



Colorado Judicial Department

**HB23-1108 Task Force to Study Victim and Survivor Awareness and
Responsiveness Training Requirements for Judicial Personnel**

Task Force Recommendations Implementation Report

Submitted by the Office State Court Administrator (SCAO), Judicial Education Unit

January 2025

Background

In 2023, the General Assembly passed HB23-1108, which created The Task Force to Study Victim and Survivor Awareness and Responsiveness Training Requirements for Judicial Personnel. The Task Force was tasked with studying victim and survivor awareness and responsive training requirements for judicial personnel. The Task Force was responsible for reviewing current educational opportunities for judicial personnel, best practices for providing training, and identifying any gaps or resources needed. Under the leadership of Co-Chairs Chief Justice Brian Boatright and Kelly Kissell, Manager of the Office for Victims Programs at the Division of Criminal Justice, the Task Force met monthly to learn, discuss, and make recommendations to improve the training opportunities for judicial personnel.

The Task Force and its working groups convened from July 2023 through January 2024. The Task Force submitted its final report, including the report from the Domestic Relations Working Group, to the Judiciary Committees of the Senate, House of Representatives, and the Judicial Department on February 1, 2024. The final report included 23 Task Force Recommendations. The Colorado General Assembly requires the Colorado Judicial Department, Office of the State Court Administrator, to submit this report to update the General Assembly on the progress made toward implementing the Task Force Recommendations.

“I appreciate the collaborative nature of the Task Force process. In addition to developing the recommendations, I believe it provided stakeholders with additional insight into Judicial Department operations and existing training programs for Judicial Officers and staff, and it also provided an opportunity for judges and Judicial Department staff to understand the concerns of stakeholders.” – Chief Justice Brian Boatright

The Colorado Judicial Branch implementation of the Task Force Recommendations is a collaborative effort of the following:

The Judicial Education Committee (JEC)

The Judicial Education Subcommittee on Domestic Relations

The Judicial Education Criminal Subcommittee

State Court Administrator Office (SCAO), Court Services, Family Law Program Staff

State Court Administrator Office (SCOA), Judicial Education Unit Staff

Recommendation No. 1

The Supreme Court will expand opportunities for input and collaboration by creating subcommittees of the Judicial Education Committee, including a subcommittee focused on domestic relations and a subcommittee focused on victim and survivor awareness.

The Colorado Judicial Education Subcommittee on Domestic Relations was created in May 2024. The current Subcommittee members consist of three judicial officers that each have a background in domestic relations, including a domestic practitioner, a district attorney, and a public defender. The Subcommittee members include a domestic relations practitioner and one victim advocate. **(Appendix 1)**

The Colorado Judicial Education Criminal Subcommittee was created in May 2024. The Subcommittee members consist of three judicial officers, a public defender, a district attorney, and two victim advocates. **(Appendix 2)**

Recommendation No. 2

The Judicial Education Committee will establish a public website to publish information on education programs, solicit input on perceived gaps in education, and announce other opportunities for involvement in judicial education.

State Court Administrator Office, Judicial Education Unit created the email address judicialeducation@judicial.state.co.us. This email address is active and open to the public. The webpage <https://www.coloradojudicial.gov/executive-division/judicial-officer-education> was published with information on judicial education and in order to solicit input, announce opportunities and establish a process for members of the public to apply for subcommittee roles.

Recommendation No. 3

The Judicial Education Committee will establish a process for members of the public to apply for subcommittees to promote that process on its website and through communications staff at SCAO.

See response to Recommendation No. 2.

Recommendation No. 4

The Colorado General Assembly should evaluate the most recent weighted caseload studies regarding judicial officer workload and provide sufficient resources to the Judicial Department to expand training opportunities, to reduce docket sizes, to provide more time for judges to attend trainings, to increase the number of mentors for judges, and to increase the number of judges. The most common gap that was discussed was the need to make time without a disruption to scheduled dockets so judges can attend the critical training that is outlined in many of the recommendations in this report. This can't be accomplished with the current judicial staffing and is even more challenging in rural judicial districts.

Over the past three years, the Judicial Department has updated the weighted caseload studies for County Court Judges, District Court Judges, and Court of Appeals Judges. These studies are conducted by a third-party vendor and analyze the amount of time necessary for processing different case types. Those studies show a significant need for additional judicial officers to keep up with the current workload of the courts. The studies provide concrete evidence and analysis that supports what the Task Force recognized: Colorado's state court judges do not have sufficient time to manage their dockets and also attend all of the educational programming that they would ideally be free to attend.

The Judicial Department has worked with members of the General Assembly, and on January 8, 2025, the legislature introduced SB 25-024. This bill would provide 29 additional judges in county court, district court, and the Court of Appeals over two years. This will provide some much-needed docket relief for the judicial districts with the greatest need. Since introduction, the legislature has scaled back the bill to include 15 judges over two years. However, even with the addition of the 29 judges initially requested, the Judicial Department would not achieve anything close to full staffing. While we anticipate that the additional judges will free up some judicial officer time for education and training, the docket and workload demands will still present an obstacle for judicial officer education opportunities.

Chief Justice Márquez recently announced an initiative to holistically evaluate the education and training opportunities available for our judges. This initiative will evaluate opportunities for an onboarding period for new judges and defined training programs for judges entering new dockets. It will also look at on-demand training opportunities for judges taking the bench in the periods between the Department's week-long New Judge Orientation and week-long Advanced New Judge Orientation, which take place in December and May, respectively. The biggest challenge in implementing this initiative will be the time demands on our judges and ensuring the Judicial Department has the education resources to develop and deliver expanded education opportunities.

Recommendation No. 5

The judicial education subcommittee on victims and survivors should include representation from victim-serving organizations in a number that is balanced in relation to other stakeholders on the committee. Given the role of the courts, balanced representation is important to preserve the fairness and impartiality of its work.

The Colorado Judicial Education Subcommittee on Domestic Relations was created in May 2024. The current Subcommittee members consist of three judicial officers that each have a background in domestic relations, including a domestic practitioner, a district attorney, and a public defender. The Subcommittee members include a domestic relations practitioner and one victim advocate. **(Appendix 1)**

The Colorado Judicial Education Criminal Subcommittee was created in May 2024. The Subcommittee members consist of three judicial officers, a public defender, a district attorney, and two victim advocates. **(Appendix 2)**

The victim advocate perspective on both subcommittees is critical in identifying priorities and additional education opportunities.

Recommendation No. 6

Inclusion of subject matter experts regarding IPV, sexual violence, and children impacted by violence on the larger judicial training subcommittee.

Judicial Education Subcommittees and SCAO Judicial Education Unit are including subject matter experts in judicial training and establishing an internal list of subject matter experts for judicial trainings. The following educational programming with subject matter experts has occurred based on task force recommendations:

Date: June 13, 2024

Title/Program: Domestic Relations & Probate Institute

Included inclusive subject experts in IPV, sexual violence, and children impacted by violence. Those inclusive subject experts were as follows:

Jane Irvine, LPC, Psychotherapist, Board Certified Counselor, Mediator, and former English family lawyer with over 35 yrs. experience in Domestic Relations cases. She is trained in mediation, for CASA, receives appointments as an independent Special Advocate (CFI) and has represented children of all ages in many high conflict cases as a Special Advocate (CFI); served as court expert for parenting time recommendations on relocation, reunification (reintegration) therapy, child development, and therapy with children.

Margaret Abrams, former Director Rose Andom Center. Expert in program development for domestic violence intervention and services to victims; client services in a domestic violence shelter, providing civil legal assistance to battered women, private practice counseling with victims of domestic violence and sexual assault; and training and education to a wide range of community and professional groups.

Keisha Sarpong, Fatality Review Program Manager at Rose Andom Center, and an experienced victim advocate with a demonstrated history of working in the victim services.

Dr. Kate McNamara, a licensed psychologist in private practice, conducted hundreds of parenting evaluations and has testified as an expert in parenting disputes and related cases, and Associate Professor in the Department of Psychology at Colorado State University.

Date: September 15, 2024

Title/Program: The Violence Against Woman Act (VAWA) Institute, Judicial Conference

Included inclusive subject experts in IPV, sexual violence, and children impacted by violence. Those inclusive subject experts were as follows:

Amber McDonald, Ph.D., LCSW is the Deputy Director of and Assistant Professor for the Stress, Trauma, Research, Trauma & Adversity (START) Clinic at the University of Colorado School of Medicine, Department of Psychiatry.

Kara Napolitano is a human rights advocate and trainer. Kara holds an MA in International Development with concentration in International Human Rights Law from the University of Denver.

Kristina Wilburn is the Associate Manager of Training and Education for the Laboratory to Combat Human Trafficking.

Nil Buckley is an expert in Mental Health Counseling with an emphasis in addiction from the University of Colorado, Licensed Professional Counselor and a Licensed Addiction Counselor.

Recommendation No. 7

Ask the appropriate judicial education subcommittees to identify the most effective ways to include education from experts, including those with lived experience, medical professionals, and other subject matter experts in trainings related to topics related to victim and survivor awareness while also maintain impartiality of the training.

Judicial Education Subcommittees and SCAO Judicial Education Unit are including subject matter experts in judicial training and establishing an internal list of subject matter experts for judicial trainings. The Judicial Education Unit has always looked to subject matter experts, both internal and external to the Department, but now this process is more formalized in the Judicial Education structure.

Recommendation No. 8

The appropriate judicial education subcommittee shall evaluate current educational programming and identify opportunities for improvement regarding:

- *the impact of intimate partner violence exposure on children;*
- *the behavior of victims and how to be trauma centered when engaging with victims;*
- *power and control tactics of abusers post-separation abuse;*
- *the reliability of information entering the courtroom;*

- *An understanding of the role, limitations, and qualifications of third-party neutrals such as child family investigators, parental responsibility evaluators, county department of human services, and others and provide training sessions across professions;*
- *myths and misconceptions surrounding interpersonal violence, trauma, sexual violence, and stalking and how these myths and misconceptions and unscientific information are used in the courtroom;*
- *offender behavior in stalking cases, and the role of the court in protecting victims;*
- *domestic violence lethality factors and risks, and role of the court in protecting victims;*
- *potential bias, including race, ethnic, cultural and gender bias in decision-making;*
- *the impact of judicial orders on lived experience of victims and survivors;*
- *child abuse and the role of the court in protecting child victims; and*
- *the neurobiology of trauma and presentation of victim dynamics and what it means for judicial officers presiding over cases.*

Judicial Education Committee, Subcommittees, and the SCAO Judicial Education Unit are continually evaluating educational programming and identifying opportunities for improvement. The following educational programming has occurred based on the Task Force recommendations:

Date: May 31, 2024

Title: Domestic Violence and Children a Judicial Officer Lunch & Learn

Topics: Colorado Domestic Violence Offender Management Board Standards & Updates, 1.03 Clinical Features of Domestic Violence and Abusive Behaviors, Adverse Childhood Experiences-ACEs Assessment (materials available) and coercive control, cultural abuse, emotional abuse, financial, psychological abuse, verbal abuse, reproductive abuse.

Date: June 13, 2024

Title: Domestic Relations & Probate Institute - Domestic Violence Evaluations and Intervention Options in Family Law Cases

Topics: Policy and practice pertaining to the evaluation and intervention strategies of domestic violence in the domestic relations court spaces. Information on the DVOMB white paper outlined the structural barriers as well as proposed solutions to address cases where there are concerns of domestic violence. Discussion about identifying predominant aggressors in domestic violence cases, including case examples related to the evaluation and treatment of domestic violence in non-criminal cases. Also, information included on how to support and provide resources to survivors of domestic violence, including coordination with community-based advocacy or organizations.

Date: June 13, 2024

Title: Domestic Relations & Probate Institute - Domestic Violence Fatalities in Domestic Relations Cases

Topics: The lethality indicators and dynamics that play a large role in domestic violence homicides, and murder suicides, of victims and their children as well as effective

intervention strategies, as studied by the Denver Metro Domestic Violence Fatality Review Team (DMDVFRT) and Fatality Review Program Manager.

Date: June 13, 2024

Title: Domestic Relations & Probate Institute - Mediation to Court: Best Practices in the Shadow of Domestic Abuse

Topics: Judges, family court facilitators, and sherlock's pressures to deal with domestic abuse elements in domestic relations cases, even with incomplete facts and information. This presentation aimed to help distill best practices in pre and post decree divorce and separation matters involving domestic abuse.

Date: June 13, 2024

Title: Domestic Relations & Probate Institute - Dilemmas Involving Adolescents

Topics: Cases in which teens are involved and discussing the developmental and practical considerations for the court who must make decisions regarding their best interests.

Date: June 13, 2024

Title: Domestic Relations & Probate Institute - After Triage: How Can We Help (And When Do We Just Enter Orders)

Topics: APR orders judicial officers can make and the orders they can't/shouldn't; how much making orders can or cannot change a family system; the impact of delayed orders versus immediate (even imperfect) orders; being at peace with an inability to make a family function better.

Date: June 13, 2024

Title: Domestic Relations & Probate Institute - Effective Use of Child Advocates: Who When Why and How

Topics: The nuances of use of child advocates in domestic relation cases, understanding which types of advocates are the best fit for which types of cases, statutory changes, and Kaden's Law.

Date: September 15, 2024

Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Impact of Trauma on Brain and Behavior

Topics: Empirical research on the impact of traumatic exposures on children and adults. Participants engaged in a facilitated discussion with the presenter on the impact of these traumatic exposures, pointedly on brain and behavior, and the crucial role of judges in mitigation.

Date: September 15, 2024

Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Trauma Responsive Courtrooms: The Intersections of Intimate Partner Violence, Sexual Violence and Human Trafficking and the Impact on Children and Youth

Topics: Minors who have been trafficked are dropping out of school, using substances to cope with their trauma, and filling up our youth detention centers; understanding the distinction between choosing to engage in criminal behavior and coerced sexual acts or forced criminality; nuances of trauma and knowing the existing resources to support survivors. The crime of human trafficking intersects with many other vulnerabilities and experiences. Those who experience trafficking being victims of child abuse or domestic violence, they may be experiencing homelessness or go on multiple runs, or they may suffer from mental illness or substance abuse disorders. Judges and other professionals supporting systems-involved youth must collaborate to understand these nuanced situations without doing more harm. Situate trafficking in a local context and provide recommendations for more trauma-responsive courtrooms.

Date: September 15, 2024

Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Protecting Futures: Navigating Intimate Partner Violence and Children's Well-Being in Court Proceedings

Topics: Coercive control identified as a domestic violence typology since 2007, Colorado statutes now recognizing the importance of understanding and assessing for its presence in both criminal and civil cases and how judicial officers and affiliated professionals can recognize whether coercive control exists in a domestic violence case and how to address it.

