

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

REVISED

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

LLS NO. 11-0683.01 Brita Darling

SENATE BILL 11-123

SENATE SPONSORSHIP

Foster,

HOUSE SPONSORSHIP

Summers,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING TECHNICAL CHANGES TO CHILD SUPPORT PROCEDURES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill:

- ! Clarifies that a court shall not order genetic testing for a father whose paternity has been determined by another state, but the court may stay a proceeding for the father to pursue a nonparentage claim in another state. Additionally, the bill clarifies that a delegate child support enforcement unit shall not order genetic testing for a father whose

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
2nd Reading Unam ended
March 7, 2011

SENATE
3rd Reading Unam ended
February 16, 2011

SENATE
2nd Reading Unam ended
February 15, 2011

- ! paternity has been determined by another state.
- ! Requires the parties in certain proceedings to provide social security numbers for themselves and for their children at the commencement of the proceedings;
- ! Requires certain employer income-withholding payments to be processed through the Colorado family support registry and includes a statutory reference to those orders in the statute concerning the family support registry;
- ! Clarifies the terminology for the type of costs that are reimbursed through the assignment of child support rights in foster care cases and removes obsolete language relating to the criteria for the assignment of child support rights to conform with current federal law;
- ! Adds a reference to temporary assistance to needy families in the definition of child support debt as a type of public assistance that a family may be receiving;
- ! Clarifies in the notice of financial responsibility for child support that an objection to paternity that was determined pursuant to the laws of another state must be resolved in the state where paternity was determined; and
- ! Clarifies that a delegate child support enforcement unit may enter temporary orders relating to child support if paternity has been determined by another state.

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

2 **SECTION 1.** 13-25-126 (1) (a), Colorado Revised Statutes, is
 3 amended to read:

4 **13-25-126. Genetic tests to determine parentage.** (1) (a) (I) In
 5 any action, suit, or proceeding in which the parentage of a child is at
 6 issue, including but not limited to actions or proceedings pursuant to
 7 section 14-10-122 (6) or 19-4-107.3, C.R.S., upon motion of the court or
 8 any of the interested parties, the court shall order the alleged mother, the
 9 child or children, and the alleged father to submit to genetic testing and
 10 other appropriate testing of inherited characteristics, including but not
 11 limited to blood and tissue type, for the purpose of determining
 12 probability of parentage. If a party refuses to submit to these tests, the

1 court may resolve the question of parentage against the party to enforce
2 its order if the rights of others and the interests of justice so require.

3 (II) A COURT, PURSUANT TO THIS SECTION, OR DELEGATE CHILD
4 SUPPORT ENFORCEMENT UNIT PURSUANT TO SECTION 26-13.5-105, C.R.S.,
5 SHALL NOT ORDER GENETIC TESTING OF A CHILD WHOSE PARENTAGE HAS
6 PREVIOUSLY BEEN DETERMINED BY OR PURSUANT TO THE LAW OF
7 ANOTHER STATE, BUT A COURT MAY STAY A SUPPORT PROCEEDING FOR
8 SUCH REASONABLE TIME AS DETERMINED BY THE COURT TO ALLOW THE
9 PARTY ASSERTING THE DEFENSE TO PURSUE THE NONPARENTAGE CLAIM IN
10 THE OTHER STATE.

11 **SECTION 2.** 14-10-107, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **14-10-107. Commencement - pleadings - abolition of existing**
14 **defenses - automatic, temporary injunction - enforcement.**

15 (2.5) UPON THE FILING OF A PETITION FOR DISSOLUTION OF MARRIAGE OR
16 LEGAL SEPARATION PURSUANT TO THIS ARTICLE, EACH PARTY SHALL
17 PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE COURT, HIS
18 OR HER SOCIAL SECURITY NUMBER AND THE SOCIAL SECURITY NUMBER OF
19 EACH CHILD NAMED IN THE PETITION PURSUANT TO PARAGRAPH (d) OF
20 SUBSECTION (2) OF THIS SECTION.

21 **SECTION 3.** 14-10-123, Colorado Revised Statutes, is amended
22 BY THE ADDITION OF A NEW SUBSECTION to read:

23 **14-10-123. Commencement of proceedings concerning**
24 **allocation of parental responsibilities - jurisdiction - automatic**
25 **temporary injunction - enforcement.** (2.5) UPON THE FILING OF A
26 PETITION PURSUANT TO SUBSECTION (1) OF THIS SECTION, EACH PARTY
27 SHALL PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE

1 COURT, HIS OR HER SOCIAL SECURITY NUMBER AND THE SOCIAL SECURITY
2 NUMBER OF EACH CHILD NAMED IN THE PETITION.

3 **SECTION 4.** The introductory portion to 14-14-111.5 (4),
4 Colorado Revised Statutes, is amended to read:

