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ADVANCE SHEET HEADNOTE
May 26, 2026

2026 CO 35

No. 25SC220, *In re Marriage of Dale*—Motion to Modify Parenting Time—Motion to Restrict Parenting Time—Best Interests of the Child Standard—Child Endanger/Impair Standard—§ 14-10-129, C.R.S. (2025)—*In re Marriage of West*, 94 P.3d 1248 (Colo. App. 2004).

The supreme court concludes that a purely quantitative reduction in parenting time—i.e., a reduction unaccompanied by qualitative constraints on the manner, location, or environment in which a parent exercises parenting time—cannot amount to a restriction of parenting time rights unless the reduction eliminates parenting time altogether. The court further concludes that a restriction of parenting time rights refers to the complete elimination of any quantity of parenting time (i.e., zero parenting time) or to qualitative constraints on the manner, location, or environment in which a parent exercises parenting time. Thus, a restriction is either a quantitative reduction to zero parenting time or the imposition of qualitative constraints on the manner, location, or environment in which a parent exercises parenting time; any other adjustment is merely a modification.

Because the district court in this case did not eliminate or otherwise qualitatively constrain Father's parenting time, it did not restrict it; instead, it merely modified it. Accordingly, the district court did not err in applying the best-interests standard rather than the endanger/impair standard. A division of the court of appeals reached the same conclusion. Therefore, its judgment is affirmed and the case is remanded with instructions to return it to the district court.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 35

Supreme Court Case No. 25SC220
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 24CA1065

In re the Marriage of

Petitioner:

Nicholas Jay Dale,

and

Respondent:

Nicole Jehlicka Dale.

Judgment Affirmed
en banc
May 26, 2026

Attorney for Petitioner:
Henry L. Solano
Denver, Colorado

Attorneys for Respondent:
KHM Attorneys at Law
Alexander Masterson
Colorado Springs, Colorado

Law Office of Joel M. Pratt
Joel M. Pratt
Colorado Springs, Colorado

JUSTICE SAMOUR delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD**, and **JUSTICE BLANCO** joined.
JUSTICE BERKENKOTTER, joined by **JUSTICE GABRIEL,** concurred in the judgment.

JUSTICE SAMOUR delivered the Opinion of the Court.

¶1 Not all adjustments to parenting time rights are cut from the same cloth—some modify those rights while others restrict them. Colorado law distinguishes between modifications and restrictions, and this case requires us to explore where the difference lies.

¶2 The statute before us permits courts to "modify" parenting time rights—including by reducing the quantity of parenting time—if such modification is in "the best interests of the child." § 14-10-129(1)(a)(I), C.R.S. (2025). But there is a wrinkle: Courts may not "restrict" parenting time rights unless they find "that the parenting time would endanger the child's physical health or significantly impair the child's emotional development." § 14-10-129(1)(b)(I). Thus, in the realm of parenting time rights, the legislature separated *modification* from *restriction*, assigning one standard to guide the former and another to steer the latter—leaving no room for the two categories to merge.[1]

¶3 Nicholas Jay Dale ("Father") nevertheless argues that an order *modifying* parenting time rights by *substantially* reducing the quantity of parenting time drifts into the *restriction* zone and therefore triggers the heightened endanger/impair

[1] For the sake of brevity, this opinion sometimes refers to the modification standard as the "best-interests standard" and to the restriction standard as the "endanger/impair standard."

standard. But Father's contention runs headlong into a fundamental barrier—the familiar principles of statutory construction.

¶4 Those principles carry the day here. We conclude that a *purely quantitative* reduction in parenting time—i.e., a reduction unaccompanied by *qualitative* constraints on the manner, location, or environment in which a parent exercises parenting time—cannot amount to a restriction of parenting time rights unless the reduction eliminates parenting time altogether.[2] We further conclude that a restriction of parenting time rights refers to the complete elimination of any *quantity* of parenting time (i.e., zero parenting time) or to *qualitative* constraints on the manner, location, or environment in which a parent exercises parenting time.

¶5 This is not to say that placing any qualitative *term or condition* on parenting time—including a minor one—constitutes a restriction. To be clear, to constitute a restriction, a qualitative adjustment must amount to a qualitative *constraint*—an adjustment that circumscribes the manner, location, or environment in which a parent exercises parenting time, including, for example, requiring that parenting

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[2] To avoid repetition, moving forward, unless we specify otherwise, when we refer to reductions in the quantity of parenting time, we mean: reductions (1) that are *purely quantitative* (i.e., free from qualitative constraints on the manner, location, or environment in which a parent exercises parenting time); and (2) that do not eliminate parenting time altogether (i.e., reductions to something other than zero days).

time be supervised, prohibiting overnight visits, or specifying the location where parenting time may take place.

¶6 Thus, a restriction is either a quantitative reduction to zero parenting time or the imposition of qualitative constraints on parenting time; any other adjustment is merely a modification. This reading of *modification* and *restriction* exposes one of the insurmountable flaws in Father's approach. Were we to agree with Father—and accept that any substantial reduction in the quantity of parenting time constitutes a restriction rather than a modification—we would be required to find that the legislature meant to allow courts to award some parenting time free from any qualitative constraints, even after a factual finding that such parenting time would endanger the child's physical health or significantly impair the child's emotional development. That would be absurd, and we must sidestep interpretations that would lead a statutory provision into absurdity. When a court makes a finding of endangerment or impairment, there is no scenario in which even a single day of parenting time free from qualitative constraints is appropriate.

¶7 In this case, the district court reduced the quantity of Father's parenting time by forty-five days, or 28.1%, which we assume without deciding constituted a substantial reduction. But because the court did not eliminate or otherwise qualitatively constrain Father's parenting time, it did not restrict it; instead, it

merely modified it. Accordingly, the court did not err in applying the best-interests standard rather than the endanger/impair standard.

¶8 A division of the court of appeals navigated to the same pier. Accordingly, we affirm its judgment and remand the case with instructions to return it to the district court.