Date: September 18, 2024

Title: Judicial Conference, Domestic Day, Setting the Stage: The Culture of Your Courtroom

Topics: Cognitive bias, implicit bias, cultural competence, effect of judge demeanor on a process of case, motivational interviewing techniques to help people feel heard

Date: September 18, 2024

Title: Judicial Conference, Domestic Day, Reading the Signs

Topics: Dynamics of Domestic Violence, Reading the Signs, Judicial Decisions in Domestic Relations Cases

Date: June 4, 2025

Title: Domestic Relations & Probate Institute - Coercive Control in DR Cases: A Review of New Statutory Language

Topics: In 2024, there were a number of legislative updates that impact cases involving domestic violence and children. This includes Title 14, especially with regards to coercive control and domestic violence considerations in domestic relations cases; and to Title 13 with regards to awarding care and control of children in protection order cases.

Date: June 4, 2025

Title: Domestic Relations & Probate Institute – Child focused parenting plans in a DV aware Culture

Topics: Developmentally appropriate child focused parenting plans are key to long term healthy parent/child relationships. Discussion of attunement, parenting skills through the lens of DV legislation, burden of proof, attachment theory, harm of a damaged attachment, and the role of executive parent.

Date: June 4, 2025

Title: Domestic Relations & Probate Institute – Refuse Resist Cases: Why are there so many and what can we do?

Topics: Post decree parenting struggles are often founded in poorly crafted parenting plans. We will discuss what child behaviors indicate that a plan is not working for a child, the differing capacities of children, the special needs of neurodiverse children, and the impact of parenting deficits through the lens of DV/coercive control as a family system problem. Learn *the harm of generalization, the risks of not intervening, and some interventions available.*

Date: June 5, 2025

Title: Domestic Relations & Probate Institute – Effective Appointments and Use of CFIs and/or PREs in Complex Cases

Topics: Using case examples and reputable authorities in family law, this session will guide judicial officers in assessing the credibility, reliability, and evidence-based practices of CFI/PRE reports, empowering them to make informed, balanced decisions serving the best interests of the child for the APR.

Date: June 5, 2025

Title: Domestic Relations & Probate Institute – Kayden’s Law and Its Implications

Topics: Detailed overview of Kayden’s Law focusing on the requirements, limitations and implications of the law with a focus on practical, everyday application in the courtroom.

Date: June 5, 2025

Title: Domestic Relations & Probate Institute – Domestic Violence in Court Proceedings: What is DV really?

Topics: Develop an understanding of dynamics of DV to properly address legal issues arising in family law cases such as credibility, intimidation, recantation and factors to recognize when evaluating the best interests of the child.

Date: June 5, 2025

Title: Domestic Relations & Probate Institute – Data Unveiled: A Deep Dive into Americans Experience and Resolve Family and IPV Issues

Topics: IAALS will soon be releasing a report highlighting the family and IPV data from its 2021 Justice Needs study that assessed the needs of people of all income levels and

across all regions of the country. This session will share that data and offer recommendations for how to address these vital needs.

The following educational resources have been updated and released to all judicial officers.

Domestic Relation Bench Cards **(Appendix 3)**

The complete subject list of these Bench Cards is below:

- Allocation of Parental Responsibilities
- Bankruptcy
- Child Support
- Civil Protection Order (updated 1/1/2025 to reflect HB24-1122 legislative changes)
- Common Law Marriage
- Contempt of Court
- Division of Marital Assets and Debts
- Emergency Motion to Restrict Parenting Time
- Extreme Risk Protection Orders (ERPO) and Temporary Risk Protection Order (TERPO)
- ICWA
- Invalidity of Marriage
- Maintenance
- Marital Agreements
- Parentage
- Relocation
- Sorensen
- Uncontested Dissolution of Marriage or Legal Separation

The following are on-going and future educational programming and resources.

The Colorado Judicial Department, Judicial Education Unit has been approved as a grantee for the 2025-2026 federal S.T.O.P. Violence Against Women Act (VAWA) Program **(Appendix 4)**. The grant allows agencies to support a broad range of activities to address violence against women, specifically victims of domestic violence, sexual assault, stalking and dating violence. This grantee was selected for award by the Crime Victims Services Advisory Board.

The first draft of the Domestic Violence Bench Book will be completed by the end of the 2024/25 Grant Cycle. Into the 2025/2026 Grant Cycle, the Domestic Violence Bench Book will be reviewed and amended by relevant SCAO staff and stakeholders including the Judicial Education Subcommittee members. Once edits are complete, a recorded webinar series will be created by January 2026 to educate on specific topics and use of the Domestic Violence Bench Book to judicial officers. This webinar series will highlight the key areas of law covered within the text and explain how the bench book can be used effectively in the courtroom.

The Judicial Department will continue creating and providing the VAWA Institute for Colorado Judicial Officers. The Institute contained four training sessions that all focused on the judicial officer and courtroom responses to sexual assault perpetrators and survivors.

The Judicial Department will continue the Violence Against Woman Act (VAWA) News E-Brochure (Digital Content) that: 1. Explains court decisions from the Court of Appeals affecting protection orders and firearm relinquishment; 2. Markets the DV 101 E-Course created during the last grant period. Judicial will continue to develop and publish courses on VAWA topics and develop and publish "VAWA News for Judges" brochures, which are delivered to 400 judges and magistrates every quarter. The content provided in the brochures is generally timed to inform judges on changes in the law, legal trends, new research findings, or high-profile VAWA cases. The Department will continue its local outreach initiative, meeting with community groups involved in domestic violence issues.

The Domestic Relations and Probate Institute will be held on June 4th – 6th, 2025. This year's theme is Family Matters: Because Families Matter. This conference will provide subject matter specific training for 150+ Judicial Officers and their staff that specifically interact with Domestic Relations and Probate court users. This year the conference is offering 35 sessions that cover a range of topics including Coercive Control, Resist Refuse Matters, Trauma Informed Courtrooms, Effective Use of Third-Party Neutrals, Intimate Partner Violence Issues, and Domestic Violence in Court Proceedings. This conference's planning committee has been intentional to consider the recommendations outlined by the members of this taskforce and has solicited sessions to meet these recommendations as we are able. Sessions are presented by subject matter experts and professionals currently working in the areas of Domestic Relations and Probate.

Recommendation No. 9

The appropriate judicial education subcommittee shall evaluate current educational programming and identify opportunities for improvement regarding:

- *Full Faith & Credit recognizing Tribal court orders of protection and removing the barriers for survivors from those community's from having to pay additional court fees;*
- *Sexual assault, counter-intuitive victim behavior, avoiding victim blaming (current offerings only cover SO and SVP), and the impact and neurobiology of trauma;*
- *Domestic Violence Offender behavior – post-separation battering tactics; and*
- *Risk assessment/management for victims and the Address Confidentiality Program.*

It was highlighted that there is still confusion regarding the federally recognized tribes in Colorado and how the Tribal Court orders may intersect with the State Courts. Further training around this topic could help to alleviate some of the confusion and improve the system for American Indian victims. The other topics that are highlighted in this recommendation are in line with other recommendations in the report that seek to review and improve the training regarding sexual assault, domestic violence, stalking and child abuse and the victims' interactions with the courts.

Judicial Education Committee, Subcommittees, and the SCAO Judicial Education Unit are continually evaluating educational programming and identifying opportunities for

improvement. The following educational programming has occurred based on Task Force recommendations:

Date: September 15, 2024

Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Impact of Trauma on Brain and Behavior

Topics: Empirical research on the impact of traumatic exposures on children and adults. Participants engaged in a facilitated discussion with the presenter on the impact of these traumatic exposures, pointedly on brain and behavior, and the crucial role of judges in mitigation.

Date: September 15, 2024

Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Protecting Futures: Navigating Intimate Partner Violence and Children's Well-Being in Court Proceedings

Topics: Coercive control identified as a domestic violence typology since 2007, Colorado statutes now recognizing the importance of understanding and assessing for its presence in both criminal and civil cases and how judicial officers and affiliated professionals can recognize whether coercive control exists in a domestic violence case and how to address it.

Recommendation No. 10

The Judicial Education Committee will identify ways to track and evaluate the efficacy of the various judicial education programs. Currently, there is an opportunity for judges that participate in judicial education programs to complete a survey regarding the training. The Task Force discussed the need to continue to review the education opportunities and explore more ways to expand the current process for evaluation and determine if there are changes that can be made to better ensure that the educational opportunities are effective in increasing judge's understanding of a topic. It is important to note that this would not be tracking an individual judge's learning, but a tracking of the training's content and the training modality for its efficacy.

Judicial Education Committee, Subcommittees, and SCAO Judicial Education Unit are identifying ways to track and effectually evaluate training and programming. Evaluations will include specific questions addressing the overall understanding of the concepts and materials provided in order to determine if further training is needed. An evaluation process has been added to the Violence Against Woman Act (VAWA) Institute, New Judge Orientation Domestic Relations Day and Advanced New Judge Orientation Domestic Relations Day.

The review of the Bench Basics Videos has included a targeted evaluation of whether the videos are providing sufficient domestic violence and trauma training.

Additionally, for all Continued Legal Education accredited training opportunities, as a part of that accreditation, participants are provided with a survey to evaluate the attended training. There are current continued legal education requirements for judges that require 45 general credits every three years. Included in that total is a requirement for seven

professional responsibility credits that include two credits in equity, diversity, and inclusivity as well as five credits for legal ethics or legal professionalism.

Recommendation No. 11

The appropriate judicial education subcommittee shall evaluate ways to provide training opportunities for Child Family Investigators and Parental Responsibility Evaluators to meet statutory requirements and to ensure that those professionals receive high-quality and consistent training opportunities.

Judicial Education and the SCAO are currently exploring partnership opportunities to provide a training that would meet the statutory training requirements for Child and Family Investigators and Parental Responsibilities Evaluators set forth in §14-10-127.5.

The Judicial Department has entered into an Inter-Governmental Agreement (IGA) with the Attorney General's Office to work cooperatively on developing training for PREs and CFIs. Through that IGA, the Department and the Attorney General's Office are in the process of drafting a Request for Proposals to identify a vendor that would work with the Department and the Attorney General's Office to develop and deliver modern and robust training for PREs and CFIs on the topics identified in statute. We anticipate that this training will also be valuable for judges and court staff. The Department and the Attorney General's Office will both contribute some amount of funding, and we are doing this, to the extent we are able, with existing resources.

Recommendation No. 12

The Judicial Department will create an onboarding program for new judges and for judges rotating onto domestic relations and criminal dockets that will include programming recommended by the subcommittees with stakeholder input. Topics will include but not be limited to trauma-informed care and the neurobiology of trauma, depth of context within power and control, expert witness utilizations, Victim Rights Act training on implementation (Rights in action e.g., privacy, right to be present, virtual access), child and human development in the context of trauma emphasizing training on the interest of the child, trauma informed courtrooms, interpersonal violence, and

The Judicial Department is evaluating onboarding programming for new judges and for judges rotating onto domestic relations and criminal dockets. Starting in 2024, Judicial has added an entire day dedicated to domestic relations to New Judge Orientation (December) and Advanced New Judge Orientation (May). These dedicated domestic relation training days will be open to all judicial officers.

The New Judge Orientation, Domestic Training Day, December 13, 2024, included the following topics:

- Setting the Stage: The Culture of Your Courtroom - Cognitive and Implicit Bias and Cultural Competence
- Personal Identity Characteristics and Creating a Courtroom of Respect, Trauma Informed Courtroom
- A Conversation: What I Wish I Knew About a Domestic Relations Docket, Children Victims

- Domestic Relation Orders & Case Management

The New Judge Orientation, Domestic Training Day, December 13, 2024, included the following material supplements: Information on HB23-1108 and the Task Force Recommendations, a courtroom demeanor statement, a domestic relation resource list, a reference to applicable law and orders, an asset debt spreadsheet, a pretrial order, simplified APR & CS permanent orders samples, sample simplified financial permanent orders, and all domestic relations bench cards.

A dedicated and defined area on the Judicial Learning Portal is being developed specifically for new judges and judges transitioning to domestic dockets.

A Victim Rights Act (VRA) Training took place February 7, 2025, and was recorded and is available to all judicial officers.

Recommendation No. 13

The Judicial Department will create an on-demand training related to the Victim Rights Act (VRA), Domestic Violence (DV) 101, Sexual Assault (SA) 101, and Child Abuse 101. The on-demand training is necessary because the new judges are selected throughout the year, and sometimes new judges do not attend new judge orientation for nearly a year, depending on when they take the bench. Like the prior recommendation, any expansion of judicial resources for new judges to watch prior to taking the bench is a best practice to make sure the judge has a basic understanding of these violent crimes and their responsibilities under the Victim Rights Act in criminal cases. In addition, the on-demand training videos will allow any judge to review this information if they are transitioning to a new docket.

A Victim Rights Act (VRA) training took place February 7, 2025, and was recorded and available to all judicial officers.

Applicable trainings held at the 2026 Domestic Relations and Probate Institute will be recorded and available to all judicial officers.

The Judicial Education Subcommittees are reviewing the Bench Basics videos that are available to all judicial officers on-demand.

The Judicial Department will continue the Violence Against Woman Act (VAWA) News E-Brochure (Digital Content) that: 1. Explains court decisions from the Court of Appeals affecting protection orders and firearm relinquishment; 2. Markets the DV 101 E-Course created during the last grant period. The Judicial Department will continue to develop and publish courses on VAWA topics and develop and publish "VAWA News for Judges" brochures, which are delivered to 400 judges and magistrates every quarter. The content provided in the brochures is generally timed to inform judges on changes in the law, legal trends, new research findings, or high-profile VAWA cases. Judicial will continue its local outreach initiative, meeting with community groups involved in domestic violence issues.

The following training has been added to the Judicial Learning Portal and is available to all judicial officers:

Date: May 31, 2024

Title: Domestic Violence and Children a Judicial Officer Lunch & Learn

Topics: Colorado Domestic Violence Offender Management Board Standards & Updates, 1.03 Clinical Features of Domestic Violence and Abusive Behaviors, Adverse Childhood Experiences-ACEs Assessment (materials available) and coercive control, cultural abuse, emotional abuse, financial, psychological abuse, verbal abuse, reproductive abuse.

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Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Impact of Trauma on Brain and Behavior

Topics: Empirical research on the impact of traumatic exposures on children and adults. Participants engaged in a facilitated discussion with the presenter on the impact of these traumatic exposures, pointedly on brain and behavior, and the crucial role of judges in mitigation.

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Topics: Minors who have been trafficked are dropping out of school, using substances to cope with their trauma, and filling up our youth detention centers; understanding the distinction between choosing to engage in criminal behavior and coerced sexual acts or forced criminality; nuances of trauma and knowing the existing resources to support survivors. The crime of human trafficking intersects with many other vulnerabilities and experiences. Those who experience trafficking being victims of child abuse or domestic violence, they may be experiencing homelessness or go on multiple runs, or they may suffer from mental illness or substance abuse disorders. Judges and other professionals supporting systems-involved youth must collaborate to understand these nuanced situations without doing more harm. Situate trafficking in a local context and provided recommendations for more trauma-responsive courtrooms.