5 **14-14-111.5. Income assignments for child support or**
6 **maintenance.** (4) **Notice to withhold income for support.** Ten days
7 after the date the advance notice of activation is mailed to the obligor for
8 income assignments on orders entered during the time periods described
9 in paragraphs (a), (b), and (d) of subsection (2) of this section or
10 immediately for income assignments on orders entered during the time
11 periods described in paragraphs (c), (e), and (f) of subsection (2) of this
12 section, an income assignment may be activated by the obligee, the
13 obligee's representative, or the delegate child support enforcement unit by
14 causing a notice to withhold income for support to be served upon the
15 employer, trustee, or other payor of funds, by first-class mail or by
16 electronic service, if such employer, trustee, or other payor of funds
17 mutually agrees with the state child support enforcement agency to
18 receive such income assignments electronically. Receipt of notice by the
19 employer, trustee, or other payor of funds confers jurisdiction of the court
20 over the employer, trustee, or other payor of funds. INCOME
21 ASSIGNMENTS ACTIVATED FOR ORDERS ENTERED DURING THE TIME
22 PERIODS DESCRIBED IN PARAGRAPHS (c), (e), AND (f) OF SUBSECTION (2)
23 OF THIS SECTION SHALL BE PAID THROUGH THE FAMILY SUPPORT REGISTRY
24 PURSUANT TO SECTION 26-13-114, C.R.S. In circumstances in which the
25 source of income to the obligor is unemployment compensation benefits
26 and the custodian of the child is receiving support enforcement services
27 pursuant to section 26-13-106, C.R.S., no notice to withhold income for

1 support shall be required. In such cases, the state child support
2 enforcement agency shall electronically intercept the unemployment
3 compensation benefits through an automated interface with the
4 department of labor and employment. In all other cases, the notice to
5 withhold income for support shall contain the following information and,
6 except in cases in which the obligee is receiving child support
7 enforcement services pursuant to section 26-13-106, C.R.S., shall have a
8 certified copy of the support order attached thereto:

9 **SECTION 5.** 19-4-105.5, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF A NEW SUBSECTION to read:

11 **19-4-105.5. Commencement of proceedings - summons -**
12 **automatic temporary injunction - enforcement.** (2.5) UPON THE
13 COMMENCEMENT OF A PROCEEDING UNDER THIS ARTICLE, EACH PARTY
14 SHALL PROVIDE TO THE COURT, IN THE MANNER PRESCRIBED BY THE
15 COURT, HIS OR HER SOCIAL SECURITY NUMBER AND THE SOCIAL SECURITY
16 NUMBER OF EACH CHILD WHO IS THE SUBJECT OF THE PROCEEDING UNDER
17 THIS ARTICLE.

18 **SECTION 6.** 19-4-105.6, Colorado Revised Statutes, is amended
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **19-4-105.6. Amendment of proceedings - adding children.**
21 (2.5) THE PARTY AMENDING THE PETITION PURSUANT TO SUBSECTION (1)
22 OF THIS SECTION SHALL PROVIDE TO THE COURT, IN THE MANNER
23 PRESCRIBED BY THE COURT, THE SOCIAL SECURITY NUMBER OF THE ADDED
24 CHILD.

25 **SECTION 7.** 26-13-113, Colorado Revised Statutes, is amended
26 to read:

27 **26-13-113. Placement in foster care automatic assignment of**

1 **right.** When a child is placed in foster care pursuant to article 5 of this
2 title ~~and~~ OR Title IV-E of the federal "Social Security Act", as amended,
3 all rights to current and accrued child support for the benefit of the child
4 are assigned by operation of law to the state department. When
5 placement has terminated, the assignment of rights to accrued child
6 support shall remain in effect until foster care COST OF CARE OR
7 maintenance costs have been reimbursed in full. ~~in those cases in which~~
8 ~~the children were not eligible for assistance under Title IV-E of the~~
9 ~~federal "Social Security Act", as amended. For cases in which children~~
10 ~~were eligible for assistance under Title IV-E of the federal "Social~~
11 ~~Security Act", as amended, the criteria for assignment of rights set forth~~
12 ~~in section 26-2-111 (3) (a) shall apply.~~ Amounts collected pursuant to
13 this section shall be distributed to the federal government, the state, and
14 the county proportionately according to each entity's contribution.

