

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 15-0367.01 Brita Darling x2241

SENATE BILL 15-129

SENATE SPONSORSHIP

Lundberg,

HOUSE SPONSORSHIP

Kagan,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PRESERVING THE PARENT-CHILD RELATIONSHIP IN**
102 **DOMESTIC RELATIONS ACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill amends provisions relating to best interests of a child in domestic relations actions and certain other actions in the juvenile code. With respect to such actions, the bill:

- ! Amends the legislative declaration to emphasize the fundamental liberty interest of both parents and children in maintaining the parent-child relationship;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 24, 2015

SENATE
Amended 2nd Reading
March 23, 2015

- ! With respect to temporary orders hearings, if there has been a temporary or permanent protection order entered against one or both parties either prior to or in conjunction with the domestic relations action, requires the court to grant an expedited hearing at the request of either party for purposes of modifying provisions in the protection order relating to parenting time, communication, and access to a child. The court shall order substantially equal parenting time and access to the child unless it finds that such orders are clearly not in the child's best interest. The court shall also enter any orders necessary for the safety of the protected party relating to the restrained party's parenting time with the child.
- ! Changes the nature of an investigation by a court-appointed child and family investigator (CFI) from evaluation and recommendations to investigation and fact-finding. CFIs will conduct an objective investigation of issues as specifically directed by the court and will provide written factual findings to the court that are supported by credible evidence. A CFI's report will not make recommendations regarding the allocation of parental responsibilities but will provide the court with the factual findings the court deems necessary to make such determinations.
- ! Amends language in the legislative declaration regarding the allocation of parental rights and responsibilities relating to the best interests of the child. Also, the bill requires the court to allocate substantially equal parenting time unless the court finds that doing so would endanger a child's physical health or significantly impair the child's emotional development. In addition, the court shall award mutual decision-making responsibilities with respect to the child unless the court finds that such an order is clearly not in the child's best interest.
- ! For purposes of temporary orders in a domestic relations action, requires the court to award substantially equal parenting time to the parties unless the court finds that doing so would endanger a child's physical health or significantly impair the child's emotional development. In addition, the court shall order mutual decision-making responsibilities unless mutual decision-making is clearly not in the child's best interest.
- ! Changes the nature of an evaluation by a court-appointed parental responsibilities evaluator to an investigation by a mental health professional. The mental health investigation is limited to mental health diagnoses, assessments of

relevant addictions, or other mental health-related issues that are relevant to the court's allocation of parental responsibilities for the child. The investigator's report shall contain findings of fact but shall not contain conclusions or recommendations relating to the allocation of parental rights and responsibilities.

- ! Clarifies that the 2-year restriction on filing motions that request a substantial change in parenting time and that also change the party with whom the child resides the majority of the time do not apply to moderate changes to parenting time when the existing parenting time order awarded substantially equal parenting time to the parties; and
- ! Amends the provisions relating to modification of decision-making responsibility for a child from requiring the court to retain the prior decision-maker unless certain criteria are met to permitting the court to change the decision-maker after considering certain criteria, including whether an award of mutual decision-making responsibilities is now in the child's best interest.

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

2 **SECTION 1. In Colorado Revised Statutes, 14-10-102, amend**
3 **(2) as follows:**

4 **14-10-102. Purposes - rules of construction. (2) Its underlying**
5 **purposes are:**

6 **(a) To promote the amicable settlement of disputes that have**
7 **arisen between parties to a marriage;**

8 **(b) To mitigate the potential harm to the spouses and their**
9 **children caused by the process of legal dissolution of marriage; and**

10 **(c) TO PROTECT THE MUTUAL INTERESTS OF BOTH PARENTS AND**
11 **CHILD TO THE PARENT-CHILD RELATIONSHIP; AND**

12 **(e) (d) To make the law of legal dissolution of marriage more**
13 **effective for dealing with the realities of matrimonial experience by**
14 **making an irretrievable breakdown of the marriage relationship the sole**

1 basis for its dissolution.

2 **SECTION 2.** In Colorado Revised Statutes, **amend 14-10-104.5**
3 as follows:

4 **14-10-104.5. Legislative declaration.** The general assembly
5 recognizes that it is in the best interests of the parties to THE DISSOLUTION
6 OF a marriage in which a dissolution has been granted and OR
7 RELATIONSHIP in which there are children of the marriage OR
8 RELATIONSHIP for the parties to be able to resolve disputes that arise
9 subsequent to the dissolution in an amicable and fair manner. The general
10 assembly further recognizes that, in most cases, it is in the best interests
11 of the children of the marriage OR RELATIONSHIP to have a relationship
12 PARENTING TIME with both parents and that, in most cases, it is the
13 parents' right to have a relationship PARENTING TIME with their children.
14 The general assembly emphasizes that one of the underlying purposes of
15 this article is to mitigate the potential harm to the spouses PARTIES and
16 their children and the relationships between the parents and their children
17 caused by the process of legal dissolution of DISSOLVING THE marriage OR
18 RELATIONSHIP. The general assembly recognizes that when a marriage OR
19 RELATIONSHIP in which children are involved is dissolved both parties
20 either agree to or are subject to orders which contain certain obligations
21 and commitments. The general assembly declares that the honoring and
22 enforcing of those obligations and commitments made by both parties is
23 necessary to maintaining a relationship that is in the best interest of the
24 children. of the marriage. In recognition thereof the general assembly
25 hereby declares that both parties should honor and fulfill all of the
26 obligations and commitments made between the parties and ordered by
27 the court. FURTHER, THE GENERAL ASSEMBLY DECLARES THAT

1 PROTECTING AND PROMOTING THE PARENT-CHILD RELATIONSHIP OF BOTH
2 PARENTS AND CHILD IS OF PARAMOUNT IMPORTANCE, AND THAT
3 OUTCOMES FOR CHILDREN ARE USUALLY BETTER WHEN A CHILD HAS A
4 RELATIONSHIP WITH BOTH PARENTS.

