

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 10-0466.01 Brita Darling

HOUSE BILL 10-1135

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE DEFINITION OF DOMESTIC VIOLENCE WHEN**
102 **DETERMINING THE BEST INTERESTS OF A CHILD.**

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>.)

In the statutory section concerning the best interests of the child under the "Uniform Dissolution of Marriage Act", the bill replaces the term "spouse abuse" in each occurrence with the broader term "domestic violence". The bill defines the term "domestic violence" to align the definition closely to the broader definition of "domestic violence" in the

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.*

SENATE
3rd Reading Unam ended
March 22, 2010

SENATE
Am ended 2nd Reading
March 19, 2010

HOUSE
3rd Reading Unam ended
February 19, 2010

HOUSE
Am ended 2nd Reading
February 18, 2010

criminal statutes, and also defines the term "intimate relationship".

The bill replaces the term "spouse abuse" with the broader term "domestic violence" where the term occurs in the statutory sections relating to modification of parenting time.

The new definition of "domestic violence" will apply to determinations of the best interests of a child occurring on or after July 1, 2010.

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

2 **SECTION 1.** 14-10-124 (1.5) (a) (X), (1.5) (b) (V), and (4),
3 Colorado Revised Statutes, are amended, and the said 14-10-124 is
4 further amended BY THE ADDITION OF A NEW SUBSECTION, to
5 read:

6 **14-10-124. Best interests of child. (1.3) Definitions.** FOR
7 PURPOSES OF THIS SECTION AND SECTION 14-10-129 (2) (c), UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (a) "DOMESTIC VIOLENCE" MEANS AN ACT OF VIOLENCE OR A
10 THREATENED ACT OF VIOLENCE UPON A PERSON WITH WHOM THE ACTOR
11 IS OR HAS BEEN INVOLVED IN AN INTIMATE RELATIONSHIP, AND MAY
12 INCLUDE ANY ACT OR THREATENED ACT AGAINST A PERSON OR AGAINST
13 PROPERTY, INCLUDING AN ANIMAL, WHEN USED AS A METHOD OF
14 COERCION, CONTROL, PUNISHMENT, INTIMIDATION, OR REVENGE DIRECTED
15 AGAINST A PERSON WITH WHOM THE ACTOR IS OR HAS BEEN INVOLVED IN
16 AN INTIMATE RELATIONSHIP.

17 (b) "INTIMATE RELATIONSHIP" MEANS A RELATIONSHIP BETWEEN
18 SPOUSES, FORMER SPOUSES, PAST OR PRESENT UNMARRIED COUPLES, OR
19 PERSONS WHO ARE BOTH PARENTS OF THE SAME CHILD REGARDLESS OF
20 WHETHER THE PERSONS HAVE BEEN MARRIED OR HAVE LIVED TOGETHER
21 AT ANY TIME.

22 (1.5) **Allocation of parental responsibilities.** The court shall

1 determine the allocation of parental responsibilities, including parenting
2 time and decision-making responsibilities, in accordance with the best
3 interests of the child giving paramount consideration to the physical,
4 mental, and emotional conditions and needs of the child as follows:

5 (a) **Determination of parenting time.** The court, upon the
6 motion of either party or upon its own motion, may make provisions for
7 parenting time that the court finds are in the child's best interests unless
8 the court finds, after a hearing, that parenting time by the party would
9 endanger the child's physical health or significantly impair the child's
10 emotional development. In determining the best interests of the child for
11 purposes of parenting time, the court shall consider all relevant factors,
12 including:

13 (X) Whether one of the parties has been a perpetrator of ~~spouse~~
14 ~~abuse as defined in subsection (4) of this section~~ DOMESTIC VIOLENCE,
15 which factor shall be supported by ~~credible~~ A PREPONDERANCE OF THE
16 evidence;

17 (b) **Allocation of decision-making responsibility.** The court,
18 upon the motion of either party or its own motion, shall allocate the
19 decision-making responsibilities between the parties based upon the best
20 interests of the child. In determining decision-making responsibility, the
21 court may allocate the decision-making responsibility with respect to each
22 issue affecting the child mutually between both parties or individually to
23 one or the other party or any combination thereof. In determining the best
24 interests of the child for purposes of allocating decision-making
25 responsibilities, the court shall consider, in addition to the factors set forth
26 in paragraph (a) of this subsection (1.5), all relevant factors including:

27 (V) Whether one of the parties has been a perpetrator of ~~spouse~~

1 ~~abuse as defined in subsection (4) of this section~~ DOMESTIC VIOLENCE,
2 which factor shall be supported by ~~credible~~ A PREPONDERANCE OF THE
3 evidence. If the court makes a finding of fact that one of the parties has
4 been a perpetrator of ~~spouse abuse~~ DOMESTIC VIOLENCE, then it shall not
5 be in the best interests of the child to allocate mutual decision-making
6 responsibility over the objection of the other party or the legal
7 representative of the child, unless the court finds that the parties are able
8 to make shared decisions about their children without physical
9 confrontation and in a place and manner that is not a danger to the abused
10 party or the child.

11 (4) If a party is absent or leaves home because of ~~spouse abuse~~ AN
12 ACT OR THREATENED ACT OF DOMESTIC VIOLENCE COMMITTED by the
13 other party, such absence or leaving shall not be a factor in determining
14 the best interests of the child. ~~For the purpose of this subsection (4),~~
15 ~~"spouse abuse" means the proven threat of or infliction of physical pain~~
16 ~~or injury by a spouse or a party on the other party.~~

17 **SECTION 2.** The introductory portion to 14-10-129 (2) (c),
18 Colorado Revised Statutes, is amended to read:

19 **14-10-129. Modification of parenting time.** (2) The court shall
20 not modify a prior order concerning parenting time that substantially
21 changes the parenting time as well as changes the party with whom the
22 child resides a majority of the time unless it finds, upon the basis of facts
23 that have arisen since the prior decree or that were unknown to the court
24 at the time of the prior decree, that a change has occurred in the
25 circumstances of the child or the party with whom the child resides the
26 majority of the time and that the modification is necessary to serve the
27 best interests of the child. In applying these standards, the court shall

1 retain the parenting time schedule established in the prior decree unless:

2 (c) The party with whom the child resides a majority of the time
3 is intending to relocate with the child to a residence that substantially
4 changes the geographical ties between the child and the other party. A
5 court hearing on any modification of parenting time due to an intent to
6 relocate shall be given a priority on the court's docket. In determining
7 whether the modification of parenting time is in the best interests of the
8 child, the court shall take into account all relevant factors, including
9 whether a party has been a perpetrator of ~~spouse-abuse~~ DOMESTIC
10 VIOLENCE as that term is defined in section 14-10-124 ~~(4)~~ (1.3) which
11 factor shall be supported by ~~credible~~ A PREPONDERANCE OF THE evidence,
12 whether such ~~spouse-abuse~~ DOMESTIC VIOLENCE occurred before or after
13 the prior decree, and all other factors enumerated in section 14-10-124
14 (1.5) (a) and:

15 **SECTION 3. Specified effective date - applicability.** This act
16 shall take effect July 1, 2010, and shall apply to a determination of the
17 best interests of a child pursuant to section 14-10-124, Colorado Revised
18 Statutes, occurring on or after said date.

19 **SECTION 4. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.