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Title: The Violence Against Woman Act (VAWA) Institute, Judicial Conference - Protecting Futures: Navigating Intimate Partner Violence and Children's Well-Being in Court Proceedings

Topics: Coercive control identified as a domestic violence typology since 2007, Colorado statutes now recognizing the importance of understanding and assessing for its presence in both criminal and civil cases and how judicial officers and affiliated professionals can recognize whether coercive control exists in a domestic violence case and how to address it.

Recommendation No. 14

Include training for appropriate judicial personnel as determined by the appropriate subcommittee on best practices to minimize traumatization. The Task Force recognized that most of the recommendations are intended for judges, but there was also an understanding that there are other judicial personnel that are public facing that interact with victims. It was important to recognize this gap and to find a mechanism for additional training for judicial personnel. The subcommittees should include this as part of their conversation when they are developing training.

The Judicial Education Domestic Subcommittees are prioritizing additional judicial officer training for trauma informed courtrooms, which would include training judicial officers on training court staff.

Recommendation No. 15

The Task Force members who have time and interest are welcome to continue to meet quarterly through the end of 2024 so the group can monitor and discuss the implementation of all recommendations. Recognizing that the HB23-1108 created the Task Force for a specific amount time, the Task Force discussed the importance of the conversations continuing past the preparation of this report and the final meeting in January as required by the legislation. Moving forward, members of the Task Force were offered the option to continue to meet with State Judicial to work on the implementation of the various recommendations.

The Judicial Department received no requests from the Task Force for additional meetings in 2024. If Task Force members wish to meet individually, Judicial Department staff are available to meet, If the full Task Force wants to have an implementation discussion following the issuance of this report, the Judicial Department will work with the Office of Victims Programs to organize a meeting.

Recommendation No. 16

Create a Judicial Education Subcommittee on Domestic Relations that will identify the necessary knowledge and skills that DR judicial officers should possess, endorse general principles by which learning is best fostered (e.g., use a variety of learning formats, give judges significant control over when, how, and where their learning takes place, etc.), and ensure overall quality and effectiveness of educational programs.

The Colorado Judicial Education Subcommittee on Domestic Relations was created in May 2024. The Subcommittee has been tasked with identifying the necessary knowledge and skills that DR judicial officers should possess, identify and endorse general principles by which learning is best fostered, and ensure overall quality and effectiveness of educational programs.

Recommendation No. 17

Develop additional resources so judges can take time away from their dockets for educational opportunities and onboarding.

The Judicial Department is reviewing expansion and improvement to the senior judge program to provide docket coverage for new judges to receive domestic relation training and go through a more structured onboarding process when they begin a domestic relations

docket. However, the Senior Judge Program is limited in its funding and in the number of senior judges serving in the program. Thoughtful expansion of the program will help provide docket coverage for judges to attend education programs and trainings.

Recommendation No. 18

Develop an ethos that domestic relations cases should primarily (if not exclusively) be assigned to judges who have either had training, experience, or other subject matter exposure to family law.

This recommendation cannot be accomplished in a year. The described ethos will be a part of the discussions of the Chief Justice's education and training initiative that will begin in 2025.

Recommendation No. 19

Further develop mentorship opportunities for Domestic Relations judges.

The Judicial Department recognizes the importance for a new domestic relations judge to have a mentor who can answer questions and provide feedback and support on a more regular and oftentimes immediate basis. The Judicial Education Unit is adding to its established peer-to-peer coaching program by implementing specific mentorship opportunities for domestic relations judges. Additionally, new staff were hired in the SCAO, Judicial Education Unit that has been specifically assigned to improve the established peer-to-peer coaching program and mentorship program.

Recommendation No. 20

Continue development of Bench Basics videos and on-demand training modules on Domestic Relations topics, tailoring them to educating judges before they take the bench or before they are assigned to a Domestic Relations docket.

Judicial Department personnel have access to a Judicial Learning Portal through the SCAO that houses on-line learning resources, including Bench Basics recordings that cover several fundamental topics in shorter 20-minute sessions that can be reviewed at any time for new judicial officers and as a refresher when judges are transitioning to a different docket. There are over 75 different Bench Basics videos available that cover topics about civil, criminal, domestic relations juvenile, county court, and self-represented litigants. All judges have access to fourteen domestic relations Bench Basics videos through the Judicial Learning Portal. The Judicial Education Subcommittees have prioritized updating the Bench Basic video resources. The Subcommittees are reviewing scripts, need updates and discussing new modules.

The Judicial Department is developing more on-demand training resources, similar to the Bench Basics videos and other interactive training modules.

Recommendation No. 21

Continue development of educational resources to include on-demand training/ webinars, and specific case-based modules to address domestic violence (and in particular coercive control,

emotional abuse, litigation abuse, and financial abuse), child maltreatment, common custody issues, the appropriate use of therapy modalities,

The Judicial Department has recorded and posted all domestic relation trainings from the Violence Against Woman Act (VAWA) Institute, Domestic Relations & Probate Institute to the Judicial learning Portal.

The Department will continue the Violence Against Woman Act (VAWA) News E-Brochure (Digital Content) that: 1. Explains court decisions from the Court of Appeals affecting protection orders and firearm relinquishment; 2. Markets the DV 101 E-Course created during the last grant period. Judicial will continue to develop and publish courses on VAWA topics and develop and publish "VAWA News for Judges" brochures, which are delivered to 400 judges and magistrates every quarter. The content provided in the brochures is generally timed to inform judges on changes in the law, legal trends, new research findings, or high-profile VAWA cases. The Department will continue its local outreach initiative, meeting with community groups involved in domestic violence issues.

Judicial Education Committee, Subcommittees, and the SCAO Judicial Education Unit are identifying ways to continue development of on-demand educational resources.

Recommendation No. 22

Special consideration should be paid to the development of model parenting plan orders, the crafting of orders to specifically minimize future conflict, and identification of resources in each district to support transitioning families.

The Judicial Education Subcommittee on Domestic Relations have identified this recommendation as a priority and will be evaluating current and newly requested training opportunities.

Model Parenting Plan orders (designed to minimize conflict) have been provided to new judicial officers and Domestic Relation judicial officers at the June 2024 Domestic Relations Institute and December 2024 New Judges Training.

Recommendation No. 23

A website should be developed that collects domestic relations education opportunities both within the Judicial Department and external education from partner organizations.

State Court Administrator Office, Judicial Education Unit created the email address judicialeducation@judicial.state.co.us. This email address is active and open to the public. The webpage <https://www.coloradojudicial.gov/executive-division/judicial-officer-education> was published with information on judicial education and to solicit input, announce opportunities and establish a process for members of the public to apply for subcommittee roles. This website will collect domestic relations education opportunities both with the Judicial Department and education opportunities from partner organizations. Additionally, the State Court Administrator's Office, Judicial Education Unit has created the email address judicialeducation@judicial.state.co.us. This email address will be available

to solicit any input and suggestions. Two webpages have been created and will be accessible via the Colorado Courts external website. Judicial Education staff in the State Court Administrator's Office are currently being trained to be content editors that will be responsible for creating, maintaining, and editing the content for the webpages.

Judicial Education Subcommittee on Domestic Relations

Chair:

Hon. Marie Avery Moses

2nd Judicial District Judge

Moses was appointed to the bench in 2021. Prior to her appointment, Judge Moses was a partner at Lass Moses Ramp & Cooper, a law firm she joined in 2011. Before that, she spent time at Kelly Garnsey Hubbell & Lass (2008 to 2011) and Cook, Cooper & Moses (2004 to 2008). She specialized in family law and criminal defense matters. She has collaborated with the Colorado Legislature to draft legislation pertaining to uniform laws, civil unions, parenting time, decision-making authority, maintenance, child support, paternity, domestic violence, and third-party visitation issues.

Members:

Hon. Michelle Chostner

10th Judicial District Judge

Chostner was appointed to the district bench in 2023. Prior, she served as a magistrate judge in the 10th Judicial District since 2021, handling small claims lawsuits, probate cases, low-level traffic court, and truancy. Before that, Chostner served as a deputy district attorney in several districts across Colorado including Adams County. In Adams, she was a deputy district attorney covering most of the northeast Denver Metro area and rural areas east of Denver from 2008-2013.

Hon. Elise Myer

9th Judicial District Judge

Meyer was appointed to the bench in 2023. Prior to the bench, Ms. Myer was the head of the Office of the Colorado State Public Defender in Glenwood Springs, a position she has held since 2022. She was Deputy Public Defender in the Glenwood Springs Office from 2011-2022.

Maha Kamal, Esq.

Maha is a private practice family law attorney. Maha manages her own solo practice, the Colorado Family Law Project, which she started in 2016. Her firm offers sliding scale services for both full representation and unbundled services. She has held positions on the Colorado Bar Association (CBA) Family Law Section Executive Council (2022-2023) and the Alternative Dispute Resolution Executive Council (2022-2023). She Co-Chairs the Paraprofessionals and Legal Services (PALS) Supreme Court Subcommittee with retired Judge Angela Arkin. Maha also provides pro bono family law services for the ACLU, the Rocky Mt. Victim Advocacy Center (RMvLC), and the Rocky Mt. Immigration Advocacy Network (RMAIN).

Courtney Sutton, Colorado Organization for Victim Assistance (COVA)

Public Policy Director

Courtney is the Public Policy Director at COVA. She is a passionate advocate for survivors, equity, and social justice. Courtney received her Master of Arts in Clinical Psychology from the University of Colorado Springs and her Bachelor of Science from the University of Tennessee at Martin. Prior to COVA, she served the community of El Paso County at TESSA

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in a variety of roles, including Safety and Support Manager. position with COVA as the Public Policy Director. She is a passionate advocate for survivors, equity, and social justice.

One other community member TBD.

Judicial Education Criminal Subcommittee Roster

Chair:

Hon. Keri A. Yoder

7th Judicial District Judge

Judge Yoder was appointed to the 7th Judicial District Court bench in 2016. A resident of Telluride, Judge Yoder has been practicing law on the Western Slope since 1999. Prior to her appointment, Judge Yoder worked for nearly 14 years as a prosecutor in the 7th Judicial District—most recently serving as the Assistant District Attorney.

Members:

Hon. Allison P. Ernst

10th Judicial District Judge

Ernst was appointed to the bench in 2016. Prior, Judge Ernst was a deputy public defender for the Colorado Public Defender's Office from 2005 to 2011. She also was in private practice with the law firm of Becker & Ernst until her appointment to the bench in December 2016. She practiced primarily criminal and family law.

Amy Petri Beard, Esq.

Deputy District Attorney, Weld County District Attorney's Office

Mrs. Petri Beard has been with the Weld County DA's office since February 2024 and joined their SVU unit, focusing on adult and child sex assault cases. A former Senior Deputy District Attorney in both the 1st and 17th Judicial Districts, she handled adult felony cases involving child victims (including physical and sexual assault offenses) and adult sexual assaults. She has been a prosecutor for 14 years with 13 of them focused on sexual assault cases (with both child and adult victims).

Zachary Brown, Esq.

Chief Deputy, Public Defenders Office

Zak Brown is Chief Deputy Public Defender. He's worked in the Office of the Colorado State Public Defender (OSPD) for 11 years. Prior to coming to the State Office, he worked in the Durango and Pueblo offices as a lawyer, handling all types of cases, including juvenile cases. Mr. Brown also was a supervisor in Pueblo, where he supervised lawyers, paralegals, social workers and interns.

Magistrate Dalia Labrador

18th Judicial District

Dalia was appointed as a magistrate in 2023. Prior, she was a private practice criminal defense attorney at G. Law Defense. Representing victims of violence or sexual assault. Ms. Labrador has experience both on the State and Defense side. Ms. Labrador learned how prosecutors bring charges from her job at the Chicago Cook County State's Attorney's Office, which included time in both the Narcotics Unit and the First Municipal Branch.

Soledad Diaz

Violence Free Colorado

Soledad Diaz, Public Policy and Community Impact Director at Violence Free Colorado. Born in Chile, Soledad studied Law at Pontificia Universidad Católica de Chile. She has dedicated her professional life to serving underprivileged communities and has focused her

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career on social justice and anti-violence work. In the US, she has worked as a bilingual legal advocate, and Shelter Program Director, which had provided rich experience in direct services for Survivors of Domestic Violence.

Gina Lopez

Colorado Coalition Against Sexual Assault


Gina joined CCASA in October 2018 and is the Systems Response Program Director, a remote-work position. As part of the Programs Team with CCASA, she provides training, technical assistance, education and culturally specific intimate partner violence victim services discussions and multi-systems responses. A member and resident of the Ute Mountain Ute Tribe in Towaoc, Colorado and had been the Program Coordinator for the Tribe's first-ever tribal comprehensive victim services from late 2015 to 2018 supervising DV/SA and suicide prevention programs and conducting direct services advocacy and suicide support. She also facilitated a multi-Tribal coalition called NAUHZCASA (Navajo, Apache, Ute Hopi, Zuni Coalition Against Sexual Assault) that had existed over 10 years. Before entering the field, she worked in various positions within her Tribal government and business entities. In her down time, she is a fierce aunty to many kiddos and young adults in her Tribal community.

Domestic Relations Benchcard - Allocation of Parental Responsibility

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Allocation of Parental Responsibility (APR)

DOMESTIC RELATIONS BENCH CARD



APR issues arise in matters for:

- (Petition for) Dissolution of: Marriage (children), CRS §14-10-106; Civil Union (children), CRS §14-10-106.5;
- (Petition for) Allocation of Parental Responsibilities CRS §14-10-123;
- Parentage/Child Support juvenile proceedings (depending on local policy), CRS §19-4-130.

Standing: Is jurisdictional. The following persons have standing to seek APR:

- A parent, CRS §14-10-123(a).
- A non-parent has standing if the child is not in the physical care of one of the parents OR the non-parent has had physical care of the child for at least 182 days and the action is commenced within 182 days after termination of physical care CRS §14-10-123(b) and (c).
- A person who has been allocated APR rights in a juvenile proceeding, CRS §14-10-123(d).

Make sure all necessary parties have notice:

- When paternity arises in non-paternity action (including APR) court must follow UPA. *People in Interest of J.G.C.* 318 P.3d 576 (Colo.App.2013).
- Court's responsibility to ensure that all parties who may have standing to seek APR are given notice of proceedings. CRS §14-10-123(2).

WHEN Non-Parent Seeking APR:


1. **PARENTAL PRESUMPTION:** When a non-parent seeks APR (or a modification of APR) fit parents have a constitutional presumption in their favor which changes the burden of proof. *Troxel v. Granville*, 530 U.S. 57 (2000); *In re B.J.*, 232 P.3d 1128 (Colo.2010).
 - Begin with presumption that parent's determination is in the child's best interest.
 - Burden on non-parent to rebut this presumption by clear and convincing evidence.
 - The ultimate burden is on the non-parent. If the court finds presumption overcome must set forth the specific factors relied upon in doing so.
2. **INDIAN CHILD WELFARE ACT (ICWA):** If APR case involves a non-parent, as "parent" defined in ICWA, ICWA requirements apply, i.e., notification of Indian tribe(s). (see ICWA bench card).

