

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 05-0463.01 Beth Kane

HOUSE BILL 05-1171

HOUSE SPONSORSHIP

Jahn,

SENATE SPONSORSHIP

Grossman,

House Committees

Judiciary

Senate Committees

Judiciary

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.**

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.

HOUSE
3rd Reading Unamended
March 2, 2005

HOUSE
Amended 2nd Reading
March 1, 2005

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.

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. THE PARENTING COORDINATOR
12 SHALL BE AN INDIVIDUAL WITH APPROPRIATE TRAINING AND
13 QUALIFICATIONS AND A PERSPECTIVE ACCEPTABLE TO THE COURT.

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

17 (I) THAT THE PARTIES HAVE FAILED TO ADEQUATELY IMPLEMENT
18 THE PARENTING PLAN;

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

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

25 (b) IN ADDITION TO MAKING THE FINDINGS REQUIRED PURSUANT TO
26 PARAGRAPH (a) OF THIS SUBSECTION (2), PRIOR TO APPOINTING A
27 PARENTING COORDINATOR, THE COURT SHALL CONSIDER THE EFFECT OF

1 ANY DOCUMENTED EVIDENCE OF DOMESTIC VIOLENCE ON THE PARTIES'
2 ABILITY TO ENGAGE IN PARENT COORDINATION.

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

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

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

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

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

18 (e) ASSISTING THE PARTIES IN DEVELOPING PARENTING STRATEGIES
19 TO MINIMIZE CONFLICT.

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

1 14-10-127 OR A REPRESENTATIVE OF THE CHILD PURSUANT TO
2 SECTION 14-10-116.

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

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

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

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(7) (a) A PARENTING COORDINATOR ACTING IN THE CAPACITY OF A PARENTING COORDINATOR IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

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

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

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

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

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

(C) WHEN BOTH PARTIES HAVE AGREED, IN WRITING, TO AUTHORIZE THE PARENTING COORDINATOR TO TESTIFY AND TO PRODUCE RECORDS RELATED TO STATEMENTS, CONDUCT, AND DECISIONS THAT OCCURRED DURING THE PARENTING COORDINATOR'S APPOINTMENT.

(d) IF A PERSON COMMENCES A CIVIL ACTION AGAINST A

1 PARENTING COORDINATOR ARISING FROM THE SERVICES OF THE PARENTING
2 COORDINATOR, OR IF A PERSON SEEKS TO COMPEL A PARENTING
3 COORDINATOR TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF
4 PARAGRAPH (c) OF THIS SUBSECTION (7), AND THE COURT DECIDES THAT
5 THE PARENTING COORDINATOR IS IMMUNE FROM CIVIL LIABILITY OR THAT
6 THE PARENTING COORDINATOR IS NOT COMPETENT TO TESTIFY, THE COURT
7 SHALL AWARD TO THE PARENTING COORDINATOR REASONABLE ATTORNEY
8 FEES AND REASONABLE EXPENSES OF LITIGATION.

9 (8) THE PARENTING COORDINATOR SHALL COMPLY WITH ANY
10 APPLICABLE PROVISIONS SET FORTH IN CHIEF JUSTICE DIRECTIVES AND ANY
11 OTHER PRACTICE OR ETHICAL STANDARDS ESTABLISHED BY RULE,
12 STATUTE, OR LICENSING BOARD THAT REGULATES THE PARENTING
13 COORDINATOR.

14 [REDACTED]

15 **14-10-128.3. Appointment of decision-maker.** (1) IN ADDITION
16 TO THE APPOINTMENT OF A PARENTING COORDINATOR PURSUANT TO
17 SECTION 14-10-128.1 OR AN ARBITRATOR PURSUANT TO SECTION
18 14-10-128.5, AT ANY TIME AFTER THE ENTRY OF AN ORDER CONCERNING
19 PARENTAL RESPONSIBILITIES AND UPON WRITTEN CONSENT OF BOTH
20 PARTIES, THE COURT MAY APPOINT A QUALIFIED DOMESTIC RELATIONS
21 DECISION-MAKER AND GRANT TO THE DECISION-MAKER BINDING
22 AUTHORITY TO RESOLVE DISPUTES BETWEEN THE PARTIES AS TO
23 IMPLEMENTATION OR CLARIFICATION OF EXISTING ORDERS CONCERNING
24 THE PARTIES' MINOR OR DEPENDENT CHILDREN, INCLUDING BUT NOT
25 LIMITED TO DISPUTES CONCERNING PARENTING TIME, SPECIFIC DISPUTED
26 PARENTAL DECISIONS, AND CHILD SUPPORT. A DECISION-MAKER SHALL
27 HAVE THE AUTHORITY TO MAKE BINDING DETERMINATIONS TO IMPLEMENT

1 OR CLARIFY THE PROVISIONS OF A PRE-EXISTING COURT ORDER IN A
2 MANNER THAT IS CONSISTENT WITH THE SUBSTANTIVE INTENT OF THE
3 COURT ORDER. THE DECISION-MAKER APPOINTED PURSUANT TO THE
4 PROVISIONS OF THIS SECTION MAY BE THE SAME PERSON AS THE PARENTING
5 COORDINATOR APPOINTED PURSUANT TO SECTION 14-10-128.1.

6 (2) THE DECISION-MAKER'S PROCEDURES FOR MAKING
7 DETERMINATIONS SHALL BE IN WRITING AND SHALL BE APPROVED BY THE
8 PARTIES PRIOR TO THE TIME THE DECISION-MAKER BEGINS TO RESOLVE A
9 DISPUTE OF THE PARTIES. IF A PARTY IS UNABLE OR UNWILLING TO AGREE
10 TO THE DECISION-MAKER'S PROCEDURES, THE DECISION-MAKER SHALL BE
11 ALLOWED TO WITHDRAW FROM THE MATTER.

