

qualification of the district attorney's office and remands with instructions to determine whether disqualification was proper pursuant to section 20-1-107, C.R.S. (2005). As I articulated in my dissent in *People v. N.R.*, 05SA273, I disagree with the majority's holding that a trial court may only disqualify a district attorney if one of the three circumstances in the disqualification statute exists. Because the trial court found "conflict" that would undermine the integrity of the court and the judicial process under circumstances where it was unclear whether E.L.T. would be deprived of a fair trial, I would hold that it acted within its constitutional authority when it disqualified the district attorney's office. I therefore respectfully dissent.

I agree with the majority that the trial court's original findings of conflict are ambiguous. The trial court found that the district attorney "is being sued and four other members of [his] staff are being sued personally [] including the supervisor of the Juvenile Department." When the district attorney argued that no suit existed at that time, the court added "there is a conflict; it doesn't require that a suit be made."

After disqualifying the district attorney's office, the trial court later explained its disqualification ruling. The court stated that it disqualified the district attorney's office based on two separate conflicts of interest. First, conflict existed because E.L.T.'s mother had filed a notice of intent to sue the district attorney and three attorneys in the office. Second, conflict existed because three attorneys in the district attorney's office had represented E.L.T.'s family in private practice and E.L.T.'s mother filed grievances with the Office of Attorney Regulation Counsel against these three attorneys:

in addition to [the notice of intent to sue], and largely the reason why I granted the motion for a special prosecutor is because of the *conflict* between [the defendant's mother] and [the three attorneys]. What [the defendant's mother] has just told me, which I have to accept on face value, is a *grievance has been filed against those three attorneys when they were representing her in private practice. And they have now joined the district attorney's of-*

fice. The district attorney has repeatedly asked for special prosecutors in situations related to their former clients. And I can't understand for the life of me why the district attorney is appealing this request . . . [The defendant's mother] has certainly made it clear in court and documents that were filed with the court that . . . *clearly indicate . . . conflict between [the three attorneys] and the [defendant's family] because of the prior attorney/client relationship they had.*

(Emphasis added.)

In my view, although E.L.T.'s right to a fair trial is not necessarily jeopardized, these circumstances support the trial court's decision to disqualify the district attorney's office pursuant to its constitutional authority to protect the integrity and appearance of integrity of the court and the judicial process, and therefore his order to disqualify the district attorney's office does not constitute an abuse of discretion. I would therefore affirm.

I am authorized to state that Chief Justice MULLARKEY and Justice MARTINEZ join in the dissent.



Pastor Michael DANIELSON, Colorado Criminal Justice Reform Coalition, and Colorado-Cure, Plaintiffs-Appellants

v.

Gigi DENNIS, in her official capacity as Secretary of State for the State of Colorado, Defendant-Appellee.

No. 06SA174.

Supreme Court of Colorado,
En Banc.

July 31, 2006.

Background: Parolee filed action against the Secretary of State seeking declaration that statute prohibiting parolees from reg-

istering to vote and voting was unconstitutional. The District Court, City and County of Denver, No. 06CV954, Michael A. Martinez, J., dismissed the complaint, and parolee appealed.

Holding: The Supreme Court, Hobbs, J., held that statute does not violate the Constitution.

Affirmed.

1. Appeal and Error ⇨893(1)

Constitutional Law ⇨67

Colorado Constitution charges the judicial branch with construing the meaning of the constitution, and review is de novo. West's C.R.S.A. Const. Art. 6, § 1.

2. Constitutional Law ⇨48(1)

Supreme Court presumes that a statute is constitutional, and in order to overcome this presumption the person alleging a conflict between the legislative act and a constitutional provision must establish that the precise point of conflict between the statute and the constitution appears plain, palpable, and inevitable, or else the act of the general assembly must be held to prevail.

3. Constitutional Law ⇨38, 48(3)

The party challenging the validity of a statute is required to prove it is unconstitutional beyond a reasonable doubt; a statute is facially unconstitutional only if no conceivable set of circumstances exists under which it may be applied in a permissible manner.

4. Constitutional Law ⇨12, 14, 15

In giving effect to a constitutional provision, Supreme Court employs the same set of construction rules applicable to statutes; court starts with the words, giving them their plain and commonsense meaning, and reading applicable provisions as a whole, harmonizing them if possible.