I. Facts and Procedural History

¶9 Father and Nicole Jehlicka Dale ("Mother") executed a memorandum of understanding allocating parental responsibilities for their young child. The district court approved the memorandum and incorporated it into the decree invalidating the parties' marriage. The decree allocated parenting time to Mother during 205 overnights of the year and to Father during the remaining 160 overnights of the year. Thus, the decree designated Mother as the primary residential parent.

¶10 Less than eighteen months later, Father's work responsibilities changed, requiring him to stay overnight more than 100 miles away from the child's primary residence several days a week. To accommodate his new schedule, Father filed a motion to modify parenting time: He sought parenting time from Friday to Monday during the first three weekends of every month plus an increase in his summer parenting time. Father's proposed modification netted the same number of overnights he already had with the child per year (i.e., 160).

¶11 Mother objected to any modification. In the alternative, she suggested adjustments to Father's parenting time during the school year: every other weekend and a midweek overnight every week.

¶12 At the end of a hearing, the district court made oral findings applying the best-interests standard. The court agreed with Father that a modification in parenting time was necessary. It observed, however, that Father's distance from the child during part of the workweek made its decision challenging.

¶13 In a written order issued after the hearing, the court changed Father's parenting time to the following: during the school year, from Friday to Monday on alternating weekends, from Friday to Monday on the fifth weekend of any month with five weekends, and for the entire week of spring break; and during the summer, on alternating weeks. The court kept Father's holiday parenting time intact. Father's new parenting time schedule totaled approximately 115 overnights with the child per year—about forty-five fewer than the 160 originally allocated to him, a reduction of 28.1%.[3]

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[3] The district court indicated that its modification of parenting time would give Father 142 overnights with the child per year. Before us, counsel disagree with that number but also with each other's math. "Innumerable are the lawyers who explain that they picked law over a technical field because they have a 'math block' . . . ." *Jackson v. Pollion*, 733 F.3d 786, 788 (7th Cir. 2013) (quoting David L. Faigman, et al., *Modern Scientific Evidence: Standards, Statistics, and Research Methods* v (student ed. 2008)); *see also Owens v. Carlson*, 2022 CO 33, ¶ 1, 511 P.3d 637, 639 ("[T]here is no question that some lawyers and math just don't mix."). We need

¶14 Father appealed, contending that such a substantial reduction in the quantity of his parenting time constituted a restriction and required a more exacting showing: a factual finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development. Because the district court had applied the less rigorous best-interests standard instead, Father urged that the judgment be reversed.

¶15 A division of the court of appeals affirmed in a published, unanimous opinion. *In re Marriage of Dale*, 2025 COA 29, ¶ 36, 568 P.3d 1282, 1289. The division rejected Father's position for several reasons.

¶16 First, the division determined that defining "restrict" in section 14-10-129 to include substantial reductions in the quantity of parenting time would leave part of subsection (2) in the same statute with little work to do, effectively turning it into a dead letter. *Id.* at ¶ 20, 568 P.3d at 1287. As relevant here, section 14-10-129(2) states that a court may not modify an order granting parenting time rights in a way that both "substantially changes the parenting time" and "changes the [parent] with whom the child resides a majority of the time" unless it makes one of four possible findings, including one requiring satisfaction of the endanger/impair standard governing restrictions of parenting time rights.

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not get in the middle of this arithmetic tug-of-war. Instead, we assume for purposes of our analysis that Father's calculations are correct.

§ 14-10-129(2)(d). The division reasoned there would be no need to include this possible finding in subsection (2) if the endanger/impair standard already applies whenever there is a substantial reduction in the quantity of parenting time. *Dale*, ¶ 21, 568 P.3d at 1287. Differently put, the division perceived that applying the endanger/impair standard as Father suggested would turn part of subsection (2) into surplusage—a statutory decoration.

¶17 Second, the division explained that treating some reductions in the quantity of parenting time as restrictions would leave courts without a yardstick to determine when a reduction becomes substantial enough to trigger the more rigorous endanger/impair standard. *Id.* at ¶ 22, 568 P.3d at 1287. The division noted that section 14-10-129 is mum on this point. *Id.*

¶18 Third, the division observed that most states draw the restriction line at denying parenting time altogether or allowing only supervised parenting time. *Id.* at ¶ 26, 568 P.3d at 1288. In this regard, the division underscored our legislature's directive to construe section 14-10-129 with an eye toward staying in step with other states that have also enacted the Uniform Dissolution of Marriage Act. *Id.* at ¶ 23, 568 P.3d at 1287–88.

¶19 Lastly, the division discerned that when, as here, life happens and family realities shift, a child's best interests may call for a recalibration of the quantity of parenting time, and the division saw no indication that the legislature intended to

freeze a court's discretion by prohibiting a substantial quantitative reduction in parenting time without satisfying the endanger/impair standard. *Id.* at ¶¶ 29–31, 568 P.3d at 1288–89.

¶20 The division ultimately concluded that a quantitative reduction in parenting time is not a restriction on parenting time rights. *Id.* at ¶ 32, 568 P.3d at 1289. Instead, explained the division, a restriction on parenting time rights concerns qualitative constraints on parenting time—adjustments that circumscribe "the manner, location, or environment in which the parent engages in parenting time, such as a requirement that parenting time be supervised, a prohibition of overnight visits with a particular parent, or a limitation on the location where a parent may exercise parenting time." *Id.*

¶21 The division acknowledged that another division, in *In re Marriage of West*, 94 P.3d 1248, 1251 (Colo. App. 2004), had earlier implied in dicta that a quantitative reduction—if sufficiently substantial—could amount to a restriction and thus implicate the endanger/impair standard. *Dale*, ¶ 19, 568 P.3d at 1287. To the extent *West* could be read to suggest as much, the division in this case plotted a different course. *Id.* at ¶ 32, 568 P.3d at 1289.

