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HOUSE BILL 14-1362

BY REPRESENTATIVE(S) Moreno, Becker, Buckner, Conti, Exum, Fields, Gardner, Gerou, Ginal, Hullinghorst, Labuda, Lawrence, May, Mitsch Bush, Murray, Pabon, Pettersen, Priola, Rosenthal, Ryden, Saine, Salazar, Schafer, Scott, Singer, Tyler, Vigil, Williams, Young, Ferrandino, Kraft-Tharp, Lebsock, Peniston;
also SENATOR(S) Ulibarri, Aguilar, Heath, Herpin, Kefalas, Kerr, King, Newell, Nicholson, Rivera, Tochtrop, Todd.

CONCERNING GREAT-GRANDPARENT VISITATION WITH
GREAT-GRANDCHILDREN.

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

SECTION 1. In Colorado Revised Statutes, 19-1-103, **add** (56.5) as follows:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(56.5) "GREAT-GRANDPARENT", AS USED IN SECTIONS 19-1-117 AND 19-1-117.5, MEANS A PERSON WHO IS THE GRANDPARENT OF A CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE CHILD BY BLOOD, IN WHOLE OR BY HALF, ADOPTION, OR MARRIAGE. "GREAT-GRANDPARENT" DOES NOT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

INCLUDE THE GRANDPARENT OF A CHILD'S LEGAL FATHER OR MOTHER WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED IN ACCORDANCE WITH SECTIONS 19-5-101 AND 19-1-104 (1) (d).

SECTION 2. In Colorado Revised Statutes, 19-1-117, **amend** (1) introductory portion, (1) (c), (2), (3), (4), and (5) as follows:

19-1-117. Visitation rights of grandparents or great-grandparents. (1) Any grandparent OR GREAT-GRANDPARENT of a child may, in the manner set forth in this section, seek a court order granting the grandparent OR GREAT-GRANDPARENT reasonable grandchild OR GREAT-GRANDCHILD visitation rights when there is or has been a child custody case or a case concerning the allocation of parental responsibilities relating to that child. Because cases arise that do not directly deal with child custody or the allocation of parental responsibilities but nonetheless have an impact on the custody of or parental responsibilities with respect to a child, for the purposes of this section, a "case concerning the allocation of parental responsibilities with respect to a child" includes any of the following, whether or not child custody was or parental responsibilities were specifically an issue:

(c) That the child's parent, who is the child of the grandparent OR GRANDCHILD OF THE GREAT-GRANDPARENT, has died.

(2) A party seeking a grandchild OR GREAT-GRANDCHILD visitation order shall submit, together with his or her motion for visitation, to the district court for the district in which the child resides an affidavit setting forth facts supporting the requested order and shall give notice, together with a copy of his or her affidavit, to the party who has legal custody of the child or to the party with parental responsibilities as determined by a court pursuant to article 10 of title 14, C.R.S. The party with legal custody or parental responsibilities as determined by a court pursuant to article 10 of title 14, C.R.S., may file opposing affidavits. If neither party requests a hearing, the court shall enter an order granting grandchild OR GREAT-GRANDCHILD visitation rights to the petitioning grandparent OR GREAT-GRANDPARENT only upon a finding that the visitation is in the best interests of the child. A hearing shall be held if either party so requests or if it appears to the court that it is in the best interests of the child that a hearing be held. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard. If, at the conclusion of the hearing, the

court finds it is in the best interests of the child to grant grandchild OR GREAT-GRANDCHILD visitation rights to the petitioning grandparent OR GREAT-GRANDPARENT, the court shall enter an order granting such rights.

(3) ~~No~~ A grandparent OR GREAT-GRANDPARENT ~~may~~ SHALL NOT file an affidavit seeking an order granting grandchild OR GREAT-GRANDCHILD visitation rights more than once every two years absent a showing of good cause. If the court finds there is good cause to file more than one such affidavit, it shall allow such additional affidavit to be filed and shall consider it. The court may order reasonable attorney fees to the prevailing party. The court may not make any order restricting the movement of the child if such restriction is solely for the purpose of allowing the grandparent OR GREAT-GRANDPARENT the opportunity to exercise his grandchild OR GREAT-GRANDCHILD visitation rights.

