

## Survey of Family Law Cases 2004-2013

### 2007 Family Law Survey

## HOUSE BILLS

### **A. House Bill 1255**

Title: Concerning the "Uniform Child Abduction Prevention Act".

Status: Signed by the Governor April 25, 2007, effective August 5, 2007.

Summary: Uniform Child Abduction Prevention Act. New Article C.R.S. 14-13.5-101, et seq. This Act allows a court in a child-custody proceeding to consider the probability that a party will abduct a child to another state or a foreign jurisdiction. Enables the court to issue an abduction prevention order with provisions the court determines necessary to protect the safety of the child after it finds evidence of a credible risk of abduction. Incorporates the jurisdictional rules and the rules relating to cooperation and communication between courts as provided in the "Uniform Child Custody Jurisdiction and Enforcement Act". Allows a party to obtain a warrant directing law enforcement to take physical custody of the child if the court determines that the wrongful abduction of the child is imminent. Provides for the duration of the abduction prevention order.

#### Highlights:

1. Definition of abduction. The wrongful removal or wrongful retention of an unemancipated individual who is less than 18 years of age, who is the subject of a child-custody determination including 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, including permanent, temporary, initial, and modification orders but not an order relating to child support or other monetary obligation of an individual.

2. 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.

### **B. House Bill 1330**

Title: Concerning the Second-Parent Adoption of a Child of a Sole Legal Parent

Status: Signed by the Governor April 25, 2007, effective August 5, 2007

Summary: Amendment to the Colorado Children's Code, §19-5-203, 207, 208, 211. Allows a child of a sole legal parent to be adopted by a specified second adult parent upon the written and verified consent of

the sole legal parent if the child has no other legal parent and an approved home study has been completed. Allows the use of the same home study report in cases where the sole legal parent adopted the child within six months prior to the second adoption and the second adult parent was involved in that initial home study report.

**Highlights:**

1. Availability for Adoption. Amends C.R.S. 19-5-203 (1) by adding a new section (d.5)(I) making a child available for adoption upon the written and verified consent of a sole legal parent where such parent wishes the child to be adopted by a specified second adult.

2. Written Home Study Required. Adds a new section (d.5)(II) requiring the court to order a written home study report to be prepared by a county department of social services, designated qualified individual, or child placement agency, with the report to be approved by the department pursuant to section 19-5-207.5 (2).

If the child was adopted by the sole legal parent less than six months prior to the filing of a second parent adoption petition the initial home study will be valid if that second prospective parent was included in the initial home study.

If the filing of a petition for adoption by the second prospective parent occurs six months or more after the adoption by the first parent, a separate home study report shall be required pursuant to section 19-5-207.

3. Amends C.R.S. 19-5-208 by allowing a petition for adoption similar to step-parent, custodial and kinship adoptions.

4. No Maternity or Paternity Leave Required Upon Adoption. C.R.S.19-5-211. (1.5) does not require an employer who permits paternity or maternity time off for biological parents or individuals adopting a child to extend the same benefits in a second-parent adoption.

**C. House Bill 1349**

Title: Concerning Child Support Obligations and Making an Appropriation in Connection Therewith

Status: Passed House and Senate, awaiting action by the Governor, with various effective dates.

Summary: Modifies circumstances in which the attorney for a County Department of Social Services ("county department") may enter an appearance in a dissolution proceeding. Specifies two situations in which a child is considered emancipated for purposes of determining when child support terminates. Modifies the calculation of certain adjustments to the income of a parent responsible for child support regarding the responsibility to support other children not subject to the child support order.

Specifies that, if a spouse of a parent provides health care insurance for the parent's child, 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. Removes references to "absent parent" and replaces them with "obligor".

Specifies that the right to require a hearing before a judge does not apply to parentage proceedings or support proceedings held pursuant to the children's code. Specifies that contested final orders in those proceedings regarding the allocation of parental responsibilities may be heard by the juvenile court magistrate with the consent of the parties. Enables a county department to collect a fee from an obligee that never received public assistance, once \$500 in support has been received, as required by the federal "Deficit Reduction Act of 2005".

Requires a party to provide financial information when requesting a review of a current child support order. Requires the delegate child support enforcement unit, if the obligee is receiving temporary assistance to needy families, to review a child support order every 36 months, as required by the federal "Deficit Reduction Act of 2005".

Specifies the content required for the notice of review of a current child support order. Modifies the requirements for conducting the review. Requires the delegate child support enforcement unit to include a child support guideline worksheet with the review results and to provide the parties with the supporting financial documentation used to calculate the monthly support obligation.

Modifies the time frame for challenging the review results. Provides the delegate child support enforcement unit 15 days within which to respond to a challenge. Requires an amended notice of review to be issued if a challenge results in a change to the monthly support obligation. Requires that, if the review indicates modification is appropriate and there are no challenges or after all challenges have been addressed, the delegate child support enforcement unit shall file a motion to modify with the court. Modifies the procedure for the court to follow after the motion is filed.

Replaces the requirement to send the national medical support notice to the obligor with an additional advisement of rights.

Adds new legislation to intercept gambling winnings.

Highlights:

1. Termination of Child Support. §14-10-115. Emancipation occurs and child support terminates without either party filing a motion when the last or only child attains nineteen years subject to certain exceptions.
2. Termination of Child Support If the Child Marries. §14-10-115. Effective as of the date of marriage. However, if the marriage is annulled, dissolved, or declared invalid, child support may be reinstated.
3. Termination If Child Enters into Active Military Duty. §14-10-115. If the child enters into active military duty, the child shall be considered emancipated. No effective date included in statute.
4. Change in Adjustments for Other Children. §14-10-115. Prior born child requirement abolished. If a parent is also legally responsible for the support of other children for whom the parents do not share joint legal responsibility, an adjustment shall be made revising such parent's income prior to calculating the basic child support obligation for the children who are the subject of the support order if the children are living in the home of the parent seeking the adjustment or if the children are living out of the home, and the parent seeking the adjustment provides documented proof of money payments of support of those children. The amount shall not exceed the guidelines listed in this section.

For a parent with a gross income of one thousand eight hundred fifty dollars or less per month, the adjustment shall be seventy-five percent of the amount calculated using the low-income adjustment based only upon the responsible parent's income, without any other adjustments for the number of other children for whom the parent is responsible.

For a parent with a gross income of more than one thousand eight hundred fifty dollars per month, the adjustment shall be seventy-five percent of the amount listed under the schedule of basic support obligations 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 shall be subtracted from the amount of the parent's gross income prior to calculating the basic support obligation based upon both parents' gross income.

5. Health Insurance Adjustment. 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.

6. Changes to Children's Code Regarding Magistrate Jurisdiction. §19-1-108. The right to require a hearing before a judge shall not apply to hearings under the Uniform Parentage Act for Support Proceedings regarding child support orders. However under the UPA and in Support Proceedings, contested final orders regarding allocation of parental responsibilities may be heard by the magistrate only with the consent of all parties

7. Changes to Administrative Child Support Statutes. §26-13-101 et. seq., §26-13.5-101 et. seq. "Absent parent" terminology replaced with "Obligor." After more than \$500 collected from Obligor during a year, county department may recover a \$25.00 fee from the Obligee. If there is an active assignment of rights, CSE shall review child support orders every 36 months but a party may request a review at any time and changes rules for review. Changes to national medical support notice. Changes to Administrative Lien provisions. Allows for gambling winnings to be intercepted.