

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 05-0628.01 Beth Kane

SENATE BILL 05-181

SENATE SPONSORSHIP

Johnson

HOUSE SPONSORSHIP

Jahn

Senate Committees

Health and Human Services

House Committees

Judiciary

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.

HOUSE
Amended 2nd Reading
March 28, 2005

SENATE
3rd Reading Unamended
February 21, 2005

SENATE
2nd Reading Unamended
February 18, 2005

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 (4) (b), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

4 **14-10-107. Commencement - pleadings - abolition of existing**
5 **defenses - automatic, temporary injunction - enforcement.**

6 (4) (b) (III) THE SUMMONS SHALL CONTAIN THE FOLLOWING
7 ADVISEMENTS:

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

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

15 **SECTION 2.** 14-10-124, Colorado Revised Statutes, is amended
16 BY THE ADDITION OF A NEW SUBSECTION to read:

17 (3.5) A REQUEST BY EITHER PARTY FOR GENETIC TESTING SHALL
18 NOT PREJUDICE THE REQUESTING PARTY IN THE ALLOCATION OF PARENTAL
19 RESPONSIBILITIES PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

20 **SECTION 3.** 19-4-105.5, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **19-4-105.5. Commencement of proceedings - summons.** (3) A
3 SUMMONS ISSUED UPON COMMENCEMENT OF A PROCEEDING UNDER THIS
4 ARTICLE SHALL CONTAIN THE FOLLOWING ADVISEMENTS:

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

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

13 **SECTION 4.** 19-4-109 (2), Colorado Revised Statutes, is
14 amended to read:

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

1 process server or by sending such copies to such individual by certified
2 mail with proof of actual receipt by such individual.

3 **SECTION 5.** 19-4-111 (1), Colorado Revised Statutes, is
4 amended to read:

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

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

25 **19-6-101. Initiation of proceedings - support - repayment of**
26 **birth-related debt.** (6) A PETITION FILED PURSUANT TO THIS ARTICLE
27 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 7.** 19-6-103 (2), Colorado Revised Statutes, is
10 amended to read:

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

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

24 **19-6-104. Hearing - orders.** (1.5) AT THE HEARING, THE COURT
25 SHALL GIVE A VERBAL ADVISEMENT TO THE PARTIES THAT A REQUEST FOR
26 GENETIC TESTS SHALL NOT PREJUDICE THE REQUESTING PARTY IN MATTERS
27 CONCERNING ALLOCATION OF PARENTAL RESPONSIBILITIES PURSUANT TO

1 SECTION 14-10-124 (1.5), C.R.S. THE JUDGE OR MAGISTRATE SHALL
2 FURTHER ADVISE THE PARTIES THAT, IF GENETIC TESTS ARE NOT OBTAINED
3 PRIOR TO THE LEGAL ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO
4 EVIDENCE PRIOR TO THE ENTRY OF THE FINAL ORDER ESTABLISHING
5 PATERNITY, THE GENETIC TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT
6 A LATER DATE.

7 **SECTION 9.** 19-6-104, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **19-6-104. Hearing - orders.** (3.5) UPON THE FILING OF A
10 PROCEEDING UNDER THIS ARTICLE OR UPON THE FILING OF A PROCEEDING
11 ORIGINATING UNDER ARTICLE 13.5 OF TITLE 26, C.R.S., THE COURT MAY
12 ENTER AN ORDER ALLOCATING PARENTAL RESPONSIBILITIES PURSUANT TO
13 SECTION 14-10-124 (1.5), C.R.S., EXCEPT THAT, IN MATTERS INVOLVING
14 A NONRESIDENT PARTY, THE COURT SHALL FIRST DETERMINE WHETHER IT
15 HAS AUTHORITY TO ISSUE AN ORDER ALLOCATING PARENTAL
16 RESPONSIBILITIES PURSUANT TO ARTICLE 13 OF TITLE 14, C.R.S. **NOTHING**
17 **IN THIS SUBSECTION (3.5) SHALL BE CONSTRUED TO AUTHORIZE A**
18 **DELEGATE CHILD SUPPORT ENFORCEMENT UNIT TO NEGOTIATE OR MEDIATE**
19 **THE ALLOCATION OF PARENTAL RESPONSIBILITIES IN ANY PROCEEDING**
20 **INITIATED UNDER THIS ARTICLE OR ARTICLE 13.5 OF TITLE 26, C.R.S.**

21 **SECTION 10.** 26-13.5-103 (1), Colorado Revised Statutes, is
22 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23 **26-13.5-103. Notice of financial responsibility issued - contents.**
24 (1) The delegate child support enforcement unit shall issue a notice of
25 financial responsibility to an obligor who owes a child support debt or
26 who is responsible for the support of a child on whose behalf the
27 custodian of that child is receiving support enforcement services from the

1 delegate child support enforcement unit pursuant to article 13 of this title.

2 The notice shall advise the obligor:

3 (a.5) THAT A REQUEST FOR GENETIC TESTS SHALL NOT PREJUDICE
4 THE OBLIGOR IN MATTERS CONCERNING ALLOCATION OF PARENTAL
5 RESPONSIBILITIES PURSUANT TO SECTION 14-10-124 (1.5), C.R.S., AND
6 THAT, IF GENETIC TESTS ARE NOT OBTAINED PRIOR TO THE LEGAL
7 ESTABLISHMENT OF PATERNITY AND SUBMITTED INTO EVIDENCE PRIOR TO
8 THE ENTRY OF THE FINAL ORDER ESTABLISHING PATERNITY, THE GENETIC
9 TESTS MAY NOT BE ALLOWED INTO EVIDENCE AT A LATER DATE.

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

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

15 (3) Sections 1, 2, 4, 5, 7, and 9 of this act shall take effect January
16 1, 2006, and shall apply to actions filed on or after said date.

17 **SECTION 12. Safety clause.** The general assembly hereby
18 finds, determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.