¶22 Father's petition for certiorari flagged this question for our attention, and we responded by placing the case on our docket.[4]

II. Analysis

¶23 We embark on our analytical voyage by identifying the standard of review and revisiting familiar principles of statutory interpretation. From there, we sail to section 14-10-129, whose relevant provisions—properly construed—compel us to reject Father's interpretation. We determine that a quantitative reduction in parenting time—however substantial—remains a modification and cannot be recast as a restriction. In so doing, we reason that our General Assembly carved two distinct channels—modifications governed by the best-interests standard, and restrictions governed by the more demanding endanger/impair standard—and just as two channels cannot merge without losing their boundaries, quantitative reductions cannot flow into the territory reserved for restrictions. Accordingly, we ultimately hold that a restriction arises only when a court either zeros out

[4] We agreed to review two issues:

1. Whether the court of appeals erred in holding that quantitative reductions in parenting time regardless of amount are not restrictions on parenting time rights under section 14-10-129(1)(b)(I), C.R.S. (2024).
2. Whether a forty-five-day (28.1%) reduction in previously ordered parenting time is a restriction on parenting time rights absent endangerment to the child.

parenting time altogether or places qualitative constraints on how parenting time is exercised—constraints on the manner, location, or environment of parenting time, such as supervision requirements, prohibitions on overnight visits, or limits on where parenting time may occur.

¶24 Applying this holding here, we conclude that, since the district court neither eliminated nor qualitatively constrained Father's parenting time, it did not restrict his parenting time—it simply modified it. Therefore, the district court properly applied the best-interests standard rather than the endanger/impair standard. And because the division sailed to the same harbor, we affirm.

A. Standard of Review and Familiar Principles of Statutory Interpretation

¶25 At bottom, this case rises or falls on our interpretation of section 14-10-129. Statutory interpretation presents a question of law that is subject to de novo review. *In re Marriage of Wollert & Joseph*, 2020 CO 47, ¶ 20, 464 P.3d 703, 709.

¶26 When construing a statute, we strive to effectuate the legislature's intent. *Id.* To discern that intent, we examine "the entire statutory scheme," giving "consistent, harmonious, and sensible effect to all parts" and attributing the words and phrases "their plain and ordinary meaning." *Vallagio at Inverness Residential Condo. Ass'n v. Metro. Homes, Inc.*, 2017 CO 69, ¶ 16, 395 P.3d 788, 792 (quoting *Pulte Home Corp. v. Countryside Cmty. Ass'n*, 2016 CO 64, ¶ 24, 382 P.3d 821, 826). If a statute is clear and unambiguous, the cardinal rule regarding plain and ordinary

meaning is our first and final step—there is no need to resort to additional interpretive instruments in the toolkit. *Wollert*, ¶ 20, 464 P.3d at 709; *see also Carrera v. People*, 2019 CO 83, ¶ 18, 449 P.3d 725, 729 (explaining that when we are able to give statutory language its plain and ordinary meaning, we "look no further" because "nothing more is required of the judicial inquiry").

¶27 Still, there are companion principles in the statutory-construction atlas that ferry alongside the rule of plain and ordinary meaning. A couple of those are relevant here. First, we will not adopt an interpretation that renders any portion of a statute superfluous or meaningless. *Spahmer v. Gullette*, 113 P.3d 158, 162 (Colo. 2005). And second, we will not construe a statute in a manner that yields absurd results. *In re Marriage of Roosa*, 89 P.3d 524, 528 (Colo. App. 2004) ("We presume that the legislature intends a just and reasonable result when it enacts a statute . . . .").

B. Our Interpretation of the Relevant Provisions of Section 14-10-129 Requires Us to Reject Father's Interpretation

¶28 Section 14-10-129(1)(a)(I) ("subsection (1)(a)(I)") states that, "[e]xcept as otherwise provided in subsection (1)(b)(I) . . . , the court may . . . modify an order granting or denying parenting time rights whenever such . . . modification would serve the best interests of the child." In turn, section 14-10-129(1)(b)(I) ("subsection (1)(b)(I)") provides that "[t]he court shall not restrict a parent's parenting time

rights unless it finds that the parenting time would endanger the child's physical health or significantly impair the child's emotional development."

¶29 Father maintains that a modification that substantially reduces the quantity of parenting time spills over into territory reserved for restrictions, thereby triggering the stricter of the two standards—the endanger/impair standard. In other words, Father posits that, in the quantitative dimension of parenting time, there is no such thing as a substantial modification because every substantial modification crystalizes into a restriction. According to Father, trial courts have two courses to choose from when altering the quantity of parenting time: an insubstantial reduction, which would count as a modification; or a substantial reduction, which would count as a restriction. Not so. As we demonstrate, Father's argument cannot remain afloat.

¶30 Neither "modify" nor "restrict" is defined in section 14-10-129, and consulting their dictionary definitions doesn't move the needle. But that doesn't leave us at a loss. We are able to discern the legislature's intent by looking at the statutory scheme as a whole and applying three interpretative commandments that operate in tandem—thou shalt give effect to the plain and ordinary meaning of words, thou shalt not render any term superfluous, and thou shalt avoid absurd results.

¶31 Subsection (1)(a)(I) authorizes the court to *modify* parenting time rights when doing so is in the child's best interests, and subsection (1)(b)(I) empowers the court to *restrict* those rights only upon finding that parenting time would physically endanger the child or emotionally impair the child's development. Giving the words in these subsections their plain and ordinary meaning, it becomes clear that the legislature laid out two different pathways—modification and restriction—the former governed by the best-interests standard and the latter governed by the endanger/impair standard. A trial court must therefore choose which pathway to take; it may not travel both at once.

¶32 Importantly, the statutory text telegraphs the legislature's intent to permit *substantial modifications* of parenting time, which necessarily include substantial reductions in the quantity of parenting time. Section 14-10-129(1.5) expressly refers to a party's filing of "a motion for a *substantial modification* of parenting time which also changes the party with whom the child resides a majority of the time." (Emphasis added.) Likewise, section 14-10-129(2) ("subsection (2)") prohibits the court from modifying parenting time in a way that "*substantially changes* the parenting time as well as changes the party with whom the child resides a majority of the time" unless the court makes one of four possible findings. (Emphasis added.) These provisions show that the legislature not only contemplated *substantial modifications* but expressly labeled them as such. Father is therefore

wrong in suggesting that substantial modifications to the quantity of parenting time stand erased by virtue of supposedly coalescing into restrictions. If the legislature had meant to collapse all substantial reductions in the quantity of parenting time from the domain of modifications to that of restrictions, as Father urges, it would have drafted the statute accordingly. It did not.