5. Pardon and Parole ⇨66

Statute prohibiting parolees from registering to vote and voting does not violate provision of the Constitution stating that persons who were qualified electors prior to their imprisonment and who have served their full term of imprisonment, shall have

their rights of citizenship restored to them; the phrase "having served out his full term of imprisonment" includes that part of a person's punishment involving the constraints of parole outside of prison walls. West's C.R.S.A. Const. Art. 7, § 10; West's C.R.S.A. § 1-2-103(4).

6. Constitutional Law ⇨70.1(10)

The power under the constitution to criminalize conduct and set the punishment for a crime resides within the legislative branch; absent a constitutional infirmity, Supreme Court has no basis to interfere with the exercise of that power.

7. Pardon and Parole ⇨66

The legislature's mandate that prisoners remain in legal custody during parole, and that parole is not a discharge from imprisonment, reflects the long-prevailing view of parole.

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Justice HOBBS delivered the Opinion of the Court.

Pursuant to section 1-1-113(3), C.R.S. (2005), we accepted jurisdiction in this appeal to determine whether section 1-2-103(4), C.R.S. (2005), unconstitutionally conflicts with article VII, section 10 of the Colorado Constitution. Section 1-2-103(4) prohibits Colorado parolees from registering to vote

and voting. Article VII, section 10 provides that persons who were qualified electors prior to their imprisonment and who have served their full term of imprisonment, shall have their rights of citizenship restored to them.¹

In dismissing the petition and complaint in this case, the District Court for the City and County of Denver ruled in favor of the Colorado Secretary of State that the statute is not unconstitutional because it does not conflict with the constitutional provision. We agree.

We hold that the General Assembly did not violate article VII, section 10 of the Colorado Constitution by enacting a law that prevents a person who has been convicted of a felony and is serving a sentence of parole from voting or registering to vote. A person who is serving a sentence of parole has not served his or her full term of imprisonment within the meaning of this constitutional provision. Appellants have not borne their burden of clearly demonstrating that section 1-2-103(4), C.R.S. (2005), is unconstitutional.

Accordingly, we affirm the judgment of the district court.

I.

In the trial court, Pastor Michael Danielson ("Danielson"), the Colorado Criminal Justice Reform Coalition ("CCJRC"), and Colorado-CURE challenged the constitutionality of section 1-2-103(4), C.R.S. (2005), by means of a petition under section 1-1-113, C.R.S. (2005), of the Colorado Uniform Election Code and a complaint for declaratory judgment under section 13-51-101 to -115, C.R.S. (2005).

The trial court found the following facts to be undisputed. Danielson was sentenced to the Colorado Department of Corrections for a felony conviction and is now on parole. Except for his status as a parolee, he is an eligible elector of the State of Colorado who wants to register to vote and cast his ballot

1. The issue phrased by appellants is "[w]hether section 1-2-103(4) violates Article VII, Section 10, of the Colorado Constitution by disfranchising eligible electors who have been released from confinement in a public prison and placed on parole."

in local, state, and national elections. The Colorado Secretary of State, however, will not allow him to do this because section 1-2-103(4) provides that "[n]o person . . . serving a sentence of parole shall be eligible to register to vote or to vote in any election."

CCJRC and Colorado-CURE are not-for-profit Colorado corporations whose members include persons who are on parole and would be eligible to vote were it not for the statute and the Secretary of State's enforcement of it.

The Appellants (collectively "Danielson") sought a declaration of the statute's unconstitutionality and an injunction against its enforcement.² Secretary of State Dennis filed a motion to dismiss under C.R.C.P. 12(b)(5). In granting this motion and dismissing the case, the trial court ruled that section 1-2-103(4) does not conflict with article VII, section 10 of the Colorado Constitution. On appeal, we accepted jurisdiction under section 1-1-113(3) to review the trial court's judgment.

We affirm the judgment.

II.

We hold that the General Assembly did not violate article VII, section 10 of the Colorado Constitution by enacting a law that prevents a person who has been convicted of a felony and is serving a sentence of parole from voting or registering to vote. A person who is serving a sentence of parole has not served his or her full term of imprisonment within the meaning of this constitutional provision. Appellants have not borne their burden of clearly demonstrating that section 1-2-103(4), C.R.S. (2005), is unconstitutional.

A.