5 **SECTION 3.** In Colorado Revised Statutes, 14-10-124, **add** (1.5)
6 (a.5) as follows:

7 **14-10-124. Best interests of child. (1.5) Allocation of parental**
8 **responsibilities.** The court shall determine the allocation of parental
9 responsibilities, including parenting time and decision-making
10 responsibilities, in accordance with the best interests of the child giving
11 paramount consideration to the child's safety and the physical, mental, and
12 emotional conditions and needs of the child as follows:

13 (a.5) IF THE COURT DOES NOT ORDER SUBSTANTIALLY EQUAL
14 PARENTING TIME BETWEEN THE PARTIES, UNLESS THE ORDER IS BASED ON
15 THE MUTUAL AGREEMENT OF THE PARTIES, THE COURT SHALL INCLUDE IN
16 ITS ORDER SPECIFIC FINDINGS OF FACT THAT SUPPORT WHY THE ORDER IS
17 IN THE BEST INTERESTS OF THE CHILD.

18 **SECTION 4.** In Colorado Revised Statutes, 14-10-108, **amend**
19 (1.5) as follows:

20 **14-10-108. Temporary orders in a dissolution case. (1.5)** The
21 court may consider the allocation of parental responsibilities in
22 accordance with the best interests of the child, with particular reference
23 to the factors specified in section 14-10-124 (1.5). IF THE COURT DOES
24 NOT ORDER SUBSTANTIALLY EQUAL PARENTING TIME BETWEEN THE
25 PARTIES, UNLESS THE ORDER IS BASED ON THE MUTUAL AGREEMENT OF
26 THE PARTIES, THE COURT SHALL INCLUDE IN ITS ORDER SPECIFIC FINDINGS
27 OF FACT THAT SUPPORT WHY THE ORDER IS IN THE BEST INTERESTS OF THE

1 CHILD.

2 SECTION 5. In Colorado Revised Statutes, 14-10-116.5, amend
3 (2) as follows:

4 14-10-116.5. Appointment in domestic relations cases - child
5 and family investigator - disclosure - background check. (2) A child
6 and family investigator appointed by the court may be an attorney, a
7 mental health professional, or any other individual with appropriate
8 training, qualifications, and an independent perspective acceptable to the
9 court. The child and family investigator for the court shall investigate,
10 report, and make recommendations as specifically directed by the court
11 in the appointment order, taking into consideration the relevant factors for
12 determining the best interests of the child as specified in section
13 14-10-124. The child and family investigator shall make independent and
14 informed recommendations to the court, in the form of a written report
15 filed with the court, unless otherwise ordered by the court. While the
16 child and family investigator shall consider the wishes of the child, the
17 child and family investigator need not adopt such wishes in making his
18 or her recommendations to the court unless they serve the child's best
19 interests as described in section 14-10-124. The child's wishes, if
20 expressed, shall be disclosed in the child and family investigator's written
21 report. IF THE REPORT INCLUDES RECOMMENDATIONS FOR PARENTING
22 TIME, AND THOSE RECOMMENDATIONS DEVIATE FROM SUBSTANTIALLY
23 EQUAL PARENTING TIME BETWEEN THE PARTIES, THE REPORT MUST
24 INCLUDE THE SPECIFIC REASONS WHY THE RECOMMENDATIONS ARE IN THE
25 BEST INTERESTS OF THE CHILD. The child and family investigator may be
26 called to testify as a witness regarding his or her recommendations. The
27 child and family investigator shall comply with applicable provisions set

1 forth in chief justice directives, and any other practice or ethical standards
2 established by rule, statute, or licensing board that regulates the child and
3 family investigator.

4 **SECTION 6.** In Colorado Revised Statutes, 14-10-127, add (7)
5 (c) as follows:

6 **14-10-127. Evaluation and reports - disclosure. (7) (c) IF**
7 RECOMMENDATIONS FOR PARENTING TIME PURSUANT TO SUBPARAGRAPH
8 (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (7) DEVIATE FROM
9 SUBSTANTIALLY EQUAL PARENTING TIME BETWEEN THE PARTIES, THE
10 REPORT MUST INCLUDE SPECIFIC REASONS WHY THE RECOMMENDATIONS
11 ARE IN THE BEST INTERESTS OF THE CHILD.

12 **SECTION 7. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect September 1, 2015; except that,
14 if a referendum petition is filed pursuant to section 1 (3) of article V of
15 the state constitution against this act or an item, section, or part of this act
16 within the ninety-day period after final adjournment of the general
17 assembly, then the act, item, section, or part will not take effect unless
18 approved by the people at the general election to be held in November
19 2016 and, in such case, will take effect on the date of the official
20 declaration of the vote thereon by the governor.

21 (2) This act applies to orders for parenting time entered and court
22 appointments made on or after the applicable effective date of this act.