¶33 Moreover, had the legislature intended a substantial reduction in parenting time to automatically harden from a modification into a restriction, it presumably would have provided a clear benchmark indicating where that shift occurs. In the absence of such direction, Father's construction would force courts to traverse in the dark, guessing how substantial a reduction must be before it crosses the unseen line into a restriction. Relatedly, how would the substantial nature of a reduction be measured—by the number of overnights lost, the percentage of the reduction, or some other metric? Again, courts would be left to fill the statutory gaps themselves. In any event, this loosey-goosey approach would all but guarantee a patchwork of outcomes among different judges, undermining the uniformity the law generally strives to achieve.

¶34 The statutory architecture reveals yet another defect in Father's interpretation. As the division observed, Father's reading hollows out part of the language in subsection (2). One of the four findings that can justify the type of substantial modification set out in subsection (2) is that "[t]he child's present

environment endangers the child's physical health or significantly impairs the child's emotional development and the harm likely to be caused" by the change is outweighed by its benefits. § 14-10-129(2)(d). But if, as Father suggests, the endanger/impair standard already governs *any* substantial modification, what role is the reference to that standard in subsection (2)(d) left to play? None. Father's construction would drain that language in subsection (2)(d) of operative force, leaving it as an ornament on the statutory tree rather than a branch carrying weight. We, however, may not adopt an interpretation that strips any statutory words of meaning or leaves them without a purpose to serve. *See Spahmer*, 113 P.3d at 162.

¶35 Perhaps most concerning, Father's interpretation would steer the statute into truly absurd waters. And, as we observed earlier, we may not embrace an interpretation of a statutory provision that produces outcomes no rational legislature could have intended. *See Roosa*, 89 P.3d at 528.

¶36 Father theorizes that the district court could have charted the very course it did—reducing his parenting time by about forty-five overnights—so long as it had first found that the endanger/impair standard was satisfied. In other words, he asserts that the court could have substantially reduced the quantity of his parenting time by treating his request to modify as a request to restrict. But this would mean the court could have awarded Father parenting time *free of any*

qualitative constraints even after finding that such parenting time would physically endanger the child or emotionally impair the child's development. That is a bridge too far. When a court finds that parenting time would physically endanger the child or seriously stunt the child's emotional development, no amount of parenting time unburdened by qualitative constraints is appropriate—not even a single day. And no sensible legislature could have intended otherwise.

¶37 Notably, subsection 14-10-129(4) gives us a peek into the legislature's concern with allowing parenting time without qualitative constraints when the child's physical or emotional well-being is at risk. Under that subsection, even when a party moves to restrict by merely alleging that the child faces "imminent physical or emotional danger" from the parenting time at issue, the court must order that, pending resolution of the motion, the parenting time must be "supervised by an unrelated third party deemed suitable by the court or by a licensed mental health professional." § 14-10-129(4). Although the imminent nature of the danger addressed in this subsection is not present in the endanger/impair standard at play here, the subsection still underscores a key legislative judgment: parenting time that threatens to harm a child should not proceed unchecked—i.e., without qualitative constraints. And Father's reading of section 14-10-129 cannot be reconciled with that judgment.

C. The Framework That Emerges—and How It Resolves This Case

¶38 Informed by the rule of plain and ordinary meaning and its kindred principles of statutory construction, we conclude that even a dramatic reduction in the quantity of parenting time cannot prompt a modification to metamorphose into a restriction. The General Assembly charted two distinct navigational routes within the statutory scheme of parenting time rights: modifications, governed by the best-interests standard; and restrictions, governed by the endanger/impair standard. And the two routes are designed to remain separate at all times. Thus, contrary to Father's contention, a quantitative reduction in parenting time—regardless of how substantial—cannot be carried across the line into the category the legislature marked as a restriction.

¶39 We now hold that a restriction materializes only when a court either brings parenting time to a full stop or installs qualitative constraints on the manner, location, or environment of parenting time, including requiring supervised parenting time, bans on overnight visits, or limits on where parenting time may occur.[5] It scarcely bears stating—let alone substantiating with legal

[5] The division reached a similar holding. We observe, however, that it did not address the possibility of reducing the quantity of parenting time by snuffing it out altogether. Its reasoning suggests that such a reduction would constitute a restriction, but it stopped short of saying so explicitly. Today, we make express that which the division merely implied.

authority—that depriving a parent of all parenting time is a restriction on parenting time rights.[6] And, unsurprisingly, there is no dispute in this case—and courts in other states have likewise recognized—that placing qualitative constraints on the manner, location, or environment in which parenting time occurs is also a restriction.[7]

¶40 It follows that changes in parenting time constitute modifications, not restrictions, so long as they do not eradicate parenting time or otherwise impose qualitative constraints on parenting time. For example, had the district court adopted Father's suggestion, which would have netted him the same number of overnights per year he was already entitled to with the child, it still would have modified rather than restricted his parenting time rights. Similarly, had the court simply changed the location of the parenting time exchange from one parent's house to the other—a qualitative term or condition—it would have modified, rather than restricted, the parents' parenting time rights, because such an

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[6] Zero days of parenting time marks the only defensible line of demarcation. Recall that the legislature furnished no barometer because it did not contemplate that substantial quantitative reductions would morph into restrictions in the first place.

