

HOUSE COMMITTEE OF REFERENCE REPORT

March 21, 2023

\_\_\_\_\_  
Chair of Committee

\_\_\_\_\_  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB23-1026 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, **add with amended**  
4 **and relocated provisions,** 14-10-124.4 and 14-10-124.5 as follows:

5 **14-10-124.4. Family time for grandparents or**  
6 **great-grandparents - short title - legislative declaration - definitions.**

7 (1) THE SHORT TITLE OF THIS SECTION IS THE "GRANDPARENTS' RIGHTS  
8 FOR AALIYAH AND MYAH ACT".

9 (2) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

10 (I) A CLOSE RELATIONSHIP BETWEEN GRANDPARENTS OR  
11 GREAT-GRANDPARENTS AND GRANDCHILDREN OR GREAT-GRANDCHILDREN  
12 CAN BE BENEFICIAL FOR THE HEALTH AND WELL-BEING OF  
13 GRANDCHILDREN OR GREAT-GRANDCHILDREN; AND

14 (II) GRANDPARENTS OR GREAT-GRANDPARENTS MAY PROVIDE  
15 ACCEPTANCE, PATIENCE, LOVE, STABILITY, WISDOM, AND SUPPORT TO  
16 GRANDCHILDREN OR GREAT-GRANDCHILDREN.

17 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT IT MAY BE IN  
18 THE BEST INTERESTS OF GRANDCHILDREN OR GREAT-GRANDCHILDREN FOR  
19 GRANDPARENTS OR GREAT-GRANDPARENTS TO BE GRANTED  
20 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME BECAUSE OF THE  
21 POSITIVE EFFECTS THE RELATIONSHIP MAY HAVE ON A GRANDCHILD'S OR  
22 GREAT-GRANDCHILD'S HEALTH AND WELL-BEING.

23 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
24 REQUIRES:

25 (a) "GRANDPARENT" MEANS A PERSON WHO IS THE PARENT OF A  
26 CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE CHILD BY BLOOD, IN  
27 WHOLE OR BY HALF, ADOPTION, OR MARRIAGE; EXCEPT THAT

1 "GRANDPARENT" DOES NOT INCLUDE THE PARENT OF A CHILD'S LEGAL  
2 FATHER OR MOTHER WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED  
3 IN ACCORDANCE WITH SECTIONS 19-5-101 AND 19-1-104 (1)(d).

4 (b) "GREAT-GRANDPARENT" MEANS A PERSON WHO IS THE  
5 GRANDPARENT OF A CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE  
6 CHILD BY BLOOD, IN WHOLE OR BY HALF, ADOPTION, OR MARRIAGE;  
7 EXCEPT THAT "GREAT-GRANDPARENT" DOES NOT INCLUDE THE  
8 GRANDPARENT OF A CHILD'S LEGAL FATHER OR MOTHER WHOSE PARENTAL  
9 RIGHTS HAVE BEEN TERMINATED IN ACCORDANCE WITH SECTIONS  
10 19-5-101 AND 19-1-104 (1)(d).

11 (c) "GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME" OR  
12 "GRANDPARENT FAMILY TIME" MEANS ANY FORM OF CONTACT OR  
13 ENGAGEMENT BETWEEN GRANDPARENTS OR GREAT-GRANDPARENTS AND  
14 THEIR GRANDCHILDREN OR GREAT-GRANDCHILDREN FOR THE PURPOSES OF  
15 PRESERVING AND STRENGTHENING FAMILY TIES.

16 (4) **[Formerly 19-1-117 (1)]** Any grandparent or  
17 great-grandparent of a child may, in the manner set forth in this section,  
18 seek a court order granting ~~the grandparent or great-grandparent~~  
19 reasonable ~~visitation rights~~ GRANDPARENT FAMILY TIME WITH A  
20 GRANDCHILD OR GREAT-GRANDCHILD when there is or has been a child  
21 custody case or a case concerning the allocation of parental  
22 responsibilities ~~relating to that child~~ WITH RESPECT TO THAT CHILD.  
23 Because cases arise that do not directly deal with child custody or the  
24 allocation of parental responsibilities but nonetheless have an impact on  
25 the custody of, or parental responsibilities with respect to a child, for the  
26 purposes of this section, a "case concerning the allocation of parental  
27 responsibilities with respect to a child" includes any of the following,  
28 whether or not child custody was or parental responsibilities were  
29 specifically an issue:

