COLORADO

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American Bar Association
Standing Committee on Legal Aid and Indigent Defendants
321 N. Clark Street
Chicago, IL  60610
Phone:  312-988-5765; FAX:  312-988-5483
http://www.americanbar.org/groups/legal_aid_indigent_defendants.html

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Preface

Important Information to Read Before Using This Directory

The ABA Directory of Law Governing Appointment of Counsel in State Civil Proceedings (Directory) is a compilation of existing statutory provisions, case law, and court rules requiring or permitting judges to appoint counsel for civil litigants. The Directory consists of 51 detailed research reports—one for each state plus D.C.—that present information organized by types of civil proceedings. Prior to using the Directory, please read the Introduction, at the Directory’s home page, for the reasons behind the development of the Directory, the various sources of authority from which judicial powers to appoint counsel in civil proceedings may derive, and the structure used to organize information within each of the research reports.

Terms of Use/Disclaimers

This Directory should not be construed as providing legal advice and the ABA makes no warranties concerning the information contained therein, which has been updated to reflect the law through mid-2017. The Directory does not seek to address all conceivable subsidiary issues in each jurisdiction, but some such issues were researched and addressed, including: notification of right to counsel; standards for waiver of right to counsel; standard of review on appeal for improper denial of counsel at trial; whether “counsel” for a child means a client-directed attorney or a “best interests” attorney/attorney ad litem; and federal court decisions finding a right to counsel. Similarly, the research did not exhaustively identify all law regarding the issue of compensation of appointed counsel in each jurisdiction, though discussion of such law does appear within some of the reports.

The Directory attempts to identify as “unpublished” any court decisions not published within an official or unofficial case reporter. Discussion of unpublished cases appears only for those jurisdictions where court rules currently permit their citation in briefs or opinions. Limitations on the use of unpublished opinions vary by jurisdiction (e.g., whether unpublished cases have value as precedent), and such limits were not exhaustively researched. Users should conduct independent, jurisdiction-specific research both to confirm whether a case is published and to familiarize themselves with all rules relating to the citation and use of unpublished or unreported cases.

Acknowledgments

This Directory was a multi-year project of the ABA’s Standing Committee on Legal Aid and Indigent Defendants (SCLAID). We are indebted to our partner in this project, the National Coalition for a Civil Right to Counsel (NCCRC), for sharing the body of research that was adapted to form the Directory’s reports. The Acknowledgments, at the Directory’s home page, details additional specific contributions of the many individuals involved in this project.
Law Addressing Authorization or Requirement to Appoint Counsel in
Specific Types of Civil Proceedings

1. SHELTER

State Statutes and Court Decisions Interpreting Statutes

Colorado provides a discretionary appointment system for both indigent plaintiffs and
indigent defendants in discriminatory housing practice cases. See Colo. Rev. Stat. § 24-34-
307(9.5) (“Upon application by a person alleging a discriminatory housing practice under
section 24-34-502 or a person against whom such a practice is alleged, the court may appoint
an attorney for such person . . . if in the opinion of the court such person is financially unable to
bear the costs of such action.”).

Federal Statutes and Court Decisions Interpreting Statutes

The federal Fair Housing Act, contained within Title VIII of the Civil Rights Act of 1968,
provides that “[a]n aggrieved person may commence a civil action in an appropriate United
by a person alleging a discriminatory housing practice or a person against whom such a practice
is alleged, the court may— (1) appoint an attorney for such person....” 42 U.S.C. § 3613(b).

2. SUSTENANCE

Federal Statutes and Court Decisions Interpreting Statutes

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination. While
nearly all Title VII claims are brought in federal court, the U.S. Supreme Court has specified that
state courts have concurrent jurisdiction with federal courts for Title VII claims. Yellow Freight

Title VII provides that “[u]pon application by the complainant and in such circumstances
as the court may deem just, the court may appoint an attorney for such complainant....” 42
U.S.C. 2000e-5(f)(1). In Poindexter v. FBI, the D.C. Court of Appeals observed:

Title VII's provision for attorney appointment was not included simply as an
afterthought; it is an important part of Title VII's remedial scheme, and therefore courts
have an obligation to consider requests for appointment with care. In acting on such
requests, courts must remain mindful that appointment of an attorney may be essential
for a plaintiff to fulfill “the role of ‘a private attorney general,’ vindicating a policy ‘of the highest priority.’ ... Once the plaintiff has triggered the attorney appointment provision, “courts must give serious consideration” to the plaintiff’s request ... such discretionary choices are not left to a court's 'inclination, but to its judgment; and its judgment is to be guided by sound legal principles.’... Furthermore, in exercising this discretion, the court should clearly indicate its disposition of the request for appointment and its basis for that disposition.


