

## Colorado Statutes

### Title 14. DOMESTIC MATTERS

#### DISSOLUTION OF MARRIAGE - PARENTAL RESPONSIBILITIES

##### Article 10. Uniform Dissolution of Marriage Act

*Current through Chapter 189, Second Regular Session 2010*

##### § 14-10-129.5. Disputes concerning parenting time

(1) Within thirty days after the filing of a verified motion by either parent or upon the court's own motion alleging that a parent is not complying with a parenting time order or schedule and setting forth the possible sanctions that may be imposed by the court, the court shall determine from the verified motion, and response to the motion, if any, whether there has been or is likely to be substantial or continuing noncompliance with the parenting time order or schedule and either:

(a) Deny the motion, if there is an inadequate allegation; or

(b) Set the matter for hearing with notice to the parents of the time and place of the hearing as expeditiously as possible; or

(c) Require the parties to seek mediation and report back to the court on the results of the mediation within sixty days. Mediation services shall be provided in accordance with section 13-22-305, C.R.S. At the end of the mediation period, the court may approve an agreement reached by the parents or shall set the matter for hearing.

(2) After the hearing, if a court finds that a parent has not complied with the parenting time order or schedule and has violated the court order, the court, in the best interests of the child, shall issue an order that may include but not be limited to one or more of the following orders:

(a) An order imposing additional terms and conditions that are consistent with the court's previous order; except that the court shall separate the issues of child support and parenting time and shall not condition child support upon parenting time;

(b) An order modifying the previous order to meet the best interests of the child;

(b.3) An order requiring either parent or both parents to attend a parental education program as described in section 14-10-123.7, at the expense of the noncomplying

parent;

(b.7) An order requiring the parties to participate in family counseling pursuant to section 13-22-313, C.R.S., at the expense of the noncomplying parent;

(c) An order requiring the violator to post bond or security to insure future compliance;

(d) An order requiring that makeup parenting time be provided for the aggrieved parent or child under the following conditions:

(I) That such parenting time is of the same type and duration of parenting time as that which was denied, including but not limited to parenting time during weekends, on holidays, and on weekdays and during the summer;

(II) That such parenting time is made up within six months after the noncompliance occurs, unless the period of time or holiday can not be made up within six months in which case the parenting time shall be made up within one year after the noncompliance occurs;

(III) That such parenting time takes place at the time and in the manner chosen by the aggrieved parent if it is in the best interests of the child;

(e) An order finding the parent who did not comply with the parenting time schedule in contempt of court and imposing a fine or jail sentence;

(e.5) An order imposing on the noncomplying parent a civil fine not to exceed one hundred dollars per incident of denied parenting time;

(f) An order scheduling a hearing for modification of the existing order concerning custody or the allocation of parental responsibilities with respect to a motion filed pursuant to section 14-10-131.

(g) (Deleted by amendment, L. 97, p. 970, § 1, effective August 6, 1997.)

(h) Any other order that may promote the best interests of the child or children involved.

(3) Any civil fines collected as a result of an order entered pursuant to paragraph (e.5) of subsection (2) of this section shall be transmitted to the state treasurer, who shall credit the same to the dispute resolution fund created in section 13-22-310, C.R.S.

(4) In addition to any other order entered pursuant to subsection (2) of this section, the court shall order a parent who has failed to provide court-ordered parenting time or to exercise court-ordered parenting time to pay to the aggrieved party, attorney's fees, court costs, and

expenses that are associated with an action brought pursuant to this section. In the event the parent responding to an action brought pursuant to this section is found not to be in violation of the parenting time order or schedule, the court may order the petitioning parent to pay the court costs, attorney fees, and expenses incurred by such responding parent. Nothing in this section shall preclude a party's right to a separate and independent legal action in tort.

**History.** L. 87: Entire section added, p. 578, § 1, effective July 1. L. 93: IP(1) and (2) amended, p. 579, § 12, effective July 1. L. 97: Entire section amended, p. 970, § 1, effective August 6. L. 98: IP(2) and (2)(f) amended, p. 1388, § 16, effective February 1, 1999.

#### Case Notes:

#### ANNOTATION

**Law reviews.** For article, "Parenting Time in Divorce", see 31 Colo. Law. 25 (October 2002). For article, "Enforcing Family Law Orders Through Contempt Proceedings Under C.R.C.P. 107", see 332 Colo. Law. 75 (March 2003).

**Notice of potential punitive sanctions is all the notice required to satisfy due process under section.** Notice of possible remedial orders of the court is not required. In re Herrera, 772 P.2d 676 (Colo. App. 1989).

**Wages lost by parent for attending contempt proceedings under section are a reimbursable expense.** In re Herrera, 772 P.2d 676 (Colo. App. 1989).

**Bond required to insure future compliance of parent need not be dismissed by court upon dismissal of contempt citation.** In re Herrera, 772 P.2d 676 (Colo. App. 1989).

**The plain language of this section requires,** upon the filing of a motion to clarify visitation, that the court deny the motion, conduct a hearing, or refer the matter to mediation. Where cross motions of mother and father sought to modify father's visitation, the trial court erred in granting the father's motion and denying the mother's motion. In re Williams-Off, 867 P.2d 205 (Colo. App. 1993).

**Trial court erred in imposing sanctions based upon an unverified motion.** In re Slowinski, 199 P.3d 48 (Colo. App. 2008).

**The trial court abused its discretion by conditioning child support on an anticipated lack of parenting time** when mother was planning to move to Singapore with children and father was entitled to "reasonable and liberal" parenting time. In re Hoffman, 878 P.2d 103 (Colo. App. 1994).

**Order of abatement of child support was not proper**

**as an award of actual travel expenses** when the abatement order was not premised on any actual expenses incurred as a result of the mother's failure to provide parenting time but only on anticipated future expenses. In re Hoffman, 878 P.2d 103 (Colo. App. 1994).

**If a parenting time dispute gives rise to a tort claim for damages, that claim must be brought, not in the dissolution court (which is authorized to award only attorney's fees, court costs, and expenses), but in a court that has jurisdiction over the parties and subject matter.** Therefore, the court erred in dismissing father's tort claims under C.R.C.P. 12(b)(1). The court had subject matter jurisdiction over those claims, even though the claims arose from a dispute over parenting time. Marshall v. Marshall, 183 P.3d 699 (Colo. App. 2008).

#### Cross References:

For the legislative declaration contained in the 1993 act amending the introductory portion to subsection (1) and subsection (2), see section 1 of chapter 165, Session Laws of Colorado 1993.