30 (a) ~~That~~ The marriage of the child's parents has been declared  
31 invalid or has been dissolved by a court or ~~that~~ a court has entered a  
32 decree of legal separation with regard to such marriage;

33 (b) ~~That~~ Legal custody of or parental responsibilities with respect  
34 to the child have been given or allocated to a party other than the child's  
35 parent or ~~that~~ the child has been placed outside of and does not reside in  
36 the home of the child's parent, excluding any child who has been placed  
37 for adoption or whose adoption has been legally finalized; or

38 (c) ~~That~~ The child's parent, who is the child of the grandparent or  
39 grandchild of the great-grandparent, has died.

40 (5) **[Formerly 19-1-117 (2)]** A party seeking a ~~grandchild or~~  
41 ~~great-grandchild visitation~~ GRANDPARENT FAMILY TIME order shall  
42 submit, together with ~~his or her motion for visitation~~ THE PARTY'S  
43 PETITION FOR GRANDPARENT FAMILY TIME, to the district court for the

1 district in which the child resides, an affidavit setting forth facts  
2 supporting the requested order and shall give notice, together with a copy  
3 of ~~his or her~~ THE PARTY'S affidavit, to ~~the party who has legal custody of~~  
4 ~~the child or to the party with parental responsibilities~~ EACH PARTY  
5 INVOLVED IN THE ALLOCATION OF PARENTAL RESPONSIBILITIES  
6 PROCEEDINGS as determined by a court pursuant to THIS article 10. ~~of title~~  
7 ~~14, C.R.S.~~ The party with legal custody or parental responsibilities as  
8 determined by a court pursuant to THIS article 10, ~~of title 14, C.R.S.~~ may  
9 file opposing affidavits. If neither party requests a hearing, the court shall  
10 enter an order granting ~~grandchild or great-grandchild visitation rights~~  
11 GRANDPARENT FAMILY TIME to the petitioning grandparent or  
12 great-grandparent only upon a finding that the GRANDPARENT FAMILY  
13 TIME is in the best interests of the child. A hearing ~~shall~~ MUST be held if  
14 either party so requests or if it appears to the court that it is in the best  
15 interests of the child that a hearing be held. At the hearing, parties  
16 submitting affidavits ~~shall be~~ ARE allowed an opportunity to be heard. If,  
17 at the conclusion of the hearing, the court finds it is in the best interests  
18 of the child to grant ~~grandchild or great-grandchild visitation rights~~  
19 GRANDPARENT FAMILY TIME to the petitioning grandparent or  
20 great-grandparent, the court shall enter an order granting ~~such rights~~  
21 GRANDPARENT FAMILY TIME. IN DETERMINING THE BEST INTERESTS OF THE  
22 CHILD FOR THE PURPOSE OF GRANDPARENT OR GREAT-GRANDPARENT  
23 FAMILY TIME, THE COURT SHALL PRESUME THE PARENTAL DETERMINATION  
24 REGARDING GRANDPARENT TIME IS IN THE BEST INTERESTS OF THE CHILD.  
25 A GRANDPARENT OR GREAT-GRANDPARENT MAY OVERCOME THE  
26 PRESUMPTION UPON A SHOWING BY CLEAR AND CONVINCING EVIDENCE  
27 THAT THE GRANDPARENT FAMILY TIME IS IN THE CHILD'S BEST INTERESTS.  
28 IN MAKING THIS DETERMINATION, THE COURT SHALL CONSIDER THE  
29 FACTORS DESCRIBED IN SECTION 14-10-124 (1.5)(a).

30 (6) THE COURT MAY APPOINT A LEGAL REPRESENTATIVE OF A  
31 CHILD PURSUANT TO SECTION 14-10-116 TO REPRESENT THE BEST  
32 INTERESTS OF THE CHILD IN A PROCEEDING PURSUANT TO SUBSECTION (5)  
33 OF THIS SECTION.