3. SAFETY AND/OR HEALTH

A. Domestic Violence Protection Order Proceedings

No law could be located regarding the appointment of counsel for indigent litigants in domestic violence protection order proceedings.

B. Conservatorship, Adult Guardianship, or Adult Protective Proceedings

State Statutes and Court Decisions Interpreting Statutes

Colorado law provides for court-appointed counsel in guardianship cases, both for establishment and termination. Colo. Rev. Stat. §§ 15-14-305(2) (for establishment: “The court shall appoint a lawyer to represent the respondent in the proceeding if: (a) Requested by the respondent; (b) Recommended by the visitor; or (c) The court determines that the respondent needs representation.”); Colo. Rev. Stat. 15-14-319 (right to appointed counsel in post-adjudication of guardianship of person “if the ward is not represented by a lawyer and the court determines the ward needs such representation”; unclear if appointed lawyer is paid by ward’s estate); 15-14-434(3) (right to appointed counsel in post-adjudication of guardianship of property “if the protected person is not represented by a lawyer and the court determines the protected person needs such representation”).

1 In Department of Institutions, Grand Junction Regional Center v. Carothers, 821 P.2d 891, 893 (Colo. Ct. App. 1991), the court rejected the contention that it was an abuse of discretion for a district court to appoint both a GAL and an attorney. The court first noted, “the authority to appoint legal counsel does not limit the probate court’s power to appoint a GAL,” and then held, “[t]he GAL’s primary obligation is to act as a special fiduciary and to make informed decisions for the incapacitated person, while an attorney must counsel and represent the incapacitated person’s legal interests .... Here, it is undisputed that Jenny did not understand the nature and significance of the proceeding, could not make decisions on her own behalf, and did not possess the ability to communicate with and act on the advice of counsel. It is also uncontested that Jenny’s GAL did not undertake representation of her legal interests which, in a proceeding instituted to gain permission to withhold life sustaining treatment, was an overriding concern. Under these circumstances, the probate court did not abuse its discretion when it determined
C. Civil Commitment or Involuntary Mental Health Treatment Proceedings

State Statutes and Court Decisions Interpreting Statutes

Colorado statutes provide that those individuals involuntarily committed for seventy-two hours be granted court-appointed counsel. Colo. Rev. Stat. § 27-65-106(10) ("Whenever a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility, he or she shall be advised by the facility director or his or her duly appointed representative of his or her right to retain and consult with any attorney at any time and that, if he or she cannot afford to pay an attorney, upon proof of indigency, one will be appointed by the court without cost."). Similarly, Colorado statutes provide a right to court-appointed counsel for individuals involuntarily committed to alcohol treatment facilities. Id. at § 27-81-111(6) ("Whenever a person is involuntarily detained pursuant to this section, he or she shall immediately be advised . . . of his or her right to challenge such detention by application to the courts for a writ of habeas corpus, to be represented by counsel at every stage of any proceedings relating to his or her commitment and recommitment, and to have counsel appointed by the court or provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel."). Additionally, an indigent, involuntarily committed patient has a statutory right to counsel at hearings involving nonconsensual antipsychotic medication treatment. Id. at 27-65-107(5) ("Whenever a certification is filed with the court, the court, if it has not already done so under section 27-65-106 (10), shall forthwith appoint an attorney to represent the respondent. The court shall determine whether the respondent is able to afford an attorney. If the respondent cannot afford counsel, the court shall appoint either counsel from the legal services program operating in that jurisdiction or private counsel to represent the respondent."); People ex rel. Ofengand, 183 P.3d 688, 692 (Colo. Ct. App. 2008) ("Pursuant to these procedures, an indigent, involuntarily committed patient has a statutory right to counsel at hearings involving nonconsensual antipsychotic medication treatment.").

D. Sex Offender Proceedings

No law could be located regarding the appointment of counsel for indigent civil litigants in sex offender proceedings. However, this jurisdiction might not have a mechanism for confining sexually dangerous/violent persons.

E. Involuntary Quarantine, Inoculation, or Sterilization Proceedings

that Jenny's various interests would best be served by appointing legal counsel in addition to a GAL in the guardianship proceeding." Id.
Developmentally disabled persons whose guardians have petitioned the court for an order to have them sterilized are granted the statutory right to a court-appointed attorney. Colo. Rev. Stat. § 25.5-10-233(2) (“Upon petition to the court, the court shall appoint an attorney who will represent the interests of the person with an intellectual and developmental disability . . . .”).

