

Survey of Family Law Cases 2004-2013

2007 Family Law Survey

SENATE BILLS

A. Senate Bill 15

Title: Concerning Nonsubstantive Recodification of Section 14-10-115, Colorado Revised Statutes, Regarding Child Support.

Status: Signed by the Governor on March 16, 2007, effective August 5, 2007.

Summary: This bill reorganizes existing provisions of the Colorado Child Support Guidelines for purposes of clarity. Section and subsection numbers and paragraph letters have changed, but no substantive amendments to the operative provisions have been made, except pursuant to House Bill 1349, which makes certain limited substantive changes to the child support guidelines. Makes conforming amendments to C.R.S. §14-10-114, 14-10-122, 14-14-111.5, 14-14-112, 26-13-121.5, 26-13.5-103 and 26-13.5-105.

Highlights:

1. Reorganization:
 - (1) Purpose and application
 - (2) Duty of support - factors to consider.
 - (3) Definitions
 - adjusted gross income
 - combined gross income
 - income
 - number of children due support
 - other children
 - postsecondary education
 - shared physical care
 - split physical care
 - (4) Forms - identifying information.
 - (5) Determination of income.
 - (6) Adjustments to gross income.
 - (7) Schedule of basic child support obligations.
 - (8) Computation of basic child support - shared physical care - split physical care - stipulations - deviations - basis for periodic updates.
 - (9) Adjustments for child care costs.
 - (10) Adjustments for health care expenditures for children.
 - (11) Extraordinary adjustments to the schedule of basic child support obligations - periodic disability benefits.
 - (12) Dependency Exemptions
 - (13) Emancipation
 - (14) Annual exchange of information

- (15) Post-secondary education
- (16) Child support commission

B. Senate Bill 56

Title: CONCERNING MODIFICATION OF CHILD-RELATED ORDERS BASED ON DNA EVIDENCE OF NONPARENTAGE.

Status: Did not pass. Postponed indefinitely in Senate Appropriations on March 23, 2007.

Summary: Bill allowed for an order determining parentage to be modified or set aside based on DNA test results. Eliminated requirement that paternity judgments could only be set aside for fraud, duress or mistake of material fact. Did not allow paternity judgments to be set aside based on DNA evidence if the original paternity judgment was the result of:

a man acknowledging paternity knowing that he was not the biological father of the child;
the man adopted the child;
the child was conceived by means of assisted reproduction.

Required courts to terminate child support if the individual named as father was not the biological father of the child for all subsequent installments.

C. Senate Bill 136

Title: CONCERNING THE JURISDICTION OF COURTS TO ENTER ORDERS FOR THE PROTECTION OF PERSONS

Status: Sent to Governor for signature on May 8, 2007; to be effective July 1, 2007.

Summary: Establishes jurisdiction in protective order courts to issue temporary injunctions against the defendant (where the defendant has a “prior existing duty or legal obligation”) which restrain the defendant from ceasing to make payment for:

Mortgage or rent;
Insurance;
Utilities or related services;
Transportation;
Medical care; or
Child care.

Also permits protective order courts to issue injunctions prohibiting defendants from transferring, encumbering, concealing, or in any way disposing of personal effects or real property, except in the usual course of business or for the necessities of life. A defendant will be required to account for all extraordinary expenditures made after the injunction is in effect.

These injunctions cannot last more than 120 days. Either party may apply to the district court for further temporary orders, an expanded injunction or modification or revocation of these injunctions.

The provisions of the injunction become an order of the court upon service.

D. Senate Bill 150

Title: CONCERNING PROTECTING THE INTENTIONS OF PERSONS WHO CREATE TRUSTS IN COLORADO

Status: Did not pass. Postponed indefinitely in House Judiciary Committee on March 21, 2007.

Summary: Subject to certain restrictions, would have allowed child support claimants to attach present and future mandatory distributions at the trust level for unpaid child support until the unpaid amount was paid in full. Codified the principal that a discretionary interest is not a property interest.