

PLEASE CHECK STATE CASE LAW AS STANDARDS FOR RELOCATION MAY BE FOUND IN CASE LAW.

**Co. Rev. Stat. Ann.**

**§ 14-10-129. Modification of parenting time.**

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**(1) (a)**

- (I)** 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. 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.
- (II)** In those cases in which a party with whom the child resides a majority of the time is seeking to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party, the court, in determining whether the modification of parenting time is in the best interests of the child, shall take into account all relevant factors, including those enumerated in paragraph (c) of subsection (2) of this section. The party who is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party shall provide the other party with written notice as soon as practicable of his or her intent to relocate, the location where the party intends to reside, the reason for the relocation, and a proposed revised parenting time plan. A court hearing on any modification of parenting time due to an intent to relocate shall be given a priority on the court's docket.

**(b)**

- (I)** 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. Nothing in this section shall be construed to affect grandparent or great-grandparent visitation granted pursuant to section 19-1-117, C.R.S.
- (II)** The provisions of subparagraph (I) of this paragraph (b) shall not apply in those cases in which a party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party.

**(1.5)** If a motion for a substantial modification of parenting time which also changes the party with whom the child resides a majority of the time has been filed, whether or not it has been granted, no subsequent motion may be filed within two years after disposition of the prior motion unless the court decides, on the basis of affidavits, that the child's present environment may endanger the child's physical health or significantly impair the child's emotional development or that the party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party.

**(2)** The court shall not modify a prior order concerning parenting time that substantially changes the parenting time as well as changes the party with whom the child resides a majority of the time unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior

decree, that a change has occurred in the circumstances of the child or the party with whom the child resides the majority of the time and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the parenting time schedule established in the prior decree unless:

- (a) The parties agree to the modification; or
- (b) The child has been integrated into the family of the moving party with the consent of the other party; or
- (c) The party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party. A court hearing on any modification of parenting time due to an intent to relocate shall be given a priority on the court's docket. In determining whether the modification of parenting time is in the best interests of the child, the court shall take into account all relevant factors, including whether a party has committed an act of domestic violence, has engaged in a pattern of domestic violence, or has a history of domestic violence, as that term is defined in section 14-10-124(1.3), which factor shall be supported by a preponderance of the evidence, and shall consider such domestic violence whether it occurred before or after the prior decree, and all other factors enumerated in section 14-10-124(1.5)(a) and:
  - (I) The reasons why the party wishes to relocate with the child;
  - (II) The reasons why the opposing party is objecting to the proposed relocation;
  - (III) The history and quality of each party's relationship with the child since any previous parenting time order;
  - (IV) The educational opportunities for the child at the existing location and at the proposed new location;
  - (V) The presence or absence of extended family at the existing location and at the proposed new location;
  - (VI) Any advantages of the child remaining with the primary caregiver;
  - (VII) The anticipated impact of the move on the child;
  - (VIII) Whether the court will be able to fashion a reasonable parenting time schedule if the change requested is permitted; and
  - (IX) Any other relevant factors bearing on the best interests of the child; or
- (d) The 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 a change of environment is outweighed by the advantage of a change to the child.

**(2.5)**

- (a) When the court restricts a party's parenting time pursuant to section 19-5-105.5, C.R.S., or section 19-5-105.7, C.R.S., or section 14-10-124(4)(a)(IV), 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. Within thirty-five days after the filing of a verified motion by the restricted party seeking a modification of parenting time, the court shall determine from the verified motion, and response to the motion, if any, whether there has been a substantial and continuing change of circumstances such that the current parenting time orders are no longer in the child's best interests, including consideration of whether the restricted parent has satisfactorily complied with any conditions set forth by the court when the court imposed the restrictions on parenting time, and either:
  - (I) Deny the motion, if there is an inadequate allegation; or
  - (II) Set the matter for hearing as expeditiously as possible with notice to the parties of the time and place of the hearing.

- (b) If the court finds that the filing of a motion under paragraph (a) of this subsection (2.5) was substantially frivolous, substantially groundless, substantially vexatious, or intended to harass or intimidate the other party, the court shall require the moving party to pay the reasonable and necessary attorney fees and costs of the other party.