Domestic Relations Benchcard - Bankruptcy

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Bankruptcy

DOMESTIC RELATIONS BENCH CARD



Fundamentals

- ☐ A pending BK or plan to file during the pendency of a DR case may result in inadvertent violations of BK or DR orders.
- ☐ Title 11 of the U.S. Code ("Bankruptcy Code"), governs BK; 11 U.S.C. § 101 *et seq.*
- ☐ Most BK filings are Ch. 7 (liquidation; monthly income limits), Ch. 11 (individual or business liquidation or reorganization) or Ch. 13 (reorganization). Ch. 13 and Ch. 11 reorganizations result in repayment plans; Completion of the liquidation or reorganization will result in discharge of dischargeable debts.

Chapter 7 (liquidation)

- ☐ BK court appointed trustee reviews debtor's assets to determine if any non-exempt assets can be liquidated to pay back unsecured creditors
- ☐ **State and federal exemptions** apply to different assets of debtor and are intended to protect them from collection. C.R.S. § 13-54-102, § 13-54-104, and § 38-41-201(a)¹
- ☐ Only debtors below a certain monthly income threshold qualify for Ch. 7. 11 U.S.C. § 707(2)
- ☐ Debts are discharged within approximately 4 months²
- ☐ **Non-dischargeable debts** include:
 - Domestic support obligations ("DSO"). 11 U.S.C. § 523(5)
 - Debt to a spouse, former spouse, or child of debtor and not [a DSO] that is incurred by debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit. 11 U.S.C. § 523(15)
 - Debts that cannot be discharged in Ch. 7 include: Most taxes, student loans, DSO, and property division orders in a divorce 11 U.S.C. § 523(5)
 - Cannot file another Ch. 7 for 5 years, most negative credit rating (on report for 10 yrs)
 - Having too much income, a desire to protect non-exempt assets, and/or the discharge of those debts which are non-dischargeable under a Ch. 7 are common reasons to pursue a Ch. 13

Chapter 11 (reorganization plan)

- ☐ Used by individuals and business entities (for more complex financial situations) (expensive and lengthy)
- ☐ May be used by individuals if debt exceeds Ch. 13 cap, income exceeds Ch. 7 cap, or they don't want assets liquidated under Ch. 7. Often used by sole proprietors, such as doctors and lawyers, to reorganize their personal and business debts that are inextricably intertwined. Now being used as an alternative to Ch. 13 to try to reorganize DSOs. Debtor may retain more control over his affairs, unless a special trustee is appointed) and may propose a plan for payments to his creditors over time. Creditors can object. Many hoops to jump thru to be confirmed.

Chapter 13 (reorganization plan)

- ☐ Debtor(s) must repay a portion of their debts over 3 to 5 year period, using 100% of disposable income during that period; secured and priority creditors are paid first, and unsecured creditors paid last; unsecured creditors may receive b/twn 1-100% of their claims depending on terms of plan. Creditors may object and/or seek to dismiss case. Certain debt limits apply, so not everyone is eligible for a Ch. 13.
- ☐ Can allow discharge of certain debts which would be non-dischargeable under Ch. 7
- ☐ DSOs not dischargeable in Ch. 13 plan and must be paid in full during the plan. 11 U.S.C. § 707(b)(2)(A)(iii)³

¹ CBA Domestic Relations Bench Card 2023 Edition, Section 12, John Eickelberry (author) and Jordan Fox and Cynthia Gendle (Contributors)
² Bankruptcy for State Court Judges (video), 2018 Judicial Conference, Judges Howard A. Talmán and Thomas B. Wickhamers.
³ CBA Bench Card Book.

Domestic Relations Benchcard - Child Support

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Child Support 14-10-115, C.R.S. DOMESTIC RELATIONS BENCH CARD



This Bench Card is intended to assist with the basics of calculating child support and creating a child support worksheet. This Bench Card may not include some of the complexities in determining child support. For more detailed information, consult the Domestic Relations Bench Book and §14-10-115, C.R.S.

Income: Income is defined as "actual gross income of a party, if employed to full capacity, or potential income, in unemployed or underemployed." §14-10-115(3)(c), C.R.S.

- Include each party's actual gross monthly income in the child support worksheet.
- Additional income that should be included is listed in §14-10-115(5)(a)(D)(A)-(Z), C.R.S. and includes salary, commissions, bonuses, dividends, rent, among others.
- Income from overtime is included only if required by the employer as a condition of employment. §14-10-115(5)(a)(U)(Z), C.R.S. If overtime is voluntary, do not include overtime in the party's gross monthly income.
- Income from additional jobs that result in working more than 40 hours a week is not included. §14-10-115(5)(a)(U)(C), C.R.S.
- If a party is unemployed or works part-time, determine if one of the following the exist:
 - o Parent is physically or mentally incapacitated, §14-10-115(5)(b)(A),
 - o Parent is primary caretaker for joint child under 24 months old, §14-10-115(5)(b)(B), or
 - o Parent is incarcerated for 180 days or more, §14-10-115(5)(b)(C), C.R.S.
 - o The parent's job is temporary and reasonably intended to result in higher income in the near future, §14-10-115(5)(D)(A), C.R.S.
 - o The parent's job is a good faith career choice that is not intended to deprive a child of support and does not unreasonably reduce the support available to the child, §14-10-115(5)(D)(B), C.R.S., or
 - o The parent is enrolled full-time in an education or vocational program or is enrolled in a part-time educational or vocational program, and the program is reasonably intended to result in a degree or certification within a reasonable period of time; completing the program will result in higher income, the program is a good faith career choice that is not intended to deprive the child of support and does not unreasonably reduce the support available to the child. §14-10-115(5)(D)(C), C.R.S.
 - o If one of the foregoing exist, use the parent's actual income. The income may be \$0.00.
 - o If one of the foregoing does not exist, the court is required to include wages based on the parent's potential income. §14-10-115(5)(D), C.R.S. See also, *PRM Minutes*, 70 P.3d 474 (Colo. 2000). *Best Practice* do not include the parent's aspirational income – look at potential income based on current education, training, and experience.
 - o Potential income can only be imputed upon a finding of "voluntary unemployment/underemployment." §14-10-115(5)(D), C.R.S.
- Factors to Consider When Imputing Income– C.R.S. § 14-10-115(5)(b-5)(D). In determining potential income for child support, the court shall consider, to the extent known, the specific circumstances of the parent, including consideration of the following information, when available:
 - o (A) The parent's assets; (B) Residence; (C) Employment and earnings history; (D) Job skills; (E) Educational attainment; (F) Literacy; (G) Age; (H) Health; (I) Criminal record; (J) Other employment barriers; (K) Record of seeking work; (L) The local job market; (M) The availability of employers hiring in the community, without changing existing law regarding the burden of proof; (N) Prevailing earnings level in the local community; (O) Transportation; and (P) Other relevant background factors in the case.

Prevailing earnings level in the local community looks at the typical hours available to workers in the parent's job sector as established by any reliable source generally used and relied on by the public or persons in a particular

Domestic Relations Benchcard - Civil Protection Order

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Civil Protection Order (Orders Entered >7.1.13) DOMESTIC RELATIONS BENCH CARD



Judicial Officer Protection Order/DV Resources

National Judicial Institute on Domestic Violence, [Link to National Judicial Institute on Domestic Violence](#) (Resource tab)

National Council of Juvenile and Family Court Judges, [Link to NCJFCJ Domestic Violence Work](#)

Colorado Bar Association DR & DV Benchbook; Address Confidentiality Program, [Link to Colorado Bar Association DR and DV Benchbooks](#)

National Network to End Domestic Violence, [Link to National Network to End Domestic Violence](#)

Battered Women's Justice Project, [Link to Battered Women's Justice Project](#) (Custody & Family Court tab)

Civil Protection Order Statutory Purpose, CRS §13-14-104.5(1)(a): Prevention of

- ☐ **assaults and threatened bodily harm;**
- ☐ **domestic abuse:** Any act, attempted act or threatened act of violence, stalking, harassment or coercion b/w relatives, roommates, intimate (and not be sexual) partners; against either party's minor child/animal
- ☐ **Coercion = by force/threats of force/intimidation, compelling conduct a person has a right not to do or compelling a person not to do something s/he has a right to do.** CRS §13-14-101(2)
- ☐ **emotional abuse of elderly (60 yrs+)** or at-risk adult, CRS §26-3-1-101(1).
- ☐ **sexual assault or abuse,** CRS §16-11-7-102(3); and
- ☐ **stalking,** CRS §18-3-602; directly or indirectly knowingly does (i), (ii) or (iii) to PET, PET's immediate family (spouse, parent, grandparent, sibling, or child) or someone from a past or present relationship of PET:
 - o Credible threat + repeatedly (=once) follows, approaches, contacts, or places under surveillance;
 - o Credible threat + repeatedly (=once) communicates; or
 - o Repeatedly (=once) follows, approaches, contacts, places under surveillance in a manner that would cause a reasonable person serious emotional distress and does cause such distress.

Temporary Protection Order (TPO) Hearing, CRS §13-14-104.5

- ☐ **Venue:** County where party lives or works or where incident occurred, but may be moved. CRS §13-14-104.5(6)
- ☐ **Jurisdiction:** Municipal, county, district, probate or juvenile court. BSP must be >10. CRS §13-14-104.5(1)(a); For UCCJEA Temporary Emergency Jurisdiction, see CRS §14-13-304 (child in CO, necessary to protect due to mistreatment/abuse or threats of)
- ☐ **Existing Protection Order:** PET has duty to disclose, CRS §13-14-104.5(6); Tip: Eclipse/JPOD party/case search
- ☐ **Standard:** By a preponderance of the evidence (CRS §13-25-127(1)), finding of imminent danger to PET's life/health, considering all relevant evidence re safety/protection of PET. Lapse in time b/wn abuse/threat and filing not a basis for denial. CRS §13-14-104.5(7)(a). PET business may request on behalf of employees. CRS §13-14-104.5(7)(b). Police reports, criminal charges, cooperation w/ prosecution not required. CRS §13-14-104.5(1)(b)
- ☐ **Filing/Service of Process Fees:** Must waive if domestic abuse, DV, stalking or sexual assault/abuse. Otherwise discretionary. CRS §13-14-109(1-2)
- ☐ **PPO Hearing:** Must be set w/in 14 days. If no service and upon PET request, shall continue once/issue alias citation. May continue more than once to allow opportunity for service upon request of PET. CRS §13-14-104.5(10)

Possible Additional Terms (CCIC police database limited to 500 characters), CRS §13-14-105


- ☐ **Kids:** Consistent with UCCJEA, may prohibit threatening, molesting, injuring other party or minor child of either party or from contacting other party or minor child of either; Award care/control and decision-making, up to 1 year, under CRS §14-10-124 best interest standard, including parenting time/contact restrictions (e.g. via Talking Parents/Friend/Family member re child only; supervised parenting time); CRS §13-14-105(1)(e)

Domestic Relations Benchcard - Common Law Marriage

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Common Law Marriage

DOMESTIC RELATIONS BENCH CARD



What Is Common Law Marriage:

- In Colorado, a legally recognized marriage can be achieved two ways: 1) formally, by fulfilling the statutory requirements of a licensed marriage or 2) informally, by entering a common law marriage through mutual agreement to enter into a marital relationship to share a life together as spouses in a committed, intimate relationship of mutual support and obligation and subsequent assumption of that marital relationship.
- Colorado has recognized common law marriage as legal and binding since 1877 and is 1 of only 10 jurisdictions that still allow for the formation of a common law marriage. Common law marriage does not require any license, ceremony, or documentation to be legal. Parties to a common law marriage are entitled to all rights, privileges, and responsibilities of a legal and binding marriage. Only legal divorce or death of one of the parties may terminate common law marriage.
- Ultimately, a common law marriage finding depends on the totality of the circumstances, and no single factor is dispositive.
- Prerequisites to common law marriage:**
 - The parties are free to enter into a marriage.
 - Both parties are of the legal age of 18. If either party is between the ages of 16 and 18, they must have obtained appropriate parental or guardian consent.
- There is no time requirement for the establishment of a common law marriage.** Temporally, the parties need only enough time to establish by a preponderance of the evidence the totality of the circumstances evidence a common law marriage. Periods of cohabitation by themselves, though relevant, do not constitute a common law marriage.

Law:

- In re Marriage of Hogsett and Neale*, 478 P.3d 713 (Colo. 2021)
- In re Estate of Yudkin*, 478 P.3d 732 (Colo. 2021)
- In re Marriage of LaFleur and Pryer*, 479 P.3d 869 (Colo. 2021)
- In re Marriage of J.M.R. and Renee*, 143 P.3d 1116 (Colo. App. 2006)
- People v. Lucero*, 747 P.3d 660 (Colo. 1987)
- Colo. Rev. Stat. § 14-2-109.5
- Colo. Rev. Stat. § 14-2-110

Colorado's New Common Law Marriage Framework:


- In 1987, the Colorado Supreme wrote, "[a] common law marriage is established by the mutual consent or agreement of the parties to be husband and wife, followed by a mutual and open assumption of a marital relationship." *People v. Lucero*, 747 P.3d 660, 663 (Colo. 1987). *Lucero* set forth a three-prong test which was to be satisfied in order to have a common law marriage. Without all three elements, there was no marriage.
- The Colorado Supreme Court noted social and legal changes since 1987 and *Lucero* have made the *Lucero* factors less helpful in sorting out who is married and who is not.
- Though *Lucero* was abrogated by *In re Marriage of Hogsett and Neale*, 478 P.3d 713 (Colo. 2021), *In re Estate of Yudkin*, 478 P.3d 732 (Colo. 2021), and *In re Marriage of LaFleur and Pryer*, 479 P.3d 869 (Colo. 2021), the *Lucero* factors can still be relevant to the inquiry into the existence of a common law marriage when examining the parties' conduct and when assessed in context, not as a litmus test to determine a marital relationship. *Hogsett*, 478 P.3d at 715.
- The trial court is to consider these factors as a means of determining whether the conduct of the specific parties at issue show they intended to enter into marriage. The Colorado Supreme Court specifically abandoned the requirements of cohabitation and a party publicly holding themselves out as married. Though these factors may still be relevant to show the intent of the parties, they are no longer essential requirements of a common law marriage.