34 (7) **[Formerly 19-1-117 (3)]** A grandparent or great-grandparent  
35 shall not file ~~an affidavit~~ A PETITION seeking an order granting ~~grandchild~~  
36 ~~or great-grandchild visitation rights~~ GRANDPARENT FAMILY TIME more  
37 than once every two years absent a showing of good cause. If the court  
38 finds there is good cause to file more than one such ~~affidavit~~ PETITION, it  
39 shall allow ~~such additional affidavit~~ SUCH ADDITIONAL PETITION to be  
40 filed and shall consider it. The court may order reasonable attorney fees  
41 to the prevailing party. The court may not make any order restricting the  
42 movement of the child if such restriction is solely for the purpose of  
43 allowing the grandparent or great-grandparent the opportunity to exercise

1 ~~his grandchild or great-grandchild visitation rights~~ THE GRANDPARENT'S  
2 OR GREAT-GRANDPARENT'S FAMILY TIME WITH THE GRANDCHILD OR  
3 GREAT-GRANDCHILD.

4 (8) **[Formerly 19-1-117 (4)]** ~~The court may make an order~~  
5 ~~modifying or terminating grandchild or great-grandchild visitation rights~~  
6 ~~whenever such order would serve the best interests of the child~~ THE  
7 COURT MAY ESTABLISH, MODIFY, OR TERMINATE GRANDPARENT FAMILY  
8 TIME IF THE ORDER WOULD SERVE THE BEST INTERESTS OF THE CHILD.

9 (9) **[Formerly 19-1-117 (5)]** ~~Any order granting or denying~~  
10 ~~parenting time rights to the parent of a child shall not affect visitation~~  
11 ~~rights granted to a grandparent or great-grandparent pursuant to this~~  
12 ~~section~~ AN ORDER ESTABLISHING, GRANTING, OR DENYING PARENTING  
13 TIME RIGHTS TO THE PARENT OF A CHILD DOES NOT AFFECT GRANDPARENT  
14 FAMILY TIME GRANTED TO A GRANDPARENT OR GREAT-GRANDPARENT AS  
15 LONG AS THE GRANDPARENT FAMILY TIME IS IN THE BEST INTERESTS OF  
16 THE CHILD PURSUANT TO THIS SECTION.

17 (10) THIS SECTION DOES NOT AUTHORIZE VISITATION FOR A  
18 PERSON WHO IS NOT NAMED IN THE ORDER ESTABLISHING A GRANDPARENT  
19 OR GREAT-GRANDPARENT FAMILY TIME WITH THE GRANDCHILD OR  
20 GREAT-GRANDCHILD.

21 **14-10-124.5. [Formerly 19-1-117.5] Disputes concerning**  
22 **grandparent or great-grandparent family time.** (1) Upon a verified  
23 motion by a grandparent or great-grandparent who has been granted  
24 ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME or upon  
25 the court's own motion alleging that the person with legal custody or  
26 parental responsibilities of the child as determined by a court pursuant to  
27 THIS article 10 ~~of title 14, C.R.S.~~ with whom ~~visitation~~ GRANDPARENT  
28 FAMILY TIME has been granted is not complying with a grandparent or  
29 great-grandparent ~~visitation~~ FAMILY TIME order or schedule, the court  
30 shall determine from the verified motion, and response to the motion, if  
31 any, whether there has been or is likely to be a substantial and continuing  
32 noncompliance with the grandparent or great-grandparent ~~visitation~~  
33 FAMILY TIME order or schedule and either:

34 (a) Deny the motion, if there is an inadequate allegation; or

35 (b) Set the matter for hearing with notice to the grandparent or  
36 great-grandparent and the person with legal custody or parental  
37 responsibilities of the child as determined by the court of the time and  
38 place of the hearing; or

39 (c) Require said parties to seek mediation and report back to the  
40 court on the results of the mediation within sixty days. Mediation services  
41 ~~shall~~ MUST be provided in accordance with section 13-22-305. ~~C.R.S.~~ At  
42 the end of the mediation period, the court may approve an agreement  
43 reached by the parties or shall set the matter for hearing.