[7] Courts outside Colorado addressing restrictions on parenting time have focused on the constraints placed on the exercise of parenting time rights, such as requiring supervised parenting time, limiting parenting time to a prescribed location, or outright denying parenting time. *See, e.g.*, *Gonzalez-Gunter v. Gunter*, 471 P.3d 1024, 1027 (Ariz. Ct. App. 2020); *Fulton v. Fulton*, 918 So. 2d 877, 881 (Miss. Ct. App. 2006).

adjustment would not have added qualitative constraints on parenting time. On the other hand, if the court had required Father to exercise parenting time only in a public space or only in a therapeutic setting, that would have imposed a qualitative constraint on his parenting time.[8]

¶41 We understand that the division in *West* came to rest in an entirely different port. There, the division held that whether to apply the best-interests standard or the endanger/impair standard "may involve inquiry into both the quantitative and the qualitative aspects of the proposed change to parenting time, as well as the reason or reasons advanced for the change." 94 P.3d at 1251. Because the record did not reflect either a qualitative constraint on parenting time or a reason for the change that implicated the children's safety, that division confined its analysis to "which standard applies to a purely quantitative change, and one of relatively limited magnitude." *Id.* The *West* division determined that the reduction in parenting time from eight to six weeks did not constitute a restriction and thus did not implicate the endanger/impair standard. *Id.* As the division in this case noted, a reasonable inference can be drawn that the division in *West* was

[8] It is not feasible to exhaustively catalogue all qualitative constraints on parenting time. In assessing whether an adjustment qualifies as such a constraint, trial courts should ask whether it circumscribes the manner, location, or environment in which parenting time is exercised. Judicial officers must be mindful that qualitative constraints are adjustments that can be justified only by meeting the endanger/impair standard.

of the view that a quantitative reduction in parenting time could amount to a restriction. *Dale*, ¶¶ 17–18, 568 P.3d at 1286–87 (citing *West*, 94 P.3d at 1251).

¶42 Father encourages us to follow in *West*'s footsteps. We, of course, are not bound by *West*. We would be remiss, however, if we failed to note that the division's analysis in that case suffers from the same shortcomings as Father's contentions here.[9] For the same reasons we have already rejected Father's position, we now decline to adopt *West*'s rationale. Accordingly, to the extent *West* is inconsistent with today's decision, it is overruled.

¶43 Here, the district court reduced the quantity of Father's parenting time from 160 nights to approximately 115 nights. Because the court neither extinguished the quantity of parenting time nor placed qualitative constraints on the exercise of parenting time, it did not restrict Father's parenting time rights.[10] And because

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[9] By way of example, the *West* division did not explain how trial courts are to determine when a reduction in the quantity of parenting time becomes so substantial that it is transformed into a restriction. *West*'s loosely constructed approach is as shapeless as fog and amounts to a line drawn in water—impossible to discern and incapable of uniform application. It would place our trial courts in an untenable position and lead to disparate results.

[10] We recognize, as did the division, that a court could all but terminate a party's parenting time without applying the endanger/impair standard by reducing the quantity of parenting time to a single overnight per year. But such a court would still have to apply the best-interests standard, and it is difficult to conceive of circumstances in which a single overnight of parenting time would serve the child's best interests. Even so, we trust our trial courts and have no reason to believe they will act in bad faith. And it goes without saying that parties are obviously free to appeal an order imposing such a reduction.

the court simply modified Father's parenting time rights, it correctly applied the best-interests standard rather than the endanger/impair standard.

¶44 The division reached the same determination. We therefore leave its judgment undisturbed.

III. Conclusion

¶45 For the foregoing reasons, we affirm the division's judgment. We remand the case to the division with instructions to return it to the district court.

¶46 To the extent anyone reading this opinion offers an apocalyptic forecast, we note that the division's decision, which we affirm, has been on the books for over a year, and the sky has yet to fall. We are unmoved by prognostications of dire consequences and see no basis to expect havoc. We have full confidence in our trial court judges; we have no doubt that they are capable of applying the framework we endorse today in a balanced, common-sense manner that ensures both consistency and fairness.

JUSTICE BERKENKOTTER, joined by **JUSTICE GABRIEL**, concurred in the judgment.

JUSTICE BERKENKOTTER, joined by JUSTICE GABRIEL, concurring in the judgment.

¶47 Today, the majority announces a rule that is as consequential as it is absurd: A purely quantitative reduction in parenting time, "*however substantial*," can *never* constitute a restriction on parenting time under section 14-10-129(1)(b)(I), C.R.S. (2025) ("subsection (1)(b)(I)"). Maj. op. ¶ 23 (emphasis added). The majority then "clarifies" that under its rule, if a mother's or father's parenting time is reduced, for instance, from 270 overnights each year to zero overnights, that is a restriction. *See id.* But if a parent's overnights are reduced from 270 to one overnight, it is a modification, not a restriction. *See id.* The majority never really engages with the obvious question of why a 99.6% reduction in parenting time would not amount to a restriction. On the face of it, the majority's math isn't mathing. More problematically, by declaring that the best interests of the child standard applies to all quantitative constraints on parenting time, however substantial, *id.*, the majority lowers the bar needed to restrict parenting time under subsection (1)(b)(I).

¶48 Its interpretation also fails to square with common sense and the practical and complex realities of family relationships. Who wouldn't describe a 99.6% reduction in parenting time as a restriction?

¶49 The majority's interpretation of section 14-10-129(1)(a)(I) ("subsection (1)(a)(I)") and subsection (1)(b)(I) is also contrary to the plain language of these provisions and to the General Assembly's intent in adopting the Uniform Dissolution of Marriage Act ("UDMA"), §§ 14-10-101 to -133, C.R.S. (2025). I am additionally concerned that in attempting to simplify what can be very challenging decisions for our courts, the majority sows havoc in those same courts. Why? Beyond failing to account for the complex dynamics in domestic relations cases—particularly in fractious ones—the majority doesn't consider or explain how its new rule will work going forward in the real world. I see a lot of problems on the horizon.