Standard of Review

[1] Article VI, section 1 of the Colorado Constitution charges the judicial branch with

2. The petition and complaint in the district court also alleged a cause of action under 42 U.S.C. section 1983. These arguments are not before us and we do not address them.

construing the meaning of the constitution; our review is de novo. *Garhart v. Columbia/Healthone, L.L.C.*, 95 P.3d 571, 581 (Colo. 2004); *E-470 Pub. Highway Auth. v. Revenig*, 91 P.3d 1038, 1041 (Colo.2004).

[2] We approach the potential invalidation of legislative acts cautiously. See *People ex rel. Tucker v. Rucker*, 5 Colo. 455, 458 (1880). We presume that a statute is constitutional. *Garhart*, 95 P.3d at 581. In order to overcome this presumption, the person alleging a conflict between the legislative act and a constitutional provision must establish that “[t]he precise point of conflict between the statute and the constitution—state or national— . . . appear[s] plain, palpable, and inevitable, or else the act of the general assembly must be held to prevail.” *Union Pac. Ry. Co. v. De Busk*, 12 Colo. 294, 303, 20 P. 752, 756 (1889); *Garhart*, 95 P.3d at 581 (“[U]nless the conflict between the constitution and the law is clear and unmistakable, we will not disturb the statute.”).

[3, 4] The party challenging the validity of a statute is required to prove it is unconstitutional beyond a reasonable doubt; a statute is facially unconstitutional only if no conceivable set of circumstances exists under which it may be applied in a permissible manner. *People v. M.B.*, 90 P.3d 880, 881 (Colo.2004). In giving effect to a constitutional provision, we employ the same set of construction rules applicable to statutes; in giving effect to the intent of the constitution, we start with the words, give them their plain and commonsense meaning, and read applicable provisions as a whole, harmonizing them if possible. *Bd. of County Comm’rs v. Vail Assocs., Inc.*, 19 P.3d 1263, 1273 (Colo. 2001).

B.

This Constitutional Challenge

Section 1-2-103(4), C.R.S. (2005), provides that:

No person while serving a sentence of detention or confinement in a correctional facility, jail or other location for a felony conviction or while serving a sentence of

parole shall be eligible to register to vote or to vote in any election . . .

(Emphasis added.)

Article VII, section 10 of the Colorado Constitution states:

No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

(Emphasis added.)

[5] On both sides, the arguments in this case are based on the words of the constitutional provision. Danielson contends that the words require restoration of the franchise when the person convicted of the crime is no longer in confinement within prison walls. Secretary of State Dennis responds that the words must be read as a whole; that the phrase “having served out his full term of imprisonment” includes that part of a person’s punishment involving the constraints of parole outside of prison walls. We agree with Secretary Dennis.

[6] Danielson argues for a strict version of the constitutional word “imprisonment” to mean only confinement within a prison. But the power under the constitution to criminalize conduct and set the punishment for a crime resides within the legislative branch; absent a constitutional infirmity, we have no basis to interfere with the exercise of that power. *People v. M.B.*, 90 P.3d at 882.

Of course we agree with Danielson that parole did not exist at the time Colorado adopted its constitution, but this does not mean that the General Assembly was constrained from punishing crimes with sentences that include custody while the convicted person is being transitioned to community and before restoration of his or her full rights.

At the time our constitution was adopted, the then-current penal practice was for set terms of confinement within prison; the executive had pardoning authority for early

release.³ 4 Department of Justice, *The Attorney General's Survey of Release Procedures* 14 (Wayne L. Morse et al. eds., 1939).

The advent of indeterminate sentencing in the late 1800s changed this; a maximum sentence was imposed with the possibility of earlier release. *See id.* at 20-21. A shift in penal philosophy accompanied indeterminate sentencing. Criminal sentencing included rehabilitating offenders for re-introduction into society. Charles L. Newman, *Sourcebook on Probation, Parole and Pardons* 17 (3d ed.1968).