1 (2) After the hearing, if a court finds that the person with legal  
2 custody or parental responsibilities of the child as determined by the court  
3 has not complied with the ~~visitation~~ GRANDPARENT OR  
4 GREAT-GRANDPARENT FAMILY TIME order or schedule and has violated the  
5 court order, the court, in the best interests of the child, may issue orders  
6 which may include but need not be limited to:

7 (a) Imposing additional terms and conditions which are consistent  
8 with the court's previous order;

9 (b) Modifying the previous order to meet the best interests of the  
10 child;

11 (c) Requiring the violator to post bond or security to insure future  
12 compliance;

13 (d) Requiring that makeup ~~visitation~~ GRANDPARENT OR  
14 GREAT-GRANDPARENT FAMILY TIME be provided for the aggrieved  
15 grandparent or great-grandparent and child under the following  
16 conditions:

17 (I) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT  
18 FAMILY TIME is of the same type and duration of ~~visitation~~ GRANDPARENT  
19 OR GREAT-GRANDPARENT FAMILY TIME as that which was denied,  
20 including but not limited to ~~visitation~~ GRANDPARENT OR  
21 GREAT-GRANDPARENT FAMILY TIME during weekends, on holidays, and  
22 on weekdays and during the summer;

23 (II) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT  
24 FAMILY TIME is made up within one year after the noncompliance occurs;  
25 OR

26 (III) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT  
27 FAMILY TIME is in the manner chosen by the aggrieved grandparent or  
28 great-grandparent if it is in the best interests of the child;

29 (e) Finding the person who did not comply with the ~~visitation~~  
30 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME schedule in  
31 contempt of court and imposing a fine or jail sentence; AND

32 (f) Awarding to the aggrieved party, ~~where~~ WHEN appropriate,  
33 actual expenses, including attorney fees, court costs, and expenses  
34 incurred by a grandparent or great-grandparent because of the other  
35 person's failure to provide or exercise court-ordered ~~visitation~~  
36 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME. Nothing in this  
37 section ~~shall preclude~~ PRECLUDES a party's right to a separate and  
38 independent legal action in tort.

39 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
40 REQUIRES:

41 (a) "GRANDPARENT" HAS THE SAME MEANING AS SET FORTH IN  
42 SECTION 14-10-124.4.

43 (b) "GREAT-GRANDPARENT" HAS THE SAME MEANING AS SET

1 FORTH IN SECTION 14-10-124.4.

2 (c) "GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME" OR  
3 "GRANDPARENT FAMILY TIME" HAS THE SAME MEANING AS SET FORTH IN  
4 SECTION 14-10-124.4.

5 **SECTION 2.** In Colorado Revised Statutes, 14-10-129, **amend**  
6 (1)(b)(I) as follows:

7 **14-10-129. Modification of parenting time.** (1) (b) (I) The court  
8 shall not restrict a parent's parenting time rights unless it finds that the  
9 parenting time would endanger the child's physical health or significantly  
10 impair the child's emotional development. In addition to a finding that  
11 parenting time would endanger the child's physical health or significantly  
12 impair the child's emotional development, in any order imposing or  
13 continuing a parenting time restriction, the court shall enumerate the  
14 specific factual findings supporting the restriction. Nothing in this section  
15 shall be construed to affect grandparent or great-grandparent ~~visitation~~  
16 FAMILY TIME granted pursuant to ~~section 19-1-117. C.R.S.~~ SECTION  
17 14-10-124.4.

18 **SECTION 3.** In Colorado Revised Statutes, **amend** 14-10-131.8  
19 as follows:

20 **14-10-131.8. Construction of 1999 revisions.** The enactment of  
21 the 1999 revisions to this ~~article~~ ARTICLE 10 does not constitute  
22 substantially changed circumstances for the purposes of modifying  
23 decrees involving child custody, parenting time, or grandparent ~~visitation~~  
24 OR GREAT-GRANDPARENT FAMILY TIME. Any action to modify any decree  
25 involving child custody, parenting time, grandparent or great-grandparent  
26 ~~visitation~~ FAMILY TIME, or a parenting plan ~~shall be~~ IS governed by the  
27 provisions of this ~~article~~ ARTICLE 10.

