

First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 05-0463.01 Beth Kane

HOUSE BILL 05-1171

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HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

(None)

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House Committees

Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE APPOINTMENT OF INDIVIDUALS BY THE COURT IN  
102 DOMESTIC RELATIONS PROCEEDINGS TO ASSIST IN THE  
103 RESOLUTION OF ISSUES RELATED TO CHILDREN.

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Bill Summary

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

Authorizes the court to appoint a parenting coordinator as a neutral third party to assist in the resolution of disputes between the parties concerning parental responsibilities, including but not limited to the implementation of the court-ordered parenting plan. Requires the court to make certain findings prior to appointing a parenting coordinator if there is not an agreement between the parties to appoint a parenting coordinator. Specifies the duties of a parenting coordinator. Prohibits the

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.*

parenting coordinator from performing specified activities with respect to the case. Requires a court order appointing a parenting coordinator to be for a specified term, but prohibits it from being longer than 2 years. Authorizes extension, modification, or termination of the appointment. Requires the court order appointing a parenting coordinator to include apportionment of the responsibility for payment of all of the parenting coordinator's fees between the parties. Grants a parenting coordinator immunity from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity. Restricts a parenting coordinator from testifying, and makes exceptions.

In addition to the appointment of a parenting coordinator, upon written consent of both parties to a domestic relations proceeding, authorizes the court to appoint a qualified domestic relations decision-maker and to give the decision-maker binding authority to resolve disputes between the parties concerning the parties' minor or dependent children. Grants to a decision-maker the authority to make binding determinations to implement the provisions of a court order in a manner that is consistent with the substantive intent of the court order. States that a decision-maker may be the same person as the parenting coordinator. Requires the decision-maker's procedures for making determinations to be in writing and approved by the parties prior to the time the decision-maker begins to resolve a dispute of the parties. Requires all decisions made by the decision-maker to be in writing, dated, and signed. Requires a decision-maker to file decisions with the court no later than 20 days after the date the decision is issued. Specifies that a decision is effective immediately upon issuance and that it continues in effect until vacated, corrected, or modified by the decision-maker or until an order is entered by a court pursuant to a de novo hearing by the court. Requires a court order appointing a decision-maker to be for a specified term, but prohibits it from being longer than 2 years. Specifies that the court order appointing a decision-maker shall include apportionment of the responsibility for payment of all of the decision-maker's fees between the parties. Grants a decision-maker immunity from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity. Specifies that a decision-maker shall not be competent to testify, and makes exceptions.

Modifies procedures concerning court review of a decision of an arbitrator appointed to resolve disputes between the parties concerning the parties' minor or dependent children.

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

2 **SECTION 1.** Article 10 of title 14, Colorado Revised Statutes,

1 is amended BY THE ADDITION OF THE FOLLOWING NEW  
2 SECTIONS to read:

3 **14-10-128.1. Appointment of parenting coordinator.**

4 (1) PURSUANT TO THE PROVISIONS OF THIS SECTION, AT ANY TIME AFTER  
5 THE ENTRY OF AN ORDER CONCERNING PARENTAL RESPONSIBILITIES AND  
6 UPON NOTICE TO THE PARTIES, THE COURT MAY, ON ITS OWN MOTION, A  
7 MOTION BY EITHER PARTY, OR AN AGREEMENT OF THE PARTIES, APPOINT  
8 A PARENTING COORDINATOR AS A NEUTRAL THIRD PARTY TO ASSIST IN THE  
9 RESOLUTION OF DISPUTES BETWEEN THE PARTIES CONCERNING PARENTAL  
10 RESPONSIBILITIES, INCLUDING BUT NOT LIMITED TO IMPLEMENTATION OF  
11 THE COURT-ORDERED PARENTING PLAN.

12 (2) (a) ABSENT AGREEMENT OF THE PARTIES, A COURT SHALL NOT  
13 APPOINT A PARENTING COORDINATOR UNLESS THE COURT MAKES THE  
14 FOLLOWING FINDINGS:

15 (I) THAT THE PARTIES HAVE FAILED TO ADEQUATELY IMPLEMENT  
16 THE PARENTING PLAN;

17 (II) THAT MEDIATION HAS BEEN DETERMINED BY THE COURT TO BE  
18 INAPPROPRIATE, OR, IF NOT INAPPROPRIATE, THAT MEDIATION HAS BEEN  
19 ATTEMPTED AND WAS UNSUCCESSFUL; AND

20 (III) THAT THE APPOINTMENT OF A PARENTING COORDINATOR IS IN  
21 THE BEST INTERESTS OF THE CHILD OR CHILDREN INVOLVED IN THE  
22 PARENTING PLAN.

23 (b) IN ADDITION TO MAKING THE FINDINGS REQUIRED PURSUANT TO  
24 PARAGRAPH (a) OF THIS SUBSECTION (2), PRIOR TO APPOINTING A  
25 PARENTING COORDINATOR, THE COURT SHALL CONSIDER THE EFFECT OF  
26 ANY DOCUMENTED EVIDENCE OF DOMESTIC VIOLENCE ON THE PARTIES'  
27 ABILITY TO ENGAGE IN PARENT COORDINATION.

1           (3) A PARENTING COORDINATOR SHALL ASSIST THE PARTIES IN  
2 IMPLEMENTING THE TERMS OF THE PARENTING PLAN. DUTIES OF A  
3 PARENTING COORDINATOR INCLUDE, BUT ARE NOT LIMITED TO, THE  
4 FOLLOWING:

5           (a) ASSISTING THE PARTIES IN CREATING AN AGREED-UPON,  
6 STRUCTURED GUIDELINE FOR IMPLEMENTATION OF THE PARENTING PLAN;

7           (b) DEVELOPING GUIDELINES FOR COMMUNICATION BETWEEN THE  
8 PARTIES AND SUGGESTING APPROPRIATE RESOURCES TO ASSIST THE  
9 PARTIES IN LEARNING APPROPRIATE COMMUNICATION SKILLS;

10          (c) INFORMING THE PARTIES ABOUT APPROPRIATE RESOURCES TO  
11 ASSIST THEM IN DEVELOPING IMPROVED PARENTING SKILLS;

12          (d) ASSISTING THE PARTIES IN REALISTICALLY IDENTIFYING THE  
13 SOURCES AND CAUSES OF CONFLICT BETWEEN THEM, INCLUDING BUT NOT  
14 LIMITED TO IDENTIFYING EACH PARTY'S CONTRIBUTION TO THE CONFLICT,  
15 WHEN APPROPRIATE; AND

16          (e) ASSISTING THE PARTIES IN DEVELOPING PARENTING STRATEGIES  
17 TO MINIMIZE CONFLICT.

18          (4) (a) THE COURT MAY NOT APPOINT A PERSON PURSUANT TO THIS  
19 SECTION TO SERVE IN A CASE AS A PARENTING COORDINATOR IF THE  
20 PERSON HAS SERVED OR IS SERVING IN THE SAME CASE AS AN EVALUATOR  
21 PURSUANT TO SECTION 14-10-127 OR A REPRESENTATIVE OF THE CHILD  
22 PURSUANT TO SECTION 14-10-116. AFTER APPOINTING A PERSON  
23 PURSUANT TO THIS SECTION TO SERVE AS A PARENTING COORDINATOR IN  
24 A CASE, THE COURSE MAY NOT SUBSEQUENTLY APPOINT THE PERSON TO  
25 SERVE IN THE SAME CASE AS AN EVALUATOR PURSUANT TO SECTION  
26 14-10-127 OR A REPRESENTATIVE OF THE CHILD PURSUANT TO  
27 SECTION 14-10-116.

