

**SENATE JOURNAL**  
 Sixty-eighth General Assembly  
**STATE OF COLORADO**  
 Second Regular Session

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23rd Legislative Day Thursday, February 2, 2012

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Prayer	By the chaplain, Reverend Paul Kottke, University Park United Methodist Church, Denver.	1 2 3 4 5 6 7 8 9 10 11 12 13
Call to Order	By the President at 9:00 a.m.	14 15 16
Pledge	By Senator Jahn.	17 18
Roll Call	Present--35	19 20
Quorum	The President announced a quorum present.	21 22
Reading of Journal	On motion of Senator Grantham, the Journal of Wednesday, February 1, 2012, was partially read, the reading later having been dispensed with, and the Journal was approved as corrected by the Secretary.	23 24 25 26 27

**COMMITTEE OF REFERENCE REPORTS**

Judiciary	After consideration on the merits, the Committee recommends that <b>SB12-020</b> be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.  Amend printed bill, page 3, line 11, strike "CRIMINAL". Page 3, line 12, strike "EPISODE OR". Page 4, line 17, strike "DISPENSING, OR" and substitute "OR DISPENSING". Page 4, line 18, strike "SALE". Page 5, line 11, strike "SALE,". Page 5, strike line 15 and substitute "REMUNERATION;".	28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49
Judiciary	After consideration on the merits, the Committee recommends that <b>SB12-073</b> be postponed indefinitely.	50 51 52
Judiciary	After consideration on the merits, the Committee recommends that <b>SB12-056</b> be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.  Amend printed bill, strike everything below the enacting clause and substitute: <b>"SECTION 1.</b> In Colorado Revised Statutes, 14-10-116, <b>amend</b> (1); and <b>add</b> (2.5) as follows: <b>14-10-116. Appointment in domestic relations cases - representation of child's best interests - legal representative of the child - disclosure.</b> (1) The court may, upon the motion of either party or upon its own motion, appoint an attorney, in good standing and licensed to practice law in the state of Colorado, to serve as the legal	53 54 55 56 57 58 59 60 61 62 63 64 65 66 67

representative of the child, representing the best interests of the child in any domestic relations proceeding that involves allocation of parental responsibilities. In no instance may the same person serve as both the child's legal representative pursuant to this section and as the child and family investigator for the court pursuant to section 14-10-116.5. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS SECTION.

(2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS TEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE.

**SECTION 2.** In Colorado Revised Statutes, 14-10-116.5, **amend** (1); and **add** (2.5) as follows:

**14-10-116.5. Appointment in domestic relations cases - child and family investigator - disclosure.** (1) The court may, upon the motion of either party or upon its own motion, appoint ~~an individual~~ A NEUTRAL THIRD PERSON to serve the court as a child and family investigator pursuant to subsection (2) of this section in a domestic relations proceeding that involves allocation of parental responsibilities. The court shall set forth the specific duties of the child and family investigator in a written order of appointment. The same person may not serve as both the legal representative of the child pursuant to section 14-10-116 and as the child and family investigator for the court pursuant to this section. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS SECTION.

(2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS TEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE.

**SECTION 3.** In Colorado Revised Statutes, 14-10-127, **amend** (1) (a) (I) and (1) (a) (I.5) introductory portion; and **add** (1) (a) (I.3) and (1.2) as follows:

**14-10-127. Evaluation and reports - disclosure.** (1) (a) (I) In all proceedings concerning the allocation of parental responsibilities with respect to a child, the court ~~shall~~ MAY, upon motion of either party or upon its own motion, order the court probation department, any county or district social services department, or a licensed mental health professional qualified pursuant to subsection (4) of this section to perform an evaluation and file a written report concerning the disputed issues relating to the allocation of parental responsibilities for the child, unless such motion by either party is made for the purpose of delaying the proceedings. Any court or social services department personnel appointed by the court to do such evaluation shall be qualified pursuant to subsection (4) of this section. When a mental health professional performs the evaluation, the court shall appoint or approve the selection of the mental health professional. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE EVALUATOR SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (1.2) OF THIS SECTION. ~~The moving party~~ COURT shall, at the time of the appointment of the evaluator, ORDER ONE

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OR MORE OF THE PARTIES TO deposit a reasonable sum with the court to pay the cost of the evaluation. The court may order the reasonable charge for such evaluation and report to be assessed as costs between the parties AT THE TIME THE EVALUATION IS COMPLETED.

