

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB23-1026 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. In Colorado Revised Statutes, add with amended**
4 **and relocated provisions, 14-10-124.4 and 14-10-124.5 as follows:**

5 **14-10-124.4. Family time for grandparents or**
6 **great-grandparents - short title - legislative declaration - definitions.**

7 (1) THE SHORT TITLE OF THIS SECTION IS THE "GRANDPARENTS' RIGHTS
8 FOR AALIYAH AND MYAH ACT".

9 (2) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

10 (I) A CLOSE RELATIONSHIP BETWEEN GRANDPARENTS OR
11 GREAT-GRANDPARENTS AND GRANDCHILDREN OR GREAT-GRANDCHILDREN
12 CAN BE BENEFICIAL FOR THE HEALTH AND WELL-BEING OF
13 GRANDCHILDREN OR GREAT-GRANDCHILDREN;

14 (II) GRANDPARENTS OR GREAT-GRANDPARENTS MAY PROVIDE
15 ACCEPTANCE, PATIENCE, LOVE, STABILITY, WISDOM, AND SUPPORT TO
16 GRANDCHILDREN OR GREAT-GRANDCHILDREN; AND

17 (III) GRANDCHILDREN OR GREAT-GRANDCHILDREN WHO GROW UP
18 WITH A GREATER EMOTIONAL CONNECTION TO THEIR GRANDPARENTS OR
19 GREAT-GRANDPARENTS ARE LESS LIKELY TO BE DEPRESSED AS ADULTS.

20 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT IT MAY BE IN
21 THE BEST INTERESTS OF GRANDCHILDREN OR GREAT-GRANDCHILDREN FOR
22 GRANDPARENTS OR GREAT-GRANDPARENTS TO BE GRANTED
23 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME BECAUSE OF THE
24 POSITIVE EFFECTS THE RELATIONSHIP MAY HAVE ON A GRANDCHILD'S OR
25 GREAT-GRANDCHILD'S HEALTH AND WELL-BEING.

26 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

28 (a) "GRANDPARENT" MEANS A PERSON WHO IS THE PARENT OF A
29 CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE CHILD BY BLOOD, IN
30 WHOLE OR BY HALF, ADOPTION, OR MARRIAGE; EXCEPT THAT
31 "GRANDPARENT" DOES NOT INCLUDE THE PARENT OF A CHILD'S LEGAL
32 FATHER OR MOTHER WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED
33 IN ACCORDANCE WITH SECTIONS 19-5-101 AND 19-1-104 (1)(d).

34 (b) "GREAT-GRANDPARENT" MEANS A PERSON WHO IS THE
35 GRANDPARENT OF A CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE
36 CHILD BY BLOOD, IN WHOLE OR BY HALF, ADOPTION, OR MARRIAGE;
37 EXCEPT THAT "GREAT-GRANDPARENT" DOES NOT INCLUDE THE
38 GRANDPARENT OF A CHILD'S LEGAL FATHER OR MOTHER WHOSE PARENTAL
39 RIGHTS HAVE BEEN TERMINATED IN ACCORDANCE WITH SECTIONS
40 19-5-101 AND 19-1-104 (1)(d).

1 (c) "GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME" OR
2 "GRANDPARENT FAMILY TIME" MEANS ANY FORM OF CONTACT OR
3 ENGAGEMENT BETWEEN GRANDPARENTS OR GREAT-GRANDPARENTS AND
4 THEIR GRANDCHILDREN OR GREAT-GRANDCHILDREN FOR THE PURPOSES OF
5 PRESERVING AND STRENGTHENING FAMILY TIES.