28 **SECTION 4.** In Colorado Revised Statutes, 14-13-102, **amend**  
29 (3) and (4) as follows:

30 **14-13-102. Definitions.** As used in this article 13, unless the  
31 context otherwise requires:

32 (3) "Child-custody determination" means a judgment, decree, or  
33 other order of a court providing for the legal custody or physical custody  
34 of a child or allocating parental responsibilities with respect to a child or  
35 providing for visitation, parenting time, or grandparent or  
36 great-grandparent ~~visitation~~ FAMILY TIME with respect to a child. The term  
37 includes a permanent, temporary, initial, and modification order. The term  
38 does not include an order relating to child support or other monetary  
39 obligation of an individual.

40 (4) "Child-custody proceeding" means a proceeding in which legal  
41 custody or physical custody with respect to a child or the allocation of  
42 parental responsibilities with respect to a child or visitation, parenting  
43 time, or grandparent or great-grandparent ~~visitation~~ FAMILY TIME with

1 respect to a child is an issue. The term includes a proceeding for divorce,  
2 dissolution of marriage, legal separation, neglect, abuse, dependency,  
3 guardianship, paternity, termination of parental rights, and protection  
4 from domestic violence and domestic abuse, in which the issue may  
5 appear. The term does not include a proceeding involving juvenile  
6 delinquency, except when such court is entering an order to allocate  
7 parental responsibilities; contractual emancipation; or enforcement under  
8 part 3 of this article 13.

9 **SECTION 5.** In Colorado Revised Statutes, 19-1-103, **repeal**  
10 (70)(b) and (71) as follows:

11 **19-1-103. Definitions.** As used in this title 19 or in the specified  
12 portion of this title 19, unless the context otherwise requires:

13 (70) (b) ~~"Grandparent", as used in sections 19-1-117 and~~  
14 ~~19-1-117.5, has the same meaning as set forth in subsection (70)(a) of this~~  
15 ~~section; except that "grandparent" does not include the parent of a child's~~  
16 ~~legal father or mother whose parental rights have been terminated in~~  
17 ~~accordance with sections 19-5-101 and 19-1-104 (1)(d).~~

18 (71) ~~"Great-grandparent", as used in sections 19-1-117 and~~  
19 ~~19-1-117.5, means a person who is the grandparent of a child's father or~~  
20 ~~mother, who is related to the child by blood, in whole or by half,~~  
21 ~~adoption, or marriage. "Great-grandparent" does not include the~~  
22 ~~grandparent of a child's legal father or mother whose parental rights have~~  
23 ~~been terminated in accordance with sections 19-5-101 and 19-1-104~~  
24 ~~(1)(d).~~

25 **SECTION 6.** In Colorado Revised Statutes, 19-4-105.5, **amend**  
26 (5)(c)(I) introductory portion as follows:

27 **19-4-105.5. Commencement of proceedings - summons -**  
28 **automatic temporary injunction - enforcement.** (5) A summons issued  
29 upon commencement of a proceeding under this article shall contain the  
30 following advisements and notice:

31 (c) (I) That, except in proceedings initiated pursuant to ~~section~~  
32 ~~19-1-117~~ SECTION 14-10-124.4 or in proceedings initiated by a delegate  
33 child support enforcement unit, as defined in section 26-13-102.5 (1),  
34 ~~C.R.S.~~ pursuant to article 13 or 13.5 of title 26, ~~C.R.S.~~, or article 5 of title  
35 14, ~~C.R.S.~~ upon personal service of the petition and summons on a  
36 respondent or upon waiver and acceptance of service by a respondent, a  
37 temporary injunction shall be in effect against both parties:

38 **SECTION 7. Repeal of relocated provisions in this act.** In  
39 Colorado Revised Statutes, **repeal** 19-1-117 and 19-1-117.5.

40 **SECTION 8. Act subject to petition - effective date.** This act  
41 takes effect at 12:01 a.m. on the day following the expiration of the  
42 ninety-day period after final adjournment of the general assembly; except  
43 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this  
2 act within such period, then the act, item, section, or part will not take  
3 effect unless approved by the people at the general election to be held in  
4 November 2024 and, in such case, will take effect on the date of the  
5 official declaration of the vote thereon by the governor."

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