

Non-Nuclear Families Change Courts

By **Rich Harris**
HARRIS LAW FIRM

As the divorce rate and the number of children being born to unmarried parents continues to rise, the face of the American family is also evolving. The traditional nuclear family, which is still the most recognized domestic model in Western society, is composed of a mother, a father and at least one biological child under age 18.

The most noticeable long-term trend among American families has been the decline of this conventional domestic unit. According to a report from the U.S. Census Bureau, the percentage of married-couple households with children under 18 declined from 45 percent in 1960 to 25.6 percent in 1990. When this figure declined to 23.5 percent in the year 2000, it was the first time that the percentage of families associated with this paradigm fell below 25 percent of all households.¹

Today's complex family units can comprise biological parents, single parents, step-parents, adoptive parents, and even psychological parents. These families represent a cultural shift toward multifaceted familial structures, and new terminology has been developed to describe the diverse types

of families: blended, multigenerational, unmarried partners, and same-sex partners. Colorado domestic law has recognized the evolution of the non-traditional family and passed legislation to address these changes.

Parental Rights for Non-Parents

In creating C.R.S. §14-10-123, the Colorado Legislature recognized the rights of non-parents who have significantly participated in raising a minor child. A person other than a parent, who has had "physical care" of a child for six months or more, may petition the court for an allocation of parental responsibilities within six months of the termination of such physical care.

Subsection (1)(c) recognizes psychological parenting, as it allows courts to consider the psychological bonds non-parents develop with children who have been in their physical possession for a significant period of time when making a best interests determination.

C.R.S. §19-10-117 specifically recognizes the rights of grandparents to petition the court for visitation with a minor child anytime parental responsibilities regarding the child are at issue. Generally, there are due process presumptions that a parent has the right to determine the scope of grandparent visitation. To rebut this, clear and convincing evidence must be submitted to the court to show that a visitation schedule with the grandparent is in the child's best interest.



Rich and Lisa Harris' six children. From top to bottom: Zach, 10; Rachel, 9; Josh, 6; Olivia, 4; Davinson, 18 months and Guimara, 2. | PHOTO COURTESY LISA HARRIS

Second-parent adoption

In 2007, Second Parent adoption legislation made it possible for children with only one legal parent to be adopted by grandparents, siblings, extended relatives, common law spouses and other adults living with the child's biological parent. Essentially, second parent adoptions permit the members of unmarried intimate or non-intimate

couples—including same-sex couples—to become co-adoptive parents.

Designated beneficiaries

In 2009, Colorado was the first state in the Nation to pass legislation giving unmarried and/or same-sex couples the right to enter into "designated beneficiary agreements," which allow any person to designate any other person (whether or not reciprocated) as the beneficiary of certain rights, benefits, and protections automatically provided to husbands and wives.

Protecting children

One particular protection children of married parents benefit from is an automatic injunction preventing the removal of the minor child from the State of Colorado during the pendency of a dissolution proceeding. No such injunction was available to children of unmarried parents during the pendency of an Allocation of Parental Responsibilities (APR) action.

In 2010, The Harris Law Firm recognized the need to close this legislative loophole. HB10-1097, which goes into effect Aug. 15, provides for an automatic temporary injunction prohibiting the removal of the children from the State of Colorado during the pendency of an APR action.

The author is the firm's president and managing partner.



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Institute Is Next Week

By **Jamie Cotten**
LAW WEEK COLORADO

DENVER — On Aug. 6, more than 270 legal professionals will learn about the changing environment of family law at the Family Law Institute 2010 conference in Steamboat Springs.

The event, hosted by the Colorado Bar Association, Continuing Legal Education Inc. in Colorado and the Metropolitan Denver Interdisciplinary Committee, lasts three days and caters to judges, attorneys, association members and nonmembers, and anyone else who is affected by or interested in family law.

In continued rough economic waters, some family law attorneys and judges have found it harder to stay afloat, and the annual family law conference committee is coming to the rescue.

The conference will focus on issues such as immigration and its affects on U.S. spouses, the lack of money available to train judges or to refinance divorcing parents' houses, and challenges in assessing the ability to parent while under the influence of medicinal marijuana.

The conference is "our state's premier family law educational opportunity," said Meredith Patrick Cord, co-chair for Family Law Institute 2010 and a family law attorney.

Cord's fellow chair and family law attorney, Richard Zuber of Zuber Family Law, said this year's conference has dedicated a day to training judges as it has become increasingly difficult to find the funds to train them elsewhere.

Although judges have been offered complimentary training by CLE in Colorado in the past, they often have to pay for their own

materials. This year though, the Civil Justice Institute awarded a grant to pay the tuition of all judges who register. As of last week, around 30 had registered, CLE in Colorado Executive Director Gary Abrams said.

The committee tries hard to make the seminars relevant, up-to-date and flexible for all attendees, Cord said. Where one family law practitioner might want to attend the "Managing Emergency Issues to Protect Kids" seminar, another might want to attend the "Bankruptcy Issues in Dissolution of Marriage Cases" seminar at the same time.

The seminars are cutting edge, said Kelly Garnsey Hubbell + Lass attorney Jeremy Ramp, noting that previous conferences have benefited him.

Ramp said he's seen more difficulties and inabilities for a spouse to pay off his or her husband or wife by refinancing on a house. Often, one spouse writing the other a hefty check settles a divorce, but not when it's becoming harder to get a loan.

"I've been amazed at how many loans have been rejected," Ramp said.

He also said there seems to be a trend toward higher crime rates with the economic downturn, which often changes the landscape of family law cases. •

— Jamie Cotten, JamieCotten@CircuitMedia.com

IF YOU GO

WHAT: Family Law Institute 2010

WHERE: Sheraton Steamboat Resort

WHEN: Aug. 6 to 8

COST TO REGISTER: \$129–\$389

REGISTRATION: By phone, fax, mail or online at www.cobar.org/cle