (9), (10), (12), (13), (14), (16) to (19), and (21) to (24) amended,

(2.5), (3.3) to (3.5), (8.5), and (13.5) added, and (7) repealed, (HB 15-1198), ch. 173, p. 543, § 1, effective July 1.

Editor's note: In 2003, this section was formerly numbered as § 14-5-101, and the former § 14-5-102 was relocated to § 14-5-103.

14-5-103. State tribunals and support enforcement agency. (a) The court and the administrative agency are the tribunals of this state.

(b) The county and state child support services agencies are the support enforcement agencies of this state.

Source: L. 2003: Entire part amended with relocations, p. 1243, § 2, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 546, § 2, effective July 1.

Editor's note: In 2003, this section was formerly numbered as § 14-5-102, and the former § 14-5-103 was relocated to § 14-5-104.

14-5-104. Remedies cumulative. (a) Remedies provided by this article are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) This article does not:

(1) Provide the exclusive method of establishing or enforcing a support order under the laws of this state; or

(2) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this article.

Source: L. 2003: Entire part amended with relocations, p. 1243, § 2, effective July 1, 2004. **L. 2015:** (a) amended, (HB 15-1198), ch. 173, p. 546, § 3, effective July 1.

Editor's note: In 2003, this section was formerly numbered as § 14-5-103.

14-5-105. Application of article to resident of foreign country and foreign support proceeding. (a) A tribunal of this state shall apply parts 1 through 6 of this article and, as applicable, part 7 of this article, to a support proceeding involving:

(1) A foreign support order;

(2) A foreign tribunal; or

(3) An obligee, obligor, or child residing in a foreign country.

(b) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of parts 1 through 6.

(c) Part 7 of this article applies only to a support proceeding under the Convention. In such a proceeding, if a provision of part 7 of this article is inconsistent with parts 1 through 6 of this article, part 7 of this article controls.

Source: L. 2015: Entire section added, (HB 15-1198), ch. 173, p. 546, § 4, effective July 1.

PART 2

JURISDICTION

14-5-201. Bases for jurisdiction over nonresident. (a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with a summons within this state;

(2) The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or

(7) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 14-5-611 are met, or in the case of a foreign support order, unless the requirements of section 14-5-615 are met.

Source: L. 93: Entire article R&RE, p. 1584, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1244, § 3, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 547, § 5, effective July 1.

14-5-202. Duration of personal jurisdiction. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this article or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 14-5-205, 14-5-206, and 14-5-211.

Source: L. 93: Entire article R&RE, p. 1584, § 1, effective January 1, 1995. **L. 97:** Entire section amended, p. 534, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1244, § 4, effective July 1, 2004.

14-5-203. Initiating and responding tribunals of this state. Under this article, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state, and as a responding tribunal for proceedings initiated in another state or a foreign country.

Source: L. 93: Entire article R&RE, p. 1585, § 1, effective January 1, 1995. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 548, § 6, effective July 1.

14-5-204. Simultaneous proceedings. (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(1) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(2) The contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(3) If relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(1) The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) The contesting party timely challenges the exercise of jurisdiction in this state; and

(3) If relevant, the other state or foreign country is the home state of the child.

Source: L. 93: Entire article R&RE, p. 1585, § 1, effective January 1, 1995. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 548, § 7, effective July 1.

14-5-205. Continuing, exclusive jurisdiction to modify child support order. (a) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(1) At the time of the filing of a request for modification, this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(b) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(2) Its order is not the controlling order.

(c) If a tribunal of another state has issued a child support order pursuant to the "Uniform Interstate Family Support Act", or a law substantially similar to that act, which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) (Deleted by amendment, L. 2003, p. 1245, § 5, effective July 1, 2004.)

Source: L. 93: Entire article R&RE, p. 1585, § 1, effective January 1, 1995. **L. 97:** (a)(2), (b), IP(c), and (d) amended, p. 534, § 3, effective July 1. **L. 2003:** Entire section amended, p. 1245, § 5, effective July 1, 2004.

14-5-206. Continuing jurisdiction to enforce child support order. (a) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the "Uniform Interstate Family Support Act"; or

(2) A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(b) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

(c) (Deleted by amendment, L. 2003, p. 1246, § 6, effective July 1, 2004.)

Source: L. 93: Entire article R&RE, p. 1586, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1246, § 6, effective July 1, 2004. **L. 2015:** (a)(2) amended, (HB 15-1198), ch. 173, p. 548, § 8, effective July 1.

14-5-207. Determination of controlling child support order. (a) If a proceeding is brought under this article and only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

(b) If a proceeding is brought under this article, and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this article, the order of that tribunal controls.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this article:

(A) An order issued by a tribunal in the current home state of the child controls; or

(B) If an order has not been issued in the current home state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this article, the tribunal of this state shall issue a child support order, which controls.

(c) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to part 6 of this article, or may be filed as a separate proceeding.

(d) A request to determine which is the controlling order shall be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(e) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section has continuing jurisdiction to the extent provided in section 14-5-205 or 14-5-206.

(f) A tribunal of this state that determines by order which is the controlling order under subsection (b)(1), (b)(2), or (c) of this section, or that issues a new controlling order under subsection (b)(3) of this section, shall state in that order:

(1) The basis upon which the tribunal made its determination;

(2) The amount of prospective support, if any; and

(3) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by section 14-5-209.

(g) Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section shall be recognized in proceedings under this article.

Source: L. 93: Entire article R&RE, p. 1587, § 1, effective January 1, 1995. **L. 97:** Entire section amended, p. 535, § 4, effective July 1. **L. 2003:** Entire section amended, p. 1246, § 7, effective July 1, 2004. **L. 2015:** (a), (b), and (c) amended, (HB 15-1198), ch. 173, p. 548, § 9, effective July 1.

14-5-208. Child support orders for two or more obligees. In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

Source: L. 93: Entire article R&RE, p. 1587, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1248, § 8, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 549, § 10, effective July 1.

14-5-209. Credit for payment. A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country.

Source: L. 93: Entire article R&RE, p. 1588, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1248, § 9, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 549, § 11, effective July 1.

14-5-210. Application of article to nonresident subject to personal jurisdiction. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this article, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to section 14-5-316, communicate with a tribunal outside this state pursuant to section 14-5-317, and obtain discovery through a tribunal outside this state pursuant to section 14-5-318. In all other respects, parts 3 to 6 of this article do not apply, and the tribunal shall apply the procedural and substantive law of this state.

Source: L. 2003: Entire section added, p. 1248, § 10, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 550, § 12, effective July 1.

14-5-211. Continuing, exclusive jurisdiction to modify spousal-support order. (a) A tribunal of this state issuing a spousal-support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal-support order throughout the existence of the support obligation.

(b) A tribunal of this state may not modify a spousal-support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal-support order may serve as:

(1) An initiating tribunal to request a tribunal of another state to enforce the spousal-support order issued in this state; or

(2) A responding tribunal to enforce or modify its own spousal-support order.

Source: L. 2003: Entire section added, p. 1248, § 10, effective July 1, 2004. **L. 2015:** (b) amended, (HB 15-1198), ch. 173, p. 550, § 13, effective July 1.

PART 3

CIVIL PROVISIONS OF GENERAL APPLICATION

INTRODUCTORY COMMENT

This article adds a wide variety of procedural provisions to existing statutory and procedural rules for civil cases. If there is a conflict between those provisions found

for other litigation and UIFSA rules set forth in this article, obviously UIFSA rules prevail. For example, it is unlikely that a state will have a provision for testimony by telephone or audiovisual means in a final hearing. Section 316 of this act creates such a right for an out-of-state individual. Revisions in this article shift the perspective slightly to accommodate the inclusion of a foreign support order in the equation. Many, but notall, of the provisions in this article are based upon the fact that a party does not "reside in this state." Application of these provisions is not solely based on whether the absent party resides in "another state," as formerly was the case. Rather, three distinct formulations are employed depending on the intended application of the provisions: "residing in a state;" "residing in . . . a foreign country;" or "residing outside this state." The third alternative is intentionally the broadest because it includes persons residing anywhere and is not limited to persons residing in a "foreign country" as defined in Section 102.

14-5-301. Proceedings under article. (a) Except as otherwise provided in this article, this part 3 applies to all proceedings under this article.

(b) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this article by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or foreign country which has or can obtain personal jurisdiction over the respondent.

(c) (Deleted by amendment, L. 2003, p. 1249, § 11, effective July 1, 2004.)

Source: L. 93: Entire article R&RE, p. 1588, § 1, effective January 1, 1995. **L. 94:** (b)(1) amended, p. 1547, § 26, effective January 1, 1995. **L. 96:** (b)(1) amended, p. 593, § 4, effective July 1. **L. 97:** (b)(1) amended, p. 536, § 5, effective July 1. **L. 2003:** Entire section amended, p. 1249, § 11, effective July 1, 2004. **L. 2015:** (b) amended, (HB 15-1198), ch. 173, p. 550, § 14, effective July 1.

14-5-302. Proceeding by minor parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Source: L. 93: Entire article R&RE, p. 1588, § 1, effective January 1, 1995.

Editor's note: This section is similar to former § 14-5-114 as it existed prior to 1993.

14-5-303. Application of law of this state. Except as otherwise provided in this article, a responding tribunal of this state shall:

(1) Apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Source: L. 93: Entire article R&RE, p. 1589, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1250, § 12, effective July 1, 2004.

14-5-304. Duties of initiating tribunal. (a) Upon the filing of a petition authorized by this article, an initiating tribunal of this state shall forward the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

Source: L. 93: Entire article R&RE, p. 1589, § 1, effective January 1, 1995. **L. 97:** Entire section amended, p. 537, § 6, effective July 1. **L. 2003:** Entire section amended, p. 1250, § 13, effective July 1, 2004. **L. 2015:** (b) amended, (HB 15-1198), ch. 173, p. 550, § 15, effective July 1.

Editor's note: This section is similar to former § 14-5-115 as it existed prior to 1993.

14-5-305. Duties and powers of responding tribunal. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 14-5-301 (b), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(1) Establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) Order income withholding;

(4) Determine the amount of any arrearages, and specify a method of payment;

(5) Enforce orders by civil or criminal contempt, or both;

(6) Set aside property for satisfaction of the support order;

(7) Place liens and order execution on the obligor's property;

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, electronic-mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) Order the obligor to seek appropriate employment by specified methods;

(11) Award reasonable attorney's fees and other fees and costs; and

(12) Grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this article, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this article upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this article, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Source: L. 93: Entire article R&RE, p. 1589, § 1, effective January 1, 1995. **L. 97:** (a) and (e) amended, p. 537, § 7, effective July 1. **L. 2003:** (a), IP(b), and (b)(1) amended and (f) added, p. 1251, § 14, effective July 1, 2004. **L. 2015:** (b)(1) and (b)(8) amended, (HB 15-1198), ch. 173, p. 550, § 16, effective July 1.

Editor's note: This section is similar to former §§ 14-5-119, 14-5-120, and 14-5-127 as they existed prior to 1993.

14-5-306. Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this state or another state and notify the petitioner where and when the pleading was sent.

Source: L. 93: Entire article R&RE, p. 1590, § 1, effective January 1, 1995. **L. 97:** Entire section amended, p. 537, § 8, effective July 1. **L. 2003:** Entire section amended, p. 1251, § 15, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 551, § 17, effective July 1.

14-5-307. Duties of support enforcement agency. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this article.

(b) A support enforcement agency of this state that is providing services to the petitioner shall:

(1) Take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) Request an appropriate tribunal to set a date, time, and place for a hearing;

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(1) To ensure that the order to be registered is the controlling order; or

(2) If two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(d) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 14-5-319.

(f) This article does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Source: L. 93: Entire article R&RE, p. 1590, § 1, effective January 1, 1995. **L. 97:** (b)(4) and (b)(5) amended, p. 537, § 9, effective July 1. **L. 2003:** Entire section amended, p. 1251, § 16,

effective July 1, 2004. **L. 2015:** (b)(1), (b)(4), (b)(5), and (e) amended, (HB 15-1198), ch. 173, p. 551, § 18, effective July 1.

14-5-308. Duty of attorney general. (a) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this article or may provide those services directly to the individual.

(b) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

Source: L. 93: Entire article R&RE, p. 1591, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1252, § 17, effective July 1, 2004. **L. 2015:** (b) amended, (HB 15-1198), ch. 173, p. 551, § 19, effective July 1.

Editor's note: This section is similar to former § 14-5-113 as it existed prior to 1993.

14-5-309. Private counsel. An individual may employ private counsel to represent the individual in proceedings authorized by this article.

Source: L. 93: Entire article R&RE, p. 1591, § 1, effective January 1, 1995.

14-5-310. Duties of state information agency. (a) The state department of human services is the state information agency under this article.

(b) The state information agency shall:

(1) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this article and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(3) Forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this article received from another state or a foreign country; and

(4) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Source: L. 93: Entire article R&RE, p. 1591, § 1, effective January 1, 1995. **L. 94:** (a) amended, p. 2644, § 102, effective July 1. **L. 2003:** (b)(2) and (b)(3) amended, p. 1252, § 18, effective July 1, 2004. **L. 2015:** (b)(3) amended, (HB 15-1198), ch. 173, p. 551, § 20, effective July 1.

Editor's note: This section is similar to former § 14-5-118 as it existed prior to 1993.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (a), see section 1 of chapter 345, Session Laws of Colorado 1994.

14-5-311. Pleadings and accompanying documents. (a) In a proceeding under this article, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under section 14-5-312, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Source: L. 93: Entire article R&RE, p. 1592, § 1, effective January 1, 1995. **L. 97:** (a) amended, p. 538, § 10, effective July 1. **L. 2003:** (a) amended, p. 1253, § 19, effective July 1, 2004. **L. 2015:** (a) amended, (HB 15-1198), ch. 173, p. 552, § 21, effective July 1.

Editor's note: This section is similar to former § 14-5-112 as it existed prior to 1993.

14-5-312. Nondisclosure of information in exceptional circumstances. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Source: L. 93: Entire article R&RE, p. 1592, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1253, § 20, effective July 1, 2004.

14-5-313. Costs and fees. (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under part 6 of this article, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Source: L. 93: Entire article R&RE, p. 1592, § 1, effective January 1, 1995. **L. 2003:** (c) amended, p. 1253, § 21, effective July 1, 2004. **L. 2015:** (b) amended, (HB 15-1198), ch. 173, p. 552, § 22, effective July 1.

Editor's note: This section is similar to former § 14-5-116 as it existed prior to 1993.

14-5-314. Limited immunity of petitioner. (a) Participation by a petitioner in a proceeding under this article before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this article.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this article committed by a party while physically present in this state to participate in the proceeding.

Source: L. 93: Entire article R&RE, p. 1593, § 1, effective January 1, 1995. **L. 2003:** (a) and (c) amended, p. 1254, § 22, effective July 1, 2004.

14-5-315. Nonparentage as defense. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this article.

Source: L. 93: Entire article R&RE, p. 1593, § 1, effective January 1, 1995.

Editor's note: This section is similar to former § 14-5-128 as it existed prior to 1993.

14-5-316. Special rules of evidence and procedure. (a) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this article, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this article.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this article.

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Source: L. 93: Entire article R&RE, p. 1593, § 1, effective January 1, 1995. **L. 2003:** (a), (b), (e), and (f) amended and (j) added, p. 1254, § 23, effective July 1, 2004. **L. 2015:** (a), (b), (d), (e), and (f) amended, (HB 15-1198), ch. 173, p. 552, § 23, effective July 1.

Editor's note: This section is similar to former §§ 14-5-121 and 14-5-124 as they existed prior to 1993.

Cross references: For privileged evidence of husband and wife generally, see §§ 13-90-107 and 13-90-108.

14-5-317. Communications between tribunals. A tribunal of this state may communicate with a tribunal outside this state in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

Source: L. 93: Entire article R&RE, p. 1594, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1254, § 24, effective July 1, 2004. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 553, § 24, effective July 1.

14-5-318. Assistance with discovery. A tribunal of this state may:

(1) Request a tribunal outside this state to assist in obtaining discovery; and

(2) Upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

Source: L. 93: Entire article R&RE, p. 1594, § 1, effective January 1, 1995. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 553, § 25, effective July 1.

14-5-319. Receipt and disbursement of payments. (a) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:

(1) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(2) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (b) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Source: L. 93: Entire article R&RE, p. 1594, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1255, § 25, effective July 1, 2004. **L. 2015:** (a) amended, (HB 15-1198), ch. 173, p. 553, § 26, effective July 1.

PART 4

ESTABLISHMENT OF SUPPORT ORDER
OR DETERMINATION OF PARENTAGE

COMMENT

A fundamental principle of U.S. jurisprudence is that our courts are open to litigants with a valid cause of action. Thisarticle makes clear this principle applies to support actions, whether initiated by a resident of the United States or of a foreign nation.

14-5-401. Establishment of support order. (a) If a support order entitled to recognition under this article has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

(1) The individual seeking the order resides outside this state; or

(2) The support enforcement agency seeking the order is located outside this state.

(b) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) A presumed father of the child;

(2) Petitioning to have his paternity adjudicated;

(3) Identified as the father of the child through genetic testing;

(4) An alleged father who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the father of the child;

(6) An acknowledged father as provided by section 19-4-105 (1)(e), C.R.S.;

(7) The mother of the child; or

(8) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 14-5-305.

Source: L. 93: Entire article R&RE, p. 1594, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1255, § 26, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 553, § 27, effective July 1.

Editor's note: This section is similar to former § 14-5-105 as it existed prior to 1993.

14-5-402. Proceeding to determine parentage. A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine

parentage of a child brought under this article or a law or procedure substantially similar to this article.

Source: L. 2015: Entire part amended, (HB 15-1198), ch. 173, p. 554, § 27, effective July 1.

PART 5

ENFORCEMENT OF ORDER OF
ANOTHER STATE WITHOUT REGISTRATION

Editor's note: This article was repealed and reenacted in 1993, and this part 5 was subsequently amended with relocations in 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 5 prior to 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the article heading. Former C.R.S. section numbers prior to 1997 are shown in editor's notes following those sections that were relocated.

INTRODUCTORY COMMENT

This article governs direct filing of an income withholding order from one state to an employer in another state. Except as provided in Section 507, the provisions of this article only apply to an interstate case and do not apply to an income-withholding order from a foreign country. While U.S. employers routinely enforce sister state income- withholding orders, enforcement of the widevariety of possible foreign support orders would provide too many complexities and challenges to justify requiring an employer to interpret and enforce an ostensible foreign income-withholding order. Indeed, income- withholding orders from a foreign country are quite rare at this time, although instances of that enforcement remedy probably will increase in the future.

14-5-501. Employer's receipt of income-withholding order of another state. An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Source: L. 97: Entire part amended with relocations, p. 538, § 11, effective July 1; entire section amended, p. 1263, § 5, effective July 1. **L. 2000:** Entire section amended, p. 1709, § 4, effective July 1. **L. 2003:** Entire section amended, p. 1256, § 27, effective July 1, 2004.

Editor's note: This section was formerly numbered as § 14-5-501 IP(a), and the other provisions of former § 14-5-501 were relocated to § 14-5-502 in 1997.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of Colorado 1997.

14-5-502. Employer's compliance with income-withholding order of another state. (a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as otherwise provided in subsection (d) of this section and section 14-5-503 the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) The duration and amount of periodic payments of current child support, stated as a sum certain;

(2) The person designated to receive payments and the address to which the payments are to be forwarded;

(3) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) The employer's fee for processing an income-withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income; and

(3) The times within which the employer must implement the withholding order and forward the child support payment.

Source: L. 97: Entire part amended with relocations, p. 539, § 11, effective July 1; (b) amended, p. 1264, § 6, effective July 1. **L. 98:** (b) amended, p. 753, § 1, effective July 1. **L. 2000:** (b) amended, p. 1709, § 5, effective July 1. **L. 2003:** (c)(2) amended, p. 1256, § 28, effective July 1, 2004.

Editor's note: This section was formerly numbered as § 14-5-501 (a)(1), (a)(2), and (a)(3), and the former § 14-5-502 was relocated to § 14-5-507.

Cross references: For the legislative declaration contained in the 1997 act amending subsection (b), see section 1 of chapter 236, Session Laws of Colorado 1997.

14-5-503. Employer's compliance with two or more income-withholding orders. If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child support obligees.

Source: L. 97: Entire part amended with relocations, p. 540, § 11, effective July 1. **L. 2003:** Entire section amended, p. 1256, § 29, effective July 1, 2004.

14-5-504. Immunity from civil liability. An employer that complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Source: L. 97: Entire part amended with relocations, p. 540, § 11, effective July 1. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 554, § 28, effective July 1.

14-5-505. Penalties for noncompliance. An employer that willfully fails to comply with an income-withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Source: L. 97: Entire part amended with relocations, p. 540, § 11, effective July 1. **L. 2015:** Entire section amended, (HB 15-1198), ch. 173, p. 554, § 29, effective July 1.

14-5-506. Contest by obligor. (a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in part 6 of this article, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state.

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) Each employer that has directly received an income-withholding order relating to the obligor; and

(3) The person designated to receive payments in the income-withholding order or if no person is designated, to the obligee.

Source: L. 97: Entire part amended with relocations, p. 540, § 11, effective July 1. **L. 2003:** Entire section amended, p. 1256, § 30, effective July 1, 2004.

14-5-507. Administrative enforcement of orders. (a) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this article.

Source: L. 97: Entire part amended with relocations, p. 540, § 11, effective July 1. **L. 2003:** (a) amended, p. 1257, § 31, effective July 1, 2004. **L. 2015:** (a) amended, (HB 15-1198), ch. 173, p. 554, § 30, effective July 1.

Editor's note: This section was formerly numbered as § 14-5-502.

PART 6

REGISTRATION, ENFORCEMENT, AND MODIFICATION
OF SUPPORT ORDER

INTRODUCTORY COMMENT

Sections 601 through 604 establish the basic procedure for the registration of a support order from another state or a foreign support order. Under RURESA when a tribunal of a responding state was requested to register and enforce an existing child-support order, the common practice was to ignore the request; rather, a separate proceeding would be initiated for the establishment of a new support order. This practice was specifically rejected by UIFSA; this practice under RURESA created the multiple support-order system that UIFSA was specifically designed to eliminate. Under Sections 205 through 207 the one-order system allows only one existing order to be enforced prospectively.

Sections 605 through 608 provide theprocedure for the nonregistering party to contest registration of an order, either because the order is allegedly invalid, superseded, or no longer in effect, or

because the enforcement remedy being sought is opposed by the nonregistering party. Other enforcement remedies may be available without resort to the UIFSA process under the law of the responding state. *See* Section 104.

The registration and enforcement provisions in Sections 601 through 608 are consistent with the "recognition and enforcement" provisions of the Convention. The terms of this article and Article 7 suffice to direct international support orders into the proper channels.

SUBPART A

REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

14-5-601. Registration of order for enforcement. A support order or income-withholding order issued in another state or a foreign support order may be registered in this state for enforcement.

Source: L. 93: Entire article R&RE, p. 1596, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1257, § 32, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 555, § 31, effective July 1.

14-5-602. Procedure to register order for enforcement. (a) Except as otherwise provided in section 14-5-706, a support order or income-withholding order of another state or a foreign support order may be registered in this state by sending the following records to the appropriate tribunal in this state:

(1) A letter of transmittal to the tribunal requesting registration and enforcement;

(2) Two copies, including one certified copy, of the order to be registered, including any modification of the order;

(3) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) The name of the obligor and, if known:

(A) The obligor's address and social security number;

(B) The name and address of the obligor's employer and any other source of income of the obligor; and

(C) A description and the location of property of the obligor in this state not exempt from execution; and

(5) Except as otherwise provided in section 14-5-312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) If two or more orders are in effect, the person requesting registration shall:

(1) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(2) Specify the order alleged to be the controlling order, if any; and

(3) Specify the amount of consolidated arrears, if any.

(e) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Source: L. 93: Entire article R&RE, p. 1596, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1257, § 33, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 555, § 31, effective July 1.

Editor's note: This section is similar to former § 14-5-140 as it existed prior to 1993.

14-5-603. Effect of registration for enforcement. (a) A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

(b) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in this part 6, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

Source: L. 93: Entire article R&RE, p. 1597, § 1, effective January 1, 1995. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 556, § 31, effective July 1.

Editor's note: This section is similar to former § 14-5-141 as it existed prior to 1993.

14-5-604. Choice of law. (a) Except as otherwise provided in subsection (d) of this section, the law of the issuing state or foreign country governs:

(1) The nature, extent, amount, and duration of current payments under a registered support order;

(2) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(3) The existence and satisfaction of other obligations under the support order.

(b) In a proceeding for arrears under a registered support order, the statute of limitation of this state, or of the issuing state or foreign country, whichever is longer, applies.

(c) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and to collect arrears and interest due on a support order of another state or a foreign country registered in this state.

(d) After a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

Source: L. 93: Entire article R&RE, p. 1597, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1258, § 34, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 556, § 31, effective July 1.

Editor's note: This section is similar to former § 14-5-108 as it existed prior to 1993.

SUBPART B

CONTEST OF VALIDITY OR ENFORCEMENT

14-5-605. Notice of registration of order. (a) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the nonregistering party:

(1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is under section 14-5-707;

(3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) Of the amount of any alleged arrearages.

(c) If the registering party asserts that two or more orders are in effect, a notice must also:

(1) Identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) Notify the nonregistering party of the right to a determination of which is the controlling order;

(3) State that the procedures provided in subsection (b) of this section apply to the determination of which is the controlling order; and

(4) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state.

Source: L. 93: Entire article R&RE, p. 1597, § 1, effective January 1, 1995. **L. 97:** (a) and (b)(2) amended, p. 540, § 12, effective July 1. **L. 2003:** (b) and (c) amended and (d) added, p. 1259, § 35, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 557, § 31, effective July 1.

14-5-606. Procedure to contest validity or enforcement of registered support order. (a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by section 14-5-605. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 14-5-607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Source: L. 93: Entire article R&RE, p. 1598, § 1, effective January 1, 1995. **L. 97:** (a) and (c) amended, p. 541, § 13, effective July 1. **L. 2003:** (a) amended, p. 1260, § 36, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 557, § 31, effective July 1.

14-5-607. Contest of registration or enforcement. (a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party;

(2) The order was obtained by fraud;

(3) The order has been vacated, suspended, or modified by a later order;

(4) The issuing tribunal has stayed the order pending appeal;

(5) There is a defense under the law of this state to the remedy sought;

(6) Full or partial payment has been made;

(7) The statute of limitation under section 14-5-604 precludes enforcement of some or all of the alleged arrearages; or

(8) The alleged controlling order is not the controlling order.

(b) If a party presents evidence establishing a full or partial defense under subsection (a) of this section, a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) of this section to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

Source: L. 93: Entire article R&RE, p. 1598, § 1, effective January 1, 1995. **L. 2003:** (a)(6) and (a)(7) amended and (a)(8) added, p. 1260, § 37, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 558, § 31, effective July 1.

14-5-608. Confirmed order. Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Source: L. 93: Entire article R&RE, p. 1599, § 1, effective January 1, 1995. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 558, § 31, effective July 1.

SUBPART C

REGISTRATION AND MODIFICATION
OF CHILD SUPPORT ORDER OF ANOTHER STATE

INTRODUCTORY COMMENT

Authority to modify a child-support order of another state depends on the interaction of these sections with the continuing, exclusive jurisdiction of the issuing tribunal. *See* Sections 205 through 206. This also might involve the determination of the controlling order in asituation involving multiple child-support orders. These concepts are not present in the international context. *See* Sections 615, 616, and 711. Thus, modification of a support order from a foreign country other than a Convention country is not governed by Sections 609-614, but is subject to Sections615-616, *infra*.

Sections 609 through 614 apply only to modification of an interstate child-support order. Most of the act applies to "a support order," which includes both child-support and spousal support. Both categories are

generally subject to interstate enforcement under UIFSA. But, as a practical matter, the actual process of that enforcement is quite different. Child support is enforced almost exclusively by governmentally sponsored Title IV-D agencies, which also may enforce spousal support if it is included in the same order. In some states, local funds are appropriated forenforcement of spousal support as well. Only occasionally will a private attorney be involved in a child-support case, but spousal support not issued in conjunction with a child-support order generally requires representation pro se or by private counsel. More importantly, a tribunal of a responding state may enforce spousal support, but it does not have authority to modify a spousal-support order of another state or foreign country unless the law of that jurisdiction does not assert continuing, exclusive jurisdiction over its order. *See* Section 211.

14-5-609. Procedure to register child support order of another state for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 14-5-601 through 14-5-608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Source: L. 93: Entire article R&RE, p. 1599, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1260, § 38, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 559, § 31, effective July 1.

Editor's note: This section is similar to former § 14-5-110 as it existed prior to 1993.

14-5-610. Effect of registration for modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of section 14-5-611 or 14-5-613 have been met.

Source: L. 93: Entire article R&RE, p. 1599, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1260, § 39, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 559, § 31, effective July 1.

14-5-611. Modification of child support order of another state. (a) If section 14-5-613 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which order is registered in this state if, after notice and hearing, the tribunal finds that:

(1) The following requirements are met:

(A) Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(B) A petitioner who is a nonresident of this state seeks modification; and

(C) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) This state is the residence of the child or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under section 14-5-207 establishes the aspects of the support order which are nonmodifiable.

(d) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(e) On issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

(f) Notwithstanding subsections (a) through (e) of this section and section 14-5-201 (b), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(1) One party resides in another state; and

(2) The other party resides outside the United States.

Source: L. 93: Entire article R&RE, p. 1599, § 1, effective January 1, 1995. **L. 97:** Entire section amended, p. 541, § 14, effective July 1. **L. 2003:** Entire section amended, p. 1260, § 40, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 559, § 31, effective July 1.

14-5-612. Recognition of order modified in another state. If a child support order issued by a tribunal of this state is modified by a tribunal of another state which assumed jurisdiction pursuant to the "Uniform Interstate Family Support Act", a tribunal of this state:

(1) May enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) May provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

(4) (Deleted by amendment, L. 2003, p. 1261, 41, effective July 1, 2004.)

Source: L. 93: Entire article R&RE, p. 1600, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1261, § 41, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 560, § 31, effective July 1.

Editor's note: This section is similar to former § 14-5-110 as it existed prior to 1993.

14-5-613. Jurisdiction to modify child support order of another state when individual parties reside in this state. (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of parts 1 and 2 of this article, this part 6, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Parts 3, 4, 5, 7, and 8 of this article do not apply.

Source: L. 97: Entire section added, p. 542, § 15, effective July 1. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 560, § 31, effective July 1.

14-5-614. Notice to issuing tribunal of modification. Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Source: L. 97: Entire section added, p. 542, § 15, effective July 1. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 560, § 31, effective July 1.

SUBPART D

REGISTRATION AND MODIFICATION
OF FOREIGN CHILD SUPPORT ORDER

14-5-615. Jurisdiction to modify child support order of foreign country. (a) Except as otherwise provided in section 14-5-711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to section 14-5-611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(b) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

Source: L. 2003: Entire section added, p. 1262, § 42, effective July 1, 2004. **L. 2015:** Entire part amended, (HB 15-1198), ch. 173, p. 561, § 31, effective July 1.

14-5-616. Procedure to register child support order of foreign country for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the Convention may register that order in this state under sections 14-5-601 through 14-5-608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

Source: L. 2015: Entire part amended, (HB 15-1198), ch. 173, p. 561, § 31, effective July 1.

PART 7

SUPPORT PROCEEDING UNDER CONVENTION

Editor's note: This article was repealed and reenacted in 1993, and this part 7 was subsequently repealed and reenacted in 2015 resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 7 prior to 2015, consult the 2014 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

INTRODUCTORY COMMENT

This article contains provisions adapted from the Convention that could not be readily integrated into the existing body of Articles 1 through 6. For the most part, extending the coverage of UIFSA (2008) to foreign countries was a satisfactory solution to merge the appropriate Convention terms into this act. In understanding this process, it must be clearly stated that the terms of the Convention are not substantive law.

The Convention is a multilateral treaty which binds the United States and the

other Convention countries to assure compliance. As such, it will be the law of the land; but thetreaty is not self-executing. *See*, Medellin v. Texas, 552 U.S. 491, 128 S.Ct. 1346, 170 L.Ed.2d 190 (2008). Thus, the ultimate enforcement of the treaty in the United States is dependent on the key implementing federal law and the enactment of both federal and state legislation which provide the mechanism for enforcing the requirements of the Convention. This act is predicated on the principle that the enactment of UIFSA (2008) in all States and federal jurisdictions will effectively implement the Convention through state law by amending Articles 1 through 6, plus the addition of this article. The treaty, inessence, establishes the framework for a system of international cooperation by emulating the interstate effect of UIFSA for international cases, especially those affected by the Convention.

In relatively few instances, the provisions of the Convention are sufficiently specific that a choice was made between amending UIFSA accordingly, with a disproportionate effect on all support orders enforced under state law, or accommodating potential conflicts by creating a separate article to apply only to Convention support orders. The choice was to draft this article as state law to minimize disruption to interstate support orders, which constitute the vast majority of orders processed under UIFSA. Note that this act is the substantive and procedural state law for: (1) responding to an application for establishment, recognition and enforcement, or modification of a Convention support order; and, (2) initiating an application to a Convention country for similar action.

The four Hague maintenance conventions that preceded the 2007 Convention, and the three prior versions of UIFSA, have common goals. The distinctions between the jurisdictional rules in the common-law tradition in the United States, and the civil law systems in most of the countries that were parties to the earlier maintenance conventions, were obstacles to participation of the United States in any of the multilateral maintenance treaties. As the world has grown smaller and globalization has become the order of the day, reconciling the differences has become more and more important. Understanding the necessity for accommodation has made the task easier. This is not to say easy, as evidenced by the fact that the formal negotiations leading to the final text of the Convention spanned from May, 2003, to November, 2007.

The United States signed theConvention on November 23, 2007 and the Senate gave its advice and consent to ratification in 2010. Enabling federal legislation was enacted on September 29, 2014 which requires all states to enact UIFSA (2008) by the end of 2015. At that point the United States will deposit its instrument of ratification and the Convention will enter into force in the United States.

UIFSA (2008) and the 2007 Convention have far more in common than did former uniform acts and maintenance conventions, and, in fact, many provisions of the Convention are modeled on UIFSA principles. The negotiations demonstrated that it is possible to draft an international convention, which incorporates core UIFSA principles into a system for the establishment and enforcement of child

support and spousal-support orders across international borders, and creates an efficient, economical, and expeditious procedure to accomplish these goals. Matters in common, however, go far beyond identical goals. The negotiations provided an opportunity for an extended interchange of ideas about how to adapt legal mechanisms to facilitate child support enforcement between otherwise disparate legal systems.

International cross-border enforcement has been far more important in Western Europe, and more recently, throughout the countries of the European Union than has been the case in the United States. On the other hand, experience with establishment and enforcement of interstate child-support orders in the United States has been building since 1950, and accelerated rapidly with enactment of Title IV-D of the Social Security Act in 1975. Clearly, the issues are far easier to deal with nationally because of the common language, currency, and legal system, and, since 1996, with the Title IV-D requirement that all states enact the same version of UIFSA. In fact, since the advent of UIFSAand Title IV-D, millions of interstate cases have been processed through the child support enforcement system and thousands of support orders from other countries have also been registered and enforced in the United States because UIFSA treated such orders as if they had been entered by one of the states. In the future, in Convention countries, this country's orders will be entitled to similar treatment. The entry into force of the Convention is designed to further improve the process and will most certainly lead in a few years to a substantial increase in international cases, both incoming and outgoing.

To create UIFSA (2008), it was necessary to integrate the texts of UIFSA (2001) and the Convention. This did not present a significant drafting challenge for the most part. By far the most common amendment in Articles 1 through 6 is to substitute "state or foreign country" for the term "state." These simple amendments expanded a majority of this act to cover foreign support orders. In this article statutory directions are given to "a tribunal of this state," and also to a "governmental entity, individual petitioner, support enforcement agency, or a party."

14-5-701. Definitions. In this part 7:

(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in section 14-5-102 (3.3)(D) to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in section 14-5-102 (3.3)(D).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in section 14-5-102 (3.3)(D) to perform the functions specified in the Convention.

(6) "Foreign support agreement":

(A) Means an agreement for support in a record that:

(i) Is enforceable as a support order in the country of origin;

(ii) Has been:

(I) Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(II) Authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) May be reviewed and modified by a foreign tribunal; and

(B) Includes a maintenance arrangement or authentic instrument under the Convention.

(7) "United States central authority" means the secretary of the United States department of health and human services.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 561, § 32, effective July 1.

14-5-702. Applicability. This part 7 applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this part 7 is inconsistent with parts 1 through 6 of this article, this part 7 controls.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 562, § 32, effective July 1.

14-5-703. Relationship of state department of human services to United States central authority. The state department of human services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 562, § 32, effective July 1.

14-5-704. Initiation by state department of human services of support proceeding under Convention. (a) In a support proceeding under this part 7, the state department of human services of this state shall:

(1) Transmit and receive applications; and

(2) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(b) The following support proceedings are available to an obligee under the Convention:

(1) Recognition or recognition and enforcement of a foreign support order;

(2) Enforcement of a support order issued or recognized in this state;

(3) Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(4) Establishment of a support order if recognition of a foreign support order is refused under section 14-5-708 (b)(2), (4), or (9);

(5) Modification of a support order of a tribunal of this state; and

(6) Modification of a support order of a tribunal of another state or a foreign country.

(c) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:

(1) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(2) Modification of a support order of a tribunal of this state; and

(3) Modification of a support order of a tribunal of another state or a foreign country.

(d) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 562, § 32, effective July 1.

14-5-705. Direct request. (a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

(b) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 14-5-706 through 14-5-713 apply.

(c) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

(1) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(2) An obligee or obligor that in the issuing country has benefitted from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(d) A petitioner filing a direct request is not entitled to assistance from the state child support services agency in the state department of human services.

(e) This part 7 does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 563, § 32, effective July 1.

14-5-706. Registration of Convention support order. (a) Except as otherwise provided in this part 7, a party who is an individual or that is a support enforcement agency seeking recognition of a Convention support order shall register the order in this state as provided in part 6 of this article.

(b) Notwithstanding sections 14-5-311 and 14-5-602 (a), a request for registration of a Convention support order must be accompanied by:

(1) A complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by The Hague Conference on Private International Law;

(2) A record stating that the support order is enforceable in the issuing country;

(3) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) A record showing the amount of arrears, if any, and the date the amount was calculated;

(5) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) A request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(d) A tribunal of this state may vacate the registration of a Convention support order without the filing of a contest under section 14-5-707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 564, § 32, effective July 1.

14-5-707. Contest of registered Convention support order. (a) Except as otherwise provided in this part 7, sections 14-5-605 through 14-5-608 apply to a contest of a registered Convention support order.

(b) A party contesting a registered Convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

(c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b), the order is enforceable.

(d) A contest of a registered Convention support order may be based only on grounds set forth in section 14-5-708. The contesting party bears the burden of proof.

(e) In a contest of a registered Convention support order, a tribunal of this state:

(1) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) May not review the merits of the order.

(f) A tribunal of this state deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.

(g) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 565, § 32, effective July 1.

14-5-708. Recognition and enforcement of registered Convention support order. (a) Except as otherwise provided in subsection (b) of this section, a tribunal of this state shall recognize and enforce a registered Convention support order.

(b) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:

(1) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) The issuing tribunal lacked personal jurisdiction consistent with section 14-5-201;

(3) The order is not enforceable in the issuing country;

(4) The order was obtained by fraud in connection with a matter of procedure;

(5) A record transmitted in accordance with section 14-5-706 lacks authenticity or integrity;

(6) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(7) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this article in this state;

(8) Payment, to the extent alleged arrears have been paid in whole or in part;

(9) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(A) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(B) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) The order was made in violation of section 14-5-711.

(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), or (9) of this section:

(1) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(2) The state department of human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-5-704.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 565, § 32, effective July 1.

14-5-709. Partial enforcement. If a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 566, § 32, effective July 1.

14-5-710. Foreign support agreement. (a) Except as otherwise provided in subsections (c) and (d) of this section, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(b) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(1) A complete text of the foreign support agreement; and

(2) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(1) Recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) The agreement was obtained by fraud or falsification;

(3) The agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this article in this state; or

(4) The record submitted under subsection (b) of this section lacks authenticity or integrity.

(e) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 567, § 32, effective July 1.

14-5-711. Modification of Convention child support order. (a) A tribunal of this state may not modify a Convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) If a tribunal of this state does not modify a Convention child support order because the order is not recognized in this state, section 14-5-708 (c) applies.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 567, § 32, effective July 1.

14-5-712. Personal information - limit on use. Personal information gathered or transmitted under this part 7 may be used only for the purposes for which it was gathered or transmitted.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 568, § 32, effective July 1.

14-5-713. Record in original language - English. A record filed with a tribunal of this state under this part 7 must be in the original language and, if not in English, must be accompanied by an English translation.

Source: L. 2015: Entire part R&RE, (HB 15-1198), ch. 173, p. 568, § 32, effective July 1.

PART 8

INTERSTATE RENDITION

Cross references: For extradition procedures generally, see article 19 of title 16.

14-5-801. Grounds for rendition. (a) For purposes of this part 8, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this article.

(b) The governor of this state may:

(1) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) On the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this article applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Source: L. 93: Entire article R&RE, p. 1601, § 1, effective January 1, 1995. **L. 2003:** (b)(2) amended, p. 1262, § 44, effective July 1, 2004.

14-5-802. Conditions of rendition. (a) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this article or that the proceeding would be of no avail.

(b) If, under this article or a law substantially similar to this article, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

Source: L. 93: Entire article R&RE, p. 1601, § 1, effective January 1, 1995. **L. 2003:** (a) and (b) amended, p. 1263, § 45, effective July 1, 2004.

PART 9

MISCELLANEOUS PROVISIONS

14-5-901. Uniformity of application and construction. In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 93: Entire article R&RE, p. 1602, § 1, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1263, § 46, effective July 1, 2004.

14-5-902. Transitional provision. This article, as amended by House Bill 15-1198, enacted in 2015, applies to proceedings begun on or after July 1, 2015, to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Source: L. 93: Entire article R&RE, p. 1602, § 1, effective January 1, 1995. **L. 2003:** (b) added by revision, pp. 1263, 1275, §§ 47, 72. **L. 2015:** Entire section RC&RE, (HB 15-1198), ch. 173, p. 568, § 33, effective July 1.

Editor's note: Prior to the recreation and reenactment of this section in 2015, subsection (b) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1263, 1275.)

14-5-903. 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.

Source: L. 93: Entire article R&RE, p. 1602, § 1, effective January 1, 1995.

PART 10

COLORADO IMPLEMENTATION PROVISIONS

14-5-1001. Venue. (Repealed)

Source: L. 93: Entire article R&RE, p. 1602, § 1, effective January 1, 1995. **L. 98:** Entire section repealed, p. 753, § 2, effective July 1.

Editor's note: This section was amended by House Bill 98-1183. Those amendments will not become effective because of the repeal of the section by Senate Bill 98-139.

14-5-1002. Jurisdiction by arrest. (Repealed)

Source: L. 93: Entire article R&RE, p. 1602, § 1, effective January 1, 1995. **L. 98:** Entire section repealed, p. 754, § 3, effective July 1.

14-5-1003. Duty of officials of this state as responding state. (Repealed)

Source: L. 93: Entire article R&RE, p. 1603, § 1, effective January 1, 1995. **L. 98:** Entire section repealed, p. 754, § 4, effective July 1.

14-5-1004. Proceedings not to be stayed. (Repealed)

Source: L. 93: Entire article R&RE, p. 1603, § 1, effective January 1, 1995. **L. 96:** Entire section repealed, p. 593, § 5, effective July 1.

14-5-1005. Declaration of reciprocity - repeal. (Repealed)

Source: L. 93: Entire article R&RE, p. 1603, § 1, effective January 1, 1995. **L. 2003:** (b) added by revision, pp. 1263, 1275, §§ 48, 72.

Editor's note: (1) This section was similar to former § 14-5-144 as it existed prior to 1993.

(2) Subsection (b) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1263, 1275.)

14-5-1006. Interstate central registry - duties as the responding and initiating state - repeal. (Repealed)

Source: L. 93: Entire article R&RE, p. 1604, § 1, effective January 1, 1995. **L. 94:** (1) amended, p. 2644, § 103, effective July 1. **L. 2003:** (3) added by revision, pp. 1264, 1275, §§ 49, 72.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1264, 1275.)

14-5-1007. Enforcement of interstate income withholding. (Repealed)

Source: L. 94: Entire section added, p. 1547, § 27, effective January 1, 1995. **L. 96:** (4) and (5)(a) amended, p. 593, § 6, effective July 1. **L. 97:** (2)(e)(I) amended, p. 1264, § 7, effective July 1. **L. 98:** Entire section repealed, p. 754, § 5, effective July 1.

ARTICLE 6

14-6-101. Nonsupport of spouse and children - penalty. (1) Any person who willfully neglects, fails, or refuses to provide reasonable support and maintenance for his spouse or for his children under eighteen years of age, whether natural, adopted, or whose parentage has been judicially determined, or who willfully fails, refuses, or neglects to provide proper care, food, and clothing in case of sickness for his spouse or such children or any such children being legally the inmates of a state or county home or school for children in this state, or who willfully fails or refuses to pay to a trustee, who may be appointed by the court to receive such payment, or to the board of control of such home or school the reasonable cost of keeping such children in said home, or any person, being the father or mother of children under eighteen years of age, who leaves such children with intent to abandon such children, or any man who willfully neglects, fails, or refuses to provide proper care, food, and clothing to the mother of his child during childbirth and attendant illness is guilty of a class 5 felony. It shall be an affirmative defense, as defined in section 18-1-407, C.R.S., to a prosecution under this section that owing to physical incapacity or other good cause the defendant is unable to furnish the support, care, and maintenance required by this section. No child shall be deemed to lack proper care for the sole reason that he is being provided remedial treatment in accordance with section 19-3-103, C.R.S.

(2) Repealed.

Source: L. 11: p. 527, § 1. **C.L.** § 5566. **CSA:** C. 83, § 1. **CRS 53:** § 43-1-1. **L. 55:** p. 287, § 1. **C.R.S. 1963:** § 43-1-1. **L. 73:** p. 547, § 1. **L. 81:** (1) amended, p. 901, § 1, effective May 27. **L. 87:** (1) amended, p. 815, § 16, effective October 1. **L. 92:** (2) repealed, p. 396, § 1, effective June 3; (1) amended, p. 202, § 7, effective August 1.

14-6-102. Suspension of sentence. (Repealed)

Source: L. 11: p. 528, § 2. **C.L.** § 5567. **CSA:** C. 83, § 2. **CRS 53:** § 43-1-2. **C.R.S. 1963:** § 43-1-2. **L. 73:** p. 548, § 2. **L. 92:** Entire section repealed, p. 396, § 2, effective June 3.

14-6-103. Extradition. It is the duty of the district attorney or other proper officer, in any such case where the defendant is beyond the state of Colorado, to take all necessary and proper steps and proceedings to extradite such defendant and to obtain a requisition from the governor of the state of Colorado to the governor of the state in which such defendant may be found in order to secure his return from such state to the jurisdiction in which the case is being prosecuted. Extradition under this article shall be governed in accordance with the provisions of article 19 of title 16, C.R.S.

Source: L. 11: p. 529, § 3. **C.L.** § 5568. **CSA:** C. 83, § 3. **CRS 53:** § 43-1-3. **C.R.S. 1963:** § 43-1-3. **L. 92:** Entire section amended, p. 397, § 3, effective June 3.

Cross references: For extradition procedures generally, see article 19 of title 16.

14-6-104. Jurisdiction. Courts of record in this state shall have jurisdiction under this article as provided in this section, and a complaint or information for the violation of this article may be filed in any court of record by the prosecuting attorney or other appropriate agency or before the county court of the county in which such offense defined in section 14-6-101 is committed.

Source: L. 11: p. 529, § 4. **C.L.** § 5569. **CSA:** C. 83, § 4. **CRS 53:** § 43-1-4. **L. 61:** p. 352, § 1. **C.R.S. 1963:** § 43-1-4. **L. 64:** p. 246, § 115. **L. 92:** Entire section amended, p. 397, § 4, effective June 3.

14-6-105. Spouse competent witness. In all proceedings or prosecutions under this article, a wife or husband shall be a competent witness against his spouse with or without his consent.

Source: L. 11: p. 530, § 5. **C.L.** § 5570. **CSA:** C. 83, § 5. **CRS 53:** § 43-1-5. **C.R.S. 1963:** § 43-1-5. **L. 73:** p. 548, § 3.

14-6-106. Venue. If the offense charged is desertion or abandonment or neglect or refusal to provide such children or spouse with the necessary and proper home, care, food, and clothing, as provided in section 14-6-101, the offense shall be held to have been committed in any county of this state in which such children or spouse may be at the time such complaint is made.

Source: L. 11: p. 531, § 7. **C.L.** § 5571. **CSA:** C. 83, § 6. **CRS 53:** § 43-1-6. **C.R.S. 1963:** § 43-1-6. **L. 73:** p. 548, § 4.

14-6-107. Venue - home or school of child. If the offense charged is the neglect or refusal to pay to the trustees of a child's home or school or the trustee who may be appointed by the court to receive such payment the reasonable cost of keeping such child, the offense shall be held to have been committed in the county where the child's home or school may be situated.