(I.3) IN DETERMINING WHETHER TO ORDER AN EVALUATION PURSUANT TO THIS SECTION, IN ADDITION TO ANY OTHER CONSIDERATIONS THAT THE COURT DEEMS RELEVANT, THE COURT SHALL CONSIDER:

(A) WHETHER AN INVESTIGATION BY A CHILD AND FAMILY INVESTIGATOR PURSUANT TO SECTION 14-10-116.5 WOULD BE SUFFICIENT OR APPROPRIATE GIVEN THE SCOPE OR NATURE OF THE DISPUTED ISSUES RELATING TO THE ALLOCATION OF PARENTAL RESPONSIBILITIES FOR THE CHILD;

(B) WHETHER AN EVALUATION PURSUANT TO THIS SECTION IS NECESSARY TO ASSIST THE COURT IN DETERMINING THE BEST INTERESTS OF THE CHILD; AND

(C) WHETHER INVOLVING THE CHILD IN AN EVALUATION PURSUANT TO THIS SECTION IS IN THE BEST INTERESTS OF THE CHILD.

(I.5) A party may request a supplemental evaluation to the evaluation ordered pursuant to subparagraph (I) of this paragraph (a). The court shall appoint another mental health professional to perform the supplemental evaluation at the initial expense of the moving party. THE PERSON APPOINTED TO PERFORM THE SUPPLEMENTAL EVALUATION SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (1.2) OF THIS SECTION. The court shall not order a supplemental evaluation if it determines that any of the following applies, based on motion and supporting affidavits:

(1.2) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE EVALUATOR SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE EVALUATOR HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.2), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT EVALUATOR IN THE PROCEEDINGS. A PARTY HAS TEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE.

**SECTION 4.** In Colorado Revised Statutes, 14-10-128.1, **amend** (1) and (2) (b); and **add** (2.5) as follows:

**14-10-128.1. Appointment of parenting coordinator - disclosure.** (1) Pursuant to the provisions of this section, at any time after the entry of an order concerning parental responsibilities and upon notice to the parties, the court may, on its own motion, a motion by either party, or an agreement of the parties, appoint a parenting coordinator as a neutral third party to assist in the resolution of disputes between the parties concerning parental responsibilities, including but not limited to implementation of the court-ordered parenting plan. The parenting coordinator shall be ~~an individual~~ A NEUTRAL PERSON with appropriate training and qualifications and a AN INDEPENDENT perspective acceptable to the court. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS SECTION.

(2) (b) In addition to making the findings required pursuant to paragraph (a) of this subsection (2), prior to appointing a parenting coordinator, the court shall consider the effect of ~~any documented evidence of~~ A CLAIM BY ONE OF THE PARTIES OF domestic violence, AS DEFINED IN SECTION 14-10-124 (1.3) (a), BY THE OTHER PARTY on the parties' ability to engage in parent coordination.

(2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.5), THE COURT MAY, IN ITS

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DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS TEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE.

**SECTION 5.** In Colorado Revised Statutes, 14-10-128.3, **amend** (1); and **add** (4.5) as follows:

**14-10-128.3. Appointment of decision-maker - disclosure.**

(1) In addition to the appointment of a parenting coordinator pursuant to section 14-10-128.1 or an arbitrator pursuant to section 14-10-128.5, at any time after the entry of an order concerning parental responsibilities and upon written consent of both parties, the court may appoint a qualified domestic relations decision-maker and grant to the decision-maker binding authority to resolve disputes between the parties as to implementation or clarification of existing orders concerning the parties' minor or dependent children, including but not limited to disputes concerning parenting time, specific disputed parental decisions, and child support. A decision-maker shall have the authority to make binding determinations to implement or clarify the provisions of a pre-existing court order in a manner that is consistent with the substantive intent of the court order. The decision-maker appointed pursuant to the provisions of this section may be the same person as the parenting coordinator appointed pursuant to section 14-10-128.1. AT THE TIME OF THE APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (4.5) OF THIS SECTION.

(4.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

(b) BASED ON THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4.5), THE COURT MAY, IN ITS DISCRETION, TERMINATE THE APPOINTMENT AND APPOINT A DIFFERENT PERSON IN THE PROCEEDINGS. A PARTY HAS TEN DAYS FROM THE DATE OF THE DISCLOSURE TO OBJECT TO THE APPOINTMENT BASED UPON INFORMATION CONTAINED IN THE DISCLOSURE.

**SECTION 6. Effective date - applicability.** This act takes effect July 1, 2012, and applies to court appointments made on or after said date.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety."

Judiciary After consideration on the merits, the Committee recommends that **SB12-042** be referred to the Committee of the Whole with favorable recommendation.