6 (4) **[Formerly 19-1-117 (1)]** Any grandparent or
7 great-grandparent of a child may, in the manner set forth in this section,
8 seek a court order granting ~~the grandparent or great-grandparent~~
9 reasonable ~~visitation rights~~ GRANDPARENT FAMILY TIME WITH A
10 GRANDCHILD OR GREAT-GRANDCHILD when there is or has been a child
11 custody case or a case concerning the allocation of parental
12 responsibilities ~~relating to that child~~ WITH RESPECT TO THAT CHILD.
13 Because cases arise that do not directly deal with child custody or the
14 allocation of parental responsibilities but nonetheless have an impact on
15 the custody of, or parental responsibilities with respect to a child, for the
16 purposes of this section, a "case concerning the allocation of parental
17 responsibilities with respect to a child" includes any of the following,
18 whether or not child custody was or parental responsibilities were
19 specifically an issue:

20 (a) ~~That~~ The marriage of the child's parents has been declared
21 invalid or has been dissolved by a court or ~~that~~ a court has entered a
22 decree of legal separation with regard to such marriage;

23 (b) ~~That~~ Legal custody of or parental responsibilities with respect
24 to the child have been given or allocated to a party other than the child's
25 parent or ~~that~~ the child has been placed outside of and does not reside in
26 the home of the child's parent, excluding any child who has been placed
27 for adoption or whose adoption has been legally finalized; or

28 (c) ~~That~~ The child's parent, who is the child of the grandparent or
29 grandchild of the great-grandparent, has died.

30 (5) **[Formerly 19-1-117 (2)]** A party seeking ~~a grandchild or~~
31 ~~great-grandchild visitation~~ GRANDPARENT FAMILY TIME order shall
32 submit, together with ~~his or her motion for visitation~~ THE PARTY'S
33 PETITION FOR GRANDPARENT FAMILY TIME, to the district court for the
34 district in which the child resides, an affidavit setting forth facts
35 supporting the requested order and shall give notice, together with a copy
36 of ~~his or her~~ THE PARTY'S affidavit, to ~~the party who has legal custody of~~
37 ~~the child or to the party with parental responsibilities~~ EACH PARTY
38 INVOLVED IN THE ALLOCATION OF PARENTAL RESPONSIBILITIES
39 PROCEEDINGS as determined by a court pursuant to THIS article 10. ~~of title~~
40 ~~14, C.R.S.~~ The party with legal custody or parental responsibilities as
41 determined by a court pursuant to THIS article 10, ~~of title 14, C.R.S.~~ may
42 file opposing affidavits. If neither party requests a hearing, the court shall
43 enter an order granting ~~grandchild or great-grandchild visitation rights~~

1 GRANDPARENT FAMILY TIME to the petitioning grandparent or
2 great-grandparent only upon a finding that the GRANDPARENT FAMILY
3 TIME is in the best interests of the child. A hearing ~~shall~~ MUST be held if
4 either party so requests or if it appears to the court that it is in the best
5 interests of the child that a hearing be held. At the hearing, parties
6 submitting affidavits ~~shall be~~ ARE allowed an opportunity to be heard. If,
7 at the conclusion of the hearing, the court finds it is in the best interests
8 of the child to grant ~~grandchild or great-grandchild visitation rights~~
9 GRANDPARENT FAMILY TIME to the petitioning grandparent or
10 great-grandparent, the court shall enter an order granting ~~such rights~~
11 FAMILY TIME. IN DETERMINING THE BEST INTERESTS OF THE CHILD FOR THE
12 PURPOSE OF GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME, THE
13 COURT SHALL PRESUME THE PARENTAL DETERMINATION REGARDING
14 GRANDPARENT TIME IS IN THE BEST INTERESTS OF THE CHILD. A
15 GRANDPARENT OR GREAT-GRANDPARENT MAY OVERCOME THE
16 PRESUMPTION UPON A SHOWING BY CLEAR AND CONVINCING EVIDENCE
17 THAT THE GRANDPARENT FAMILY TIME IS IN THE CHILD'S BEST INTERESTS.
18 IN MAKING THIS DETERMINATION, THE COURT SHALL CONSIDER THE
19 FACTORS DESCRIBED IN SECTION 14-10-124 (1.5)(a).

20 (6) THE COURT MAY APPOINT A LEGAL REPRESENTATIVE OF A
21 CHILD PURSUANT TO SECTION 14-10-116 TO REPRESENT THE BEST
22 INTERESTS OF THE CHILD IN A PROCEEDING PURSUANT TO SUBSECTION (5)
23 OF THIS SECTION.