Source: L. 11: p. 531, § 8. **C.L.** § 5572. **CSA:** C. 83, § 7. **CRS 53:** § 43-1-7. **C.R.S. 1963:** § 43-1-7.

14-6-108. Citizenship - residence. For all the purposes of this article 6, citizenship or residence once acquired in this state by any parent of a child living in this state continues until the child has arrived at the age of sixteen years, so long as the child continues to live in this state. In case of prosecution under this article 6 for the violation of any of the provisions of this article

6, such citizenship or residence likewise continues so long as the spouse or parent resides in this state and is entitled to the support or maintenance provided for in section 14-6-101.

Source: L. 11: p. 531, § 9. **C.L.** § 5573. **CSA:** C. 83, § 8. **CRS 53:** § 43-1-8. **C.R.S. 1963:** § 43-1-8. **L. 73:** p. 548, § 5. **L. 2018:** Entire section amended, (SB 18-095), ch. 96, p. 753, § 7, effective August 8.

Cross references: For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of Colorado 2018.

14-6-109. Forfeiture of bond - disposition of fines. (1) In accordance with the laws of this state, bond shall be set by the court. Pursuant to subsection (2) of this section, where the defendant has been released upon deposit of cash, stocks, or bonds, or upon surety bond secured by property, if the defendant fails to appear in accordance with the primary condition of the bond, the court shall declare a forfeiture. Notice of the order of forfeiture shall be mailed immediately by the court to the defendant and sureties, if any, at last known address. If the defendant does not appear and surrender to the court having jurisdiction within thirty days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the defendant is impossible and without the defendant's fault, the court shall enter judgment against the defendant and the sureties, if any, for the amount of the bail and costs of the court proceedings.

(2) Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which the bond is given to be applied to the child support obligation, including where the obligation is assigned to the department of human services pursuant to section 26-2-111 (3), C.R.S.

Source: L. 11: p. 531, § 10. **C.L.** § 5574. **CSA:** C. 83, § 9. **CRS 53:** § 43-1-9. **C.R.S. 1963:** § 43-1-9. **L. 73:** p. 549, § 6. **L. 92:** Entire section amended, p. 398, § 5, effective June 3. **L. 94:** (2) amended, p. 2644, § 104, effective July 1. **L. 97:** (1) amended, p. 561, § 4, effective July 1; (2) amended, p. 1240, § 36, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of Colorado 1994.

14-6-110. Joint liability for family expenses. The expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

Source: L. 1891: p. 238, § 1. **R.S. 08:** § 3021. **C.L.** § 5575. **CSA:** C. 83, § 10. **CRS 53:** § 43-1-10. **C.R.S. 1963:** § 43-1-10.

14-6-111. Legislative declaration. It is hereby declared to be the policy of the state of Colorado that, in order to promote the life, health, property, and public welfare of this state, it is necessary to establish procedures to assist in the collection of child support, maintenance where combined with child support, and maintenance.

Source: L. 61: p. 354, § 1. **CRS 53:** § 43-1-11. **C.R.S. 1963:** § 43-1-11. **L. 87:** Entire section amended, p. 593, § 16, effective July 10.

14-6-112. Procedures by clerk. (Repealed)

Source: L. 61: p. 354, § 2. **CRS 53:** § 43-1-12. **C.R.S. 1963:** § 43-1-12. **L. 72:** p. 558, § 14. **L. 92:** Entire section repealed, p. 399, § 6, effective June 3.

14-6-113. Remedies additional to those now existing. The remedies provided in this article are in addition to and not in substitution for any other remedies.

Source: L. 61: p. 355, § 3. **CRS 53:** § 43-1-13. **C.R.S. 1963:** § 43-1-13.

ARTICLE 7

Parent and Child

Cross references: For support proceedings, see article 6 of title 19; for the "Uniform Interstate Family Support Act", see article 5 of this title; for the "Colorado Children's Code", see title 19.

14-7-101. Commitment of child - parent liable for support. The commitment of any child, under any law of this state, to any state institution shall not relieve the parents or legal guardian of such child from responsibility for the support of the child. It is the duty of any court committing any child to any state institution or any private institution where such child is kept at the expense of the county or state, at the time of the commitment, to forthwith notify the district attorney, if a state expense, and the county attorney, if a county expense, of the name and address of such parents and such other information as may be adduced at any hearing of such case concerning the financial responsibility of the parents to care for such child. In order to obtain such information, any court committing any child, at the time of commitment or at any convenient time to be designated by the court, is authorized to require the attendance of the parents or legal guardian upon such court to be examined under oath concerning the property, possessions, and financial responsibility of such parents or legal guardian.

Source: L. 05: p. 295, § 1. **R.S. 08:** § 4739. **C.L.** § 5587. **CSA:** C. 121, § 1. **CRS 53:** § 43-3-1. **C.R.S. 1963:** § 43-3-1.

14-7-102. Action by state or county for support of child. The state of Colorado or the county, as the case may be, at whose expense such child is kept shall be entitled to recover from the parent, legal guardian, or other person responsible for the support of such child such sum for the care, support, and maintenance of the child as may be reasonable therefor, and in no case shall such sum be less than the per capita monthly or yearly amount of expense in the institution in which the child is confined or the actual expense incurred by the state or county for the care and maintenance of such child. Any action or proceeding by the state or county against any parent shall be conducted in accordance with the procedure in civil cases. In case any action is maintained by the state, it shall be brought in the name of the people of the state of Colorado, and any moneys recovered in any action shall be paid to the state treasurer and credited to the particular fund for the benefit of the institution having the custody and care of such child. If an action is maintained by the county in cases where the county pays the expense of the care and maintenance of such child, such action shall be in the name of the board of county commissioners of such county or other body performing the functions of a board of county commissioners, and any amount collected in any such action shall be paid to the county treasurer of such county. When such action is prosecuted to a final judgment and judgment is rendered in favor of the people of the state of Colorado or the board of county commissioners of the county prosecuting such action, as the case may be, an execution may issue against the property of the defendant as in other civil cases.

Source: L. 05: p. 295, § 2. **R.S. 08:** § 4740. **C.L.** § 5588. **CSA:** C. 121, § 2. **CRS 53:** § 43-3-2. **C.R.S. 1963:** § 43-3-2.

14-7-103. District and county attorneys to report actions. On or before December 1 of each year, it shall be the duty of the district attorney and the county attorney to make a written report to the governor of the state, stating the number of reports, provided for in section 14-7-101, received from the courts of the county or state and the nature and result of any action directed in this article by such officers respectively to recover from such parents the expenses of the care and maintenance of such children. If no action has been taken, such report shall detail the reason for the failure of the officer to take action. It is the duty of the county commissioners to pay any court costs or other expenses necessary for the prosecution of any suit provided for in this article. Nothing in this article shall be construed to repeal any law of this state concerning the responsibility of parents to support their children, or providing for the punishment of parents or other persons responsible for the delinquency or dependency of children, or providing for the punishment of any parents for the nonsupport of their children; and nothing in such law shall prevent proceedings under this article in any proper case.

Source: L. 05: p. 296, § 3. **R.S. 08:** § 4741. **C.L.** § 5589. **CSA:** C. 121, § 3. **CRS 53:** § 43-3-3. **C.R.S. 1963:** § 43-3-3.

14-7-104. Application of article. This article 7 does not apply to liability for the support of children admitted, certified, committed, or transferred to any public institution of this state supervised by the department of human services for the care, support, maintenance, education, or treatment of a person with a behavioral or mental health disorder or a person with an intellectual and developmental disability.

Source: L. 64: p. 492, § 4. **C.R.S. 1963:** § 43-3-5. **L. 94:** Entire section amended, p. 2644, § 105, effective July 1. **L. 2006:** Entire section amended, p. 1396, § 39, effective August 7. **L. 2017:** Entire section amended, (HB 17-1046), ch. 50, p. 157, § 6, effective March 16; entire section amended, (SB 17-242), ch. 263, p. 1294, § 112, effective May 25.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

14-7-105. Recovery for child support debt. (Repealed)

Source: L. 79: Entire section added, p. 638, § 3, effective June 7. **L. 81:** Entire section repealed, p. 910, § 4, effective June 8.

DISSOLUTION OF MARRIAGE - PARENTAL RESPONSIBILITIES

ARTICLE 10

Uniform Dissolution of Marriage Act

Editor's note: (1) This article was numbered as article 1 of chapter 46, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1971, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) For the legality of common-law marriages in this state, see Graham v. Graham, 130 Colo. 225, 274 P.2d 605 (1954).

Law reviews: For article, "Divorce Mediation: A Financial Perspective", see 13 Colo. Law. 1650 (1984); for article, "Tax Consequences of Dissolution of Marriage Under the 1984 Tax Reform Act -- Parts I and II", see 13 Colo. Law. 2012 and 2222 (1984); for article, "Dramatic Divorce Taxation Changes", see 13 Colo. Law. 2038 (1984); for article, "The Civil Service Retirement Spouse Equity Act of 1984", see 14 Colo. Law. 1413 (1985); for article, "Joinder of Claims and Counterclaims in Cases Under the Uniform Dissolution of Marriage Act", see 15 Colo. Law. 1818 (1986); for article, "Cohabitation Agreements in Colorado", see 15

Colo. Law. 979 (1986); for article, "Common Law Marriage in Colorado", see 16 Colo. Law. 252 (1987); for article, "Child Support Obligations After Death of the Supporting Parent", see 16 Colo. Law. 790 (1987); for article, "Ownership of Personal Property Accumulated During a Marriage", see 17 Colo. Law. 623 (1988); for article, "Dissolution of Marriage and Estate Planning Issues", see 18 Colo. Law. 439 (1989); for article, "ADR: Explanations, Examples and Effective Use", see 18 Colo. Law. 843 (1989); for article, "Divorce and Family Mediation: Must it be Confidential?", see 18 Colo. Law. 925 (1989); for article, "Update on Ethics and Malpractice Avoidance in Family Law -- Parts I and II", see 19 Colo. Law. 465 and 647 (1990); for article, "Annulments in Colorado", see 22 Colo. Law. 2249 (1993); for article, "Property Division in Dissolution: Partnership Versus Needs Analysis", see 23 Colo. Law. 2115 (1994); for article, "Protecting a Disabled Client in a Dissolution of Marriage Action", see 24 Colo. Law. 795 (1995); for casenote, "Inappropriate Application of the Best Interests of the Child Standard Leads to Worst Case Scenario: In re C.C.R.S.", see 68 U. Colo. L. Rev. 259 (1997); for article, "Interstate Family Law Jurisdiction: Simplifying Complex Questions", see 31 Colo. Law. 77 (Sept. 2002); for article, "Marital Agreements in Colorado", see 36 Colo. Law. 53 (Feb. 2007); for article, "Colorado Civil Union Act", see 42 Colo. Law. 91 (July 2013); for article, "The Motion in Limine: Use in Domestic Relations Cases", see 43 Colo. Law. 47 (March 2014).

14-10-101. Short title. This article shall be known and may be cited as the "Uniform Dissolution of Marriage Act".

Source: L. 71: R&RE, p. 520, § 1. **C.R.S. 1963:** § 46-1-1.

14-10-102. Purposes - rules of construction. (1) This article 10 must be liberally construed and applied to promote its underlying purposes.

(2) The underlying purposes of this article 10 are:

(a) To promote the amicable settlement of disputes that have arisen between parties to a marriage;

(b) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage;

(c) To make the law of legal dissolution of marriage more effective for dealing with the realities of matrimonial experience by making an irretrievable breakdown of the marriage relationship the sole basis for its dissolution; and

(d) To provide safeguards for a parent with a disability, pursuant to the provisions of section 24-34-805.

Source: L. 71: R&RE, p. 520, § 1. **C.R.S. 1963:** § 46-1-2. **L. 2018:** Entire section amended, (HB 18-1104), ch. 164, p. 1133, § 2, effective April 25.

14-10-103. Definitions and interpretation of terms. (1) As used in this article, unless the context otherwise requires, the term "decree" includes the term "judgment"; and, for the

purposes of the tax laws of the state of Colorado or of any other jurisdiction, the term "maintenance" includes the term "alimony".

(2) Whenever any law of this state refers to or mentions divorce, annulment, or separate maintenance, said law shall be interpreted as if the words dissolution of marriage, declaration of invalidity of marriage, and legal separation, respectively, were substituted therefor.

(3) On and after July 1, 1993, the term "visitation" has been changed to "parenting time". It is not the intent of the general assembly to modify or change the meaning of the term "visitation" nor to alter the legal rights of a parent with respect to the child as a result of changing the term "visitation" to "parenting time".

(4) On and after February 1, 1999, the term "custody" and related terms such as "custodial" and "custodian" have been changed to "parental responsibilities". It is not the intent of the general assembly to modify or change the meaning of the term "custody" nor to alter the legal rights of any custodial parent with respect to the child as a result of changing the term "custody" to "parental responsibilities".

(5) As used in this article 10, unless the context otherwise requires, for purposes of proceedings for allocation of parental responsibilities pursuant to section 14-10-123 (1.5) only, the term "child" means an unmarried individual who has not attained twenty-one years of age.

Source: L. 71: R&RE, p. 520, § 1. **C.R.S. 1963:** § 46-1-4. **L. 72:** p. 595, § 73. **L. 73:** p. 552, § 1. **L. 93:** (3) added, p. 576, § 5, effective July 1. **L. 98:** (3) amended and (4) added, p. 1376, § 1, effective February 1, 1999. **L. 2019:** (5) added, (HB 19-1042), ch. 55, p. 193, § 4, effective March 28.

Cross references: For the legislative declaration contained in the 1993 act enacting subsection (3), see section 1 of chapter 165, Session Laws of Colorado 1993.

14-10-104. Uniformity of application and construction. (1) This article shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states which enact it.

(2) The term "irretrievable breakdown" shall be construed as being similar to other terms having a like import in the law of other jurisdictions adopting this or a similar law.

Source: L. 71: R&RE, p. 520, § 1. **C.R.S. 1963:** § 46-1-3.

14-10-104.5. Legislative declaration. The general assembly recognizes that it is in the best interests of the parties to a marriage in which a dissolution has been granted and in which there are children of the marriage for the parties to be able to resolve disputes that arise subsequent to the dissolution in an amicable and fair manner. The general assembly further recognizes that, in most cases, it is in the best interests of the children of the marriage to have a relationship with both parents, including a parent with a disability, and that, in most cases, it is the parents' right to have a relationship with their children. The general assembly emphasizes

that one of the underlying purposes of this article 10 is to mitigate the potential harm to the spouses and their children and the relationships between the parents and their children caused by the process of legal dissolution of marriage. The general assembly recognizes that when a marriage in which children are involved is dissolved, both parties either agree to or are subject to orders that contain certain obligations and commitments. The general assembly declares that the honoring and enforcing of those obligations and commitments made by both parties are necessary to maintaining a relationship that is in the best interest of the children of the marriage. Therefore, the general assembly declares that both parties should honor and fulfill all of the obligations and commitments made between the parties and ordered by the court.

Source: L. 88: Entire section added, p. 633, § 8, effective July 1. **L. 98:** Entire section amended, p. 1376, § 2, effective February 1, 1999. **L. 2018:** Entire section amended, (HB 18-1104), ch. 164, p. 1134, § 3, effective April 25.

14-10-105. Application of Colorado rules of civil procedure. (1) The Colorado rules of civil procedure apply to all proceedings under this article, except as otherwise specifically provided in this article.

(2) A proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage shall be entitled "In re the Marriage of ..... and .....". A proceeding for the allocation of parental responsibilities or a support proceeding shall be entitled "In re the (Parental responsibilities concerning) (Support of) .....".

(2.5) A proceeding for dissolution of a civil union, legal separation, or declaration of invalidity of a civil union shall be entitled "In re the Civil Union of ..... and .....".

(3) The initial pleading in all proceedings under this article shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings and all pleadings in other matters under this article shall be denominated as provided in the Colorado rules of civil procedure.

Source: L. 71: R&RE, p. 521, § 1. **C.R.S. 1963:** § 46-1-5. **L. 98:** (2) amended, p. 1395, § 33, effective February 1, 1999. **L. 2013:** (2.5) added, (SB 13-011), ch. 49, p. 163, § 13, effective May 1.

14-10-106. Dissolution of marriage - legal separation. (1) (a) The district court shall enter a decree of dissolution of marriage or a decree of legal separation when:

(I) The court finds that one of the parties has been domiciled in this state for ninety-one days next preceding the commencement of the proceeding;

(II) The court finds that the marriage is irretrievably broken; and

(III) The court finds that ninety-one days or more have elapsed since it acquired jurisdiction over the respondent either as the result of process pursuant to rule 4 of the Colorado rules of civil procedure or as the result of the act of the respondent in joining as copetitioner in the petition or in entering an appearance in any other manner.

(b) In connection with every decree of dissolution of marriage or decree of legal separation and to the extent of its jurisdiction to do so, the court shall consider, approve, or allocate parental responsibilities with respect to any child of the marriage, the support of any child of the marriage who is entitled to support, the maintenance of either spouse, and the disposition of property; but the entry of a decree with respect to parental responsibilities, support, maintenance, or disposition of property may be deferred by the court until after the entry of the decree of dissolution of marriage or the decree of legal separation upon a finding that a deferral is in the best interests of the parties.

(c) In a proceeding to dissolve a marriage or in a proceeding for legal separation or in a proceeding for declaration of invalidity, the court is deemed to have made an adjudication of the parentage of a child of the marriage if the court acts under circumstances that satisfy the jurisdictional requirements of section 14-5-201 and the final order:

(I) Expressly identifies a child as a "child of the marriage", "issue of the marriage", or similar words indicating that the husband is the father of the child; or

(II) Provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(d) Paternity is not adjudicated for a child not mentioned in the final order.

(2) If a party requests a decree of legal separation rather than a decree of dissolution of marriage, the court shall grant the decree in that form unless the other party objects.

Source: L. 71: R&RE, p. 521, § 1. **C.R.S. 1963:** § 46-1-6. **L. 73:** p. 552, § 2. **L. 77:** (1)(a)(I) and (1)(a)(II) amended and (1)(a)(III) added, p. 823, § 1, effective June 1. **L. 98:** (1)(b) amended, p. 1395, § 34, effective February 1, 1999. **L. 2003:** (1)(c) and (1)(d) added, p. 1264, § 50, effective July 1. **L. 2012:** IP(1)(a) and (1)(b) amended, (HB12-1233), ch. 52, p. 187, § 1, effective July 1; (1)(a)(I) and (1)(a)(III) amended, (SB 12-175), ch. 208, p. 830, § 24, effective July 1.

14-10-106.5. Dissolution of civil unions - legal separation - jurisdiction - applicability of article and case law. (1) Any person who enters into a civil union in Colorado pursuant to article 15 of this title consents to the jurisdiction of the courts of Colorado for the purpose of any action relating to a civil union even if one or both parties cease to reside in this state. In a matter seeking a dissolution, legal separation, or declaration of invalidity of a civil union, the court shall follow the procedures that are set forth in this article for dissolution, legal separation, or declaration of invalidity. The provisions of this article and any case law construing this article apply to the dissolution, legal separation, or declaration of invalidity of a civil union.

(2) The court shall follow the laws of Colorado in a matter filed in Colorado that is seeking a dissolution, legal separation, or invalidity of a civil union that was entered into in another jurisdiction.

Source: L. 2013: Entire section added, (SB 13-011), ch. 49, p. 163, § 14, effective May 1.

14-10-107. Commencement - pleadings - abolition of existing defenses - automatic, temporary injunction - enforcement. (1) All proceedings under this article shall be commenced in the manner provided by the Colorado rules of civil procedure.

(2) The petition in a proceeding for dissolution of marriage or legal separation shall allege that the marriage is irretrievably broken and shall set forth:

(a) The residence of each party and the length of residence in this state;

(b) The date and place of the marriage;

(c) The date on which the parties separated;

(d) The names, ages, and addresses of any living children of the marriage and whether the wife is pregnant;

(e) Any arrangements as to the allocation of parental responsibilities with respect to the children of the marriage and support of the children and the maintenance of a spouse;

(f) The relief sought; and

(g) A written acknowledgment by the petitioner and the co-petitioner, if any, that he or she has received a copy of, has read, and understands the terms of the automatic temporary injunction required by paragraph (b) of subsection (4) of this section.

(2.5) Upon the filing of a petition for dissolution of marriage or legal separation pursuant to this article, each party shall provide to the court, in the manner prescribed by the court, his or her social security number and the social security number of each child named in the petition pursuant to paragraph (d) of subsection (2) of this section.

(3) Either or both parties to the marriage may initiate the proceeding. In addition, a legal guardian, with court approval pursuant to section 15-14-315.5, C.R.S., or a conservator, with court approval pursuant to section 15-14-425.5, C.R.S., may initiate the proceeding. If a legal guardian or conservator initiates the proceeding, the legal guardian or conservator shall receive notice in the same manner as the parties to the proceeding.

(4) (a) Upon the commencement of a proceeding by one of the parties, or by a legal guardian or conservator of one of the parties, the other party shall be personally served in the manner provided by the Colorado rules of civil procedure, and he or she may file a response in accordance with such rules; except that, upon motion verified by the oath of the party commencing the proceeding or of someone in his or her behalf for an order of publication stating the facts authorizing such service, and showing the efforts, if any, that have been made to obtain personal service within this state, and giving the address or last-known address of each person to be served or stating that his or her address and last-known address are unknown, the court shall hear the motion ex parte and, if satisfied that due diligence has been used to obtain personal service within this state or that efforts to obtain the same would have been to no avail, shall order one publication of a consolidated notice in a newspaper published or having general circulation in the county in which the proceeding is filed, notwithstanding the provisions of article 70 of title 24. A consolidated notice shall be published at least once during a calendar month and shall list the proceedings filed subsequent to those named in the previously published consolidated notice, stating as to each proceeding the names of the parties, the action number, the nature of the action, that a copy of the petition and summons may be obtained from the clerk of the court

during regular business hours, and that default judgment may be entered against that party upon whom service is made by such notice if he or she fails to appear or file a response within thirty-five days after the date of publication. Costs of publication of a consolidated notice may be assessed pro rata to each of the proceedings named in the notice; except that, if a party is indigent or otherwise unable to pay such publication costs, the costs shall be paid by the court from funds appropriated for the purpose. Service shall be complete upon such publication, and a response or appearance by the party served by publication under this subsection (4) shall be made within thirty-five days thereafter, or default judgment may be entered. No later than the day of publication, the clerk of the court shall also post for thirty-five consecutive days a copy of the process on a bulletin board in his or her office or on the website of the district court in which the case was filed and shall mail a copy of the process to the other party at his or her last-known address, and shall place in the file of the proceeding his or her certificate of posting and mailing. Proof of publication of the consolidated notice shall be by placing in the file a copy of the affidavit of publication, certified by the clerk of the court to be a true and correct copy of the original affidavit on file in the clerk's office.

(b) (I) Upon the filing of a petition for dissolution of marriage or legal separation by the petitioner or copetitioner or by a legal guardian or conservator on behalf of one of the parties and upon personal service of the petition and summons on the respondent or upon waiver and acceptance of service by the respondent, a temporary injunction shall be in effect against both parties until the final decree is entered or the petition is dismissed or until further order of the court:

(A) Restraining both parties from transferring, encumbering, concealing, or in any way disposing of, without the consent of the other party or an order of the court, any marital property, except in the usual course of business or for the necessities of life and requiring each party to notify the other party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the injunction is in effect;

(B) Enjoining both parties from molesting or disturbing the peace of the other party;

(C) Restraining both parties from removing the minor child or children of the parties, if any, from the state without the consent of the other party or an order of the court; and

(D) Restraining both parties, without at least fourteen days' advance notification and the written consent of the other party or an order of the court, from canceling, modifying, terminating, or allowing to lapse for nonpayment of premiums, any policy of health insurance, homeowner's or renter's insurance, or automobile insurance that provides coverage to either of the parties or the minor children or any policy of life insurance that names either of the parties or the minor children as a beneficiary.

(II) The provisions of the injunction shall be printed upon the summons and the petition and the injunction shall become an order of the court upon fulfillment of the requirements of subparagraph (I) of this paragraph (b). However, nothing in this paragraph (b) shall preclude either party from applying to the court for further temporary orders, an expanded temporary injunction, or modification or revocation under section 14-10-108.

(III) The summons shall contain the following advisements:

(A) That a request for genetic tests shall not prejudice the requesting party in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5); and

(B) That, if genetic tests are not obtained prior to a legal establishment of paternity and submitted into evidence prior to the entry of the legal final decree of dissolution, the genetic tests may not be allowed into evidence at a later date.

(4.1) With regard to the automatic, temporary injunction that becomes effective in accordance with paragraph (b) of subsection (4) of this section when a petition for dissolution of marriage or legal separation is filed and served, whenever there is exhibited by the respondent to any duly authorized peace officer as described in section 16-2.5-101, C.R.S., a copy of the petition and summons duly filed and issued pursuant to this section, or, in the case of the petitioner, a copy of the petition and summons duly filed and issued pursuant to this section, together with a certified copy of the affidavit of service of process or a certified copy of the waiver and acceptance of service, and the peace officer has cause to believe that a violation of that part of the automatic, temporary injunction which enjoins both parties from molesting the other party has occurred, such peace officer shall use every reasonable means to enforce that part of the injunction against the petitioner or respondent. A peace officer shall not be held civilly or criminally liable for his or her action pursuant to this subsection (4.1) if the action is in good faith and without malice.

(5) Defenses to divorce and legal separation existing prior to January 1, 1972, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are hereby abolished.

(6) All issues raised by these proceedings shall be resolved by the court sitting without a jury.

Source: L. 71: R&RE, p. 521, § 1. **C.R.S. 1963:** § 46-1-7. **L. 72:** p. 296, § 1. **L. 83:** (4) amended, p. 641, § 1, effective July 1. **L. 86:** (4.1) added, p. 716, § 1, effective April 29. **L. 87:** (4.1) amended, p. 1578, § 21, effective July 10. **L. 98:** (2)(e) amended, p. 1395, § 35, effective February 1, 1999. **L. 99:** (2)(g) and (4)(b)(I)(D) added and (4)(b)(I)(B), (4)(b)(I)(C), and (4)(b)(II) amended, p. 1059, §§ 1, 2, effective June 1; (3), (4)(a), and IP(4)(b)(I) amended, p. 465, § 3, effective July 1. **L. 2000:** (3) amended, p. 1833, § 7, effective January 1, 2001. **L. 2003:** (4.1) amended, p. 1621, § 34, effective August 6. **L. 2005:** (4)(b)(III) added, p. 377, § 1, effective January 1, 2006. **L. 2011:** (2.5) added, (SB 11-123), ch. 46, p. 118, § 2, effective August 10. **L. 2012:** (4)(a) amended, (SB 12-175), ch. 208, p. 830, § 25, effective July 1. **L. 2016:** (4)(a) amended, (HB 16-1258), ch. 116, p. 329, § 1, effective April 21. **L. 2017:** (4)(a) amended, (HB 17-1142), ch. 66, p. 209, § 5, effective September 1.

14-10-107.5. Entry of appearance and notice of withdrawal by delegate child support enforcement unit. (1) The attorney for the delegate child support enforcement unit may file an entry of appearance on behalf of the county department of human or social services in any proceeding for dissolution of marriage or legal separation under this article 10 for purposes of establishing, modifying, and enforcing child support and medical support if any

party is receiving child support services pursuant to section 26-13-106 and for purposes of establishing and enforcing reimbursement of payments for temporary assistance to needy families.

(2) The delegate child support enforcement unit, upon the filing of the entry of appearance described in subsection (1) of this section or upon the filing of a legal pleading to establish, modify, or enforce the support obligation, is from that date forward, without leave or order of court, a third-party intervenor in the action for the purposes outlined in subsection (1) of this section without the necessity of filing a motion to intervene.

(3) The delegate child support enforcement unit may withdraw as a party from a case when the case is closed without leave of the court by filing a notice pursuant to the Colorado rules of civil procedure. Upon the filing of such notice, the delegate child support enforcement unit is no longer considered a party to the action without the necessity of filing a motion to dismiss party.

Source: L. 89: Entire section added, p. 792, § 13, effective July 1. **L. 90:** Entire section amended, p. 889, § 8, effective July 1. **L. 2007:** (1) amended, p. 1648, § 1, effective May 31. **L. 2018:** Entire section amended, (SB 18-092), ch. 38, p. 400, § 12, effective August 8; entire section amended, (HB 18-1363), ch. 389, p. 2321, § 1, effective August 8.

Editor's note: This section was amended in SB 18-092. Those amendments were superseded by the amendment of this section in HB 18-1363, effective August 8, 2018.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

14-10-107.7. Required notice of involvement with state department of human services. When filing a petition for dissolution of marriage or legal separation, a petition in support or proceedings for the allocation of parental responsibilities with respect to the children of the marriage, or any other matter pursuant to this article 10 with the court, if the parties have joint legal responsibility for a child for whom the petition seeks an order of child support, the parties are required to indicate on a form prepared by the court whether or not the parties or the dependent children of the parties have received within the last five years or are currently receiving benefits or public assistance from either the state department of human services or county department of human or social services. If the parties indicate that they have received such benefits or assistance, the court shall inform the appropriate delegate child support enforcement unit so that the unit can determine whether any support enforcement services are required. There is no penalty for failure to report as specified in this section.

Source: L. 92: Entire section added, p. 202, § 8, effective August 1. **L. 93:** Entire section amended, p. 1558, § 6, effective September 1. **L. 94:** Entire section amended, p. 2644, § 106,

effective July 1. **L. 98:** Entire section amended, p. 1396, § 36, effective February 1, 1999. **L. 2018:** Entire section amended, (SB 18-092), ch. 38, p. 400, § 13, effective August 8.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

14-10-107.8. Required notice of prior restraining, civil protection, or emergency protection orders to prevent domestic abuse - petitions for dissolution of marriage or legal separation. (1) When filing a petition for dissolution of marriage or legal separation pursuant to this article, the filing party shall have a duty to disclose to the court the existence of any prior temporary or permanent restraining orders and civil protection orders to prevent domestic abuse issued pursuant to article 14 of title 13, C.R.S., any mandatory restraining order and protection orders issued pursuant to section 18-1-1001, C.R.S., and any emergency protection orders issued pursuant to section 13-14-103, C.R.S., entered against either party by any court within two years prior to the filing of the petition of dissolution of marriage or legal separation. The disclosure required pursuant to this section shall address the subject matter of the previous restraining, civil protection, or emergency protection orders, including the case number and jurisdiction issuing such orders.

(2) After the filing of the petition, the court shall advise the parties concerning domestic violence services and potential financial resources that may be available and shall strongly encourage the parties to obtain such services for their children, in appropriate cases. If the parties' children participate in such services, the court shall apportion the costs of such services between the parties as it deems appropriate.

(3) The parties to a domestic relations petition filed pursuant to this article shall receive information concerning domestic violence services and potential financial resources that may be available.

Source: L. 95: Entire section added, p. 83, § 1, effective July 1. **L. 99:** Entire section amended, p. 502, § 9, effective July 1. **L. 2001:** Entire section amended, p. 978, § 1, effective August 8. **L. 2004:** (1) amended, p. 554, § 10, effective July 1. **L. 2005:** (1) amended, p. 764, § 22, effective June 1.

14-10-108. Temporary orders in a dissolution case. (1) In a proceeding for dissolution of marriage, legal separation, the allocation of parental responsibilities, or declaration of invalidity of marriage or a proceeding for disposition of property, maintenance, or support following dissolution of the marriage, either party may move for temporary payment of debts, use of property, maintenance, parental responsibilities, support of a child of the marriage entitled to support, or payment of attorney fees. The motion may be supported by an affidavit setting forth the factual basis for the motion and the amounts requested.

(1.5) The court may consider the allocation of parental responsibilities in accordance with the best interests of the child, with particular reference to the factors specified in section 14-10-124 (1.5).

(2) As a part of a motion of such temporary orders or by an independent motion accompanied by an affidavit, either party may request the court to issue a temporary order:

(a) Restraining any party from transferring, encumbering, concealing, or in any way disposing of any property, except in the usual course of business or for the necessities of life, and, if so restrained, requiring him to notify the moving party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the order is issued;

(b) Enjoining a party from molesting or disturbing the peace of the other party or of any child;

(c) Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result.

(2.3) and (2.5) (Deleted by amendment, L. 2004, p. 553, § 4, effective July 1, 2004.)

(3) A party to an action filed pursuant to this article may seek, and the court may issue, a temporary or permanent protection order pursuant to the provisions of part 1 of article 14 of title 13, C.R.S.

(4) (Deleted by amendment, L. 2004, p. 553, § 4, effective July 1, 2004.)

(5) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified prior to final decree on a showing by affidavit of the facts necessary to revocation or modification of a final decree under section 14-10-122; and

(c) Terminates when the final decree is entered, unless continued by the court for good cause to a date certain, or when the petition for dissolution or legal separation is voluntarily dismissed.

(6) (Deleted by amendment, L. 2004, p. 553, § 4, effective July 1, 2004.)

(7) At the time a protection order is requested pursuant to part 1 of article 14 of title 13, C.R.S., 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 orders or restraining orders of any court addressing in whole or in part the subject matter of the requested protection order.

Source: L. 71: R&RE, p. 522, § 1. **C.R.S. 1963:** § 46-1-8. **L. 73:** pp. 553, 555, §§ 3, 12. **L. 81:** (6) added, p. 903, § 1, effective May 13. **L. 83:** (1) amended, p. 644, § 1, effective April 26; (1.5) added, p. 645, § 1, effective June 10. **L. 87:** (1.5) amended, p. 575, § 4, effective July 1. **L. 94:** (2.5) and (7) added and (3) amended, p. 2008, § 4, effective January 1, 1995. **L. 98:** (2.3) added and (3) amended, p. 245, § 4, effective April 13; (1) and (2.5) amended, p. 1396, § 37, effective February 1, 1999. **L. 99:** (2.3) amended, p. 501, § 4, effective July 1. **L. 2000:** (1.5) amended, p. 1844, § 24, effective August 2. **L. 2003:** (2.3), (2.5), (3), (6), and (7) amended, p.

1010, § 14, effective July 1. **L. 2004:** IP(2), (2.3), (2.5), (3), (4), (6), and (7) amended, p. 553, § 4, effective July 1. **L. 2013:** (3) and (7) amended, (HB 13-1259), ch. 218, p. 1016, § 17, effective July 1.

14-10-109. Enforcement of protection orders. The duties of peace officers enforcing orders issued pursuant to section 14-10-107 or 14-10-108 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.

Source: L. 71: R&RE, p. 523, § 1. **C.R.S. 1963:** § 46-1-9. **L. 92:** Entire section amended, p. 176, § 2, effective July 1. **L. 94:** Entire section amended, p. 2009, § 5, effective January 1, 1995.

Cross references: For civil contempt, see C.R.C.P. 107.

14-10-110. Irretrievable breakdown. (1) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken or one of the parties has so stated and the other has not denied it, there is a presumption of such fact, and, unless controverted by evidence, the court shall, after hearing, make a finding that the marriage is irretrievably broken.

(2) If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the petition and the prospect of reconciliation, and shall:

(a) Make a finding whether the marriage is irretrievably broken; or

(b) Continue the matter for further hearing not less than thirty-five days nor more than sixty-three days later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. At the adjourned hearing, the court shall make a finding whether the marriage is irretrievably broken.

Source: L. 71: R&RE, p. 523, § 1. **C.R.S. 1963:** § 46-1-10. **L. 2012:** (2)(b) amended, (SB 12-175), ch. 208, p. 831, § 26, effective July 1.

Cross references: For marriage counseling, see article 12 of this title 14.

14-10-111. Declaration of invalidity. (1) The district court shall enter its decree declaring the invalidity of a marriage entered into under the following circumstances:

(a) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs, or other incapacitating substances.

(b) A party lacked the physical capacity to consummate the marriage by sexual intercourse, and the other party did not at the time the marriage was solemnized know of the incapacity.

(c) A party was under the age as provided by law and did not have the consent of his parents or guardian or judicial approval as provided by law.

(d) One party entered into the marriage in reliance upon a fraudulent act or representation of the other party, which fraudulent act or representation goes to the essence of the marriage.

(e) One or both parties entered into the marriage under duress exercised by the other party or a third party, whether or not such other party knew of such exercise of duress.

(f) One or both parties entered into the marriage as a jest or dare.

(g) The marriage is prohibited by law, including the following:

(I) A marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(II) A marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood;

(III) A marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures;

(IV) A marriage which was void by the law of the place where such marriage was contracted.

(2) A declaration of invalidity under subsection (1) of this section may be sought by any of the following persons and shall be commenced within the times specified, but in no event may a declaration of invalidity be sought after the death of either party to the marriage, except as provided in subsection (3) of this section:

(a) For the reasons set forth in either subsection (1)(a), (1)(d), (1)(e), or (1)(f) of this section, by either party to the marriage who was aggrieved by the conditions or by the legal representative of the party who lacked capacity to consent no later than six months after the petitioner obtained knowledge of the described condition;

(b) For the reason set forth in subsection (1)(b) of this section, by either party no later than one year after the petitioner obtained knowledge of the described condition;

(c) For the reason set forth in subsection (1)(c) of this section, by the underage party, his parent, or his guardian, if such action for declaration of invalidity of marriage is commenced within twenty-four months of the date the marriage was entered into.

(3) A declaration of invalidity, for the reason set forth in subsection (1)(g) of this section, may be sought by either party; by the legal spouse in case of bigamous, polygamous, or incestuous marriages; by the appropriate state official; or by a child of either party at any time prior to the death of either party or prior to the final settlement of the estate of either party and the discharge of the personal representative, executor, or administrator of the estate or prior to six months after an estate is closed under section 15-12-1204, C.R.S.

(4) Repealed.

(5) Marriages declared invalid under this section shall be so declared as of the date of the marriage.

(6) The provisions of this article relating to the property rights of spouses, maintenance, and support of and the allocation of parental responsibilities with respect to the children on dissolution of marriage are applicable to decrees of invalidity of marriage.

(7) No decree shall be entered unless one of the parties has been domiciled in this state for thirty days next preceding the commencement of the proceeding or unless the marriage has been contracted in this state.

Source: L. 71: R&RE, p. 523, § 1. **C.R.S. 1963:** § 46-1-11. **L. 73:** pp. 553, 1647, §§ 4, 5, 6. **L. 80:** (1)(g)(II) amended, p. 794, § 47, effective June 5. **L. 98:** (6) amended, p. 1397, § 38, effective February 1, 1999. **L. 2018:** (4) repealed, (SB 18-095), ch. 96, p. 754, § 8, effective August 8.

Cross references: (1) For the effect of a declaration of invalidity on marital agreements, see § 14-2-308.

(2) For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of Colorado 2018.

14-10-112. Separation agreement. (1) To promote the amicable settlement of disputes between the parties to a marriage attendant upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for the maintenance of either of them, the disposition of any property owned by either of them, and the allocation of parental responsibilities, support, and parenting time of their children.

(2) In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except terms providing for the allocation of parental responsibilities, support, and parenting time of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the separation agreement is unconscionable.

(3) If the court finds the separation agreement unconscionable, the court may request the parties to submit a revised separation agreement, or the court may make orders for the disposition of property, support, and maintenance.

(4) If the court finds that the separation agreement is not unconscionable as to support, maintenance, and property:

(a) Unless the separation agreement provides to the contrary, its terms shall be set forth in the decree of dissolution or legal separation, and the parties shall be ordered to perform them; or

(b) If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement and shall state that the court has found the terms not unconscionable.

(5) Terms of the agreement set forth in the decree may be enforced by all remedies available for the enforcement of a judgment, including contempt, but are no longer enforceable as contract terms.

(6) Except for terms concerning the support, the allocation of decision-making responsibility, or parenting time of children, the decree may expressly preclude or limit modification of terms set forth in the decree if the separation agreement so provides.

Source: L. 71: R&RE, p. 525, § 1. **C.R.S. 1963:** § 46-1-12. **L. 93:** (1), (2), and (6) amended, p. 576, § 6, effective July 1. **L. 98:** (1), (2), and (6) amended, p. 1397, § 39, effective February 1, 1999.

Cross references: (1) For the "Uniform Premarital and Marital Agreements Act", see part 3 of article 2 of this title 14.

(2) For the legislative declaration contained in the 1993 act amending subsections (1), (2), and (6), see section 1 of chapter 165, Session Laws of Colorado 1993.

14-10-113. Disposition of property - definitions. (1) In a proceeding for dissolution of marriage or in a proceeding for legal separation or in a proceeding for disposition of property following the previous dissolution of marriage by a court which at the time of the prior dissolution of the marriage lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court, subject to the provisions of subsection (7) of this section, shall set apart to each spouse his or her property and shall divide the marital property, without regard to marital misconduct, in such proportions as the court deems just after considering all relevant factors including:

(a) The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;

(b) The value of the property set apart to each spouse;

(c) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse with whom any children reside the majority of the time; and

(d) Any increases or decreases in the value of the separate property of the spouse during the marriage or the depletion of the separate property for marital purposes.

(2) For purposes of this article only, and subject to the provisions of subsection (7) of this section, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(a) Property acquired by gift, bequest, devise, or descent;

(b) Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise, or descent;

(c) Property acquired by a spouse after a decree of legal separation; and

(d) Property excluded by valid agreement of the parties.

(3) Subject to the provisions of subsection (7) of this section, all property acquired by either spouse subsequent to the marriage and prior to a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property described in this subsection (3) is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

(4) Subject to the provisions of subsection (7) of this section, an asset of a spouse acquired prior to the marriage or in accordance with subsection (2)(a) or (2)(b) of this section shall be considered as marital property, for purposes of this article only, to the extent that its present value exceeds its value at the time of the marriage or at the time of acquisition if acquired after the marriage.

(5) For purposes of this section only, property shall be valued as of the date of the decree or as of the date of the hearing on disposition of property if such hearing precedes the date of the decree.

(6) (a) (I) Notwithstanding any anti-assignment, anti-alienation, or other provision of law to the contrary, all retirement benefits of any nature for public employees from a plan described in section 401 (a), 403 (b), 414 (d), or 457 of the federal "Internal Revenue Code of 1986", as amended, that is established pursuant to Colorado law shall be, in all actions for dissolution of marriage, legal separation, and declaration of invalidity of marriage, divisible directly by the plan upon written agreement of the parties to such an action pursuant to paragraph (c) of this subsection (6).

(II) The provisions of this subsection (6) shall apply to all dissolution of marriage, legal separation, and declaration of invalidity of marriage actions filed on or after January 1, 1997, and all dissolution of marriage, legal separation, or declaration of invalidity of marriage actions filed prior to January 1, 1997, in which the court did not enter a final property division order concerning the parties' public employee retirement benefits prior to January 1, 1997.

(b) As used in this subsection (6), unless the context otherwise requires:

(I) "Alternate payee" means a party to a dissolution of marriage, legal separation, or declaration of invalidity action who is not the participant of the public employee retirement plan divided or to be divided but who is married to or was married to the participant and who is to receive, is receiving, or has received all or a portion of the participant's retirement benefit by means of a written agreement as described in paragraph (c) of this subsection (6).

(II) "Defined benefit plan" means a retirement plan that is not a defined contribution plan and that usually provides benefits as a percentage of the participant's highest average salary, based on the plan's benefit formula and the participant's age and service credit at the time of retirement.

(III) "Defined contribution plan" means a retirement plan that provides for an individual retirement account for each participant and the benefits of which are based solely on the amount contributed to the participant's account and that includes any income, expenses, gains, losses, or forfeitures of accounts of other participants that may be allocated to the participant's account.

(IV) "Participant" means the person who is an active, inactive, or retired member of the public employee retirement plan.

(c) (I) The parties may enter into a marital agreement pursuant to part 3 of article 2 of this title or a separation agreement pursuant to section 14-10-112 concerning the division of a public employee retirement benefit between the parties pursuant to a written agreement. The parties shall submit such written agreement to the plan administrator within ninety days after entry of the decree and the permanent orders regarding property distribution in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage.

(II) A written agreement dividing a public employee retirement benefit shall:

(A) Specify the full legal name of the retirement plan or plans to which it applies;

(B) Specify the name, social security number, and last-known mailing address of the participant and the alternate payee as well as the alternate payee's relationship to the participant;

(C) For an agreement concerning a defined benefit plan, specify the distribution method, as described in subparagraph (III) of this paragraph (c), subject, if the plan permits, to benefit adjustments payable at the same time and in the same manner as any benefit adjustments applied to the participant's distribution;

(D) For an agreement concerning a defined contribution plan, specify the alternate payee's portion of the participant's account as a fixed lump-sum amount, or as a percentage, in either case, as of a specified date, from specific accounts of the participant and, unless the plan adopts rules and regulations pursuant to paragraph (d) of this subsection (6) permitting the plan to retain the alternate payee's portion of the participant's account, require that distribution to the alternate payee be made within one hundred twenty days after a certified court order approving the agreement has been submitted to and received by the plan;

(E) Not provide for payments to the alternate payee or to the participant for which he or she would not otherwise be eligible if there were no dissolution of marriage, legal separation, or declaration of invalidity action pending;

(F) For an agreement concerning a defined benefit plan, not require the plan to pay the alternate payee prior to the date payments commence to the participant or prior to the participant attaining age sixty-five or actual retirement date, whichever date is earlier, or at such later date as the parties may otherwise agree in writing;

(G) For an agreement concerning a defined benefit plan, provide that the alternate payee's rights to payments terminate upon the involuntary termination of benefits payable to the participant or upon the death of the alternate payee, whichever occurs first, unless the parties agree to elect, or have already elected, a benefit option under the plan that provides for a cobeneficiary benefit to the alternate payee;

(H) Provide that the manner of payment shall be in a form or type permissible under the plan. The agreement shall not require through this subsection (6) the payment of a benefit, benefit amount, or distribution option not otherwise set out in the plan document or statute.

(I) Not require the plan to pay benefits that are already required to be paid to another alternate payee or are already subject to an assignment or lien;

(J) Specify that it shall apply to successor plans;

(K) Comply with any rules or procedures promulgated pursuant to paragraph (d) of this subsection (6); and

(L) Specify that, once approved by the court, the order approving the agreement shall be certified by the clerk of the court and submitted to and received by the retirement plan at least thirty days before the plan may make its first payment.

(III) The written agreement between the parties described in subparagraph (II) of this paragraph (c) shall contain only one method or formula to be applied to divide the defined benefit plan. For purposes of sub-subparagraph (C) of subparagraph (II) of this paragraph (c), the parties may select any one of the following methods by which to divide the defined benefit plan:

(A) A fixed monetary amount;

(B) A fixed percentage of the payment to the participant;

(C) The time-rule formula determined by dividing the number of months of service credit acquired under the plan during the marriage as set forth in the court's order by the number of months of service credit in such plan at the time of the participant's retirement as determined by the plan, which quotient shall be multiplied by a percentage specified in the court's order, and the product thereof shall be further multiplied by the amount of the payment to the participant at the date of retirement;

(D) A formula determined by dividing the number of months of service credit acquired under the plan during the marriage as set forth in the court's order by the number of months of service credit in such plan as of the date of the decree as determined by the plan, regardless of when the participant is expected to retire, which quotient shall be multiplied by a percentage specified in the court's order, and the product thereof shall be further multiplied by the amount of the payment the participant would be entitled to receive as if the participant were to retire and receive an unreduced benefit on the date of the decree; or

(E) Any other method or formula mutually agreed upon by the parties that specifies a dollar amount or percentage payable to the alternate payee.

(d) The trustees or the administrator of each retirement plan may promulgate rules or procedures governing the implementation of this subsection (6) with respect to public employee retirement plans that they administer. Such rules or procedures may include the requirement that a standardized form be used by the parties and the court for an order approving the parties' agreement to be effective as well as other provisions consistent with the purpose of this subsection (6).

(e) Compliance with the provisions of this subsection (6) by a public employee retirement plan shall not subject the plan to any portions of the federal "Employee Retirement Income Security Act of 1974", as amended, that do not otherwise affect governmental plans generally. Any plan that reasonably complies with an order approving an agreement entered into pursuant to this subsection (6) shall be relieved of liability for payments made to the parties subject to such order.

(f) A court shall have no jurisdiction to enter an order dividing a public employee retirement benefit except upon written agreement of the parties pursuant to this subsection (6). A court shall have no jurisdiction to modify an order approving a written agreement of the parties

dividing a public employee retirement benefit unless the parties have agreed in writing to the modification. A court may retain jurisdiction to supervise the implementation of the order dividing the retirement benefits.

(7) (a) For purposes of subsections (1) to (4) of this section only, except with respect to gifts of nonbusiness tangible personal property, gifts from one spouse to another, whether in trust or not, shall be presumed to be marital property and not separate property. This presumption may be rebutted by clear and convincing evidence.

(b) For purposes of subsections (1) to (4) of this section only, "property" and "an asset of a spouse" shall not include any interest a party may have as an heir at law of a living person or any interest under any donative third party instrument which is amendable or revocable, including but not limited to third-party wills, revocable trusts, life insurance, and retirement benefit instruments, nor shall any such interests be considered as an economic circumstance or other factor.

(c) (I) The provisions of this subsection (7) shall apply to all causes of action filed on or after July 1, 2002. The provisions of this subsection (7) shall also apply to all causes of action filed before said date in which a final property disposition order concerning matters affected by this subsection (7) was not entered prior to July 1, 2002.