1 (b) THE COURT MAY APPOINT A PERSON WHO HAS SERVED OR IS  
2 SERVING IN A CASE AS A SPECIAL ADVOCATE PURSUANT TO SECTION  
3 14-10-116 TO SERVE IN THE SAME CASE AS THE PARENTING COORDINATOR,  
4 UPON THE AGREEMENT OF THE PARTIES. AFTER APPOINTING A PERSON  
5 PURSUANT TO THIS SECTION TO SERVE AS A PARENTING COORDINATOR IN  
6 A CASE, THE COURT MAY NOT SUBSEQUENTLY APPOINT THE PERSON TO  
7 SERVE AS A SPECIAL ADVOCATE IN THE SAME CASE PURSUANT TO SECTION  
8 14-10-116.

9 (5) A COURT ORDER APPOINTING A PARENTING COORDINATOR  
10 SHALL BE FOR A SPECIFIED TERM; EXCEPT THAT THE COURT ORDER SHALL  
11 NOT APPOINT A PARENTING COORDINATOR FOR A PERIOD OF LONGER THAN  
12 TWO YEARS. IF AN ORDER FAILS TO SPECIFY THE LENGTH OF THE  
13 COURT-ORDERED APPOINTMENT, IT SHALL BE CONSTRUED TO BE TWO  
14 YEARS FROM THE DATE OF APPOINTMENT. UPON AGREEMENT OF THE  
15 PARTIES, THE COURT MAY EXTEND, MODIFY, OR TERMINATE THE  
16 APPOINTMENT, INCLUDING EXTENDING THE APPOINTMENT BEYOND TWO  
17 YEARS FROM THE DATE OF THE ORIGINAL APPOINTMENT. THE COURT MAY  
18 TERMINATE THE APPOINTMENT OF THE PARENTING COORDINATOR AT ANY  
19 TIME FOR GOOD CAUSE. THE COURT SHALL ALLOW THE PARENTING  
20 COORDINATOR TO WITHDRAW AT ANY TIME.

21 (6) A COURT ORDER APPOINTING A PARENTING COORDINATOR  
22 SHALL INCLUDE APPORTIONMENT OF THE RESPONSIBILITY FOR PAYMENT OF  
23 ALL OF THE PARENTING COORDINATOR'S FEES BETWEEN THE PARTIES. THE  
24 STATE SHALL NOT BE RESPONSIBLE FOR PAYMENT OF FEES TO A PARENTING  
25 COORDINATOR APPOINTED PURSUANT TO THIS SECTION.

26 (7) (a) A PARENTING COORDINATOR ACTING IN THE CAPACITY OF  
27 A PARENTING COORDINATOR IS IMMUNE FROM CIVIL LIABILITY TO THE

1 SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL  
2 CAPACITY.

3 (b) THE IMMUNITY AFFORDED BY THIS SECTION IS IN ADDITION TO,  
4 AND NOT IN LIEU OF, OR IN DEROGATION OF, IMMUNITY CONFERRED UNDER  
5 ANY OTHER PROVISION OF LAW.

6 (c) (I) IN A JUDICIAL PROCEEDING, ADMINISTRATIVE PROCEEDING,  
7 OR OTHER SIMILAR PROCEEDING, A PARENTING COORDINATOR SHALL NOT  
8 BE COMPETENT TO TESTIFY AND MAY NOT BE REQUIRED TO PRODUCE  
9 RECORDS AS TO ANY STATEMENT, CONDUCT, OR DECISION, THAT  
10 OCCURRED DURING THE PARENTING COORDINATOR'S APPOINTMENT, TO THE  
11 SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL  
12 CAPACITY.

13 (II) THIS PARAGRAPH (c) SHALL NOT APPLY:

14 (A) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY  
15 THE PARENTING COORDINATOR IS NECESSARY TO DETERMINE A CLAIM OF  
16 THE PARENTING COORDINATOR AGAINST A PARTY; OR

17 (B) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY  
18 THE PARENTING COORDINATOR IS NECESSARY TO DETERMINE A CLAIM OF  
19 A PARTY AGAINST THE PARENTING COORDINATOR; OR

20 (C) WHEN BOTH PARTIES HAVE AGREED, IN WRITING, TO  
21 AUTHORIZE THE PARENTING COORDINATOR TO TESTIFY.

