

Family Law Legislative Update
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HB 1042— CONCERNING EXTENDING COURT JURISDICTION FOR
VULNERABLE YOUTH

Status— PASSED INTO LAW

Effective—March 28, 2019

Summary— Congress created Special Immigrant Juvenile Status to provide a pathway towards permanent residency and protection for certain immigrant youth who have been abused, neglected or abandoned. Youth must first obtain an order from a State court with jurisdiction to make decisions about their care and custody in order to apply for Special Immigrant Juvenile Status. Under federal law, unmarried youth up to age 21 are eligible.

This bill aligns Colorado law with federal law to give courts jurisdiction to enter orders in allocation of parental responsibilities and guardianship proceedings in limited cases to certain eligible youth who: 1) have not reached the age of 21; 2) are residing with and dependent upon a caregiver; and 3) are seeking findings from the court to support an application for Special Immigrant Juvenile Status. The bill does not alter the courts' jurisdiction over any other youth involved in these proceedings.

HB 1104— CONCERNING THE RIGHTS OF PERSONS REPRESENTED BY AN
ATTORNEY THROUGH THE OFFICE OF THE RESPONDENT PARENTS'
COUNSEL

Status—PASSED INTO LAW

Effective—August 2, 2019

Summary— The bill clarifies that a parent whose rights in a parent-child relationship have been terminated and who has filed a petition to reinstate the rights of a parent-child relationship is entitled to appointed counsel through the office of the respondent parents' counsel, if income eligibility criteria are satisfied.

HB 1142— CONCERNING CREATING AN OPTION FOR PARENTS WHO SEEK TO VOLUNTARILY DELEGATE CERTAIN PARENTAL RESPONSIBILITIES TO A SAFE FAMILY FOR A LIMITED PERIOD OF TIME WITHOUT RELINQUISHING LEGAL CUSTODY OF THEIR CHILD

Status—Awaiting Governor’s signature

Effective—August 2, 2019

Summary—The bill permits a parent to use the assistance of a temporary care assistance program operated by a qualified nonprofit organization to identify an appropriate and safe approved temporary caregiver to whom the parent can choose to delegate temporary care responsibility of a minor through a power of attorney valid for up to 6-12 months.

Such a power of attorney can be revoked at any time and does not change legal rights or obligations existing pursuant to a court order. The minor must be returned to the custody of the parent or guardian within 48 hours after termination of the power of attorney.

A temporary care assistance program is permitted to approve as a temporary caregiver any person who:

- Meets the standards prescribed by the temporary care assistance program;
- Satisfactorily completes required criminal and child abuse and neglect background checks and sex offender registration checks; and
- Receives training conducted by the temporary care assistance program

See Attached News Coverage

HB 1177— CONCERNING EXTREME RISK PROTECTION ORDERS

Status—PASSED INTO LAW

Effective Date—April 12, 2019

Summary—A family or household member of Respondent or a law enforcement officer or agency may request a temporary extreme risk protection order without notice to the Respondent by including in the petition an affidavit supporting the issuance of a temporary extreme risk protection order that sets forth the facts tending to establish the grounds of the petition. The court shall issue a temporary extreme risk protection order if it finds by a preponderance of the evidence that Respondent poses a significant risk of causing personal injury to self or others in the near future by having in his or her custody

or control a firearm or by purchasing, possessing, or receiving a firearm. Temporary ERPOs can be issued following an in-person or telephone hearing. A hearing must be held within 14 days to determine whether an ERPO should be granted for 364 days.

Respondent is entitled to court appointed counsel.

HB 1189— CONCERNING WAGE GARNISHMENT REFORM

Status—PASSED HOUSE AND SENATE

Effective Date—for garnishments issued after October 1, 2020 (even if underlying judgment predated that date)

Summary—The bill changes the amount subject to garnishment from 25% to 20% of the individual's disposable weekly earnings and from 30 times to 40 times the amount an individual's disposable earnings for a week exceed the state or federal minimum wage. The bill deducts from an individual's disposable earnings subject to garnishment the cost of any health insurance that is voluntarily withheld from the individual's earnings.