(II) For purposes of this paragraph (c), "final property disposition order" means a property disposition order for which the time to appeal has expired or for which all pending appeals have been finally concluded.

Source: L. 71: R&RE, p. 525, § 1. **C.R.S. 1963:** § 46-1-13. **L. 73:** pp. 553, 555, §§ 6, 7, 12. **L. 75:** IP(1) amended, p. 210, § 25, effective July 16. **L. 96:** (6) added, p. 1457, § 1, effective January 1, 1997. **L. 97:** (6)(a) amended, p. 100, § 1, effective March 24. **L. 98:** (6)(c)(I) and (6)(c)(II)(C) amended and (6)(c)(III) added, p. 355, § 1, effective August 5; (1)(c) amended, p. 1397, § 40, effective February 1, 1999. **L. 99:** (6)(c)(I), (6)(c)(II)(L), and (6)(f) amended, p. 46, § 1, effective March 15. **L. 2002:** (6)(a)(I) amended, p. 138, § 1, effective March 27; IP(1), IP(2), (3), and (4) amended and (7) added, p. 1054, § 1, effective June 1. **L. 2004:** (6)(a)(I) amended, p. 222, § 5, effective April 1.

Cross references: For the federal "Employee Retirement Income Security Act of 1974", see 29 U.S.C. sec. 1001 et seq.

14-10-114. Spousal maintenance - advisory guidelines - legislative declaration - definitions. (1) **Legislative declaration.** (a) The general assembly hereby finds that:

(I) The economic lives of spouses are frequently closely intertwined in marriage and that it is often impossible to later segregate the respective decisions and contributions of the spouses; and

(II) Consequently, awarding spousal maintenance may be appropriate if a spouse needs support and the other spouse has the ability to pay support.

(b) The general assembly further finds that:

(I) Because the statutes provide little guidance to the court concerning maintenance awards, there has been inconsistency in the amount and term of maintenance awarded in different judicial districts across the state in cases that involve similar factual circumstances; and

(II) Courts and litigants would benefit from the establishment of a more detailed statutory framework that includes advisory guidelines to be considered as a starting point for the determination of fair and equitable maintenance awards.

(c) Therefore, the general assembly declares that it is appropriate to create a statutory framework for the determination of maintenance awards, including advisory guidelines for the amount and term of maintenance in certain cases, that will assist the court and the parties in crafting maintenance awards that are fair, equitable, and more consistent across judicial districts and in their application to both parties.

(2) At the time of permanent orders in dissolution of marriage, legal separation, or declaration of invalidity proceedings, and upon the request of either party, the court may order the payment of maintenance from one spouse to the other pursuant to the provisions of this section. An award of maintenance shall be in an amount and for a term that is fair and equitable to both parties and shall be made without regard to marital misconduct.

(3) (a) (I) **Determination of maintenance.** When a party has requested maintenance in a dissolution of marriage, legal separation, or declaration of invalidity proceeding, prior to granting or denying an award of maintenance, the court shall make initial written or oral findings concerning:

(A) The amount of each party's gross income;

(B) The marital property apportioned to each party;

(C) The financial resources of each party, including but not limited to the actual or potential income from separate or marital property;

(D) Reasonable financial need as established during the marriage; and

(E) Whether maintenance awarded pursuant to this section would be deductible for federal income tax purposes by the payor and taxable income to the recipient.

(II) After making the initial findings described in subparagraph (I) of this paragraph (a), the court shall determine the amount and term of the maintenance award, if any, that is fair and equitable to both parties after considering:

(A) The guideline amount and term of maintenance set forth in paragraph (b) of this subsection (3), if applicable, based upon the duration of the marriage and the combined gross incomes of the parties;

(B) The factors relating to the amount and term of maintenance set forth in paragraph (c) of this subsection (3); and

(C) Whether the party seeking maintenance has met the requirement for a maintenance award pursuant to paragraph (d) of this subsection (3).

(b) **Advisory guideline amount and term of maintenance.** If the duration of the parties' marriage is at least three years and the parties' combined annual adjusted gross income does not exceed two hundred forty thousand dollars, the court shall make additional oral or

written findings concerning the duration of the marriage in whole months and the advisory guideline amount and term of maintenance, calculated as follows:

(I) (A) If the maintenance award is deductible for federal income tax purposes by the payor and taxable income to the recipient, the amount of maintenance under the advisory guidelines is equal to forty percent of the parties' combined monthly adjusted gross income minus the lower income party's monthly adjusted gross income. If the calculation results in a negative number, the amount of maintenance is zero.

(B) If the maintenance award is not deductible for federal income tax purposes by the payor and not taxable income to the recipient, the amount of maintenance under the advisory guidelines for parties with a combined monthly adjusted gross income of ten thousand dollars or less is equal to eighty percent of the amount calculated pursuant to subsection (3)(b)(I)(A) of this section.

(C) If the maintenance award is not deductible for federal income tax purposes by the payor spouse and not taxable income to the recipient spouse, the amount of maintenance under the advisory guidelines for parties with a combined monthly adjusted gross income of more than ten thousand dollars but not more than twenty thousand dollars is equal to seventy-five percent of the amount calculated pursuant to subsection (3)(b)(I)(A) of this section.

(II) (A) The advisory term of maintenance under the guidelines, calculated in whole months, for marriages of at least three years but not more than twenty years, is set forth in the table contained in subsection (3)(b)(II)(B) of this section. When the duration of the parties' marriage exceeds twenty years, the court may award maintenance for a specified term of years or for an indefinite term, but the court shall not specify a maintenance term that is less than the maintenance term under the guidelines for a twenty-year marriage without making specific findings that support a reduced term of maintenance.

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(c) **Factors affecting the amount and term of maintenance.** In any proceeding for maintenance, the court shall consider all relevant factors, including but not limited to:

(I) The financial resources of the recipient spouse, including the actual or potential income from separate or marital property or any other source and the ability of the recipient spouse to meet his or her needs independently;

(II) The financial resources of the payor spouse, including the actual or potential income from separate or marital property or any other source and the ability of the payor spouse to meet his or her reasonable needs while paying maintenance;

(III) The lifestyle during the marriage;

(IV) The distribution of marital property, including whether additional marital property may be awarded to reduce or alleviate the need for maintenance;

(V) Both parties' income, employment, and employability, obtainable through reasonable diligence and additional training or education, if necessary, and any necessary reduction in employment due to the needs of an unemancipated child of the marriage or the circumstances of the parties;

(VI) Whether one party has historically earned higher or lower income than the income reflected at the time of permanent orders and the duration and consistency of income from overtime or secondary employment;

(VII) The duration of the marriage;

(VIII) The amount of temporary maintenance and the number of months that temporary maintenance was paid to the recipient spouse;

(IX) The age and health of the parties, including consideration of significant health care needs or uninsured or unreimbursed health care expenses;

(X) Significant economic or noneconomic contribution to the marriage or to the economic, educational, or occupational advancement of a party, including but not limited to completing an education or job training, payment by one spouse of the other spouse's separate debts, or enhancement of the other spouse's personal or real property;

(XI) Whether the circumstances of the parties at the time of permanent orders warrant the award of a nominal amount of maintenance in order to preserve a claim of maintenance in the future;

(XII) Whether the maintenance is deductible for federal income tax purposes by the payor and taxable income to the recipient, and any adjustments to the amount of maintenance to equitably allocate the tax burden between the parties; and

(XIII) Any other factor that the court deems relevant.

(d) After considering the provisions of this section and making the required findings of fact, the court shall award maintenance only if it finds that the spouse seeking maintenance lacks sufficient property, including marital property apportioned to him or her, to provide for his or her reasonable needs and is unable to support himself or herself through appropriate employment or is the custodian of a child whose condition or circumstances make it inappropriate for the spouse to be required to seek employment outside the home.

(e) The maintenance guidelines set forth in paragraph (b) of this subsection (3) do not create a presumptive amount or term of maintenance. The court has discretion to determine the award of maintenance that is fair and equitable to both parties based upon the totality of the circumstances. The court shall make specific written or oral findings in support of the amount and term of maintenance awarded pursuant to this section or an order denying maintenance.

(f) The court may award additional marital property to the recipient spouse or otherwise adjust the distribution of marital property or debt to alleviate the need for maintenance or to reduce the amount or term of maintenance awarded.

(g) The court may reserve jurisdiction to establish, review, or modify an award of maintenance at a later date pursuant to the provisions of this section by setting forth:

(I) The reasons for reserving jurisdiction;

(II) The ascertainable future event that forms the basis for reserving jurisdiction; and

(III) A reasonably specific time within which maintenance may be considered pursuant to this section.

(h) The court may award maintenance in short-term marriages, including marriages of less than three years in duration, when, given the circumstances of the parties, the distribution of

marital property is insufficient to achieve an equitable result. In determining the award of maintenance, the court may consider the maintenance guidelines and the relevant factors affecting the amount and term of maintenance set forth in this subsection (3). The court shall make written or oral findings pursuant to paragraph (e) of this subsection (3).

(i) Nothing in this section prohibits an award of maintenance in gross.

(3.5) **Combined annual adjusted gross income in excess of advisory guideline amount.** If the parties' combined annual adjusted gross income exceeds two hundred forty thousand dollars, the calculation methodology described in subsection (3)(b)(I) of this section for determining the advisory guideline amount of maintenance does not apply, and the court shall instead consider the factors set forth in subsection (3)(c) of this section in determining the amount of maintenance. The court may consider the advisory guideline term of maintenance set forth in subsection (3)(b)(II) of this section.

(4) **Temporary maintenance.** (a) (I) In every proceeding for dissolution of marriage, legal separation, or declaration of invalidity where temporary maintenance is requested by a party, the court may award a monthly amount of temporary maintenance pursuant to the provisions of subsection (3) of this section that are relevant to a determination of temporary maintenance.

(II) The guideline term of maintenance set forth in subparagraph (II) of paragraph (b) of subsection (3) of this section does not apply to temporary maintenance orders. The court shall determine the term for payment of temporary maintenance.

(III) In addition to the relevant factors set forth in paragraph (c) of subsection (3) of this section, the court shall consider any additional factors specific to the determination of temporary maintenance, including the payment of family expenses and debts.

(b) After determining the amount of temporary maintenance pursuant to this subsection (4) and the amount of temporary child support pursuant to section 14-10-115, the court shall consider the respective financial resources of each party and determine the temporary payment of marital debt and the temporary allocation of marital property.

(c) A determination of temporary maintenance does not prejudice the rights of either party at permanent orders.

(5) **Modification or termination of maintenance.** (a) Except upon written agreement of the parties, an award of maintenance entered pursuant to this section may be modified or terminated pursuant to the provisions of section 14-10-122. The court may consider the guideline amount and term of maintenance and the statutory factors set forth in subsection (3) of this section only in a modification or termination proceeding concerning a maintenance award entered on or after January 1, 2014.

(b) The enactment of this section does not constitute a substantial and continuing change of circumstance for purposes of modifying maintenance orders entered before January 1, 2014.

(c) The enactment of the December 2017 "Tax Cuts and Jobs Act", Pub.L. 115-97, federal tax legislation, does not constitute a substantial and continuing change of circumstance for purposes of modifying maintenance orders entered prior to the effective date of that law.

(6) **Security for the payment of maintenance.** (a) The court may require the payor spouse to provide reasonable security for the payment of maintenance in the event of the payor spouse's death prior to the end of the maintenance term.

(b) Reasonable security may include, but need not be limited to, maintenance of life insurance for the benefit of the recipient spouse. In entering an order to maintain life insurance, the court shall consider:

(I) The age and insurability of the payor spouse;

(II) The cost of the life insurance;

(III) The amount and term of the maintenance;

(IV) Whether the parties carried life insurance during the marriage;

(V) Prevailing interest rates at the time of the order; and

(VI) Other obligations of the payor spouse.

(c) Orders to maintain security may be modified or terminated pursuant to section 14-10-122.

(7) **Maintenance agreements - waiver - unrepresented parties.** (a) Either or both of the parties may agree in writing or orally in court to waive maintenance consistent with the provisions of section 14-10-112. The parties may also agree to waive maintenance in a premarital agreement or marital agreement consistent with the provisions of the "Uniform Premarital and Marital Agreements Act", created in part 3 of article 2 of this title. The enforceability of maintenance provisions in a premarital agreement or marital agreement is determined pursuant to the provisions of section 14-2-309.

(b) In any proceeding that falls within the maintenance guidelines set forth in subsection (3) of this section, at the time of either temporary orders or permanent orders, if either party is not represented by an attorney, the court shall not approve an agreement waiving maintenance or agreeing to an amount or term of maintenance that does not follow the maintenance guidelines unless the unrepresented party has indicated that he or she is aware of the maintenance guidelines pursuant to this section.

(8) **Definitions.** As used in this section, unless the context otherwise requires:

(a) (I) "Adjusted gross income" means gross income as defined in subsection (8)(c) of this section, less preexisting court-ordered child support obligations actually paid by a party, preexisting court-ordered alimony or maintenance obligations actually paid by a party, as adjusted, if applicable, pursuant to subsection (8)(a)(III) of this section, and the adjustment to a party's income as determined pursuant to section 14-10-115 (6)(b) for any children who are not children of the marriage for whom the party has a legal responsibility to support.

(II) For purposes of this subsection (8)(a), "income" means the actual gross income of a party, if employed to full capacity, or potential income, if unemployed or underemployed.

(III) (A) For purposes of this subsection (8)(a), if the preexisting court-ordered alimony or maintenance obligations actually paid by a party are deductible for federal income tax purposes by that party, then the full amount of alimony or maintenance actually paid must be deducted from that party's gross income.

(B) If the preexisting court-ordered alimony or maintenance obligations actually paid by a party are not deductible for federal income tax purposes by that party, then the amount of preexisting court-ordered alimony or maintenance that is deducted from that party's gross income is the amount actually paid by that party multiplied by 1.25.

(b) "Duration of marriage" means the number of whole months, beginning from the first day of the month following the date of the parties' marriage until the date of decree or the date of the hearing on disposition of property if such hearing precedes the date of the decree.

(c) (I) "Gross income" means income from any source and includes, but is not limited to:

(A) Income from salaries;

(B) Wages, including 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) Commissions;

(D) Payments received as an independent contractor for labor or services, which payments must be considered income from self-employment;

(E) Bonuses;

(F) Dividends;

(G) Severance pay;

(H) Pension payments and retirement benefits actually received that have not previously been divided as property in this action, including but not limited to those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, C.R.S., and article 30 of title 31, C.R.S.;

(I) Royalties;

(J) Rents;

(K) Interest;

(L) Trust income and distributions;

(M) Annuity payments;

(N) Capital gains;

(O) Any moneys drawn by a self-employed individual for personal use that are deducted as a business expense, which moneys must be considered income from self-employment;

(P) Social security benefits, including social security benefits actually received by a party as a result of the disability of that party;

(Q) Workers' compensation benefits;

(R) Unemployment insurance benefits;

(S) Disability insurance benefits;

(T) 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;

(U) Monetary gifts;

(V) Monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office;

(W) Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies; except that, if a party is a passive investor, has a minority interest

in the company, and does not have any managerial duties or input, then the income to be recognized may be limited to actual cash distributions received;

(X) Expense reimbursements or in-kind payments received by a party in the course of employment, self-employment, or operation of a business if they are significant and reduce personal living expenses;

(Y) Alimony or maintenance received pursuant to a preexisting court order with a payor who is not a party to the action, as adjusted, if applicable, pursuant to subsection (8)(c)(VI) of this section; and

(Z) Overtime pay, only if the overtime is required by the employer as a condition of employment.

(II) "Gross income" does not include:

(A) Child support payments received;

(B) Benefits received from means-tested public assistance programs, including but not limited to assistance provided under the Colorado works program, as described in part 7 of article 2 of title 26, C.R.S., supplemental security income, food stamps, and general assistance;

(C) Income from additional jobs that result in the employment of the obligor more than forty hours per week or more than what would otherwise be considered to be full-time employment;

(D) Social security benefits received by a parent on behalf of a minor child as a result of the death or disability of a parent or stepparent; and

(E) Earnings or gains on retirement accounts, including individual retirement accounts; except that such earnings or gains shall not be included as income unless a party takes a distribution from the account. If a party may take a distribution from the account without being subject to a federal tax penalty for early distribution and the party chooses not to take a distribution, the court may consider the distribution that could have been taken in determining the party's gross income.

(III) (A) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" equals gross receipts minus ordinary and necessary expenses, as defined in sub-subparagraph (B) of this subparagraph (III), required to produce such income.

(B) "Ordinary and necessary expenses", as used in sub-subparagraph (A) of this subparagraph (III), does not include amounts allowable by the internal revenue service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating maintenance.

(IV) If a party is voluntarily unemployed or underemployed, maintenance shall be calculated based on a determination of potential income; except that a determination of potential income shall not be made for a party who is physically or mentally incapacitated or is caring for a child under the age of thirty months for whom the parties owe a joint legal responsibility or for an incarcerated parent sentenced to one year or more.

(V) For the purposes of this section, a party shall not be deemed "underemployed" if:

(A) The employment is temporary and is reasonably intended to result in higher income within the foreseeable future; or

(B) The employment is a good faith career choice; or

(C) The party is enrolled in an educational program that is reasonably intended to result in a degree or certification within a reasonable period of time and that will result in a higher income, so long as the educational program is a good faith career choice.

(VI) For purposes of subsection (8)(c)(I)(Y) of this section, if alimony or maintenance received by a party pursuant to a preexisting court order is taxable income to that party for federal income tax purposes, then the actual amount of alimony or maintenance received is included in that party's gross income. If the alimony or maintenance received by a party pursuant to a preexisting court order is not taxable income to that party for federal income tax purposes, then the amount of alimony or maintenance that is included in that party's gross income is the amount of alimony or maintenance received multiplied by 1.25.

(9) **Application.** The provisions of this section apply only to actions in which a petition for dissolution of marriage, legal separation, or declaration of invalidity, or an action for the initial establishment of maintenance is filed on or after January 1, 2014. Actions filed before January 1, 2014, are determined pursuant to the provisions of this section as it existed at the time of the filing of the action.

Source: L. 71: R&RE, p. 526, § 1. **C.R.S. 1963:** § 46-1-14. **L. 79:** (2)(b) amended, p. 644, § 1, effective July 1. **L. 98:** (2)(a) amended, p. 1397, § 41, effective February 1, 1999. **L. 2001:** Entire section amended, p. 481, § 1, effective July 1. **L. 2007:** (2)(b)(IV)(A) amended, p. 107, § 2, effective March 16. **L. 2013:** Entire section R&RE, (HB 13-1058), ch. 176, p. 639, § 1, effective January 1, 2014. **L. 2014:** (9) amended, (HB 14-1379), ch. 307, p. 1300, § 1, effective May 31. **L. 2015:** (7)(a) amended, (SB 15-264), ch. 259, p. 951, § 36, effective August 5. **L. 2016:** (8)(a)(I) amended, (HB 16-1165), ch. 157, p. 497, § 10, effective January 1, 2017. **L. 2018:** (1)(c), (3)(a)(I)(C), (3)(a)(I)(D), IP(3)(b), (3)(b)(I), (3)(b)(II)(A), (3)(c)(XI), (3)(c)(XII), (8)(a), and (8)(c)(I)(Y) amended and (3)(a)(I)(E), (3)(c)(XIII), (3.5), (5)(c), and (8)(c)(VI) added, (HB 18-1385), ch. 251, p. 1543, § 1, effective August 8.

Editor's note: For purposes of subsection (3)(b), the uppermost limits of the schedule of basic child support obligations were changed by House Bill 13-1209 from an annual combined adjusted gross income of $240,000 to an annual combined adjusted gross income of $360,000, effective January 1, 2014. (See § 14-10-115 (7).)

14-10-115. Child support guidelines - purpose - determination of income - schedule of basic child support obligations - adjustments to basic child support - additional guidelines - child support commission - definitions. (1) **Purpose and applicability.** (a) The child support guidelines and schedule of basic child support obligations have the following purposes:

(I) To establish as state policy an adequate standard of support for children, subject to the ability of parents to pay;

(II) To make awards more equitable by ensuring more consistent treatment of persons in similar circumstances; and

(III) To improve the efficiency of the court process by promoting settlements and giving courts and the parties guidance in establishing levels of awards.

(b) The child support guidelines and schedule of basic child support obligations do the following:

(I) Calculate child support based upon the parents' combined adjusted gross income estimated to have been allocated to the child if the parents and children were living in an intact household;

(II) Adjust the child support based upon the needs of the children for extraordinary medical expenses and work-related child care costs; and

(III) Allocate the amount of child support to be paid by each parent based upon physical care arrangements.

(c) This section shall apply to all child support obligations, established or modified, as a part of any proceeding, including, but not limited to, articles 5, 6, and 10 of this title and articles 4 and 6 of title 19, C.R.S., regardless of when filed.

(2) **Duty of support - factors to consider.** (a) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support and may order an amount determined to be reasonable under the circumstances for a time period that occurred after the date of the parties' physical separation or the filing of the petition or service upon the respondent, whichever date is latest, and prior to the entry of the support order, without regard to marital misconduct.

(b) In determining the amount of support under this subsection (2), the court shall consider all relevant factors, including:

(I) The financial resources of the child;

(II) The financial resources of the custodial parent;

(III) The standard of living the child would have enjoyed had the marriage not been dissolved;

(IV) The physical and emotional condition of the child and his or her educational needs; and

(V) The financial resources and needs of the noncustodial parent.

(3) **Definitions.** As used in this section, unless the context otherwise requires:

(a) (I) "Adjusted gross income" means gross income, as specified in subsection (5) of this section, less preexisting child support obligations and less alimony or maintenance actually paid by a parent, as described in subsection (3)(a)(II) of this section.

(II) For purposes of this subsection (3)(a), if the alimony or maintenance actually paid by a parent is deductible for federal income tax purposes by that parent, then the actual amount of alimony or maintenance paid by that parent must be deducted from that parent's gross income.

If the alimony or maintenance actually paid by a parent is not deductible for federal income tax purposes by that parent, then the amount of alimony or maintenance deducted from that parent's gross income is the amount of alimony or maintenance actually paid by that parent multiplied by 1.25.

(b) "Combined gross income" means the combined monthly adjusted gross incomes of both parents.

(c) "Income" means the actual gross income of a parent, if employed to full capacity, or potential income, if unemployed or underemployed. Gross income of each parent shall be determined according to subsection (5) of this section.

(c.5) "Mandatory school fees" means fees charged by a school or school district, including a charter school, for a child attending public primary or secondary school for activities that are directly related to the educational mission of the school, including but not limited to laboratory fees; book or educational material fees; school computer or automation-related fees, whether paid to the school directly or purchased by a parent; testing fees; and supply or material fees paid to the school. "Mandatory school fees" does not include uniforms, meals, or extracurricular activity fees.

(d) "Number of children due support", as used in the schedule of basic child support obligations specified in subsection (7) of this section, means children for whom the parents share joint legal responsibility and for whom support is being sought.

(e) "Other children" means children who are not the subject of the child support determination at issue.

(f) "Postsecondary education" includes college and career and technical education programs.

(g) "Postsecondary education support" means support for the following expenses associated with attending a college, university, or career and technical education program: Tuition, books, and fees.

(h) "Shared physical care", for the purposes of the child support guidelines and schedule of basic child support obligations specified in this section, and as further specified in paragraph (b) of subsection (8) of this section, means that each parent keeps the children overnight for more than ninety-two overnights each year and that both parents contribute to the expenses of the children in addition to the payment of child support.

(i) "Split physical care", for the purposes of the child support guidelines and schedule of basic child support obligations specified in this section, and as further specified in paragraph (c) of subsection (8) of this section, means that each parent has physical care of at least one of the children by means of that child or children residing with that parent the majority of the time.

(4) **Forms - identifying information.** (a) The child support guidelines shall be used with standardized child support guideline forms to be issued by the judicial department. The judicial department is responsible for promulgating and updating the Colorado child support guideline forms, schedules, worksheets, and instructions.

(b) All child support orders entered pursuant to this article shall provide the names and dates of birth of the parties and of the children who are the subject of the order and the parties'

residential and mailing addresses. The social security numbers of the parties and children shall be collected pursuant to section 14-14-113 and section 26-13-127, C.R.S.

(5) **Determination of income.** (a) For the purposes of the child support guidelines and schedule of basic child support obligations specified in this section, the gross income of each parent shall be determined according to the following guidelines:

(I) "Gross income" includes income from any source, except as otherwise provided in subsection (5)(a)(II) of this section, and includes, but is not limited to:

(A) Income from salaries;

(B) Wages, including 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) Commissions;

(D) Payments received as an independent contractor for labor or services, which payments must be considered income from self-employment;

(E) Bonuses;

(F) Dividends;

(G) Severance pay;

(H) Pensions and retirement benefits, including but not limited to those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, C.R.S., and article 30 of title 31, C.R.S.;

(I) Royalties;

(J) Rents;

(K) Interest;

(L) Trust income;

(M) Annuities;

(N) Capital gains;

(O) Any moneys drawn by a self-employed individual for personal use that are deducted as a business expense, which moneys must be considered income from self-employment;

(P) Social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child;

(Q) Workers' compensation benefits;

(R) Unemployment insurance benefits;

(S) Disability insurance benefits;

(T) 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;

(U) Monetary gifts;

(V) Monetary prizes, excluding lottery winnings not required by the rules of the Colorado lottery commission to be paid only at the lottery office;

(W) Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies. However, if a parent is a passive investor, has a minority interest

in the company, and does not have any managerial duties or input, then the income to be recognized may be limited to actual cash distributions received.

(X) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business if they are significant and reduce personal living expenses;

(Y) Alimony or maintenance received, as adjusted, if applicable, pursuant to subsection (5)(a)(I.5) of this section; and

(Z) Overtime pay, only if the overtime is required by the employer as a condition of employment.

(I.5) For purposes of subsection (5)(a)(I)(Y) of this section, if the alimony or maintenance actually received by a parent is taxable income to that parent for federal income tax purposes, then the actual amount of alimony or maintenance received is included in that parent's gross income. If the alimony or maintenance actually received by a parent is not taxable income to that parent for federal income tax purposes, then the amount of alimony or maintenance that is included in that parent's gross income is the amount of alimony or maintenance received by that parent multiplied by 1.25.

(II) "Gross income" does not include:

(A) Child support payments received;

(B) Benefits received from means-tested public assistance programs, including but not limited to assistance provided under the Colorado works program, as described in part 7 of article 2 of title 26, C.R.S., supplemental security income, food stamps, and general assistance;

(C) Income from additional jobs that result in the employment of the obligor more than forty hours per week or more than what would otherwise be considered to be full-time employment;

(D) Social security benefits received by the minor children, or on behalf of the minor children, as a result of the death or disability of a stepparent are not to be included as income for the minor children for the determination of child support; and

(E) Earnings or gains on a retirement account, including an IRA, which earnings or gains must not be included as income unless or until a parent takes a distribution from the account. If a distribution from a retirement account may be taken without being subject to an IRS penalty for early distribution and the parent decides not to take the distribution, the court may consider the distribution that could have been taken in determining the parent's gross income if the parent is not otherwise employed full-time and the retirement account was not received pursuant to the division of marital property.

(III) (A) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" equals gross receipts minus ordinary and necessary expenses, as defined in sub-subparagraph (B) of this subparagraph (III), required to produce such income.

(B) "Ordinary and necessary expenses" does not include amounts allowable by the internal revenue service for the accelerated component of depreciation expenses or investment

tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support.

(b) (I) If a parent is voluntarily unemployed or underemployed, child support must be calculated based on a determination of potential income; except that a determination of potential income must not be made for:

(A) A parent who is physically or mentally incapacitated;

(B) A parent who is caring for a child under the age of twenty-four months for whom the parents owe a joint legal responsibility; or

(C) An incarcerated parent sentenced to one hundred eighty days or more.

(I.5) If the court or delegate child support enforcement unit imputes income pursuant to this subsection (5), the provisions of subsection (5)(b.5) of this section apply.

(II) If a noncustodial parent who owes past-due child support is unemployed and not incapacitated and has an obligation of support to a child receiving assistance pursuant to part 7 of article 2 of title 26, C.R.S., the court or delegate child support enforcement unit may order the parent to pay such support in accordance with a plan approved by the court or to participate in work activities. Work activities may include one or more of the following:

(A) Private or public sector employment;

(B) Job search activities;

(C) Community service;

(D) Vocational training; or

(E) Any other employment-related activities available to that particular individual.

(III) For the purposes of this section, a parent is not deemed "underemployed" if:

(A) The employment is temporary and is reasonably intended to result in higher income within the foreseeable future; or

(B) The employment is a good faith career choice that is not intended to deprive a child of support and does not unreasonably reduce the support available to a child; or

(C) The parent is enrolled full-time in an educational or vocational program or is employed part-time while enrolled in a part-time educational or vocational program, based on the institution's enrollment definitions, and the program is reasonably intended to result in a degree or certification within a reasonable period of time; completing the program will result in a higher income; the program is a good faith career choice that is not intended to deprive the child of support; and the parent's participation in the program does not unreasonably reduce the amount of child support available to a child.

(b.5) (I) Except as otherwise provided in this section, if the court or delegate child support enforcement unit determines that a parent is voluntarily unemployed or underemployed or employment information is unreliable, the court or delegate child support enforcement unit shall determine and document, for the record, the parent's potential income.

(II) In determining potential income, the court or delegate child support enforcement unit shall consider, to the extent known, the specific circumstances of the parent, including consideration of the following information, when available:

(A) The parent's assets;

(B) Residence;
(C) Employment and earnings history;
(D) Job skills;
(E) Educational attainment;
(F) Literacy;
(G) Age;
(H) Health;
(I) Criminal record;
(J) Other employment barriers;
(K) Record of seeking work;
(L) The local job market;
(M) The availability of employers hiring in the community, without changing existing law regarding the burden of proof;
(N) Prevailing earnings level in the local community; and
(O) Other relevant background factors in the case.

(c) Income statements of the parents shall be verified with documentation of both current and past earnings. Suitable documentation of current earnings includes pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. A copy of wage statements or other wage information obtained from the computer data base maintained by the department of labor and employment shall be admissible into evidence for purposes of determining income under this subsection (5).

(6) **Adjustments to gross income.** (a) At the time a child support order is initially established, or in any proceeding to modify a child support order, if a parent is also legally responsible for the support of any other children for whom the parents do not share joint legal responsibility, the court shall make an adjustment to the parent's gross income prior to calculating the basic child support obligation for the child or children who are the subject of the support order in question as follows:

(I) If a parent is obligated to pay support for another child pursuant to an order, the amount actually paid on the order must be deducted from that parent's gross income;

(II) If the other child is residing in the home of a parent, the court shall deduct from that parent's gross income the amount calculated pursuant to paragraph (b) of this subsection (6);

(III) If another child of a parent is residing outside the home of that parent, the court shall deduct from that parent's gross income the amount of documented money payments actually paid by the parent for the support of the other child, not to exceed the schedule of basic support obligations set forth in subsection (7) of this section.

(b) The amount of the adjustment must not exceed the schedule of basic support obligations listed in this section. For a parent with gross income of more than one thousand five hundred dollars per month, the adjustment is seventy-five percent of the amount listed under the schedule of basic support obligations in subsection (7)(b) of this section that would represent a support obligation based only upon the responsible parent's income, without any other

adjustments for the number of other children for whom the parent is responsible. The amount calculated as set forth in this subsection (6)(b) must be subtracted from the amount of the parent's gross income prior to calculating the basic support obligation based upon both parents' gross income, as provided in subsection (7) of this section.

(7) **Schedule of basic child support obligations.** (a) (I) The basic child support obligation shall be determined using the schedule of basic child support obligations contained in paragraph (b) of this subsection (7). The basic child support obligation shall be divided between the parents in proportion to their adjusted gross incomes.

(II) (A) For combined gross income that falls between amounts shown in the schedule of basic child support obligations, basic child support amounts shall be interpolated. The category entitled "number of children due support" in the schedule of basic child support obligations shall have the meaning defined in subsection (3) of this section.

(B) In circumstances in which the obligor's monthly adjusted gross income is less than one thousand five hundred dollars but more than six hundred fifty dollars, the obligor is required to pay a child support payment of fifty dollars per month for one child, seventy dollars per month for two children, ninety dollars per month for three children, one hundred ten dollars per month for four children, one hundred thirty dollars per month for five children, and one hundred fifty dollars per month for six or more children. The minimum order amount shall not apply when each parent keeps the children more than ninety-two overnights each year as defined in subsection (3)(h) of this section. In no case, however, shall the amount of child support ordered to be paid exceed the amount of child support that would otherwise be ordered to be paid if the parents did not share physical custody.

(C) For an obligor with an adjusted gross income that is less than one thousand five hundred dollars but more than six hundred fifty dollars, the obligor's child support amount, as determined pursuant to subsection (7)(a)(II)(B) of this section, may be adjusted to include a share of the work-related and education-related child care costs, health insurance, extraordinary medical expenses, and other extraordinary adjustments as described in subsections (9) to (11) of this section, if, after these adjustments are made, the obligor's child support amount does not exceed twenty percent of the obligor's adjusted gross income. Adjustments must not be made to the obligor's child support amount pursuant to this subsection (7)(a)(II)(C) if, within the same child support order, the number of children for whom a duty of support is owed results in a child support obligation that exceeds twenty percent of the obligor's adjusted gross income. The low-income adjustment shall not apply when each parent keeps the children more than ninety-two overnights each year as defined in subsection (8) of this section. In no case, however, shall the amount of child support ordered to be paid exceed the amount of child support that would otherwise be ordered to be paid if the parents did not share physical custody.

(D) In any circumstance in which the obligor's monthly adjusted gross income is less than six hundred fifty dollars, regardless of the monthly adjusted gross income of the obligee, the obligor must be ordered to pay the minimum monthly order amount in child support. The minimum order amount is ten dollars per month, regardless of the number of children between

these parties. The ten-dollar minimum monthly order amount is not adjusted by the number of the obligor's overnights with children.

(E) The judge may use discretion to determine child support in circumstances where combined adjusted gross income exceeds the uppermost levels of the schedule of basic child support obligations; except that the presumptive basic child support obligation shall not be less than it would be based on the highest level of adjusted gross income set forth in the schedule of basic child support obligations.

(b) Schedule of basic child support obligations:

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(8) **Computation of basic child support - shared physical care - split physical care - stipulations - deviations - basis for periodic updates.** (a) Except in cases of shared physical care or split physical care as defined in paragraphs (h) and (i) of subsection (3) of this section, a total child support obligation is determined by adding each parent's respective basic child support obligation, as determined through the guidelines and schedule of basic child support obligations specified in subsection (7) of this section, work-related net child care costs, extraordinary medical expenses, and extraordinary adjustments to the schedule of basic child support obligations. The parent receiving a child support payment shall be presumed to spend his or her total child support obligation directly on the children. The parent paying child support to the other parent shall owe his or her total child support obligation as child support to the other parent minus any ordered payments included in the calculations made directly on behalf of the children for work-related net child care costs, extraordinary medical expenses, or extraordinary adjustments to the schedule of basic child support obligations.

(b) Because shared physical care presumes that certain basic expenses for the children will be duplicated, an adjustment for shared physical care is made by multiplying the basic child support obligation by one and fifty hundredths (1.50). In cases of shared physical care, each parent's adjusted basic child support obligation obtained by application of paragraph (b) of subsection (7) of this section shall first be divided between the parents in proportion to their respective adjusted gross incomes. Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent. To these amounts shall be added each parent's proportionate share of work-related net child care costs, extraordinary medical expenses, and extraordinary adjustments to the schedule of basic child support obligations. The parent owing the greater amount of child support shall owe the difference between the two amounts as a child support order minus any ordered direct payments made on behalf of the children for work-related net child care costs, extraordinary medical expenses, or extraordinary adjustments to the schedule of basic child support obligations. In no case, however, shall the amount of child support ordered to be paid exceed the amount of child support that would otherwise be ordered to be paid if the parents did not share physical custody.

(c) (I) In cases of split physical care, a child support obligation shall be computed separately for each parent based upon the number of children living with the other parent in accordance with subsections (7), (9), (10), and (11) of this section. The amount so determined

shall be a theoretical support obligation due each parent for support of the child or children for whom he or she has primary physical custody. The obligations so determined shall then be offset, with the parent owing the larger amount owing the difference between the two amounts as a child support order.

(II) If the parents also share physical care as outlined in paragraph (b) of this subsection (8), an additional adjustment for shared physical care shall be made as provided in paragraph (b) of this subsection (8).

(d) Stipulations presented to the court shall be reviewed by the court for approval. No hearing shall be required; however, the court shall use the guidelines and schedule of basic child support obligations to review the adequacy of child support orders negotiated by the parties as well as the financial affidavit that fully discloses the financial status of the parties as required for use of the guidelines and schedule of basic child support obligations.

(e) In an action to establish or modify child support, whether temporary or permanent, the guidelines and schedule of basic child support obligations set forth in subsection (7) of this section shall be used as a rebuttable presumption for the establishment or modification of the amount of child support. A court may deviate from the guidelines and schedule of basic child support obligations where its application would be inequitable, unjust, or inappropriate. Any such deviation shall be accompanied by written or oral findings by the court specifying the reasons for the deviation and the presumed amount under the guidelines and schedule of basic child support obligations without a deviation. These reasons may include, but are not limited to, instances where one of the parents spends substantially more time with the child than is reflected by a straight calculation of overnights, the extraordinary medical expenses incurred for treatment of either parent or a current spouse, extraordinary costs associated with parenting time, the gross disparity in income between the parents, the ownership by a parent of a substantial nonincome producing asset, consistent overtime not considered in gross income under sub-subparagraph (C) of subparagraph (II) of paragraph (a) of subsection (5) of this section, or income from employment that is in addition to a full-time job or that results in the employment of the obligor more than forty hours per week or more than what would otherwise be considered to be full-time employment. The existence of a factor enumerated in this section does not require the court to deviate from the guidelines and basic schedule of child support obligations but may be a factor to be considered in the decision to deviate. The court may deviate from the guidelines and basic schedule of child support obligations even if a factor enumerated in this section does not exist.

(f) The guidelines and schedule of basic child support obligations may be used by the parties as the basis for periodic updates of child support obligations.

(g) For purposes of calculating child support, when two or more children are included in the child support worksheet calculation and the parties have a different number of overnights with two or more of the children, the number of overnights used to determine child support is determined by adding together the number of overnights for each child and then dividing that number by the number of children included in the child support worksheet calculation.

(9) **Adjustments for child care costs.** (a) Net child care costs incurred on behalf of the children due to employment or job search or the education of either parent shall be added to the

basic obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

(b) Child care costs shall not exceed the level required to provide quality care from a licensed source for the children. The value of the federal income tax credit for child care shall be subtracted from actual costs to arrive at a figure for net child care costs.

(10) **Adjustments for health care expenditures for children.** (a) In orders issued pursuant to this section, the court shall also provide for the child's or children's current and future medical needs by ordering either parent or both parents to initiate medical or medical and dental insurance coverage for the child or children through currently effective medical or medical and dental insurance policies held by the parent or parents, purchase medical or medical and dental insurance for the child or children, or provide the child or children with current and future medical needs through some other manner. If a parent has been directed to provide insurance pursuant to this section and that parent's spouse provides the insurance for the benefit of the child or children either directly or through employment, a credit on the child support worksheet shall be given to the parent in the same manner as if the premium were paid by the parent. At the same time, the court shall order payment of medical insurance or medical and dental insurance deductibles and copayments.

(b) The payment of a premium to provide health insurance coverage on behalf of the children subject to the order shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross income.

(c) The amount to be added to the basic child support obligation shall be the actual amount of the total insurance premium that is attributable to the child who is the subject of the order. If this amount is not available or cannot be verified, the total cost of the premium should be divided by the total number of persons covered by the policy. The cost per person derived from this calculation shall be multiplied by the number of children who are the subject of the order and who are covered under the policy. This amount shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

(d) After the total child support obligation is calculated and divided between the parents in proportion to their adjusted gross incomes, the amount calculated in paragraph (c) of this subsection (10) shall be deducted from the obligor's share of the total child support obligation if the obligor is actually paying the premium. If the obligee is actually paying the premium, no further adjustment is necessary.

(e) Prior to allowing the health insurance adjustment, the parent requesting the adjustment must submit proof that the child or children have been enrolled in a health insurance plan and must submit proof of the cost of the premium. The court shall require the parent receiving the adjustment to submit annually proof of continued coverage of the child or children to the delegate child support enforcement unit and to the other parent.

(f) If a parent who is ordered by the court to provide medical or medical and dental insurance for the child or children has insurance that excludes coverage of the child or children because the child or children reside outside the geographic area covered by the insurance policy,

the court shall order separate coverage for the child or children if the court determines coverage is available at a reasonable cost.

(g) Where the application of the premium payment on the guidelines and schedule of basic child support obligations results in a child support order of fifty dollars or less, or the premium payment is five percent or more of the parent's gross income, the court or delegate child support enforcement unit may elect not to require the parent to include the child or children on an existing policy or to purchase insurance. The parent is, however, required to provide insurance when it becomes available at a reasonable cost.

(h) (I) Any extraordinary medical expenses incurred on behalf of the children shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

(II) Extraordinary medical expenses are uninsured expenses, including copayments and deductible amounts, in excess of two hundred fifty dollars per child per calendar year. Extraordinary medical expenses include, but need not be limited to, such reasonable costs as are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, vision care, and any uninsured chronic health problem. At the discretion of the court, professional counseling or psychiatric therapy for diagnosed behavioral or mental health disorders may also be considered as an extraordinary medical expense.

(11) **Extraordinary adjustments to the schedule of basic child support obligations - periodic disability benefits.** (a) By agreement of the parties or by order of court, the following reasonable and necessary expenses incurred on behalf of the child must be divided between the parents in proportion to their adjusted gross income:

(I) Any expenses for attending any special or private elementary or secondary schools to meet the particular educational needs of the child or public school mandatory school fees; and

(II) Any expenses for transportation of the child, or the child and an accompanying parent if the child is less than twelve years of age, between the homes of the parents.

(b) Any additional factors that actually diminish the basic needs of the child may be considered for deductions from the basic child support obligation.

(c) (I) If the noncustodial parent receives periodic disability benefits granted by the federal "Old-age, Survivors, and Disability Insurance Act", 42 U.S.C. sec. 401 et seq., due to the disability of the noncustodial parent or receives employer-paid retirement benefits from the federal government due to the retirement of the noncustodial parent, the noncustodial parent shall notify the custodial party, and the delegate child support enforcement unit, if a party to the case, within sixty days after the noncustodial party receives notice of such benefits.

(II) Absent good cause shown, the custodial parent must apply for dependent benefits for the child or children within sixty days after the custodial parent receives notification pursuant to subsection (11)(c)(I) of this section, and shall cooperate with the appropriate federal agency in completing any application for benefits.

(III) In cases where the custodial parent receives periodic disability benefits granted by the federal "Old-age, Survivors, and Disability Insurance Act", 42 U.S.C. sec. 401 et seq., on behalf of dependent children due to the disability of the noncustodial parent or receives

employer-paid retirement benefits from the federal government on behalf of dependent children due to the retirement of the noncustodial parent, the noncustodial parent's share of the total child support obligation as determined pursuant to subsection (8) of this section must be reduced in an amount equal to the amount of the benefits.

(d) In cases where the custodial parent receives a lump sum retroactive award for benefits granted by the federal old-age, survivors, or disability insurance benefits program, 42 U.S.C. sec. 7, on behalf of a dependent child due to the disability of the noncustodial parent, or receives a lump sum retroactive award for employer-paid retirement benefits from the federal government on behalf of a dependent child due to the retirement of the noncustodial parent, the lump sum award received by the custodial parent must be credited against any retroactive support judgment or any past-due child support obligation, regardless of whether the past-due obligation has been reduced to judgment owed by the noncustodial parent. This credit must not be given against any amounts owed by the noncustodial parent for debt as defined in section 14-14-104 or for any retroactive support or any arrearage that accrued prior to the date of eligibility for disability or retirement benefits as determined by the social security administration. Any lump sum retirement or disability payments due to the retirement or disability of the noncustodial parent, received by the custodial parent as a result of the retirement or disability of the noncustodial parent, paid for a period of time that precedes the date of such benefit date eligibility, or any amount in excess of the established child support order or judgment, must be deemed a gratuity to the child.

(12) **Dependency exemptions.** Unless otherwise agreed upon by the parties, the court shall allocate the right to claim dependent children for income tax purposes between the parties. These rights shall be allocated between the parties in proportion to their contributions to the costs of raising the children. A parent shall not be entitled to claim a child as a dependent if he or she has not paid all court-ordered child support for that tax year or if claiming the child as a dependent would not result in any tax benefit.

(13) **Emancipation.** (a) For child support orders entered on or after July 1, 1997, unless a court finds that a child is otherwise emancipated, emancipation occurs and child support terminates without either party filing a motion when the last or only child attains nineteen years of age unless one or more of the following conditions exist:

(I) The parties agree otherwise in a written stipulation after July 1, 1997;

(II) If the child is mentally or physically disabled, the court or the delegate child support enforcement unit may order child support, including payments for medical expenses or insurance or both, to continue beyond the age of nineteen;

(III) If the child is still in high school or an equivalent program, support continues until the end of the month following graduation. A child who ceases to attend high school prior to graduation and later reenrolls is entitled to support upon reenrollment and until the end of the month following graduation, but not beyond age twenty-one.

(IV) If the child marries, the child shall be considered emancipated as of the date of the marriage. If the marriage is annulled, dissolved, or declared invalid, child support may be reinstated.

(V) If the child enters into active military duty, the child shall be considered emancipated.

(b) Nothing in paragraph (a) of this subsection (13) or subsection (15) of this section shall preclude the parties from agreeing in a written stipulation or agreement on or after July 1, 1997, to continue child support beyond the age of nineteen or to provide for postsecondary education expenses for a child and to set forth the details of the payment of the expenses. If the stipulation or agreement is approved by the court and made part of a decree of dissolution of marriage or legal separation, the terms of the agreement shall be enforced as provided in section 14-10-112.

(14) **Annual exchange of information.** (a) When a child support order is entered or modified, unless otherwise ordered by the court, the parties shall exchange information relevant to child support calculations on changes that have occurred since the previous child support order, and other appropriate information once a year or less often, for the purpose of updating and modifying the order without a court hearing. The parties shall use the approved standardized child support forms specified in subsection (4) of this section in exchanging financial information. The parents shall include the forms with any agreed modification or an agreement that a modification is not appropriate at the time. If the agreed amount departs from the guidelines and schedule of basic child support obligations, the parties shall furnish statements of explanation with the forms and shall file the documents with the court. The court shall review the agreement pursuant to this paragraph (a) and inform the parties by regular mail whether or not additional or corrected information is needed, or that the modification is granted, or that the modification is denied. If the parties cannot agree, a modification pursuant to this paragraph (a) shall not be entered; however, either party may move for or the court may schedule, upon its own motion, a modification hearing.

(b) Upon request of the noncustodial parent, the court may order the custodial parent to submit an annual update of financial information using the approved standardized child support forms, as specified in subsection (4) of this section, including information on the actual expenses relating to the children of the marriage for whom support has been ordered. The court shall not order the custodial parent to update the financial information pursuant to this paragraph (b) in circumstances where the noncustodial parent has failed to exercise parenting time rights or when child support payments are in arrears or where there is documented evidence of domestic violence, child abuse, or a violation of a protection order on the part of the noncustodial parent. The court may order the noncustodial parent to pay the costs involved in preparing an update to the financial information. If the noncustodial parent claims, based upon the information in the updated form, that the custodial parent is not spending the child support for the benefit of the children, the court may refer the parties to a mediator to resolve the differences. If there are costs for such mediation, the court shall order that the party requesting the mediation pay such costs.

(15) **Postsecondary education.** (a) This subsection (15) shall apply to all child support obligations established or modified as a part of any proceeding, including but not limited to articles 5, 6, and 10 of this title and articles 4 and 6 of title 19, C.R.S., prior to July 1, 1997. This

subsection (15) shall not apply to child support orders established on or after July 1, 1997, which shall be governed by paragraph (a) of subsection (13) of this section.

(b) For child support orders entered prior to July 1, 1997, unless a court finds that a child is otherwise emancipated, emancipation occurs and child support terminates without either party filing a motion when the last or only child attains nineteen years of age unless one or more of the following conditions exist:

(I) The parties agree otherwise in a written stipulation after July 1, 1991;

(II) If the child is mentally or physically disabled, the court or the delegate child support enforcement unit may order child support, including payments for medical expenses or insurance or both, to continue beyond the age of nineteen;

(III) If the child is still in high school or an equivalent program, support continues until the end of the month following graduation, unless there is an order for postsecondary education, in which case support continues through postsecondary education as provided in this subsection (15). A child who ceases to attend high school prior to graduation and later reenrolls is entitled to support upon reenrollment and until the end of the month following graduation, but not beyond age twenty-one.

(IV) If the child marries, the child shall be considered emancipated as of the date of the marriage. If the marriage is annulled, dissolved, or declared invalid, child support may be reinstated.

(V) If the child enters into active military duty, the child shall be considered emancipated.