Sentencing to parole commenced in New York in 1876 with release, under supervision, from reformatories. *See The Attorney General's Survey of Release Procedures, supra*, at 19-20; Newman, *supra*, at 33-34. Prisoners remained under supervision for six months after release. *The Attorney General's Survey of Release Procedures, supra*, at 19-20. The reformatory attached conditions to release and could revoke parole if the convict violated terms of the parole. *Id.* at 20. By 1910, thirty-two states had adopted parole statutes; by 1922, forty-four states. *Id.*

Colorado first adopted parole sentencing in 1899. *See Act approved May 3, 1899, ch. 104, 1899 Colo. Sess. Laws 233.* Under this provision, the Governor had authority to parole convicts serving other than a life sentence. *Id. sec. 3.* But the General Assembly clearly stated that paroled convicts remained in the legal custody of the penitentiary in which they were imprisoned.

Every such convict, while on parole, shall remain in the legal custody and under the control of the commissioners of the penitentiary and shall at all times be subject to such rules and regulations as they may prescribe, and shall be subject at any time to be taken back within the enclosure of

3. Today's jails that hold prisoners for long periods differ from jails under the early English common law. "Imprisonment originated as a means of holding a public offender for a short time until he was killed, banished, or released. The period of incarceration was very short. . . ." William Parker, *Parole (Origins, Development, Current Practices and Statutes)* 13 (rev. ed. May 1975). "Before the time of Elizabeth[,] imprisonment . . . was not a legal punishment, and the

penitentiary from which he was permitted to go at large for any reason which may be satisfactory to the commissioners and at their sole discretion.

Id. sec. 4.

The General Assembly further provided that

[t]his Act shall not be construed in any sense to operate as a discharge of any convict paroled under its provisions but simply a permit to any such convict to go without the enclosure of the penitentiary. . . .

Id. sec. 6.

[7] The legislature's mandate that prisoners remain in legal custody during parole, and that parole is not a discharge from imprisonment, reflects the long-prevailing view of parole. *See, e.g., Morrissey v. Brewer*, 408 U.S. 471, 477, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972) ("[P]arole is an established variation on imprisonment. . . ."); *People v. Lucero*, 772 P.2d 58, 60 (Colo.1989) ("A parolee is one who has been conditionally released from actual custody but is, in the contemplation of the law, still in legal custody and constructively a prisoner of the state. . . . A parolee is considered to be under a restraint imposed by law; he is not a free man.") (internal citations and quotations omitted); 1 Neil P. Cohen, *Law of Probation and Parole* § 1:13 (2d ed. 1999) ("Parole is a continuation of custody rather than a termination of imprisonment. . . .").

At the time Colorado enacted its constitution, a prisoner only finished the "full term of imprisonment" when he or she secured an unconditional release from prison: either the person had completed the entire duration of the sentence or had received a pardon from the Governor. Conditional release on parole—an extension of one's confinement intended to aid the reintegration of criminals

gaoles were used to house only untried prisoners, debtors, and felons under the sentence of death." Helen Leland Witmer, *The History, Theory and Results of Parole*, 18 Am. Inst.Crim. L. & Criminology 24, 24 (1927-1928). Due to increasing crime and the need for penalties other than the gallows, pillory, the stocks, flogging, branding, and fining, or execution, prison eventually became a longer term means for removing criminals from society. *Id.* at 24-26.

into society—was never intended to be the sort of unconditional release that the Colorado Constitution envisions will be accompanied by the full restoration of a person's rights.

A parolee is given certain privileges to assist in returning to community while testing his or her capability to adhere to restrictions imposed. The convicted person can be reincarcerated for a parole violation and does not enjoy the full panoply of legal rights a person not serving a sentence enjoys. See *People v. Norton*, 63 P.3d 339, 347 (Colo. 2003) (stating that "a felony offender's penalty or sentence consists of both an incarceration component and a mandatory parole component."). As we said in that case, "parole is nevertheless a clear infringement on an offender's liberty." *Id.* at 344. The U.S. Supreme Court has observed that "parole is more akin to imprisonment," in holding that the Fourth Amendment does not prohibit a police officer from conducting a suspicionless search of a parolee. *Samson v. California*, — U.S. —, 126 S.Ct. 2193, 2194, 165 L.Ed.2d 250 (2006).

