

**STATE
FISCAL IMPACT**

Drafting Number: LLS 13-0227
Prime Sponsor(s): Rep. McCann
 Sen. Newell

Date: April 1, 2013
Bill Status: House Public Health Care and
 Human Services
Fiscal Analyst: Human Services
 Bill Zepernick (303-866-4777)

TITLE: CONCERNING CIVIL ACTIONS, AND, IN CONNECTION THEREWITH, PROCEDURES FOR ALLOCATING PARENTAL RIGHTS AND RESPONSIBILITIES IN THE BEST INTERESTS OF THE CHILD IN CASES INVOLVING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE; PROVISIONS RELATING TO PARENTING TIME ORDERS; PROVISIONS RELATING TO PARENTING TIME EVALUATIONS AND REPORTS; AND AMENDING AND RELOCATING PROVISIONS RELATING TO CIVIL PROTECTION ORDERS.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures		
General Fund	\$275,399	\$237,133
FTE Position Change	3.2 FTE	3.2 FTE
Effective Date: July 1, 2013.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

The bill makes changes to procedures concerning the allocation of parental rights and responsibilities in cases involving child abuse and neglect and domestic violence, and also amends, repeals, and relocates various statutes on civil protection orders. The changes in these two areas are discussed below.

Allocation of parental rights and responsibilities. The bill adds additional rights of children in parental responsibility cases, including the right to be emotionally, mentally, and physically safe in the care of either parent, and to reside and visit homes that are free of domestic violence and child abuse and neglect. The best interest of the child must be considered when parental responsibilities are allocated. The bill changes various procedures when allocating parental rights and responsibilities, including, among other things:

- requiring the court to consider various factors and make specific findings on the record in contested hearings on final orders, noting the factors considered and the reasons why the allocation of parental responsibilities is in the best interest of the child;

- specifying that it is not in the best interest of a child to allocate mutual decision-making responsibility over the objection of the other party when the court has found that domestic abuse or child abuse or neglect has occurred based on a preponderance of the evidence, unless the court finds that such mutual decision-making can be done safely for the child and the abused party;
- requiring the court to consider imposing conditions on parenting time, especially to ensure the safety of the child and of the abused party when formulating or approving a parenting plan and the court has found that domestic abuse or child abuse or neglect has occurred;
- providing the court with discretion to determine whether to appoint a child and family investigator;
- extending the deadline for the court to hear and rule on motions to restrict parenting time or parental contact, as well as the corresponding time period for supervised parenting time until such a ruling is made, from 7 to 14 days when one parent alleges that the child is in imminent physical or emotional danger due to parenting time or contact by the other parent.

Protection orders. With respect to civil protection orders, the bill reorganizes and amends existing statutes, including among other things:

- adding new definitions for "contact" and "sexual assault or abuse", and amending various other existing definition;
- adding additional behaviors, including stalking and sexual assault, that may cause a court to enter an emergency or temporary protection order;
- clarifying the requirements that a petitioner must follow when seeking a temporary protection order and allowing an order awarding temporary care and control of a child to be extended for up to one year;
- clarifying that temporary protection orders may be obtained even if the party seeking protection has not previously reported the behavior of the other party to law enforcement;
- specifying that a peace officer must accompany a party subject to a temporary protection order to return to a previously shared residence that is otherwise excluded by the order;
- specifying that a finding of imminent danger to the protected person is not a necessary prerequisite to issue a permanent civil protection order, and makes other changes to the procedures for such orders;
- allowing a restrained person to file to modify or dismiss a permanent protection order after 2 years, rather than 4 years under current law; and
- making various changes to the procedures for modifying or dismissing a protection order, including allowing the court to consider whether the order has been successful in preventing harm to the protected person as grounds for denying a request to modify or dismiss a protection order.

State Expenditures

The bill increases costs in the Judicial Branch by \$275,399 and 3.2 FTE in FY 2013-14 and \$237,133 and 3.2 FTE in FY 2014-15. These costs, paid from the General Fund, result from the requirement in the bill that the courts make specific findings in parenting time cases where there is an allegation of domestic violence or child abuse or neglect. No previous investigation or reporting of such allegations is required; therefore, additional hearings will be required for courts to consider evidence about such claims in order to rule and issue findings as required by the bill. These costs are summarized in Table 1 and discussed below.

Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$211,102	\$230,293
FTE	3.2	3.2
Operating Expenses and Capital Outlay	64,297	6,840
TOTAL	\$275,399	\$237,133

Trial courts - Additional hearings. Of the approximately 3,000 domestic relations cases involving protection orders (the best available indicator of cases involving claims of child abuse or domestic violence), 700 cases involved permanent protection orders and 2,300 involved temporary orders. The 700 cases with permanent orders already involve a significant amount of court time and likely will not result in more workload to the courts. In the 2,300 cases involving temporary orders, it is assumed that 50 percent of these cases involve parenting time determinations and will require an additional 1.5 hours of hearing time per case to make findings, resolve motions, and meet the other requirements of the bill. Thus, an additional 1,725 hours of hearing time will be required under the bill each year (2,300 cases x 0.5 x 1.5 hours per case = 1,725 hours).

Trial courts - Personal services. The additional hearings will require 0.8 FTE per year for an additional magistrate, as well as 2.4 FTE for support staff (i.e., law clerk, court reporter, and division clerk), for a total of 3.2 FTE. Thus, personal services costs will be \$211,102 in FY 2013-14 and \$230,293 in FY 2014-15. Costs are prorated in the first year to account for the pay-date shift for General Fund employees.

Trial Courts - Operating expenses and capital outlay costs. The additional staff will result in \$57,457 in capital outlay costs in the first year to provide additional court space and equip staff. Operating costs will be \$6,840 per year. Thus, total operating and capital costs are \$64,297 in FY 2014-15 and \$6,840 in FY 2014-15.

Other Judicial Branch agencies. The bill potentially affects the number of cases and workload per case in certain matters in which the Office of the Child's Representative (OCR) and the Office of the State Public Defender (OSPD) provide representation by increasing the discretion of the courts and broadening the scope and timing of protection orders. The impact to these agencies is expected to be minimal and is assumed that any additional workload can be addressed within existing appropriations.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB 13-1259*		
Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$21,552	\$21,584
Supplemental Employee Retirement Payments	12,784	15,778
TOTAL	\$34,336	\$37,362

**More information is available at: <http://colorado.gov/fiscalnotes>*

State Appropriations

The Judicial Branch requires a General Fund appropriation of \$275,399, and 3.2 FTE, in FY 2013-14.

Departments Contacted

Judicial Branch
Corrections
Sheriffs

Human Services
Counties

Law
District Attorneys