(c) If the court finds that it is appropriate for the parents to contribute to the costs of a program of postsecondary education, then the court shall terminate child support and enter an order requiring both parents to contribute a sum determined to be reasonable for the education expenses of the child, taking into account the resources of each parent and the child. In determining the amount of each parent's contribution to the costs of a program of postsecondary education for a child, the court shall be limited to an amount not to exceed the amount listed under the schedule of basic child support obligations in paragraph (b) of subsection (7) of this section for the number of children receiving postsecondary education. If such an order is entered, the parents shall contribute to the total sum determined by the court in proportion to their adjusted gross incomes as defined in paragraph (a) of subsection (3) of this section. The amount of contribution that each parent is ordered to pay pursuant to this subsection (15) shall be subtracted from the amount of each parent's gross income, respectively, prior to calculating the basic child support obligation for any remaining children pursuant to subsection (7) of this section.

(d) In no case shall the court issue orders providing for both child support and postsecondary education to be paid for the same time period for the same child regardless of the age of the child.

(e) Either parent or the child may move for an order at any time before the child attains the age of twenty-one years. The order for postsecondary education support may not extend

beyond the earlier of the child's twenty-first birthday or the completion of an undergraduate degree.

(f) Either a child seeking an order for postsecondary education expenses or on whose behalf postsecondary education expenses are sought, or the parent from whom the payment of postsecondary education expenses are sought, may request that the court order the child and the parent to seek mediation prior to a hearing on the issue of postsecondary education expenses. Mediation services shall be provided in accordance with section 13-22-305, C.R.S. The court may order the parties to seek mediation if the court finds that mediation is appropriate.

(g) The court may order the support paid directly to the educational institution, to the child, or in such other fashion as is appropriate to support the education of the child.

(h) A child shall not be considered emancipated solely by reason of living away from home while in postsecondary education. If the child resides in the home of one parent while attending school or during periods of time in excess of thirty days when school is not in session, the court may order payments from one parent to the other for room and board until the child attains the age of nineteen.

(i) If the court orders support pursuant to this subsection (15), the court or delegate child support enforcement unit may also order that the parents provide health insurance for the child or pay medical expenses of the child or both for the duration of the order. The order shall provide that these expenses be paid in proportion to their adjusted gross incomes as defined in subsection (3) of this section. The court or delegate child support enforcement unit shall order a parent to provide health insurance if the child is eligible for coverage as a dependent on that parent's insurance policy or if health insurance coverage for the child is available at reasonable cost.

(j) An order for postsecondary education expenses entered between July 1, 1991, and July 1, 1997, may be modified pursuant to this subsection (15) to provide for postsecondary education expenses subject to the statutory provisions for determining the amount of a parent's contribution to the costs of postsecondary education, the limitations on the amount of a parent's contribution, and the changes to the definition of postsecondary education consistent with this section as it existed on July 1, 1994. An order for child support entered prior to July 1, 1997, that does not provide for postsecondary education expenses shall not be modified pursuant to this subsection (15).

(k) Postsecondary education support may be established or modified in the same manner as child support under this article.

(16) **Child support commission.** (a) The child support guidelines, including the schedule of basic child support obligations, and general child support issues must be reviewed at least once every four years by a child support commission, which commission is hereby created. After the periodic review described in this section, the commission shall submit a report to the governor and to the general assembly explaining the commission's recommendations.

(b) As part of its review, the commission must consider economic data on the cost of raising children and analyze case data on the application of, and deviations from, the guidelines and the schedule of basic child support obligations to be used in the commission's review to

ensure that deviations from the guidelines and schedule of basic child support obligations are limited.

(c) The child support commission consists of no more than twenty-one members. The governor shall appoint persons to the commission who are representatives of the judiciary and the Colorado bar association. Members of the commission appointed by the governor must also include the director of the division in the state department of human services who is responsible for child support enforcement, or his or her designee, a director of a county department of human or social services, the child support liaison to the judicial department, interested parties, a certified public accountant, and parent representatives. In making his or her appointments to the commission, the governor may appoint persons as parent representatives. In making his or her appointments to the commission, the governor shall attempt to assure geographical diversity. The remaining two members of the commission are a member of the house of representatives appointed by the speaker of the house of representatives and a member of the senate appointed by the president of the senate and must not be members of the same political party.

(d) Members of the child support commission shall not be compensated for their services on the commission except as otherwise provided in section 2-2-326, C.R.S., and except that members shall be reimbursed for actual and necessary expenses for travel and mileage incurred in connection with their duties. The child support commission is authorized, subject to appropriation, to incur expenses related to its work, including the costs associated with public hearings, printing, travel, and research.

(d.5) and (e) (Deleted by amendment, L. 2013.)

Source: L. 71: R&RE, p. 527, § 1. **C.R.S. 1963:** § 46-1-15. **L. 85:** (2) added, p. 592, § 10, effective July 1. **L. 86:** (3) to (16) added, p. 718, § 1, effective November 1. **L. 87:** (3)(b), (5), IP(7)(a), (10)(a), (11), and (12) amended, (7)(b)(II), (15), and (16) repealed, (7)(d), (7)(e), (10)(c), and (17) added, and (8), (9), (13), and (14) R&RE, pp. 587, 588, 600, 591, 589, §§ 5, 7, 38, 9, 6, 8, effective July 10. **L. 89:** (7)(d.5) added and (17) amended, p. 792, §§ 14, 15, effective July 1. **L. 90:** (18) added, p. 890, § 10, effective June 7; (7)(a)(I)(A), (7)(c), and (13)(a)(III) amended and (7)(b)(III) added, pp. 564, 890, 889, §§ 35, 10, 9, effective July 1. **L. 91:** (18)(a) amended, p. 359, § 21, effective April 9; (1.5) added and (7)(b), (13), (14)(b), and (18) amended, p. 234, § 1, effective July 1. **L. 92:** (17) amended, p. 2171, § 18, effective June 2; (1.5)(b)(I), (2), (3)(a), (3)(b), (7)(a), (7)(e), (8), (10)(a)(II), (10)(c), (14)(c)(I), (18), and (18)(a) amended, (1.5)(d), (13.5), (14.5), and (16.5) added, (7)(e) repealed, and (10)(b) R&RE, pp. 166, 203, 188, 169, 198, 193, §§ 1, 9, 2, 3, effective August 1. **L. 93:** (1.5)(b)(I) and (3)(b)(III) amended and (1.5)(e) added, pp. 1556, 577, §§ 1, 7, effective July 1; (1.5)(b)(I), (2), and (10)(c) amended and (3.5) and (18)(e) added, pp. 1559, 1560, §§ 7, 8, effective September 1. **L. 94:** (1.5)(b)(I), (1.5)(e), (7)(a)(I)(A), (7)(b)(III), (7)(d.5)(I), and (18)(e) amended, p. 1536, § 5, effective July 1; (18)(a) amended, p. 2645, § 107, effective July 1. **L. 96:** IP(1), (2), (3)(a), (3)(b)(II), (7)(a)(I)(A), (7)(a)(I)(C), (7)(b)(I), (10)(a)(II), (11)(a), (12), (13.5), and (16.5) amended, p. 594, § 7, effective July 1. **L. 97:** (1.5) amended and (1.6) and (1.7) added, p. 565, § 20, effective July 1; (1.5), (3.5), (7)(b), and (18)(a) amended and (1.6) and (1.7) added, pp. 1264, 1312, §§ 8, 49, effective July 1;

(5) and (17) amended, p. 561, § 5, effective July 1; (7)(a)(I)(B) amended, p. 1240, § 37, effective July 1. **L. 98:** (3)(a), (7)(d.5)(I), and (13)(a)(II) amended, p. 768, § 21, effective July 1; (7)(a)(I)(A) amended, p. 921, § 7, effective July 1; (4)(c), (8), (9), (10)(c), and (14) amended, p. 1398, § 42, effective February 1, 1999. **L. 99:** (3.5) amended, p. 1085, § 2, effective July 1; (7)(a)(I)(A) amended, p. 621, § 15, effective August 4. **L. 2000:** (18) amended, p. 1709, § 6, effective July 1. **L. 2001:** (18)(a) amended and (19) added, p. 721, § 4, effective May 31. **L. 2002:** (10)(a)(II), (10)(b), and (13.5)(h)(II) amended, p. 286, § 1, effective January 1, 2003. **L. 2003:** (3)(b)(III) amended, p. 1011, § 15, effective July 1; (10)(a)(II)(B), (10)(a)(II)(C), and (10)(a)(II)(D) amended, p. 1264, § 51, effective July 1. **L. 2004:** (5), (10)(a)(II)(A), (13.5)(h)(II), and (19) amended, p. 385, § 1, effective July 1. **L. 2005:** (1.6) amended, p. 80, § 1, effective August 8. **L. 2006:** IP(1.6) amended, p. 516, § 1, effective August 7. **L. 2007:** Entire section amended with relocated provisions, p. 73, § 1, effective March 16; (16)(d.5) added, p. 178, § 7, effective March 22; (13)(a)(IV), (13)(a)(V), (15)(b)(IV), and (15)(b)(V) added and IP(15)(b) amended, p. 1649, §§ 5, 3, effective May 31; (6)(b)(I) and (10)(a) amended, p. 1651, § 7, effective January 1, 2008. **L. 2008:** (4)(b) and (5)(b)(I) amended, p. 1347, § 1, effective July 1. **L. 2009:** (5)(a)(I)(H) amended, (SB 09-282), ch. 288, p. 1397, § 59, effective January 1, 2010. **L. 2013:** (5)(a)(I)(D), (5)(a)(I)(O), (5)(a)(I)(W), (6)(b)(I), (7)(a)(II)(B), (7)(a)(II)(C), (7)(a)(II)(D), and (16) amended, (5)(a)(II)(E) and (11)(d) added, and (7)(b) R&RE, (HB 13-1209), ch. 103, pp. 327, 332, §§ 1, 2, effective January 1, 2014. **L. 2014:** (16)(d) amended, (SB 14-153), ch. 390, p. 1961, § 7, effective June 6. **L. 2016:** (6), (8)(e), (10)(g), and (14)(a) amended, (HB 16-1165), ch. 157, pp. 493, 494, 495, §§ 4, 5, 6, 7, effective January 1, 2017. **L. 2017:** (3)(f) and (3)(g) amended, (SB 17-294), ch. 264, p. 1391, § 29, effective May 25; (10)(h)(II) amended, (SB 17-242), ch. 263, p. 1295, § 113, effective May 25; (16)(a) amended, (SB 17-234), ch. 154, p. 520, § 1, effective August 9. **L. 2018:** (3)(a), IP(5)(a)(I), and (5)(a)(I)(Y) amended and (5)(a)(I.5) added, (HB 18-1385), ch. 251, p. 1546, § 2, effective August 8; (16)(c) amended, (SB 18-092), ch. 38, p. 400, § 14, effective August 8. **L. 2019:** (5)(b)(I) and (5)(b)(III) amended and (5)(b)(I.5) and (5)(b.5) added, (HB 19-1215), ch. 270, p. 2521, § 1, effective July 1; (16)(a) amended, (HB 19-1215), ch. 270, p. 2552, § 2, effective July 1; (3)(c.5) and (8)(g) added and (6)(b), (7)(a)(II)(B), (7)(a)(II)(C), (7)(a)(II)(D), (7)(b), IP(11)(a), (11)(a)(I), and (11)(c) amended, (HB 19-1215), ch. 270, p. 2521, § 1, effective July 1, 2020.

Editor's note: (1) This section was amended in Senate Bill 07-015, resulting in the relocation of provisions. For a detailed comparison of relocated provisions, see the table located in the back of the index.

(2) Subsection (16.5)(d.5) was originally numbered as subsection (18)(a.5), and the amendments to it in Senate Bill 07-076 were harmonized with Senate Bill 07-015 and renumbered as subsection (16)(d.5).

Cross references: (1) For provisions concerning deductions for health insurance from wages due an obligor ordered to provide health insurance, see § 14-14-112.

(2) For the legislative declaration contained in the 1993 act amending subsection (3)(b)(III), see section 1 of chapter 165, Session Laws of Colorado 1993. For the legislative declaration contained in the act amending subsection (18)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1997 act amending subsections (1.5), (3.5), (7)(b), and (18)(a) and enacting subsections (1.6) and (1.7), see section 1 of chapter 236, Session Laws of Colorado 1997. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

(3) For the "Old-age, Survivors, and Disability Insurance Act", see 42 U.S.C. sec. 401 et seq.

14-10-116. Appointment in domestic relations cases - representation of child's best interests - legal representative of the child - disclosure. (1) The court may, upon the motion of either party or upon its own motion, appoint an attorney, in good standing and licensed to practice law in the state of Colorado, to serve as the legal representative of the child, representing the best interests of the child in any domestic relations proceeding that involves allocation of parental responsibilities. In no instance may the same person serve as both the child's legal representative pursuant to this section and as the child and family investigator for the court pursuant to section 14-10-116.5. Within seven days after the appointment, the appointed person shall comply with the disclosure provisions of subsection (2.5) of this section.

(2) The legal representative of the child, appointed pursuant to subsection (1) of this section, shall represent the best interests of the minor or dependent child, as described in section 14-10-124, with respect to the child's custody, the allocation of parental responsibilities, support for the child, the child's property, parenting time, or any other issue related to the child that is identified by the legal representative of the child or the appointing court. The legal representative of the child shall actively participate in all aspects of the case involving the child, within the bounds of the law. The legal representative of the child shall comply with the provisions set forth in the Colorado rules of professional conduct and any applicable provisions set forth in chief justice directives or other practice standards established by rule or directive of the chief justice pursuant to section 13-91-105 (1)(c), C.R.S., concerning the duties or responsibilities of best interest representation in legal matters affecting children. The legal representative of the child shall not be called as a witness in the case. While the legal representative of the child shall ascertain and consider the wishes of the child, the legal representative of the child is not required to adopt the child's wishes in his or her recommendation or advocacy for the child unless such wishes serve the child's best interest as described in section 14-10-124.

(2.5) (a) Within seven days after his or her appointment, the appointed person shall disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the appointed person has or has had with the child, either party, the attorneys of record, or the judicial officer and, if a relationship exists, the nature of the relationship.

(b) Based on the disclosure required pursuant to paragraph (a) of this subsection (2.5), the court may, in its discretion, terminate the appointment and appoint a different person in the

proceedings. A party has seven days from the date of the disclosure to object to the appointment based upon information contained in the disclosure. If a party objects to the appointment, the court shall appoint a different person or confirm the appointment within seven days after the date of the party's objection. If no party timely objects to the appointment, then the appointment is deemed confirmed.

(3) (a) The court shall enter an order for costs, fees, and disbursements in favor of the child's legal representative appointed pursuant to subsection (1) of this section. The order shall be made against any or all of the parties; except that, if the responsible parties are determined to be indigent, the costs, fees, and disbursements shall be borne by the state.

(b) In a proceeding for dissolution of marriage or legal separation, prior to the entry of a decree of dissolution or legal separation, the court shall not enter an order requiring the state to bear the costs, fees, or disbursements related to the appointment of a child's legal representative unless both parties are determined to be indigent after considering the combined income and assets of the parties.

(c) If the appointment of a child's legal representative occurs in a case involving unmarried parties, including those proceedings that occur after the entry of a decree for dissolution of marriage or of legal separation, the court shall make every reasonable effort to apportion costs between the parties in a manner that will minimize the costs, fees, and disbursements that shall be borne by the state.

Source: L. 71: R&RE, p. 527, § 1. **C.R.S. 1963:** § 46-1-16. **L. 73:** p. 554, § 8. **L. 93:** Entire section amended, p. 577, § 8, effective July 1. **L. 97:** Entire section R&RE, p. 32, § 1, effective July 1. **L. 98:** (2)(a) amended, p. 1399, § 43, effective February 1, 1999. **L. 2000:** (1) amended, p. 1773, § 3, effective July 1. **L. 2005:** Entire section amended, p. 958, § 2, effective July 1. **L. 2009:** (3) amended, (SB 09-268), ch. 207, p. 941, § 1, effective May 1. **L. 2012:** (1) amended and (2.5) added, (SB 12-056), ch. 108, p. 367, § 1, effective July 1.

Editor's note: The duties of a special advocate, as formerly set out in subsection (2), were similar to the guidelines for the child and family investigator as set forth in section 14-10-116.5.

Cross references: (1) For the duty of the public defender to represent indigents, see §§ 21-1-103 and 21-1-104.

(2) For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 165, Session Laws of Colorado 1993. For the legislative declarations contained in the 2005 act amending this section, see sections 1 and 3 of chapter 244, Session Laws of Colorado 2005.

14-10-116.5. Appointment in domestic relations cases - child and family investigator - disclosure - background check. (1) The court may, upon the motion of either party or upon its own motion, appoint a neutral third person to serve the court as a child and family

investigator pursuant to subsection (2) of this section in a domestic relations proceeding that involves allocation of parental responsibilities. The court shall set forth the specific duties of the child and family investigator in a written order of appointment. The same person may not serve as both the legal representative of the child pursuant to section 14-10-116 and as the child and family investigator for the court pursuant to this section. Within seven days after the appointment, the appointed person shall comply with the disclosure provisions of subsection (2.5) of this section.

(2) A child and family investigator appointed by the court may be an attorney, a mental health professional, or any other individual with appropriate training, qualifications, and an independent perspective acceptable to the court. The child and family investigator for the court shall investigate, report, and make recommendations as specifically directed by the court in the appointment order, taking into consideration the relevant factors for determining the best interests of the child as specified in section 14-10-124. The child and family investigator shall make independent and informed recommendations to the court, in the form of a written report filed with the court, unless otherwise ordered by the court. While the child and family investigator shall consider the wishes of the child, the child and family investigator need not adopt such wishes in making his or her recommendations to the court unless they serve the child's best interests as described in section 14-10-124. The child's wishes, if expressed, shall be disclosed in the child and family investigator's written report. The child and family investigator may be called to testify as a witness regarding his or her recommendations. The child and family investigator shall comply with applicable provisions set forth in chief justice directives, and any other practice or ethical standards established by rule, statute, or licensing board that regulates the child and family investigator.

(2.5) (a) Within seven days after his or her appointment, the appointed person shall disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the appointed person has or has had with the child, either party, the attorneys of record, or the judicial officer and, if a relationship exists, the nature of the relationship.

(b) Based on the disclosure required pursuant to paragraph (a) of this subsection (2.5), the court may, in its discretion, terminate the appointment and appoint a different person in the proceedings. A party has seven days from the date of the disclosure to object to the appointment based upon information contained in the disclosure. If a party objects to the appointment, the court shall appoint a different person or confirm the appointment within seven days after the date of the party's objection. If no party timely objects to the appointment, then the appointment is deemed confirmed.

(3) (a) The court shall enter an order for costs, fees, and disbursements in favor of the child and family investigator appointed pursuant to subsection (1) of this section. The order shall be made against any or all of the parties; except that, if the responsible parties are determined to be indigent, the costs, fees, and disbursements shall be borne by the state.

(b) In a proceeding for dissolution of marriage or legal separation, prior to the entry of a decree of dissolution or legal separation, the court shall not enter an order requiring the state to bear the costs, fees, or disbursements related to the appointment of a child and family

investigator unless both parties are determined to be indigent after considering the combined income and assets of the parties.

(c) If the appointment of a child and family investigator occurs in a case involving unmarried parties, including those proceedings that occur after the entry of a decree for dissolution of marriage or of legal separation, the court shall make every reasonable effort to apportion costs between the parties in a manner that will minimize the costs, fees, and disbursements that shall be borne by the state.

(4) (a) Prior to being appointed as a child and family investigator, the person shall submit a complete set of his or her fingerprints to the judicial department for the purposes of a background check, and the judicial department shall determine based on the background check whether the person is suitable to act as a child and family investigator. The department shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. The department is the authorized agency to receive information regarding the result of a national fingerprint-based criminal history record check.

(b) For any person whose fingerprints are unclassifiable or when the results of a fingerprint-based criminal history record check of a person performed pursuant to this section reveal a record of arrest without a disposition, the department shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d). Upon request of the department pursuant to this section, the Colorado bureau of investigation shall also provide a name-based criminal history record check for any person.

(c) The applicant shall pay the cost associated with the background check.

Source: L. 2005: Entire section added, p. 960, § 4, effective July 1. **L. 2009:** (3) amended, (SB 09-268), ch. 207, p. 942, § 2, effective May 1. **L. 2012:** (1) amended and (2.5) added, (SB 12-056), ch. 108, p. 368, § 2, effective July 1. **L. 2014:** (4) added, (SB 14-027), ch. 146, p. 496, § 2, effective May 2. **L. 2019:** (4)(b) amended, (HB 19-1166), ch. 125, p. 544, § 18, effective April 18.

Cross references: For the legislative declarations contained in the 2005 act enacting this section, see sections 1 and 3 of chapter 244, Session Laws of Colorado 2005.

14-10-117. Payment of maintenance or child support. (1) Upon its own motion or upon motion of either party, the court may at any time order that maintenance or child support payments be made to the clerk of the court or, if the executive director of the department of human services has notified the state court administrator that the judicial district issuing the order is ready to participate in the family support registry pursuant to section 26-13-114 (5), C.R.S., and, for payments for maintenance obligations, the family support registry is ready to accept maintenance payments, through the family support registry, as trustee, for remittance to the person entitled to receive the payments. The court may not order payments to be made to the

clerk of the court once payments may be made through the family support registry. The payments shall be due on a certain date or dates of each month. If the support payments are required under this section, title 19, C.R.S., or section 26-13-114 (1), C.R.S., to be made through the family support registry, the court shall order that payments be made through the registry in accordance with the procedures specified in section 26-13-114, C.R.S.

(2) The clerk of the court shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order for those payments he or she receives through the court registry.

(3) If payments are to be made through the family support registry, the parties affected by the order shall inform the family support registry, and if payments are to be made through the court registry, the parties affected by the order shall inform the clerk of the court of any change of address or of other conditions that may affect the administration of the order.

(4) (Deleted by amendment, L. 98, p. 756, § 6, effective July 1, 1998.)

(5) and (6) Repealed.

(7) In cases in which a party is ordered to make payments through the court registry, upon receipt of a verified notice of a support obligation assigned to the state, the clerk of the court shall, without further action by the court, pay the support to the county child support enforcement unit rather than to the obligee. When the state no longer has authorization to receive any support payments, the county child support enforcement unit shall notify the clerk of the court to stop sending the support payments to the county and to send the support payments directly to the obligee.

Source: L. 71: R&RE, p. 527, § 1. **C.R.S. 1963:** § 46-1-17. **L. 77:** (4) amended, p. 824, § 1, effective May 24. **L. 86:** (1) amended, p. 724, § 2, effective July 1. **L. 88:** (7) added, p. 632, § 6, effective July 1. **L. 90:** (1) amended, p. 1414, § 13, effective June 8. **L. 98:** (1), (2), (3), (4), and (7) amended, p. 756, § 6, effective July 1. **L. 99:** (1) amended, p. 1091, § 11, effective July 1. **L. 2005:** (5) and (6) repealed, p. 498, § 1, effective August 8.

14-10-118. Enforcement of orders.

(1) Repealed.

(2) The court has the power to require security to be given to insure enforcement of its orders, in addition to other methods of enforcing court orders prescribed by statute or by the Colorado rules of civil procedure on or after July 6, 1973.

Source: L. 71: R&RE, p. 528, § 1. **C.R.S. 1963:** § 46-1-18. **L. 73:** p. 554, § 9. **L. 81:** (1) amended, p. 909, § 3, effective June 8. **L. 82:** (1) amended, p. 280, § 3, effective April 7. **L. 87:** (1) amended, p. 595, § 25, effective July 10. **L. 92:** (1) amended, p. 577, § 5, effective July 1. **L. 93:** (1) amended, p. 1871, § 5, effective June 6. **L. 94:** (1) amended, p. 1252, § 6, effective July 1. **L. 96:** (1) repealed, p. 598, § 8, effective July 1.

14-10-119. Attorney's fees. The court from time to time, after considering the financial resources of both parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this article and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

Source: L. 71: R&RE, p. 528, § 1. **C.R.S. 1963:** § 46-1-19.

Cross references: For allowance of attorney fees generally, see C.R.C.P. 3(a), 30(g), 37(a), 37(c), 56(g), and 107(d); for awarding of attorney fees in civil actions generally, see § 13-17-102.

14-10-120. Decree. (1) A decree of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree which dissolves the marriage beyond the time for appealing from that provision, so that either of the parties may remarry pending appeal.

(2) No earlier than one hundred eighty-two days after entry of a decree of legal separation, on motion of either party and proof that a notice has been mailed to the other party at his or her last-known address, the court shall convert the decree of legal separation to a decree of dissolution of marriage, and a copy thereof shall be mailed to both parties.

(3) The clerk of the court shall give notice of the entry of a decree of dissolution to the office of state registrar of vital statistics in the division of administration of the department of public health and environment, which office shall make this information available to the public upon request.

(4) No decree that may enter shall relieve a spouse from any obligation imposed by law as a result of the marriage for the support or maintenance of a spouse determined to be mentally incompetent by a court of competent jurisdiction prior to the decree, unless such spouse has sufficient property or means of support.

(5) Whenever child support has been ordered, the decree of dissolution, legal separation, declaration of invalidity, allocating parental responsibilities, or support shall contain an order for an income assignment pursuant to section 14-14-111.5.

(6) Notwithstanding the entry of a final decree of dissolution of marriage or of legal separation pursuant to this section, the district court may maintain jurisdiction to enter such temporary or permanent civil protection orders as may be provided by law upon request of any of the parties to the action for dissolution of marriage or legal separation, including, but not limited to, any protection order requested pursuant to section 14-10-108.

Source: L. 71: R&RE, p. 528, § 1. **C.R.S. 1963:** § 46-1-20. **L. 75:** (3) R&RE, p. 585, § 1, effective May 31; (4) amended, p. 925, § 21, effective July 1. **L. 77:** (2) amended, p. 825, § 1,

effective May 26. **L. 85:** (5) added, p. 592, § 11, effective July 1. **L. 94:** (5) amended, p. 1539, § 6, effective May 31; (3) amended, p. 2731, § 348, effective July 1. **L. 96:** (5) amended, p. 622, § 31, effective July 1. **L. 98:** (5) amended, p. 1399, § 44, effective February 1, 1999. **L. 99:** (6) added, p. 500, § 2, effective July 1. **L. 2003:** (6) amended, p. 1012, § 16, effective July 1. **L. 2012:** (2) amended, (SB 12-175), ch. 208, p. 831, § 27, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (3), see section 1 of chapter 345, Session Laws of Colorado 1994.

14-10-120.2. Ex-parte request for restoration of prior name of party. (1) Pursuant to the provisions of this section, at any time after the entry of a decree of dissolution or legal separation, a party to the action may request restoration of a prior full name.

(2) The requesting party must file a verified motion and affidavit under the same case number in the district court in which the decree of dissolution or legal separation was entered. The requesting party's motion and affidavit must include:

(a) The caption and case number for the action in which the decree of dissolution or legal separation was entered; and

(b) The requesting party's sworn statement that the restoration of a prior full name is not detrimental to any person.

(3) The court shall enter an order restoring the requesting party's name if the court determines that:

(a) The court entered a decree of dissolution or legal separation in an action concerning the requesting party; and

(b) The request to restore a prior full name is not detrimental to any person.

(4) The order restoring a prior full name of the party does not affect any party's rights or obligations pursuant to the decree of dissolution or legal separation entered in the action.

Source: L. 2016: Entire section added, (HB 16-1085), ch. 55, p. 133, § 1, effective September 1.

14-10-120.3. Dissolution of marriage or legal separation upon affidavit - requirements. (1) Final orders in a proceeding for dissolution of marriage or legal separation may be entered upon the affidavit of either or both parties when:

(a) There are no minor children of the husband and wife and the wife is not pregnant or the husband and wife are both represented by counsel and have entered into a separation agreement that provides for the allocation of parental responsibilities concerning the children of the marriage and setting out the amount of child support to be provided by the husband or wife or both; and

(b) The adverse party is served in the manner provided by the Colorado rules of civil procedure; and

(c) There is no genuine issue as to any material fact; and

(d) There is no marital property to be divided or the parties have entered into an agreement for the division of their marital property.

(2) If one party desires to submit the matter for entry of final orders upon an affidavit, the submitting party shall file his or her affidavit setting forth sworn testimony showing the court's jurisdiction and factual averments supporting the relief requested in the proceeding together with a copy of the proposed decree, a copy of any separation agreement proposed for adoption by the court, and any other supporting evidence. The filing of the affidavit does not shorten any statutory waiting period required for entry of a decree of dissolution or decree of legal separation.

(3) The court shall not be bound to enter a decree upon the affidavits of either or both parties, but the court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.

Source: L. 82: Entire section added, p. 303, § 1, effective May 22. **L. 98:** (1)(a) amended, p. 1399, § 45, effective February 1, 1999. **L. 2012:** IP(1) and (2) amended, (HB 12-1233), ch. 52, p. 187, § 2, effective July 1.

14-10-120.5. Petition - fee - assessment - displaced homemakers fund. (1) There shall be assessed against a nonindigent petitioner a fee of five dollars for each filing of a petition for dissolution of marriage, declaration of invalidity of marriage, legal separation, or declaratory judgment concerning the status of marriage. All such fees collected shall be transmitted to the state treasurer for deposit in the displaced homemakers fund created pursuant to section 8-15.5-108, C.R.S.

(1.5) There shall be assessed against a nonindigent petitioner a fee of five dollars for each filing of a petition for dissolution of a civil union, declaration of invalidity of a civil union, legal separation, or declaratory judgment concerning the status of a civil union. All such fees collected shall be transmitted to the state treasurer for deposit in the displaced homemakers fund created pursuant to section 8-15.5-108, C.R.S.

(2) Notwithstanding the amount specified for the fee in subsection (1) or (1.5) 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.

Source: L. 80: Entire section added, p. 455, § 2, effective July 1. **L. 98:** Entire section amended, p. 1330, § 40, effective June 1. **L. 2009:** (1) amended, (SB 09-038), ch. 119, p. 498, § 2, effective July 1. **L. 2013:** Entire section amended, (SB 13-011), ch. 49, p. 163, § 15, effective May 1.

Cross references: For the docket fees for dissolution of marriage actions, see § 13-32-101.

14-10-121. Independence of provisions of decree or temporary order. If a party fails to comply with a provision of a decree or temporary order or injunction, the obligation of the other party to make payments for support or maintenance or to permit parenting time is not suspended; but said party may move the court to grant an appropriate order.

Source: L. 71: R&RE, p. 529, § 1. **C.R.S. 1963:** § 46-1-21. **L. 93:** Entire section amended, p. 577, § 9, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 165, Session Laws of Colorado 1993.

14-10-122. Modification and termination of provisions for maintenance, support, and property disposition - automatic lien - definitions. (1) (a) Except as otherwise provided in sections 14-10-112 (6) and 14-10-115 (11)(c), the provisions of any decree respecting maintenance may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of changed circumstances so substantial and continuing as to make the terms unfair, and, except as otherwise provided in subsection (5) of this section, the provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of changed circumstances that are substantial and continuing or on the ground that the order does not contain a provision regarding medical support, such as insurance coverage, payment for medical insurance deductibles and copayments, or unreimbursed medical expenses. The provisions as to property disposition may not be revoked or modified unless the court finds the existence of conditions that justify the reopening of a judgment.

(b) Application of the child support guidelines and schedule of basic child support obligations set forth in section 14-10-115 to the circumstances of the parties at the time of the filing of a motion for modification of the child support order which results in less than a ten percent change in the amount of support due per month shall be deemed not to be a substantial and continuing change of circumstances.

(c) In any action or proceeding in any court of this state in which child support, maintenance when combined with child support, or maintenance is ordered, a payment becomes a final money judgment, referred to in this section as a support judgment, when it is due and not paid. Such payment is not retroactively modified except pursuant to subsection (1)(a) of this section and may be enforced as other judgments without further action by the court; except that an existing child support order with respect to child support payable by the obligor may be modified retroactively to the time that a mutually agreed upon change of physical custody occurs pursuant to subsection (5) of this section. A support judgment is entitled to full faith and credit and may be enforced in any court of this state or any other state. In order to enforce a support

judgment, the obligee shall file with the court that issued the order a verified entry of support judgment specifying the period of time that the support judgment covers and the total amount of the support judgment for that period. The obligee or the delegate child support enforcement unit is not required to wait fourteen days to execute on such support judgment. However, a copy of the verified entry of support judgment must be provided to all parties pursuant to rule 5 of the Colorado rules of civil procedure, upon filing with the court. A verified entry of support judgment is not required to be signed by an attorney. A verified entry of support judgment may be used to enforce a support judgment for debt entered pursuant to section 14-14-104. The filing of a verified entry of support judgment revives all individual support judgments that have arisen during the period of time specified in the entry of support judgment and that have not been satisfied, pursuant to rule 54 (h) of the Colorado rules of civil procedure, without the requirement of a separate motion, notice, or hearing. Notwithstanding the provisions of this subsection (1)(c), no court order for support judgment nor verified entry of support judgment is required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or to the department of revenue for purposes of intercepting a federal or state tax refund or lottery winnings.

(d) If maintenance or child support is modified pursuant to this section, the modification should be effective as of the date of the filing of the motion, unless the court finds that it would cause undue hardship or substantial injustice or unless there has been a mutually agreed upon change of physical custody as provided for in subsection (5) of this section. In no instance shall the order be retroactively modified prior to the date of filing, unless there has been a mutually agreed upon change of physical custody. The court may modify installments of maintenance or child support due between the filing of the motion and the entry of the order even if the circumstances justifying the modification no longer exist at the time the order is entered.

(1.5) (a) **Lien by operation of law.** (I) Commencing July 1, 1997, all cases in which services are provided in accordance with Title IV-D of the federal "Social Security Act", as amended, referred to in this subsection (1.5) as "IV-D cases", shall be subject to the provisions of this subsection (1.5), regardless of the date the order for child support was entered. In any IV-D case in which current child support, child support when combined with maintenance, or maintenance has been ordered, a payment becomes a support judgment when it is due and not paid, and a lien therefor is created by operation of law against the obligor's real and personal property and any interest in any such real or personal property. The entry of an order for child support debt, retroactive child support, or child support arrearages or a verified entry of judgment pursuant to this section creates a lien by operation of law against the obligor's real and personal property and any interest in any such real and personal property.

(II) The amount of such lien shall be limited to the amount of the support judgment for outstanding child support, child support when combined with maintenance, maintenance, child support debt, retroactive child support, or child support arrearages, any interest accrued thereon, and the amount of any filing fees as specified in this section.

(III) A support judgment or lien shall be entitled to full faith and credit and may be enforced in any court of this state or any other state. Full faith and credit shall be accorded to

such a lien arising from another state that complies with the provisions of this subsection (1.5). Judicial notice or hearing or the filing of a verified entry of judgment shall not be required prior to the enforcement of such a lien.

(IV) The creation of a lien pursuant to this section shall be in addition to any other remedy allowed by law.

(b) **Lien on real property.** (I) To evidence a lien on real property created pursuant to this subsection (1.5), a delegate child support enforcement unit shall issue a notice of lien and record the same in the real estate records in the office of the clerk and recorder of any county in the state of Colorado in which the obligor holds an interest in real property. From the time of recording of the notice of lien, such lien shall be an encumbrance in favor of the obligee, or the assignee of the obligee, and shall encumber any interest of the obligor in any real property in such county.

(II) The lien on real property created by this section shall remain in effect for the earlier of twelve years or until all past-due amounts are paid, including any accrued interest and costs, without the necessity of renewal. A lien on real property arising pursuant to this subsection (1.5) may be extended or renewed indefinitely beyond twelve years by rerecording the lien every twelve years. Within twenty calendar days after satisfaction of the debt or debts described in the notice of lien, the delegate child support enforcement unit shall record a release of lien with the clerk and recorder of the county where the notice of lien was recorded. A release of lien shall be conclusive evidence that the lien is extinguished.

(III) The child support enforcement unit shall be exempt from the payment of recording fees charged by the clerk and recorder for the recording of notices of lien or releases of lien.

(c) **Lien on personal property other than wages, insurance claim payments, awards, and settlements, and money held by a financial institution as defined in 42 U.S.C. sec. 669a (d)(1) or motor vehicles.** (I) To evidence a lien on personal property, other than wages; insurance claim payments, awards, and settlements as authorized in section 26-13-122.7; accounts as authorized in section 26-13-122.3; and money held by a financial institution as defined in 42 U.S.C. sec. 669a (d)(1) or motor vehicles, created pursuant to this subsection (1.5), the state child support enforcement agency shall file a notice of lien with the secretary of state by means of direct electronic data transmission. From the time of filing the notice of lien with the secretary of state, the lien is an encumbrance in favor of the obligee, or the assignee of the obligee, and encumbers all personal property or any interest of the obligor in any personal property.

(II) The lien on personal property created by this section shall remain in effect for the earlier of twelve years or until all past-due amounts are paid, including any accrued interest and costs, without the necessity of renewal. A lien on personal property arising pursuant to this subsection (1.5) may be extended or renewed indefinitely beyond twelve years by rerecording the lien every twelve years. Within twenty calendar days after satisfaction of the debt or debts described in the notice of lien, the state child support enforcement agency shall file a release of lien with the secretary of state. The filing of such a release of lien shall be conclusive evidence that the lien is extinguished.

(III) The state child support enforcement agency shall be exempt from paying a fee for the filing of notices of liens or releases of liens with the secretary of state pursuant to this paragraph (c).

(IV) For purposes of this paragraph (c), "personal property" means property that the child support enforcement agency has determined has a net equity value of not less than five thousand dollars at the time of the filing of the notice of lien with the secretary of state.

(d) **Lien on motor vehicles.** (I) (A) To evidence a lien on a motor vehicle created pursuant to this subsection (1.5), a delegate child support enforcement unit shall issue a notice of lien to the authorized agent as defined in section 42-6-102 (1.5) by first class mail. From the time of filing of the lien for public record and the notation of such lien on the owner's certificate of title, such lien shall be an encumbrance in favor of the obligee, or the assignee of the obligee, and must encumber any interest of the obligor in the motor vehicle. In order for any such lien to be effective as a valid lien against a motor vehicle, the obligee, or assignee of the obligee, shall have such lien filed for public record and noted on the owner's certificate of title in the manner provided in sections 42-6-121 and 42-6-129.

(B) Liens on motor vehicles created by this section shall remain in effect for the same period of time as any other lien on motor vehicles as specified in section 42-6-127, C.R.S., or until the entire amount of the lien is paid, whichever occurs first. A lien created pursuant to this section may be renewed pursuant to section 42-6-127, C.R.S. Within twenty calendar days after satisfaction of the debt or debts described in the notice of lien, the delegate child support enforcement unit shall release the lien pursuant to the procedures specified in section 42-6-125, C.R.S. When a lien on a motor vehicle created pursuant to this subsection (1.5) is released, the authorized agent and the executive director of the department of revenue shall proceed as provided in section 42-6-126, C.R.S.

(C) The child support enforcement unit shall not be exempt from the payment of filing fees charged by the authorized agent for the filing of either the notice of lien or the release of lien. However, the child support enforcement unit may add the amount of the filing fee to the lien amount and collect the amount of such fees from the obligor.

(II) For purposes of this subsection (1.5), "motor vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways, trailers, semitrailers, and trailer coaches, without motive power; that has a net equity value based upon the loan value identified for such vehicle in the national automobile dealers' association car guide of not less than five thousand dollars at the time of the filing of the notice of lien and that meets such additional conditions as the state board of human services may establish by rule; and on which vehicle a lien already exists that is filed for public record and noted accordingly on the owner's certificate of title. "Motor vehicle" does not include low-power scooters, as defined in section 42-1-102, C.R.S.; vehicles that operate only upon rails or tracks laid in place on the ground or that travel through the air or that derive their motive power from overhead electric lines; farm tractors, farm trailers, and other machines and tools used in the production, harvesting, and care of farm products; and special mobile machinery or industrial machinery not designed primarily

for highway transportation. "Motor vehicle" does not include a vehicle that has a net equity value based upon the loan value identified for such vehicle in the national automobile dealers' association car guide of less than five thousand dollars at the time of the filing of the notice of lien and does not include a vehicle that is not otherwise encumbered by a lien or mortgage that is filed for public record and noted accordingly on the owner's certificate of title.

(e) **Priority of a lien.** (I) A lien on real property created pursuant to this section shall be in effect for the earlier of twelve years or until all past-due amounts are paid and shall have priority over all unrecorded liens and all subsequent recorded or unrecorded liens from the time of recording, except such liens as may be exempted by regulation of the state board of human services. A lien on real property arising pursuant to this subsection (1.5) may be extended or renewed indefinitely beyond twelve years by rerecording the lien every twelve years.

(II) A lien on personal property, other than motor vehicles, created pursuant to this section shall be in effect for the earlier of twelve years or until all past-due amounts are paid and shall have priority from the time the lien is filed with the central filing officer over all unfiled liens and all subsequent filed or unfiled liens, except such liens as may be exempted by regulation of the state board of human services. A lien on personal property arising pursuant to this subsection (1.5) may be extended or renewed indefinitely beyond twelve years by rerecording the lien every twelve years.

(III) Liens on motor vehicles created pursuant to this section shall remain in effect for the same period of time as any other lien on motor vehicles as specified in section 42-6-127, C.R.S., or until all past-due amounts are paid, whichever occurs first, and shall have priority from the time the lien is filed for public record and noted on the owner's certificate of title over all unfiled liens and all subsequent filed or unfiled liens, except such liens as may be exempted by regulation of the state board of human services.

(f) **Notice of lien - contents.** (I) The notice of lien shall contain the following information:

(A) The name and address of the delegate child support enforcement unit and the name of the obligee or the assignee of the obligee as grantee of the lien;

(B) The name, social security number, and last-known address of the obligor as grantor of the lien;

(C) The year, make, and vehicle identification number of any motor vehicle for liens arising pursuant to paragraph (d) of this subsection (1.5);

(D) A general description of the personal property for liens arising pursuant to paragraph (c) of this subsection (1.5);

(E) The county and court case number of the court of record that issued the order of current child support, child support debt, retroactive child support, child support arrearages, child support when combined with maintenance, or maintenance or of the court of record where the verified entry of judgment was filed;

(F) The date the order was entered;

(G) The date the obligation commenced;

(H) The amount of the order for current child support, child support debt, retroactive child support, child support arrearages, child support when combined with maintenance, or maintenance;

(I) The total amount of past-due support as of a date certain; and

(J) A statement that interest may accrue on all amounts ordered to be paid, pursuant to sections 14-14-106 and 5-12-101, C.R.S., and may be collected from the obligor in addition to costs of sale, attorney fees, and any other costs or fees incident to such sale for liens arising pursuant to paragraphs (b) and (c) of this subsection (1.5).

(II) For purposes of liens against motor vehicles, the notice of lien shall include the information set forth in subparagraph (I) of this paragraph (f) in addition to the information specified in section 42-6-120, C.R.S.

(g) **Rules.** The state board of human services shall promulgate rules and regulations concerning the procedures and mechanism by which to implement this subsection (1.5).

(h) **Bona fide purchasers - bona fide lenders.** (I) The provisions of this subsection (1.5) shall not apply to any bona fide purchaser who acquires an interest in any personal property or any motor vehicle without notice of the lien or to any bona fide lender who lent money to the obligor without notice of the lien the security or partial security for which is any personal property or motor vehicle of such obligor.

(II) For purposes of this paragraph (h):

(A) "Bona fide purchaser" means a purchaser for value in good faith and without notice of an adverse claim, including but not limited to an automatic lien arising pursuant to this subsection (1.5).

(B) "Bona fide lender" means a lender for value in good faith and without notice of an adverse claim, including but not limited to an automatic lien arising pursuant to this subsection (1.5).

(i) **No liability.** No clerk and recorder, authorized agent as defined in section 42-6-102 (1.5), financial institution, lienholder, or filing officer, nor any employee of any of such persons or entities, shall be liable for damages for actions taken in good faith compliance with this subsection (1.5).

(j) **Definition.** For purposes of this subsection (1.5), "child support debt" shall have the same meaning as set forth in section 26-13.5-102 (3), C.R.S.

(2) (a) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the earlier of:

(I) The death of either party;

(II) The end of the maintenance term, unless a motion for modification is filed prior to the expiration of the term;

(III) The remarriage of or the establishment of a civil union by the party receiving maintenance; or

(IV) A court order terminating maintenance.

(b) A payor spouse whose income is reduced or terminated due to his or her retirement after reaching full retirement age is entitled to a rebuttable presumption that the retirement is in good faith.

(c) For purposes of this subsection (2), "full retirement age" means the payor's usual or ordinary retirement age when he or she would be eligible for full United States social security benefits, regardless of whether he or she is ineligible for social security benefits for some reason other than attaining full retirement age. "Full retirement age" shall not mean "early retirement age" if early retirement is available to the payor spouse, nor shall it mean "maximum benefit retirement age" if additional benefits are available as a result of delayed retirement.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(4) Notwithstanding the provisions of subsection (1) of this section, the provisions of any decree respecting child support may be modified as a result of the change in age for the duty of support as provided in section 14-10-115 (15), but only as to installments accruing subsequent to the filing of the motion for modification; except that section 14-10-115 (15)(b) does not apply to modifications of child support orders with respect to a child who has already achieved the age of nineteen as of July 1, 1991.

(5) Notwithstanding the provisions of subsection (1) of this section, when a court-ordered, voluntary, or mutually agreed upon change of physical care occurs, the provisions for child support of the obligor under the existing child support order, if modified pursuant to this section, will be modified or terminated as of the date when physical care was changed. The provisions for the establishment of a child support order based on a court-ordered, voluntary, or mutually agreed upon change of physical care may also be entered retroactively to the date when the physical care was changed. When a court-ordered, voluntary, or mutually agreed upon change of physical care occurs, parties are encouraged to avail themselves of the provision set forth in section 14-10-115 (14)(a) for updating and modifying a child support order without a court hearing. The court shall not modify child support pursuant to this subsection (5) for any time more than five years prior to the filing of the motion to modify child support, unless the court finds that its application would be substantially inequitable, unjust, or inappropriate. The five-year prohibition on retroactive modification does not preclude a request for relief pursuant to any statute or court rule.

(6) (a) Notwithstanding any other provisions of this article, within the time frames set forth in paragraph (c) of this subsection (6), the individual named as the father in the order may file a motion to modify or terminate an order for child support entered pursuant to this article if genetic test results based on DNA testing, administered in accordance with section 13-25-126, C.R.S., establish the exclusion of the individual named as the father in the order as the biological parent of the child for whose benefit the child support order was entered.

(b) If the court finds pursuant to paragraph (a) of this subsection (6) that the individual named as the father in the order is not the biological parent of the child for whose benefit the child support order was entered and that it is just and proper under the circumstances and in the best interests of the child, the court shall modify the provisions of the order for support with respect to that child by terminating the child support obligation as to installments accruing subsequent to the filing of the motion for modification or termination, and the court may vacate or deem as satisfied, in whole or in part, unpaid child support obligations arising from or based upon the order determining parentage. The court shall not order restitution from the state for any sums paid to or collected by the state for the benefit of the child.

(c) (I) A motion to modify or terminate an order for child support pursuant to this subsection (6) must be filed within two years from the date of the entry of the initial order establishing the child support obligation.

(II) Repealed.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (6), a court order for child support shall not be modified or terminated pursuant to this subsection (6) if:

(I) The child support obligor acknowledged paternity pursuant to section 19-4-105 (1)(c) or (1)(e), C.R.S., knowing that he was not the father of the child;

(II) The child was adopted by the child support obligor; or

(III) The child was conceived by means of assisted reproduction.

(e) A motion filed pursuant to this section may be brought by the individual named as the father in the order and shall be served in the manner set forth in the Colorado rules of civil procedure upon all other parties. The court shall not modify or set aside a final order determining parentage pursuant to this section without a hearing.

(f) For purposes of this subsection (6), "DNA" means deoxyribonucleic acid.

Source: L. 71: R&RE, p. 529, § 1. **C.R.S. 1963:** § 46-1-22. **L. 86:** (1) amended, p. 724, § 3, effective November 1. **L. 87:** (1)(c) added, p. 587, § 4, effective July 10. **L. 88:** (1)(c) amended, p. 633, § 7, effective July 1. **L. 89:** (1)(a) and (1)(c) amended, p. 792, § 16, effective July 1. **L. 90:** (1)(c) amended, p. 891, § 11, effective July 1. **L. 91:** (4) and (5) added, pp. 238, 253, §§ 2, 8, effective July 1. **L. 92:** (1)(d) added, p. 203, § 10, effective August 1. **L. 93:** (1)(a) amended, p. 1557, § 2, effective July 1. **L. 97:** (1)(c) amended, p. 561, § 6, effective July 1; (1.5) added, p. 1266, § 9, effective July 1. **L. 98:** (1)(a), (1)(c), (1)(d), and (5) amended, p. 764, § 14, effective July 1; (5) amended, p. 1400, § 46, effective February 1, 1999. **L. 99:** (1.5)(c), (1.5)(e)(II), and (1.5)(i) amended, p. 751, § 21, effective January 1, 2000. **L. 2000:** (1.5)(b)(II) amended, p. 1704, § 1, effective July 1. **L. 2001:** (1.5)(c) amended, p. 1445, § 38, effective July 1. **L. 2004:** (1.5)(b)(II), (1.5)(c)(II), (1.5)(e)(I), and (1.5)(e)(II) amended, p. 386, § 2, effective July 1. **L. 2007:** (1)(b), (4), and (5) amended, p. 107, § 3, effective March 16. **L. 2008:** (6) added, p. 1656, § 3, effective August 15. **L. 2009:** (1.5)(d)(II) amended, (HB 09-1026), ch. 281, p. 1258, § 19, effective October 1. **L. 2010:** (1.5)(d)(II) amended, (HB 10-1172), ch. 320, p. 1493, § 18, effective October 1. **L. 2012:** (1)(c) amended, (SB 12-175), ch. 208, p. 831, § 28,

effective July 1. **L. 2013:** (1.5)(c)(I) amended, (HB 13-1300), ch. 316, p. 1675, § 35, effective August 7; (1)(a) and (5) amended, (HB 13-1209), ch. 103, p. 354, § 3, effective January 1, 2014; (2) amended, (HB 13-1058), ch. 176, p. 652, § 2, effective January 1, 2014. **L. 2014:** (2)(a)(III) amended, (HB 14-1379), ch. 307, p. 1300, § 2, effective May 31. **L. 2016:** (1.5)(c)(I) and (5) amended, (HB 16-1165), ch. 157, pp. 490, 496, §§ 2, 8, effective January 1, 2017. **L. 2017:** (1.5)(d)(I)(A) and (1.5)(i) amended, (SB 17-294), ch. 264, p. 1391, § 30, effective May 25. **L. 2019:** (1)(c) and (1.5)(c)(I) amended, (HB 19-1215), ch. 270, p. 2552, § 3, effective July 1.