24 (7) **[Formerly 19-1-117 (3)]** A grandparent or great-grandparent
25 shall not file ~~an affidavit~~ A PETITION seeking an order granting ~~grandchild~~
26 ~~or great-grandchild visitation rights~~ GRANDPARENT FAMILY TIME more
27 than once every two years absent a showing of good cause. If the court
28 finds there is good cause to file more than one such ~~affidavit~~ PETITION, it
29 shall allow ~~such additional affidavit~~ SUCH ADDITIONAL PETITION to be
30 filed and shall consider it. The court may order reasonable attorney fees
31 to the prevailing party. The court may not make any order restricting the
32 movement of the child if such restriction is solely for the purpose of
33 allowing the grandparent or great-grandparent the opportunity to exercise
34 ~~his grandchild or great-grandchild visitation rights~~ THE GRANDPARENT'S
35 OR GREAT-GRANDPARENT'S FAMILY TIME WITH THE GRANDCHILD OR
36 GREAT-GRANDCHILD.

37 (8) **[Formerly 19-1-117 (4)]** ~~The court may make an order~~
38 ~~modifying or terminating grandchild or great-grandchild visitation rights~~
39 ~~whenever such order would serve the best interests of the child~~ THE
40 COURT MAY ESTABLISH, MODIFY, OR TERMINATE GRANDPARENT FAMILY
41 TIME IF THE ORDER WOULD SERVE THE BEST INTERESTS OF THE CHILD.

42 (9) **[Formerly 19-1-117 (5)]** ~~Any order granting or denying~~
43 ~~parenting time rights to the parent of a child shall not affect visitation~~

1 ~~rights granted to a grandparent or great-grandparent pursuant to this~~
2 ~~section~~ AN ORDER ESTABLISHING, GRANTING, OR DENYING PARENTING
3 TIME RIGHTS TO THE PARENT OF A CHILD DOES NOT AFFECT GRANDPARENT
4 FAMILY TIME GRANTED TO A GRANDPARENT OR GREAT-GRANDPARENT AS
5 LONG AS THE GRANDPARENT FAMILY TIME IS IN THE BEST INTERESTS OF
6 THE CHILD PURSUANT TO THIS SECTION.

7 (10) THIS SECTION DOES NOT AUTHORIZE VISITATION FOR A
8 PERSON WHO IS NOT NAMED IN THE ORDER ESTABLISHING A GRANDPARENT
9 OR GREAT-GRANDPARENT FAMILY TIME WITH THE GRANDCHILD OR
10 GREAT-GRANDCHILD.

11 **14-10-124.5. [Formerly 19-1-117.5] Disputes concerning**
12 **grandparent or great-grandparent family time.** (1) Upon a verified
13 motion by a grandparent or great-grandparent who has been granted
14 ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME or upon
15 the court's own motion alleging that the person with legal custody or
16 parental responsibilities of the child as determined by a court pursuant to
17 THIS article 10 of title 14, C.R.S. with whom ~~visitation~~ GRANDPARENT
18 FAMILY TIME has been granted is not complying with a grandparent or
19 great-grandparent ~~visitation~~ FAMILY TIME order or schedule, the court
20 shall determine from the verified motion, and response to the motion, if
21 any, whether there has been or is likely to be a substantial and continuing
22 noncompliance with the grandparent or great-grandparent ~~visitation~~
23 FAMILY TIME order or schedule and either:

24 (a) Deny the motion, if there is an inadequate allegation; or

25 (b) Set the matter for hearing with notice to the grandparent or
26 great-grandparent and the person with legal custody or parental
27 responsibilities of the child as determined by the court of the time and
28 place of the hearing; or

29 (c) Require said parties to seek mediation and report back to the
30 court on the results of the mediation within sixty days. Mediation services
31 ~~shall~~ MUST be provided in accordance with section 13-22-305, C.R.S. At
32 the end of the mediation period, the court may approve an agreement
33 reached by the parties or shall set the matter for hearing.