12 (3) ALL DECISIONS MADE BY THE DECISION-MAKER PURSUANT TO
13 THIS SECTION SHALL BE IN WRITING, DATED, AND SIGNED BY THE
14 DECISION-MAKER. DECISIONS OF THE DECISION-MAKER SHALL BE FILED
15 WITH THE COURT AND MAILED TO THE PARTIES OR TO COUNSEL FOR THE
16 PARTIES, IF ANY, NO LATER THAN TWENTY DAYS AFTER THE DATE THE
17 DECISION IS ISSUED. ALL DECISIONS SHALL BE EFFECTIVE IMMEDIATELY
18 UPON ISSUANCE AND SHALL CONTINUE IN EFFECT UNTIL VACATED,
19 CORRECTED, OR MODIFIED BY THE DECISION-MAKER OR UNTIL AN ORDER
20 IS ENTERED BY A COURT PURSUANT TO A DE NOVO HEARING UNDER
21 SUBSECTION (4) OF THIS SECTION.

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

27 (b) IF A COURT, IN ITS DISCRETION BASED ON THE PLEADINGS FILED,

1 GRANTS A PARTY'S REQUEST FOR A DE NOVO HEARING TO MODIFY THE
2 DECISION OF THE DECISION-MAKER AND THE COURT SUBSTANTIALLY
3 UPHOLDS THE DECISION OF THE DECISION-MAKER, THE PARTY THAT
4 REQUESTED THE DE NOVO HEARING SHALL PAY THE FEES AND COSTS OF
5 THE OTHER PARTY AND SHALL PAY THE FEES AND COSTS INCURRED BY THE
6 DECISION-MAKER IN CONNECTION WITH THE REQUEST FOR DE NOVO
7 HEARING, UNLESS THE COURT FINDS THAT IT WOULD BE MANIFESTLY
8 UNJUST.

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

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

26 (7) (a) A DECISION-MAKER ACTING IN THE CAPACITY OF A
27 DECISION-MAKER IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT

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

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

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

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

12 (A) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY
13 THE DECISION-MAKER IS NECESSARY TO DETERMINE THE CLAIM OF THE
14 DECISION-MAKER AGAINST A PARTY; OR

15 (B) TO THE EXTENT TESTIMONY OR PRODUCTION OF RECORDS BY
16 THE DECISION-MAKER IS NECESSARY TO DETERMINE A CLAIM OF A PARTY
17 AGAINST A DECISION-MAKER; OR

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

20 (d) IF A PERSON COMMENCES A CIVIL ACTION AGAINST A
21 DECISION-MAKER ARISING FROM THE SERVICES OF THE DECISION-MAKER,
22 OR IF A PERSON SEEKS TO COMPEL A DECISION-MAKER TO TESTIFY OR
23 PRODUCE RECORDS IN VIOLATION OF PARAGRAPH (c) OF THIS SUBSECTION
24 (7), AND THE COURT DECIDES THAT THE DECISION-MAKER IS IMMUNE FROM
25 CIVIL LIABILITY OR THAT THE DECISION-MAKER IS NOT COMPETENT TO
26 TESTIFY, THE COURT SHALL AWARD TO THE DECISION-MAKER REASONABLE
27 ATTORNEY FEES AND REASONABLE EXPENSES OF LITIGATION.

1 (8) THE DECISION-MAKER SHALL COMPLY WITH ANY APPLICABLE
2 PROVISIONS SET FORTH IN CHIEF JUSTICE DIRECTIVES AND ANY OTHER
3 PRACTICE OR ETHICAL STANDARDS ESTABLISHED BY RULE, STATUTE, OR
4 LICENSING BOARD THAT REGULATES THE DECISION-MAKER.

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

7 **14-10-128.5. Appointment of arbitrator - de novo review of**
8 **award.** (1) With the consent of all parties, the court may appoint an
9 arbitrator to resolve disputes between the parties concerning the parties'
10 minor or dependent children, including but not limited to parenting time,
11 nonrecurring adjustments to child support, and disputed parental
12 decisions. Notwithstanding any other provision of law to the contrary, all
13 awards entered by an arbitrator appointed pursuant to this section shall
14 be in writing. The arbitrator's award shall be effective immediately upon
15 entry and shall continue in effect until vacated by the arbitrator pursuant
16 to part 2 of article 22 of title 13, C.R.S., modified or corrected by the
17 arbitrator pursuant to part 2 of article 22 of title 13, C.R.S., or modified
18 by the court pursuant to a de novo ~~review~~ HEARING under subsection (2)
19 of this section.

20 (2) Any party may apply to have the arbitrator's award vacated,
21 modified, or corrected pursuant to part 2 of article 22 of title 13, C.R.S.,
22 or may move the court to modify the arbitrator's award pursuant to a de
23 novo ~~review of~~ HEARING CONCERNING such award BY FILING A MOTION
24 FOR HEARING NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE
25 AWARD. In circumstances in which a party moves for a de novo ~~review~~
26 HEARING by the court, ~~the court shall order the nonprevailing party~~ IF THE
27 COURT, IN ITS DISCRETION BASED ON THE PLEADINGS FILED, GRANTS THE

1 MOTION AND THE COURT SUBSTANTIALLY UPHOLDS THE DECISION OF THE
2 ARBITRATOR, THE PARTY THAT REQUESTED THE DE NOVO HEARING SHALL
3 BE ORDERED to pay the fees and costs of the ~~prevailing~~ OTHER party and
4 the fees of the arbitrator incurred in responding to the application or
5 motion unless the court finds that it would be manifestly unjust.

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