Editor's note: (1) Amendments to subsection (5) by Senate Bill 98-139 and House Bill 98-1183 were harmonized, effective February 1, 1999.

(2) The term "custody" has been changed in other places in the Colorado Revised Statutes to correspond with the use of the term "parental responsibility" as described in § 14-10-124.

(3) Subsection (6)(c)(II)(B) provided for the repeal of subsection (6)(c)(II), effective July 1, 2011. (See L. 2008, p. 1656.)

Cross references: For the legislative declaration contained in the 1997 act enacting subsection (1.5), see section 1 of chapter 236, Session Laws of Colorado 1997.

14-10-123. Commencement of proceedings concerning allocation of parental responsibilities - jurisdiction - automatic temporary injunction - enforcement - definition. (1) A proceeding concerning the allocation of parental responsibilities is commenced in the district court or as otherwise provided by law:

(a) By a parent:

(I) By filing a petition for dissolution or legal separation; or

(II) By filing a petition seeking the allocation of parental responsibilities with respect to a child in the county where the child is permanently resident or where the child is found; or

(b) By a person other than a parent, by filing a petition seeking the allocation of parental responsibilities for the child in the county where the child is permanently resident or where the child is found, but only if the child is not in the physical care of one of the child's parents;

(c) By a person other than a parent who has had the physical care of a child for a period of one hundred eighty-two days or more, if such action is commenced within one hundred eighty-two days after the termination of such physical care; or

(d) By a parent or person other than a parent who has been granted custody of a child or who has been allocated parental responsibilities through a juvenile court order entered pursuant to section 19-1-104 (6), C.R.S., by filing a certified copy of the juvenile court order in the county where the child is permanently resident. Such order shall be treated in the district court as any other decree issued in a proceeding concerning the allocation of parental responsibilities.

(1.5) (a) For purposes of this subsection (1.5) only, "child" means an unmarried individual who has not attained twenty-one years of age.

(b) The court may enter an order for allocation of parental responsibilities for a child, as defined in subsection (1.5)(a) of this section, and a determination of whether the child shall be reunified with a parent or parents, when the requirements of subsection (1) of this section are met, the order is in the child's best interests, and:

(I) The child has not attained twenty-one years of age;

(II) The child is residing with and dependent upon a caregiver; and

(III) A request is made for findings from the court to establish the child's eligibility for classification as a special immigrant juvenile pursuant to 8 U.S.C. sec. 1101 (a)(27)(J).

(c) If a request is made for findings from the court to establish the child's eligibility for classification as a special immigrant juvenile under federal law and the court determines that there is sufficient evidence to support the findings, the court shall enter an order, including factual findings and conclusions of law, determining that:

(I) The child has been placed under the custody of an individual appointed by the court pursuant to an order for allocation of parental responsibilities;

(II) Reunification of the child with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law; and

(III) It is not in the best interests of the child to be returned to the child's or parents' previous country of nationality or country of last habitual residence.

(2) Except for a proceeding concerning the allocation of parental responsibilities commenced pursuant to paragraph (d) of subsection (1) of this section, notice of a proceeding concerning the allocation of parental responsibilities shall be given to the child's parent, guardian, and custodian or person allocated parental responsibilities, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

(2.5) Upon the filing of a petition pursuant to subsection (1) of this section, each party shall provide to the court, in the manner prescribed by the court, his or her social security number and the social security number of each child named in the petition.

(3) (a) Upon the filing of a petition concerning the allocation of parental responsibilities pursuant to this section and upon personal service of the petition and summons on a respondent or upon waiver and acceptance of service by a respondent, a temporary injunction shall be in effect against both parties:

(I) Enjoining each party from molesting or disturbing the peace of the other party;

(II) Restraining each party from removing a minor child who is the subject of the proceeding from the state without the consent of all other parties or an order of the court modifying the injunction; and

(III) Restraining each party, without at least fourteen days' advance notification and the written consent of all other parties or an order of the court modifying the injunction, from cancelling, modifying, terminating, or allowing to lapse for nonpayment of premiums a policy of health insurance or life insurance that provides coverage to a minor child who is the subject of the proceeding or that names the minor child as a beneficiary of a policy.

(b) The provisions of the temporary injunction shall be printed upon the summons and the petition. The temporary injunction shall be in effect upon personal service of the petition and summons on a respondent or upon waiver and acceptance of service by a respondent and shall remain in effect against each party until the court enters the final decree, dismisses the petition, or enters a further order modifying the injunction. A party may apply to the court for further temporary orders pursuant to section 14-10-125, an expanded temporary injunction, or modification or revocation of the temporary injunction.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (3), the temporary injunction described in this subsection (3) shall not apply to a proceeding concerning the allocation of parental responsibilities commenced pursuant to paragraph (d) of subsection (1) of this section or to a proceeding concerning the allocation of parental responsibilities commenced by a parent that is governed by the automatic temporary injunction pursuant to section 14-10-107 (4)(b).

(d) For purposes of enforcing the automatic temporary injunction that becomes effective in accordance with this subsection (3), if the respondent shows a duly authorized peace officer, as described in section 16-2.5-101, C.R.S., a copy of the petition and summons filed and issued pursuant to this section, or if the petitioner shows the peace officer a copy of the petition and summons filed and issued pursuant to this section together with a certified copy of the affidavit of service of process or a certified copy of the waiver and acceptance of service, and the peace officer has cause to believe that a violation of the part of the automatic temporary injunction that enjoins a party from molesting or disturbing the peace of the other party has occurred, the peace officer shall use every reasonable means to enforce that part of the injunction against the petitioner or respondent, as applicable. A peace officer shall not be held civilly or criminally liable for his or her actions pursuant to this subsection (3) if the peace officer acts in good faith and without malice.

Source: L. 71: R&RE, p. 529, § 1. **C.R.S. 1963:** § 46-1-23. **L. 73:** p. 554, § 10. **L. 97:** Entire section amended, p. 515, § 1, effective July 1. **L. 98:** Entire section amended, p. 1377, § 3, effective February 1, 1999. **L. 2010:** (3) added, (HB 10-1097), ch. 39, p. 159, § 2, effective August 15. **L. 2011:** (2.5) added, (SB 11-123), ch. 46, p. 119, § 3, effective August 10. **L. 2012:** (1)(c) amended, (SB 12-175), ch. 208, p. 832, § 29, effective July 1. **L. 2019:** (1.5) added, (HB 19-1042), ch. 55, p. 193, § 5, effective March 28.

Cross references: For procedure for intervention of other parties generally, see C.R.C.P. 24; for procedure in a custody proceeding, see § 14-13-209.

14-10-123.3. Requests for parental responsibility for a child by grandparents. Whenever a grandparent seeks parental responsibility for his or her grandchild pursuant to the provisions of this article, the court entering such order shall consider any credible evidence of the grandparent's past conduct of child abuse or neglect. Such evidence may include, but shall not be limited to, medical records, school records, police reports, information contained in

records and reports of child abuse or neglect, and court records received by the court pursuant to section 19-1-307 (2)(f), C.R.S.

Source: L. 91: Entire section added, p. 261, § 1, effective May 31. **L. 98:** Entire section amended, p. 1378, § 4, effective February 1, 1999. **L. 2003:** Entire section amended, p. 1401, § 4, effective January 1, 2004.

Cross references: For the legislative declaration contained in the 2003 act amending this section, see section 1 of chapter 196, Session Laws of Colorado 2003.

14-10-123.4. Rights of children in matters relating to parental responsibilities. (1) The general assembly hereby declares that children have certain rights in the determination of matters relating to parental responsibilities, including:

(a) The right to have such determinations based upon the best interests of the child;

(b) The right to be emotionally, mentally, and physically safe when in the care of either parent; and

(c) The right to reside in and visit in homes that are free of domestic violence and child abuse or neglect.

Source: L. 87: Entire section added, p. 574, § 1, effective July 1. **L. 98:** Entire section amended, p. 1378, § 5, effective February 1, 1999. **L. 2013:** Entire section amended, (HB 13-1259), ch. 218, p. 995, § 1, effective July 1.

14-10-123.5. Joint custody. (Repealed)

Source: L. 83: Entire section added, p. 645, § 2, effective June 10. **L. 84:** (4) amended, p. 1118, § 10, effective June 7. **L. 87:** (1) and (6) amended and (8) added, pp. 574, 575, §§ 5, 2, effective July 1; (6) repealed, p. 577, § 2, effective July 1. **L. 98:** (9) added by revision, pp. 1378, 1415, §§ 6, 85.

Editor's note: Subsection (9) provided for the repeal of this section, effective February 1, 1999. (See L. 98, pp. 1378, 1415.)

14-10-123.6. Required notice of prior restraining orders to prevent domestic abuse - proceedings concerning parental responsibilities relating to a child - resources for family services. (1) The general assembly hereby finds, determines, and declares that domestic violence is a pervasive problem in society and that a significant portion of domestic violence in society occurs in or near the home. The general assembly further recognizes research demonstrating that children in a home where domestic violence occurs are at greater risk of emotional, psychological, and physical harm. Studies have found that eighty to ninety percent of the children living in homes with domestic violence are aware of the violence. The general

assembly finds that emerging research has established that these children are at greater risk of the following: Psychological, social, and behavioral problems; higher rates of academic problems; more physical illnesses, particularly stress-associated disorders; and a greater propensity to exhibit aggressive and violent behavior, sometimes carrying violent and violence-tolerant roles to their adult relationships. Studies have also noted that children are affected to varying degrees by witnessing violence in the home, and each child should be assessed on an independent basis. Accordingly, the general assembly determines that it is in the best interests of the children of the state of Colorado for the courts to advise the parents or guardians of children affected by domestic violence about the availability of resources and services and for such persons to be provided with information concerning the resources and services available to aid in the positive development of their children. It is the intent of the general assembly that such information would increase the awareness of the possible effects of domestic violence on children in the home, while providing the parents and legal guardians of these children with a comprehensive resource of available children's services as well as potential financial resources to assist parents and legal guardians seeking to retain services for their children affected by domestic violence.

(2) When filing a proceeding concerning the allocation of parental responsibilities relating to a child pursuant to this article, the filing party shall have a duty to disclose to the court the existence of any prior temporary or permanent restraining orders to prevent domestic abuse issued pursuant to article 14 of title 13, C.R.S., and any emergency protection orders issued pursuant to section 13-14-103, C.R.S., entered against either party by any court within two years prior to the filing of the proceeding. The disclosure required pursuant to this section shall address the subject matter of the previous restraining orders or emergency protection orders, including the case number and jurisdiction issuing such orders.

(3) After the filing of the petition, the court shall advise the parties concerning domestic violence services and potential financial resources that may be available and shall strongly encourage the parties to obtain such services for their children, in appropriate cases. If the parties' children participate in such services, the court shall apportion the costs of such services between the parties as it deems appropriate.

(4) The parties to a domestic relations petition filed pursuant to this article shall receive information concerning domestic violence services and potential financial resources that may be available.

Source: L. 95: Entire section added, p. 83, § 1, effective July 1. **L. 98:** Entire section amended, p. 1379, § 7, effective February 1, 1999. **L. 99:** Entire section amended, p. 502, § 10, effective July 1. **L. 2001:** Entire section amended, p. 979, § 2, effective August 8. **L. 2004:** (2) amended, p. 555, § 11, effective July 1.

14-10-123.7. Parental education - legislative declaration. (1) The general assembly recognizes research that documents the negative impact divorce and separation can have on children when the parents continue the marital conflict, expose the children to this conflict, or

place the children in the middle of the conflict or when one parent drops out of the child's life. This research establishes that children of divorce or separation may exhibit a decreased ability to function academically, socially, and psychologically because of the stress of the divorce or separation process. The general assembly also finds that, by understanding the process of divorce and its impact on both adults and children, parents can more effectively help and support their children during this time of family reconfiguration. Accordingly, the general assembly finds that it is in the best interests of children to authorize courts to establish, or contract with providers for the establishment of, educational programs for separating, divorcing, and divorced parents with minor children. The intent of these programs is to educate parents about the divorce process and its impact on adults and children and to teach coparenting skills and strategies so that parents may continue to parent their children in a cooperative manner.

(2) A court may order a parent whose child is under eighteen years of age to attend a program designed to provide education concerning the impact of separation and divorce on children in cases in which the parent of a minor is a named party in a dissolution of marriage proceeding, a legal separation proceeding, a proceeding concerning the allocation of parental responsibilities, parenting time proceedings, or postdecree proceedings involving the allocation of parental responsibilities or parenting time or proceedings in which the parent is the subject of a protection order issued pursuant to this article.

(3) Each judicial district, or combination of judicial districts as designated by the chief justice of the Colorado supreme court, may establish an educational program for divorcing and separating parents who are parties to any of the types of proceedings specified in subsection (2) of this section or arrange for the provision of such educational programs by private providers through competitively negotiated contracts. The educational program shall inform parents about the divorce process and its impact on adults and children and shall teach parents coparenting skills and strategies so that they may continue to parent their children in a cooperative manner. Any such educational program shall be administered and monitored by the implementing judicial district or districts and shall be paid for by the participating parents in accordance with each parent's ability to pay.

Source: L. 96: Entire section added, p. 249, § 1, effective July 1. **L. 97:** (2) amended, p. 80, § 1, effective March 24. **L. 98:** (2) amended, p. 1380, § 8, effective February 1, 1999. **L. 2003:** (2) amended, p. 1012, § 17, effective July 1.

14-10-123.8. Access to records. Access to information pertaining to a minor child, including but not limited to medical, dental, and school records, shall not be denied to any party allocated parental responsibilities, unless otherwise ordered by the court for good cause shown.

Source: L. 98: Entire section added, p. 1380, § 9, effective February 1, 1999.

14-10-124. Best interests of child. (1) **Legislative declaration.** While co-parenting is not appropriate in all circumstances following dissolution of marriage or legal separation, the

general assembly finds and declares that, in most circumstances, it is in the best interest of all parties to encourage frequent and continuing contact between each parent and the minor children of the marriage after the parents have separated or dissolved their marriage. In order to effectuate this goal when appropriate, the general assembly urges parents to share the rights and responsibilities of child-rearing and to encourage the love, affection, and contact between the children and the parents.

(1.3) **Definitions.** For purposes of this section and section 14-10-129 (2)(c), unless the context otherwise requires:

(a) "Domestic violence" means an act of violence or a threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship, and may include any act or threatened act against a person or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(b) "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both parents of the same child regardless of whether the persons have been married or have lived together at any time.

(c) "Sexual assault" has the same meaning as set forth in section 19-1-103 (96.5), C.R.S.

(1.5) **Allocation of parental responsibilities.** The court shall determine the allocation of parental responsibilities, including parenting time and decision-making responsibilities, in accordance with the best interests of the child giving paramount consideration to the child's safety and the physical, mental, and emotional conditions and needs of the child as follows:

(a) **Determination of parenting time.** The court, upon the motion of either party or upon its own motion, may make provisions for parenting time that the court finds are in the child's best interests unless the court finds, after a hearing, that parenting time by the party would endanger the child's physical health or significantly impair the child's emotional development. In addition to a finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development, in any order imposing or continuing a parenting time restriction, the court shall enumerate the specific factual findings supporting the restriction and may enumerate the conditions that the restricted party could fulfill in order to seek modification in the parenting plan. When a claim of child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child was conceived as a result of the sexual assault has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child was conceived as a result of the sexual assault, prior to determining parenting time, the court shall follow the provisions of subsection (4) of this section. In determining the best interests of the child for purposes of parenting time, the court shall consider all relevant factors, including:

(I) The wishes of the child's parents as to parenting time;

(II) The wishes of the child if he or she is sufficiently mature to express reasoned and independent preferences as to the parenting time schedule;

(III) The interaction and interrelationship of the child with his or her parents, his or her siblings, and any other person who may significantly affect the child's best interests;

(IV) The child's adjustment to his or her home, school, and community;

(V) The mental and physical health of all individuals involved, except that a disability alone shall not be a basis to deny or restrict parenting time;

(VI) The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party; except that, if the court determines that a party is acting to protect the child from witnessing domestic violence or from being a victim of child abuse or neglect or domestic violence, the party's protective actions shall not be considered with respect to this factor;

(VII) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support;

(VIII) The physical proximity of the parties to each other as this relates to the practical considerations of parenting time;

(IX) and (X) Repealed.

(XI) The ability of each party to place the needs of the child ahead of his or her own needs.

(b) **Allocation of decision-making responsibility.** The court, upon the motion of either party or its own motion, shall allocate the decision-making responsibilities between the parties based upon the best interests of the child. In determining decision-making responsibility, the court may allocate the decision-making responsibility with respect to each issue affecting the child mutually between both parties or individually to one or the other party or any combination thereof. When a claim of child abuse or neglect or domestic violence has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child in question was conceived as a result of the sexual assault, prior to allocating decision-making responsibility, the court shall follow the provisions of subsection (4) of this section. In determining the best interests of the child for purposes of allocating decision-making responsibilities, the court shall consider, in addition to the factors set forth in paragraph (a) of this subsection (1.5), all relevant factors including:

(I) Credible evidence of the ability of the parties to cooperate and to make decisions jointly;

(II) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support that would indicate an ability as mutual decision makers to provide a positive and nourishing relationship with the child;

(III) Whether an allocation of mutual decision-making responsibility on any one or a number of issues will promote more frequent or continuing contact between the child and each of the parties.

(IV) and (V) Repealed.

(1.7) Pursuant to section 14-10-123.4, children have the right to have the determination of matters relating to parental responsibilities based upon the best interests of the child. In

contested hearings on final orders regarding the allocation of parental responsibilities, the court shall make findings on the record concerning the factors the court considered and the reasons why the allocation of parental responsibilities is in the best interests of the child.

(2) The court shall not consider conduct of a party that does not affect that party's relationship to the child.

(3) In determining parenting time or decision-making responsibilities, the court shall not presume that any person is better able to serve the best interests of the child because of that person's sex.

(3.5) A request by either party for genetic testing shall not prejudice the requesting party in the allocation of parental responsibilities pursuant to subsection (1.5) of this section.

(4) (a) When a claim of child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child was conceived as a result of the sexual assault has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, domestic violence, or sexual assault that resulted in the conception of the child, prior to allocating parental responsibilities, including parenting time and decision-making responsibility, and prior to considering the factors set forth in paragraphs (a) and (b) of subsection (1.5) of this section, the court shall consider the following factors:

(I) Whether one of the parties has committed an act of child abuse or neglect as defined in section 18-6-401, C.R.S., or as defined under the law of any state, which factor must be supported by a preponderance of the evidence. If the court finds that one of the parties has committed child abuse or neglect, then it shall not be in the best interests of the child to allocate mutual decision-making with respect to any issue over the objection of the other party or the legal representative of the child.

(II) Whether one of the parties has committed an act of domestic violence, has engaged in a pattern of domestic violence, or has a history of domestic violence, which factor must be supported by a preponderance of the evidence. If the court finds by a preponderance of the evidence that one of the parties has committed domestic violence:

(A) It shall not be in the best interests of the child to allocate mutual decision-making responsibility over the objection of the other party or the legal representative of the child, unless the court finds that there is credible evidence of the ability of the parties to make decisions cooperatively in the best interest of the child in a manner that is safe for the abused party and the child; and

(B) The court shall not appoint a parenting coordinator solely to ensure that mutual decision-making can be accomplished.

(III) Whether one of the parties has committed an act of sexual assault resulting in the conception of the child, which factor must be supported by a preponderance of the evidence. If the court finds by a preponderance of the evidence that one of the parties has committed sexual assault and the child was conceived as a result of the sexual assault, there is a rebuttable presumption that it is not in the best interests of the child to allocate sole or split decision-making authority to the party found to have committed sexual assault or to allocate mutual

decision-making between a party found to have committed sexual assault and the party who was sexually assaulted with respect to any issue.

(IV) If one of the parties is found by a preponderance of the evidence to have committed sexual assault resulting in the conception of the child, whether it is in the best interests of the child to prohibit or limit the parenting time of that party with the child.

(b) The court shall consider the additional factors set forth in paragraphs (a) and (b) of subsection (1.5) of this section in light of any finding of child abuse or neglect, domestic violence, or sexual assault resulting in the conception of a child pursuant to this subsection (4).

(c) If a party is absent or leaves home because of an act or threatened act of domestic violence committed by the other party, such absence or leaving shall not be a factor in determining the best interests of the child.

(d) When the court finds by a preponderance of the evidence that one of the parties has committed child abuse or neglect, domestic violence, or sexual assault resulting in the conception of the child, the court shall consider, as the primary concern, the safety and well-being of the child and the abused party.

(e) When the court finds by a preponderance of the evidence that one of the parties has committed child abuse or neglect, domestic violence, or sexual assault resulting in the conception of the child, in formulating or approving a parenting plan, the court shall consider conditions on parenting time that ensure the safety of the child and of the abused party. In addition to any provisions set forth in subsection (7) of this section that are appropriate, the parenting plan in these cases may include, but is not limited to, the following provisions:

(I) An order limiting contact between the parties to contact that the court deems is safe and that minimizes unnecessary communication between the parties;

(II) An order that requires the exchange of the child for parenting time to occur in a protected setting determined by the court;

(III) An order for supervised parenting time;

(IV) An order restricting overnight parenting time;

(V) An order that restricts the party who has committed domestic violence, sexual assault resulting in the conception of the child, or child abuse or neglect from possessing or consuming alcohol or controlled substances during parenting time or for twenty-four hours prior to the commencement of parenting time;

(VI) An order directing that the address of the child or of any party remain confidential;

(VII) An order that imposes any other condition on one or more parties that the court determines is necessary to protect the child, another party, or any other family or household member of a party; and

(VIII) An order that requires child support payments to be made through the child support registry to avoid the need for any related contact between the parties and an order that the payments be treated as a nondisclosure of information case.

(f) When the court finds by a preponderance of the evidence that one of the parties has committed domestic violence, the court may order the party to submit to a domestic violence evaluation. If the court determines, based upon the results of the evaluation, that treatment is

appropriate, the court may order the party to participate in domestic violence treatment. At any time, the court may require a subsequent evaluation to determine whether additional treatment is necessary. If the court awards parenting time to a party who has been ordered to participate in domestic violence treatment, the court may order the party to obtain a report from the treatment provider concerning the party's progress in treatment and addressing any ongoing safety concerns regarding the party's parenting time. The court may order the party who has committed domestic violence to pay the costs of the domestic violence evaluations and treatment.

(5) Repealed.

(6) In the event of a medical emergency, either party shall be allowed to obtain necessary medical treatment for the minor child or children without being in violation of the order allocating decision-making responsibility or in contempt of court.

(7) In order to implement an order allocating parental responsibilities, both parties may submit a parenting plan or plans for the court's approval that shall address both parenting time and the allocation of decision-making responsibilities. If no parenting plan is submitted or if the court does not approve a submitted parenting plan, the court, on its own motion, shall formulate a parenting plan that shall address parenting time and the allocation of decision-making responsibilities. When issues relating to parenting time are contested, and in other cases where appropriate, the parenting plan must be as specific as possible to clearly address the needs of the family as well as the current and future needs of the aging child. In general, the parenting plan may include, but is not limited to, the following provisions:

(a) A designation of the type of decision-making awarded;

(b) A practical schedule of parenting time for the child, including holidays and school vacations;

(c) A procedure for the exchanges of the child for parenting time, including the location of the exchanges and the party or parties responsible for the child's transportation;

(d) A procedure for communicating with each other about the child, including methods for communicating and frequency of communication;

(e) A procedure for communication between a parent and the child outside of that parent's parenting time, including methods for communicating and frequency of communication; and

(f) Any other orders in the best interests of the child.

(8) The court may order mediation, pursuant to section 13-22-311, C.R.S., to assist the parties in formulating or modifying a parenting plan or in implementing a parenting plan specified in subsection (7) of this section and may allocate the cost of said mediation between the parties.

Source: L. 71: R&RE, p. 529, § 1. **C.R.S. 1963:** § 46-1-24. **L. 79:** (3) added, p. 645, § 1, effective March 2. **L. 81:** (4) added, p. 904, § 1, effective May 22. **L. 83:** (1) R&RE and (1.5) and (5) added, p. 647, §§ 3, 4, effective June 10. **L. 87:** (1.5)(g) to (1.5)(m) added and (5) repealed, pp. 574, 576, §§ 3, 6, effective July 1; (1.5)(m) repealed, p. 1578, § 22, effective July 1. **L. 98:** Entire section amended, p. 1380, § 10, effective February 1, 1999. **L. 2005:**

(1.5)(b)(IV) and (1.5)(b)(V) amended, p. 961, § 6, effective July 1; (3.5) added, p. 377, § 2, effective January 1, 2006. **L. 2010:** (1.3) added and (1.5)(a)(X), (1.5)(b)(V), and (4) amended, (HB 10-1135), ch. 87, p. 290, § 1, effective July 1. **L. 2013:** (1), IP(1.5), IP(1.5)(a), (1.5)(a)(VI), IP(1.5)(b), (4), and (7) amended, (1.5)(a)(IX), (1.5)(a)(X), (1.5)(b)(IV), and (1.5)(b)(V) repealed, and (1.7) added, (HB 13-1259), ch. 218, p. 995, § 2, effective July 1; IP(1.5)(a) amended, (HB 13-1243), ch. 124, p. 418, § 1, effective August 7. **L. 2014:** (1.3)(c), (4)(a)(III), and (4)(a)(IV) added and IP(1.5)(a), IP(1.5)(b), IP(4)(a), (4)(b), (4)(d), and (4)(e) amended, (HB 14-1162), ch. 167, p. 591, § 7, effective July 1.

Editor's note: (1) Amendments to the introductory portion to subsection (1.5)(a) by House Bill 13-1259 and House Bill 13-1243 were harmonized.

(2) Subsections (4)(a)(I) and (4)(a)(II) are similar to former § 14-10-124 (1.5)(b)(IV) and (1.5)(b)(V) as they existed prior to August 7, 2013.

Cross references: (1) For the "Uniform Child-custody Jurisdiction and Enforcement Act", see article 13 of this title 14.

(2) For the legislative declarations contained in the 2005 act amending subsections (1.5)(b)(IV) and (1.5)(b)(V), see sections 1 and 3 of chapter 244, Session Laws of Colorado 2005.

14-10-124.3. Stay of proceedings - criminal charges of allegations of sexual assault. (Repealed)

Source: L. 2013: Entire section added, (SB 13-227), ch. 353, p. 2059, § 4, effective July 1. **L. 2014:** Entire section repealed, (HB 14-1162), ch. 167, p. 586, § 2, effective July 1.

14-10-125. Temporary orders. (1) A party to a proceeding concerning the allocation of parental responsibilities may move for a temporary order. The court may allocate temporary parental responsibilities, including temporary parenting time and temporary decision-making responsibility, after a hearing.

(2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary order concerning the allocation of parental responsibilities is vacated unless a parent or the person allocated parental responsibilities moves that the proceeding continue as a proceeding concerning the allocation of parental responsibilities and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a decree concerning the allocation of parental responsibilities be issued.

(3) If a proceeding concerning the allocation of parental responsibilities commenced in the absence of a petition for dissolution of marriage or legal separation is dismissed, any temporary order concerning the allocation of parental responsibilities is vacated.

Source: L. 71: R&RE, p. 530, § 1. **C.R.S. 1963:** § 46-1-25. **L. 84:** (1) amended, p. 479, § 1, effective March 16. **L. 98:** Entire section amended, p. 1383, § 11, effective February 1, 1999.

14-10-126. Interviews. (1) The court may interview the child in chambers to ascertain the child's wishes as to the allocation of parental responsibilities. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made, and it shall be made part of the record in the case.

(2) The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel of record, parties, and other expert witnesses upon request, but it shall otherwise be considered confidential and shall be sealed and shall not be open to inspection, except by consent of the court. Counsel may call for cross-examination any professional personnel consulted by the court.

Source: L. 71: R&RE, p. 530, § 1. **C.R.S. 1963:** § 46-1-26. **L. 98:** (1) amended, p. 1384, § 12, effective February 1, 1999.

14-10-127. Evaluation and reports - disclosure. (1) (a) (I) In all proceedings concerning the allocation of parental responsibilities with respect to a child, the court may, upon motion of either party or upon its own motion, order any county or district department of human or social services or a licensed mental health professional qualified pursuant to subsection (4) of this section to perform an evaluation and file a written report concerning the disputed issues relating to the allocation of parental responsibilities for the child, unless the motion by either party is made for the purpose of delaying the proceedings. Any court or any personnel of a county or district department of human or social services appointed by the court to do such evaluation must be qualified pursuant to subsection (4) of this section. When a mental health professional performs the evaluation, the court shall appoint or approve the selection of the mental health professional. Within seven days after the appointment, the evaluator shall comply with the disclosure provisions of subsection (1.2) of this section. The court shall, at the time of the appointment of the evaluator, order one or more of the parties to deposit a reasonable sum with the court to pay the cost of the evaluation. The court may order the reasonable charge for the evaluation and report to be assessed as costs between the parties at the time the evaluation is completed.

(I.3) In determining whether to order an evaluation pursuant to this section, in addition to any other considerations the court deems relevant, the court shall consider:

(A) Whether an investigation by a child and family investigator pursuant to section 14-10-116.5 would be sufficient or appropriate given the scope or nature of the disputed issues relating to the allocation of parental responsibilities for the child;

(B) Whether an evaluation pursuant to this section is necessary to assist the court in determining the best interests of the child; and

(C) Whether involving the child in an evaluation pursuant to this section is in the best interests of the child.

(I.5) A party may request a supplemental evaluation to the evaluation ordered pursuant to subparagraph (I) of this paragraph (a). The court shall appoint another mental health professional to perform the supplemental evaluation at the initial expense of the moving party. The person appointed to perform the supplemental evaluation shall comply with the disclosure provisions of subsection (1.2) of this section. The court shall not order a supplemental evaluation if it determines that any of the following applies, based on motion and supporting affidavits:

(A) Such motion is interposed for purposes of delay;

(B) A party objects, and the party who objects or the child has a physical or mental condition that would make it harmful for such party or the child to participate in the supplemental evaluation;

(C) The purpose of such motion is to harass or oppress the other party;

(D) The moving party has failed or refused to cooperate with the first evaluation;

(E) The weight of the evidence other than the evaluation concerning the allocation of parental responsibilities or parenting time by the mental health professional demonstrates that a second evaluation would not be of benefit to the court in determining the allocation of parental responsibilities and parenting time; or

(F) In addition to the evaluation ordered pursuant to subparagraph (I) of this paragraph (a), there has been an investigation and report prepared by a child and family investigator pursuant to section 14-10-116.5, and the court finds that a supplemental evaluation concerning parental responsibilities will not serve the best interests of the child.

(II) Each party and the child shall cooperate in the supplemental evaluation. If the court finds that the supplemental evaluation was necessary and materially assisted the court, the court may order the costs of such supplemental evaluation to be assessed as costs between the parties. Except as otherwise provided in this section, such report shall be considered confidential and shall not be available for public inspection unless by order of court. The cost of each department of human services evaluation shall be based on an ability to pay and shall be assessed as part of the costs of the action or proceeding, and, upon receipt of such sum by the clerk of court, it shall be transmitted to the department or agency performing the evaluation.

(b) The person signing a report or evaluation and supervising its preparation shall be a licensed mental health professional. The mental health professional may have associates or persons working under him or her who are unlicensed.

(1.2) (a) Within seven days after his or her appointment, the evaluator shall disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the evaluator has or has had with the child, either party, the attorneys of record, or the judicial officer and, if a relationship exists, the nature of the relationship.

(b) Based on the disclosure required pursuant to paragraph (a) of this subsection (1.2), the court may, in its discretion, terminate the appointment and appoint a different evaluator in the proceedings. A party has seven days from the date of the disclosure to object to the appointment based upon information contained in the disclosure. If a party objects to the

appointment, the court shall appoint a different person or confirm the appointment within seven days after the date of the party's objection. If no party timely objects to the appointment, then the appointment is deemed confirmed.

(2) In preparing the report concerning a child, the evaluator may consult any person who may have information about the child and the child's potential parenting arrangements. Upon order of the court, the evaluator may refer the child to other professional personnel for diagnosis. The evaluator may consult with and obtain information from medical, mental health, educational, or other expert persons who have served the child in the past without obtaining the consent of the parent or the person allocated parental responsibilities for the child; but the child's consent must be obtained if the child has reached the age of fifteen years unless the court finds that the child lacks mental capacity to consent. If the requirements of subsections (3) to (7) of this section are fulfilled, the evaluator's report may be received in evidence at the hearing.

(3) The evaluator shall mail the report to the court and to counsel and to any party not represented by counsel at least twenty-one days prior to the hearing. The evaluator shall make available to counsel and to any party not represented by counsel his or her file of underlying data and reports, complete texts of diagnostic reports made to the evaluator pursuant to the provisions of subsections (2), (5), and (6) of this section, and the names and addresses of all persons whom the evaluator has consulted. Any party to the proceeding may call the evaluator and any person with whom the evaluator has consulted for cross-examination. No party may waive his or her right of cross-examination prior to the hearing.

(4) A person shall not be allowed to testify regarding a parental responsibilities or parenting time evaluation that the person has performed pursuant to this section unless the court finds that the person is qualified as competent, by training and experience, in the areas of:

(a) The effects of divorce and remarriage on children, adults, and families;

(b) Appropriate parenting techniques;

(c) Child development, including cognitive, personality, emotional, and psychological development;

(d) Child and adult psychopathology;

(e) Applicable clinical assessment techniques; and

(f) Applicable legal and ethical requirements of parental responsibilities evaluation.

(5) If evaluation is indicated in an area which is beyond the training or experience of the evaluator, the evaluator shall consult with a mental health professional qualified by training or experience in that area. Such areas may include, but are not limited to, domestic violence, child abuse, alcohol or substance abuse, or psychological testing.

(6) (a) A mental health professional may make specific recommendations when the mental health professional has interviewed and assessed all parties to the dispute, assessed the quality of the relationship, or the potential for establishing a quality relationship, between the child and each of the parties, and had access to pertinent information from outside sources.

(b) A mental health professional may make recommendations even though all parties and the child have not been evaluated by the same mental health professional in the following

circumstances if the mental health professional states with particularity in his or her opinion the limitations of his or her findings and recommendations:

(I) Any of the parties reside outside Colorado and it would not be feasible for all parties and the child to be evaluated by the same mental health professional; or

(II) One party refuses or is unable to cooperate with the court-ordered evaluation; or

(III) The mental health professional is a member of a team of professionals that performed the evaluation and is presenting recommendations of the team that has interviewed and assessed all parties to the dispute.

(7) (a) A written report of the evaluation shall be provided to the court and to the parties pursuant to subsection (3) of this section.

(b) The report of the evaluation shall include, but need not be limited to, the following information:

(I) A description of the procedures employed during the evaluation;

(II) A report of the data collected;

(III) A conclusion that explains how the resulting recommendations were reached from the data collected, with specific reference to criteria listed in section 14-10-124 (1.5), and, if applicable, to the criteria listed in section 14-10-131, and their relationship to the results of the evaluation;

(IV) Recommendations concerning the allocation of parental responsibilities for the child, including decision-making responsibility, parenting time, and other considerations; and

(V) An explanation of any limitations in the evaluations or any reservations regarding the resulting recommendations.

(8) All evaluations and reports, including but not limited to supplemental evaluations and related medical and mental health information, that are submitted to the court pursuant to this section shall be deemed confidential without the necessity of filing a motion to seal or otherwise limit access to the court file under the Colorado rules of civil procedure. An evaluation or report that is deemed confidential under this subsection (8) shall not be made available for public inspection without an order of the court authorizing public inspection.

Source: L. 71: R&RE, p. 530, § 1. **C.R.S. 1963:** § 46-1-27. **L. 76:** (1) amended, p. 529, § 1, effective April 16. **L. 79:** (1) amended, p. 646, § 1, effective March 2. **L. 83:** Entire section amended, p. 649, § 1, effective June 10. **L. 88:** Entire section amended, p. 639, § 1, effective May 11. **L. 93:** IP(1)(a)(I), IP(4), and (7)(b)(IV) amended, p. 577, § 10, effective July 1. **L. 94:** (1)(a)(II) amended, p. 2645, § 108, effective July 1. **L. 96:** (1)(b) amended, p. 1287, § 1, effective January 1, 1997. **L. 98:** IP(1)(a)(I), (2), (3), (4), (6)(b), and (7) amended, p. 1384, § 13, effective February 1, 1999. **L. 2005:** (1)(a) amended, p. 1224, § 1, effective June 3; (1)(a)(I.5)(F) amended, p. 963, § 10, effective July 1. **L. 2006:** (8) added, p. 447, § 1, effective April 13. **L. 2012:** (1)(a)(I) and IP(1)(a)(I.5) amended and (1.2) added, (SB 12-056), ch. 108, p. 368, § 3, effective July 1; (3) amended, (SB 12-175), ch. 208, p. 832, § 30, effective July 1. **L. 2013:** (1)(a)(I) amended and (1)(a)(I.3) added, (HB 13-1259), ch. 218, p. 1000, § 3, effective July 1. **L.**

2015: (1)(a)(II) amended, (SB 15-099), ch. 99, p. 289, § 1, effective August 5. **L. 2018:** (1)(a)(I) amended, (SB 18-092), ch. 38, p. 401, § 15, effective August 8.

Cross references: (1) For the licensing of mental health professionals, see article 245 of title 12.

(2) For the legislative declaration contained in the 1993 act amending the introductory portions to subsections (1)(a)(I) and (4) and subsection (7)(b)(IV), see section 1 of chapter 165, Session Laws of Colorado 1993. For the legislative declaration contained in the 1994 act amending subsection (1)(a)(II), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declarations contained in the 2005 act amending subsection (1)(a)(I.5)(F), see sections 1 and 3 of chapter 244, Session Laws of Colorado 2005. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

14-10-128. Hearings. (1) Proceedings concerning the allocation of parental responsibilities with respect to a child shall receive priority in being set for hearing.

(2) The court may tax as costs the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the court deems necessary to determine the best interests of the child.

(3) The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a hearing concerning the allocation of parental responsibilities but may admit any person who has a direct and legitimate interest in the particular case or a legitimate educational or research interest in the work of the court.

(4) If the court finds it necessary in order to protect the child's welfare that the record of any interview, report, investigation, or testimony in a proceeding concerning the allocation of parental responsibilities be kept secret, the court shall make an appropriate order sealing the record.

Source: L. 71: R&RE, p. 531, § 1. **C.R.S. 1963:** § 46-1-28. **L. 98:** (1), (3), and (4) amended, p. 1386, § 14, effective February 1, 1999.

14-10-128.1. Appointment of parenting coordinator - disclosure. (1) Pursuant to the provisions of this section, at any time after the entry of an order concerning parental responsibilities and upon notice to the parties, the court may, on its own motion, a motion by either party, or an agreement of the parties, appoint a parenting coordinator as a neutral third party to assist in the resolution of disputes between the parties concerning parental responsibilities, including but not limited to implementation of the court-ordered parenting plan. The parenting coordinator shall be a neutral person with appropriate training and qualifications and an independent perspective acceptable to the court. Within seven days after the appointment, the appointed person shall comply with the disclosure provisions of subsection (2.5) of this section.

(2) (a) Absent agreement of the parties, a court shall not appoint a parenting coordinator unless the court makes the following findings:

(I) That the parties have failed to adequately implement the parenting plan;

(II) That mediation has been determined by the court to be inappropriate, or, if not inappropriate, that mediation has been attempted and was unsuccessful; and

(III) That the appointment of a parenting coordinator is in the best interests of the child or children involved in the parenting plan.

(b) In addition to making the findings required pursuant to paragraph (a) of this subsection (2), prior to appointing a parenting coordinator, the court may consider the effect of any claim or documented evidence of domestic violence, as defined in section 14-10-124 (1.3)(a), by the other party on the parties' ability to engage in parent coordination.

(2.5) (a) Within seven days after his or her appointment, the appointed person shall disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the appointed person has or has had with the child, either party, the attorneys of record, or the judicial officer and, if a relationship exists, the nature of the relationship.

(b) Based on the disclosure required pursuant to paragraph (a) of this subsection (2.5), the court may, in its discretion, terminate the appointment and appoint a different person in the proceedings. A party has seven days from the date of the disclosure to object to the appointment based upon information contained in the disclosure. If a party objects to the appointment, the court shall appoint a different person or confirm the appointment within seven days after the date of the party's objection. If no party timely objects to the appointment, then the appointment is deemed confirmed.

(3) A parenting coordinator shall assist the parties in implementing the terms of the parenting plan. Duties of a parenting coordinator include, but are not limited to, the following:

(a) Assisting the parties in creating an agreed-upon, structured guideline for implementation of the parenting plan;

(b) Developing guidelines for communication between the parties and suggesting appropriate resources to assist the parties in learning appropriate communication skills;

(c) Informing the parties about appropriate resources to assist them in developing improved parenting skills;

(d) Assisting the parties in realistically identifying the sources and causes of conflict between them, including but not limited to identifying each party's contribution to the conflict, when appropriate; and

(e) Assisting the parties in developing parenting strategies to minimize conflict.

(4) (a) The court may not appoint a person pursuant to this section to serve in a case as a parenting coordinator if the person has served or is serving in the same case as an evaluator pursuant to section 14-10-127 or a representative of the child pursuant to section 14-10-116. After appointing a person pursuant to this section to serve as a parenting coordinator in a case, the court may not subsequently appoint the person to serve in the same case as an evaluator pursuant to section 14-10-127 or a representative of the child pursuant to section 14-10-116.

(b) The court may appoint a person who has served or is serving in a case as a child and family investigator pursuant to section 14-10-116.5 to serve in the same case as the parenting coordinator, upon the agreement of the parties. After appointing a person pursuant to this section to serve as a parenting coordinator in a case, the court may not subsequently appoint the person to serve as a child and family investigator in the same case pursuant to section 14-10-116.5.

(5) A court order appointing a parenting coordinator shall be for a specified term; except that the court order shall not appoint a parenting coordinator for a period of longer than two years. If an order fails to specify the length of the court-ordered appointment, it shall be construed to be two years from the date of appointment. Upon agreement of the parties, the court may extend, modify, or terminate the appointment, including extending the appointment beyond two years from the date of the original appointment. The court may terminate the appointment of the parenting coordinator at any time for good cause. The court shall allow the parenting coordinator to withdraw at any time.

(6) A court order appointing a parenting coordinator shall include apportionment of the responsibility for payment of all of the parenting coordinator's fees between the parties. The state shall not be responsible for payment of fees to a parenting coordinator appointed pursuant to this section.

(7) (a) A parenting coordinator appointed by the court pursuant to this section shall be immune from civil liability in any claim for injury that arises out of an act or omission of the parenting coordinator occurring on or after April 16, 2009, during the performance of his or her duties or during the performance of any act that a reasonable parenting coordinator would believe was within the scope of his or her duties unless the act or omission causing the injury was willful and wanton.

(b) Nothing in this subsection (7) shall be construed to bar a party from asserting a claim:

(I) Based upon a parenting coordinator's failure to comply with the provision set forth in subsection (8) of this section;

(II) Related to the reasonableness or accuracy of any fee charged or time billed by a parenting coordinator; or

(III) Based upon a negligent act or omission involving the operation of a motor vehicle by a parenting coordinator.

(c) (I) In a judicial proceeding, administrative proceeding, or other similar proceeding between the parties to the action, a parenting coordinator shall not be competent to testify and may not be required to produce records as to any statement, conduct, or decision that occurred during the parenting coordinator's appointment to the same extent as a judge of a court of this state acting in a judicial capacity.

(II) This paragraph (c) shall not apply:

(A) To the extent testimony or production of records by the parenting coordinator is necessary to determine a claim of the parenting coordinator against a party; or

(B) To the extent testimony or production of records by the parenting coordinator is necessary to determine a claim of a party against a parenting coordinator; or

(C) When both parties have agreed, in writing, to authorize the parenting coordinator to testify.

(d) If a person commences a civil action against a parenting coordinator arising from the services of the parenting coordinator, or if a person seeks to compel a parenting coordinator to testify or produce records in violation of paragraph (c) of this subsection (7), and the court determines that the parenting coordinator is immune from civil liability or that the parenting coordinator is not competent to testify, the court shall award to the parenting coordinator reasonable attorney fees and reasonable expenses of litigation.

(8) The parenting coordinator shall comply with any applicable provisions set forth in chief justice directives and any other practice or ethical standards established by rule, statute, guideline, or licensing board that regulates the parenting coordinator.

Source: L. 2005: Entire section added, p. 952, § 1, effective June 2; (4)(b) amended, p. 963, § 11, effective July 1. **L. 2009:** (7) and (8) amended, (SB 09-069), ch. 121, p. 502, § 1, effective April 16. **L. 2012:** (1) and (2)(b) amended and (2.5) added, (SB 12-056), ch. 108, p. 369, § 4, effective July 1.

Cross references: For the legislative declarations contained in the 2005 act amending subsection (4)(b), see sections 1 and 3 of chapter 244, Session Laws of Colorado 2005.

14-10-128.3. Appointment of decision-maker - disclosure. (1) In addition to the appointment of a parenting coordinator pursuant to section 14-10-128.1 or an arbitrator pursuant to section 14-10-128.5, at any time after the entry of an order concerning parental responsibilities and upon written consent of both parties, the court may appoint a qualified domestic relations decision-maker and grant to the decision-maker binding authority to resolve disputes between the parties as to implementation or clarification of existing orders concerning the parties' minor or dependent children, including but not limited to disputes concerning parenting time, specific disputed parental decisions, and child support. A decision-maker shall have the authority to make binding determinations to implement or clarify the provisions of a pre-existing court order in a manner that is consistent with the substantive intent of the court order. The decision-maker appointed pursuant to the provisions of this section may be the same person as the parenting coordinator appointed pursuant to section 14-10-128.1. At the time of the appointment, the appointed person shall comply with the disclosure provisions of subsection (4.5) of this section.

(2) The decision-maker's procedures for making determinations shall be in writing and shall be approved by the parties prior to the time the decision-maker begins to resolve a dispute of the parties. If a party is unable or unwilling to agree to the decision-maker's procedures, the decision-maker shall be allowed to withdraw from the matter.

(3) All decisions made by the decision-maker pursuant to this section shall be in writing, dated, and signed by the decision-maker. Decisions of the decision-maker shall be filed with the court and mailed to the parties or to counsel for the parties, if any, no later than twenty days after

the date the decision is issued. All decisions shall be effective immediately upon issuance and shall continue in effect until vacated, corrected, or modified by the decision-maker or until an order is entered by a court pursuant to a de novo hearing under subsection (4) of this section.

(4) (a) A party may file a motion with the court requesting that a decision of the decision-maker be modified by the court pursuant to a de novo hearing. A motion for a de novo hearing shall be filed no later than thirty-five days after the date the decision is issued pursuant to subsection (3) of this section.

(b) If a court, in its discretion based on the pleadings filed, grants a party's request for a de novo hearing to modify the decision of the decision-maker and the court substantially upholds the decision of the decision-maker, the party that requested the de novo hearing shall pay the fees and costs of the other party and shall pay the fees and costs incurred by the decision-maker in connection with the request for de novo hearing, unless the court finds that it would be manifestly unjust.

(4.5) (a) Within seven days after his or her appointment, the appointed person shall disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the appointed person has or has had with the child, either party, the attorneys of record, or the judicial officer and, if a relationship exists, the nature of the relationship.

(b) Based on the disclosure required pursuant to paragraph (a) of this subsection (4.5), the court may, in its discretion, terminate the appointment and appoint a different person in the proceedings. A party has seven days from the date of the disclosure to object to the appointment based upon information contained in the disclosure. If a party objects to the appointment, the court shall appoint a different person or confirm the appointment within seven days after the date of the party's objection. If no party timely objects to the appointment, then the appointment is deemed confirmed.

(5) A court order appointing a decision-maker shall be for a specified term; except that the court order shall not appoint a decision-maker for a period of longer than two years. If an order fails to specify the length of the court-ordered appointment, it shall be construed to be two years from the date of appointment. Upon agreement of the parties, the court may extend, modify, or terminate the appointment, including extending the appointment beyond two years from the date of the original appointment. The court may terminate the appointment of the decision-maker at any time for good cause. The court shall allow the decision-maker to withdraw at any time.

(6) A court order appointing a decision-maker shall include apportionment of the responsibility for payment of all of the decision-maker's fees between the parties. The state shall not be responsible for payment of fees to a decision-maker appointed pursuant to this section.

(7) (a) A decision-maker shall be immune from liability in any claim for injury that arises out of an act or omission of the decision-maker occurring during the performance of his or her duties or during the performance of an act that the decision-maker reasonably believed was within the scope of his or her duties unless the act or omission causing such injury was willful and wanton.

(b) Nothing in this subsection (7) shall be construed to bar a party from asserting a claim related to the reasonableness or accuracy of any fee charged or time billed by a decision-maker.

(c) (I) In a judicial proceeding, administrative proceeding, or other similar proceeding, a decision-maker shall not be competent to testify and may not be required to produce records as to any statement, conduct, or decision, that occurred during the decision-maker's appointment, to the same extent as a judge of a court of this state acting in a judicial capacity.

(II) This paragraph (c) shall not apply:

(A) To the extent testimony or production of records by the decision-maker is necessary to determine the claim of the decision-maker against a party; or

(B) To the extent testimony or production of records by the decision-maker is necessary to determine a claim of a party against a decision-maker; or

(C) When both parties have agreed, in writing, to authorize the decision-maker to testify.

(d) If a person commences a civil action against a decision-maker arising from the services of the decision-maker, or if a person seeks to compel a decision-maker to testify or produce records in violation of paragraph (c) of this subsection (7), and the court decides that the decision-maker is immune from civil liability or that the decision-maker is not competent to testify, the court shall award to the decision-maker reasonable attorney fees and reasonable expenses of litigation.

(8) The decision-maker shall comply with any applicable provisions set forth in chief justice directives and any other practice or ethical standards established by rule, statute, or licensing board that regulates the decision-maker.

Source: L. 2005: Entire section added, p. 954, § 1, effective June 2. **L. 2012:** (1) amended and (4.5) added, (SB 12-056), ch. 108, p. 370, § 5, effective July 1; (4)(a) amended, (SB 12-175), ch. 208, p. 832, § 31, effective July 1.

14-10-128.5. Appointment of arbitrator - de novo hearing of award. (1) With the consent of all parties, the court may appoint an arbitrator to resolve disputes between the parties concerning the parties' minor or dependent children, including but not limited to parenting time, nonrecurring adjustments to child support, and disputed parental decisions. Notwithstanding any other provision of law to the contrary, all awards entered by an arbitrator appointed pursuant to this section shall be in writing. The arbitrator's award shall be effective immediately upon entry and shall continue in effect until vacated by the arbitrator pursuant to part 2 of article 22 of title 13, C.R.S., modified or corrected by the arbitrator pursuant to part 2 of article 22 of title 13, C.R.S., or modified by the court pursuant to a de novo hearing under subsection (2) of this section.

(2) Any party may apply to have the arbitrator's award vacated, modified, or corrected pursuant to part 2 of article 22 of title 13, C.R.S., or may move the court to modify the arbitrator's award pursuant to a de novo hearing concerning such award by filing a motion for hearing no later than thirty-five days after the date of the award. In circumstances in which a party moves for a de novo hearing by the court, if the court, in its discretion based on the

pleadings filed, grants the motion and the court substantially upholds the decision of the arbitrator, the party that requested the de novo hearing shall be ordered to pay the fees and costs of the other party and the fees of the arbitrator incurred in responding to the application or motion unless the court finds that it would be manifestly unjust.

Source: L. 97: Entire section added, p. 33, § 2, effective July 1. **L. 2004:** Entire section amended, p. 1731, § 3, effective August 4. **L. 2005:** Entire section amended, p. 956, § 2, effective June 2. **L. 2012:** (2) amended, (SB 12-175), ch. 208, p. 833, § 32, effective July 1.

14-10-129. Modification of parenting time. (1) (a) (I) Except as otherwise provided in subparagraph (I) of paragraph (b) of this subsection (1), the court may make or modify an order granting or denying parenting time rights whenever such order or modification would serve the best interests of the child.

(II) In those cases in which a party with whom the child resides a majority of the time is seeking to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party, the court, in determining whether the modification of parenting time is in the best interests of the child, shall take into account all relevant factors, including those enumerated in paragraph (c) of subsection (2) of this section. The party who is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party shall provide the other party with written notice as soon as practicable of his or her intent to relocate, the location where the party intends to reside, the reason for the relocation, and a proposed revised parenting time plan. A court hearing on any modification of parenting time due to an intent to relocate shall be given a priority on the court's docket.

(b) (I) The court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger the child's physical health or significantly impair the child's emotional development. In addition to a finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development, in any order imposing or continuing a parenting time restriction, the court shall enumerate the specific factual findings supporting the restriction. Nothing in this section shall be construed to affect grandparent or great-grandparent visitation granted pursuant to section 19-1-117, C.R.S.

(II) The provisions of subparagraph (I) of this paragraph (b) shall not apply in those cases in which a party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party.

(1.5) If a motion for a substantial modification of parenting time which also changes the party with whom the child resides a majority of the time has been filed, whether or not it has been granted, no subsequent motion may be filed within two years after disposition of the prior motion unless the court decides, on the basis of affidavits, that the child's present environment may endanger the child's physical health or significantly impair the child's emotional development or that the party with whom the child resides a majority of the time is intending to

relocate with the child to a residence that substantially changes the geographical ties between the child and the other party.

(2) The court shall not modify a prior order concerning parenting time that substantially changes the parenting time as well as changes the party with whom the child resides a majority of the time unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or the party with whom the child resides the majority of the time and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the parenting time schedule established in the prior decree unless:

(a) The parties agree to the modification; or

(b) The child has been integrated into the family of the moving party with the consent of the other party; or

(c) The party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party. A court hearing on any modification of parenting time due to an intent to relocate shall be given a priority on the court's docket. In determining whether the modification of parenting time is in the best interests of the child, the court shall take into account all relevant factors, including whether a party has committed an act of domestic violence, has engaged in a pattern of domestic violence, or has a history of domestic violence, as that term is defined in section 14-10-124 (1.3), which factor shall be supported by a preponderance of the evidence, and shall consider such domestic violence whether it occurred before or after the prior decree, and all other factors enumerated in section 14-10-124 (1.5)(a) and:

(I) The reasons why the party wishes to relocate with the child;

(II) The reasons why the opposing party is objecting to the proposed relocation;

(III) The history and quality of each party's relationship with the child since any previous parenting time order;

(IV) The educational opportunities for the child at the existing location and at the proposed new location;

(V) The presence or absence of extended family at the existing location and at the proposed new location;

(VI) Any advantages of the child remaining with the primary caregiver;

(VII) The anticipated impact of the move on the child;

(VIII) Whether the court will be able to fashion a reasonable parenting time schedule if the change requested is permitted; and

(IX) Any other relevant factors bearing on the best interests of the child; or

(d) The child's present environment endangers the child's physical health or significantly impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

(2.5) (a) When the court restricts a party's parenting time pursuant to section 19-5-105.5, C.R.S., or section 19-5-105.7, C.R.S., or section 14-10-124 (4)(a)(IV), the court may make or

modify an order granting or denying parenting time rights whenever such order or modification would serve the best interests of the child. Within thirty-five days after the filing of a verified motion by the restricted party seeking a modification of parenting time, the court shall determine from the verified motion, and response to the motion, if any, whether there has been a substantial and continuing change of circumstances such that the current parenting time orders are no longer in the child's best interests, including consideration of whether the restricted parent has satisfactorily complied with any conditions set forth by the court when the court imposed the restrictions on parenting time, and either:

(I) Deny the motion, if there is an inadequate allegation; or

(II) Set the matter for hearing as expeditiously as possible with notice to the parties of the time and place of the hearing.

(b) If the court finds that the filing of a motion under paragraph (a) of this subsection (2.5) was substantially frivolous, substantially groundless, substantially vexatious, or intended to harass or intimidate the other party, the court shall require the moving party to pay the reasonable and necessary attorney fees and costs of the other party.

(3) (a) If a parent has been convicted of any of the crimes listed in paragraph (b) of this subsection (3) or convicted in another state or jurisdiction, including but not limited to a military or federal jurisdiction, of an offense that, if committed in Colorado, would constitute any of the crimes listed in paragraph (b) of this subsection (3), or convicted of any crime in which the underlying factual basis 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., that constitutes a potential threat or endangerment to the child, the other parent, or any other person who has been granted custody of or parental responsibility for the child pursuant to court order may file an objection to parenting time with the court. The other parent or other person having custody or parental responsibility shall give notice to the offending parent of such objection as provided by the Colorado rules of civil procedure, and the offending parent shall have twenty-one days from such notice to respond. If the offending parent fails to respond within twenty-one days, the parenting time rights of such parent shall be suspended until further order of the court. If such parent responds and objects, a hearing shall be held within thirty-five days of such response. The court may determine that any offending parent who responds and objects shall be responsible for the costs associated with any hearing, including reasonable attorney fees incurred by the other parent. In making such determination, the court shall consider the criminal record of the offending parent and any actions to harass the other parent and the children, any mitigating actions by the offending parent, and whether the actions of either parent have been substantially frivolous, substantially groundless, or substantially vexatious. The offending parent shall have the burden at the hearing to prove that parenting time by such parent is in the best interests of the child or children.

(b) The provisions of paragraph (a) of this subsection (3) shall apply to the following crimes:

(I) Murder in the first degree, as defined in section 18-3-102, C.R.S.;

(II) Murder in the second degree, as defined in section 18-3-103, C.R.S.;

(III) Enticement of a child, as defined in section 18-3-305, C.R.S.;

(IV) (A) Sexual assault, as described in section 18-3-402, C.R.S.; and

(B) Sexual assault in the first degree, as described in section 18-3-402, C.R.S., as it existed prior to July 1, 2000;

(V) Sexual assault in the second degree, as described in section 18-3-403, C.R.S., as it existed prior to July 1, 2000;

(VI) (A) Unlawful sexual contact if the victim is compelled to submit, as described in section 18-3-404 (2), C.R.S.; and

(B) Sexual assault in the third degree if the victim is compelled to submit, as described in section 18-3-404 (2), C.R.S., as it existed prior to July 1, 2000;

(VII) Sexual assault on a child, as defined in section 18-3-405, C.R.S.;

(VIII) Incest, as described in section 18-6-301, C.R.S.;

(IX) Aggravated incest, as described in section 18-6-302, C.R.S.;

(X) Child abuse, as described in section 18-6-401 (7)(a)(I) to (7)(a)(IV), C.R.S.;

(XI) Human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2), C.R.S.;

(XII) Sexual exploitation of children, as defined in section 18-6-403, C.R.S.;

(XIII) Procurement of a child for sexual exploitation, as defined in section 18-6-404, C.R.S.;

(XIV) Soliciting for child prostitution, as defined in section 18-7-402, C.R.S.;

(XV) Pandering of a child, as defined in section 18-7-403, C.R.S.;

(XVI) Procurement of a child, as defined in section 18-7-403.5, C.R.S.;

(XVII) Keeping a place of child prostitution, as defined in section 18-7-404, C.R.S.;

(XVIII) Pimping of a child, as defined in section 18-7-405, C.R.S.;

(XIX) Inducement of child prostitution, as defined in section 18-7-405.5, C.R.S.;

(XX) Patronizing a prostituted child, as defined in section 18-7-406, C.R.S.

(c) If the party was convicted in another state or jurisdiction of an offense that, if committed in Colorado, would constitute an offense listed in subparagraphs (III) to (XX) of paragraph (b) of this subsection (3), the court shall order that party to submit to a sex-offense-specific evaluation and a parental risk assessment in Colorado and the court shall consider the recommendations of the evaluation and the assessment in any order the court makes relating to parenting time or parental contact. The convicted party shall pay for the costs of the evaluation and the assessment.

(4) A motion to restrict parenting time or parental contact with a parent which alleges that the child is in imminent physical or emotional danger due to the parenting time or contact by the parent shall be heard and ruled upon by the court not later than fourteen days after the day of the filing of the motion. Any parenting time which occurs during such fourteen-day period after the filing of such a motion shall be supervised by an unrelated third party deemed suitable by the court or by a licensed mental health professional, as defined in section 14-10-127 (1)(b). This subsection (4) shall not apply to any motion which is filed pursuant to subsection (3) of this section.

(5) If the court finds that the filing of a motion under subsection (4) of this section was substantially frivolous, substantially groundless, or substantially vexatious, the court shall require the moving party to pay the reasonable and necessary attorney fees and costs of the other party.

Source: L. 71: R&RE, p. 531, § 1. **C.R.S. 1963:** § 46-1-29. **L. 73:** p. 554, § 11. **L. 88:** (3) added, p. 643, § 1, effective March 15. **L. 89:** (4) and (5) added, p. 803, § 2, effective April 27. **L. 90:** (3)(a) amended, p. 902, § 1, effective March 16. **L. 91:** (2) amended, p. 261, § 2, effective May 31. **L. 93:** (1), (2), (3)(a), and (4) amended, p. 578, § 11, effective July 1. **L. 98:** (1), (2), and (3)(a) amended and (1.5) added, p. 1387, § 15, effective February 1, 1999. **L. 2000:** (3)(b)(IV), (3)(b)(V), and (3)(b)(VI) amended, p. 701, § 21, effective July 1. **L. 2001:** (1), (1.5), and (2) amended, p. 761, § 1, effective September 1. **L. 2008:** (3)(a) amended and (3)(c) added, p. 1636, § 1, effective May 29. **L. 2010:** (3)(b)(XI) amended, (SB 10-140), ch. 156, p. 537, § 3, effective April 21; IP(2)(c) amended, (HB 10-1135), ch. 87, p. 291, § 2, effective July 1. **L. 2012:** (3)(a) amended, (SB 12-175), ch. 208, p. 833, § 33, effective July 1. **L. 2013:** IP(2)(c) and (4) amended, (HB 13-1259), ch. 218, p. 1000, § 4, effective July 1; (1)(b)(I) amended, (HB 13-1243), ch. 124, p. 418, § 2, effective August 7. **L. 2014:** (1)(b)(I) amended, (HB 14-1362), ch. 374, p. 1789, § 4, effective June 6; (2.5) added, (HB 14-1162), ch. 167, p. 594, § 8, effective July 1; (3)(b)(XI) amended, (HB 14-1273), ch. 282, p. 1152, § 9, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending subsections (1), (2), (3)(a), and (4), see section 1 of chapter 165, Session Laws of Colorado 1993.

14-10-129.5. Disputes concerning parenting time. (1) Within thirty-five days after the filing of a verified motion by either parent or upon the court's own motion alleging that a parent is not complying with a parenting time order or schedule and setting forth the possible sanctions that may be imposed by the court, the court shall determine from the verified motion, and response to the motion, if any, whether there has been or is likely to be substantial or continuing noncompliance with the parenting time order or schedule and either:

(a) Deny the motion, if there is an inadequate allegation; or

(b) Set the matter for hearing with notice to the parents of the time and place of the hearing as expeditiously as possible; or

(c) Require the parties to seek mediation and report back to the court on the results of the mediation within sixty-three days. Mediation services shall be provided in accordance with section 13-22-305, C.R.S. At the end of the mediation period, the court may approve an agreement reached by the parents or shall set the matter for hearing.

(2) After the hearing, if a court finds that a parent has not complied with the parenting time order or schedule and has violated the court order, the court, in the best interests of the child, shall issue an order that may include but not be limited to one or more of the following orders:

(a) An order imposing additional terms and conditions that are consistent with the court's previous order; except that the court shall separate the issues of child support and parenting time and shall not condition child support upon parenting time;

(b) An order modifying the previous order to meet the best interests of the child;

(b.3) An order requiring either parent or both parents to attend a parental education program as described in section 14-10-123.7, at the expense of the noncomplying parent;

(b.7) An order requiring the parties to participate in family counseling pursuant to section 13-22-313, C.R.S., at the expense of the noncomplying parent;

(c) An order requiring the violator to post bond or security to insure future compliance;

(d) An order requiring that makeup parenting time be provided for the aggrieved parent or child under the following conditions:

(I) That such parenting time is of the same type and duration of parenting time as that which was denied, including but not limited to parenting time during weekends, on holidays, and on weekdays and during the summer;

(II) That such parenting time is made up within six months after the noncompliance occurs, unless the period of time or holiday can not be made up within six months in which case the parenting time shall be made up within one year after the noncompliance occurs;

(III) That such parenting time takes place at the time and in the manner chosen by the aggrieved parent if it is in the best interests of the child;

(e) An order finding the parent who did not comply with the parenting time schedule in contempt of court and imposing a fine or jail sentence;

(e.5) An order imposing on the noncomplying parent a civil fine not to exceed one hundred dollars per incident of denied parenting time;

(f) An order scheduling a hearing for modification of the existing order concerning custody or the allocation of parental responsibilities with respect to a motion filed pursuant to section 14-10-131;

(g) (Deleted by amendment, L. 97, p. 970, § 1, effective August 6, 1997.)

(h) Any other order that may promote the best interests of the child or children involved.

(3) Any civil fines collected as a result of an order entered pursuant to paragraph (e.5) of subsection (2) of this section shall be transmitted to the state treasurer, who shall credit the same to the dispute resolution fund created in section 13-22-310, C.R.S.

(4) In addition to any other order entered pursuant to subsection (2) of this section, the court shall order a parent who has failed to provide court-ordered parenting time or to exercise court-ordered parenting time to pay to the aggrieved party, attorney's fees, court costs, and expenses that are associated with an action brought pursuant to this section. In the event the parent responding to an action brought pursuant to this section is found not to be in violation of the parenting time order or schedule, the court may order the petitioning parent to pay the court costs, attorney fees, and expenses incurred by such responding parent. Nothing in this section shall preclude a party's right to a separate and independent legal action in tort.

Source: L. 87: Entire section added, p. 578, § 1, effective July 1. **L. 93:** IP(1) and (2) amended, p. 579, § 12, effective July 1. **L. 97:** Entire section amended, p. 970, § 1, effective August 6. **L. 98:** IP(2) and (2)(f) amended, p. 1388, § 16, effective February 1, 1999. **L. 2012:** IP(1) and (1)(c) amended, (SB 12-175), ch. 208, p. 833, § 34, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending the introductory portion to subsection (1) and subsection (2), see section 1 of chapter 165, Session Laws of Colorado 1993.

14-10-130. Judicial supervision. (1) Except as otherwise agreed by the parties in writing at the time of the decree concerning the allocation of parental responsibilities with respect to a child, the person or persons with responsibility for decision-making may determine the child's upbringing, including his or her education, health care, and religious training, unless the court, after hearing and upon motion by the other party, finds that, in the absence of a specific limitation of the person's or persons' decision-making authority, the child's physical health would be endangered or the child's emotional development significantly impaired.

(2) If both parties or all contestants agree to the order or if the court finds that in the absence of the order the child's physical health would be endangered or the child's emotional development significantly impaired, the court may order the county or district welfare department to exercise continuing supervision over the case to assure that the terms relating to the allocation of parental responsibilities with respect to the child or parenting time terms of the decree are carried out.

Source: L. 71: R&RE, p. 531, § 1. **C.R.S. 1963:** § 46-1-30. **L. 93:** (2) amended, p. 580, § 13, effective July 1. **L. 98:** Entire section amended, p. 1388, § 17, effective February 1, 1999. **L. 2015:** (2) amended, (SB 15-099), ch. 99, p. 289, § 2, effective August 5.

Cross references: For the legislative declaration contained in the 1993 act amending subsection (2), see section 1 of chapter 165, Session Laws of Colorado 1993.

14-10-131. Modification of custody or decision-making responsibility. (1) If a motion for modification of a custody decree or a decree allocating decision-making responsibility has been filed, whether or not it was granted, no subsequent motion may be filed within two years after disposition of the prior motion unless the court decides, on the basis of affidavits, that there is reason to believe that a continuation of the prior decree of custody or order allocating decision-making responsibility may endanger the child's physical health or significantly impair the child's emotional development.

(2) The court shall not modify a custody decree or a decree allocating decision-making responsibility unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or the child's custodian or party to whom decision-making

responsibility was allocated and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the allocation of decision-making responsibility established by the prior decree unless:

(a) The parties agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other party and such situation warrants a modification of the allocation of decision-making responsibilities;

(b.5) There has been a modification in the parenting time order pursuant to section 14-10-129, that warrants a modification of the allocation of decision-making responsibilities;

(b.7) A party has consistently consented to the other party making individual decisions for the child which decisions the party was to make individually or the parties were to make mutually; or

(c) The retention of the allocation of decision-making responsibility would endanger the child's physical health or significantly impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

Source: L. 71: R&RE, p. 532, § 1. **C.R.S. 1963:** § 46-1-31. **L. 83:** (1) and IP(2) amended, p. 648, § 5, effective June 10. **L. 98:** Entire section amended, p. 1389, § 18, effective February 1, 1999.

Cross references: For the "Uniform Child-custody Jurisdiction and Enforcement Act", see article 13 of this title 14.

14-10-131.3. Modification of the allocation of parental responsibilities and parenting time based upon military service - legislative declaration - definitions. (Repealed)

Source: L. 2008: Entire section added, p. 331, § 1, effective August 5. **L. 2013:** Entire section repealed, (HB 13-1200), ch. 174, p. 624, § 1, effective May 10.

14-10-131.5. Joint custody modification - termination. (Repealed)

Source: L. 83: Entire section added, p. 646, § 2, effective June 10. **L. 98:** Entire section repealed, p. 1390, § 19, effective February 1, 1999.

14-10-131.7. Designation of custody for the purpose of other state and federal statutes. For purposes of all other state and federal statutes that require a designation or determination of custody, the parenting plan set forth in the court's order shall identify the responsibilities of each of the parties.

Source: L. 98: Entire section added, p. 1390, § 20, effective February 1, 1999.

14-10-131.8. Construction of 1999 revisions. The enactment of the 1999 revisions to this article does not constitute substantially changed circumstances for the purposes of modifying decrees involving child custody, parenting time, or grandparent visitation. Any action to modify any decree involving child custody, parenting time, grandparent or great-grandparent visitation, or a parenting plan shall be governed by the provisions of this article.

Source: L. 98: Entire section added, p. 1390, § 20, effective February 1, 1999. **L. 2014:** Entire section amended, (HB 14-1362), ch. 374, p. 1789, § 5, effective June 6.

14-10-132. Affidavit practice. A party seeking the modification of a custody decree or a decree concerning the allocation of parental responsibilities shall submit, together with his or her moving papers, an affidavit setting forth facts supporting the requested modification and shall give notice, together with a copy of his or her affidavit, to other parties to the proceeding, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested modification should not be granted.

Source: L. 71: R&RE, p. 532, § 1. **C.R.S. 1963:** § 46-1-32. **L. 84:** Entire section amended, p. 479, § 2, effective March 16. **L. 98:** Entire section amended, p. 1390, § 21, effective February 1, 1999.

14-10-133. Effective date - applicability. This article shall take effect January 1, 1972, and shall apply only to actions affected by this article which are commenced on or after such date; all such actions commenced prior to said date shall be governed by the laws then in effect.

Source: L. 71: p. 532, § 3. **C.R.S. 1963:** § 46-1-33.

ARTICLE 10.5

Parenting Time Enforcement Act

14-10.5-101. Short title. This article shall be known and may be cited as the "Colorado Parenting Time Enforcement Act".

Source: L. 97: Entire article added, p. 972, § 2, effective August 6.

14-10.5-102. Legislative declaration. (1) The general assembly finds and declares that in most situations it is important to the healthy development of children that the children spend quality time with both parents. The general assembly further finds that due to dissolution of marriage, legal separation, and children born to single parents, families are often divided. As a

result, many children do not have the opportunity to spend the time with both parents that a court may have determined is in their best interests.

(2) The general assembly further finds that the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, allows states to seek grants of federal funds for the establishment and administration of programs and to support and facilitate children's access to time with their noncustodial parent.

(3) It is the purpose of this article to enhance children's opportunities for access to their parent with whom the child does not reside the majority of the time pursuant to court order in compliance with any orders entered in that regard. To that end, the general assembly hereby determines that it is appropriate for the state to seek the federal grant described in section 391 of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, in order to explore alternative methods by which to support and facilitate a child's access to and time with his or her parent with whom the child does not reside the majority of the time in contested parenting time proceedings.

Source: L. 97: Entire article added, p. 972, § 2, effective August 6. **L. 98:** (3) amended, p. 1400, § 47, effective February 1, 1999. **L. 2018:** (1) amended, (SB 18-095), ch. 96, p. 754, § 9, effective August 8.

Cross references: For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of Colorado 2018.

14-10.5-103. Definition. (Repealed)

Source: L. 97: Entire article added, p. 973, § 2, effective August 6. **L. 98:** Entire section repealed, p. 1400, § 48, effective February 1, 1999.

14-10.5-104. Parenting time enforcement program - authorization. (1) (a) The appropriate state agency, as determined by the governor, is hereby authorized to develop a parenting time enforcement program. The program, if developed, shall comply with all requirements and restrictions, if any, set forth in federal law or in federal regulation promulgated by the secretary of the federal department of health and human services and, if in compliance with federal law and regulation, shall address the enhancement and facilitation of children's access to the parents with whom such children reside less than the majority of the time by any one or any combination of the following methods:

(I) Mediation, both voluntary and mandatory;

(II) Family counseling;

(III) Parental education;

(IV) Development of parenting plans;

(V) Parenting time enforcement procedures, including monitored parenting time, supervised parenting time, or neutral drop-off and pickup locations;

(VI) Parenting time guidelines;

(VII) Alternative arrangements with respect to parental responsibilities.

(b) The parenting time enforcement program, if developed, may be operated on a statewide basis or on a representative pilot basis.

(2) The selected state agency shall monitor, evaluate, and report on the parenting time enforcement program, if developed, in accordance with the regulations prescribed by the secretary of the federal department of health and human services. Such agency shall also evaluate and report on the effectiveness of the amendments made to section 14-10-129.5, as contained in House Bill 97-1164.

Source: L. 97: Entire article added, p. 973, § 2, effective August 6. **L. 98:** IP(1)(a) and (1)(a)(VII) amended, p. 1400, § 49, effective February 1, 1999.

ARTICLE 11

Actions Originating in Other
Jurisdictions

14-11-101. Foreign decrees - how handled. (1) Upon the docketing in a court of competent jurisdiction in this state of exemplified copies of all the written pleadings and court orders, judgments, and decrees in a case of divorce, separate maintenance, or annulment, or for support of minor children or a spouse, or for a protection order or other court order issued for the protection of a party or parties, or for a combination of the same entered in any court of competent jurisdiction in any other state or jurisdiction having reciprocal provisions for a like enforcement of orders, judgments, or decrees entered in the state of Colorado and upon obtaining jurisdiction by personal service of process as provided by the Colorado rules of civil procedure, said court in this state shall have jurisdiction over the subject matter and of the person in like manner as if the original suit or action had been commenced in this state, and is empowered to amend, modify, set aside, and make new orders as the court may find necessary and proper so as to do justice and equity to all parties to the action according to the public policy of this state, and has the same right, power, and authority to enter orders for temporary alimony, support money, and attorney fees as in similar actions originating in this state.

(2) The courts of this state in cases of dissolution of marriage, legal separation, or declaration of invalidity of marriage, or for support of minor children or a spouse, or for the protection of a party or parties by means of a protection order, however styled or designated, or for any combination of the same, where the action originated in this state, have the power to enforce the decrees, judgments, and orders of other states or jurisdictions made pursuant to statutes similar to this statute, or to amend the same, or to enter new orders to the same extent and in the same manner as though such decrees, judgments, and orders were entered in the courts of this state.

(3) Notwithstanding the provisions of this article, a restraining or protection order issued by a court of any state, any Indian tribe, or any United States territory shall be enforced pursuant to section 13-14-110, C.R.S.

(4) Notwithstanding the provisions of this article, a child-custody determination, as that term is defined in section 14-13-102 (3), issued by a court of another state shall be registered in accordance with section 14-13-305.

Source: L. 47: pp. 398, 399, §§ 1, 2. **CSA:** C. 56, § 39. **CRS 53:** § 46-4-1. **C.R.S. 1963:** § 46-4-1. **L. 75:** Entire section amended, p. 210, § 26, effective July 16. **L. 94:** Entire section amended, p. 2034, § 11, effective July 1. **L. 98:** (3) added, p. 1235, § 7, effective July 1. **L. 2000:** (4) added, p. 1538, § 4, effective July 1. **L. 2003:** (1) and (2) amended, p. 1012, § 18, effective July 1. **L. 2005:** (3) amended, p. 765, § 23, effective June 1. **L. 2013:** (3) amended, (HB 13-1259), ch. 218, p. 1016, § 18, effective July 1.

Cross references: For procedure in pleading a foreign judgment or decree, see C.R.C.P. 9(e); for enforcement of foreign judgments, see article 53 of title 13; for the "Uniform Child-custody Jurisdiction and Enforcement Act", see article 13 of this title 14; for enforcement of support orders from another state or foreign country, see the "Uniform Interstate Family Support Act", article 5 of this title 14.

ARTICLE 12

Marriage Counseling

14-12-101. Legislative declaration. It is the declared public policy of this state to maintain desirable marital and family relations; to promote and foster the marriage relationship and reconciliation of estranged spouses; and to take reasonable measures to preserve marriages, particularly where minor children are involved, in the interest of strengthening the family life foundation of our society, and in reducing the economic and social costs to the state resulting from broken homes. In furtherance of this policy, it is the purpose of this article to make competent marriage counseling services available through the district courts of the state to spouses involved in domestic difficulties.

Source: L. 60: p. 131, § 1. **CRS 53:** § 46-5-1. **C.R.S. 1963:** § 46-5-1.

14-12-102. Domestic relations counselor - assistants - term. Subject to the provisions of section 13-3-105, C.R.S., the chief judge of any judicial district may appoint one or more domestic relations counselors and such other persons as assistants and clerks as may be deemed necessary to serve during the pleasure of the appointing power.

Source: L. 60: p. 131, § 1. **CRS 53:** § 46-5-2. **C.R.S. 1963:** § 46-5-2. **L. 79:** Entire section R&RE, p. 602, § 29, effective July 1. **L. 80:** Entire section amended, p. 519, § 1, effective January 29.

14-12-103. Offices - qualifications - salaries. (Repealed)

Source: L. 60: p. 132, § 1. **CRS 53:** § 46-5-3. **C.R.S. 1963:** § 46-5-3. **L. 79:** Entire section repealed, p. 602, § 30, effective July 1.

14-12-104. Duties of domestic relations counselors. (1) Domestic relations counselors shall, under the supervision of and as directed by the judge of the district court in which they are serving, perform the following duties:

(a) Promptly consider all requests for counseling for the purpose of disposing of such requests pursuant to this article;

(b) Counsel husband or wife or both under a schedule of fees set by the judge of the district court wherein the case is heard, said fee to be paid by either the husband or wife or jointly by the husband and wife, as determined by the court, whether or not a petition for dissolution of marriage, declaration of invalidity of marriage, or legal separation has been filed, if the spouses have marital difficulties which may lead to a termination of the marriage relationship;

(c) If, in the judgment of the counselor, prolonged counseling is necessary or if it appears that medical, psychiatric, or religious assistance is indicated, refer the husband or wife or both to a physician, psychiatrist, psychologist, social service agency, or clergyman of any religious denomination to which the parties may belong.

Source: L. 60: p. 132, § 1. **CRS 53:** § 46-5-4. **C.R.S. 1963:** § 46-5-4.

14-12-105. Counseling proceedings to be private - communications confidential. All counseling proceedings, interviews, or conferences shall be held in private. All communications, oral or written, from the parties to a domestic relations counselor in a counseling or conciliation proceedings shall be deemed to be made to such counsel in official confidence by a privileged communication and shall not be admissible or usable for any purpose in any dissolution of marriage hearing or any other proceedings. Any papers or records of the counselor relating to counseling proceedings under this article shall be confidential.

Source: L. 60: p. 133, § 1. **CRS 53:** § 46-5-6. **C.R.S. 1963:** § 46-5-6.

Cross references: For other privileged communications, see §§ 13-90-107 and 13-90-108.

14-12-106. Court may appoint marriage counselor in any county or judicial district where the population is under one hundred thousand. (Repealed)

Source: L. 60: p. 133, § 1. **CRS 53:** § 46-5-7. **C.R.S. 1963:** § 46-5-7. **L. 79:** Entire section repealed, p. 602, § 30, effective July 1.

ARTICLE 13

Uniform Child-custody Jurisdiction
and Enforcement Act

Editor's note: This article was numbered as article 6 of chapter 46, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2000, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2000, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers for sections that were relocated as a part of the repeal and reenactment are shown in editor's notes following each section.

Law reviews: For comment, "Temporary Custody Under the Uniform Child Custody Jurisdiction Act: Influence Without Modification", see 48 U. Colo. L. Rev. 603 (1977); for article, "The Role of Children's Counsel in Contested Child Custody, Visitation and Support Cases", see 15 Colo. Law. 224 (1986); for article, "Waking the Dormant PKPA in Colorado", see 21 Colo. Law. 2209 (1992); for article, "Nuts and Bolts of the PKPA", see 22 Colo. Law. 2397 (1993); for article, "The Uniform Child Custody Jurisdiction Enforcement Act: Part I", see 29 Colo. Law. 73 (Sept. 2000); for article, "The Uniform Child Custody Jurisdiction Enforcement Act: Part II", see 29 Colo. Law. 81 (Oct. 2000); for article, "Interstate Family Law Jurisdiction: Simplifying Complex Questions", see 31 Colo. Law. 77 (Sept. 2002); for article, "Colorado's Uniform Interstate Family Support Act: 2004 Changes and Clarifications", see 33 Colo. Law. 99 (Nov. 2004); for article, "An Introduction to Family Law and the Military", see 37 Colo. Law. 69 (Oct. 2008).

PART 1

GENERAL PROVISIONS

14-13-101. Short title. This article shall be known and may be cited as the "Uniform Child-custody Jurisdiction and Enforcement Act".

Source: L. 2000: Entire article R&RE, p. 1519, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-101 as it existed prior to 2000.

14-13-102. Definitions. As used in this article 13, unless the context otherwise requires:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained eighteen years of age.

(3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody or physical custody of a child or allocating parental responsibilities with respect to a child or providing for visitation, parenting time, or grandparent or great-grandparent visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child-custody proceeding" means a proceeding in which legal custody or physical custody with respect to a child or the allocation of parental responsibilities with respect to a child or visitation, parenting time, or grandparent or great-grandparent visitation with respect to a child is an issue. The term includes a proceeding for divorce, dissolution of marriage, legal separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence and domestic abuse, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, except when such court is entering an order to allocate parental responsibilities; contractual emancipation; or enforcement under part 3 of this article 13.

(5) "Commencement" means the filing of the first pleading in a proceeding.

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.

(7) (a) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least one hundred eighty-two consecutive days immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), "home state" does not mean a state in which a child lived with a parent or a person acting as a parent on a temporary basis as the result of an interim order entered pursuant to article 13.7 of this title.

(8) "Initial determination" means the first child-custody determination concerning a particular child.

(9) "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this article.

(10) "Issuing state" means the state in which a child-custody determination is made.

(11) "Modification" means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) "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.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of one hundred eighty-two consecutive days, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and

(b) Has been awarded legal custody or allocated parental responsibilities with respect to a child by a court or claims a right to legal custody or parental responsibilities under the law of this state.

(14) "Physical custody" means the physical care and supervision of a child.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Source: L. 2000: Entire article R&RE, p. 1519, § 1, effective July 1. **L. 2008:** (7) amended, p. 333, § 2, effective August 5. **L. 2012:** (7)(a) and (13)(a) amended, (SB 12-175), ch. 208, p. 834, § 35, effective July 1. **L. 2013:** (7)(b) amended, (HB 13-1200), ch. 174, p. 635, § 3, effective July 1. **L. 2014:** (3) and (4) amended, (HB 14-1362), ch. 374, p. 1790, § 6, effective June 6. **L. 2017:** IP and (4) amended, (HB 17-1110), ch. 137, p. 459, § 3, effective August 9.

Editor's note: This section is similar to former § 14-13-103 as it existed prior to 2000.

14-13-103. Proceedings governed by other law. This article does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Source: L. 2000: Entire article R&RE, p. 1521, § 1, effective July 1.

14-13-104. International application of article. (1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying this part 1 and part 2 of this article.

(2) Except as otherwise provided in subsection (3) of this section, a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under part 3 of this article.

(3) A court of this state need not apply this article if the child-custody law of a foreign country violates fundamental principles of human rights.

Source: L. 2000: Entire article R&RE, p. 1521, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-124 as it existed prior to 2000.

14-13-105. Effect of child-custody determination. A child-custody determination made by a court of this state that had jurisdiction under this article binds all persons who have been served in accordance with the laws of this state or notified in accordance with section 14-13-108 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

Source: L. 2000: Entire article R&RE, p. 1521, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-113 as it existed prior to 2000.

14-13-106. Priority. If a question of existence or exercise of jurisdiction under this article is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

Source: L. 2000: Entire article R&RE, p. 1521, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-125 as it existed prior to 2000.

14-13-107. (Reserved)

14-13-108. Notice to persons outside state. (1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(2) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Source: L. 2000: Entire article R&RE, p. 1522, § 1, effective July 1.

Editor's note: This section is similar to former §§ 14-13-105 and 14-13-106 as they existed prior to 2000.

Cross references: For manner of giving notice through service by mail or publication, see C.R.C.P. 4(g); for manner of giving notice through personal service outside state, see C.R.C.P. 4(e).

14-13-109. Appearance and limited immunity. (1) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in this state.

Source: L. 2000: Entire article R&RE, p. 1522, § 1, effective July 1.

14-13-110. Communication between courts. (1) A court of this state may communicate with a court in another state concerning a proceeding arising under this article.

(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For the purposes of this section, "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.

Source: L. 2000: Entire article R&RE, p. 1522, § 1, effective July 1.

14-13-111. Taking testimony in another state. (1) In addition to other procedures available to a party, a party to a child-custody proceeding or other legal representative of the child may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken

in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Source: L. 2000: Entire article R&RE, p. 1523, § 1, effective July 1. **L. 2005:** (1) amended, p. 962, § 7, effective July 1.

Editor's note: This section is similar to former § 14-13-119 as it existed prior to 2000.

Cross references: (1) For manner of giving notice through service by mail or publication, see C.R.C.P. 4(g); for manner of giving notice through personal service outside state, see C.R.C.P. 4(e).

(2) For the legislative declarations contained in the 2005 act amending subsection (1), see sections 1 and 3 of chapter 244, Session Laws of Colorado 2005.

14-13-112. Cooperation between courts - preservation of records. (1) A court of this state may request the appropriate court of another state to:

(a) Hold an evidentiary hearing;

(b) Order a person to produce or give evidence pursuant to procedures of that state;

(c) Order that an evaluation be made with respect to the custody or allocation of parental responsibilities with respect to a child involved in a pending proceeding;

(d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(e) Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Source: L. 2000: Entire article R&RE, p. 1523, § 1, effective July 1.

PART 2

JURISDICTION

14-13-201. Initial child-custody jurisdiction. (1) Except as otherwise provided in section 14-13-204, a court of this state has jurisdiction to make an initial child-custody determination only if:

(a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within one hundred eighty-two days before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b) A court of another state does not have jurisdiction under a provision of law adopted by that state that is in substantial conformity with paragraph (a) of this subsection (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under a provision of law adopted by that state that is in substantial conformity with section 14-13-207 or 14-13-208, and:

(I) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

(II) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;

(c) All courts having jurisdiction under a provision of law adopted by that state that is in substantial conformity with paragraph (a) or (b) of this subsection (1) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under a provision of law adopted by that state that is in substantial conformity with section 14-13-207 or 14-13-208; or

(d) No court of any other state would have jurisdiction under the criteria specified in a provision of law adopted by that state that is in substantial conformity with paragraph (a), (b), or (c) of this subsection (1).

(2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child-custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

Source: L. 2000: Entire article R&RE, p. 1524, § 1, effective July 1. **L. 2012:** (1)(a) amended, (SB 12-175), ch. 208, p. 834, § 36, effective July 1.

Editor's note: This section is similar to former § 14-13-104 as it existed prior to 2000.

14-13-202. Exclusive, continuing jurisdiction. (1) Except as otherwise provided in section 14-13-204, a court of this state that has made a child-custody determination consistent with section 14-13-201 or 14-13-203 has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

(2) A court of this state that has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 14-13-201.

Source: L. 2000: Entire article R&RE, p. 1525, § 1, effective July 1.

14-13-203. Jurisdiction to modify determination. (1) Except as otherwise provided in section 14-13-204, a court of this state may not modify a child-custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under section 14-13-201 (1)(a) or 14-13-201 (1)(b) and:

(a) The court of the other state determines it no longer has exclusive, continuing jurisdiction under a provision of law adopted by that state that is in substantial conformity with section 14-13-202 or that a court of this state would be a more convenient forum under a provision of law adopted by that state that is in substantial conformity with section 14-13-207; or

(b) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

Source: L. 2000: Entire article R&RE, p. 1525, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-115 as it existed prior to 2000.

14-13-204. Temporary emergency jurisdiction. (1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child-custody determination that is entitled to be enforced under this article and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-

13-201 to 14-13-203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203, a child-custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

(3) If there is a previous child-custody determination that is entitled to be enforced under this article, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state that has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to sections 14-13-201 to 14-13-203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Source: L. 2000: Entire article R&RE, p. 1525, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-104 as it existed prior to 2000.

14-13-205. Notice - opportunity to be heard - joinder. (1) Before a child-custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of section 14-13-108 must be given to all persons entitled to notice under the law of this state as in child-custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(2) This article does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this article are governed by the law of this state as in child-custody proceedings between residents of this state.

Source: L. 2000: Entire article R&RE, p. 1526, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-105 as it existed prior to 2000.

14-13-206. Simultaneous proceedings. (1) Except as otherwise provided in section 14-13-204, a court of this state may not exercise its jurisdiction under this part 2 if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this article, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under a provision of law adopted by that state that is in substantial conformity with section 14-13-207.

(2) Except as otherwise provided in section 14-13-204, a court of this state, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 14-13-209. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with a provision of law adopted by that state that is in substantial conformity with this article, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this article does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court of this state may:

(a) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(b) Enjoin the parties from continuing with the proceeding for enforcement; or

(c) Proceed with the modification under conditions it considers appropriate.

Source: L. 2000: Entire article R&RE, p. 1527, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-107 as it existed prior to 2000.

14-13-207. Inconvenient forum. (1) A court of this state that has jurisdiction under this article to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this

purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(a) Whether domestic violence or domestic abuse has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(b) The length of time the child has resided outside this state;

(c) The distance between the court in this state and the court in the state that would assume jurisdiction;

(d) The relative financial circumstances of the parties;

(e) Any agreement of the parties as to which state should assume jurisdiction;

(f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(h) The familiarity of the court of each state with the facts and issues in the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under this article if a child-custody determination is incidental to an action for divorce, dissolution of marriage, or another proceeding while still retaining jurisdiction over the divorce, dissolution of marriage, or other proceeding.

Source: L. 2000: Entire article R&RE, p. 1527, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-108 as it existed prior to 2000.

14-13-208. Jurisdiction declined by reason of conduct. (1) Except as otherwise provided in section 14-13-204, or by other law of this state, if a person seeking to invoke the jurisdiction of a court of this state under this article has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) A court of the state otherwise having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203 determines that this state is a more appropriate forum under a provision of law adopted by that state that is in substantial conformity with section 14-13-207; or

(c) No court of any other state would have jurisdiction under the criteria specified in a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203.

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under a provision of law adopted by that state that is in substantial conformity with sections 14-13-201 to 14-13-203.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this article.

Source: L. 2000: Entire article R&RE, p. 1528, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-109 as it existed prior to 2000.

14-13-209. Information to be submitted to court. (1) Subject to a court order allowing a party to maintain the confidentiality of addresses and other identifying information and to subsection (5) of this section, in a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath, as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation or parenting time with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any;

(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence or domestic abuse, protective orders or restraining orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of parental responsibilities or legal custody or physical custody of, or visitation or parenting time with, the child and, if so, the names and addresses of those persons.

(2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in paragraphs (a) to (c) of subsection (1) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of

the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

Source: L. 2000: Entire article R&RE, p. 1529, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-110 as it existed prior to 2000.

14-13-210. Appearance of parties and child. (1) In a child-custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child-custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 14-13-108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child-custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Source: L. 2000: Entire article R&RE, p. 1530, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-112 as it existed prior to 2000.

PART 3

ENFORCEMENT

14-13-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Petitioner" means a person who seeks enforcement of an order for the return of a child under the "Hague Convention on the Civil Aspects of International Child Abduction" or enforcement of a child-custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for the return of a child under the "Hague Convention on the Civil Aspects of International Child Abduction" or enforcement of a child-custody determination.

Source: L. 2000: Entire article R&RE, p. 1530, § 1, effective July 1.

14-13-302. Enforcement under Hague Convention. Under this part 3 a court of this state may enforce an order for the return of the child made under the "Hague Convention on the Civil Aspects of International Child Abduction" as if it were a child-custody determination.

Source: L. 2000: Entire article R&RE, p. 1531, § 1, effective July 1.

14-13-303. Duty to enforce. (1) A court of this state shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this article or the determination was made under factual circumstances meeting the jurisdictional standards of this article and the determination has not been modified in accordance with this article.

(2) A court of this state may utilize any remedy available under other law of this state to enforce a child-custody determination made by a court of another state. The remedies provided in this part 3 are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

Source: L. 2000: Entire article R&RE, p. 1531, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-114 as it existed prior to 2000.

14-13-304. Temporary visitation or parenting time. (1) A court of this state that does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing:

(a) A visitation or parenting time schedule made by a court of another state; or

(b) The visitation or parenting time provisions of a child-custody determination of another state that does not provide for a specific visitation or parenting time schedule.

(2) If a court of this state makes an order under paragraph (b) of subsection (1) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under criteria substantially in conformity with those criteria specified in part 2 of this article. The order remains in effect until an order is obtained from the other court or the period expires.

Source: L. 2000: Entire article R&RE, p. 1531, § 1, effective July 1.

14-13-305. Registration of child-custody determination. (1) A child-custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the appropriate district court in this state:

(a) A letter or other document requesting registration;

(b) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(c) Except as otherwise provided in section 14-13-209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody, allocated parental responsibilities, or granted visitation or parenting time in the child-custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1) of this section, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to paragraph (c) of subsection (1) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by paragraph (b) of subsection (2) of this section must state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination must be requested within twenty-one days after service of notice; and

(c) Failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered order must request a hearing within twenty-one days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under a provision of law adopted by that state that is in substantial conformity with part 2 of this article;

(b) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under part 2 of this article; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with standards substantially in conformity with the standards set forth in section 14-13-108, in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Source: L. 2000: Entire article R&RE, p. 1531, § 1, effective July 1. **L. 2012:** (3)(b) amended, (SB 12-175), ch. 208, p. 834, § 37, effective July 1. **L. 2014:** IP(4) amended, (HB 14-1347), ch. 208, p. 769, § 3, effective July 1.

Editor's note: This section is similar to former § 14-13-117 as it existed prior to 2000.

14-13-306. Enforcement of registered determination. (1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child-custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but may not modify, except in accordance with part 2 of this article, a registered child-custody determination of a court of another state.

Source: L. 2000: Entire article R&RE, p. 1533, § 1, effective July 1.

Editor's note: This section is similar to former §§ 14-13-115 and 14-13-116, as they existed prior to 2000.

14-13-307. Simultaneous proceedings. If a proceeding for enforcement under this part 3 is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under a provision of law adopted by that state that is in substantial conformity with part 2 of this article, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Source: L. 2000: Entire article R&RE, p. 1533, § 1, effective July 1.

Editor's note: This section is similar to former § 14-13-107 as it existed prior to 2000.

14-13-308. Expedited enforcement of child-custody determination. (1) A petition under this part 3 in which the petitioner is seeking expedited enforcement pursuant to this section must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for expedited enforcement of a child-custody determination pursuant to this section must state:

(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, the identity of the court, the case number, and the nature of the proceeding;

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence or domestic abuse, protective orders or restraining orders, termination of parental rights, and adoptions and, if so, the identity of the court, the case number, and the nature of the proceeding;

(d) The present physical address of the child and the respondent, if known;

(e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(f) If the child-custody determination has been registered and confirmed under section 14-13-305, the date and place of registration.

(3) Upon the filing of a petition for expedited enforcement pursuant to this section, the court shall issue an order directing the respondent to appear in person at a hearing, with or without the child, and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 14-13-312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child-custody determination has not been registered and confirmed under section 14-13-305 and that:

(I) The issuing court did not have jurisdiction under a provision of law adopted by that state that is in substantial conformity with part 2 of this article;

(II) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under a provision of law adopted by that state that is in substantial conformity with part 2 of this article;

(III) The respondent was entitled to notice, but notice was not given in accordance with the standards substantially in conformity with the standards of section 14-13-108, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child-custody determination for which enforcement is sought was registered and confirmed under a provision of law adopted by that state that is in substantial conformity with section 14-13-304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under a provision of law adopted by that state that is in substantial conformity with part 2 of this article.