Domestic Relations Benchcard - Contempt of Court

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Contempt of Court, CRCP 107

DOMESTIC RELATIONS BENCH CARD



Direct Contempt (with Remedial or Punitive Sanctions)

- Occurs in court's presence and is so extreme that no warning is necessary, or
- Occurs in court's presence and has been repeated, despite court's warning to desist.
- Only judicial officer witnessing behavior can make the finding of direct contempt and punish it summarily
- Court must make a record orally or in writing stating:
 - facts constituting contempt, including a description of the conduct;
 - finding that the conduct was so extreme that no warning was necessary or the person's conduct was repeated after court's warning to desist; and
 - finding that conduct is offensive to the authority and dignity of the court.
- Right to make a statement in mitigation; Court may then sentence.
- Harthun v. Dist. Cr.*, 495 P.2d 539 (Colo. 1972) fn. 5; caution issuing direct contempt for failure to appear

Indirect Contempt (with Remedial or Punitive Sanctions)

- Occurs out of court's presence
- Court or any party can initiate indirect contempt proceedings, but alleged contemnor has a right to request a different judicial officer for court-initiated indirect contempt
- Motion for contempt must be verified or supported by affidavit. Court may direct issuance of citation to show cause, requiring appearance of alleged contemnor at a set date, time and place
- Motion must state nature of the sanction sought (remedial, punitive, or both) and remedies that may be imposed
- Alleged contemnor must receive personal service of citation and copies of motion, affidavit and order at least 21 days prior to advisement hearing

Advisement hearing informs alleged contemnor of the following rights:

- Right to be represented by an attorney, and if indigent and if a punitive jail sentence is contemplated (or a remedial jail sentence is sought by gov't agency), the court will appoint counsel. See *In re Parental Responsibilities Concerning A.C.B.*, 507 P.3d 1078 (Colo. App. 2022)
- The maximum punitive jail sentence shall not exceed six months unless the person has been advised of the right to a jury trial
- Right to plead either guilty or not guilty to the charges
- Presumption of innocence
- Right to require proof of the charge beyond a reasonable doubt for punitive; by a preponderance of the evidence for remedial
- Right to present witnesses and evidence
- Right to cross-examine all adverse witnesses
- Right to have subpoenas issued to compel attendance of witnesses at trial
- Right to remain silent (punitive only)
- Right to testify at trial
- Right to appeal any adverse decision
- As to punitive, if the court expressly finds that the person's conduct was offensive to the authority and dignity of the court, the right to make a statement in mitigation prior to the imposition of a sentence
- Following advisement, only upon agreement of the parties, court may proceed with contempt hearing. Otherwise, court will set a separate hearing for proof of contempt

Domestic Relations Benchcard - Division of Marital Assets & Debts

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Division of Marital Assets and Debts DOMESTIC RELATIONS BENCH CARD



Applicability, Factors and Analysis

- Division of Property Requires Personal and Subject Matter Jurisdiction - C.R.S. § 14-10-106 and C.R.S. § 14-10-113. A court must have both personal jurisdiction over the parties and subject matter jurisdiction over the property to enter an order regarding the division of property. Personal jurisdiction for purposes of division of property within the state of Colorado includes service by publication. *In re the Marriage of Booker*, 833 P.2d 734 (Colo. 1992). See C.R.S. § 13-1-124 (Long-Arm Statute).
- First Decide Whether the Interest is Property, then Whether it is Marital or Separate Property. The trial court must first determine whether an interest constitutes "property." Then the court must determine whether the property is marital (acquired during the marriage and subject to distribution) or separate (shielded from distribution). *In re Marriage of Balanzon*, 25 P.3d 28 (Colo. 2001); citing *In re the Marriage of Hunt*, 909 P.2d 525 (Colo. 1995). Pursuant to C.R.S. § 14-10-113(i), the court must equitably divide the marital property between the parties considering the statutory factors including the income-generating potential of a spouse's separate property. *Balanzon*, 25 P.3d at 38.
- Property Acquired Post-Marriage and Pre-Decree is Presumed Marital - C.R.S. § 14-10-113(3). Subject to subsection (7) of the property division statute, all property acquired by either spouse subsequent to the date of marriage and prior to the entry of a decree of legal separation or dissolution is presumed to be marital property, regardless of whether the title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property.
- Valuation Date for Division of Property – C.R.S. § 14-10-113(5). Property is valued as of the date of the decree, or as of the date of the hearing on disposition of property, if such hearing precedes the date of the decree. *In re the Marriage of Balanzon*, 25 P.3d 28 (Colo. 2001). The Court Must Receive Evidence of Value. If the trial court does not have evidence before it of the classification or value of an asset, there is no error in omitting such property from the property division. *In re Marriage of Page*, 70 P.3d 579 (Colo. App. 2003). It is the duty of the parties to present the trial court with necessary data to allow the trial court to value marital property; failure by a party to do so does not provide such party with grounds for review. *In re Marriage of Zappanti*, 80 P.3d 889 (Colo. App. 2003). It is the parties' duty to provide the court with the data it needs to make determinations, including determinations about the "value of said property." *In re Marriage of Krjoci*, 297 P.3d 1035, 1039-40 (Colo. App. 2013); *In re Marriage of Rodrick* 176 P.3 806, 815 (Colo. App. 2007).
- Consider the Increases and Decreases in the Value of Separate Property and the Depletion of Separate Property for Marital Purposes - C.R.S. § 14-10-113(1)(d). The property division statute provides that, in determining a just distribution of the marital estate, the court must consider, among other things, any increases or decreases in the value of the separate property or the depletion of separate property for marital purposes. *In re the Marriage of Buford*, 950 P.2d 682 (Colo. App. 1997).
- Decreases in the Value of Separate Property are Irrelevant. If there has been an overall increase in value of a spouse's separate property, any specific decreases in that separate asset are irrelevant. *In re Marriage of Sharp*, 823 P.2d 1387 (Colo. App. 1991).

Domestic Relations Benchcard - Emergency Motion to Restrict Parenting Time

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Emergency Motion to Restrict Parenting Time 14-10-129(4), C.R.S. DOMESTIC RELATIONS BENCH CARD



Allegations the child(ren) are in imminent physical and/or emotional danger due to contact with a parent:

- A motion to restrict parenting time must be heard and ruled upon by the court no later than 14 days after the motion is filed – the court loses jurisdiction after 14 days and the restrictions must end.
- Restrictions to parenting time go into effect upon filing, unless the motion is denied by the court.
- Court can deny the motion without a hearing if it lacks specificity / particularity warranting the restriction, pursuant to C.R.C.P. 7(b)(1). In such an event, no restriction goes into place.
- Parenting time for the restricted parent prior to the hearing must be supervised.
- At the hearing, the moving party has the burden of proof by the preponderance of the evidence to show the child(ren) is endangered due to contact with the restricted parent. *In re A.R.D. and K.F.D.*, 43 P.3d 632 (Colo. App. 2001).
- If the court finds the motion lacked substantial justification, the moving party shall pay reasonable attorney's fees and costs.

Statutory Authority

- §14-10-129(4), C.R.S.: Motion to restrict parenting time; imminent danger standard.
- §14-10-129(1)(b)(D), C.R.S.: Burden of proof at the hearing is whether parenting time would endanger the child's physical health or significantly impair child's emotional development.
- §14-10-129(5), C.R.S.: If motion was substantially frivolous, groundless or vexatious, moving party shall pay attorney's fees and costs.


Case Law

- *In re Marriage of Wollert and Joseph*, 464 P.3d 703 (Colo. 2020)
 - The motion must state with particularity the bases for requesting to restrict parenting time and the relief requested. It is not enough to simply parrot the statutory buzzwords that a "child is in imminent physical or emotional danger."
 - The court can deny the motion outright if it does not state with particularity the bases for seeking to restrict parenting time. See also, C.R.C.P. 7(b).
 - If the motion states with particularity the bases to restrict parenting time, the court must restrict parenting time and hold a hearing within 14 days.
 - The court cannot assess credibility from the motion alone; a hearing is required to assess credibility.
- *In re Marriage of Thorburn*, 2022 COA 80 (July 21, 2022)
 - The "imminent" standard applies to the initial determination of whether the motion meets the particularity requirement. The motion must allege the child is in imminent physical or emotional danger due to contact with a parent. If sufficiently plead, a hearing must be scheduled.
 - "Imminence" does not need to be proved at the hearing. At the hearing, the moving party must show parenting time would endanger the child's physical health or significantly impair the child's emotional development. §14-10-129(1)(b)(D), C.R.S.

Domestic Relations Benchcard - ERPO and TERPO

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Extreme Risk Protection Orders (ERPO)
Temporary Extreme Risk Protection Order (TERPO)
BENCH CARD



TERPO CRS 13-14.5-103.

The Petition for TERPO (JDF 573) may be filed *ex parte* by a household or family member of the respondent or a law enforcement officer. The petition must be filed in the location where the respondent resides.

The case should be opened as a District Court CV case class, although some court locations may allow these cases to be heard in County Court as a C case class. If a Petition for Mental Health Evaluation (JDF 590) is filed with a Petition for TERPO, a new MH case must be filed. The TERPO and the MH case can be heard at the same time.

If law enforcement is filing, an affidavit for search warrant may also be filed to search for any firearms in the possession or control of the respondent at location(s) to be named in the warrant. Follow any current search warrant procedures for the location of filing. Law enforcement may be represented by the County or City Attorney.

Hearing on the Petition for TERPO shall be set the same court day or the court day after the petition is filed.

The TERPO hearing can be held by telephone or WebEx pursuant to local court rule to reasonably accommodate a disability or, in exceptional circumstances, to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic/virtual hearing. If the Petitioner appears by telephone, a copy of the hearing must be provided to the respondent prior to the ERPO hearing.

After considering the factors in [section 13-14.5-105\(1\)](#), the court shall issue the TERPO if it finds by a **preponderance of the evidence** that the 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. **The factors are:**

- A recent act or credible threat of violence by the respondent against self or others, whether or not such violence or credible threat of violence involves a firearm;
- A pattern of acts or credible threats of violence by the respondent within the past year, including but not limited to acts or credible threats of violence by the respondent against self or others;
- A violation by the respondent of a civil protection order issued pursuant to article 14 of this title 13;
- A previous or existing extreme risk protection order issued against the respondent and a violation of a previous or existing extreme risk protection order;
- A conviction of the respondent for a crime that included an underlying factual basis of domestic violence as defined in [section 18-6-300.3\(1\)](#);
- The respondent's ownership, access to, or intent to possess a firearm;
- A credible threat of or the unlawful or reckless use of a firearm by the respondent;
- The history of use, attempted use, or threatened use of unlawful physical force by the respondent against another person, or the respondent's history of stalking another person as described in [section 18-3-602](#);
- Any prior arrest of the respondent for a crime listed in [section 24-4.1-302\(1\)](#) (Victim Rights Act) or [section 18-9-302 \(cruelty to animals\)](#);
- Evidence of the abuse of controlled substances or alcohol by the respondent;
- Whether the respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment; and

Domestic Relations Benchcard - Colorado's Licensed Legal Paraprofessionals (LLPs)

Colorado's Licensed Legal Paraprofessionals (LLPs)

LLPs can:

- Contract with the client.
- Obtain, explain, prepare, sign, and/or file pleadings, motions, exhibits, supporting documents, sworn financial statements, disclosures, discovery, separation agreements, parenting plans, and proposed orders.
- Provide legal advice/advocacy:
 - Communicate with the opposing party or the OP's LLP/attorney regarding authorized family law case filings, Title IV-D Administrative Process cases and matters reasonably related thereto
 - Inform, counsel, assist, and advocate for a client in negotiations or mediation with the opposing party or the OP's LLP/attorney.
- Attend Court:
 - Provide organizational and emotional support by being present at the counsel table.
 - Assisting the client in understanding the proceedings, relevant orders, and next steps.
 - Communicate with the client during the proceeding.
 - Interact with the Court (making opening statements, closing arguments, answering the JO's questions), but CANNOT examine any witness.

LLPs must refer the client to a lawyer for issues outside their scope of licensure.

LLPs cannot:

- Examine a witness (C.R.C.P. 207.1(2)(ii)).
- Represent their client in matters in which an expert report or testimony is required to value an asset or determine income due to the inherent complexity of the asset or income at issue.
- Prepare documents (such as a QDRO) allocating non-liquid retirement assets or documents executing the sale/distribution of business assets or commercial property.
- Handle matters in which a party is a beneficiary of a trust and information about the trust will be relevant to resolution of the matter.
- Prepare or litigate pre- or post-marital agreements.
- Perform tasks or address issues that fall outside of the LLP's authorized scope of practice pursuant to C.R.C.P. Rule 207.1: immigration, adoption, relinquishment, D & N, criminal, or bankruptcy cases; jurisdiction disputes, punitive contempt, non-parent APR, multiple parent parentage disputes, or common law marriage disputes.

Want to review further? See C.R.C.P. Rule 207.1.

In jPOD:


- ✓ LLPs have a 600000 series bar number in jPOD/CCE (ex: 600001).
- ✓ LLPs will be listed as representing clients solely and/or in addition to any attorneys. The LLP can remain in the case to assist the party even if they are unable to handle a particular issue.
- ✓ More FAQs can be found at:
<https://www.coloradodisputeresolution.us/Future%20Lawyers/LLPExamination.asp>

Domestic Relations Benchcard - Indian Child Welfare Act (ICWA) in Cases Involving Non-Biological Parents of a Minor Child

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Indian Child Welfare Act in Cases Involving Non-Biological Parents of a Minor Child

DOMESTIC RELATIONS BENCH CARD



What is ICWA?
 The Indian Child Welfare Act, 25 U.S.C. §1901, *et seq.* ("ICWA"), § 19-1-126, C.R.S., is a federal law establishing standards governing state-court child custody proceedings involving Indian children. In a proceeding in which ICWA may apply, Tribes must have a meaningful opportunity to participate in determining whether the child is an Indian child and to be heard on the issue of ICWA's applicability. *B.H. v. People in Interest of X.H.*, 138 P.3d 299, 303 (Colo. 2006). Under ICWA, a Tribe is entitled to intervene in child custody proceedings involving its children, and a tribal court is the preferred jurisdiction for such proceedings. *In re Marriage of Stachwell*, 2019 COA 96, ¶¶ 446 P.3d 957, 960.
 The parent, Indian custodian, or Indian child's Tribe may petition the court to invalidate an action upon a showing the action violated ICWA. *Id.* ICWA places no time limit on such a petition. *Id.*

Resources:
 While not binding, court may look to the federal regulations and the Bureau of Indian Affairs, *Guidelines for Implementing the Indian Child Welfare Act*, 81 Fed. Reg. 96, 479 (Dec. 30, 2016), for aid in interpreting and applying ICWA. *People in Interest of E.A.M. v. D.R.M.*, 2022 CO 42, ¶ 12, 516 P.3d 924, 929; *People v. P.K.L.*, 2022 CO 35, ¶ 24, 512 P.3d 132, 140.

When does ICWA apply:
 Two-prong inquiry:

- Is the proceeding a "child custody" proceeding as defined by 25 U.S.C. § 1903(1); and
- Is the child an "Indian child" as defined by 25 U.S.C. § 1903(4).

Definition of "Child custody" proceeding:
 Colorado defines "child custody proceeding" as "[a]ny voluntary, involuntary, and emergency proceeding involving orders allocating parental responsibilities to or placing a child with a non-biological parent or terminating parental rights." § 19-1-126(1)(a)(i)(A), C.R.S.

