

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

INTRODUCED

LLS NO. 01-0605.01 Jennifer Gilroy

HOUSE BILL 01-1052

HOUSE SPONSORSHIP

Cadman

SENATE SPONSORSHIP

(None)

House Committees

Civil Justice & Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE STANDARD TO BE APPLIED IN CERTAIN**
102 **MODIFICATIONS OF ARRANGEMENTS AFFECTING CHILDREN**
103 **INVOLVED IN DOMESTIC RELATIONS PROCEEDINGS.**

Bill Summary

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

In considering an order to restrict parenting time rights, eliminates the requirement that the court find the parenting time would endanger the child's physical health or significantly impair the child's emotional development.

Repeals the endangerment standard and substitutes a best-interests-of-the-child standard in the following circumstances:

- Consideration of a motion for modification of parenting

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.

- time in domestic relations cases;
- Consideration of a motion for modification of a custody decree or a decree allocating decision-making responsibility.

Authorizes the filing of certain motions to modify parenting time or custody or decision-making responsibility within 2 years after a prior similar motion if the court finds, on the basis of affidavits, that such a modification would be in the best interests of the child.

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

2 **SECTION 1.** 14-10-129 (1), (1.5), and (2), Colorado Revised
3 Statutes, are amended to read:

4 **14-10-129. Modification of parenting time.** (1) The court may
5 make or modify an order granting or denying parenting time rights
6 whenever such order or modification would serve the best interests of the
7 child. ~~but the court shall not restrict a parent's parenting time rights unless~~
8 ~~it finds that the parenting time would endanger the child's physical health~~
9 ~~or significantly impair the child's emotional development.~~ Nothing in this
10 section shall be construed to affect grandparent visitation granted pursuant
11 to section 19-1-117, C.R.S.

12 (1.5) If a motion for a substantial modification of parenting time
13 which also changes the party with whom the child resides a majority of
14 the time has been filed, whether or not it has been granted, no subsequent
15 motion may be filed within two years after disposition of the prior motion
16 unless the court decides, on the basis of affidavits, that ~~the child's present~~
17 ~~environment may endanger the child's physical health or significantly~~
18 ~~impair the child's emotional development~~ A MODIFICATION WOULD BE IN
19 THE BEST INTERESTS OF THE CHILD, AS THAT TERM IS DESCRIBED IN
20 SECTION 14-10-124 (1.5) (a).

21 (2) The court shall not modify a prior order concerning parenting

1 time that substantially changes the parenting time as well as changes the
2 party with whom the child resides a majority of the time unless it finds,
3 upon the basis of facts that have arisen since the prior decree or that were
4 unknown to the court at the time of the prior decree, that a change has
5 occurred in the circumstances of the child or the party with whom the
6 child resides the majority of the time. ~~and that the modification is~~
7 ~~necessary to serve the best interests of the child.~~ In applying this
8 standard, the court shall retain the parenting time schedule established in
9 the prior decree unless THE MOVING PARTY DEMONSTRATES THAT:

10 (a) The parties agree to the modification, UNLESS THE COURT FINDS
11 SUCH AGREEMENT IS CONTRARY TO THE BEST INTERESTS OF THE CHILD;

12 (b) The child has been integrated into the family of the moving
13 party with the consent of the other party, UNLESS THE COURT FINDS THAT
14 SUCH INTEGRATION IS CONTRARY TO THE BEST INTERESTS OF THE CHILD; or

15 (c) ~~The child's present environment endangers the child's physical~~
16 ~~health or significantly impairs the child's emotional development and the~~
17 ~~harm likely to be caused by a change of environment is outweighed by the~~
18 ~~advantage of a change to the child.~~ A MODIFICATION WOULD BE IN THE
19 BEST INTERESTS OF THE CHILD, AS THAT TERM IS DESCRIBED IN SECTION
20 14-10-124 (1.5) (a).

21 **SECTION 2.** 14-10-131, Colorado Revised Statutes, is amended
22 to read:

23 **14-10-131. Modification of custody or decision-making**
24 **responsibility.** (1) If a motion for modification of a custody decree or a
25 decree allocating decision-making responsibility has been filed, whether
26 or not it was granted, no subsequent motion may be filed within two years
27 after disposition of the prior motion unless the court decides, on the basis

1 of affidavits, that ~~there is reason to believe that a continuation of the prior~~
2 ~~decree of custody or order allocating decision-making responsibility may~~
3 ~~endanger the child's physical health or significantly impair the child's~~
4 ~~emotional development~~ A MODIFICATION WOULD BE IN THE BEST INTERESTS
5 OF THE CHILD, AS THAT TERM IS DESCRIBED IN SECTION 14-10-124 (1.5) (a).

6 (2) The court shall not modify a custody decree or a decree
7 allocating decision-making responsibility unless it finds, upon the basis
8 of facts that have arisen since the prior decree or that were unknown to the
9 court at the time of the prior decree, that a change has occurred in the
10 circumstances of the child or the child's custodian or party to whom
11 decision-making responsibility was allocated. ~~and that the modification is~~
12 ~~necessary to serve the best interests of the child.~~ In applying this
13 standard, the court shall retain the allocation of decision-making
14 responsibility established by the prior decree unless THE MOVING PARTY
15 DEMONSTRATES THAT:

16 (a) The parties agree to the modification, UNLESS THE COURT FINDS
17 THAT SUCH AGREEMENT IS CONTRARY TO THE BEST INTERESTS OF THE
18 CHILD;

19 (b) The child has been integrated into the family of the petitioner
20 with the consent of the other party and such situation warrants a
21 modification of the allocation of decision-making responsibilities, UNLESS
22 THE COURT FINDS THAT SUCH INTEGRATION IS CONTRARY TO THE BEST
23 INTERESTS OF THE CHILD;

24 (b.5) There has been a modification in the parenting time order
25 pursuant to section 14-10-129, that warrants a modification of the
26 allocation of decision-making responsibilities, UNLESS THE COURT FINDS
27 THAT SUCH PROPOSED MODIFICATION OF DECISION-MAKING

1 RESPONSIBILITIES IS CONTRARY TO THE BEST INTERESTS OF THE CHILD;
2 (b.7) A party has consistently consented to the other party making
3 individual decisions for the child which decisions the party was to make
4 individually or the parties were to make mutually, UNLESS THE COURT
5 FINDS THAT SUCH ALLOCATION OF DECISION-MAKING RESPONSIBILITY IS
6 CONTRARY TO THE CHILD’S BEST INTERESTS; or

7 (c) ~~The retention of the allocation of decision-making~~
8 ~~responsibility would endanger the child’s physical health or significantly~~
9 ~~impairs the child’s emotional development and the harm likely to be~~
10 ~~caused by a change of environment is outweighed by the advantage of a~~
11 ~~change to the child.~~ A MODIFICATION WOULD BE IN THE BEST INTERESTS
12 OF THE CHILD, AS THAT TERM IS DESCRIBED IN SECTION 14-10-124 (1.5) (a).

13 **SECTION 3. Effective date - applicability.** This act shall take
14 effect upon passage and shall apply to motions for modification filed on
15 or after said date.

16 **SECTION 4. 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.