¶50 The majority's interpretation will wreak further havoc because it necessarily suggests that if a party seeks to impose a *qualitative* constraint in a motion to modify, the district court must treat the motion as one seeking to restrict parenting time, no matter how the motion is denominated or the reason for it. To the extent the majority means that trial courts may no longer impose "qualitative *constraint*[*s*]," unless they are "qualitative *term*[*s*] or *condition*[*s*]" when modifying parenting time, Maj. op. ¶ 5 (emphases in original), this simply trades one line-drawing problem (the numerical cutoff between a modification and a restriction) for another (the difference between a qualitative constraint, a qualitative term, and a qualitative condition). This is especially so because none

of these terms—qualitative constraint, qualitative term, or qualitative condition—are mentioned, let alone defined, in the UDMA. This just seems to compound the problem the majority is trying to solve in the first place.

¶51 What's worse, the majority's approach represents a deeply troubling sea change in the law. In so holding, it takes a critical tool away from courts charged with crafting parenting plans that are in children's best interests. I can't imagine this is what the General Assembly had in mind, and I don't see how this will make the difficult decisions judges have to make regarding parenting time any easier.

¶52 I would instead adopt the more nuanced test articulated in *In re Marriage of West*, 94 P.3d 1248, 1251 (Colo. App. 2004). It provides, "determining whether to apply the best interests standard or the endangerment standard may involve inquiry into both the quantitative and the qualitative aspects of the proposed change to parenting time, as well as the reason or reasons advanced for the change." *Id.* True, this test is not mechanical. *See id.* Nor should it be. Instead, it aligns with the plain meaning of the UDMA, which firmly put the focus on children, and it recognizes the sometimes complex and endlessly varied circumstances that judges face in making parenting time decisions and in resolving parenting time disputes. Because the factual circumstances underlying every parenting time decision are unique and must be decided on a case-by-case

basis, the reasons advanced by parties for changes to parenting time—not math—should also guide the court's analysis.

¶53 That said, here, petitioner Nicholas Jay Dale's ("Father's") change in employment required him to work in-person four days a week more than 100 miles away from the child's primary residence. Applying *West,* I would conclude that the district court's decision—which reduced Father's parenting time by forty-five days and imposed no qualitative constraints—did not amount to a restriction and thus did not require the court to find endangerment under subsection (1)(b)(I).

¶54 Because I disagree with the majority's interpretation of subsections (1)(a)(I) and (1)(b)(I) but agree that the district court did not err in modifying the parties' parenting time, I concur in the judgment only.

I. Analysis

¶55 First, I address the standard of review and discuss the principles of statutory interpretation before turning to subsection (1)(b)(I). By drawing upon statutory context, common dictionary definitions, and relevant case law, *see Roup v. Com. Rsch., LLC*, 2015 CO 38, ¶ 14, 349 P.3d 273, 277, I conclude that the plain and ordinary meaning of the words "restriction" and "modify" may involve an evaluation of quantitative time. Therefore, determining whether to apply the best interests standard or the endangerment standard under subsection (1)(b)(I) may

involve inquiry into both the quantitative and the qualitative aspects of the proposed change to parenting time, as well as the reason or reasons advanced for the change. This test—and not the majority's rule—aligns with the plain meaning of subsection (1)(b)(I), ensures that the proper legal standard applies to restrictions (i.e., it doesn't lower the bar), more closely aligns with the General Assembly's legislative intent, does not create a new line-drawing problem for the courts, and avoids absurd results.

A. Standard of Review and Principles of Statutory Construction

¶56 Statutory interpretation presents a question of law that this court reviews de novo. *Colo. Med. Bd. v. McLaughlin*, 2019 CO 93, ¶ 22, 451 P.3d 841, 845. When interpreting a statute, we seek to ascertain and effectuate the intent of the General Assembly. *Cowen v. People*, 2018 CO 96, ¶ 12, 431 P.3d 215, 218. When a term remains statutorily undefined, we assume the legislature "intended to give the term its usual and ordinary meaning." *Roup*, ¶ 8, 349 P.3d at 276. We may consult a recognized dictionary to further discern a term's plain meaning. *In re Marriage of Zander*, 2021 CO 12, ¶ 13, 480 P.3d 676, 680.

¶57 In interpreting the plain meaning of statutory language, we must also give consistent effect to all parts of the statute. *Cowen*, ¶ 13, 431 P.3d at 218. This means the various provisions of the UDMA must be construed together and harmonized with its overall legislative design. *Zander*, ¶ 14, 480 P.3d at 680. Because there is a

presumption that the General Assembly intends a just and reasonable result when enacting a statute, a statutory construction that defeats the legislative intent or leads to an absurd result will not be followed. *Ingram v. Cooper*, 698 P.2d 1314, 1315 (Colo. 1985); § 2-4-201(1)(c), C.R.S. (2025). If the statutory language is clear and unambiguous, the statute is applied as written. *Cowen*, ¶ 12, 431 P.3d at 218.

B. The Plain Meaning of "Restrict" and "Modify"

¶58 As with any issue of statutory interpretation, the starting point is the text itself. Subsection (1)(a)(I), which governs a party's request to modify parenting time, provides in part: "Except as otherwise provided in subsection (1)(b)(I) of this section, the court may make or *modify* an order granting or denying parenting time rights whenever such order or modification would serve the best interests of the child." § 14-10-129(1)(a)(I) (emphasis added).

¶59 Subsection (1)(b)(I), which addresses a party's request to restrict parenting time, states:

> The court shall not *restrict* a parent's parenting time rights unless it finds that the parenting time would endanger the child's physical health or significantly impair the child's emotional development. In addition to a finding that parenting time would endanger the child's physical health or significantly impair the child's emotional development, in any order imposing or continuing a parenting time restriction, the court shall enumerate the specific factual findings supporting the restriction.

§ 14-10-129(1)(b)(I) (emphasis added).

¶60 The legislature has not defined the term "modify," nor has it defined the term "restrict." So I first turn to the dictionary to further discern the plain and ordinary meaning of these terms. *See Zander*, ¶ 13, 480 P.3d at 680. "Modify" can mean "to make minor changes." *Modify*, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/modify [https://perma.cc/UB3P-2PMJ]. "Restrict" can mean limit. *See Restriction*, Black's Law Dictionary (12th ed. 2024). I agree with the majority that a parent's time with their child may be changed or limited by either (1) duration or (2) the manner, location, or environment in which the parent may exercise parenting time, *or both*. *See* Maj. op. ¶ 40. A common sense reading of these statutes thus indicates that courts may evaluate the quantitative and qualitative impact of a proposed change to parenting time when determining whether to apply the best interests of the child standard or the endangerment standard to a requested change in parenting time.

¶61 By drawing from the statutory context and common dictionary definitions, *see Roup*, ¶ 14, 349 P.3d at 277, the plain and ordinary meaning of "restrict" and "modify" can be resolved with reasonable certainty. Simply put, a "restriction" under subsection (1)(b)(I) allows consideration of quantity or quality, or both. Concluding otherwise lowers the bar so a restriction on parenting time may be ordered based on the best interests of the child rather than on the correct legal standard: endangerment.

C. The Majority's Rule Defeats Legislative Intent and Leads to Absurd Results

¶62 As noted, we will not interpret a statute in a manner that defeats its legislative intent or leads to an absurd result. *See Ingram*, 698 P.2d at 1315; *see also* § 2-4-201(1)(c). The majority's new rule, unfortunately, does just that.

¶63 Section 14-10-102, C.R.S. (2025), and section 14-10-104.5, C.R.S. (2025), expressly declare the UDMA's purposes and policy goals. Section 14-10-102(1) provides that the purposes underlying the UDMA must be "liberally construed." Section 14-10-102(2)(b), meanwhile, explains one of the UDMA's purposes: "[t]o mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage." Section 14-10-104.5 provides additional insight. It states that "it is in the best interests of the children of the marriage to have a relationship with both parents . . . and that, in most cases, it is the parents' right to have a relationship with their children." § 14-10-104.5. This provision squares with the repeated recognition by the United States Supreme Court that the relationship between parent and child is constitutionally protected. *See Troxel v. Granville*, 530 U.S. 57, 65–66 (2000).

¶64 Despite the legislature's declaration, the majority interprets subsection (1)(b)(I) so narrowly that a quantitative reduction in parenting time—no matter how substantial—can *never* amount to a "restriction" requiring a

finding of endangerment unless it results in zero days of parenting time. *See* Maj. op. ¶ 23.

¶65 This makes no sense.

¶66 What if a father seeks to modify the parties' existing parenting plan so the mother's parenting time with the parties' eleven-month-old son, who is still nursing, is reduced from 270 overnights to one overnight. According to the majority, the father is not seeking to restrict the mother's parenting time. But if he asks the court to reduce her parenting time to zero overnights, the trial court must treat his motion to modify as a motion to restrict. That logic doesn't add up. A 99.6% decrease in parenting time would profoundly impact the child's relationship with his mother. No worries, the majority suggests: A party seeking this substantial a reduction in parenting time will always ask the court to impose a qualitative constraint. *See id.* at ¶ 36. Given the extraordinary number of self-represented litigants in domestic relations cases in Colorado, this seems like a very unrealistic expectation. *See* Colo. Jud. Branch, *Cases and Parties Without Attorney Representation in Civil Cases: Fiscal Year 2025*, at 4 (July 8, 2025), https://www.coloradojudicial.gov/sites/default/files/2025-07/FY2025-Cases-and-Parties-without-Attorney-Representation.pdf [https://perma.cc/F2BA-3SJY].

¶67 And what if the father's motion to modify doesn't seek to reduce the number of the mother's overnights, but instead asks the court to impose a qualitative

constraint? Under the majority's apparent reasoning, the court is required to treat the father's motion as a motion to restrict regardless of the nature of the qualitative constraint and even though the father is not seeking to reduce the mother's parenting time. *See* Maj. op. ¶ 40. The majority's reading of these statutes leads to absurd results because it lacks the nuance and discretion that the UDMA contemplates—nuance which allows courts to consider and craft orders on a case-by-case basis that focus on the needs of the children in the cases before them.

¶68 The majority's rigid interpretation treats all qualitative constraints the same. But in reality, there are a multitude of reasons one parent may seek to impose a qualitive constraint on the other parent. Some of the reasons may arise out of concerns about endangerment, but many are necessary to simply facilitate a parenting time schedule that is in the best interests of the parties' children. For instance, a mother may be concerned that the father's serious health condition has advanced to the point that he needs some additional help caring for the parties' children in the evening after he has undergone treatment. The mother doesn't want to reduce the father's parenting time. To the contrary, she wants to support their children's relationship with their father, but she wants him to have some additional help from a family member of the father's choosing. He, however, doesn't think he needs help. Under the majority's interpretation, because this is a qualitative constraint, the mother would have to wait until the children are

physically endangered or emotionally impaired before seeking relief through a motion to restrict, even though—if she is correct—the constraint would be in the best interests of the children.

¶69 Finally, what are courts to make of the majority's interpretation when it comes to motions to modify that seek to *increase* parenting time quantitatively, but with a qualitative constraint. Often these motions are filed by a parent who, having achieved a consistent, sustained level of sobriety, seeks to increase their parenting time while submitting to periodic urinalysis. Or this type of motion may be filed by a sixteen-year-old parent of an infant who seeks to increase their parenting time while offering to have their parent present during that time. Under the majority's reasoning, it appears that these motions—because they include a qualitative constraint—must be treated as motions to restrict even though they are motions to increase parenting time. Again, this makes no sense.

¶70 I readily acknowledge that *West* does not provide the bright-line rule that the majority seeks. Its test cannot be mechanically or mathematically applied, but that is the point. Put differently, the statutes' lack of bright lines are a feature, not a bug. Formulaic rulings are not what the UDMA requires, and they are not what children and their parents need, particularly in high-conflict cases.