- "Foster care placement," means any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand. 25 U.S.C. §1903(1)(G).
- Includes DR proceedings (dissolution of marriage, legal separation, APF) where a non-biological parent is a party. *Stachwell*, 2019 COA 96, ¶ 7, 446 P.3d at 959-60.
- Does not include an award of custody in a divorce proceeding to one of the biological parents. 25 U.S.C. §1903(1) (by omission).
- **Termination of parental rights proceedings.** *E.A.M.*, 2022 CO 42, ¶ 19, 516 P.3d at 930; 25 U.S.C. §1903(1)(ii); **Pre-adoptive placement.** 25 U.S.C. §1903(1)(iii); **Adoption placement.** 25 U.S.C. §1903(1)(iv); **Guardianship proceedings.** 25 U.S.C. §1903(1)(x); **Parentage proceedings.** *People in Interest of O.S.H.*, 2021 COA 130, ¶ 22, 503 P.3d 884, 889.

Determination of "Indian child" pursuant to ICWA:


- "Indian child" means any unmarried person who is under the age of 18 and is either:
 - 1) A member or citizen of an Indian Tribe; or
 - 2) Eligible for membership or citizenship in an Indian Tribe and is the biological child of a member/citizen of an Indian Tribe. (19-1-109(3)), C.R.S. (2022); 25 U.S.C. § 1903(4).
- A child's eligibility for membership in a Tribe, in and of itself, is not enough to meet the definition of an Indian child if the child is not the bio child of a Tribal member. *People in Interest of K.C.*, 2021 CO 33, ¶ 28, 487 P.3d 263, 270.
- Indian Tribes determine tribal membership or eligibility for tribal membership, not the court. *E.A.M.*, 516 P.3d at 928 (citing 25 C.F.R. §23.108(b) (2022)); 19-1-126(1).

Domestic Relations Benchcard - Invalidity of Marriage

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Invalidity of Marriage

DOMESTIC RELATIONS BENCH CARD



Definition:

- A decree of declaration of invalidity of marriage ("decree of invalidity of marriage") may enter when the marriage was void, or voidable, as of the date of marriage. A decree of invalidity of marriage declares the marriage is invalid as of the date of the marriage. § 14-10-111(5), C.R.S. It is as if the marriage never took place.
- The determination of whether the marriage is invalid is fact specific and the court must find by a preponderance of the evidence that the marriage is invalid. *In re Marriage of Foy*, 228 P.3d 267 (Colo. App. 2010).
- If the facts do not support a decree of invalidity of marriage, the case can be converted to a decree of dissolution of marriage so long as the jurisdictional basis for a dissolution exists.

Practice Tip:

- If you cannot find a factual basis to enter a decree of invalidity and permit the petition to be converted to a decree of dissolution, you may wish to require the petitioner(s) to file a petition for dissolution to ensure there is a jurisdiction to enter a decree of dissolution. If the petition for invalidity was filed as a co-petitioner or the respondent has been personally served, then service of the Petition for Dissolution may be made pursuant to C.R.P. 5.
- **C.R.C.P. 16.2 applies** to petitions for a declaration of invalidity of marriage. § 14-10-111(6), C.R.S.

Hearing:

- You must have a hearing to enter a decree of invalidity of marriage. There is no provision in C.R.S. § 14-10-111 or C.R.S. §14-10-120.3 for a decree of invalidity of marriage to enter by way of affidavit.

Jurisdiction:

- No decree shall be entered unless one of the parties has been domiciled in this state for thirty days next preceding the commencement of the proceeding or unless the marriage has been contracted in this state. §14-10-111(7), C.R.S.

Grounds for finding a marriage invalid: §14-10-111, C.R.S.

- A party may obtain a decree declaring a marriage to be invalid upon proof of any one of the following:
 - A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs, or other incapacitating substances. §14-10-111(1)(a), C.R.S.,
 - A party lacked the physical capacity to consummate the marriage by sexual intercourse, and the other party did not, at the time the marriage was solemnized, know of the incapacity. §14-10-111(1)(b), C.R.S., §14-10-111(1)(b), C.R.S.,
 - A party was underage as provided by law and did not have the consent of his parents or guardian or judicial approval as provided by law. §14-10-111(1)(c), C.R.S., §14-10-111(1)(c), C.R.S.,
 - One party entered into the marriage in reliance upon a fraudulent act or representation of the other party, which fraudulent act or representation goes to the essence of the marriage. §14-10-111(1)(d), C.R.S., §14-10-111(1)(d), C.R.S.,
 - One or both parties entered into the marriage under duress exercised by the other party or by a third party, whether or not the other party knew of that exercise of duress. §14-10-111(1)(e), C.R.S., §14-10-111(1)(e), C.R.S.,
 - One or both parties entered into the marriage as a jest or dare. §14-10-111(1)(f), C.R.S., §14-10-111(1)(f), C.R.S.,
 - The marriage is prohibited by law, including the following:
 - A marriage entered into prior to the dissolution of an earlier marriage of one of the parties. §14-10-111(1)(g), C.R.S., §14-10-111(1)(g)(i), C.R.S.,
 - A marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood. §14-10-111(1)(h), C.R.S., §14-10-111(1)(h)(i), C.R.S.,
 - A marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is

Domestic Relations Benchcard - Maintenance

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Maintenance (C.R.S. 14-10-114 and 14-10-122) DOMESTIC RELATIONS BENCH CARD

Determining Maintenance:

When do guidelines apply? Case filed after 1/1/14; maintenance guidelines in C.R.S. § 14-10-114 apply, C.R.S. § 14-10-114(9). *If case filed before 1/1/14, statutory maintenance guidelines do not apply, even on modification of prior order.*

- Taxes:** For orders entered after 2018, payor gets no deduction for maintenance paid and payee not taxed. Pre-2018 orders: payor gets tax deduction and payee pays tax on maintenance received. *If maintenance ordered pre-2018, tax rules in effect then still apply unless opt out.*
- Guidelines are advisory.** C.R.S. § 14-10-114(3)(e), not presumptive.
- Goal of advisory guidelines is a 60/40 split of the parties' combined incomes.** With tax law change in 2018, to get to 60/40 split, apply a multiplier – .80 for combined adjusted gross income (AGI) < 10k/mo. and .75 for combined AGI 10-20k/mo. Those multipliers are designed to reach 60/40 split based on tax considerations. C.R.S. § 14-10-114(3)(b)(X)(B)-(C)
- Income Cut-off:** If parties' combined incomes are greater than \$28k/mo (\$24k/yr), formula does not apply, but can consider guideline terms and must consider other factors, C.R.S. § 14-10-114(3)(b)
- Court must make specific written or oral findings in support of amount and term awarded or order denying maintenance.** C.R.S. § 14-10-114(3)(e).

Follow Four Steps Below: (Must Make Detailed Factual Findings Regarding 21 Factors): See *IRM Wright*, 459 P.3d 757, 762 (Colo. App. 2020).

- Maintenance may be awarded in Div. of Marriage, Legal Sep. & Invalidity proceedings, C.R.S. § 14-10-114(3)(a)(D).
- Always evaluate maintenance **after** calculating the property/debt division and before calculating child support.

Decide Whether Maintenance Should be Awarded:

- Waiver:** by either both parties may be oral/written. Court approval of a waiver must include acknowledgement by unrepresented party that s/he is aware of the guidelines. C.R.S. § 14-10-114(7)(a)&(b).


STEP 1: Before granting/denying maintenance, make initial specific written/oral findings regarding FIVE specific factors: C.R.S. § 14-10-114(3)(a)(D), (A)-(E):

- the amount of **gross income of each party** as defined by C.R.S. § 14-10-114(8)(c);
 - Income can be imputed if party voluntarily under-employed or unemployed C.R.S. § 14-10-114(8)(c)(IV)
- marital property (community property):** to each party;
- financial resources of each party (including a credit/potential income from separate/marital property);**
- the reasonable financial need established during the marriage;** and
- whether maintenance awarded pursuant to this section would be deductible for federal income tax purposes by the payor and taxable income to the recipient.** Must make findings on tax implications. Especially in high income cases, try to get parties to provide expert tax information on implications of maintenance award.

STEP 2: Calculate Amount and Term of Maintenance under Guidelines: C.R.S. § 14-10-114(3)(b).

- Guideline amount and term:**
 - if married 3+ years and less than \$240k in combined annual income, must make oral/written findings regarding guideline calculation (note: can reject the calculation but must make findings of what it is). C.R.S. § 14-10-114(3)
 - if married < 3 years, may award maintenance if division of marital property insufficient to achieve equity. C.R.S. § 14-10-114(3)(b)
- Calculation:** Amount of maintenance is 40% of combined income minus lower income.
 - Use appropriate multiplier (.80 or .75 depending upon income, or get evidence on appropriate multiplier to use if income over \$240k per year). C.R.S. § 14-10-114(3)(b), (8)(A)-(C)
 - Cap pot: guideline amount of maintenance + recipient spouse's AGI may not exceed 40% of combined income.

Domestic Relations Benchcard - Marital Agreements



Marital Agreements DOMESTIC RELATIONS BENCH CARD

The Uniform Premarital and Marital Agreements Act (UPMMA) governs the validity and enforceability of marital agreements entered after July 1, 2024 (see prior authority for those entered before). §14-2-301, C.R.S. *et seq.*

- Marital agreements can be created prior to the marriage and/or after the parties marry.
 - A prenuptial/premarital agreement is effective as of the date of the marriage. A post-nuptial/marital agreement is effective as of the date the parties sign the agreement. §14-2-307, C.R.S.
- Jurisdiction is designated in the marital agreement. If the marital agreement is silent on jurisdiction, the UPMMA controls. §14-2-304, C.R.S.
- Colorado favors enforcing marital agreements. *IRM Frank*, 542 P.2d 845 (Colo. 1975).
- The party challenging the marital agreement bears the burden of proof for the preponderance of the evidence. *In re Estate of Lopez*, 641 P.2d 952 (Colo. 1982).

Requirements:

- The marital agreement must be in writing and signed by both parties. §14-2-306, C.R.S. Verbal or oral marital agreements are not enforceable.
- The marital agreement must include a waiver of rights unless the parties are represented by an attorney. §14-2-309(1)(c), C.R.S.
 - The waiver of rights must be conspicuous and include specific language stating the parties may be giving up rights by signing the agreement.
 - If neither party has an attorney, then marital agreement is enforceable if the parties have access to independent counsel *and* the agreement includes a waiver of rights.
- The marital agreement must include adequate financial disclosures. §14-2-309(1)(d), C.R.S.
- The terms cannot violate public policy of Colorado.

Grounds to challenge a marital agreement, §14-2-309, C.R.S. Any of the following can invalidate a marital agreement:

- Consent to the agreement was involuntary or under duress.
 - The UPMMA does not define duress. Courts have held "there can be no 'duress' without there being a threat to do some act which the threatening party had no legal right to do – some illegal exaction or some fraud or deception." *Gribbin v. Gribbin*, 499 So.2d 858, 861 (Fla. App. 4 Dist. 1986). Colorado jury instructions define duress as "a condition of mind produced by an improper external pressure or influence that practically destroys the free agency of a party and causes him to do a contract or make a contract of his own volition." *CJP-Ch. 36-20* (2023).
- Representation/Waiver.
 - Under the UPMMA, there is a two-step process for challenging the validity of a premarital agreement involving the question of independent counsel. C.R.S. § 14-2-309(1)(b). First, if the party had independent legal counsel, then this ground for challenge goes away. If, second, if the party did not have independent legal counsel, then in order for the agreement to be enforceable, the party must have had access to independent legal counsel and the agreement must include a plain statement of the rights and obligations that are modified by the agreement or a notice of waiver of rights. C.R.S. § 14-2-309(3).
 - Having "access to counsel" is instantaneously defined in the UPMMA and means that, before signing the premarital or marital agreement, the party had (i) reasonable time to: (a) Decide whether to retain a lawyer to provide independent legal representation; and (b) Locate a lawyer to provide independent legal representation; (c) Obtain the lawyer's advice; and (d) Consider the advice provided; and (ii) the other party is represented by a lawyer and the party has the financial ability to retain a lawyer, or the other party agrees to pay the reasonable fees and expenses of independent legal representation. C.R.S. § 14-2-309(2).
- Adequate Financial Disclosure.** Before signing the agreement, the party did not receive adequate financial disclosure.
 - The agreement must include a "reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party." §14-2-309(4)(a), C.R.S.

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Domestic Relations Benchcard - Modification of Allocation of Parental Responsibility

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Modification of Allocation of Parental Responsibility

DOMESTIC RELATIONS BENCH CARD



Modification of Parenting Time (PT), CRS §14-10-129:
Best interests analysis governs, unless change of primary care or quantitative or qualitative restriction of PT. See CRS §14-10-129(1)(b)(I) and (2) and IRM West, 94 P.3d 1248 (Colo. App. 2004). The trial court retains continuing jurisdiction to make or modify an order granting or denying parenting time rights pursuant to this section during the pendency of an appeal.

Substantial Change of Parenting Time including Change of Majority Time Parent, CRS §14-10-129:
Must be based on facts that have arisen since or were unknown to the court at time of prior decree.

Must retain prior order unless: Parties agree to modification; child has been integrated into the family of the moving party with consent of other party (for further guidance on what constitutes consent to integration see Parental Responsibilities Concerning S.Z.S., 2022 WL 4100177 (Colo. App. 2022)); Majority time parent wishes to relocate (see relocation bench card); present endangerment plus harm caused by change of environment is outweighed by advantage of change.

IRM Stewart, 43 P. 3d 740 (Colo. App. 2002):
Best interest standard governs modification of parental responsibilities where parents equally share joint legal and physical custody and permanent orders did not designate a residential parent.

Two Year Bar for Filing Subsequent Motion (PT), CRS §14-10-129(1.5):
If a motion for substantial change of PT which also changes the primary residential parent has been filed and disposed of, a subsequent motion cannot be filed for two years after its disposition absent the establishment of endangerment (by affidavit), or intention to relocate child. (See relocation bench card)

Verified Motion to Modify by Party Whose Time Was Previously Restricted (Expedited Process) CRS §14-10-129(2.5)(a):
Court may modify whenever in best interests of the child. Court must act within 35 days of filing. If after considering motion and response there appears to be substantial and continuing change of circumstances such that current orders no longer in child's best interests the hearing must be set as expeditiously as possible.

Modification of Decision Making (DM), CRS §14-10-131:
Court SHALL NOT modify prior decree unless: Facts have arisen since prior decree or were unknown at time of prior decree that a change of child or party and modification is necessary to serve child's best interest AND one of the following applies: Parties agree to modification; Child has been integrated into family of moving party with consent of other party and this warrants modification (for further guidance on what constitutes consent to integration see Parental Responsibilities Concerning S.Z.S., 2022 WL 4100177 (Colo. App. 2022)); There has been a modification of PT that warrants modification of DM. A party has consistently consented to other party making individual decisions the party was supposed to make individually or jointly; Present endangerment AND harm caused by change outweighed by advantage of change.

