

Definitions

A party's conduct that does not affect their relationship to the child will not be considered.

The court will not presume one person is better able to serve the child's best interests because of their gender.

A party's request for genetic testing will not prejudice them in deciding parental responsibilities.

If a party leaves home because of an act or threat of domestic violence by the other party, that will not be a factor in determining the best interests of the child.

In a medical emergency, either party may obtain necessary medical treatment for any minor child without violating court orders.



"Domestic violence" means an act or threat of violence to one with whom they've been intimately involved. The act or threat of violence may be against a person, property, or an animal when used to coerce, control, punish, intimidate, or seek revenge.

"Intimate relationship" means between spouses, former spouses, past or present unmarried couples, or parents of the same child whether or not they've married or lived together.

*This brochure paraphrases certain sections of Colorado law. It is not legal advice. Contact an attorney for more information and for answers to specific questions.
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6th Judicial District Access to Justice Committee



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Factors to Determine the Best Interests of the Child



It is in the best interest of all parties to encourage frequent, continuing contact between each parent and their children after parents have separated or divorced. The Colorado legislature urges parents to share the rights & responsibilities of child-rearing and encourage love, affection, and contact between the children and the parents.

Legislative declaration paraphrased

Determination of parenting time

A court will consider all relevant factors below unless the parenting time would endanger the child's physical health or significantly impair the child's emotional development:

- 1) The parents' wishes;
- 2) The child's wishes if mature enough to express reasoned and independent preferences [usually about age 12];
- 3) The interaction and relationship of the child with parents, siblings, and any person who significantly affects the child's best interests;
- 4) The child's adjustment to his or her home, school, & community;
- 5) The mental and physical health of all individuals involved (but, a disability alone will not be a basis to deny/restrict parenting time);



- 6) Each parties' ability to encourage the sharing of love, affection, and contact between the child and the other party;
- 7) If the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support;
- 8) The geographic distance between the parties (i.e., how practical the frequency can be);
- 9) If one of the parties has been a perpetrator of child abuse or neglect, supported by credible evidence;
- 10) If one of the parties has been a perpetrator of domestic violence, supported by a preponderance of the evidence; and
- 11) Each parties ability to place the needs of the child ahead of his or her own needs.

Determination of decision-making responsibility

In addition to the prior factors, relevant factors will be considered including:

- 1) The ability to cooperate and jointly make decisions;
- 2) Past involvement with the child that demonstrates values, time commitment, and mutual support that shows a positive and nourishing relationship;
- 3) If mutual decision-making promotes more contact between the child and each parent;
- 4) If one parent has committed child abuse or neglect, mutual decision-making will not be in the child's best interests over the objection of the other parent.
- 5) If one parent has committed domestic violence, mutual decision-making will not be in the child's best interests unless the parties can share decisions without physical confrontation and without danger to the abused party or child.