Source: L. 2000: Entire article R&RE, p. 1533, § 1, effective July 1.

14-13-309. Service of petition and order. Except as otherwise provided in section 14-13-311, the petition and order must be served, by any method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

Source: L. 2000: Entire article R&RE, p. 1535, § 1, effective July 1.

14-13-310. Hearing and order. (1) Unless the court issues a temporary emergency order pursuant to section 14-13-204, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child-custody determination has not been registered and confirmed under section 14-13-305 and that:

(I) The issuing court did not have jurisdiction under part 2 of this article;

(II) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under a provision of law adopted by that state that is in substantial conformity with part 2 of this article; or

(III) The respondent was entitled to notice, but notice was not given in accordance with standards in substantial conformity with the standards set forth in section 14-13-108, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child-custody determination for which enforcement is sought was registered and confirmed under section 14-13-305 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under this part 3.

(2) The court shall award the fees, costs, and expenses authorized under section 14-13-312 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this part 3.

(5) A privilege against disclosure of communications between partners in a civil union and a defense of immunity based on the relationship of partners in a civil union or parent and child may not be invoked in a proceeding under this part 3.

Source: L. 2000: Entire article R&RE, p. 1535, § 1, effective July 1. **L. 2013:** (5) added, (SB 13-011), ch. 49, p. 164, § 16, effective May 1.

14-13-311. Warrant to take physical custody of child. (1) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified

application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 14-13-308 (2).

(3) A warrant to take physical custody of a child must:

(a) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(b) Direct law enforcement officers to take physical custody of the child immediately; and

(c) Provide for the placement of the child pending final relief.

(4) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Source: L. 2000: Entire article R&RE, p. 1536, § 1, effective July 1.

14-13-312. Costs, fees, and expenses. (1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the prevailing party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this article.

Source: L. 2000: Entire article R&RE, p. 1536, § 1, effective July 1.

14-13-313. Recognition and enforcement. A court of this state shall accord full faith and credit to an order issued by another state and consistent with this article that enforces a child-custody determination by a court of another state unless the order has been vacated, stayed,

or modified by a court having jurisdiction to do so under a provision of law adopted by that state that is in substantial conformity with part 2 of this article.

Source: L. 2000: Entire article R&RE, p. 1537, § 1, effective July 1.

14-13-314. Appeals. An appeal may be taken from a final order in a proceeding under this part 3 in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 14-13-204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

Source: L. 2000: Entire article R&RE, p. 1537, § 1, effective July 1.

PART 4

MISCELLANEOUS PROVISIONS

14-13-401. Application and construction. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2000: Entire article R&RE, p. 1537, § 1, effective July 1.

14-13-402. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Source: L. 2000: Entire article R&RE, p. 1537, § 1, effective July 1.

14-13-403. Transitional provision. A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination that was commenced before July 1, 2000, is governed by the law in effect at the time the motion or other request was made.

Source: L. 2000: Entire article R&RE, p. 1537, § 1, effective July 1.

ARTICLE 13.5

Uniform Child Abduction Prevention Act

14-13.5-101. Short title. This article may be cited as the "Uniform Child Abduction Prevention Act".

Source: L. 2007: Entire article added, p. 767, § 1, effective May 14.

14-13.5-102. Definitions. In this article:

(1) "Abduction" means the wrongful removal or wrongful retention of a child.

(2) "Child" means an unemancipated individual who is less than 18 years of age.

(3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody or physical custody of a child, allocating parental responsibilities with respect to a child, or providing for visitation or parenting time with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child-custody proceeding" means a proceeding in which the legal custody or physical custody of a child, the allocation of parental responsibilities with respect to a child, or visitation or parenting time with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, legal separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence or domestic abuse. The term does not include a proceeding involving juvenile delinquency or contractual emancipation.

(5) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.

(6) "Petition" includes a motion or its equivalent.

(7) "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.

(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.

(9) "Travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. The term does not include a passport or visa.

(10) "Wrongful removal" means the taking of a child that breaches rights of custody or orders concerning the allocation of parental responsibilities or breaches rights of visitation or parenting time given or recognized under the law of this state.

(11) "Wrongful retention" means the keeping or concealing of a child that breaches rights of custody or orders concerning the allocation of parental responsibilities or breaches rights of visitation or parenting time given or recognized under the law of this state.

Source: L. 2007: Entire article added, p. 767, § 1, effective May 14.

14-13.5-103. Cooperation and communication among courts. Sections 14-13-110, 14-13-111, and 14-13-112 shall apply to cooperation and communications among courts in proceedings under this article.

Source: L. 2007: Entire article added, p. 768, § 1, effective May 14.

14-13.5-104. Actions for abduction prevention measures. (1) A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

(2) A party to a child-custody determination or another individual or entity having a right under the law of this state or any other state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this article.

Source: L. 2007: Entire article added, p. 768, § 1, effective May 14.

14-13.5-105. Jurisdiction. (1) A petition under this article may be filed only in a court that has jurisdiction to make a child-custody determination with respect to the child at issue under the "Uniform Child-custody Jurisdiction and Enforcement Act", article 13 of this title.

(2) A court of this state has temporary emergency jurisdiction under section 14-13-204, if the court finds a credible risk of abduction.

Source: L. 2007: Entire article added, p. 769, § 1, effective May 14.

14-13.5-106. Contents of petition. (1) A petition under this article must be verified and include a copy of any existing child-custody determination, if available. The petition must specify the risk factors for abduction, including the relevant factors described in section 14-13.5-107. Subject to section 14-13-209, if reasonably ascertainable, the petition must contain:

(a) The name, date of birth, and gender of the child;

(b) The customary address and current physical location of the child;

(c) The identity, customary address, and current physical location of the respondent;

(d) A statement of whether a prior action to prevent abduction, domestic violence, or domestic abuse has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action;

(e) A statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect and the date, location, and disposition of the case; and

(f) Any other information required to be submitted to the court for a child-custody determination under section 14-13-209.

Source: L. 2007: Entire article added, p. 769, § 1, effective May 14.

14-13.5-107. Factors to determine risk of abduction. (1) In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:

(a) Has previously abducted or attempted to abduct the child;

(b) Has threatened to abduct the child;

(c) Has recently engaged in activities that may indicate a planned abduction, including:

(I) Abandoning employment;

(II) Selling a primary residence;

(III) Terminating a lease;

(IV) Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities;

(V) Applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child; or

(VI) Seeking to obtain the child's birth certificate or school or medical records;

(d) Has engaged in domestic violence, domestic abuse, stalking, or child abuse or neglect;

(e) Has refused to follow a child-custody determination;

(f) Lacks strong familial, financial, emotional, or cultural ties to the state or the United States;

(g) Has strong familial, financial, emotional, or cultural ties to another state or country;

(h) Is likely to take the child to a country that:

(I) Is not a party to the "Hague Convention on the Civil Aspects of International Child Abduction" and does not provide for the extradition of an abducting parent or for the return of an abducted child;

(II) Is a party to the "Hague Convention on the Civil Aspects of International Child Abduction" but:

(A) The "Hague Convention on the Civil Aspects of International Child Abduction" is not in force between the United States and that country;

(B) Is noncompliant according to the most recent compliance report issued by the United States department of state; or

(C) Lacks legal mechanisms for immediately and effectively enforcing a return order under the "Hague Convention on the Civil Aspects of International Child Abduction";

(III) Poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;

(IV) Has laws or practices that would:

(A) Enable the respondent, without due cause, to prevent the petitioner from contacting the child;

(B) Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or

(C) Restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;

(V) Is included by the United States department of state on a current list of state sponsors of terrorism;

(VI) Does not have an official United States diplomatic presence in the country; or

(VII) Is engaged in active military action or war, including a civil war, to which the child may be exposed;

(i) Is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;

(j) Has had an application for United States citizenship denied;

(k) Has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a social security card, a driver's license, or other government-issued identification card or has made a misrepresentation to the United States government;

(l) Has used multiple names to attempt to mislead or defraud; or

(m) Has engaged in any other conduct the court considers relevant to the risk of abduction.

(2) In the hearing on a petition under this article, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

Source: L. 2007: Entire article added, p. 769, § 1, effective May 14.

14-13.5-108. Provisions and measures to prevent abduction. (1) If a petition is filed under this article, the court may enter an order that must include:

(a) The basis for the court's exercise of jurisdiction;

(b) The manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;

(c) A detailed description of each party's custody and visitation rights, residential arrangements for the child, and any child-custody determinations in effect;

(d) A provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and

(e) Identification of the child's country of habitual residence at the time of the issuance of the order.

(2) If, at a hearing on a petition under this article or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order must include the provisions required by subsection (1) of this section and measures and conditions, including those in subsections (3), (4), and (5) of this section, that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties and the child-custody determinations in effect at the time of the filing of the petition under this article. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the

potential abduction, including evidence of domestic violence, domestic abuse, stalking, or child abuse or neglect.

(3) An abduction prevention order may include one or more of the following:

(a) An imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:

(I) The travel itinerary of the child;

(II) A list of physical addresses and telephone numbers at which the child can be reached at specified times; and

(III) Copies of all travel documents;

(b) A prohibition of the respondent directly or indirectly from:

(I) Removing the child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;

(II) Removing or retaining the child in violation of a child-custody determination;

(III) Removing the child from school or a child-care or similar facility; or

(IV) Approaching the child at any location other than a site designated for supervised visitation or supervised parenting time;

(c) A requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;

(d) With regard to the child's passport:

(I) A direction that the petitioner place the child's name in the United States department of state's child passport issuance alert program;

(II) A requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and

(III) A prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;

(e) As a prerequisite to exercising custody, parental responsibilities, or visitation or parenting time, a requirement that the respondent provide:

(I) To the United States department of state office of children's issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;

(II) To the court:

(A) Proof that the respondent has provided the information in subparagraph (I) of this paragraph (e); and

(B) An acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;

(III) To the petitioner, proof of registration with the United States embassy or other United States diplomatic presence in the destination country and with the central authority for the "Hague Convention on the Civil Aspects of International Child Abduction", if that convention is in effect between the United States and the destination country, unless one of the parties objects; and

(IV) A written waiver under the federal "Privacy Act of 1974", 5 U.S.C. Section 552a, with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and

(f) Upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.

(4) In an abduction prevention order, the court may impose conditions on the exercise of custody, parental responsibilities, or visitation or parenting time that:

(a) Limit visitation or parenting time or require that visitation or parenting time with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(b) Require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorneys fees and costs if there is an abduction; and

(c) Require the respondent to obtain education on the potentially harmful effects to the child from abduction.

(5) To prevent imminent abduction of a child, a court may:

(a) Issue a warrant to take physical custody of the child under section 14-13.5-109 or the law of this state other than this article;

(b) Direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this article or the law of this state other than this article; or

(c) Grant any other relief allowed under the law of this state other than this article.

(6) The remedies provided in this article are cumulative and do not affect the availability of other remedies to prevent abduction.

Source: L. 2007: Entire article added, p. 771, § 1, effective May 14.

14-13.5-109. Warrant to take physical custody of child. (1) If a petition under this article contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

(2) The respondent on a petition under subsection (1) of this section must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

(3) An ex parte warrant under subsection (1) of this section to take physical custody of a child must:

(a) Recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based;

(b) Direct law enforcement officers to take physical custody of the child immediately;

(c) State the date and time for the hearing on the petition; and

(d) Provide for the safe interim placement of the child pending further order of the court.

(4) If feasible, before issuing a warrant and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the national crime information center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.

(5) The petition and warrant must be served on the respondent when or immediately after the child is taken into physical custody.

(6) A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(7) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under subsection (1) of this section for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorneys fees, costs, and expenses.

(8) This article does not affect the availability of relief allowed under the law of this state other than this article.

Source: L. 2007: Entire article added, p. 774, § 1, effective May 14.

14-13.5-110. Duration of abduction prevention order. (1) An abduction prevention order remains in effect until the earliest of:

(a) The time stated in the order;

(b) The emancipation of the child;

(c) The child's attaining eighteen years of age; or

(d) The time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under sections 14-13-201 to 14-13-203.

Source: L. 2007: Entire article added, p. 775, § 1, effective May 14.

14-13.5-111. Uniformity of applications 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.

Source: L. 2007: Entire article added, p. 775, § 1, effective May 14.

14-13.5-112. Relation to electronic signatures in global and national commerce act. This article modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001, et seq., but does not modify, limit, or supersede

section 101(c) of the act, 15 U.S.C. sec. 7001(c), of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. sec. 7003(b).

Source: L. 2007: Entire article added, p. 775, § 1, effective May 14.

ARTICLE 13.7

Uniform Deployed Parents
Custody and Visitation Act

Cross references: For the effective date of this article, see § 14-13.7-504.

Law reviews: For article, "Representing Military Parents Under Colorado's Uniform Deployed Parents Custody and Visitation Act", see 43 Colo. Law. 33 (June 2014).

PART 1

GENERAL PROVISIONS

14-13.7-101. Short title. This article shall be known and may be cited as the "Uniform Deployed Parents Custody and Visitation Act".

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 624, § 2, effective May 10.

14-13.7-102. Definitions. In this article:

(1) "Adult" means an individual who has attained eighteen years of age or who is an emancipated minor.

(2) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parenting time, right to access, and visitation.

(3) "Child" means:

(a) An unemancipated individual who has not attained eighteen years of age; or

(b) An adult son or daughter by birth or adoption, or under law of this state other than this article, who is the subject of a court order concerning custodial responsibility.

(4) "Court" means a tribunal, including an administrative agency, authorized under law of this state other than this article to make, enforce, or modify a decision regarding custodial responsibility.

(5) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.

(6) "Decision-making authority" means the power to make major decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(7) "Deploying parent" means a service member who is deployed or has been notified of impending deployment and is:

(a) A parent of a child under law of this state other than this article; or

(b) An individual who has custodial responsibility for a child under law of this state other than this article.

(8) "Deployment" means the movement or mobilization of a service member for more than ninety days but less than eighteen months pursuant to uniformed service orders that:

(a) Are designated as unaccompanied;

(b) Do not authorize dependent travel; or

(c) Otherwise do not permit the movement of family members to the location to which the service member is deployed.

(8.5) "Deployment order" means a record provided by a uniformed service to a service member directing a deployment.

(9) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child or an individual recognized to be in a familial relationship with a child under law of this state other than this article.

(10) "Limited contact" means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

(11) "Nonparent" means an individual other than a deploying parent or other parent.

(12) "Other parent" means an individual who, in common with a deploying parent, is:

(a) A parent of a child under law of this state other than this article; or

(b) An individual who has custodial responsibility for a child under law of this state other than this article.

(13) "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.

(14) "Return from deployment" means the conclusion of a service member's deployment as specified in uniformed service orders.

(15) "Service member" means a member of a uniformed service.

(16) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt with a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) "Uniformed service" means:

(a) Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(b) The United States merchant marine;

(c) The commissioned corps of the United States public health service;

(d) The commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) The National Guard of a state.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 624, § 2, effective May 10.

14-13.7-103. (Reserved)

14-13.7-104. Jurisdiction. (1) A court may issue an order regarding custodial responsibility under this article only if the court has jurisdiction under article 13 of this title.

(2) If a court has issued an interim order regarding custodial responsibility pursuant to part 3 of this article, the residence of the deploying parent is not changed by reason of the deployment for the purposes of article 13 of this title.

(3) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to part 2 of this article, the residence of the deploying parent is not changed by reason of the deployment for the purposes of article 13 of this title.

(4) If a court in another state has issued an interim order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of article 13 of this title.

(5) This section does not prevent a court from exercising emergency jurisdiction under article 13 of this title.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 627, § 2, effective May 10.

14-13.7-105. Notification required of deploying parent. (1) Except as otherwise provided in subsection (4) of this section and subject to subsection (3) of this section, in cases where there has been a prior determination of custody, a deploying parent shall notify in a record the other parent of a pending deployment not later than twelve calendar days after receiving deployment orders unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within twelve calendar days, the deploying parent shall give the notification as soon as reasonably possible.

(2) Except as otherwise provided in subsection (4) of this section and subject to subsection (3) of this section, each parent shall provide in a record to the other parent a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall

provide the plan as soon as reasonably possible after notification of deployment is given under subsection (1) of this section.

(3) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under subsection (1) of this section or notification of a plan for custodial responsibility during deployment under subsection (2) of this section may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(4) Notification in a record under subsection (1) or (2) of this section is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 627, § 2, effective May 10.

14-13.7-106. Duty to notify of change of address. (1) Except as otherwise provided in subsection (2) of this section, an individual to whom custodial responsibility has been granted during deployment pursuant to part 2 or 3 of this article shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is in effect. This notice provision does not alter the provisions of section 14-10-129.

(2) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under subsection (1) of this section may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 628, § 2, effective May 10.

14-13.7-107. General consideration in custody proceeding of parent's military service. In a proceeding for custodial responsibility of a child of a service member, a parent's past deployment or possible future deployment in itself may not serve as the sole basis in determining the best interest of the child. Nothing in this section shall be construed as prohibiting the court from applying section 14-10-124 in determining the best interest of the child.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 628, § 2, effective May 10.

PART 2

AGREEMENT ADDRESSING CUSTODIAL
RESPONSIBILITY DURING DEPLOYMENT

14-13.7-201. Form of agreement. (1) The parents of a child may enter into an interim agreement under this article granting custodial responsibility during deployment.

(2) An agreement under subsection (1) of this section must be:

(a) In writing; and

(b) Signed by both parents and any nonparent to whom custodial responsibility is granted.

(3) Subject to subsection (4) of this section, an agreement under subsection (1) of this section, if feasible, must:

(a) Identify the destination, duration, and conditions of the deployment that is the basis for the agreement;

(b) Specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(c) Specify any decision-making authority that accompanies a grant of caretaking authority;

(d) Specify any grant of limited contact to a nonparent;

(e) If, under the agreement, custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(f) Specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(g) Specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(h) Acknowledge that any party's child-support obligation cannot be modified by the agreement alone, and that changing the terms of the obligation during deployment requires modification by court order;

(i) Provide that the agreement will terminate according to the procedures under part 4 of this article after the deploying parent returns from deployment; and

(j) If the agreement must be filed pursuant to section 14-13.7-205, specify which parent is required to file the agreement.

(4) The omission of any of the items specified in subsection (3) of this section does not invalidate an agreement under this section.

(5) The agreement may be submitted to the court for approval to become an enforceable order.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 628, § 2, effective May 10.

14-13.7-202. Nature of authority created by agreement. (1) An agreement under this part 2 is an interim agreement and terminates pursuant to part 4 of this article after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section 14-13.7-203. The agreement does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(2) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under this part 2 has standing to enforce the agreement until it has been terminated by court order, by modification under section 14-13.7-203, or under part 4 of this article.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 629, § 2, effective May 10.

14-13.7-203. Modification of agreement. (1) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to this part 2.

(2) If an agreement is modified under subsection (1) of this section before deployment of a deploying parent, the modification must be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(3) If an agreement is modified under subsection (1) of this section during deployment of a deploying parent, the modification must be agreed to in a record that is signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement, and the modified agreement may be submitted to the court for approval to become an enforceable order.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 629, § 2, effective May 10.

14-13.7-204. Power of attorney. A deploying parent, by power of attorney, may delegate all or part of his or her custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under law of this state other than this article, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 630, § 2, effective May 10.

14-13.7-205. Filing agreement or power of attorney with court. An agreement or power of attorney under this part 2 must be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child

who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support must be provided to the court with the agreement or power.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 630, § 2, effective May 10.

PART 3

JUDICIAL PROCEDURE FOR GRANTING
CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

14-13.7-301. Definition. In this part 3, "close and substantial relationship" means a relationship between a child and a nonparent who has had physical care of the child for more than one hundred eighty-two days.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 630, § 2, effective May 10.

14-13.7-302. Proceeding for interim custody order. (1) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue an interim order, consistent with the best interests of the child, granting custodial responsibility, unless prohibited by the "Servicemembers Civil Relief Act", 50 U.S.C. appendix sections 521 and 522. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(2) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion must be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section 14-13.7-104 or, if there is no pending proceeding in a court with jurisdiction under section 14-13.7-104, in a new action for granting custodial responsibility during deployment.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 630, § 2, effective May 10.

14-13.7-303. Expedited hearing. If a motion to grant custodial responsibility is filed under section 14-13.7-302 (2) before a deploying parent deploys, the court shall conduct an expedited hearing.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 631, § 2, effective May 10.

14-13.7-304. Testimony by electronic means. In a proceeding under this part 3, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 631, § 2, effective May 10.

14-13.7-305. Effect of prior judicial order or agreement. (1) In a proceeding for a grant of custodial responsibility pursuant to this part 3, the following rules apply:

(a) A prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of law of this state other than this article for modifying a judicial order regarding custodial responsibility;

(b) The court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under part 2 of this article, unless the court finds that the agreement is not in the best interest of the child.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 631, § 2, effective May 10.

14-13.7-306. Grant of caretaking or decision-making authority to nonparent. (1) On motion of a deploying parent and in accordance with law of this state other than this article, if it is in the best interest of the child, a court may grant caretaking authority to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship.

(2) Unless a grant of caretaking authority to a nonparent under subsection (1) of this section is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(a) The amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(b) In the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(3) If a court finds that it is in the best interests of the child, the court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 631, § 2, effective May 10.

14-13.7-307. Grant of limited contact. On a motion of a deploying parent, and in accordance with law of this state other than this article, unless the court finds that the contact would not be in the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 632, § 2, effective May 10.

14-13.7-308. Nature of authority created by interim custody order. (1) A grant of authority under this part 3 is an interim grant of authority and terminates under part 4 of this article after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(2) A nonparent granted caretaking authority, decision-making authority, or limited contact under this part 3 has standing to enforce the grant until it is terminated by court order or under part 4 of this article.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 632, § 2, effective May 10.

14-13.7-309. Content of interim custody order. (1) An order granting custodial responsibility under this part 3 must:

(a) Designate the order as an interim order; and

(b) Identify to the extent feasible the destination, duration, and condition of the deployment.

(2) If applicable, an order for custodial responsibility under this part 3 must:

(a) Specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent;

(b) If the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;

(c) Provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless the court finds it is not in the best interest of the child, and allocate any costs of communications;

(d) Provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless the court finds it is not in the best interest of the child;

(e) Provide for reasonable contact between the deploying parent and the child after return from deployment until the interim order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the interim order; and

(f) Provide that the order will terminate pursuant to part 4 of this article after the deploying parent returns from deployment.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 632, § 2, effective May 10.

14-13.7-310. Order for child support. If a court has issued an order granting caretaking authority under this part 3, or an agreement granting caretaking authority has been executed under part 2 of this article, the court may enter an interim order for child support consistent with law of this state other than this article if the court has jurisdiction under the "Uniform Interstate Family Support Act", article 5 of this title.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 633, § 2, effective May 10.

14-13.7-311. Modifying or terminating grant of custodial responsibility to nonparent. (1) Except for an order under section 14-13.7-305, except as otherwise provided in subsection (2) of this section, and consistent with the "Servicemembers Civil Relief Act", 50 U.S.C. appendix sections 521 and 522, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this part 3 and it is in the best interest of the child. A modification is an interim modification and terminates pursuant to part 4 of this article after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(2) On motion of a deploying parent, the court shall terminate a grant of limited contact, unless it is not in the best interests of the child.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 633, § 2, effective May 10.

PART 4

RETURN FROM DEPLOYMENT

14-13.7-401. Procedure for terminating interim grant of custodial responsibility established by agreement. (1) At any time after return from deployment, an interim agreement granting custodial responsibility under part 2 of this article may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(2) An interim agreement under part 2 of this article granting custodial responsibility terminates:

(a) If an agreement to terminate under subsection (1) of this section specifies a date for termination on that date; or

(b) If the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(3) In the absence of an agreement to terminate under subsection (1) of this section, an interim agreement granting custodial responsibility terminates under part 2 of this article thirty-five days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(4) If an interim agreement granting custodial responsibility was filed with a court pursuant to section 14-13.7-205, an agreement to terminate the interim agreement must also be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support must be provided to the court with the agreement to terminate.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 633, § 2, effective May 10.

14-13.7-402. Consent procedure for terminating interim grant of custodial responsibility established by court order. At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate an interim order for custodial responsibility issued under part 3 of this article. After an agreement has been filed, the court shall issue an order terminating the interim order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 634, § 2, effective May 10.

14-13.7-403. Visitation before termination of interim grant of custodial responsibility. After a deploying parent returns from deployment until an interim agreement or an interim order for custodial responsibility established under part 2 or 3 of this article is terminated, the court shall immediately issue an interim order granting the deploying parent reasonable contact with the child consistent with the deployed parent's post deployment leave, unless the court finds it is not in the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 634, § 2, effective May 10.

14-13.7-404. Termination by operation of law of interim grant of custodial responsibility established by court order. (1) If an agreement between the parties to terminate an interim order for custodial responsibility under part 3 of this article has not been filed, the order terminates thirty-five days after the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(2) A proceeding seeking to prevent termination of an interim order for custodial responsibility is governed by sections 14-10-124 and 14-10-129.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 634, § 2, effective May 10.

PART 5

MISCELLANEOUS PROVISIONS

14-13.7-501. Uniformity of application and construction. In applying and construing this uniform act, consideration may be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it if it is consistent with the public policy of the state.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 634, § 2, effective May 10.

14-13.7-502. Relation to electronic signatures in global and national commerce act. This article modifies, limits, or supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. section 7001, et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. section 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. section 7003 (b).

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 635, § 2, effective May 10.

14-13.7-503. Saving clause. This article does not affect the validity of an interim court order concerning custodial responsibility during deployment that was entered before July 1, 2013.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 635, § 2, effective May 10.

14-13.7-504. Effective date. This article takes effect July 1, 2013.

Source: L. 2013: Entire article added, (HB 13-1200), ch. 174, p. 635, § 2, effective May 10.

CHILD SUPPORT

ARTICLE 14

Child Support Enforcement
Procedures

Cross references: For support proceedings under the "Colorado Children's Code", see article 6 of title 19; for the "Uniform Interstate Family Support Act", see article 5 of this title; for nonsupport, see article 6 of this title; for support proceedings under the "Colorado Child Support Enforcement Act", see article 13 of title 26; for the Colorado child support collection protection act, see article 17 of title 5.

Law reviews: For article, "The Nuts and Bolts of Collecting Support", see 19 Colo. Law. 1595 (1990); for article, "Child Support Enforcement Remedies Available Through Child Support Enforcement Agencies", see 33 Colo. Law. 57 (Jan. 2004).

14-14-101. Short title. This article shall be known and may be cited as the "Colorado Child Support Enforcement Procedures Act".

Source: L. 81: Entire article added, p. 905, § 1, effective June 8.

14-14-102. Definitions. As used in this article 14, unless the context otherwise requires:

(1) "Court" means any court in this state having jurisdiction to determine the liability of persons for the support of another person.

(2) "Delegate child support enforcement unit" means the unit of a county department of human or social services or its contractual agent that is responsible for carrying out the provisions of this article 14. The term "contractual agent" includes a private child support collection agency, operating as an independent contractor with a county department of human or social services, or a district attorney's office, that contracts to provide any services that the delegate child support enforcement unit is required by law to provide.

(3) "Dependent child" means any person who is legally entitled to or the subject of a court order for the provision of proper or necessary subsistence, education, medical care, or any other care necessary for his health, guidance, or well-being who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(4) "Duty of support" means a duty of support imposed by law or by order, decree, or judgment of any court, whether interlocutory or final, or whether incidental to an action for

divorce, separation, separate maintenance or otherwise. "Duty of support" includes the duty to pay arrearages of support past-due and unpaid.

(4.3) "Employer", for purposes of income withholding pursuant to section 14-5-501, includes any person, company, or corporation, Pinnacol Assurance, or other insurance carrier paying any type of workers' compensation benefits pursuant to articles 40 to 47 of title 8, C.R.S.

(4.5) "Family support registry" means a central registry maintained and operated by the state department of human services pursuant to section 26-13-114, C.R.S., that receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt.

(4.7) "Health insurance" means medical insurance or medical and dental insurance coverage or both of human beings against bodily injury or illness. Such coverage may be provided through a parent's employer or may be acquired individually by the parent.

(5) "Obligee" means any person or agency to whom a duty of support is owed or any person or agency who has commenced a proceeding for the establishment or enforcement of an alleged duty of support.

(6) "Obligor" means any person owing a duty of support, or against whom a proceeding for the establishment or enforcement of a duty of support is commenced.

(6.5) "Plan" means a group health benefit plan or combination of plans, other than public assistance programs, that provides medical care or benefits for a child. "Plan" includes, but is not limited to, a health maintenance organization, self-funded group, state or local government group health plan, church group plan, medical or health service corporation, or other similar plan.

(7) "Public assistance" means assistance payments and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department of human services, either in cooperation with the federal government or independently without federal aid, pursuant to article 2 of title 26, C.R.S.

(8) "Support order" means any judgment, decree, or order of support in favor of an obligee, whether temporary or final or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

(9) "Wages" means income to an obligor in any form, including, but not limited to, actual gross income; compensation paid or payable for personal services, whether denominated as wages; earnings from an employer; salaries; payment to an independent contractor for labor or services; commissions; 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; rents; bonuses; severance pay; retirement benefits and pensions, including, but not limited to, those paid pursuant to articles 51, 54, 54.5, and 54.6 of title 24, and article 30 of title 31; workers' compensation benefits; social security benefits, including social security benefits actually received by a parent as a result of the disability of that parent or as the result of the death of the minor child's stepparent, but not including social security benefits received by a minor child or on behalf of a minor child as a result of the death or disability of a stepparent of the child; disability benefits; dividends; royalties; trust account distributions; any moneys drawn by a self-employed individual for

personal use; 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; 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; 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; state tax refunds; and capital gains. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5).

Source: L. 81: Entire article added, p. 905, § 1, effective June 8. **L. 82:** (3) amended, p. 281, § 4, effective April 2. **L. 83:** (3) amended, p. 651, § 1, effective March 3. **L. 84:** (9) added, p. 480, § 1, effective July 1. **L. 87:** (9) amended, p. 596, § 26, effective July 10. **L. 89:** (9) amended, p. 793, § 17, effective July 1. **L. 90:** (4.5) added, p. 1414, § 14, effective June 8; (2) and (9) amended, pp. 891, 564, §§ 12, 36, effective July 1. **L. 92:** (9) amended, p. 578, § 6, effective July 1; (4.7) added, p. 169, § 3, effective August 1. **L. 93:** (9) amended, p. 1872, § 6, effective June 1. **L. 94:** (9) amended, p. 1539, § 7, effective May 31; (4.5)(a) and (7) amended, p. 2646, § 109, effective July 1; (9) amended, p. 1253, § 7, effective July 1. **L. 96:** (4.5) and (9) amended, p. 599, § 9, effective July 1. **L. 97:** (4.3) added, p. 562, § 7, effective July 1. **L. 98:** (9) amended, p. 921, § 8, effective July 1. **L. 99:** (9) amended, p. 621, § 16, effective August 4. **L. 2001:** (4.3) amended, p. 721, § 3, effective May 31. **L. 2002:** (4.3) amended, p. 1892, § 52, effective July 1; (6.5) added, p. 23, § 1, effective July 1. **L. 2003:** (2) amended, p. 1265, § 52, effective July 1. **L. 2004:** (4.5) amended, p. 387, § 3, effective July 1. **L. 2005:** (2) amended, p. 498, § 2, effective August 8. **L. 2009:** (9) amended, (SB 09-282), ch. 288, p. 1397, § 60, effective January 1, 2010. **L. 2018:** IP and (2) amended, (SB 18-092), ch. 38, p. 401, § 16, effective August 8. **L. 2020:** (9) amended, HB (20-1402), ch. 216, p. 1045, § 24, effective June 30.

Editor's note: Amendments to subsection (9) by Senate Bill 94-088 and House Bill 94-1345 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending subsections (4.5)(a) and (7), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

14-14-103. Additional remedies. The remedies provided in this article are in addition to and not in substitution for any other remedies.

Source: L. 81: Entire article added, p. 906, § 1, effective June 8.

14-14-104. Recovery for child support debt. (1) Any payment of public assistance by a county department of human or social services made to or for the benefit of any dependent child or children creates a debt, which is due and owing to the county department of human or social services, recoverable by the county as a debt due to the state by the parent or parents who are responsible for support of the dependent child or children, or by the parent whose rights were terminated pursuant to section 19-5-105.5 and who was ordered to pay child support for the benefit of a dependent child, in an amount to be determined as follows:

(a) Where there has been a court order directed to a parent, the child support debt of that parent is an amount equal to the amount of public assistance paid to the extent of the full amount of arrearages under the order. However, the county department of human or social services, through its delegate child support enforcement unit, may petition for modification of the order on the same grounds as a party to the action.

(b) Where there has been no court or administrative order for child support, the county department of human or social services, through its delegate child support enforcement unit, may initiate a court or administrative action to establish the amount of child support debt accrued, and the court or delegate child support enforcement unit, after hearing or upon stipulation or upon a default order, shall enter an order for child support debt. The debt must be based on the amount of current child support due, or which would have been due if there were an existing order for child support, under the current child support enforcement guidelines in effect on the date of the stipulation, default order, or hearing to establish the child support debt times the number of months the family received public assistance. The total amount of child support debt must not exceed the total amount paid for public assistance. A child support debt established pursuant to this subsection (1)(b) is in addition to any subsequent child support debt accrued pursuant to subsection (1)(a) of this section.

(2) The county department of human or social services, through its delegate child support enforcement unit, must be subrogated to the right of the dependent child or children or person having legal and physical custody of said child or children or having been allocated decision-making authority with respect to the child or children to pursue any child support action existing under the laws of this state to obtain reimbursement of public assistance expended. If a court enters a judgment for or orders the payment of any amount of child support to be paid by an obligor, the county department of human or social services must be subrogated to the debt created by such judgment or order.

(3) An agreement between any one parent or custodial person or person allocated parental responsibilities and the obligor, either relieving the obligor of any duty of support or responsibility therefor or purporting to settle past, present, or future child support obligations either as settlement or as prepayment, must not act to reduce or terminate any rights of the county department of human or social services to recover from that obligor for any public assistance provided unless the county department of human or social services, through its delegate child support enforcement unit, has consented to the agreement, in writing, and the written consent has been incorporated into and made a part of the agreement.

(4) Any parental rights with respect to custody or decision-making responsibility with respect to a child or parenting time that are granted by a court of competent jurisdiction or are subject to court review must remain unaffected by the establishment or enforcement of a child support debt or obligation by the county department of human or social services or other person pursuant to the provisions of this article 14; and the establishment or enforcement of any such child support debt or obligation must also remain unaffected by such parental rights with respect to custody or decision-making responsibility with respect to a child or parenting time.

(5) No child support debt under this section shall be created in the case of, or at any time collected from, a parent who receives assistance under the Colorado works program as described in part 7 of article 2 of title 26, C.R.S., for the period such parent is receiving such assistance, unless by order of a court of competent jurisdiction.

(6) Creation of a child support debt pursuant to this section must not modify or extinguish any rights that the county department of human or social services has obtained or may obtain under an assignment of child support rights, including the right to recover and retain unreimbursed public assistance.

(7) When a portion of a public assistance grant, paid to or for the benefit of a dependent child, includes moneys paid to provide the custodial parent or the parent with whom the child resides the majority of the time or caretaker relative with necessities including but not limited to shelter, medical care, clothing, or transportation, then those moneys are deemed to be paid to or for the benefit of the dependent child.

(8) Notwithstanding rule 98 of the Colorado rules of civil procedure, venue for an action to establish child support debt is proper in any county where public assistance was or is being paid, in any county where the obligor parent resides, or in any county where the child resides.

(9) A copy of the computer printout obtained from the state department of human services of the record of payments of assistance under the Colorado works program as described in part 7 of article 2 of title 26, C.R.S., made on behalf of a child whose custodian has been receiving child support enforcement services pursuant to section 26-13-106, C.R.S., shall be admissible into evidence as proof of such payments in any proceeding to establish child support debt and shall be prima facie evidence of the amount of child support debt owing on behalf of said child.

Source: L. 81: Entire article added, p. 906, § 1, effective June 8. **L. 89:** (1)(b) amended and (8) added, p. 793, § 18, effective July 1. **L. 90:** (9) added, p. 891, § 13, effective July 1. **L. 91:** (8) amended, p. 253, § 9, effective July 1. **L. 93:** (1) amended, p. 1560, § 9, effective June 6; (4) amended, p. 581, § 17, effective July 1. **L. 94:** (9) amended, p. 2646, § 110, effective July 1. **L. 97:** (5) and (9) amended, p. 1241, § 38, effective July 1. **L. 98:** (2), (3), (4), and (7) amended, p. 1401, § 51, effective February 1, 1999. **L. 2007:** (1)(b) amended, p. 1652, § 8, effective May 31. **L. 2013:** IP(1) amended, (SB 13-227), ch. 353, p. 2062, § 11, effective May 28. **L. 2018:** (1) to (4) and (6) amended, (SB 18-092), ch. 38, p. 401, § 17, effective August 8.

Cross references: For the legislative declaration contained in the 1993 act amending subsection (4), see section 1 of chapter 165, Session Laws of Colorado 1993. For the legislative declaration contained in the 1994 act amending subsection (9), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

14-14-105. Continuing garnishment. (1) A writ of garnishment for the collection from earnings of judgments for arrearages for child support, for maintenance when combined with child support, for child support debts, or for maintenance shall be continuing; shall have priority over any garnishment, lien, or income assignment other than a writ previously served on the same garnishee pursuant to this subsection (1) or a wage assignment activated pursuant to section 14-14-107 or section 14-14-111, as those sections existed prior to July 1, 1996, or an income assignment activated pursuant to section 14-14-111.5; and shall require the garnishee to withhold, pursuant to section 13-54-104 (3), C.R.S., the portion of earnings subject to garnishment at each succeeding earnings disbursement interval until such judgment is satisfied or the garnishment is released by the court or in writing by the judgment creditor.

(2) No employer may discharge an employee solely for the reason that his earnings have been subjected to garnishment pursuant to this section. Any such discharge in violation of this subsection (2) shall subject the employer to liability for damages.

Source: L. 81: Entire article added, p. 907, § 1, effective June 8. **L. 86:** (1) amended, p. 725, § 4, effective July 1. **L. 87:** (1) amended, p. 591, § 10, effective July 10. **L. 96:** (1) amended, p. 600, § 10, effective July 1.

Cross references: For provisions concerning garnishment generally, see article 54.5 of title 13.

14-14-106. Interest. Interest per annum at four percent greater than the statutory rate set forth in section 5-12-101, C.R.S., on any arrearages and child support debt due and owing may be compounded monthly and may be collected by the judgment creditor; however, such interest may be waived by the judgment creditor, and such creditor shall not be required to maintain interest balance due accounts.

Source: L. 81: Entire article added, p. 908, § 1, effective June 8. **L. 86:** Entire section amended, p. 725, § 5, effective July 1. **L. 88:** Entire section amended, p. 633, § 9, effective July 1. **L. 94:** Entire section amended, p. 1539, § 8, effective May 31. **L. 97:** Entire section amended, p. 1241, § 39, effective July 1. **L. 2003:** Entire section amended, p. 1266, § 53, effective July 1.

Cross references: For the statutory rate of interest, see § 5-12-102.

14-14-107. Wage assignment - applicability. (Repealed)

Source: L. 81: Entire article added, p. 908, § 1, effective June 8. **L. 83:** (1)(a) and IP(3) amended and (2) R&RE, pp. 652, 653, §§ 1-3, effective June 1. **L. 84:** (1)(a), IP(2)(a), (2)(a)(III), (2)(a)(IV), (2)(b), and (2)(c) amended and (2)(a)(V) and (3.5) added, pp. 480, 481, §§ 2, 3, effective July 1. **L. 85:** (1)(a), (2)(a) to (2)(c), IP(3), (3)(a)(IV), (3)(c), (3.5), (4)(d), and (9) amended and (1)(d), (1.5), (3.4), (4)(e), and (10) to (13) added, pp.592, 595, §§ 12-15, effective July 1. **L. 86:** (1)(a), (1)(b), (1.5)(a), (2)(a)(II), (2)(c), (3)(a)(I), (5), and (7) amended and (1)(e) to (1)(g) and (4)(f) added, pp. 725, 727, §§ 6-8, effective July 1. **L. 87:** Entire section R&RE, p. 580, § 1, effective July 10. **L. 88:** (5)(c)(IX), (5)(c)(XI), IP(7), (7)(d)(IV), and (9)(a) amended, p. 634, § 10, effective July 1. **L. 89:** (15) added, p. 810, § 2, effective June 5. **L. 90:** (2)(e), (5)(c)(VIII), (6)(b)(I), (7)(d)(III), (7)(d)(IV), and (7)(g) amended and (6)(b)(III) added, p. 1414, § 15, effective June 8; (15) amended, p. 892, § 14, effective July 1. **L. 92:** (2)(a), IP(7), (7)(c)(III), (7)(c)(IV), (9), and (11) amended and (7)(d.5) and (7)(d.6) added, p. 203, § 11, effective August 1. **L. 93:** (9) amended, p. 1561, § 10, effective September 1. **L. 94:** (9)(e), amended, p. 1539, § 9, effective May 31; IP(7) amended, p. 2048, § 8, effective June 3; (14) amended, p. 2646, § 111, effective July 1. **L. 96:** Entire section repealed, p. 600, § 11, effective July 1.

14-14-108. Child support debt offset. (Repealed)

Source: L. 83: Entire section added, p. 654, § 1, effective June 10. **L. 85:** Entire section repealed, p. 604, § 24, effective July 1.

Cross references: For present provisions concerning a state income tax refund offset for child support debts or child support arrearages, see § 26-13-111.

14-14-109. Security, bond, or guarantee. (1) In any action in which child support is ordered, an interested party may apply to the court for an order requiring that the obligor post security, a bond, or other form of guarantee to secure payment of the child support ordered. In considering such request, the court shall consider, among other factors, the nature of the obligor's employment and whether the obligor's income is unreachable by a wage assignment entered pursuant to section 14-14-107 prior to July 1, 1996, or by immediate deduction for a family support obligation pursuant to section 14-14-111 as it existed prior to July 1, 1996, or by an income assignment entered pursuant to section 14-14-111.5 on or after July 1, 1996.

(2) If the request to post security, a bond, or other guarantee is made subsequent to the issuance of a child support order, a copy of the request shall be sent to the obligor at his last-known address by certified mail no later than twenty days prior to the date set for a hearing on the issue. Such notice shall contain a statement of the obligor's rights to appear and contest the request.

(3) When a request to post security, a bond, or other guarantee is before the court, the court shall make findings on the appropriateness of the request based on the evidence presented and shall then either grant or deny the request.

Source: L. 85: Entire section added, p. 595, § 16, effective July 1. **L. 96:** (1) amended, p. 622, § 32, effective July 1.

14-14-110. Contempt of court. (1) Evidence of noncompliance with an order for child support, or maintenance when combined with child support, in the form of an affidavit from the clerk of the court or in the form of a copy of the record of payments certified by the clerk of the court or in the form of a copy of the record of payment maintained by the family support registry is prima facie evidence of contempt of court.

(2) In determining whether or not the obligor is in contempt of court, the court may consider that the required payment has been made prior to the hearing to determine contempt or that owing to physical incapacity or other good cause the obligor was unable to furnish the support, care, and maintenance required by the order for the period of noncompliance alleged in the motion.

(3) If, after personal service of the citation and a copy of the motion and affidavit, the obligor fails to appear at the time so designated, the court may issue a warrant for the obligor's arrest. Upon issuance of the warrant, the court shall direct by endorsement thereon the amount of the bond required.

(4) Pursuant to subsection (3) of this section, where the obligor has been released upon deposit of cash, stocks, or bonds, or upon surety bond secured by property, if the obligor fails to appear in accordance with the primary condition of the bond, the court shall declare a forfeiture. Notice of the order of forfeiture shall be mailed immediately by the court to the obligor and sureties, if any, at the last-known address. If the obligor does not appear and surrender to the court having jurisdiction within thirty days after the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the obligor is impossible and without the obligor's fault, the court shall enter judgment against the obligor and the sureties, if any, for the amount of the bail and costs of the court proceedings.

(5) Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which the bond is given to be applied to the child support obligation, including where the obligation is assigned to the department of human services pursuant to section 26-2-111 (3), C.R.S.

Source: L. 86: Entire section added, p. 730, § 1, effective May 1. **L. 93:** Entire section amended, p. 1561, § 11, effective September 1. **L. 94:** (1) amended, p. 1540, § 10, effective May 31; (5) amended, p. 2647, § 112, effective July 1. **L. 97:** (4) amended, p. 562, § 8, effective July 1; (5) amended, p. 1241, § 40, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (5), see section 1 of chapter 345, Session Laws of Colorado 1994.

14-14-111. Immediate deductions for family support obligations - legislative declaration - procedures - applicability. (Repealed)

Source: L. 89: Entire section added, p. 805, § 1, effective June 5. **L. 90:** (2)(b)(I), (4)(b)(IV)(B), (4)(b)(IV)(C), (4)(b)(IV)(D), (4)(b)(VII), and (11) amended, p. 1415, § 16, effective June 8; (2)(a) and (4)(b)(IV)(B) amended, p. 892, § 15, effective July 1. **L. 92:** (2)(b), (2)(c), (4)(b)(III)(C), (6), and (16) amended and (4)(b)(IV.5) and (4)(b)(IV.6) added, p. 207, § 12, effective August 1. **L. 93:** (2)(b) amended, p. 1562, § 12, effective September 1. **L. 94:** (4)(a) amended, p. 2049, § 9, effective June 3. **L. 96:** Entire section repealed, p. 600, § 11, effective July 1.

14-14-111.5. Income assignments for child support or maintenance. (1) **Legislative declaration.** The general assembly hereby finds and declares that, for the good of the children of Colorado and to promote family self-sufficiency, there is a need to strengthen Colorado's child support enforcement laws and to simplify, streamline, and clarify the existing laws relating to wage assignments previously provided for in section 14-14-107 and immediate deductions for family support obligations previously provided for in section 14-14-111. In support of this effort, the general assembly hereby adopts the term "income assignment" to be used to provide consistency and standardization of the process for collecting child support and maintenance.

(2) Notice requirements for income assignments. Notice of income assignments shall be given in accordance with the following provisions based upon the date on which the order sought to be enforced was entered:

(a) **Orders entered before July 10, 1987.** (I) For orders entered before July 10, 1987, that do not include an order for income assignment as described in paragraph (a) of subsection (3) of this section or an order for immediate deductions for family support obligations as described in former section 14-14-111, as it existed prior to July 1, 1996, a notice of pending income assignment shall be sent by certified mail to the last-known address of the obligor, or such notice shall be personally served upon the obligor prior to the activation of an income assignment; except that such notice shall not be required if the obligor was given such notice prior to July 10, 1987, and such notice was in substantial compliance with the requirements of this section. The notice shall be given by the obligee, the obligee's representative, or the delegate child support enforcement unit.

(II) The notice of pending income assignment shall include the following information:

(A) That an income assignment may be activated immediately or at any other time at the request of the obligor, by agreement of the parties, or at the request of an obligee who is receiving support enforcement services from a delegate child support enforcement unit pursuant to section 26-13-106, C.R.S., in accordance with state procedures. Such state procedures require that the obligee request an income assignment in writing and that, after the delegate child support enforcement unit receives the request, it shall review the case to determine if it meets the criteria for requiring income assignment, which criteria are that the obligor is not meeting the terms of a written agreement for an alternative arrangement, or that the reason for the original good cause determination no longer exists, or that the obligor is currently paying child support but has threatened to stop and the obligee documents and substantiates that there has been a change in the obligor's circumstances that will lead the obligor to stop paying child support. If

none of the circumstances set forth in this sub-subparagraph (A) exists, then the income assignment shall remain pending unless the obligor fails to comply with the support order by not making a full payment on its due date.

(B) That the activation of an income assignment is the notification to the obligor's employer or employers, trustee, or other payor of funds to withhold income for payment of the support obligation and arrears, if any;

(C) That, if any arrears accrue or already have accrued, an additional payment on the arrears shall be added to the income assignment pursuant to subparagraph (V) of paragraph (b) of subsection (3) of this section;

(D) That the obligor has a right to object to the activation of the income assignment raising the defenses that are available pursuant to sub-subparagraph (B) of subparagraph (VII) of paragraph (b) of subsection (3) of this section;

(E) That the obligor shall notify the family support registry, if payments are required to be made through the registry, in writing, of any change of address or employment within ten days after the change.

(b) **Orders entered on or after July 10, 1987, and before January 1, 1990.** For orders entered on or after July 10, 1987, and before January 1, 1990, no notice of pending income assignment as described in paragraph (a) of this subsection (2) shall be required.

(c) **Orders entered in Title IV-D cases on or after January 1, 1990, and before January 1, 1994.** For orders entered on or after January 1, 1990, and before January 1, 1994, in cases in which the custodian of the child is receiving support enforcement services from a delegate child support enforcement unit pursuant to section 26-13-106, C.R.S., no notice of pending income assignment as described in paragraph (a) of this subsection (2) shall be required.

(d) **Orders entered in non-Title IV-D cases on or after July 10, 1987, and before January 1, 1994.** For orders entered on or after July 10, 1987, and before January 1, 1994, in cases in which the custodian of the child is not receiving support enforcement services from a delegate child support enforcement unit pursuant to section 26-13-106, C.R.S., no notice of pending income assignment as described in paragraph (a) of this subsection (2) shall be required.