In our first case to construe article VII, section 10, we held in a disbarment context that an attorney convicted of a crime was not invested with all the rights of citizenship under this provision when he was placed on parole. Because he was on parole, he was still serving out his "full term of imprisonment." *People ex rel. Colo. Bar Ass'n v. Monroe*, 26 Colo. 232, 233, 57 P. 696, 696 (1899). In that decision, by referring to *People v. Weeber*, 26 Colo. 229, 231, 57 P. 1079, 1080 (1899), we also suggested that bar licensure was not a right of citizenship. *Id.*

Despite Danielson's argument to the contrary, our probation decision recognizing rights of persons in such circumstances is distinguishable. See *Sterling v. Archambault*, 138 Colo. 222, 332 P.2d 994 (1958). Probation is an alternative to a prison sentence. See *Roberts v. United States*, 320 U.S. 264, 272, 64 S.Ct. 113, 88 L.Ed. 41 (1943) (stating that the basic purpose of probation is "to provide an individualized program offering a young or unhardened offender an opportunity to rehabilitate himself

without institutional confinement under the tutelage of a probation official and under the continuing power of the court to impose institutional punishment for his original offense in the event that he abuse this opportunity"). If the person violates probation, he or she is subject to being sentenced as though the probation had not been granted.

Although a court may require that a convicted person spend some time in a city or county jail as a condition of probation, under section 18-1.3-202(1), C.R.S. (2005), probation is not granted if the trial court determines "that imprisonment is the more appropriate sentence for the protection of the public," § 18-1.3-203(1), C.R.S. (2005). Unlike incarceration and parole, probation is also not available to those convicted of serious crimes or certain multiple convictions. For example, those convicted of a class one felony or a class two petty offense may not apply for probation. § 18-1.3-201(1)(a), C.R.S. (2005). Those convicted of two or more felonies may not apply for probation on their third or any subsequent conviction, § 18-1.3-201(2)(a), and those convicted of a felony in the past ten years may not apply for probation when convicted of a class 1, 2, or 3 felony, § 18-1.3-201(2)(b).

Also distinguishable is our decision in *Moore v. MacFarlane*, 642 P.2d 496 (Colo. 1982). There we were asked to determine whether article VII, section 10 applied to pre-trial detainees who had not been convicted of a crime or otherwise found to be in violation of the terms of a probation sentence they were serving as the result of a prior conviction.

Nor do we agree with Danielson's argument that *Martin v. People*, 27 P.3d 846 (Colo.2001), compels the conclusion that a person serving mandatory parole has completed his or her full term of imprisonment within the meaning of article VII, section 10. The language from *Martin* Danielson relies on states:

Once an offender is granted release to parole supervision by the state board of parole, he will be deemed to have discharged his sentence to imprisonment in the same manner as if he had been discharged pursuant to law.

Id. at 858. Narrowly relying on this part of our discussion in *Martin*, Danielson contends that we construed the General Assembly's action in adopting mandatory parole as changing the nature of parole in regard to a convicted person's voting rights. The suggestion is that the General Assembly no longer intended parole to be part of the convicted person's full term of imprisonment within the meaning of article VII, section 10. We disagree.

As we have explained earlier in the present opinion, not long after Colorado became a state, the General Assembly created parole as a form of legal custody outside of prison walls to assist and test a person's transition back into the community. There is no indication in its enactment of mandatory parole that the legislature intended mandatory parole to change the nature of parole as it relates to deprivation of voting rights.

In *Martin*, we were addressing how discretionary parole and mandatory parole differ in their operation. We analyzed whether the General Assembly intended to change parole from discretionary to mandatory for sex offenders whose offenses occurred prior to July 1, 1996. *Martin*, 27 P.3d at 860. In holding it did not, we differentiated discretionary parole sentencing schemes from mandatory parole sentencing schemes. Our focus on the words "maximum sentence" dealt with the fact that an offender who is governed by discretionary parole will never serve any penalty greater than the sentence to which he is initially punished, whereas mandatory parole adds to a convicted person's punishment that commences in prison. *Id.* at 858.

Thus, we explained in *Martin* that, "under mandatory parole, a convicted offender does not begin serving the period of parole until his prison sentence has been fully served, or the parole board determines that he is ready for parole," and "an offender sentenced under the mandatory parole scheme faces a sentence to prison, a period of parole, and possibly even another period of confinement if he violates the conditions of his parole." *Id.*

Accordingly, in-prison confinement and the type of conditional release from confinement

outside of prison walls that mandatory parole entails are separate components of the penalty the General Assembly has prescribed for certain crimes. *Id.* at 850; see Ch. 322, sec. 7, § 18-1-105, 1993 Colo. Sess. Laws 1981, 1981-83; § 18-1.3-401(1)(a)(V), C.R.S. (2005). Revocation of mandatory parole is an administrative procedure, is not accompanied by the full rights attendant to a criminal prosecution, and results in prison confinement. Moreover, a court is not at liberty to waive the applicability of mandatory parole. *Craig v. People*, 986 P.2d 951, 959 (Colo. 1999); 15 Robert J. Dieter, *Colorado Practice Series, Criminal Practice and Procedure* § 20.26 (2d ed.2004).