¶71 The majority declares that its interpretation will help district court judges and avoid a patchwork of outcomes. *Id.* at ¶ 33. Not so. We trust courts to make

these tailored decisions all the time and understand that outcomes will necessarily and appropriately vary because no two cases are exactly alike. But courts need the tools the General Assembly has given them to craft orders that put the best interests of children first when modification is sought and to protect children via parenting time restrictions only when parenting time endangers a child's physical health or significantly impairs the child's emotional development. The majority's opinion strips those tools out of the hands of our courts and lowers the bar to restrict parenting time. What's more, in trying to address one line-drawing problem, it creates a new one that seems likely to spawn much future litigation: What is the difference between a qualitative *constraint*, a qualitative *term*, and a qualitative *condition*? *Id.* at ¶ 5. I'm not sure, in part because none of these terms are used in the UDMA. But it seems—ironically—that the reason a constraint, term, or condition is sought is likely relevant to answering whether the best interests or endangerment standard is triggered, meaning that the test in *West* is well-suited to helping draw these lines. Not mechanically, but on a case-by-case basis.

D. The *West* Test Appropriately Considers the Reason or Reasons for Changes to Parenting Time

¶72 The test articulated in *West* aligns with the UDMA's policy goals and its constitutional underpinnings and does not lead to absurd results. By focusing on the reason or reasons for the proposed change, the *West* test avoids predetermined

calculations and conclusions and, instead, considers the circumstances unique to each family—an analytical framework common in family law jurisprudence. *See, e.g.*, *In re Marriage of Short*, 698 P.2d 1310, 1312 (Colo. 1985) (determining that child custody requires "a broad inquiry into all relevant factors bearing on the welfare of the child"); *In re Marriage of Capparelli*, 2024 COA 103M, ¶ 9, 561 P.3d 417, 421 (concluding that the equitable distribution of martial property involves a consideration of a "variety of factors"); *In re Marriage of Nelson*, 2012 COA 205, ¶ 23, 292 P.3d 1214, 1219 (noting that determining maintenance entails a "discretionary balancing of factors").

¶73 The wisdom of the test set forth in *West* is illustrated in two cases decided by the Minnesota Court of Appeals—applying a provision that is similar to subsection (1)(b)(I). *See Clark v. Clark*, 346 N.W.2d 383, 386 (Minn. Ct. App. 1984); *Anderson v. Archer*, 510 N.W.2d 1, 5 (Minn. Ct. App. 1993).

¶74 In *Clark*, 346 N.W.2d at 384–85, the court considered whether a gradual reduction of "reasonable and liberal visitation" from fourteen weeks per year to 5.5 weeks per year was a restriction. The court held that "the trial court abused its discretion in allowing the slow erosion of [the] appellant's rights without any showing pursuant to the statute that reduced visitation would endanger [the child's] emotional health or impair [the child's] emotional development." *Id.* at 386.

¶75 In *Anderson*, 510 N.W.2d at 3, 5, the court considered whether a modification to a parenting time plan, which reduced the appellant's total visitation, amounted to a restriction. Due to the appellant's out-of-state employment, the original parenting time plan provided him with visitation when he was "in Minnesota." *Id.* at 2–3. However, the appellant later returned to reside in Minnesota, which in combination with the appellee's work schedule and the children's school schedule, resulted in unbalanced parenting time. *See id.* at 3. The trial court subsequently modified the parenting time schedule and reduced the appellant's time with the children. *Id.* at 3–4.

¶76 On appeal, the court held that the reduction was not a restriction. *Id.* at 4. The court reasoned that changed circumstances warranted the reduction in the appellant's parenting time so the children's relationships with both parents could be maintained. *See id.* at 4–5. It added, "Even if the modification reduced [the] appellant's visitation time from what the parties intended when they entered the stipulation, *in light of the reason for the modification* and the substantial amount of visitation granted to [the] appellant, the modification did not constitute a restriction of visitation." *Id.* at 5 (emphasis added).

¶77 As *Clark* and *Anderson* both illustrate, the reason or reasons for a proposed change in parenting time are important considerations when determining whether a quantitative reduction in parenting time constitutes a restriction.

¶78 For these reasons, and because the majority's rule disregards the plain meaning of subsection (1)(b)(I), lowers the bar to restrict parenting time, conflicts with the express policy goals of the UDMA, creates a whole new line-drawing problem regarding the difference between a qualitative constraint and a qualitative term, and leads to absurd results, I would adopt the test as articulated in *West*. That is, "determining whether to apply the best interests standard or the endangerment standard may involve inquiry into both the quantitative and the qualitative aspects of the proposed change to parenting time, as well as the reason or reasons advanced for the change." *West*, 94 P.3d at 1251.

II. Application of the *West* Test

¶79 Despite my disagreement with the majority's interpretation of section 14-10-129, I agree that the court below did not "restrict" Father's rights pursuant to subsection (1)(b)(I), and thus properly applied the best interests of the child standard, but I do so by applying the *West* test. Consistent with *West*, 94 P.3d at 1250, I start with the reasons for Father's request and the court's order.

¶80 Father accepted a new job that requires him to work in-person more than 100 miles away from the child's primary residence. He then sought to adjust the parties' parenting time schedule to accommodate his new schedule. While the proposed schedule would have better suited Father's needs, the district court was not persuaded that it was in the best interests of the parties' child.

¶81 In its ruling, the court acknowledged that the decision to modify the original parenting schedule was "not an easy [one]" and would "likely disappoint both parties." In its order, the court found, "[T]he distance between the parties based on [F]ather's employment does impact the court's ability to fashion an appropriate parenting plan. Likewise, the court finds the lengthy travel does impact the child." *In re Marriage of Dale*, No. 21DR32791, at 3 (Dist. Ct., El Paso Cnty., Apr. 26, 2024) (unpublished order).

¶82 The district court further explained that the change would reduce the number of parenting time exchanges—an important consideration, it noted, because the child showed signs of separation anxiety when parting with either parent. *Id.* at 2. So, even though the court reduced Father's parenting time, the reduction did not—in light of the reasons for the modification and the otherwise substantial parenting time granted to Father—constitute a restriction under subsection (1)(b)(I).

III. Conclusion

¶83 Because the majority's interpretation disregards the plain meaning of subsection (1)(b)(I), lowers the restriction bar, conflicts with the express policy goals of the UDMA, creates a new line-drawing problem, and leads to absurd results, I respectfully concur in the judgment only.