**(3)**

- (a) If a parent has been convicted of any of the crimes listed in paragraph (b) of this subsection (3) or convicted in another state or jurisdiction, including but not limited to a military or federal jurisdiction, of an offense that, if committed in Colorado, would constitute any of the crimes listed in paragraph (b) of this subsection (3), or convicted of any crime in which the underlying factual basis has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., that constitutes a potential threat or endangerment to the child, the other parent, or any other person who has been granted custody of or parental responsibility for the child pursuant to court order may file an objection to parenting time with the court. The other parent or other person having custody or parental responsibility shall give notice to the offending parent of such objection as provided by the Colorado rules of civil procedure, and the offending parent shall have twenty-one days from such notice to respond. If the offending parent fails to respond within twenty-one days, the parenting time rights of such parent shall be suspended until further order of the court. If such parent responds and objects, a hearing shall be held within thirty-five days of such response. The court may determine that any offending parent who responds and objects shall be responsible for the costs associated with any hearing, including reasonable attorney fees incurred by the other parent. In making such determination, the court shall consider the criminal record of the offending parent and any actions to harass the other parent and the children, any mitigating actions by the offending parent, and whether the actions of either parent have been substantially frivolous, substantially groundless, or substantially vexatious. The offending parent shall have the burden at the hearing to prove that parenting time by such parent is in the best interests of the child or children.

- (b) The provisions of paragraph (a) of this subsection (3) shall apply to the following crimes:

- (I) Murder in the first degree, as defined in section 18-3-102, C.R.S.;
- (II) Murder in the second degree, as defined in section 18-3-103, C.R.S.;
- (III) Enticement of a child, as defined in section 18-3-305, C.R.S.;
- (IV)
  - (A) Sexual assault, as described in section 18-3-402, C.R.S.; and
  - (B) Sexual assault in the first degree, as described in section 18-3-402, C.R.S., as it existed prior to July 1, 2000;
- (V) Sexual assault in the second degree, as described in section 18-3-403, C.R.S., as it existed prior to July 1, 2000;
- (VI)
  - (A) Unlawful sexual contact if the victim is compelled to submit, as described in section 18-3-404(2), C.R.S.; and
  - (B) Sexual assault in the third degree if the victim is compelled to submit, as described in section 18-3-404(2), C.R.S., as it existed prior to July 1, 2000;
- (VII) Sexual assault on a child, as defined in section 18-3-405, C.R.S.;
- (VIII) Incest, as described in section 18-6-301, C.R.S.;
- (IX) Aggravated incest, as described in section 18-6-302, C.R.S.;
- (X) Child abuse, as described in section 18-6-401(7)(a)(I) to (7)(a)(IV), C.R.S.;
- (XI) Human trafficking of a minor for sexual servitude, as described in section 18-3-504(2), C.R.S.;
- (XII) Sexual exploitation of children, as defined in section 18-6-403, C.R.S.;

- (XIII) Procurement of a child for sexual exploitation, as defined in section 18-6-404, C.R.S.;
- (XIV) Soliciting for child prostitution, as defined in section 18-7-402, C.R.S.;
- (XV) Pandering of a child, as defined in section 18-7-403, C.R.S.;
- (XVI) Procurement of a child, as defined in section 18-7-403.5, C.R.S.;
- (XVII) Keeping a place of child prostitution, as defined in section 18-7-404, C.R.S.;
- (XVIII) Pimping of a child, as defined in section 18-7-405, C.R.S.;
- (XIX) Inducement of child prostitution, as defined in section 18-7-405.5, C.R.S.;
- (XX) Patronizing a prostituted child, as defined in section 18-7-406, C.R.S.

- (c) If the party was convicted in another state or jurisdiction of an offense that, if committed in Colorado, would constitute an offense listed in subparagraphs (III) to (XX) of paragraph (b) of this subsection (3), the court shall order that party to submit to a sex-offense-specific evaluation and a parental risk assessment in Colorado and the court shall consider the recommendations of the evaluation and the assessment in any order the court makes relating to parenting time or parental contact. The convicted party shall pay for the costs of the evaluation and the assessment.
- (4) A motion to restrict parenting time or parental contact with a parent which alleges that the child is in imminent physical or emotional danger due to the parenting time or contact by the parent shall be heard and ruled upon by the court not later than fourteen days after the day of the filing of the motion. Any parenting time which occurs during such fourteen-day period after the filing of such a motion shall be supervised by an unrelated third party deemed suitable by the court or by a licensed mental health professional, as defined in section 14-10-127(1)(b). This subsection (4) shall not apply to any motion which is filed pursuant to subsection (3) of this section.
- (5) If the court finds that the filing of a motion under subsection (4) of this section was substantially frivolous, substantially groundless, or substantially vexatious, the court shall require the moving party to pay the reasonable and necessary attorney fees and costs of the other party.