(4) The court may make an order modifying or terminating grandchild OR GREAT-GRANDCHILD visitation rights whenever such order would serve the best interests of the child.

(5) Any order granting or denying parenting time rights to the parent of a child shall not affect visitation rights granted to a grandparent OR GREAT-GRANDPARENT pursuant to this section.

SECTION 3. In Colorado Revised Statutes, 19-1-117.5, **amend** (1) introductory portion, (1) (b), (2) (d) introductory portion, (2) (d) (III), and (2) (f) as follows:

19-1-117.5. Disputes concerning grandparent or great-grandparent visitation. (1) Upon a verified motion by a grandparent OR GREAT-GRANDPARENT who has been granted visitation or upon the court's own motion alleging that the person with legal custody or parental responsibilities of the child as determined by a court pursuant to article 10 of title 14, C.R.S., with whom visitation has been granted is not complying with a grandparent OR GREAT-GRANDPARENT visitation order or schedule, the court shall determine from the verified motion, and response to the motion, if any, whether there has been or is likely to be a substantial and continuing noncompliance with the grandparent OR GREAT-GRANDPARENT visitation order or schedule and either:

(b) Set the matter for hearing with notice to the grandparent OR

GREAT-GRANDPARENT and the person with legal custody or parental responsibilities of the child as determined by the court of the time and place of the hearing; or

(2) After the hearing, if a court finds that the person with legal custody or parental responsibilities of the child as determined by the court has not complied with the visitation order or schedule and has violated the court order, the court, in the best interests of the child, may issue orders which may include but need not be limited to:

(d) Requiring that makeup visitation be provided for the aggrieved grandparent or GREAT-GRANDPARENT AND child under the following conditions:

(III) That such visitation is in the manner chosen by the aggrieved grandparent OR GREAT-GRANDPARENT if it is in the best interests of the child;

(f) Awarding to the aggrieved party, where appropriate, actual expenses, including attorney fees, court costs, and expenses incurred by a grandparent OR GREAT-GRANDPARENT because of the other person's failure to provide or exercise court-ordered visitation. Nothing in this section shall preclude a party's right to a separate and independent legal action in tort.

SECTION 4. In Colorado Revised Statutes, 14-10-129, **amend** (1) (b) (I) as follows:

14-10-129. Modification of parenting time. (1) (b) (I) The court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger the child's physical health or significantly impair the child's emotional development. In addition to a finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development, in any order imposing or continuing a parenting time restriction the court shall enumerate the specific factual findings supporting the restriction. Nothing in this section shall be construed to affect grandparent OR GREAT-GRANDPARENT visitation granted pursuant to section 19-1-117, C.R.S.

SECTION 5. In Colorado Revised Statutes, **amend** 14-10-131.8 as follows:

14-10-131.8. Construction of 1999 revisions. The enactment of the 1999 revisions to this article does not constitute substantially changed circumstances for the purposes of modifying decrees involving child custody, parenting time, or grandparent visitation. Any action to modify any decree involving child custody, parenting time, grandparent OR GREAT-GRANDPARENT visitation, or a parenting plan shall be governed by the provisions of this article.

SECTION 6. In Colorado Revised Statutes, 14-13-102, **amend** (3) and (4) as follows:

14-13-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody or physical custody of a child or allocating parental responsibilities with respect to a child or providing for visitation, parenting time, or grandparent OR GREAT-GRANDPARENT visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child-custody proceeding" means a proceeding in which legal custody or physical custody with respect to a child or the allocation of parental responsibilities with respect to a child or visitation, parenting time, or grandparent OR GREAT-GRANDPARENT visitation with respect to a child is an issue. The term includes a proceeding for divorce, dissolution of marriage, legal separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence and domestic abuse, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under part 3 of this article.

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

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO