

of one of the parties. *Kuyatt v. District Court*, 817 P.2d 116 (Colo. 1991).

**Where the agreement fails to expressly provide for the termination of child support or educational costs**, the court must interpret and enforce the implied obligation to render it lawful. *In re Meisner*, 807 P.2d 1205 (Colo. App. 1990); *In re Wisdom*, 833 P.2d 884 (Colo. App. 1992).

**14-10-123. Commencement of proceedings concerning allocation of parental responsibilities - jurisdiction - automatic temporary injunction - enforcement - definitions.** (1) A proceeding concerning the allocation of parental responsibilities is commenced in the district court or as otherwise provided by law:

- (a) By a parent:
  - (I) By filing a petition for dissolution or legal separation; or
  - (II) By filing a petition seeking the allocation of parental responsibilities with respect to a child in the county where the child is permanently resident or where the child is found; or
  - (III) By filing a motion seeking the allocation of parental responsibilities with respect to a child in an existing juvenile court case filed pursuant to article 4 or 6 of title 19 or article 13.5 of title 26; or
- (b) By a person other than a parent, by filing a petition seeking the allocation of parental responsibilities for the child in the county where the child is permanently resident or where the child is found, but only if the child is not in the physical care of one of the child's parents;
- (c) By a person other than a parent who has had the physical care of a child for a period of one hundred eighty-two days or more, if such action is commenced within one hundred eighty-two days after the termination of such physical care; or
- (d) By a parent or person other than a parent who has been granted custody of a child or who has been allocated parental responsibilities through a juvenile court order entered pursuant to section 19-1-104 (6), C.R.S., by filing a certified copy of the juvenile court order in the county where the child is permanently resident. Such order shall be treated in the district court as any other decree issued in a proceeding concerning the allocation of parental responsibilities.

(1.3) As used in this section, excluding subsection (1.5) of this section:

- (a) "Child" has the same meaning as set forth in section 19-1-103.
- (b) "Parent" has the same meaning as set forth in section 19-1-103.

(1.5) (a) For purposes of this subsection (1.5) only, "child" means an unmarried individual who has not attained twenty-one years of age.

(b) The court may enter an order for allocation of parental responsibilities for a child, as defined in subsection (1.5)(a) of this section, and a determination of whether the child shall be reunified with a parent or parents, when the requirements of subsection (1) of this section are met, the order is in the child's best interests, and:

- (I) The child has not attained twenty-one years of age;
- (II) The child is residing with and dependent upon a caregiver; and
- (III) A request is made for findings from the court to establish the child's eligibility for classification as a special immigrant juvenile pursuant to 8 U.S.C. sec. 1101 (a)(27)(J).

(c) If a request is made for findings from the court to establish the child's eligibility for classification as a special immigrant juvenile under federal law and the court determines there is sufficient evidence to support the findings, the court shall enter an order, including factual findings and conclusions of law, determining that:

- (I) The child has been placed under the custody of an individual appointed by the court pursuant to an order for allocation of parental responsibilities;
- (II) Reunification of the child with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found pursuant to state law. For purposes of this subsection (1.5)(c)(II), "abandonment" includes, but is not limited to, the death of one or both parents.

**When court interprets an implied obligation**, it must consider all of the provisions of the agreement as well as the circumstances at the time it was made, consonant with its dominant purpose. *In re Wisdom*, 833 P.2d 884 (Colo. App. 1992).

(III) It is not in the best interests of the child to be returned to the child's or parents' previous country of nationality or country of last habitual residence.

(1.8) The court shall make all necessary persons parties to the proceeding pursuant to the requirements of section 19-4-110 and shall make a determination pursuant to section 19-4-105 as to legal parentage.

(2) Except for a proceeding concerning the allocation of parental responsibilities commenced pursuant to paragraph (d) of subsection (1) of this section, notice of a proceeding concerning the allocation of parental responsibilities shall be given to the child's parent, guardian, and custodian or person allocated parental responsibilities, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

(2.5) Upon the filing of a petition pursuant to subsection (1) of this section, each party shall provide to the court, in the manner prescribed by the court, his or her social security number and the social security number of each child named in the petition.

(3) (a) Upon the filing of a petition concerning the allocation of parental responsibilities pursuant to this section and upon personal service of the petition and summons on a respondent or upon waiver and acceptance of service by a respondent, a temporary injunction shall be in effect against both parties:

- (I) Enjoining each party from molesting or disturbing the peace of the other party;
- (II) Restraining each party from removing a minor child who is the subject of the proceeding from the state without the consent of all other parties or an order of the court modifying the injunction; and

(III) Restraining each party, without at least fourteen days' advance notification and the written consent of all other parties or an order of the court modifying the injunction, from canceling, modifying, terminating, or allowing to lapse for nonpayment of premiums a policy of health insurance or life insurance that provides coverage to a minor child who is the subject of the proceeding or that names the minor child as a beneficiary of a policy.

(b) The provisions of the temporary injunction shall be printed upon the summons and the petition. The temporary injunction shall be in effect upon personal service of the petition and summons on a respondent or upon waiver and acceptance of service by a respondent and shall remain in effect against each party until the court enters the final decree, dismisses the petition, or enters a further order modifying the injunction. A party may apply to the court for further temporary orders pursuant to section 14-10-125, an expanded temporary injunction, or modification or revocation of the temporary injunction.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (3), the temporary injunction described in this subsection (3) shall not apply to a proceeding concerning the allocation of parental responsibilities commenced pursuant to paragraph (d) of subsection (1) of this section or to a proceeding concerning the allocation of parental responsibilities commenced by a parent that is governed by the automatic temporary injunction pursuant to section 14-10-107 (4)(b).

(d) For purposes of enforcing the automatic temporary injunction that becomes effective in accordance with this subsection (3), if the respondent shows a duly authorized peace officer, as described in section 16-2.5-101, C.R.S., a copy of the petition and summons filed and issued pursuant to this section, or if the petitioner shows the peace officer a copy of the petition and summons filed and issued pursuant to this section together with a certified copy of the affidavit of service of process or a certified copy of the waiver and acceptance of service, and the peace officer has cause to believe that a violation of the part of the automatic temporary injunction that enjoins a party from molesting or disturbing the peace of the other party has occurred, the peace officer shall use every reasonable means to enforce that part of the injunction against the petitioner or respondent, as applicable. A peace officer shall not be held civilly or criminally liable for his or her actions pursuant to this subsection (3) if the peace officer acts in good faith and without malice.

Source: L. 71: R&RE, p. 529, § 1. C.R.S. 1963: § 46-1-23. L. 73: p. 554, § 10. L. 97: Entire section amended, p. 515, § 1, effective July 1. L. 98: Entire section amended, p. 1377, § 3, effective February 1, 1999. L. 2010: (3) added, (HB 10-1097), ch. 39, p. 159, § 2, effective August 15. L. 2011: (2.5) added, (SB 11-123), ch. 46, p. 119, § 3,