

Survey of Family Law Cases 2004-2013

2009 Family Law Survey

House Bills

HB 09-1198, Concerning the Uniform Power of Attorney Act. This bill enacts the Uniform Power of Attorney Act (UPOAA) to govern powers of attorney granted by individuals. It excludes certain powers of attorney from the UPOAA and sets forth a form that may be used to create a statutory form for a power of attorney. Of specific interest to family law practitioners is new C.R.S. § 15-14-710(c), which was added by the bill and which states that an agent's authority terminates when an action is filed for dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney provides otherwise. The bill repealed C.R.S. § 15-14-605, which had dealt with this issue. Portions of the bill were effective April 9, 2009, and the remainder was effective January 1, 2010.

HB 09-1287, Concerning Changes to the Colorado Probate Code. This bill increases the dollar amounts for the spousal share and establishes a formula based on the consumer price index for an automatic annual adjustment of the dollar amounts for the spousal share, the elective share, the spouse's share of exempt property, and the family allowance. It clarifies issues concerning survival of heirs, the parent-child relationship, termination of parental rights, assisted reproduction, and "gestational agreements" for purposes of inheritance. It also addresses, among other topics, notarized wills as an alternative to witnessed wills; children of assisted reproduction, gestational children, adopted children, and children of nonmarried parents in relation to class gifts; relationships by blood and by marriage as denoted in a will; the court's modification of governing instruments to conform to the transferor's intent; and testimony concerning a self-proved will. The changes to the Colorado Probate Code will be applicable to governing instruments executed by decedents dying on or after July 1, 2010.

HB 09-1286, Concerning the Repeal and Reenactment of the Uniform Parentage Act. This bill has been postponed indefinitely, to be re-introduced in the 2010 legislative session. The bill would repeal and reenact the Uniform Parentage Act, which is contained in the Colorado Children's Code. Family law practitioners are encouraged to keep abreast of this legislation during 2010, as it would update the statutes on establishing legal parentage of children to reflect modern technologies used for conception and for genetic testing, as recommended by the National Conference of Commissioners on Uniform State Laws. If passed, the bill will be effective July 1, 2010.