In sum, the meaning of the constitutional phrase "full term of imprisonment" was not before us in *Martin*. We considered the statutory term "maximum sentence" as it then applied to a particular discretionary parole scheme. We did not suggest that mandatory parole is an unconditional form of release from confinement unlike any other kind of parole. In all of its forms, parole entails a loss of a convicted person's liberties, including as provided in the statute we uphold today a felon's voting rights, section 1-2-103(4), C.R.S. (2005). The intent of the constitutional phrase "full term of imprisonment" in article VII, section 10 is to restore an incarcerated person's full rights upon completion of the entire duration of his or her sentence, or upon a pardon from the Governor. Whether mandatory or discretionary, parole is part of the incarcerated person's sentence when the General Assembly so provides. A felon who is still serving parole is not entitled to restoration of his or her voting rights under section 1-2-103(4) and article VII, section 10.

We agree with Secretary Dennis that the people of Colorado in adopting their constitution intended that those who commit crimes so severe that they warrant time in prison are subject to disenfranchisement and are reinvested with the right to vote only on completion of the entire sentence, or if pardoned.

Therefore, we do not agree with Danielson's contention that the General Assembly contravened article VII, section 10 when it

adopted section 1-2-103(4). The General Assembly has authority to include parole as part of the "full term of imprisonment" within the meaning of this constitutional provision.

III.

Accordingly, we affirm the trial court's judgment of dismissal.

Justice EID does not participate.



In the Interest of K.D., a minor child.

K.D., Petitioner

v.

The PEOPLE of the State of
Colorado, Respondent.

No. 05SC808.

Supreme Court of Colorado,
En Banc.

July 31, 2006.

Background: The District Court, El Paso County, Theresa M. Cisneros, J., terminated father's parental rights in a child dependency proceeding, and he appealed. The Court of Appeals affirmed. Certiorari was granted.

Holding: The Supreme Court, Martinez, J., held that trial court's finding that father was unfit, warranting termination, was not unduly influenced by fact of his incarceration.

Affirmed.

1. Infants ⇌194.1

Courts conducting dependency and neglect proceedings must be guided by the purposes of the Children's Code, which strives to preserve the family while simulta-

neously ensuring the child's best interest and welfare. West's C.R.S.A. § 19-1-101 et seq.

2. Infants ⇌154.1

A "dependent or neglected child" includes a child lacking proper parental care through the acts or omissions of the parent, as well as a child whose parent refuses to provide care necessary for the child's health, guidance or well-being. West's C.R.S.A. § 19-1-102.

See publication Words and Phrases for other judicial constructions and definitions.

3. Infants ⇌154.1

In a dependency or neglect hearing, the court determines whether the child lacks the benefit of parental guidance, concern, protection or support to which he is entitled; consistent with the emphasis in the Children's Code on the child's best interests, such adjudications are not made as to the parents but, rather, relate only to the status of the child as of the date of the adjudication. West's C.R.S.A. § 19-1-101 et seq.

4. Infants ⇌231

In approving a parent's treatment plan in a child dependency proceeding, the court strives to preserve the parent-child relationship by assisting the parent in overcoming the problems that required the intervention, and so appropriateness of the plan is measured by the likelihood of success in reuniting the family, which must be assessed in light of the facts existing at the time of the plan's approval. West's C.R.S.A. § 19-1-103(10).

5. Infants ⇌231

A successful treatment plan in a child dependency proceeding corrects or improves the parent's conduct or condition, or renders the parent fit; however, even a parent's substantial compliance with a plan may not render the parent fit. West's C.R.S.A. § 19-1-101 et seq.

6. Infants ⇌155

In determining whether a parent's conduct or condition is unlikely to change within a reasonable time for the purposes of termination of parental rights, a trial court may consider whether any change has occurred during the pendency of the dependency and