

**Family Law Legislative Update**  
*Current as of May 17, 2016*

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**2016 HOUSE BILLS:**

**HB 1066**—Concerning An Habitual Domestic Violence Offender

**Status**—Signed by Governor—Effective July 1, 2016— applies to offenses committed after that date

**Summary**—Makes it a Class 5 Felony to be convicted of three or more prior offenses that include an act of Domestic Violence from separate criminal episodes. (§18-6-801)

**HB 1085**—Concerning Simplifying the Process for Returning to a Proper Name after Decree of Dissolution

**Status**—Signed by Governor—Effective September 1, 2016.

**Summary**—At any time after the entry of a decree of dissolution or legal separation, a party to the action may request restoration of a prior full name. The requesting party must file a verified motion and affidavit requesting the change and affirming that restoration of the name is not detrimental to any person. No notice to the other party is required. (§14-10-120.2)

**HB 1165**—Statutory Changes Based on the Recommendations in the Report of the 2013-2015 Colorado Child Support Commission.

**Status**—Signed by Governor—Effective January 1, 2017.

**Summary**—Permits the state child support enforcement agency to discover and administratively seize insurance claim payments, awards, and settlements for the purpose of meeting past-due child support obligations; An amendment to the deviation considerations to include “Instances where one of the parents spends substantially more time with the child than is reflected by a straight calculation of overnights”; Changing the reasonable cost threshold percentage for the enforcement of court-ordered medical support from 20% to 5%; Adding statutory language requiring the annual exchange between parents of changed financial information, including verification of child care expenses; Limiting the time period for which a party may seek retroactive child support based upon a change in physical care to 5 years; and adding language regarding providing

notice to possible and presumptive fathers. Changes to the income adjustment formula when parents are obligated to support children with multiple co-parents and joint legal responsibilities for the children—specifically:

(I) IF A PARENT IS OBLIGATED TO PAY SUPPORT FOR ANOTHER CHILD PURSUANT TO AN ORDER, THE AMOUNT ACTUALLY PAID ON THE ORDER MUST BE DEDUCTED FROM THAT PARENT'S GROSS INCOME;

(II) IF THE OTHER CHILD IS RESIDING IN THE HOME OF A PARENT, THE COURT SHALL DEDUCT FROM THAT PARENT'S GROSS INCOME THE AMOUNT CALCULATED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6);

(III) IF ANOTHER CHILD OF A PARENT IS RESIDING OUTSIDE THE HOME OF THAT PARENT, THE COURT SHALL DEDUCT FROM THAT PARENT'S GROSS INCOME THE AMOUNT OF DOCUMENTED MONEY PAYMENTS ACTUALLY PAID BY THE PARENT FOR THE SUPPORT OF THE OTHER CHILD, NOT TO EXCEED THE SCHEDULE OF BASIC SUPPORT OBLIGATIONS SET FORTH IN SUBSECTION (7) OF THIS SECTION.

**HB 1258**—Concerning the Posting by Court Clerks of Process when Respondent is Served by Publication

**Status**—Signed by Governor on April 21, 2016

**Summary**—Under current law, if a respondent in a domestic relations action cannot be personally served and is served by publication, the clerk of the court is required to post a copy of the process on a bulletin board in his or her office for 35 days after the date of publication. The bill gives the clerk the option of posting the service online on the court's website rather than on a bulletin board. (§14-10-107)

## 2016 SENATE BILLS

**SB 85**—Concerning Uniform Trust Decanting Act

**Status**—Sent to the Governor—Awaiting Signature—Effective Date August 11, 2016.

**Summary**—Bill creates policies and procedures permitting the “decanting” of trusts in Colorado—but, to address *IRM Balanson* concerns, (§15-16-903) contains the following provisions:

6(a) NEITHER THIS PART 9 NOR AN EXERCISE OF THE DECANTING POWER DESCRIBED IN THIS PART 9 AFFECTS:

(I) THE DETERMINATION WHETHER A BENEFICIAL INTEREST IN A FIRST TRUST OR SECOND TRUST IS PROPERTY OR AN ASSET OF A SPOUSE FOR PURPOSES OF DISTRIBUTION OF PROPERTY UNDER SECTION 14-10-113, C.R.S.; OR

(II) THE POWER OF A DIVORCE COURT TO FASHION REMEDIES BETWEEN THE PARTIES IN AN ACTION UNDER TITLE 14, C.R.S.

(b) NOTHING IN THIS SUBSECTION (6) EXPANDS OR LIMITS THE POWER OF A DIVORCE COURT IN LAW OR EQUITY OVER A FIRST TRUST OR A SECOND TRUST OR ANY TRUSTEE THEREOF.

(c) AS USED IN THIS SUBSECTION (6), UNLESS THE CONTEXT REQUIRES OTHERWISE, "DIVORCE COURT" MEANS A COURT IN THIS STATE HAVING JURISDICTION OVER MATTERS BROUGHT PURSUANT TO TITLE 14, C.R.S.

**SB 150**—Concerning marriages by individuals who are parties to a Civil Union, and in connection therewith, prohibiting marriages in circumstances in which one of the parties is already in a Civil Union with another individual, addressing the legal effect of parties to a Civil Union marrying each other, clarifying the dissolution process when parties to a Civil Union marry, and amending the bigamy statute to include parties to a Civil Union

**Status**—Sent to the Governor--Awaiting Signature—Effective upon passage.

**Summary**—The bill addresses issues that have arisen in Colorado regarding marriages by individuals who are in a civil union or who entered or who will enter into a civil union after the passage of the bill.

- The bill amends the statute on prohibited marriages to disallow a marriage entered into prior to the dissolution of an earlier civil union of one of the parties, except a currently valid civil union between the same two parties.

- The bill states that the "Colorado Civil Union Act" (act) does not affect a marriage legally entered into in another jurisdiction between two individuals who are the same sex. (§14-15-116)

- The bill states that a civil union license and a civil union certificate do not constitute evidence of the parties' intent to create a common law marriage. (§14-15-109)

- Two parties who have entered into a civil union may subsequently enter into a legally recognized marriage with each other. Upon the marriage, the parties' civil union terminates and is merged into a marriage by operation of law as of the date of the solemnization of the marriage or determination of a common law marriage. (§14-15-118.5)

- The bill states that the effect of marrying in that circumstance is to merge the civil union into a marriage by operation of law.

- A separate dissolution of a civil union is not required when a civil union is merged into a marriage by operation of law. If one or both of the parties to the marriage subsequently desire to dissolve the marriage, legally separate, or have the marriage declared invalid, one or both of the parties must file proceedings in accordance with the procedures specified in the "Uniform Dissolution of Marriage Act". Any dissolution, legal separation, or declaration of invalidity of the marriage must be in accordance with the "Uniform Dissolution of Marriage Act". (§14-10-106.7)

- If a civil union is merged into a marriage by operation of law, any calculation of the duration of the marriage includes the time period during which the parties were in a civil union. (§14-10-106.7 and §14-10-114)

- The criminal statute on bigamy is amended, effective July 1, 2016, to include a person who, while married, marries, enters into a civil union, or cohabits in the state with another person not his her spouse and to include a person who, while still legally in a civil union, marries, enters into a civil union, or cohabits in the state with another person not his or her civil union partner. (§18-6-201)