15 **SECTION 8.** 26-13-114 (1) (b) and (1) (c), Colorado Revised
16 Statutes, are amended to read:

17 **26-13-114. Family support registry - collection and**
18 **disbursement of child support and maintenance - rules - legislative**
19 **declaration.** (1) The general assembly hereby finds, determines, and
20 declares that it has been demonstrated that the establishment and
21 operation of one automated central payment registry for the processing of
22 child support, child support when combined with maintenance, and
23 maintenance payments is beneficial to the state in the collection and
24 enforcement of family support obligations. It is the intent of the general
25 assembly by enacting this section to authorize the implementation of one
26 central family support registry for the collection, receipt, and
27 disbursement of payments with respect to:

1 (b) Child support obligations for children whose custodians are
2 not receiving child support enforcement services from delegate child
3 support enforcement units (non-IV-D cases), if the court orders such
4 obligations to be paid through the family support registry pursuant to this
5 title, section 14-10-117, C.R.S., or title 19, C.R.S., OR IF THE COURT
6 ORDER IS SUBJECT TO INCOME-WITHHOLDING PURSUANT TO SECTION
7 14-14-111.5, C.R.S., and if the executive director of the state department
8 has notified the state court administrator pursuant to subsection (5) of this
9 section that the judicial district in which the court issuing the order is
10 situated is ready to participate in the family support registry; and

11 (c) Maintenance obligations, if the court orders payments for such
12 obligations to be paid through the family support registry pursuant to this
13 title or section 14-10-117, C.R.S., OR IF THE ORDER IS SUBJECT TO
14 INCOME-WITHHOLDING PURSUANT TO SECTION 14-14-111.5, C.R.S., and
15 if the executive director of the state department has notified the state
16 court administrator that the judicial district in which the court issuing the
17 order is situated is ready to participate in the family support registry and
18 the family support registry is ready to accept such maintenance payments.

19 **SECTION 9.** 26-13.5-102 (3), Colorado Revised Statutes, is
20 amended to read:

21 **26-13.5-102. Definitions.** As used in this article, unless the
22 context otherwise requires:

23 (3) "Child support debt" means, in the case in which there is no
24 existing order for child support, an amount ordered by the court pursuant
25 to section 14-14-104, C.R.S., or by a delegate child support enforcement
26 unit pursuant to this article for unreimbursed public assistance provided
27 to a family that has received or is receiving aid to families with dependent

1 children OR TEMPORARY ASSISTANCE TO NEEDY FAMILIES. In the case in
2 which there is an existing court or administrative order for support, "child
3 support debt" means an amount equal to the amount of public assistance
4 paid to the extent of the full amount of arrearages which have accrued as
5 of the date of the court or administrative order that determines the child
6 support debt.

7 **SECTION 10.** 26-13.5-103 (1) (o) (I), Colorado Revised Statutes,
8 is amended to read:

9 **26-13.5-103. Notice of financial responsibility issued -**
10 **contents.** (1) The delegate child support enforcement unit shall issue a
11 notice of financial responsibility to an obligor who owes a child support
12 debt or who is responsible for the support of a child on whose behalf the
13 custodian of that child is receiving support enforcement services from the
14 delegate child support enforcement unit pursuant to article 13 of this title.
15 The notice shall advise the obligor:

16 (o) That the obligor may assert the following objections in the
17 negotiation conference and that, if such objections are not resolved, the
18 delegate child support enforcement unit shall schedule a court hearing
19 pursuant to section 26-13.5-105 (3):

20 (I) That he is not the parent of the dependent child; HOWEVER, IF
21 PARENTAGE HAS BEEN PREVIOUSLY DETERMINED BY OR PURSUANT TO THE
22 LAW OF ANOTHER STATE, THE OBLIGOR IS ADVISED THAT ANY CHALLENGE
23 TO THE DETERMINATION OF PARENTAGE MUST BE RESOLVED IN THE STATE
24 WHERE THE DETERMINATION OF PARENTAGE WAS MADE;

25 **SECTION 11.** 26-13.5-105 (3) (c), Colorado Revised Statutes, is
26 amended to read:

27 **26-13.5-105. Negotiation conference - issuance of order of**

1 **financial responsibility - filing of order with district court.** (3) (c) If
2 no stipulation is agreed upon at the negotiation conference and paternity
3 is not an issue, or, if paternity is an issue and EITHER the evidence relating
4 to paternity meets the requirements set forth in section 13-25-126 (1) (g),
5 C.R.S., OR PARENTAGE HAS BEEN PREVIOUSLY DETERMINED BY ANOTHER
6 STATE, the delegate child support enforcement unit shall issue temporary
7 orders establishing current child support, arrears, foster care maintenance,
8 medical support, and reasonable support for a time period prior to the
9 entry of the order for support and shall file the notice of financial
10 responsibility and proof of service with the clerk of the district court in
11 the county in which the notice of financial responsibility was issued and
12 shall request the court to set a hearing for the matter.

13 **SECTION 12. Act subject to petition - effective date.** This act
14 shall take effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part shall not take effect
20 unless approved by the people at the general election to be held in
21 November 2012 and shall take effect on the date of the official
22 declaration of the vote thereon by the governor.