22 (d) IF A PERSON COMMENCES A CIVIL ACTION AGAINST A  
23 PARENTING COORDINATOR ARISING FROM THE SERVICES OF THE PARENTING  
24 COORDINATOR, OR IF A PERSON SEEKS TO COMPEL A PARENTING  
25 COORDINATOR TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF  
26 PARAGRAPH (c) OF THIS SUBSECTION (7), AND THE COURT DECIDES THAT  
27 THE PARENTING COORDINATOR IS IMMUNE FROM CIVIL LIABILITY OR THAT

1 THE PARENTING COORDINATOR IS NOT COMPETENT TO TESTIFY, THE COURT  
2 SHALL AWARD TO THE PARENTING COORDINATOR REASONABLE ATTORNEY  
3 FEES AND REASONABLE EXPENSES OF LITIGATION.

4 **14-10-128.3. Appointment of decision-maker.** (1) IN ADDITION  
5 TO THE APPOINTMENT OF A PARENTING COORDINATOR PURSUANT TO  
6 SECTION 14-10-128.1 OR AN ARBITRATOR PURSUANT TO SECTION  
7 14-10-128.5, AT ANY TIME AFTER THE ENTRY OF AN ORDER CONCERNING  
8 PARENTAL RESPONSIBILITIES AND UPON WRITTEN CONSENT OF BOTH  
9 PARTIES, THE COURT MAY APPOINT A QUALIFIED DOMESTIC RELATIONS  
10 DECISION-MAKER AND GRANT TO THE DECISION-MAKER BINDING  
11 AUTHORITY TO RESOLVE DISPUTES BETWEEN THE PARTIES CONCERNING  
12 THE PARTIES' MINOR OR DEPENDENT CHILDREN, INCLUDING BUT NOT  
13 LIMITED TO DISPUTES CONCERNING PARENTING TIME, SPECIFIC DISPUTED  
14 PARENTAL DECISIONS, AND CHILD SUPPORT. A DECISION-MAKER SHALL  
15 HAVE THE AUTHORITY TO MAKE BINDING DETERMINATIONS TO IMPLEMENT  
16 THE PROVISIONS OF A COURT ORDER IN A MANNER THAT IS CONSISTENT  
17 WITH THE SUBSTANTIVE INTENT OF THE COURT ORDER. THE  
18 DECISION-MAKER APPOINTED PURSUANT TO THE PROVISIONS OF THIS  
19 SECTION MAY BE THE SAME PERSON AS THE PARENTING COORDINATOR  
20 APPOINTED PURSUANT TO SECTION 14-10-128.1.

21 (2) THE DECISION-MAKER'S PROCEDURES FOR MAKING  
22 DETERMINATIONS SHALL BE IN WRITING AND SHALL BE APPROVED BY THE  
23 PARTIES PRIOR TO THE TIME THE DECISION-MAKER BEGINS TO RESOLVE A  
24 DISPUTE OF THE PARTIES. IF A PARTY IS UNABLE OR UNWILLING TO AGREE  
25 TO THE DECISION-MAKER'S PROCEDURES, THE DECISION-MAKER SHALL BE  
26 ALLOWED TO WITHDRAW FROM THE MATTER.

27 (3) ALL DECISIONS MADE BY THE DECISION-MAKER PURSUANT TO

1 THIS SECTION SHALL BE IN WRITING, DATED, AND SIGNED BY THE  
2 DECISION-MAKER. DECISIONS OF THE DECISION-MAKER SHALL BE FILED  
3 WITH THE COURT NO LATER THAN TWENTY DAYS AFTER THE DATE THE  
4 DECISION IS ISSUED. ALL DECISIONS SHALL BE EFFECTIVE IMMEDIATELY  
5 UPON ISSUANCE AND SHALL CONTINUE IN EFFECT UNTIL VACATED,  
6 CORRECTED, OR MODIFIED BY THE DECISION-MAKER OR UNTIL AN ORDER  
7 IS ENTERED BY A COURT PURSUANT TO A DE NOVO HEARING UNDER  
8 SUBSECTION (4) OF THIS SECTION.

9 (4) (a) A PARTY MAY FILE A MOTION WITH THE COURT REQUESTING  
10 THAT A DECISION OF THE DECISION-MAKER BE MODIFIED BY THE COURT  
11 PURSUANT TO A DE NOVO HEARING. A MOTION FOR A DE NOVO HEARING  
12 SHALL BE FILED NO LATER THAN THIRTY DAYS AFTER THE DATE THE  
13 DECISION IS ISSUED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

14 (b) IF A COURT, IN ITS DISCRETION BASED ON THE PLEADINGS FILED,  
15 GRANTS A PARTY'S REQUEST FOR A DE NOVO HEARING TO MODIFY THE  
16 DECISION OF THE DECISION-MAKER AND THE COURT SUBSTANTIALLY  
17 UPHOLDS THE DECISION OF THE DECISION-MAKER, THE PARTY THAT  
18 REQUESTED THE DE NOVO HEARING SHALL PAY THE FEES AND COSTS OF  
19 THE OTHER PARTY AND SHALL PAY THE FEES AND COSTS INCURRED BY THE  
20 DECISION-MAKER IN CONNECTION WITH THE REQUEST FOR DE NOVO  
21 HEARING, UNLESS THE COURT FINDS THAT IT WOULD BE MANIFESTLY  
22 UNJUST.

23 (5) A COURT ORDER APPOINTING A DECISION-MAKER SHALL BE FOR  
24 A SPECIFIED TERM; EXCEPT THAT THE COURT ORDER SHALL NOT APPOINT  
25 A DECISION-MAKER FOR A PERIOD OF LONGER THAN TWO YEARS. IF AN  
26 ORDER FAILS TO SPECIFY THE LENGTH OF THE COURT-ORDERED  
27 APPOINTMENT, IT SHALL BE CONSTRUED TO BE TWO YEARS FROM THE DATE



1 OF APPOINTMENT. UPON AGREEMENT OF THE PARTIES, THE COURT MAY  
2 EXTEND, MODIFY, OR TERMINATE THE APPOINTMENT, INCLUDING  
3 EXTENDING THE APPOINTMENT BEYOND TWO YEARS FROM THE DATE OF  
4 THE ORIGINAL APPOINTMENT. THE COURT MAY TERMINATE THE  
5 APPOINTMENT OF THE DECISION-MAKER AT ANY TIME FOR GOOD CAUSE.  
6 THE COURT SHALL ALLOW THE DECISION-MAKER TO WITHDRAW AT ANY  
7 TIME.

8 (6) A COURT ORDER APPOINTING A DECISION-MAKER SHALL  
9 INCLUDE APPORTIONMENT OF THE RESPONSIBILITY FOR PAYMENT OF ALL  
10 OF THE DECISION-MAKER'S FEES BETWEEN THE PARTIES. THE STATE SHALL  
11 NOT BE RESPONSIBLE FOR PAYMENT OF FEES TO A DECISION-MAKER  
12 APPOINTED PURSUANT TO THIS SECTION.

13 (7) (a) A DECISION-MAKER ACTING IN THE CAPACITY OF A  
14 DECISION-MAKER IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT  
15 AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

16 (b) THE IMMUNITY AFFORDED BY THIS SECTION IS IN ADDITION TO,  
17 AND NOT IN LIEU OF, OR IN DEROGATION OF, IMMUNITY CONFERRED UNDER  
18 ANY OTHER PROVISION OF LAW.

19 (c) (I) IN A JUDICIAL PROCEEDING, ADMINISTRATIVE PROCEEDING,  
20 OR OTHER SIMILAR PROCEEDING, A DECISION-MAKER SHALL NOT BE  
21 COMPETENT TO TESTIFY AND MAY NOT BE REQUIRED TO PRODUCE RECORDS  
22 AS TO ANY STATEMENT, CONDUCT, OR DECISION, THAT OCCURRED DURING  
23 THE DECISION-MAKER'S APPOINTMENT, TO THE SAME EXTENT AS A JUDGE  
24 OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

25 (II) THIS PARAGRAPH (c) SHALL NOT APPLY:

26 (A) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY  
27 THE DECISION-MAKER IS NECESSARY TO DETERMINE THE CLAIM OF THE

1 DECISION-MAKER AGAINST A PARTY; OR

2 (B) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY  
3 THE DECISION-MAKER IS NECESSARY TO DETERMINE A CLAIM OF A PARTY  
4 AGAINST A DECISION-MAKER; OR

5 (C) WHEN BOTH PARTIES HAVE AGREED, IN WRITING, TO  
6 AUTHORIZE THE DECISION-MAKER TO TESTIFY.

7 (d) IF A PERSON COMMENCES A CIVIL ACTION AGAINST A  
8 DECISION-MAKER ARISING FROM THE SERVICES OF THE DECISION-MAKER,  
9 OR IF A PERSON SEEKS TO COMPEL A DECISION-MAKER TO TESTIFY OR  
10 PRODUCE RECORDS IN VIOLATION OF PARAGRAPH (C) OF THIS SUBSECTION  
11 (7), AND THE COURT DECIDES THAT THE DECISION-MAKER IS IMMUNE FROM  
12 CIVIL LIABILITY OR THAT THE DECISION-MAKER IS NOT COMPETENT TO  
13 TESTIFY, THE COURT SHALL AWARD TO THE DECISION-MAKER REASONABLE  
14 ATTORNEY FEES AND REASONABLE EXPENSES OF LITIGATION.

15 **SECTION 2.** 14-10-128.5, Colorado Revised Statutes, is  
16 amended to read:

17 **14-10-128.5. Appointment of arbitrator - de novo review of**  
18 **award.** (1) With the consent of all parties, the court may appoint an  
19 arbitrator to resolve disputes between the parties concerning the parties'  
20 minor or dependent children, including but not limited to parenting time,  
21 nonrecurring adjustments to child support, and disputed parental  
22 decisions. Notwithstanding any other provision of law to the contrary, all  
23 awards entered by an arbitrator appointed pursuant to this section shall  
24 be in writing. The arbitrator's award shall be effective immediately upon  
25 entry and shall continue in effect until vacated by the arbitrator pursuant  
26 to part 2 of article 22 of title 13, C.R.S., modified or corrected by the  
27 arbitrator pursuant to part 2 of article 22 of title 13, C.R.S., or modified

1 by the court pursuant to a de novo ~~review~~ HEARING under subsection (2)  
2 of this section.

3 (2) Any party may apply to have the arbitrator's award vacated,  
4 modified, or corrected pursuant to part 2 of article 22 of title 13, C.R.S.,  
5 or may move the court to modify the arbitrator's award pursuant to a de  
6 novo ~~review of~~ HEARING CONCERNING such award BY FILING A MOTION  
7 FOR HEARING NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE  
8 AWARD. In circumstances in which a party moves for a de novo ~~review~~  
9 HEARING by the court, ~~the court shall order the nonprevailing party~~ IF THE  
10 COURT, IN ITS DISCRETION BASED ON THE PLEADINGS FILED, GRANTS THE  
11 MOTION AND THE COURT SUBSTANTIALLY UPHOLDS THE DECISION OF THE  
12 ARBITRATOR, THE PARTY THAT REQUESTED THE DE NOVO HEARING SHALL  
13 BE ORDERED to pay the fees and costs of the ~~prevailing~~ OTHER party and  
14 the fees of the arbitrator incurred in responding to the application or  
15 motion unless the court finds that it would be manifestly unjust.

16 **SECTION 3. Safety clause.** The general assembly hereby finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, and safety.