34 (2) After the hearing, if a court finds that the person with legal
35 custody or parental responsibilities of the child as determined by the court
36 has not complied with the ~~visitation~~ GRANDPARENT OR
37 GREAT-GRANDPARENT FAMILY TIME order or schedule and has violated the
38 court order, the court, in the best interests of the child, may issue orders
39 which may include but need not be limited to:

40 (a) Imposing additional terms and conditions which are consistent
41 with the court's previous order;

42 (b) Modifying the previous order to meet the best interests of the
43 child;

1 (c) Requiring the violator to post bond or security to insure future
2 compliance;

3 (d) Requiring that makeup ~~visitation~~ GRANDPARENT OR
4 GREAT-GRANDPARENT FAMILY TIME be provided for the aggrieved
5 grandparent or great-grandparent and child under the following
6 conditions:

7 (I) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT
8 FAMILY TIME is of the same type and duration of ~~visitation~~ GRANDPARENT
9 OR GREAT-GRANDPARENT FAMILY TIME as that which was denied,
10 including but not limited to ~~visitation~~ GRANDPARENT OR
11 GREAT-GRANDPARENT FAMILY TIME during weekends, on holidays, and
12 on weekdays and during the summer;

13 (II) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT
14 FAMILY TIME is made up within one year after the noncompliance occurs;
15 OR

16 (III) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT
17 FAMILY TIME is in the manner chosen by the aggrieved grandparent or
18 great-grandparent if it is in the best interests of the child;

19 (e) Finding the person who did not comply with the ~~visitation~~
20 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME schedule in
21 contempt of court and imposing a fine or jail sentence; AND

22 (f) Awarding to the aggrieved party, ~~where~~ WHEN appropriate,
23 actual expenses, including attorney fees, court costs, and expenses
24 incurred by a grandparent or great-grandparent because of the other
25 person's failure to provide or exercise court-ordered ~~visitation~~
26 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME. Nothing in this
27 section ~~shall preclude~~ PRECLUDES a party's right to a separate and
28 independent legal action in tort.

29 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
30 REQUIRES:

31 (a) "GRANDPARENT" HAS THE SAME MEANING AS SET FORTH IN
32 SECTION 14-10-124.4.

33 (b) "GREAT-GRANDPARENT" HAS THE SAME MEANING AS SET
34 FORTH IN SECTION 14-10-124.4.

35 (c) "GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME" OR
36 "GRANDPARENT FAMILY TIME" HAS THE SAME MEANING AS SET FORTH IN
37 SECTION 14-10-124.4.

38 **SECTION 2.** In Colorado Revised Statutes, 14-10-129, **amend**
39 (1)(b)(I) as follows:

40 **14-10-129. Modification of parenting time.** (1) (b) (I) The court
41 shall not restrict a parent's parenting time rights unless it finds that the
42 parenting time would endanger the child's physical health or significantly
43 impair the child's emotional development. In addition to a finding that

1 parenting time would endanger the child's physical health or significantly
2 impair the child's emotional development, in any order imposing or
3 continuing a parenting time restriction, the court shall enumerate the
4 specific factual findings supporting the restriction. Nothing in this section
5 shall be construed to affect grandparent or great-grandparent ~~visitation~~
6 FAMILY TIME granted pursuant to ~~section 19-1-117, C.R.S.~~ SECTION
7 14-10-124.4.

8 **SECTION 3.** In Colorado Revised Statutes, **amend** 14-10-131.8
9 as follows:

10 **14-10-131.8. Construction of 1999 revisions.** The enactment of
11 the 1999 revisions to this ~~article~~ ARTICLE 10 does not constitute
12 substantially changed circumstances for the purposes of modifying
13 decrees involving child custody, parenting time, or grandparent ~~visitation~~
14 OR GREAT-GRANDPARENT FAMILY TIME. Any action to modify any decree
15 involving child custody, parenting time, grandparent or great-grandparent
16 ~~visitation~~ FAMILY TIME, or a parenting plan ~~shall be~~ IS governed by the
17 provisions of this ~~article~~ ARTICLE 10.