Health & Human Services After consideration on the merits, the Committee recommends that **SB12-037** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Health & Human Services After consideration on the merits, the Committee recommends that **SB12-032** be postponed indefinitely.

Business, Labor, & Technology After consideration on the merits, the Committee recommends that **SJR12-006** be referred to the Senate for final action.

Business, Labor, & Technology After consideration on the merits, the Committee recommends that **SB12-006** be referred to the Committee on Finance with favorable recommendation.

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After consideration on the merits, the Committee recommends that **SB12-058** be referred to the Committee of the Whole with favorable recommendation.

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On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for Consideration of Resolutions.

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**CONSIDERATION OF RESOLUTIONS**

**SJR12-011** by Senator(s) Schwartz; also Representative(s) Sonnenberg--Concerning the recognition of Colorado Centennial Farms.

On motion of Senator Schwartz, the resolution was read at length and **adopted** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	Y	Spence	Y
Brophy	Y	Hodge	Y	Morse	Y	Steadman	Y
Cadman	Y	Hudak	Y	Neville	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

Co-sponsors added: Aguilar, Bacon, Boyd, Brophy, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Hudak, Jahn, Johnston, King K., King S., Lambert, Lundberg, Mitchell, Morse, Neville, Newell, Nicholson, Renfroe, Roberts, Scheffel, Spence, Steadman, Tochtrop, White, Williams S. and Shaffer B.

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Senate in recess.                      Senate reconvened.

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**SJR12-012** by Senator(s) Nicholson; also Representative(s) DelGrosso and Lee--Concerning recognition of community behavioral health providers in Colorado.

On motion of Senator Nicholson, the resolution was read at length and **adopted** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	Y	Shaffer B.	Y
Brophy	Y	Hodge	Y	Morse	Y	Spence	Y
Cadman	Y	Hudak	Y	Neville	Y	Steadman	Y
Carroll	Y	Jahn	Y	Newell	Y	Tochtrop	Y
Foster	Y	Johnston	Y	Nicholson	Y	White	Y
Giron	Y	King K.	Y	Renfroe	Y	Williams S.	Y
Grantham	Y	King S.	Y	Roberts	Y		

Co-sponsors added: Aguilar, Bacon, Boyd, Brophy, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Hudak, Jahn, Johnston, King K., King S., Lambert, Lundberg, Mitchell, Morse, Neville, Newell, Renfroe, Roberts, Scheffel, Schwartz, Spence, Steadman, Tochtrop, White, Williams S. and Shaffer B.

**SENATE SERVICES REPORT**

Correctly Printed: SB12-147; SJR12-012 and 013.  
 Correctly Revised: HJR12-003, 005, 006 and 008.  
 Correctly Enrolled: SJR12-002 and 005.

**MESSAGE FROM THE HOUSE**

February 2, 2012

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB12-1002, amended as printed in House Journal, February 1, pages 127-128.

The House has adopted and transmits herewith HJR12-1009.

**CONSIDERATION OF RESOLUTIONS - cont'd**

**HJR12-1009** by Representative(s) Massey; also Senator(s) Jahn--Concerning the benefits of homeownership.

On motion of Senator Jahn, the resolution was **adopted** by the following roll call vote:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Lambert	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lundberg	Y	Schwartz	Y
Boyd	Y	Heath	Y	Mitchell	Y	Spence	Y
Brophy	Y	Hodge	Y	Morse	Y	Steadman	Y
Cadman	Y	Hudak	Y	Neville	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

Co-sponsors added: Aguilar, Bacon, Boyd, Brophy, Cadman, Carroll, Foster, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Hudak, Johnston, King K., King S., Lambert, Lundberg, Mitchell, Morse, Neville, Newell, Nicholson, Renfroe, Roberts, Scheffel, Schwartz, Spence, Steadman, Tochtrop, White, Williams S. and Shaffer B.

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On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Thursday, February 2 was laid over until Monday, February 6, retaining its place on the calendar.

General Orders -- Second Reading of Bills -- Consent Calendar: SB12-009, SB12-066.  
 General Orders -- Second Reading of Bills: SB12-033 as amended, SB12-011, SB12-030, SB12-015, SB12-048, SB12-010.  
 Consideration of Resolutions: SJR12-009, HJR12-1004.

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On motion of Senator Morse, the Senate adjourned until 10:00 a.m., Monday, February 6, 2012.

Approved:

Brandon C. Shaffer  
 President of the Senate

Attest:

Cindi L. Markwell  
 Secretary of the Senate

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