

First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 05-0628.01 Beth Kane

SENATE BILL 05-181

SENATE SPONSORSHIP

Johnson

HOUSE SPONSORSHIP

Jahn

Senate Committees

House Committees

Health and Human Services

A BILL FOR AN ACT

101 CONCERNING PROCEEDINGS PERTAINING TO CHILD SUPPORT
102 OBLIGATIONS, AND, IN CONNECTION THEREWITH, REQUIRING
103 SPECIFIED ADVISEMENTS AND AUTHORIZING THE ALLOCATION
104 OF PARENTAL RESPONSIBILITIES AT SUCH PROCEEDINGS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires a petition in a proceeding for dissolution of marriage, a petition in a proceeding to compel a parent to support a child, a summons in a paternity action, and a notice of financial responsibility to an obligor sent by a delegate child enforcement unit, to include specified advisements regarding genetic tests. Clarifies procedures for

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.

accomplishing service in actions to determine the existence of the father and child relationship and in actions to compel a parent to support a child. Requires the judge or magistrate, at the informal hearing held after an action has been brought, to declare the existence or nonexistence of the father-child relationship and, at a hearing concerning child support, to advise the parties of specified issues regarding genetic testing.

Authorizes a court with jurisdiction to determine the liability of persons for the support of another person to enter an order concerning allocation of parental responsibilities, and makes an exception.

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

2 **SECTION 1.** 14-10-107 (2), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **14-10-107. Commencement - pleadings - abolition of existing**
5 **defenses - automatic, temporary injunction - enforcement.** (2) The
6 petition in a proceeding for dissolution of marriage or legal separation
7 shall allege that the marriage is irretrievably broken and shall set forth:

8 (h) THE FOLLOWING ADVISEMENTS:

9 (I) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE
10 REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL
11 RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5); AND

12 (II) THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO A LEGAL
13 ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO
14 THE ENTRY OF THE FINAL DECREE OF DISSOLUTION, THE GENETIC TESTS
15 MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

16 **SECTION 2.** 19-4-105.5, Colorado Revised Statutes, is amended
17 BY THE ADDITION OF A NEW SUBSECTION to read:

18 **19-4-105.5. Commencement of proceedings - summons.** (3) A
19 SUMMONS ISSUED UPON COMMENCEMENT OF A PROCEEDING UNDER THIS
20 ARTICLE SHALL CONTAIN THE FOLLOWING ADVISEMENTS:

1 (a) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE
2 THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF
3 PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5),
4 C.R.S.; AND

5 (b) THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO A LEGAL
6 ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO
7 THE ENTRY OF THE FINAL DECREE OF DISSOLUTION, THE GENETIC TESTS
8 MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

9 **SECTION 3.** 19-4-109 (2), Colorado Revised Statutes, is
10 amended to read:

11 **19-4-109. Jurisdiction - venue.** (2) A person who has sexual
12 intercourse in this state thereby submits to the jurisdiction of the courts
13 of this state as to an action brought under this article with respect to a
14 child who may have been conceived by that act of intercourse. Upon
15 filing of the petition, the court shall issue a summons. The hearing shall
16 be set for a day not less than ten days after service is completed or on
17 such later date as the court may order. In addition to any other method
18 provided by rule or statute, including rule ~~4(f)~~ 4(e) of the Colorado rules
19 of civil procedure, AFTER personal jurisdiction over an individual LIVING
20 outside this state ~~may be~~ IS acquired PURSUANT TO SECTION 14-5-201,
21 C.R.S., SERVICE MAY BE ACCOMPLISHED by delivering a copy of the
22 summons, together with a copy of the petition upon which it was issued,
23 to the individual served. Such service may be by private process server
24 or by sending such copies to such individual by certified mail with proof
25 of actual receipt by such individual.

26 **SECTION 4.** 19-4-111 (1), Colorado Revised Statutes, is
27 amended to read:

1 **19-4-111. Pretrial proceedings.** (1) As soon as practicable after
2 an action to declare the existence or nonexistence of the father-child
3 relationship has been brought, an informal hearing shall be held if it is
4 determined by the court to be in the child's best interest. The court may
5 order that the hearing be held before a magistrate. The public shall be
6 barred from the hearing if it is determined by the court to be in the best
7 interest of any of the parties. A record of the proceeding or any portion
8 thereof shall be kept if any party requests or the court orders. Rules of
9 evidence need not be observed. AT THE INFORMAL HEARING, THE JUDGE
10 OR MAGISTRATE SHALL GIVE A VERBAL ADVISEMENT TO THE PARTIES THAT
11 A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING
12 PARTY IN MATTERS CONCERNING ALLOCATION OF PARENTAL
13 RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S. THE
14 JUDGE OR MAGISTRATE SHALL FURTHER ADVISE THE PARTIES THAT, IF
15 GENETIC TESTS ARE NOT OBTAINED PRIOR TO THE LEGAL ESTABLISHMENT
16 OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO THE ENTRY OF
17 THE FINAL ORDER ESTABLISHING PATERNITY, THE GENETIC TESTS MAY NOT
18 BE ALLOWED INTO EVIDENCE AT A LATER DATE.

