

C.R.S. 14-10-127

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015) ***

TITLE 14. DOMESTIC MATTERS

DISSOLUTION OF MARRIAGE - PARENTAL RESPONSIBILITIES

ARTICLE 10. UNIFORM DISSOLUTION OF MARRIAGE ACT

C.R.S. 14-10-127 (2015)

14-10-127. Evaluation and reports - disclosure

(1) (a) (I) In all proceedings concerning the allocation of parental responsibilities with respect to a child, the court may, upon motion of either party or upon its own motion, order any county or district social services department or a licensed mental health professional qualified pursuant to subsection (4) of this section to perform an evaluation and file a written report concerning the disputed issues relating to the allocation of parental responsibilities for the child, unless such motion by either party is made for the purpose of delaying the proceedings. Any court or social services department personnel appointed by the court to do such evaluation shall be qualified pursuant to subsection (4) of this section. When a mental health professional performs the evaluation, the court shall appoint or approve the selection of the mental health professional. Within seven days after the appointment, the evaluator shall comply with the disclosure provisions of subsection (1.2) of this section. The court shall, at the time of the appointment of the evaluator, order one or more of the parties to deposit a reasonable sum with the court to pay the cost of the evaluation. The court may order the reasonable charge for such evaluation and report to be assessed as costs between the parties at the time the evaluation is completed.

(I.3) In determining whether to order an evaluation pursuant to this section, in addition to any other considerations the court deems relevant, the court shall consider:

(A) Whether an investigation by a child and family investigator pursuant to [section 14-10-116.5](#) would be sufficient or appropriate given the scope or nature of the disputed issues relating to the allocation of parental responsibilities for the child;

(B) Whether an evaluation pursuant to this section is necessary to assist the court in determining the best interests of the child; and

(C) Whether involving the child in an evaluation pursuant to this section is in the best interests of the child.

(1.5) A party may request a supplemental evaluation to the evaluation ordered pursuant to subparagraph (I) of this paragraph (a). The court shall appoint another mental health professional to perform the supplemental evaluation at the initial expense of the moving party. The person appointed to perform the supplemental evaluation shall comply with the disclosure provisions of subsection (1.2) of this section. The court shall not order a supplemental evaluation if it determines that any of the following applies, based on motion and supporting affidavits:

(A) Such motion is interposed for purposes of delay;

(B) A party objects, and the party who objects or the child has a physical or mental condition that would make it harmful for such party or the child to participate in the supplemental evaluation;

(C) The purpose of such motion is to harass or oppress the other party;

(D) The moving party has failed or refused to cooperate with the first evaluation;

(E) The weight of the evidence other than the evaluation concerning the allocation of parental responsibilities or parenting time by the mental health professional demonstrates that a second evaluation would not be of benefit to the court in determining the allocation of parental responsibilities and parenting time; or

(F) In addition to the evaluation ordered pursuant to subparagraph (I) of this paragraph (a), there has been an investigation and report prepared by a child and family investigator pursuant to [section 14-10-116.5](#), and the court finds that a supplemental evaluation concerning parental responsibilities will not serve the best interests of the child.

(II) Each party and the child shall cooperate in the supplemental evaluation. If the court finds that the supplemental evaluation was necessary and materially assisted the court, the court may order the costs of such supplemental evaluation to be assessed as costs between the parties. Except as otherwise provided in this section, such report shall be considered confidential and shall not be available for public inspection unless by order of court. The cost of each department of human services evaluation shall be based on an ability to pay and shall be assessed as part of the costs of the action or proceeding, and, upon receipt of such sum by the clerk of court, it shall be transmitted to the department or agency performing the evaluation.

(b) The person signing a report or evaluation and supervising its preparation shall be a licensed mental health professional. The mental health professional may have associates or persons working under him or her who are unlicensed.

(1.2) (a) Within seven days after his or her appointment, the evaluator shall disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the

evaluator has or has had with the child, either party, the attorneys of record, or the judicial officer and, if a relationship exists, the nature of the relationship.