Two Year Bar for Filing Subsequent Motion (DM), CRS §14-10-131(1):
If a motion for modification of DM has been filed and disposed of a subsequent motion cannot be filed for two years after its disposition absent the establishment of endangerment (by affidavit).

Domestic Relations Benchcard - Determining Parentage/Maternity/Paternity

Page 1 of 2

Determining Parentage/ Maternity/Paternity

DOMESTIC RELATIONS BENCH CARD



Means of Establishing Parent and Child Relationship

- **Maternity:** Established by proof of giving birth or any other parentage presumption in Title 19, Art. 4.
- **Paternity:** Established pursuant to Title 19, Art. 4—C.R.S. §19-4-105 lists parentage presumptions.
- **Adoptive parent:** Established by proof of adoption. C.R.S. §19-4-104.
- **Paternity = Maternity:** Terms and statutory provisions apply interchangeably. C.R.S. §19-4-122 & 125.
- **Child's legal parents can be of same gender.** *In re Parental Responsibilities of L.R.L.*, 318 P.3d 581 (Colo. App. 2013).
- **No statutory presumption is determinative; biology is not the only factor to consider in determining parentage.** *N.A.H. v. S.L.S.*, 9 P.3d 354, 362 (Colo. 2000)
- **Parentage presumptions are not limited to biological parents.** *In the Interest of S.N.V.*, 284 P.3d 147 (Colo. App. 2011).
- **Child can only have 2 legal parents.** *People in Interest of K.L.W.*, 492 P.3d 392 (Colo. App. 2021).

Jurisdiction and Venue

- **Personal Jurisdiction:** Long-arm statute (C.R.S. §13-1-124(1)(f)) applies to any person who had sexual intercourse in Colorado, which may have resulted in the child's conception. The Uniform Interstate Family Support Act (UIFSA) (C.R.S. §14-5-201(a)) provides basis for jurisdiction of a non-resident for purposes of determining parentage: personal service in CO; submits to CO jurisdiction; resided in CO with child; sexual intercourse in CO; child resides in CO as result of acts/directives of that person or "other basis."
- **Service by Publication:** When person to be served has no residence in Colorado and his place of residence is not known or when he cannot be found within the state after due diligence, service must be by publication pursuant to CRCP 4(g), except that service must be by a single publication and must be completed not less than 5 days prior to time set for hearing on paternity adjudication. C.R.S. §19-4-110.
- **Tribunal:** Juvenile court or district court if joined with dissolution of marriage, legal separation, invalidity of marriage, allocation of parental responsibilities or support; Delegate Child Support Services/Enforcement Unit (CSEU) (if non-contested). C.R.S. §19-4-109(1) & C.R.S. §14-10-124(1.5).
- **Venue:** where child/parent found; where public assistance paid; where probate commenced if parent deceased. C.R.S. §19-4-109(3).

Commencement of Proceedings

- **Required parties:** natural mother, ~~any~~ presumed parent under C.R.S. §19-4-105, ~~any~~ alleged natural parent. C.R.S. §19-4-110; *In re Support of E.K.*, 410 P.3d 480 (Colo. App. 2013).
- **Statute of Limitations:** Action may be brought any time prior to child's 18th birthday by mother, father, child or CSEU (can be extended to child's 21st birthday in some circumstances) C.R.S. §19-4-108.
- **Paternity proceeding may be initiated before a child's birth.** C.R.S. §19-4-105.5(c).
- **Children of the same parents should be added to pre-existing parentage case.** C.R.S. §19-4-105.6
- **Child may be party to action and court may appoint GAL for child.** C.R.S. §19-4-110

Pretrial Proceedings

- **Advisement hearing:** Set after filing petition; can be conducted by a magistrate, rules of evidence not observed & public barred. Advise parties that request for genetic tests shall not prejudice parties in APR proceeding; tests may not be admissible after entry of final parentage order. C.R.S. §19-4-111(1).
- **Temporary protection order, temp. injunction or temp. orders can be issued.** C.R.S. §19-4-111(4).

Presumptions of Parentage—C.R.S. §19-4-105:

A person is presumed to be a natural parent of a child if:


- **Marriage (or just divorced):** Individual is/was married to child's natural parent and child born during marriage or w/in 300 days after marriage terminated;

Domestic Relations Benchcard - Relocation

Page 1 of 2

Relocation

DOMESTIC RELATIONS BENCH CARD



What is Relocation:

Applies when a parent wishes to relocate with a child to a location that substantially changes the geographical ties with the other parent. Relocation can occur within or outside of Colorado.

◆ **Pre-decree:**

If the request to relocate a child occurs prior to entry of final orders allocating parental responsibilities, the court must allocate parental responsibilities (parenting time and decision making) in a manner which takes into account where each parent will reside. C.R.S. §14-10-124. The court must accept each party's desired location and allocate parenting time using the best interest analysis. *Spohrer v. Guillette*, 113 P.3d 158 (Colo. 2005).

◆ **Post-decree (modification):**

If a parent with whom the child resides a majority of the time or equal time makes a request to relocate after entry of a final order allocating parenting time, the court must analyze the facts using the factors set forth in C.R.S. §14-10-129(2)(c), and C.R.S. §14-10-124. *IRM Cheslik*, 113 P.3d 155 (Colo. 2005). The factors in C.R.S. §14-10-129(2)(c), include:

- Whether a party has committed an act of DV, engaged in a pattern of DV or has a history of DV, defined by C.R.S. §14-10-124(1.3) (preponderance of the evidence standard);
- Reasons why party wishes to relocate with child;
- Reasons why opposing party objects to proposed relocation;
- History and quality of each party's relationship with child since any previous parenting time order;
- Educational opportunities for child at existing and proposed new locations;
- Presence or absence of extended family at existing location and proposed new locations;
- Advantages of child remaining with primary caregiver;
- Anticipated impact of the move on child;
- Whether court can fashion a reasonable parenting time schedule if the requested change is permitted, and other relevant factors bearing on the best interests of the child;
- *Relocation cases must be given priority on the docket.*

◆ **Post-Decree Legal Standards and Burdens of Proof:**


- While granting a primary parent's relocation request may result in a reduction of other party's parenting time and denying a primary parent's relocation request may result in the change of primary care, the endangerment standard does not apply. C.R.S. §14-10-129(1)(b)(II), and *IRM Cheslik*, 113 P.3d 135, 142 (Colo. 2005).
- In a post-decree matter, a parent with equal parenting time will be treated the same as a parent with the majority of parenting time under C.R.S. §14-10-129(1)(a)(II). The court shall determine parenting based on the best interests factors set forth in C.R.S. §14-10-129(1)(a)(II) and considering the factors mandated under that section, rather than applying the endangerment standard set forth in C.R.S. §14-10-129(1)(b)(D). *In re Marriage of DeZalor*, 151 P.3d 647, 650 (Colo. App. 2006). If a parent with less than equal parenting time seeks to relocate with the child, the endangerment standard set forth in C.R.S. §14-10-129(1)(b)(D) applies, unless the parties are in agreement or the has been integrated into the family of the moving party with the consent of the other party.

Domestic Relations Benchcard - Sorensen: Court Authority and Discretion to Appoint Adult GAL for Litigants of Questionable Competency

Page 1 of 4

Sorensen: Court Authority and Discretion to Appoint an Adult Guardian Ad Litem (GAL) for Litigants of Questionable Competency

DOMESTIC RELATIONS BENCH CARD



- Issues related to adult litigant capacity and competency arise in the context of many different types of litigation, e.g., domestic relations, probate, criminal, and general civil matters. *In re Marriage of Sorensen*, 166 P.3d 254 (Colo. Ct. App. 2007) is an important case relating to the protection of a person's rights in a dissolution of marriage proceeding. *Sorensen* concerned the authority and discretion of a court to appoint a GAL for a party suffering from a mental illness during a domestic relations' proceeding.
- Adult parties generally have the capacity to bring or defend the action in their own name without the appointment of any guardian or other representative. However, there are instances in litigation where a party's capacity is called into question and the court may need to appoint a GAL for an adult litigant. The fact there is some question as to a party's mental capacity does not automatically mean the party is incapable of instituting or responding to the action. Parties accuse each other of mental illness or infirmity with some frequency. The initial burden of addressing the validity of any questions of mental competence may fall on the allegedly incompetent party's attorney.
- The appointment of a GAL may be necessary if there is some legitimate concern about the mental competence of a party to participate in the proceeding. An attorney representing a client under a disability, including a mental disability, may be required to seek the appointment of a GAL when the attorney reasonably believes the client is unable to act in their own interests. Colo. R. Pro. Conduct 1.14. Thus, there may arise instances in which an attorney and a client are in disagreement as to whether GAL is needed. In such a situation, the court must hold a hearing to determine capacity and competence.
- **It is an abuse of discretion not to appoint a GAL when the court finds a party:**
 - Mentally impaired and incapable of understanding the nature and significance of the proceeding,
 - Incapable of making critical decisions,
 - Lacking the intellectual capacity to communicate with counsel, or
 - Mentally or emotionally incapable of weighing the advice of counsel.

Law:

- *In re Marriage of Sorensen*, 166 P.3d 254 (Colo. Ct. App. 2007)
- *In re K.S.-E.*, 497 P.3d 46 (Colo. Ct. App. 2021)
- *People v. Efe*, 475 P.3d 620 (Colo. O.P.D.J. 2020)
- *Mitchell v. Mirra*, No. 07-CV-3686 (ILG), 2007 WL 9723522 (E.D.N.Y. Nov. 8, 2007)
- Colo. R. Civ. P. 17(c); Colo. R. Pro. Conduct 1.14; CJD 04-05 and 04-06; C.R.S. § 15-10-403(f); C.R.S. § 15-14-118; C.R.S. § 19-1-103(89); C.R.S. § 19-1-16; C.R.S. § 19-3-203(3)

Authority for Appointment of Adult GALs and Discretion to Make Such Appointment

- The court may appoint a GAL for an incompetent person who does not have a representative and who is a party to a civil suit. Colo. R. Civ. P. 17(c). Rule 17(c) does not require appointment of a GAL but rather permits appointment of a GAL to proceed on behalf of the incompetent litigant.
- The determination of whether a party is "incompetent" pursuant to Rule 17(c) and requiring a GAL is a difficult one. Rule 17(c) does not define "incompetent person." Colo. Rev. Stat. § 25-10-23(1) provides the terms "insane," "insanity," "mentally or mentally incompetent," "mental incompetency," or "of unsound mind," as used in Colorado law, "shall be deemed to refer to the insane," as defined in Colo. Rev. Stat. § 16-5-101 or to a person with an "intellectual and developmental disability" as defined in Colo. Rev. Stat. § 27-10-5-102. These definitions suggest a high threshold. However, while the term encompasses those who are mentally ill and gravely disabled, the Colorado Supreme Court has recognized the term also includes "those who, although not mentally ill to the extent of satisfying those statutory criteria, are nonetheless mentally impaired to the degree of

Domestic Relations Benchcard - The Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA)

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The Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA) DOMESTIC RELATIONS BENCH CARD



What is the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA)?

- The Uniform Child-Custody Jurisdiction & Enforcement Act (UCCJEA) is a multi-state compact that helps ensure separated parents cannot move their children across state lines to avoid a child custody order or child visitation order.
- Under the UCCJEA, a child's home state retains jurisdiction over the child's case, even if the child recently moved. This raises an important question for courts, i.e., where is a child's home state for the purposes of the UCCJEA? Courts must consider the totality of the circumstances of the child's life. Specifically, in determining custody/visitation jurisdiction, courts should consider:
 - Where a child lived during the last six months and
 - The substantial connections a child has to each putative home state.
- The other key requirement courts need to know about the UCCJEA is it requires courts around the country to enforce custody and visitation orders that were entered in other states.
- Just because Colorado has jurisdiction to enter a divorce, it does not mean the court can enter parenting orders. Obtaining a dissolution in Colorado requires just one spouse to have lived here for 91 days. For example, if a couple has lived here four months, then files for divorce, they meet the 91-day requirement for a divorce, but not the 182-day requirement for child custody jurisdiction.

Law:

- Uniform Child-Custody Jurisdiction & Enforcement Act, C.R.S. § 14-13-101 et seq.
- **In re B.H.**, 488 P.3d 1026 (Colo. 2021)
- **In re S.A.G.**, 487 P.3d 677 (Colo. 2021)

Definitions:

- "Abandoned" means left without provision for reasonable and necessary care or supervision. C.R.S. § 14-13-102(1).
- "Child" means an individual who has not yet attained 18 years of age. C.R.S. § 14-13-102(2).
- "Home state" means the state where the child has lived with a parent or person acting as a parent for at least 182 consecutive days immediately before the commencement of a child custody proceeding. If the child is under six months of age, it is where the child has lived from birth with a parent or person acting as a parent. Periods of temporary absence are part of the 182-day period. C.R.S. § 14-13-102(7)(a).
- "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity. C.R.S. § 14-13-102(12).
- "Person acting as a parent" means a person other than a parent with legal or physical custody of the child for at least 182 consecutive days within one year immediately preceding the commencement of child custody proceedings. C.R.S. § 14-13-102(13).

Jurisdiction Conveyed by the UCCJEA:

- The UCCJEA sets out a detailed and comprehensive framework courts must use to determine whether it 1) may exercise jurisdiction in a child custody matter or whether it 2) may or, in some cases, must defer to a court of another state. **S.A.G.**, 487 P.3d at 682. Every state has adopted the UCCJEA except Massachusetts. *Id.*
- The UCCJEA sets forth two ways to exercise jurisdiction:
 - **Temporary emergency jurisdiction**, which is available whenever a child is in Colorado and is either abandoned or jurisdiction is necessary in an emergency to protect the child because the child is subjected to or threatened with mistreatment or abuse. C.R.S. § 14-13-204(1).
 - When those conditions aren't met, a court can assert **non-emergency jurisdiction** only if it successfully navigates one of the **four paths to jurisdiction** from C.R.S. § 14-13-201(1).

Domestic Relations Benchcard - Uncontested Dissolution of Marriage/Legal Separation

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Uncontested Dissolution of Marriage / Legal Separation DOMESTIC RELATIONS BENCH CARD



Confirm the Filing of the Following Completed Documents:

- **Service** - CRCP 4 or CRS §14-10-107(4)
- **Notice of Hearing**, if not proceeding by ADWO - CRCP 3
- **Parties' SNNs** (for support orders) - CRS §14-10-107(4)
- **Sworn Financial Statement** from each party - CRCP 16.2(c)(2)
- **Certificate of Compliance with CRCP 16.2** - CRCP 16.2(c)(2)
- **Separation Agreement** - *Berglund*, 474 P.2d 100 (Colo. App. 1970)
- **Parenting Plan** (if minor child(ren)) - CRS §14-10-124
 - Child support worksheet, if parties have written child support agreement CRS 14-10-115(d)(6)
- **Co-Parenting Class Certificates** (if any minor child) - CRS §14-10-123.7
 - **Affidavit for Decree without Appearance of the Parties** (ADWO), if full agreement, not default (ADWO allowed only if *pro se* and no minor children OR, if children, both parties represented by counsel) CRS §14-10-120.3(c)(4)

Verify That Stipulations (if full agreement of the parties) or Proposed Orders (if proceeding on a default basis) Resolve the Following:

Parenting Plan:

- **Decision-Making Responsibilities** - CRS §14-10-124(1.5)(b)
 - Allocation of decision-making responsibilities regarding education, health, religion, and extracurricular activities
- **Parenting Time** - CRS §14-10-124(1.5)(c)
 - Regular schedule (including time and place of exchange)
 - Summer schedule (including time and place of exchange)
 - Holidays and special occasions (including time and place of exchange)
 - Payment of travel for the child, if long-distance parenting plan
 - Number of overnights
 - Travel and vacation plans
 - Phone contact

No Delegation of Authority. The court cannot delegate decision-making authority regarding parenting time to any party/professional/the child(ren).