19 **SECTION 5.** 19-6-101, Colorado Revised Statutes, is amended
20 BY THE ADDITION OF A NEW SUBSECTION to read:

21 **19-6-101. Initiation of proceedings - support - repayment of**
22 **birth-related debt.** (6) A PETITION FILED PURSUANT TO THIS ARTICLE
23 SHALL CONTAIN THE FOLLOWING ADVISEMENTS:

24 (a) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE
25 THE REQUESTING PARTY IN MATTERS CONCERNING ALLOCATION OF
26 PARENTAL RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5),
27 C.R.S.; AND

1 (b) THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO A LEGAL
2 ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO
3 THE ENTRY OF THE FINAL DECREE OF DISSOLUTION, THE GENETIC TESTS
4 MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

5 **SECTION 6.** 19-6-103 (2), Colorado Revised Statutes, is
6 amended to read:

7 **19-6-103. Summons.** (2) Service of the summons shall be by
8 personal service as provided in the Colorado rules of civil procedure. In
9 addition to any other method provided by rule or statute, including rule
10 ~~4(f)~~ 4(e) of the Colorado rules of civil procedure, AFTER personal
11 jurisdiction over an individual LIVING outside this state ~~may be~~ IS
12 acquired PURSUANT TO SECTION 14-5-201, C.R.S., SERVICE MAY BE
13 ACCOMPLISHED by delivering a copy of the summons, together with a
14 copy of the petition upon which it was issued, to the individual served.
15 Such service may be by private process server or by sending such copies
16 to such individual by certified mail with proof of actual receipt by such
17 individual.

18 **SECTION 7.** 19-6-104, Colorado Revised Statutes, is amended
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **19-6-104. Hearing - orders.** (1.5) AT THE HEARING, THE COURT
21 SHALL GIVE A VERBAL ADVISEMENT TO THE PARTIES THAT A REQUEST FOR
22 GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS
23 CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO
24 SECTION 14-10-124 (1.5), C.R.S. THE JUDGE OR MAGISTRATE SHALL
25 FURTHER ADVISE THE PARTIES THAT, IF GENETIC TESTS ARE NOT OBTAINED
26 PRIOR TO THE LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO
27 EVIDENCE PRIOR TO THE ENTRY OF THE FINAL ORDER ESTABLISHING

1 PATERNITY, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT
2 A LATER DATE.

3 **SECTION 8.** 19-6-104, Colorado Revised Statutes, is amended
4 BY THE ADDITION OF A NEW SUBSECTION to read:

5 **19-6-104. Hearing - orders.** (3.5) UPON THE FILING OF A
6 PROCEEDING UNDER THIS ARTICLE OR UPON THE FILING OF A PROCEEDING
7 ORIGINATING UNDER ARTICLE 13.5 OF TITLE 26, C.R.S., THE COURT MAY
8 ENTER AN ORDER ALLOCATING PARENTAL RESPONSIBILITIES PURSUANT TO
9 SECTION 14-10-124 (1.5), C.R.S., EXCEPT THAT, IN MATTERS INVOLVING
10 A NONRESIDENT PARTY, THE COURT SHALL FIRST DETERMINE WHETHER IT
11 HAS AUTHORITY TO ISSUE AN ORDER ALLOCATING PARENTAL
12 RESPONSIBILITIES PURSUANT TO ARTICLE 13 OF TITLE 14, C.R.S.

13 **SECTION 9.** 26-13.5-103 (1), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **26-13.5-103. Notice of financial responsibility issued - contents.**

16 (1) The delegate child support enforcement unit shall issue a notice of
17 financial responsibility to an obligor who owes a child support debt or
18 who is responsible for the support of a child on whose behalf the
19 custodian of that child is receiving support enforcement services from the
20 delegate child support enforcement unit pursuant to article 13 of this title.

21 The notice shall advise the obligor:

22 (a.5) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE
23 THE OBLIGOR IN MATTERS CONCERNING ALLOCATION OF PARENTAL
24 RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S., AND
25 THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO THE LEGAL
26 ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO
27 THE ENTRY OF THE FINAL ORDER ESTABLISHING PATERNITY, THE GENETIC

1 TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

2 **SECTION 10. Effective date - applicability.** (1) This section
3 and sections 3, 6, and 11 of this act shall take effect upon passage and
4 shall apply to actions filed on or after said date.

5 (2) Section 8 of this act shall take effect July 1, 2005, and shall
6 apply to actions filed on or after said date.

7 (3) Sections 1, 2, 4, 5, 7, and 9 of this act shall take effect January
8 1, 2006, and shall apply to actions filed on or after said date.

9 **SECTION 11. Safety clause.** The general assembly hereby
10 finds, determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.