18 **SECTION 4.** In Colorado Revised Statutes, 14-13-102, **amend**
19 (3) and (4) as follows:

20 **14-13-102. Definitions.** As used in this article 13, unless the
21 context otherwise requires:

22 (3) "Child-custody determination" means a judgment, decree, or
23 other order of a court providing for the legal custody or physical custody
24 of a child or allocating parental responsibilities with respect to a child or
25 providing for visitation, parenting time, or grandparent or
26 great-grandparent ~~visitation~~ FAMILY TIME with respect to a child. The term
27 includes a permanent, temporary, initial, and modification order. The term
28 does not include an order relating to child support or other monetary
29 obligation of an individual.

30 (4) "Child-custody proceeding" means a proceeding in which legal
31 custody or physical custody with respect to a child or the allocation of
32 parental responsibilities with respect to a child or visitation, parenting
33 time, or grandparent or great-grandparent ~~visitation~~ FAMILY TIME with
34 respect to a child is an issue. The term includes a proceeding for divorce,
35 dissolution of marriage, legal separation, neglect, abuse, dependency,
36 guardianship, paternity, termination of parental rights, and protection
37 from domestic violence and domestic abuse, in which the issue may
38 appear. The term does not include a proceeding involving juvenile
39 delinquency, except when such court is entering an order to allocate
40 parental responsibilities; contractual emancipation; or enforcement under
41 part 3 of this article 13.

42 **SECTION 5.** In Colorado Revised Statutes, 19-1-103, **repeal**
43 (70)(b) and (71) as follows:

1 **19-1-103. Definitions.** As used in this title 19 or in the specified
2 portion of this title 19, unless the context otherwise requires:

3 (70) (b) ~~"Grandparent", as used in sections 19-1-117 and~~
4 ~~19-1-117.5, has the same meaning as set forth in subsection (70)(a) of this~~
5 ~~section; except that "grandparent" does not include the parent of a child's~~
6 ~~legal father or mother whose parental rights have been terminated in~~
7 ~~accordance with sections 19-5-101 and 19-1-104 (1)(d).~~

8 (71) ~~"Great-grandparent", as used in sections 19-1-117 and~~
9 ~~19-1-117.5, means a person who is the grandparent of a child's father or~~
10 ~~mother, who is related to the child by blood, in whole or by half,~~
11 ~~adoption, or marriage. "Great-grandparent" does not include the~~
12 ~~grandparent of a child's legal father or mother whose parental rights have~~
13 ~~been terminated in accordance with sections 19-5-101 and 19-1-104~~
14 ~~(1)(d).~~

15 **SECTION 6.** In Colorado Revised Statutes, 19-4-105.5, **amend**
16 **(5)(c)(I)** introductory portion as follows:

17 **19-4-105.5. Commencement of proceedings - summons -**
18 **automatic temporary injunction - enforcement.** (5) A summons issued
19 upon commencement of a proceeding under this article shall contain the
20 following advisements and notice:

21 (c) (I) That, except in proceedings initiated pursuant to ~~section~~
22 ~~19-1-117~~ **SECTION 14-10-124.4** or in proceedings initiated by a delegate
23 child support enforcement unit, as defined in section 26-13-102.5 (1),
24 ~~C.R.S.~~ pursuant to article 13 or 13.5 of title 26, ~~C.R.S.~~, or article 5 of title
25 14, ~~C.R.S.~~ upon personal service of the petition and summons on a
26 respondent or upon waiver and acceptance of service by a respondent, a
27 temporary injunction shall be in effect against both parties:

28 **SECTION 7. Repeal of relocated provisions in this act.** In
29 Colorado Revised Statutes, **repeal** 19-1-117 and 19-1-117.5.

30 **SECTION 8. Safety clause.** The general assembly hereby finds,
31 determines, and declares that this act is necessary for the immediate
32 preservation of the public peace, health, or safety."

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