

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0543.01 Brita Darling x2241

SENATE BILL 12-056

SENATE SPONSORSHIP

Carroll,

HOUSE SPONSORSHIP

Holbert,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING JUDICIAL APPOINTMENTS IN DOMESTIC RELATIONS CASES**
102 **INVOLVING CHILDREN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires a child's legal representative, a child and family investigator, a parental responsibilities evaluator, a parenting coordinator, and a decision-maker to certify at the time of the appointment and in any written report that he or she does not have any relationship, financial or otherwise, with the child, either party, the attorneys, or the court or, if he

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

or she does, to disclose the nature of the relationship. Further, the court-appointed professionals agree to comply with any laws relating to the performance of their appointed position.

Subject to certain conditions, under current law a court must order an evaluation and report concerning the allocation of parental rights in domestic relations cases if a party requests an evaluation. The bill permits a court to exercise discretion in determining whether to order an evaluation. There are several factors that the court may consider in determining whether to order an evaluation, and the court may apportion the cost of the evaluation between the parties when it appoints the evaluator and reapportion the reasonable costs of the evaluation when the evaluation is completed. The court may also apportion the initial cost of a supplemental evaluation among the parties.

With respect to parenting coordinators, a parenting coordinator must be a neutral third party with an independent perspective acceptable to the court. Additionally, before appointing a parenting coordinator, the court shall consider the effect of a claim by one of the parties of domestic violence by the other party on the ability of the parties to engage in parent coordination.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 14-10-116, amend
3 (1); and add (2.5) as follows:

4 **14-10-116. Appointment in domestic relations cases -**
5 **representation of child's best interests - legal representative of the**
6 **child - disclosure.** (1) The court may, upon the motion of either party or
7 upon its own motion, appoint an attorney, in good standing and licensed
8 to practice law in the state of Colorado, to serve as the legal
9 representative of the child, representing the best interests of the child in
10 any domestic relations proceeding that involves allocation of parental
11 responsibilities. In no instance may the same person serve as both the
12 child's legal representative pursuant to this section and as the child and
13 family investigator for the court pursuant to section 14-10-116.5. WITHIN
14 TEN DAYS AFTER THE APPOINTMENT, THE APPOINTED PERSON SHALL
15 COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (2.5) OF THIS

1 SECTION.

2 (2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE
3 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF
4 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL
5 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE
6 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF
7 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

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

16 **14-10-116.5. Appointment in domestic relations cases - child**
17 **and family investigator - disclosure.** (1) The court may, upon the
18 motion of either party or upon its own motion, appoint ~~an individual~~ A
19 NEUTRAL THIRD PERSON to serve the court as a child and family
20 investigator pursuant to subsection (2) of this section in a domestic
21 relations proceeding that involves allocation of parental responsibilities.
22 The court shall set forth the specific duties of the child and family
23 investigator in a written order of appointment. The same person may not
24 serve as both the legal representative of the child pursuant to section
25 14-10-116 and as the child and family investigator for the court pursuant
26 to this section. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE
27 APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF

1 SUBSECTION (2.5) OF THIS SECTION.

2 (2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE
3 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF
4 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL
5 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE
6 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF
7 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

14 **SECTION 3.** In Colorado Revised Statutes, 14-10-127, **amend**
15 (1) (a) (I) and (1) (a) (I.5) introductory portion; and **add** (1) (a) (I.3) and
16 (1.2) as follows:

17 **14-10-127. Evaluation and reports - disclosure.** (1) (a) (I) In all
18 proceedings concerning the allocation of parental responsibilities with
19 respect to a child, the court ~~shall~~ MAY, upon motion of either party or
20 upon its own motion, order the court probation department, any county or
21 district social services department, or a licensed mental health
22 professional qualified pursuant to subsection (4) of this section to perform
23 an evaluation and file a written report concerning the disputed issues
24 relating to the allocation of parental responsibilities for the child, unless
25 such motion by either party is made for the purpose of delaying the
26 proceedings. Any court or social services department personnel appointed
27 by the court to do such evaluation shall be qualified pursuant to

1 subsection (4) of this section. When a mental health professional
2 performs the evaluation, the court shall appoint or approve the selection
3 of the mental health professional. WITHIN TEN DAYS AFTER THE
4 APPOINTMENT, THE EVALUATOR SHALL COMPLY WITH THE DISCLOSURE
5 PROVISIONS OF SUBSECTION (1.2) OF THIS SECTION. The moving party
6 COURT shall, at the time of the appointment of the evaluator, ORDER ONE
7 OR MORE OF THE PARTIES TO deposit a reasonable sum with the court to
8 pay the cost of the evaluation. The court may order the reasonable charge
9 for such evaluation and report to be assessed as costs between the parties
10 AT THE TIME THE EVALUATION IS COMPLETED.

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

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

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

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

24 (I.5) A party may request a supplemental evaluation to the
25 evaluation ordered pursuant to subparagraph (I) of this paragraph (a). The
26 court shall appoint another mental health professional to perform the
27 supplemental evaluation at the initial expense of the moving party. THE

1 PERSON APPOINTED TO PERFORM THE SUPPLEMENTAL EVALUATION SHALL
2 COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION (1.2) OF THIS
3 SECTION. The court shall not order a supplemental evaluation if it
4 determines that any of the following applies, based on motion and
5 supporting affidavits:

6 (1.2) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE
7 EVALUATOR SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD,
8 AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP
9 THAT THE EVALUATOR HAS OR HAS HAD WITH THE CHILD, EITHER PARTY,
10 THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP
11 EXISTS, THE NATURE OF THE RELATIONSHIP.

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

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

20 **14-10-128.1. Appointment of parenting coordinator -**
21 **disclosure.** (1) Pursuant to the provisions of this section, at any time
22 after the entry of an order concerning parental responsibilities and upon
23 notice to the parties, the court may, on its own motion, a motion by either
24 party, or an agreement of the parties, appoint a parenting coordinator as
25 a neutral third party to assist in the resolution of disputes between the
26 parties concerning parental responsibilities, including but not limited to
27 implementation of the court-ordered parenting plan. The parenting

1 coordinator shall be an individual A NEUTRAL PERSON with appropriate
2 training and qualifications and a AN INDEPENDENT perspective acceptable
3 to the court. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE APPOINTED
4 PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION
5 (2.5) OF THIS SECTION.

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

12 (2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE
13 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF
14 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL
15 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE
16 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF
17 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

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

26 **14-10-128.3. Appointment of decision-maker - disclosure.**
27 **(1) In addition to the appointment of a parenting coordinator pursuant to**

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

17 (4.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE
18 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF
19 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL
20 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE
21 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF
22 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

1 INFORMATION CONTAINED IN THE DISCLOSURE.

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

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