The bill creates an exemption that would permit individuals to prove that the amount of their pay subject to garnishment should be further reduced or eliminated altogether if the individual can establish that such **reductions are necessary to support the individual or the individual's family**.

HB 1282— CONCERNING ADMINISTRATION OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

Status—AWAITING SIGNATURE OF GOVERNOR

Effective—July 1, 2019

Summary—Bill requires the office of the child's representative (office) to enter into an agreement with a nonprofit entity to provide coordination and support of CASA activities in Colorado. The non-profit entity must be in good standing with the National CASA Association and shall:

- 1) Aid and develop CASA programs in each judicial district;
 - 2) Ensure local CASA programs adhere to state and national CASA standards;
 - 3) Ensure availability and provision of high quality training for CASA volunteers;
 - 4) Enhance funding sources.
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HB 1316— CONCERNING MODERNIZING MARRIAGE LAWS RELATED TO MINORS

Status—AWAITING SIGNATURE OF GOVERNOR

Effective—August 2, 2019

Summary—The bill raises the age of marriage to 18. Parents can no longer consent to the marriage of children under age 18. A person who is 16 or 17 years of age may only obtain a marriage license if a juvenile court determines that the underage party is capable of assuming responsibilities of marriage and that the marriage would serve the underage party's best interests. Prior to making this determination, the court shall appoint a guardian ad litem for the underage party to investigate the underage party's circumstances and best interests and to file a report with the court detailing the findings and making recommendations to the court regarding the issuance of a marriage license. The bill clarifies that both parties to a proxy marriage must be 18 years of age.

SB 71— CONCERNING EXPANDING THE ADMISSION OF OUT-OF-COURT STATEMENTS OF A CHILD

Status—PASSED INTO LAW

Effective—July 1, 2019

Summary—The bill amends the statutory exception to the hearsay rule to admit an out-of-court statement made by a child if certain conditions are satisfied:

- Any criminal, delinquency, or civil proceeding in which the child (a person under 13 years of age) is alleged to have been a victim; or
 - Any criminal, delinquency, or civil proceeding in which the child describes all or part of an offense of unlawful sexual behavior.
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HB 1215— CONCERNING RECOMMENDATIONS OF THE CHILD SUPPORT COMMISSION

Status—AWAITING GOVERNOR’S SIGNATURE

Effective—July 1, 2019; except that §14-10-115(3)(c.5) (mandatory school fees), (6)(b), (7)(a)(II)(B), (7)(a)(II)(C), (7)(a)(II)(D), (7)(b) (low income adjustments), (8)(g) (averaging of overnights), (11)(a), (11)(a)(I) (mandatory school fees), and (11)(c) (required application for disability benefits), takes effect July 1, 2020.

Summary—

- Adding a definition for "mandatory school fees" and requiring that such school fees shall be allocated between parents in proportion to income;
- Adding required federal factors that a court or delegate child support enforcement unit must consider when determining potential income of a parent who is voluntarily unemployed or underemployed;
- Reducing from 30 months to 24 months the length of time after birth that a custodial parent has before income is imputed;
- Changing how income is imputed for a parent sentenced to incarceration for 180 days or more;
- Changing provisions relating to imputing income to parent who is attending postsecondary education to require either full-time enrollment or part-time school attendance combined with part-time employment;
- Increasing the self-support reserve for purposes of calculating child support from \$1,100 to \$1,500;
- Creating a \$10 minimum order for noncustodial parents with income under \$650;
- Making adjustments to the child support guidelines for parents with a combined, adjusted gross income up to \$3,450;
- Requiring the noncustodial parent to notify the custodial parent if a child is eligible for dependent benefits based on the noncustodial parent's retirement or disability and establishing time frames for custodial parent to apply for dependent benefits;
- Colorado child support commission is required to consider guidelines every 4 years;
- Requiring a verified copy of a support judgment to be provided to all parties upon filing with the court;
- Authorizing the state child enforcement agency to issue a notice of administrative lien and levy to any financial institution holding an obligor parent's account for an obligor who is past due on child support.