Least Detrimental Alternative. If default hearing and the appearing party asks that the other party have no contact with the child(ren), the court should still make findings that the cessation of contact is the "least detrimental alternative." *In re Marriage of Horan*, 160 P.3d 126 (Colo. App. 2007).

Financial Obligations for the Benefit of the Children - CRS §14-10-115

- **Child support** - the guideline amount shall be used as a rebuttable presumption for the establishment or modification of child support. C.R.S. § 14-10-115(f)(4).
- **If the parties have a written stipulation for child support, court must review the guideline amount and parties' SFNs to determine the adequacy of the agreed upon amount.** C.R.S. § 14-10-115(f)(6).

Grantee: Colorado Judicial Department
Project: VAWA Grant – Colorado Judicial

CY2025 DCJ Grant #: 2024-VW-25-583-00

STATE OF COLORADO INTERAGENCY
GRANT AGREEMENT

COVER PAGE

Paying State Agency Department of Public Safety, Division of Criminal Justice	DCJ Grant Number 2024-VW-25-583-00
Performing State Agency (Grantee) Colorado Judicial Department	Federal Unique Entity Identifier (UEI) N6N5R8ZDANR3
	Is this Award for Research and Development (R&D)? No
Agreement Performance Beginning Date (Start Date) January 1, 2025	Initial Agreement Expiration Date (End Date) December 31, 2025
Agreement Maximum Amount Federal Award # 15JOVW-23-GG-00562-MUMU \$146,166.00 Total Grant Funds Awarded: \$146.166.00	Local Match Amount Federal Award # 15JOVW-23-GG-00562-MUMU \$48,722.00
	Total Match Required: \$48,722.00
	Total Grantee Match Required: 0%
Agreement Authority (State Authority) The Division of Criminal Justice is authorized to disburse these funds by Colorado Revised Statute 24-33.503 and 507.	Grant Description This project provides training and technical assistance to judicial officers statewide on VAWA-related issues.
Grant Purpose The federal S.T.O.P. Violence Against Women Act (VAWA) Program allows agencies to support a broad range of activities to address violence against women, specifically victims of domestic violence, sexual assault, stalking and dating violence. This grantee was selected for award by the Crime Victims Services Advisory Board.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: <div><div>1. Exhibit A1, Sample Option Letter.</div><div>2. Exhibit A2, Sample Grant Funding Change Letter</div><div>3. Exhibit B, Grant Requirements.</div><div>4. Exhibit C, Special Conditions.</div><div>5. Exhibit D, Statement of Work.</div><div>6. Exhibit E, Budget.</div><div>7. Exhibit F, Federal Requirements.</div></div> In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: <div><div>1. Exhibit F, Federal Requirements.</div><div>2. Fiscal Rule Chapter 3-5.</div><div>3. Exhibit C, Special Conditions.</div><div>4. The provisions of the other sections of the main body of this Agreement.</div><div>5. Colorado Special Provisions in §17 of the main body of this Grant</div><div>6. Exhibit B, Grant Requirements.</div><div>7. Exhibit D, Statement of Work.</div><div>8. Exhibit E, Budget.</div></div>	

EXHIBIT D, STATEMENT OF WORK

Appendix 4

Agency Information

Agency Name: Colorado Judicial Department

Project Title: VAWA Grant Judicial - CY2025

Source of Funding

☐ VOCA/General Funds ☒ S.T.O.P. VAWA ☐ SASP

Type of Project

<input type="checkbox"/>	Batterers’ Intervention Program ⓘ	<input type="checkbox"/>	Prosecution (Prosecutor or Investigator Only)
<input type="checkbox"/>	Education ⓘ	<input checked="" type="checkbox"/>	Training and/or Technical Assistance
<input type="checkbox"/>	Law Enforcement (Officer or Investigator Only)	<input type="checkbox"/>	Victim Services ⓘ
<input type="checkbox"/>	Multidisciplinary Team ⓘ	<input type="checkbox"/>	Other (Explain) <div></div>

Project Description Section

Activities

Describe the project, staff and services you plan to provide with these grant funds.

The Colorado Judicial VAWA program is wide-ranging. Colorado judicial officers are constitutionally required to preside over cases as neutral factfinders, including cases involving domestic violence, sexual assault, or stalking. However, while judicial officers must remain neutral, judges who preside over cases involving VAWA issues can play an essential role in ensuring DV or sex assault victims receive a full and fair opportunity to participate in each aspect of the judicial process. Judges must make correct decisions regarding the admittance of evidence, decisions on motions, instructing juries, and other rulings required in criminal and civil cases. Judges must make correct decisions regarding the admittance of evidence, decisions on motions, jury instructions, and other rulings required in criminal and civil cases. Further, Colorado will be expanding to 23 judicial jurisdictions (from 22 judicial jurisdictions) in 2025.

The VAWA project allows judges to receive training on the information they need to protect the defendant's rights required by law. They also meet the needs of victims, who, without proper court procedures, can be unwittingly retraumatized during court proceedings. For domestic violence, sexual assault, stalking, and teen dating violence cases, judicial officers must understand the dynamics involved in the alleged crimes to make correct and legally sustainable decisions during a trial. As judges have different educational needs, judicial Education is aware of the need to develop training for new and more experienced judges whose needs may differ.

A new focus for the next grant cycle will be creating and training court personnel on victim education. This work comes from the Colorado Legislature House Bill 23-1108 (HB23-1108). Following HB23-1108,

EXHIBIT D, STATEMENT OF WORK

Colorado Judicial formed the HB23-1108 Task Force that included representation from the Courts, Rose Adom, Violence Free Colorado, University of Colorado School of Medicine, Colorado Coalition Against Sexual Assault, Colorado Public Defenders Office, and leaders from victim advocacy organizations. The Task Force was created to study victim and survivor awareness and responsiveness training for judicial personnel. The Task Force was responsible for reviewing current educational opportunities for judicial personnel, best practices for providing training, and identifying any gaps or resources needed. The Colorado Judicial Task Force HB-23-1108 presented final recommendations to the Colorado legislature in a final report. The goals include forming the Judicial Education Subcommittee on Domestic Relations & the Judicial Education Criminal Subcommittee, which will focus on the needed goals and new training.

We intend to maintain active projects, including developing a performance support system (PSS) to provide state judicial officers immediate access to statutory and case-based information on VAWA-specific topics. The WikiCourt website allows judicial officers who would like to obtain information on a specific issue to type in a keyword (e.g., "use of force," "residence," etc.) and receive information that could answer a particular question. The WikiCourt database is a compilation of data from various training programs, bench books, case opinions, etc., all in one location for instant access.

The first draft of the Domestic Violence Bench Book will be completed by the end of the 2024 Grant Cycle. Into the 2025/2026 Grant Cycle, the Domestic Violence Bench Book will be reviewed and amended by relevant SCAO staff. Once edits are complete, a recorded webinar series will be created to introduce the new Domestic Violence Bench Book to judicial officers. This webinar series will highlight the key areas of law covered within the text, and explain how the bench book can be used effectively in the courtroom.

Colorado Judicial will continue creating and providing the VAWA Institute for Colorado Judicial Officers. The Institute contained four training sessions that all focused on the judicial officer and courtroom responses to sexual assault perpetrators and survivors. There was a special session titled "Socially & Culturally Responsive Courtrooms Through the Lens of Domestic Violence, Sexual Violence, and Sex Trafficking," where attendees received ethical, diversity, and inclusion continuing legal education credits from the State of Colorado.

Colorado Judicial plans to also continue the successful VAWA News E-Brochure (Digital Content): 1. Explains court decisions from the Court of Appeals affecting protection orders and firearm relinquishment; 2. Markets the DV 101 E-Course created during the last grant period.

Judicial will continue to develop and publish courses on VAWA topics and develop and publish "VAWA News for Judges" brochures, which are delivered to 400 judges and magistrates every quarter. The content provided in the brochures is generally timed to inform judges on changes in the law, legal trends, new research findings, or high-profile VAWA cases. Judicial will continue its local outreach initiative, meeting with community groups involved in domestic violence issues in the Denver area. Judicial will work with private and public organizations to develop training that serves the needs of victims in numerous places. Although judges must always remain neutral, understanding the policies and concerns of all shareholder groups increases our ability to develop policies that provide for a more effective and efficient judicial system, thereby protecting victims' rights. Judicial Education is in constant contact with various public and private organizations regarding VAWA issues. Colorado Judicial proposes to perform best practices research of other state programs that it can discuss and potentially enact with Colorado Judicial officers (e.g., online service of protection orders, etc.)

EXHIBIT D, STATEMENT OF WORK

Appendix 4

Surveys will be sent to participants after each training to determine the effectiveness of the trainings as well as gauge the interest and need for future training on the topics. Judicial conducts a training needs assessment for judicial officers each year, and DV/SA trainings will be created to meet the demands of the training assessment. In addition to the needs of judicial officers, community outreach through the grant cycle will allow training to be created and altered to not just meet the needs that judicial officer have identify, but also those that the community who work with survivors of violence deem necessary. This will create communication and collaboration that will center the needs of survivors and lead to more healing, trauma informed courtrooms.

Coordinated Community Response

Please list all agencies/organizations that you will provide referrals to/receive referrals from, meet with (including task forces and/or work groups), or engage in consultation with during the grant cycle. In your response, include: the name of the other agency, the type of that agency (i.e. victim services, law enforcement, court, etc.), and a brief description of the nature of the collaboration.

1. Rose Andom Center, A domestic violence service center. Rose Andom Center is a survivor-centered, trauma-informed collaborative. Judicial plans on working with their Executive Director and staff to provide referrals but also discuss trainings that would benefit judicial officers.
2. Colorado District Attorney's Office: Anne Kelly, Senior Deputy District Attorney - lead attorney domestic violence acute response team, 20th Judicial district and Victoria Kelley, Domestic Violence Prosecution Specialist, Family Violence Unit, 2nd Judicial District. Anne and Victoria are creating (amending an existing training for prosecutors) on Firearm Relinquishment of HB 21-1255. Both Anne and Victoria also provide feedback on training opportunities and topic in criminal domestic violence cases with their feedback on current ability to support DV crime victims in Colorado Courtrooms.
3. University of Colorado School of Medicine: Amber McDonald, Ph.D., LCSW is the Deputy Director of and Assistant Professor for the Stress, Trauma, Research, Trauma & Adversity (START) Clinic at the University of Colorado School of Medicine, Department of Psychiatry. Dr. McDonald is currently working on a training (or series of training) to highlight the benefits and risks of mandating physiological treatments (such as anger management or reunification therapy) in court orders.
4. Ending Violence Against Women Project: Linda Johnston, Project Director Ending Violence Against Women Project. Linda is currently working with the VAWA Education Specialist to create trainings on the most effective temporary and permanent Protection Orders for judicial officers.

EXHIBIT D, STATEMENT OF WORK

Appendix 4

Service Grids

Training Table

Estimate below the number of individuals by discipline that will be trained by grant funded and/or match personnel during the 12-month grant cycle.			
Est. # of People Trained	People Trained	Est. # of People Trained	People Trained
	Advocacy Organization Staff ⓘ		Mental health professionals
	Attorneys/Law Students ⓘ		Prosecutors
	Batterer Intervention Program Staff		Sex offender treatment providers
	Corrections personnel ⓘ		Sexual assault nurse examiners/sexual assault forensic examiners
130	Court personnel ⓘ		Social service organization staff (<i>non-governmental</i>) ⓘ
	Disability organization staff (<i>non-governmental</i>)		Substance abuse organization staff
	Educators ⓘ		Supervised visitation and exchange center staff
	Elder organization staff (<i>non-governmental</i>)		Translators/interpreters
	Faith-based organization staff		Tribal government/Tribal government agency staff
	Government agency staff ⓘ		Victim advocates (<i>non-governmental</i>) ⓘ
	Health professionals ⓘ		Victim assistants (<i>governmental</i>) ⓘ
	Immigrant organization staff (<i>non-governmental</i>)		Volunteers
	Law enforcement officers		Other (Explain)
	Legal services staff ⓘ		

TOTAL UNDULICATED ESTIMATED NUMBER OF PEOPLE TO BE TRAINED =

130

EXHIBIT D, STATEMENT OF WORK

Appendix 4

Demonstrated Impact

In this section, tell us:

1. What you hope to accomplish with these grant funded activities
2. How you'll measure your progress in meeting your goals
3. How your measurements will be used to adapt your funded project's design and delivery

Our mission is to provide a developmental learning pathway for judicial officers to gain education, skills and knowledge related to VAWA that can be integrated into their daily practices. Post session evaluation surveys will be administered to collect feedback. Evaluations will be matched with objectives for each course. Evaluation surveys include questions regarding what they will do differently as a result of the training. If resources allow, follow up interviews would ideally be conducted to determine what information was retained and applied. Additionally, we conduct routine needs assessment surveys to help identify any gaps and offer courtroom observation and feedback for judicial officers receiving mentoring. Surveys will be sent to participants after each training to determine the effectiveness of the session as well as gauge the interest and need for future training on the topic. Judicial education conducts a training needs assessment for judicial officers each year, and DV/SA trainings will be created to meet the demands of the training assessment. In addition to the needs of judicial officers, community outreach through the grant cycle will allow training to be created and altered to not just meet the needs that judicial officer have identify, but also those that the community who work with survivors of violence deem necessary. This will create communication and collaboration that will center the needs of survivors and lead to more healing, trauma informed courtrooms.

Additional activities associated with the project

Check any additional activities that will be carried out as part of your grant-funded project.

- | | |
|--|---|
| <input type="checkbox"/> Develop, substantially revise or implement protocols and/or policies | <input type="checkbox"/> Multidisciplinary Response Team for Sexual Assault |
| <input checked="" type="checkbox"/> Develop or substantially revise products i | <input type="checkbox"/> Improving language access |
| <input type="checkbox"/> Develop, install or expand data collection and/or communication systems | <input type="checkbox"/> Fatality review |
| <input type="checkbox"/> Develop, support or train a specialized unit i | <input type="checkbox"/> Coordinating Meetings Between Tribal and Non-Tribal Entities |
| <input type="checkbox"/> Multidisciplinary Response Team for Domestic Violence | |