

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 1, 2012  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB12-056 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

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

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

18 (2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE  
19 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF  
20 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL  
21 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE  
22 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF  
23 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

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

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

7 **14-10-116.5. Appointment in domestic relations cases - child**  
8 **and family investigator - disclosure.** (1) The court may, upon the  
9 motion of either party or upon its own motion, appoint ~~an individual~~ A  
10 NEUTRAL THIRD PERSON to serve the court as a child and family  
11 investigator pursuant to subsection (2) of this section in a domestic  
12 relations proceeding that involves allocation of parental responsibilities.  
13 The court shall set forth the specific duties of the child and family  
14 investigator in a written order of appointment. The same person may not  
15 serve as both the legal representative of the child pursuant to section  
16 14-10-116 and as the child and family investigator for the court pursuant  
17 to this section. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE  
18 APPOINTED PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF  
19 SUBSECTION (2.5) OF THIS SECTION.

20 (2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE  
21 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF  
22 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL  
23 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE  
24 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF  
25 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

32 **SECTION 3.** In Colorado Revised Statutes, 14-10-127, **amend**  
33 (1) (a) (I) and (1) (a) (I.5) introductory portion; and **add** (1) (a) (I.3) and  
34 (1.2) as follows:

35 **14-10-127. Evaluation and reports - disclosure.** (1) (a) (I) In all  
36 proceedings concerning the allocation of parental responsibilities with  
37 respect to a child, the court ~~shall~~ MAY, upon motion of either party or  
38 upon its own motion, order the court probation department, any county or  
39 district social services department, or a licensed mental health  
40 professional qualified pursuant to subsection (4) of this section to perform  
41 an evaluation and file a written report concerning the disputed issues

1 relating to the allocation of parental responsibilities for the child, unless  
2 such motion by either party is made for the purpose of delaying the  
3 proceedings. Any court or social services department personnel appointed  
4 by the court to do such evaluation shall be qualified pursuant to  
5 subsection (4) of this section. When a mental health professional  
6 performs the evaluation, the court shall appoint or approve the selection  
7 of the mental health professional. WITHIN TEN DAYS AFTER THE  
8 APPOINTMENT, THE EVALUATOR SHALL COMPLY WITH THE DISCLOSURE  
9 PROVISIONS OF SUBSECTION (1.2) OF THIS SECTION. The ~~moving party~~  
10 COURT shall, at the time of the appointment of the evaluator, ORDER ONE  
11 OR MORE OF THE PARTIES TO deposit a reasonable sum with the court to  
12 pay the cost of the evaluation. The court may order the reasonable charge  
13 for such evaluation and report to be assessed as costs between the parties  
14 AT THE TIME THE EVALUATION IS COMPLETED.

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

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

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

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

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

37 (1.2) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE  
38 EVALUATOR SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF RECORD,  
39 AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL RELATIONSHIP  
40 THAT THE EVALUATOR HAS OR HAS HAD WITH THE CHILD, EITHER PARTY,  
41 THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF A RELATIONSHIP  
42 EXISTS, THE NATURE OF THE RELATIONSHIP.

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

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

9 **14-10-128.1. Appointment of parenting coordinator -**  
10 **disclosure.** (1) Pursuant to the provisions of this section, at any time  
11 after the entry of an order concerning parental responsibilities and upon  
12 notice to the parties, the court may, on its own motion, a motion by either  
13 party, or an agreement of the parties, appoint a parenting coordinator as  
14 a neutral third party to assist in the resolution of disputes between the  
15 parties concerning parental responsibilities, including but not limited to  
16 implementation of the court-ordered parenting plan. The parenting  
17 coordinator shall be ~~an individual~~ A NEUTRAL PERSON with appropriate  
18 training and qualifications and ~~a AN INDEPENDENT~~ perspective acceptable  
19 to the court. WITHIN TEN DAYS AFTER THE APPOINTMENT, THE APPOINTED  
20 PERSON SHALL COMPLY WITH THE DISCLOSURE PROVISIONS OF SUBSECTION  
21 (2.5) OF THIS SECTION.

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

28 (2.5) (a) WITHIN TEN DAYS AFTER HIS OR HER APPOINTMENT, THE  
29 APPOINTED PERSON SHALL DISCLOSE TO EACH PARTY, ATTORNEYS OF  
30 RECORD, AND THE COURT ANY FAMILIAL, FINANCIAL, OR SOCIAL  
31 RELATIONSHIP THAT THE APPOINTED PERSON HAS OR HAS HAD WITH THE  
32 CHILD, EITHER PARTY, THE ATTORNEYS OF RECORD, OR THE JUDGE AND, IF  
33 A RELATIONSHIP EXISTS, THE NATURE OF THE RELATIONSHIP.

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

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

1           **14-10-128.3. Appointment of decision-maker - disclosure.**  
2 (1) In addition to the appointment of a parenting coordinator pursuant to  
3 section 14-10-128.1 or an arbitrator pursuant to section 14-10-128.5, at  
4 any time after the entry of an order concerning parental responsibilities  
5 and upon written consent of both parties, the court may appoint a  
6 qualified domestic relations decision-maker and grant to the  
7 decision-maker binding authority to resolve disputes between the parties  
8 as to implementation or clarification of existing orders concerning the  
9 parties' minor or dependent children, including but not limited to disputes  
10 concerning parenting time, specific disputed parental decisions, and child  
11 support. A decision-maker shall have the authority to make binding  
12 determinations to implement or clarify the provisions of a pre-existing  
13 court order in a manner that is consistent with the substantive intent of the  
14 court order. The decision-maker appointed pursuant to the provisions of  
15 this section may be the same person as the parenting coordinator  
16 appointed pursuant to section 14-10-128.1. AT THE TIME OF THE  
17 APPOINTMENT, THE APPOINTED PERSON SHALL COMPLY WITH THE  
18 DISCLOSURE PROVISIONS OF SUBSECTION (4.5) OF THIS SECTION.

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

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

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

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

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