

therapists for any parent or child, the department of human services, parenting time supervisors, school personnel, or other lay witnesses.

(IV) The child's adjustment to his or her home, school, and community;

(V) The mental and physical health of all individuals involved, except that a disability alone shall not be a basis to deny or restrict parenting time;

(VI) The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party; except that, if the court determines that a party is acting to protect the child from witnessing domestic violence or from being a victim of child abuse or neglect or domestic violence, the party's protective actions shall not be considered with respect to this factor;

(VII) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support;

(VIII) The physical proximity of the parties to each other as this relates to the practical considerations of parenting time;

(IX) and (X) Repealed.

(XI) The ability of each party to place the needs of the child ahead of his or her own needs.

(a.5) In determining the best interests of the child for purposes of parenting time, the court shall strive not to consider as a relevant factor information or recommendations that are biased, including bias regarding religion, gender, gender identity, gender expression, sexual orientation, culture, race, ethnicity, national origin, or disability.

(b) **Allocation of decision-making responsibility.** The court, upon the motion of either party or its own motion, shall allocate the decision-making responsibilities between the parties based upon the best interests of the child. In determining decision-making responsibility, the court may allocate the decision-making responsibility with respect to each issue affecting the child mutually between both parties or individually to one or the other party or any combination thereof. When a claim of child abuse or neglect or domestic violence has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child in question was conceived as a result of the sexual assault, prior to allocating decision-making responsibility, the court shall follow the provisions of subsection (4) of this section. In determining the best interests of the child for purposes of allocating decision-making responsibilities, the court shall consider, in addition to the factors set forth in paragraph (a) of this subsection (1.5), all relevant factors including:

(I) Credible evidence of the ability of the parties to cooperate and to make decisions jointly;

(II) Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support that would indicate an ability as mutual decision makers to provide a positive and nourishing relationship with the child;

(III) Whether an allocation of mutual decision-making responsibility on any one or a number of issues will promote more frequent or continuing contact between the child and each of the parties.

(IV) and (V) Repealed.

(1.7) Pursuant to section 14-10-123.4, children have the right to have the determination of matters relating to parental responsibilities based upon the best interests of the child. In contested hearings on final orders regarding the allocation of parental responsibilities, the court shall make findings on the record concerning the factors the court considered and the reasons why the allocation of parental responsibilities is in the best interests of the child.

(2) The court shall not consider conduct of a party that does not affect that party's relationship to the child.

(3) In determining parenting time or decision-making responsibilities, the court shall not presume that any person is better able to serve the best interests of the child because of that person's sex.

(3.5) A request by either party for genetic testing shall not prejudice the requesting party in the allocation of parental responsibilities pursuant to subsection (1.5) of this section.

(4) (a) When a claim of child abuse or neglect, domestic violence, or sexual assault where there is also a claim that the child was conceived as a result of the sexual assault has been made to the court, or the court has reason to believe that a party has committed child abuse or neglect, domestic violence, or sexual assault that resulted in the conception of the child, prior to allocating parental responsibilities, including parenting time and decision-making responsibility, and prior to considering the factors set forth in paragraphs (a) and (b) of subsection (1.5) of this section, the court shall consider the following factors:

(I) Whether one of the parties has committed an act of child abuse or neglect as defined in section 18-6-401, C.R.S., or as defined under the law of any state, which factor must be supported by a preponderance of the evidence. If the court finds that one of the parties has committed child abuse or neglect, then it shall not be in the best interests of the child to allocate mutual decision-making with respect to any issue over the objection of the other party or the legal representative of the child.

(II) Whether one of the parties has committed an act of domestic violence, has engaged in a pattern of domestic violence, or has a history of domestic violence, which factor must be supported by a preponderance of the evidence. If the court finds by a preponderance of the evidence that one of the parties has committed domestic violence:

(A) It shall not be in the best interests of the child to allocate mutual decision-making responsibility over the objection of the other party or the legal representative of the child, unless the court finds that there is credible evidence of the ability of the parties to make decisions cooperatively in the best interest of the child in a manner that is safe for the abused party and the child; and

(B) The court shall not appoint a parenting coordinator solely to ensure that mutual decision-making can be accomplished.

(III) Whether one of the parties has committed an act of sexual assault resulting in the conception of the child, which factor must be supported by a preponderance of the evidence. If the court finds by a preponderance of the evidence that one of the parties has committed sexual assault and the child was conceived as a result of the sexual assault, there is a rebuttable presumption that it is not in the best interests of the child to allocate sole or split decision-making authority to the party found to have committed sexual assault or to allocate mutual decision-making between a party found to have committed sexual assault and the party who was sexually assaulted with respect to any issue.

(IV) If one of the parties is found by a preponderance of the evidence to have committed sexual assault resulting in the conception of the child, whether it is in the best interests of the child to prohibit or limit the parenting time of that party with the child.

(b) The court shall consider the additional factors set forth in paragraphs (a) and (b) of subsection (1.5) of this section in light of any finding of child abuse or neglect, domestic violence, or sexual assault resulting in the conception of a child pursuant to this subsection (4).

(c) If a party is absent or leaves home because of an act or threatened act of domestic violence committed by the other party, such absence or leaving shall not be a factor in determining the best interests of the child.

(d) When the court finds by a preponderance of the evidence that one of the parties has committed child abuse or neglect, domestic violence, or sexual assault resulting in the conception of the child, the court shall consider, as the primary concern, the safety and well-being of the child and the abused party.

(e) When the court finds by a preponderance of the evidence that one of the parties has committed child abuse or neglect, domestic violence, or sexual assault resulting in the conception of the child, in formulating or approving a parenting plan, the court shall consider conditions on parenting time that ensure the safety of the child and abused party, giving paramount consideration to the safety and the physical, mental, and emotional conditions and needs of the child and abused party. In addition to any provisions set forth in subsection (7) of this section that are appropriate, the parenting plan in these cases may include, but is not limited to, the following provisions:

(I) An order limiting contact between the parties to contact that the court deems is safe and that minimizes unnecessary communication between the parties;