(b) Based on the disclosure required pursuant to paragraph (a) of this subsection (1.2), the court may, in its discretion, terminate the appointment and appoint a different evaluator in the proceedings. A party has seven days from the date of the disclosure to object to the appointment based upon information contained in the disclosure. If a party objects to the appointment, the court shall appoint a different person or confirm the appointment within seven days after the date of the party's objection. If no party timely objects to the appointment, then the appointment is deemed confirmed.

(2) In preparing the report concerning a child, the evaluator may consult any person who may have information about the child and the child's potential parenting arrangements. Upon order of the court, the evaluator may refer the child to other professional personnel for diagnosis. The evaluator may consult with and obtain information from medical, mental health, educational, or other expert persons who have served the child in the past without obtaining the consent of the parent or the person allocated parental responsibilities for the child; but the child's consent must be obtained if the child has reached the age of fifteen years unless the court finds that the child lacks mental capacity to consent. If the requirements of subsections (3) to (7) of this section are fulfilled, the evaluator's report may be received in evidence at the hearing.

(3) The evaluator shall mail the report to the court and to counsel and to any party not represented by counsel at least twenty-one days prior to the hearing. The evaluator shall make available to counsel and to any party not represented by counsel his or her file of underlying data and reports, complete texts of diagnostic reports made to the evaluator pursuant to the provisions of subsections (2), (5), and (6) of this section, and the names and addresses of all persons whom the evaluator has consulted. Any party to the proceeding may call the evaluator and any person with whom the evaluator has consulted for cross-examination. No party may waive his or her right of cross-examination prior to the hearing.

(4) A person shall not be allowed to testify regarding a parental responsibilities or parenting time evaluation that the person has performed pursuant to this section unless the court finds that the person is qualified as competent, by training and experience, in the areas of:

(a) The effects of divorce and remarriage on children, adults, and families;

(b) Appropriate parenting techniques;

(c) Child development, including cognitive, personality, emotional, and psychological development;

(d) Child and adult psychopathology;

(e) Applicable clinical assessment techniques; and

(f) Applicable legal and ethical requirements of parental responsibilities evaluation.

(5) If evaluation is indicated in an area which is beyond the training or experience of the evaluator, the evaluator shall consult with a mental health professional qualified by training or experience in that area. Such areas may include, but are not limited to, domestic violence, child abuse, alcohol or substance abuse, or psychological testing.

(6) (a) A mental health professional may make specific recommendations when the mental health professional has interviewed and assessed all parties to the dispute, assessed the quality of the relationship, or the potential for establishing a quality relationship, between the child and each of the parties, and had access to pertinent information from outside sources.

(b) A mental health professional may make recommendations even though all parties and the child have not been evaluated by the same mental health professional in the following circumstances if the mental health professional states with particularity in his or her opinion the limitations of his or her findings and recommendations:

(I) Any of the parties reside outside Colorado and it would not be feasible for all parties and the child to be evaluated by the same mental health professional; or

(II) One party refuses or is unable to cooperate with the court-ordered evaluation; or

(III) The mental health professional is a member of a team of professionals that performed the evaluation and is presenting recommendations of the team that has interviewed and assessed all parties to the dispute.

(7) (a) A written report of the evaluation shall be provided to the court and to the parties pursuant to subsection (3) of this section.

(b) The report of the evaluation shall include, but need not be limited to, the following information:

(I) A description of the procedures employed during the evaluation;

(II) A report of the data collected;

(III) A conclusion that explains how the resulting recommendations were reached from the data collected, with specific reference to criteria listed in [section 14-10-124 \(1.5\)](#), and, if applicable, to the criteria listed in [section 14-10-131](#), and their relationship to the results of the evaluation;

(IV) Recommendations concerning the allocation of parental responsibilities for the child, including decision-making responsibility, parenting time, and other considerations; and

(V) An explanation of any limitations in the evaluations or any reservations regarding the resulting recommendations.

(8) All evaluations and reports, including but not limited to supplemental evaluations and related medical and mental health information, that are submitted to the court pursuant to this section shall be deemed confidential without the necessity of filing a motion to seal or otherwise limit access to the court file under the Colorado rules of civil procedure. An evaluation or report that is deemed confidential under this subsection (8) shall not be made available for public inspection without an order of the court authorizing public inspection.