(e) **Orders entered on or after January 1, 1994, and before July 1, 1996.** For orders entered on or after January 1, 1994, and before July 1, 1996, no notice of pending income assignment as described in paragraph (a) of this subsection (2) shall be required.

(f) **Orders entered on or after July 1, 1996.** (I) Whenever an obligation for child support, maintenance, child support when combined with maintenance, retroactive support, medical support, child support arrears, or child support debt is initially determined, whether temporary or permanent or whether modified, the amount of child support, maintenance, child support when combined with maintenance, retroactive support, medical support, child support arrears, or child support debt shall be ordered by the court or delegate child support enforcement unit to be activated immediately as an income assignment subject to section 13-54-104 (3), C.R.S., from the income, as defined in section 14-10-115 (3), that is due or is to become due in the future from the obligor's employer, employers, or successor employers or other payor of funds, regardless of the source, of the person obligated to pay the child support, maintenance,

child support when combined with maintenance, retroactive support, medical support, child support arrears, or child support debt.

(II) Any order for support shall include the following, if available:

(A) The name, date of birth, and sex of each child for whom the support is ordered;

(B) The obligee's name, social security number, residential and mailing addresses, and date of birth;

(C) The total amount of current support to be paid monthly in each category of support;

(D) The date of commencement of the order and the date or dates of the month that the payments are due;

(E) The total amount of arrears that is due, if any, in each category of support as of the date of the order; and

(F) The obligor's name, social security number, residential and mailing addresses, and date of birth.

(G) (Deleted by amendment, L. 99, p. 1085, § 3, effective July 1, 1999.)

(3) **Activation of income assignment.** Income assignments shall be activated in accordance with the following provisions:

(a) **Immediate activation of income assignments.** (I) Upon entry of an order for child support, maintenance, child support when combined with maintenance, retroactive support, medical support, child support arrears, or child support debt during the time periods described in paragraph (c), (e), or (f) of subsection (2) of this section, the obligee, the obligee's representative, or the delegate child support enforcement unit shall cause a notice of income assignment to be served immediately as described in subsection (4) of this section.

(II) **Exceptions to immediate activation of income assignments.** Income shall not be subject to immediate activation of an income assignment under this paragraph (a) in any case in which:

(A) One of the parties demonstrates, and the court or the delegate child support enforcement unit finds in writing, that there is good cause not to require immediate activation of an income assignment. For the purposes of this sub-subparagraph (A), "good cause" means the following: There is a written determination and explanation by the court or delegate child support enforcement unit stating why implementing immediate activation of an income assignment would not be in the best interests of the child; and the obligor has signed a written agreement to keep the delegate child support enforcement unit, the obligee, or the obligee's representative informed of the obligor's current employer and information on any health insurance coverage to which the obligor has access; and proof is provided that the obligor made timely payments without the necessity of income assignment in previously ordered child support obligations.

(B) A written agreement is reached between both parties that provides for an alternative arrangement. For purposes of this sub-subparagraph (B), the delegate child support enforcement unit shall be considered a party in all cases in which the custodian of a child is receiving support enforcement services from a delegate child support enforcement unit pursuant to section 26-13-106 (1), C.R.S., and as such is required to consent to the alternative written agreement. In all

cases in which the custodian of a child is receiving support enforcement services from a delegate child support enforcement unit pursuant to section 26-13-106 (2), C.R.S., the obligee or the obligee's representative shall provide the delegate child support enforcement unit with notice of any agreement reached between the parties pursuant to this sub-subparagraph (B).

(b) (I) **Activation of an income assignment following notice.** An income assignment based on an order entered during the time periods described in paragraph (a), (b), or (d) of subsection (2) of this section shall not be activated unless:

(A) The obligor requests that the income assignment be activated; or

(B) The parties agree at the time of the entry or modification of a support order, or at any other time, that the income assignment is to be activated; or

(C) The obligee files an advance notice of activation with any court having jurisdiction to enforce the support order because a payment was due under a support order and the obligor has failed to make a payment in full as ordered.

(II) **Notice of activation.** When an income assignment is activated pursuant to sub-subparagraph (C) of subparagraph (I) of this paragraph (b), a copy of the advance notice of activation and a form for the obligor to object to the activation listing the available defenses shall be mailed by the obligee or the obligee's representative to the obligor's last-known address. The notice of activation shall contain the following information:

(A) The court that issued the support order;

(B) The case number;

(C) The date of the support order;

(D) The facts establishing that a full support payment was not made on or before it became due;

(E) The amount of overdue support owed;

(F) The amount of income to be withheld for current support and the amount to be withheld for arrears per month;

(G) A statement that, if section 13-54-104 (3), C.R.S., applies, the employer may not withhold more than the limitations set by said section;

(H) The name and address of the obligor's most recently known employer and a statement that the obligor is required to inform the court or the family support registry, if payments are to be made through the registry, of any new employment;

(I) A statement of the obligor's right to object to the activation of the income assignment within fourteen days after the date the advance notice of activation is sent to the obligor and the procedures available for such objection;

(J) The available defenses to the activation;

(K) A statement that failure to object to the activation of an income assignment within fourteen days after the date the advance notice of activation was sent to the obligor will result in the activation of the income assignment pursuant to subsection (4) of this section;

(L) A statement of the procedures the court will follow when an objection is filed by the obligor;

(M) A statement that, if the court denies the objection of the obligor, the income assignment shall be activated pursuant to subsection (4) of this section;

(N) A statement that the income assignment is a continuing assignment; and

(O) A statement that, if arrears have accrued, an additional monthly payment shall be set pursuant to subparagraph (V) of this paragraph (b) and that this payment may be modified if additional arrears accrue.

(III) **Affidavit requirements.** The party activating an income assignment based on an order entered during the time periods described in paragraph (a), (b), or (d) of subsection (2) of this section shall prepare an affidavit of arrears, which shall state the type and amount of support ordered per month and the date upon which the payment was due and, if the payments were to be made into the court registry or the family support registry, state that the full payment was not received by the registry on or before the due date or, if the payments were to be made to the obligee directly, state that the obligee did not receive the full payment on or before the due date, the date and amount of any modifications of the order, the period or periods of time the arrears accrued, the total amount of support that should have been paid, the total amount actually paid, and the total arrears, plus interest, due. If the income assignment is being activated pursuant to sub-subparagraph (A) or (B) of subparagraph (I) of this paragraph (b), the affidavit shall be filed with the court at the time of activation. If payments were ordered to be made through the family support registry, a copy of the payment record maintained by the family support registry shall be sufficient proof of payments made, and no affidavit shall be required. If the income assignment is being activated pursuant to sub-subparagraph (C) of subparagraph (I) of this paragraph (b), the affidavit shall be filed with the advance notice of activation.

(IV) **Agreement to activate.** When an income assignment is activated pursuant to sub-subparagraph (A) or (B) of subparagraph (I) of this paragraph (b) and arrears are owed, as verified by the affidavit of arrears, the parties may agree to an amount of payment on the arrears, or the court may determine an appropriate amount for payment.

(V) **Arrears.** When an income assignment is activated pursuant to sub-subparagraph (C) of subparagraph (I) of this paragraph (b) and arrears are owed, as verified by the affidavit of arrears, the income assignment shall include a payment on the arrears in the amount of one-twenty-fourth of the total amount due up to the date of the activation of the income assignment. The payment on the arrears shall remain the same until the arrears, plus interest, are paid unless the parties subsequently agree to a larger or smaller arrears payment amount or further arrears accrue. The total arrears due, plus interest, may be updated periodically, and the amount of payment may be revised periodically, as appropriate.

(VI) A payment on arrears, plus interest, for support, if any, shall be included in an activated income assignment; however, the combined payment on current support and arrears is subject to section 13-54-104 (3), C.R.S.

(VII) **Objections to income assignment.** (A) The obligor may file with the court a written objection to the activation of an income assignment pursuant to sub-subparagraph (C) of subparagraph (I) of this paragraph (b) within fourteen days after the advance notice of activation is sent to the obligor pursuant to subparagraph (II) of this paragraph (b) unless the obligor

alleges that the notice was not received, in which case an objection may be filed no later than fourteen days after actual notice. The obligor shall mail a copy of the written objection to the obligee or the obligee's representative.

(B) The objection shall be limited to the defense that there is a mistake of fact such as an error in the identity of the obligor or in the amount of the support.

(C) If an objection is filed by the obligor, a hearing shall be set and held by the court within forty-two days after the date the advance notice of activation was sent to the obligor pursuant to subparagraph (II) of this paragraph (b). The court shall deny the objection without hearing if a defense in sub-subparagraph (B) of this subparagraph (VII) is not alleged.

(D) At a hearing on an objection, the sole issue before the court is whether there was a mistake of fact as specified in sub-subparagraph (B) of this subparagraph (VII).

(E) At a hearing on an objection, reasonable attorney fees and costs may be awarded to the prevailing party.

(F) If an objection is based on the amount of arrears, the income assignment may be activated and enforced as to current support obligations, and the activation of the income assignment as to arrears shall be stayed pending the outcome of a hearing on such objection.

(4) **Notice to withhold income for support.** Fourteen days after the date the advance notice of activation is mailed to the obligor for income assignments on orders entered during the time periods described in paragraphs (a), (b), and (d) of subsection (2) of this section or immediately for income assignments on orders entered during the time periods described in paragraphs (c), (e), and (f) of subsection (2) of this section, an income assignment may be activated by the obligee, the obligee's representative, or the delegate child support enforcement unit by causing a notice to withhold income for support to be served upon the employer, trustee, or other payor of funds, by first-class mail or by electronic service, if such employer, trustee, or other payor of funds mutually agrees with the state child support enforcement agency to receive such income assignments electronically. Receipt of notice by the employer, trustee, or other payor of funds confers jurisdiction of the court over the employer, trustee, or other payor of funds. Income assignments activated for orders entered during the time periods described in paragraphs (c), (e), and (f) of subsection (2) of this section shall be paid through the family support registry pursuant to section 26-13-114, C.R.S. In circumstances in which the source of income to the obligor is unemployment compensation benefits and the custodian of the child is receiving support enforcement services pursuant to section 26-13-106, C.R.S., no notice to withhold income for support shall be required. In such cases, the state child support enforcement agency shall electronically intercept the unemployment compensation benefits through an automated interface with the department of labor and employment. In all other cases, the notice to withhold income for support shall contain the following information and, except in cases in which the obligee is receiving child support enforcement services pursuant to section 26-13-106, C.R.S., shall have a certified copy of the support order attached thereto:

(a) The name and social security number of the obligor;

(b) A statement that withholding must begin no later than the first pay period that begins at least fourteen working days after the date on the notice to withhold income for support;

(c) Instructions concerning withholding the deductions, including:

(I) The amount to be withheld for current support and current maintenance when included in the child support order, the amount to be withheld for past due support, the amount to be withheld for past due maintenance when included in the child support order, the amount to be withheld for child support debt, the amount to be withheld for medical support, the amount to be withheld for current maintenance, the amount to be withheld for past due maintenance per month, and the amount to be withheld for processing fees, if any. In the event that the pay periods of the employer are more frequent, the employer shall withhold per pay period an appropriate percentage of the monthly amount due so that the total withheld during the month will total the monthly amount due.

(II) A statement that the employer, trustee, or other payor of funds may deduct a fee to defray the cost of withholding and that such employer, trustee, or other payor of funds shall refer to the laws governing the work state of the employee for the allowable amount of such fee;

(III) That, if section 13-54-104 (3), C.R.S., applies, the employer, trustee, or other payor of funds may not withhold more than the limitations set by said section;

(d) Instructions about disbursing the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded within seven working days after the date of each deduction and withholding would have been paid or credited to the employee;

(II) Shall be forwarded to the address indicated on the notice;

(III) Shall be identified by the case number, the name and social security number of each obligor, the date the deduction was made, the amount of the payment, and the family support registry account number for cases ordered to be paid through the family support registry; and

(IV) May be combined with other disbursements in a single payment to the family support registry, if required to be sent to the registry, if the individual amount of each disbursement is identified as required by subparagraph (III) of this paragraph (d);

(e) A statement specifying whether or not the obligor is required to provide health insurance for the children who are the subject of the order;

(f) and (g) (Deleted by amendment, L. 2000, p. 1704, § 2, effective July 1, 2000.)

(h) A statement that, if the employer, trustee, or other payor of funds fails to withhold income as the notice to withhold income for support directs, the employer, trustee, or other payor of funds shall be liable for both the accumulated amount that should have been withheld from the obligor's income and any other penalties set by state law;

(i) A statement that the employer, trustee, or other payor of funds shall be subject to a fine determined under state law for discharging an obligor from employment, refusing to employ, or taking disciplinary action against an obligor because of a notice to withhold income for support;

(j) A statement that the employer shall notify the family support registry, in writing, if payments are required to be made through the registry promptly after the obligor terminates employment and shall provide the family support registry, in writing, with the obligor's name,

date of separation, case identifier which shall be the family support registry account number, last-known home address, and the name and address of the obligor's new employer, if known;

(j.5) A statement that withholding under the notice to withhold income for support has priority over any other legal process under state law against the same income, that federal tax levies in effect before receipt of this notice to withhold income for support have priority, and that the requesting agency should be contacted if there are federal tax levies in effect;

(k) A statement that as long as the obligor is employed by the employer, the income assignment shall not be terminated or modified, except upon written notice by the obligee, the obligee's representative, the delegate child support enforcement unit, or the court;

(k.5) A statement that the employer, trustee, or other payor of funds may be required to report and withhold amounts from lump sum payments such as bonuses, commissions, or severance pay;

(l) (Deleted by amendment, L. 2000, p. 1704, § 2, effective July 1, 2000.)

(l.5) A statement that Colorado employers, trustees, or other payors of funds must comply with this section;

(m) A statement that, if the designated field on the notice to withhold income for support is checked, the employer, trustee, or other payor of funds is required to provide a copy of the notice to withhold income for support to the obligor;

(n) A statement that a fraudulent submission of a notice to withhold income for support shall subject the person submitting the notice to an employer, trustee, or other payor of funds to a fine of not less than one thousand dollars and court costs and attorney fees.

(4.5) When a Colorado employer receives an income assignment, or its equivalent, issued by another state, the employer shall apply the income assignment law of the obligor's principal state of employment. The obligor's principal state of employment shall be presumed to be Colorado unless there is a specific employment contract to the contrary.

(5) When activated, an income assignment shall be a continuing income assignment and shall remain in effect and shall be binding upon any employer, trustee, or other payor of funds upon whom it is served until further notice from the obligee, the obligee's representative, the delegate child support enforcement unit, or the court.

(6) **Priority.** (a) A notice of income assignment for support shall have priority over any garnishment, attachment, or lien.

(b) If there is more than one income assignment for support for the same obligor, the total amount withheld, which is subject to the limits specified in section 13-54-104 (3), C.R.S., shall be distributed in accordance with the priorities set forth in this paragraph (b):

(I) (A) First priority shall be given to income assignments for orders for current monthly child support obligations and maintenance when included in the child support order.

(B) If the amount withheld is sufficient to pay the current monthly support and maintenance for all orders, the employer or other payor of funds shall distribute the amount to all orders and proceed to the second priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the current monthly support and maintenance in all orders, the employer shall add the current monthly support and maintenance in all orders for a total and then

divide the amount of current monthly support and maintenance in each order by the total to determine the percent of the total for each order. The percent for each order derived from such calculation shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(II) (A) Second priority shall be given to income assignments for all orders for medical support when there is a specific amount ordered for medical support.

(B) If the amount withheld is sufficient to pay the medical support for all orders, the employer shall distribute the amount to all orders and proceed to the third priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the medical support in all orders, the employer shall add the medical support in all orders for a total and then divide the amount of medical support in each order by the total to determine the percent of the total for each order. The percent for each order derived from such calculation shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(III) (A) Third priority shall be given to income assignments for child support debt and support arrears, including medical support arrears.

(B) If the amount withheld is sufficient to pay the child support debt and support arrears for all orders, the employer shall distribute the amount to all orders and proceed to the fourth priority to distribute any remaining withholding. If the amount withheld is not sufficient to pay the child support debt and support arrears in all orders, the employer shall add the child support debt and support arrears in all orders for a total and then divide the amount of child support debt and support arrears in each order by the total to determine the percent of the total for each order. The percent for each order derived from such calculation shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(IV) (A) Fourth priority shall be given to income assignments for orders for maintenance only.

(B) If the amount withheld is sufficient to pay the maintenance only for all orders, the employer shall distribute the amount to all orders. If the amount withheld is not sufficient to pay the maintenance only in all orders, the employer shall add the maintenance only in all orders for a total and then divide the amount of maintenance only in each order by the total to determine the percent of the total for each order. The percent for each order derived from such calculation shall be multiplied by the total amount withheld to determine what proportionate share of the amount withheld shall be paid for each order.

(7) No employer, trustee, or other payor of funds who complies with a notice of income assignment issued pursuant to this section and as provided in subsection (8) of this section shall be liable to the obligor for wrongful withholding.

(8) An employer, trustee, or other payor of funds subject to this section who:

(a) Fails to abide by the terms enumerated in the notice of income assignment may be held in contempt of court;

(b) Wrongfully fails to withhold income in accordance with the provisions of this section shall be liable for both the accumulated amount the employer, trustee, or other payor of funds should have withheld from the obligor's income and any other penalties set by state law;

(c) Discharges, refuses to hire, or takes disciplinary action against an employee because of the entry or service of an income assignment pursuant to this section may be held in contempt of court or be subject to a fine.

(9) 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.

(10) (a) The obligee, the obligee's representative, the delegate child support enforcement unit, or the court shall promptly notify the employer, trustee, or other payor of funds, in writing, when an income assignment is modified or terminated.

(b) An income assignment shall be modified when:

(I) The support order is modified by the court;

(II) The arrears payment is modified by agreement between the parties pursuant to subparagraph (V) of paragraph (b) of subsection (3) of this section; or

(III) The arrears payment is modified when updated periodically pursuant to subparagraph (V) of paragraph (b) of subsection (3) of this section.

(c) An income assignment shall be terminated when all current maintenance when included in the child support order, past due support, past due maintenance when included in the child support order, child support debt, medical support, current monthly child support, current maintenance, past due maintenance, and processing fees, if any, owed under the support order are paid in full.

(11) Disbursements received from the employer, trustee, or other payor of funds by a delegate child support enforcement unit shall be promptly distributed.

(12) The clerk of the court shall provide, upon request, any information required by the parties about any support order or any order affecting an order for support, including judgments and registered orders.

(13) The department of human services is hereby designated as the income withholding agency as required by the federal "Social Security Act", as amended.

(14) This section applies to any action brought under this article or article 5, 6, or 10 of this title or under article 4 or 6 of title 19, C.R.S., or under article 13.5 of title 26, C.R.S.

(15) Nothing in this section shall affect the availability of any other method for collecting child support, maintenance, child support when combined with maintenance, retroactive support, medical support, child support arrears, or child support debt.

(16) Income assignments under this section shall be issued by a delegate child support enforcement unit under the provisions of the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support", created in article 13.5 of title 26, C.R.S.

(16.3) The employer, trustee, or other payor of funds shall include with the first disbursement an indication of whether dependent health insurance coverage is available to the

obligor and whether the obligor has elected to enroll the dependents who are the subject of the order in such coverage and that such information shall be included in a disbursement at least annually thereafter or at the next disbursement in the event of any change in the status of health insurance availability or coverage.

(16.5) The employer shall not be required to collect, possess, or control the obligor's tips, and any such tips shall not be owed by an employer to an obligor.

(16.7) The employer, trustee, or other payor of funds may extract a processing fee of up to five dollars per month from the remainder of the obligor's income after the deduction and withholding.

(17) For purposes of this section, unless the context otherwise requires, "income" means wages as defined in section 14-14-102 (9).

(18) (Deleted by amendment, L. 2000, p. 1704, § 2, effective July 1, 2000.)

(19) A person submitting a fraudulent notice to withhold income for support to an employer, trustee, or other payor of funds shall be subject to a fine of not less than one thousand dollars and court costs and attorney fees.

Source: L. 96: Entire section added, p. 600, § 12, effective July 1. **L. 97:** (2)(f), IP(4), (4)(d)(I), (4)(i), and (8)(c) amended and (4.5) and (18) added, p. 1271, § 10, effective July 1. **L. 98:** (3)(b)(III) amended, p. 766, § 15, effective July 1. **L. 99:** (2)(f)(II) amended, p. 1085, § 3, effective July 1. **L. 2000:** (2)(a)(II)(E), IP(4), (4), (8)(b), (10)(c), and (18) amended and (4)(m), (4)(n), (16.3), (16.5), (16.7), and (19) added, pp. 1704, 1708, §§ 2, 3, effective July 1. **L. 2002:** IP(4) amended, p. 23, § 2, effective July 1. **L. 2007:** (2)(f)(I) amended, p. 108, § 4, effective March 16. **L. 2011:** IP(4) amended, (SB 11-123), ch. 46, p. 119, § 4, effective August 10. **L. 2012:** (3)(b)(II)(I), (3)(b)(II)(K), (3)(b)(VII)(A), (3)(b)(VII)(C), IP(4), and (9) amended, (SB 12-175), ch. 208, p. 835, § 38, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act amending subsection (2)(f), the introductory portion to subsection (4), and subsections (4)(d)(I), (4)(i), and (8)(c) and enacting subsections (4.5) and (18), see section 1 of chapter 236, Session Laws of Colorado 1997.

14-14-112. Deductions for health insurance. (1) In all orders which direct the obligor to provide health insurance for any child, the court or delegate child support enforcement unit shall include a provision directing the obligor's employer to enroll such child and the obligor, if enrollment of the obligor is a requirement of the plan, in the health insurance plan and to deduct from the wages due the obligor an amount sufficient to provide for premiums for health insurance when such insurance is offered by the employer, including any employer subject to the provisions of section 607 (1) of the federal "Employee Retirement Income Security Act of 1974", as amended. For all orders entered prior to August 1, 1992, which direct the obligor to provide health insurance for any child, the obligee or the obligee's representative shall send a copy of the notice of the deduction for health insurance, by first-class mail, to the obligor

concurrent with mailing of the notice to the obligor's employer pursuant to subsection (2) of this section. The court or the delegate child support enforcement unit shall direct the obligor to notify the court, or unit if the delegate child support enforcement unit is a party to the court action, in writing, of any change of address or employment within ten days after the change.

(1.5) Effective July 1, 2002, the delegate child support enforcement unit shall follow the procedure set forth in section 26-13-121.5, C.R.S., for the enforcement of orders for health insurance.

(2) The obligee or the obligee's representative shall mail notice of the deduction for health insurance to the obligor's employer. The notice of the deduction for health insurance must contain:

(a) The name, address, and social security number of the obligor;

(b) The name, birthdate, and social security number of any of the children to be covered by the health insurance;

(c) A statement that the employer shall enroll an obligor's child in the health insurance plan in which the obligor is enrolled if the child can be covered under that plan or, if the obligor is not enrolled, in the least costly plan otherwise available to the child, regardless of the marital status of the child's parents when he or she was born or whether the child is claimed as a dependent on the obligor's federal or state income tax return, lives with the obligor, or lives within the insurer's service area, notwithstanding any other provision of law restricting enrollment to persons who reside in an insurer's service area;

(d) A statement that the deduction for health insurance is to take effect no later than the first pay period after fourteen days from the date on which the notice is mailed to the employer or from the date on which the obligor submits an oral or written request to the employer, whichever occurs sooner, and that the deduction for health insurance is treated as a significant life change under open enrollment requirements;

(e) A statement that compliance with the notice to deduct for health insurance shall not subject the employer to liability to the obligor for wrongful withholding;

(f) A statement that noncompliance with the notice to deduct for health insurance may subject the employer to the liability and sanctions specified in subsection (5) of this section;

(g) A statement that the employer shall promptly notify the court, obligee, or delegate child support enforcement unit in writing within fourteen days after the obligor terminates employment and shall provide, if known, the name of the obligor's new employer;

(h) A statement that, as long as the obligor is employed by the employer, the notice to deduct for health insurance shall not be terminated or modified, except as follows:

(I) Upon written notice by the court, obligee, or delegate child support enforcement unit;

(II) Upon written verification, provided by the obligor to the employer, the employer determines that the child has been enrolled in a comparable health insurance plan that takes effect no later than the effective date on which the child is no longer enrolled under the plan offered by the obligor's employer; or

(III) Upon the employer's elimination of family health coverage for all employees;

(i) A statement that the employer may not discharge or refuse to hire or take disciplinary action against an employee because of the entry or service of a notice to deduct for health insurance issued and executed pursuant to this section and that such a violation may result in a finding of contempt of court;

(j) A statement that if the obligor or employer enrolls the dependents who are the subject of the order in health insurance coverage available through the employer, the employer shall send a copy of such enrollment to the location identified on the notice;

(k) A statement that when a child is no longer enrolled under a family health plan for the reasons described in subparagraphs (I) to (III) of paragraph (h) of this subsection (2), the employer within fourteen days after the termination of coverage shall send to the location described on the health insurance premium notice a written notice of cancellation of enrollment or a copy of the verification provided by the obligor to the employer that the child is enrolled in a comparable health plan;

(l) A statement that the obligor may file an objection to the notice of the deduction for health insurance with the court if the premium amount does not meet the definition of reasonable cost as provided in section 14-10-115 (10)(g). A premium amount that results in a child support order of fifty dollars or less or that is twenty percent or more of the obligor's gross income shall not be considered reasonable.

(2.5) If an obligor enrolls a child in a health insurance plan other than one provided through the obligor's employment, the obligee, the obligee's representative, or the delegate child support enforcement unit shall send, by first-class mail, a written notice to such health insurance provider with whom the obligor enrolls the child stating that:

(a) The obligor is under a court order to provide health insurance coverage for a child;

(b) The insurance provider shall notify the obligee, the obligee's representative, or the delegate child support enforcement unit of any cancellation of the coverage.

(3) No employer who complies with a notice to deduct for health insurance benefits pursuant to this section shall be liable to the obligor for wrongful withholding.

(4) No employer shall discharge or refuse to hire or take disciplinary action against an employee because of the entry or service of a notice to deduct for health insurance issued and executed pursuant to this section. Any person who violates this subsection (4) may be deemed by the court to be subject to contempt of court.

(5) An employer who wrongfully fails to deduct for health insurance in accordance with the provisions of this section may be held liable for an amount up to the accumulated amount of such premiums the employer or payor should have withheld from the obligor's wages.

(6) When an employer is served with a notice to deduct for health insurance pursuant to this section, and the obligor is no longer employed by the employer, the employer shall promptly notify the court in writing of the obligor's last-known address, social security number, and the name of the obligor's new employer, if known.

(7) If an employer discharges an employee in violation of the provisions of this section, the employee may, within ninety 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.

(8) A notice to deduct for health insurance issued and served pursuant to this section shall be continuing and shall remain in effect and be binding on any current or successor employer upon whom it is served until further notice by the court, obligee, obligee's representative, or delegate child support enforcement unit.

(9) The court, obligee, obligee's representative, or delegate child support enforcement unit shall promptly notify the employer, in writing, when a notice to deduct for health insurance is modified or terminated. A notice to deduct for health insurance shall be terminated when the court order requiring health insurance is terminated.

(10) Deductions for health insurance shall also be ordered by a delegate child support enforcement unit under the provisions of the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support", created in article 13.5 of title 26, C.R.S.

Source: L. 92: Entire section added, p. 169, § 4, effective August 1. **L. 93:** (2)(c) amended and (2)(j) added, p. 1563, § 13, effective September 1. **L. 94:** (1) amended, p. 1540, § 11, effective July 1; (1), (2)(c), (2)(d), and (2)(h) amended and (2)(k) added, p. 1596, § 5, effective July 1. **L. 96:** (2.5) added, p. 586, § 1, effective July 1. **L. 97:** IP(2) amended and (2)(l) added, p. 1273, § 11, effective July 1. **L. 98:** IP(2) amended, p. 757, § 7, effective July 1. **L. 2002:** (1), IP(2), (2)(l), and (6) amended and (1.5) added, p. 24, § 3, effective July 1. **L. 2007:** (2)(l) amended, p. 108, § 5, effective March 16. **L. 2012:** (2)(g) amended, (SB 12-175), ch. 208, p. 836, § 39, effective July 1. **L. 2018:** IP(2) and (2)(c) amended, (SB 18-095), ch. 96, p. 754, § 10, effective August 8.

Editor's note: Amendments to subsection (1) by Senate Bill 94-088 and Senate Bill 94-164 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1997 act amending the introductory portion to subsection (2) and enacting subsection (2)(l), see section 1 of chapter 236, Session Laws of Colorado 1997. For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of Colorado 2018.

(2) For the "Employee Retirement Income Security Act of 1974", see Pub.L. 93-406, codified at 29 U.S.C. sec. 1001 et seq.

14-14-113. Recordation of social security numbers in certain family matters. (1) (a) (I) Except as otherwise provided in subparagraph (II) of this paragraph (a), effective July 1, 1997, every application for, or application for the renewal of, a professional or occupational license or certificate, a commercial driver's license pursuant to section 42-2-403, C.R.S., or a marriage license pursuant to section 14-2-105 sought by an individual person shall require the applicant's social security number. Such social security number shall be recorded on the application regardless of the licensing agency's use of another number on the social security field

on the license. Nothing in this paragraph (a) shall be construed to require that a person's social security number appear on the professional or occupational license, commercial driver's license, or marriage license.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), if an applicant for a professional or occupational license, commercial driver's license, or marriage license submits a sworn statement, together with the application, stating that the applicant does not have a social security number, such applicant shall not be required to provide a social security number on his or her application as required in subparagraph (I) of this paragraph (a).

(b) The judicial department shall maintain records of the parties' and children's social security numbers in family matters filed under articles 10 and 14 of this title, articles 4 and 6 of title 19, C.R.S., and article 13.5 of title 26, C.R.S. Nothing in this paragraph (b) shall require that a person's social security number appear on the face of the court order.

(c) All death certificates issued pursuant to section 25-2-110, C.R.S., shall identify the decedent's social security number, if available.

(2) (a) Access to records via the social security number provided in subsection (1) of this section and the security of those records shall be in accordance with section 26-13-107, C.R.S. Access shall be limited to the department of human services only for the purposes of establishing, modifying, or enforcing child support.

(b) Access to records via the social security number provided in subsection (1) of this section may be made by departments within their area of regulatory authority.

(3) In addition to the provisions of subsection (2) of this section, the child support enforcement agency and the delegate child support enforcement units, when exercising authority pursuant to this section, shall be subject to the privacy provisions of section 26-13-102.7, C.R.S.

Source: L. 97: Entire section added, p. 1274, § 12, effective July 1. **L. 99:** (3) amended, p. 622, § 17, effective August 4. **L. 2000:** (1)(a) amended, p. 1715, § 12, effective July 1. **L. 2008:** (1)(b) amended, p. 1347, § 2, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of Colorado 1997.

CIVIL UNION

ARTICLE 15

Colorado Civil Union Act

Law reviews: For article, "Colorado Civil Union Act", see 42 Colo. Law. 91 (July 2013); for article, "Benefits Issues Arise When Same-Sex Relationships End", see 42 Colo. Law. 77 (Aug. 2013); for article, "DOMA After U.S. v. Windsor: Navigating an Era of Change Part I", see 43 Colo. Law. 65 (May 2014).

14-15-101. Short title. This article is known as the "Colorado Civil Union Act".

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 147, § 1, effective May 1.

14-15-102. Legislative declaration. The general assembly declares that the public policy of this state, as set forth in section 31 of article II of the state constitution, recognizes only the union of one man and one woman as a marriage. The general assembly declares that the purpose of this article is to provide eligible couples the opportunity to obtain the benefits, protections, and responsibilities afforded by Colorado law to spouses consistent with the principles of equality under law and religious freedom embodied in both the United States constitution and the constitution of this state. The general assembly declares that a second purpose of the act is to protect individuals who are or may become partners in a civil union against discrimination in employment, housing, and in places of public accommodation. The general assembly further finds that the general assembly, in the exercise of its plenary power, has the authority to define other arrangements, such as a civil union between two unmarried persons regardless of their gender, and to set forth in statute any state-level benefits, rights, and protections to which a couple is entitled by virtue of entering into a civil union. The general assembly finds that the "Colorado Civil Union Act" does not alter the public policy of this state, which recognizes only the union of one man and one woman as a marriage. The general assembly also declares that a third purpose in enacting the "Colorado Civil Union Act" is to state that Colorado courts may offer same-sex couples the equal protection of the law and to give full faith and credit to recognize relationships legally created in other jurisdictions that are similar to civil unions created by this article and that are not otherwise recognized pursuant to Colorado law.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 147, § 1, effective May 1.

Cross references: For the validity or recognition of marriages in this state, see section 31 of article II of the state constitution.

14-15-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Civil union" means a relationship established by two eligible persons pursuant to this article that entitles them to receive the benefits and protections and be subject to the responsibilities of spouses.

(2) "Civil union certificate" means a document that certifies that the persons named in the certificate have established a civil union in this state in compliance with this article.

(3) "Department" means the department of public health and environment.

(4) "Marriage" means the legally recognized union of one man and one woman.

(5) "Partner in a civil union" or "party to a civil union" means a person who has established a civil union pursuant to this article.

(6) "Spouses" means two persons who are married pursuant to the provisions of the "Uniform Marriage Act", part 1 of article 2 of this title.

(7) "State registrar" means the state registrar of vital statistics in the department.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 148, § 1, effective May 1.

14-15-104. Requisites of a valid civil union. (1) To establish a civil union in Colorado, the two parties to the civil union shall satisfy all of the following criteria:

(a) Both parties are adults, regardless of the gender of either party;

(b) Neither party is a party to another civil union;

(c) Neither party is married to another person.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 148, § 1, effective May 1.

14-15-105. Individual - civil union with relative - prohibited. (1) An individual shall not enter into a civil union with an ancestor or a descendant or with a brother or a sister, whether the relationship is by the half or the whole blood.

(2) An individual shall not enter into a civil union with an uncle or aunt or with a niece or nephew, whether the relationship is by the half or the whole blood.

(3) A civil union between persons prohibited from entering into a civil union by subsection (1) or (2) of this section is void.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 148, § 1, effective May 1.

14-15-106. Restrictions as to minors and wards. (1) A county clerk and recorder shall not issue a civil union license if either party to the intended civil union is:

(a) Under eighteen years of age; or

(b) Eighteen years of age or older and under guardianship, unless the party under guardianship has the written consent of his or her guardian.

(2) A violation of subsection (1) of this section makes the civil union void.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 149, § 1, effective May 1.

14-15-107. Rights, benefits, protections, duties, obligations, responsibilities, and other incidents of parties to a civil union. (1) A party to a civil union has the rights, benefits, protections, duties, obligations, responsibilities, and other incidents under law as are granted to or imposed upon spouses, whether those rights, benefits, protections, duties, obligations, responsibilities, and other incidents derive from statute, administrative or court rule, policy, common law, or any other source of law.

(2) A party to a civil union is included in any definition or use of the terms "dependent", "family", "heir", "immediate family", "next of kin", "spouse", and any other term that denotes

the familial or spousal relationship, as those terms are used throughout the Colorado Revised Statutes.

(3) Parties to a civil union are responsible for the financial support of one another in the manner prescribed under law for spouses.

(4) The law of domestic relations, including but not limited to declaration of invalidity, legal separation, dissolution, child custody, allocation of parental responsibilities, parenting time, child support, property division, maintenance, and award of attorney fees, applies to civil unions.

(5) Rights, benefits, protections, duties, obligations, responsibilities, and other incidents under law as are granted to or imposed upon spouses, that apply in like manner to parties to a civil union under this section, include but are not limited to:

(a) Laws relating to title, survivorship, or other incidents of or presumptions with respect to the acquisition, ownership, or transfer, inter vivos or at death, of real or personal property;

(b) Causes of action related to or dependent upon spousal status, including an action based on wrongful death, emotional distress, loss of consortium, dramshop laws, or other torts or actions under contracts reciting, related to, or dependent upon spousal status;

(c) Prohibitions against discrimination based upon spousal status, including but not limited to the provisions of parts 3 to 7 of article 34 of title 24, C.R.S.;

(d) Title 15, C.R.S., including but not limited to matters concerning decedents' estates, wills, trusts, intestate succession, nonprobate transfers, wards, protected persons, and priority for appointment as a conservator, guardian, or personal representative;

(e) Workers' compensation benefits;

(f) The right of a partner in a civil union to be treated as a family member or as a spouse under the "Colorado Employment Security Act" for purposes of unemployment benefits;

(g) Adoption law and procedure;

(h) Group benefit plans for state employees pursuant to part 6 of article 50 of title 24, C.R.S.;

(i) The right to designate a party to a civil union as a beneficiary under the state public employees' retirement system;

(j) Survivor benefits under local government firefighter and police pensions;

(k) Domestic abuse programs pursuant to article 7.5 of title 26, C.R.S., emergency protection orders pursuant to section 13-14-103, C.R.S., and the right to receive the protections and programs specified in part 8 of article 6 of title 18, C.R.S.;

(l) Rights to apply for compensation as a relative of a victim under the "Colorado Crime Victim Compensation Act", pursuant to part 1 of article 4.1 of title 24, C.R.S., rights to receive restitution under part 2 of article 4.1 of title 24, C.R.S., and the right to be informed of critical stages of the criminal justice process and to be accorded the rights and protections of victims of and witnesses to crimes under parts 2 and 3 of article 4.1 of title 24, C.R.S.;

(m) Laws, policies, or procedures relating to emergency and nonemergency medical care and treatment and hospital visitation and notification, including the rights of nursing home patients described in section 25-1-120, C.R.S.;

(n) Laws or rules regarding the right to visit a partner who is in a correctional facility, as defined in section 17-1-102 (1.7), a local jail, as defined in section 17-1-102 (7), or a private contract prison, as defined in section 17-1-102 (7.3), or who is receiving treatment in a public hospital or a licensed private hospital, clinic, community mental health center or clinic, or acute treatment unit or institution that provides treatment for a person with a behavioral or mental health disorder;

(o) Laws relating to:

(I) Declarations concerning the administration, withholding, or withdrawing of medical treatment, which declarations are made pursuant to the provisions of the "Colorado Medical Treatment Decision Act", article 18 of title 15, C.R.S.;

(II) Proxy decision-makers for medical treatment and surrogate decision-makers for health care benefit decisions, as described in article 18.5 of title 15, C.R.S.;

(III) Directives relating to cardiopulmonary resuscitation, as described in article 18.6 of title 15, C.R.S.; and

(IV) Directives concerning medical orders for scope of treatment forms, as described in article 18.7 of title 15, C.R.S.;

(p) Rights concerning direction of the disposition of the last remains of a deceased party to a civil union pursuant to article 19 of title 15, C.R.S.;

(q) Laws relating to making, revoking, and objecting to anatomical gifts by others pursuant to the "Revised Uniform Anatomical Gift Act", part 2 of article 19 of title 15;

(r) Family leave benefits;

(s) Public assistance benefits pursuant to state law;

(t) Laws relating to immunity from compelled testimony and evidentiary privileges pursuant to section 13-90-107, C.R.S.;

(u) The right to apply for emergency or involuntary certification of a party to a civil union;

(v) The homestead rights of a spouse pursuant to part 2 of article 41 of title 38, C.R.S.;

(w) The ability to protect exempt property from attachment, execution, or garnishment;

(x) (I) Insurance policies for life insurance, including the ability to cover a party to a civil union as a dependent.

(II) This paragraph (x) is effective for plans issued, delivered, or renewed on or after January 1, 2014.

(y) (I) Insurance coverage provided by a health coverage plan, including the ability to cover a party to a civil union as a dependent.

(II) This paragraph (y) is effective for plans issued, delivered, or renewed on or after January 1, 2014.

(z) (I) Other insurance policies that provide coverage relating to joint ownership of property.

(II) This paragraph (z) is effective for plans issued, delivered, or renewed on or after January 1, 2014.

(6) The responsibilities and rights of parties to a civil union with respect to the biological child of one of the parties, which child is conceived during the term of the civil union, are determined as if the parties were spouses subject to the provisions of section 19-4-105, C.R.S. A party to a civil union has the right to adopt through the same process outlined for a stepparent adoption in accordance with section 19-5-203, C.R.S., if the child of the other party to the civil union is otherwise available for adoption pursuant to section 19-5-203 (1)(d), C.R.S.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 149, § 1, effective May 1. **L. 2017:** (5)(n) amended, (SB 17-242), ch. 263, p. 1295, § 114, effective May 25; (5)(q) amended, (SB 17-223), ch. 158, p. 558, § 5, effective August 9. **L. 2020:** (5)(u) amended, (SB 20-136), ch.70, p. 282, § 5, effective September 14.

Cross references: (1) For the "Colorado Employment Security Act", see articles 70 to 82 of title 8.

(2) (a) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

(2) (b) For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

14-15-108. Modification of civil union terms through an agreement. (1) Parties to a civil union may create agreements modifying the terms, conditions, or effects of a civil union in the manner specified in part 3 of article 2 of this title.

(2) Notwithstanding the provisions of subsection (1) of this section, the provisions of this article and the provisions of part 3 of article 2 of this title do not invalidate or affect an otherwise valid domestic partnership agreement or civil contract between two individuals who are not married to each other in which the individuals set forth an agreement about the rights and responsibilities regarding matters similar to those that may be addressed by a contract under part 3 of article 2 of this title if the agreement or contract was made prior to May 1, 2013, or, if made on or after May 1, 2013, the agreement or contract is not made in contemplation of entering into a civil union under this article.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 152, § 1, effective May 1.

14-15-109. Civil union license and certificate. (1) The executive director of the department shall prescribe the form for an application for a civil union license, consisting of, at a minimum, the following information:

(a) Name, sex, address, social security number, and date and place of birth of each party to the proposed civil union. For such purpose, proof of date of birth may be obtained from a birth certificate, a driver's license, or other comparable evidence.

(b) If either party has previously been married or has previously been a party to a civil union, the name of the spouse or the name of the other party and the date, place, and court in

which the marriage or civil union was dissolved or declared invalid or the date and place of death of the deceased spouse or the deceased party to a civil union;

(c) Name and address of the parents or guardian of each party; and

(d) Whether the parties are related to each other and, if so, their relationship.

(2) The executive director of the department shall prescribe the forms for the civil union license and the civil union certificate. The department shall provide the forms to the county clerk and recorders in the state.

(3) A civil union license and a civil union certificate do not constitute evidence of the parties' intent to create a common law marriage.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 152, § 1, effective May 1. **L. 2016:** (3) added, (SB 16-150), ch. 263, p. 1080, § 4, effective June 8.

Cross references: For the legislative declaration in SB 16-150, see section 1 of chapter 263, Session Laws of Colorado 2016.

14-15-110. Issuance of a civil union license - certification - fee. (1) When both parties to a proposed civil union complete a civil union application and at least one party appears before the county clerk and recorder and pays to the county clerk and recorder the civil union license fee and other fees described in subsection (2) of this section, and the county clerk and recorder determines that the parties meet the criteria specified in sections 14-15-104, 14-15-105, and 14-15-106, the county clerk and recorder shall issue a civil union license and a civil union certificate form. Both parties to the proposed civil union shall sign the application attesting to the accuracy of the facts stated.

(2) The civil union license fee is seven dollars plus an additional amount established pursuant to section 25-2-121, C.R.S. The county clerk and recorder shall forward the additional amount to the state treasurer who shall credit it to the vital statistics records cash fund pursuant to section 25-2-121, C.R.S. In addition, the county clerk and recorder shall collect a fee of twenty dollars to be transmitted by the county clerk and recorder to the state treasurer who shall credit the same to the Colorado domestic abuse program fund created in section 39-22-802 (1), C.R.S.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 153, § 1, effective May 1.

14-15-111. When civil union licenses issued - validity. The county clerk and recorder shall issue a civil union license only during the hours that the office of the county clerk and recorder is open as prescribed by law and at no other time and shall show the exact date and hour of the license's issue. A civil union license is not valid for use outside the state of Colorado. Within the state, a civil union license is not valid for more than thirty-five days after the date of issue. If a civil union license is not used within thirty-five days, it is void, and one of the parties

shall return the civil union license to the county clerk and recorder that issued the license for cancellation.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 153, § 1, effective May 1.

14-15-112. Persons authorized to certify civil unions - registration - fee. (1) A civil union may be certified by a judge of a court, by a district court magistrate, by a county court magistrate, by a retired judge of a court, by the parties to the civil union, or in accordance with any mode of recognition of a civil union by any religious denomination or Indian nation or tribe.

(2) Within sixty-three days after the date on which the civil union is certified, either the person certifying the civil union or, if no individual acting alone certifies the civil union, a party to the civil union shall complete the civil union certificate and return the certificate to the county clerk and recorder's office that issued the license. A person who fails to return the civil union certificate to the county clerk and recorder as required by this section shall pay to the county clerk and recorder a late fee in an amount not less than twenty dollars. The county clerk and recorder may assess an additional five-dollar late fee for each additional day of failure to comply with the return requirements of this subsection (2), up to a maximum of fifty dollars. For purposes of determining whether to assess a late fee pursuant to this subsection (2), the date of return is deemed to be the date of postmark.

(3) Upon receiving the civil union certificate, the county clerk and recorder shall register the civil union.

(4) A priest, minister, rabbi, or other official of a religious institution or denomination or an Indian nation or tribe is not required to certify a civil union in violation of his or her right to the free exercise of religion guaranteed by the first amendment to the United States constitution and by section 4 of article II of the state constitution.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 153, § 1, effective May 1.

14-15-113. Civil union license required for certification. Persons authorized by section 14-15-112 to certify civil unions shall require a civil union license from the parties before certifying the civil union.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 154, § 1, effective May 1.

14-15-114. Evidence of civil union. A copy of the civil union certificate received from the county clerk and recorder or a record of the civil union received from the state registrar is presumptive evidence of the civil union in all courts.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 154, § 1, effective May 1.

14-15-115. Dissolution, legal separation, and declaration of invalidity of civil unions - jurisdiction - venue. (1) Any person who enters into a civil union in Colorado consents to the jurisdiction of the courts of Colorado for the purpose of any action relating to a civil union even if one or both parties cease to reside in this state.

(2) The district court has jurisdiction over all proceedings relating to the dissolution of a civil union, legal separation of a civil union, or the declaration of invalidity of a civil union, regardless of the jurisdiction where the civil union was entered into. The court shall follow the procedures specified in article 10 of this title, including the same domicile requirements for a dissolution, legal separation, or declaration of invalidity for such proceedings.

(3) A proceeding relating to the dissolution of a civil union, legal separation of a civil union, or the declaration of invalidity of a civil union may be held in the county where the petitioner or respondent resides or where the parties' civil union certificate was issued; except that process may be directed to any county in the state. A respondent's objection to venue is waived if not made within such time as the respondent's response is due.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 154, § 1, effective May 1.

14-15-116. Reciprocity - principle of comity.

(1) Repealed.

(2) Under principles of comity, a civil union, domestic partnership, or substantially similar legal relationship between two persons that is legally created in another jurisdiction shall be deemed to be a civil union for purposes of Colorado law as set forth in this article.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 155, § 1, effective May 1. **L. 2016:** (1) repealed, (SB 16-150), ch. 263, p. 1080, § 5, effective June 8.

Cross references: For the legislative declaration in SB 16-150, see section 1 of chapter 263, Session Laws of Colorado 2016.

14-15-117. Application of article to joint tax returns - legislative declaration. (1) The general assembly finds that some partners in a civil union may legally have their federal taxable income determined on either separate federal tax returns or on a joint federal tax return. Since Colorado income tax filings are tied to the federal income tax form by requiring taxpayers to pay a percentage of their federal taxable income as their state income taxes:

(a) Partners in a civil union who have their federal taxable income determined on separate federal tax returns must have such income separately determined for purposes of the Colorado income tax; and

(b) Partners in a civil union who have their federal taxable income determined on a joint federal tax return must have their state taxable income determined based on their joint federal taxable income.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 155, § 1, effective May 1. **L. 2014:** Entire section R&RE, (SB 14-019), ch. 10, p. 96, § 1, effective February 27.

14-15-118. Construction. The provisions of this article shall not be construed to create a marriage between the parties to a civil union or alter the public policy of this state, which recognizes only the union of one man and one woman as a marriage.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 155, § 1, effective May 1.

14-15-118.5. Construction - effect when parties to a civil union marry - dissolution process. (1) When parties who have entered into a civil union pursuant to this article subsequently marry, the effect is a merger of the two relationship statuses. Once merged, the civil union terminates as of the date of the solemnization of the marriage or determination of a common law marriage and no separate dissolution of the civil union is required.

(2) If one or both parties to a marriage that has been merged with a civil union subsequently desire to dissolve the marriage, legally separate, or have the marriage declared invalid, one or both of the parties must file a petition in accordance with the procedures specified in article 10 of this title.

(3) If a civil union and marriage were merged, any calculation of the duration of the marriage includes the time period during which the parties were in a civil union.

Source: L. 2016: Entire section added, (SB 16-150), ch. 263, p. 1080, § 6, effective June 8.

Cross references: For the legislative declaration in SB 16-150, see section 1 of chapter 263, Session Laws of Colorado 2016.

14-15-119. Severability. If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Source: L. 2013: Entire article added, (SB 13-011), ch. 49, p. 155, § 1, effective May 1.