4. CHILD CUSTODY

A. Appointment of Counsel for Parent – State-Initiated Proceedings

State Statutes and Court Decisions Interpreting Statutes

The right to court-appointed counsel for parents exists in dependency and neglect proceedings, as well as in termination of parental rights proceedings. See Colo. Rev. Stat. § 19-3-202(1) (for dependency/neglect proceedings: “At the first appearance of a respondent parent, guardian, or legal custodian, the court shall fully advise the respondent of his or her legal rights, including the right to a jury trial, the right to be represented by counsel at every stage of the proceedings, and the right to seek the appointment of counsel through the office of respondent parents’ counsel, if the party is unable financially to secure counsel on his or her own.”); id. at § 19-3-602(2) (“After a motion for termination of a parent-child legal relationship is filed pursuant to this part 6, the parent or parents shall be advised of the right to counsel if not already represented by counsel of record; and counsel shall be appointed in accordance with the provisions of section 19-1-105.”); see also People ex rel. Z.P., 167 P.3d 211, 213 (Colo. Ct. App. 2007) (“An indigent parent has a statutory right to court appointed counsel in a dependency and neglect proceeding.”).

In In re J.B., the Court of Appeals relied exclusively on statutory interpretation in determining that a mother’s rights were violated when she was not provided counsel to represent her in custody review hearings for her dependent child, although she was provided counsel during the ultimate termination hearing. 702 P.2d 753 (Colo. Ct. App. 1985). The court limited its analysis of the parent’s right to counsel to the Colorado Children’s Code, which mandated (1) that a parent had the right to be represented by counsel “at every stage of the proceedings,” (2) that, upon the parent’s request in a dependency or neglect proceeding in which the termination of the parent-child legal relationship is stated as a possible remedy in the summons and the parent is found to be indigent, the court “shall appoint counsel for the parent,” and (3) that “the appointment of counsel . . . . shall continue until such time as the court’s jurisdiction is terminated, or until such time as the court finds that . . . . [the] parents . . . . [have] sufficient financial means to retain counsel.” Id. at 754 (citing Colo. Rev. Stat. § 19-1-106(1)(a),(d),(f) (emphases in original)). The court first noted that because “[p]roceedings in dependency or neglect affect important rights . . . there must be substantial compliance with
statutory requirements for the conduct of those proceedings.” *Id.* (citing *People in Interest of A.M.D.*, 648 P.2d 625 (Colo. 1982)). The court then found that the legislature’s use of the term “shall” indicated that, under the statutes at issue, the provision of counsel was mandatory upon the parent’s request, and that the court’s failure to provide counsel for a portion of the review proceedings in the instant case did not “constitute substantial compliance” with the statute. *Id.* at 755. On the other hand, “we do not construe § 19–3–602(2) to require a trial court to appoint counsel, sua sponte, for any parent who does not have an attorney at the time a motion to terminate is filed and who thereafter made no request for an appointment of counsel.” *People in Interest of V.W.*, 958 P.2d 1132, 1133 (Colo. App. 1998).

**Federal Statutes and Court Decisions Interpreting Statutes**

The federal Indian Child Welfare Act (ICWA), which governs child welfare proceedings in state court, provides:

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding....Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).


**State Court Decisions Addressing Constitutional Due Process or Equal Protection**

The Colorado Supreme Court has explicitly stated that the factors articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976), must be weighed in considering whether a parent has a right to counsel in termination of parental rights cases:

Accordingly, in reviewing a respondent parent’s right to counsel, a court is to consider: whether “the parent’s interest is an extremely important one;” whether “the State shares with the parent an interest in a correct decision, has a relatively weak pecuniary

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2 While the ICWA does not appear to have a definitive statement about jurisdiction, 25 U.S.C. § 1912(b) refers to state law not providing for appointment of counsel. Additionally, 25 U.S.C. § 1912(b) states: “In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child’s tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention.” These provisions, plus the fact that child welfare proceedings typically occur in state court, suggest that ICWA applies in state law proceedings.
interest, and, in some but not all cases, has a possibly stronger interest in informal procedures;” and whether “the complexity of the proceeding and the incapacity of the uncounseled parent could be, but would not always be, great enough to make the risk of an erroneous deprivation of the parent’s rights insupportably high.”

C.S. v. People, 83 P.3d 627, 636 (Colo. 2004) (citing Lassiter v. Dep’t of Social Services, 452 U.S. 18); see also People ex rel. Z.P., 167 P.3d 211, 213 (Colo. Ct. App. 2007) (balancing Lassiter/ Mathews factors to determine whether parent had due process right to counsel at termination proceeding). “Hence, due process requires the appointment of counsel only where the parent’s interests are at her strongest, where the state’s interests are at their weakest, and the risks of error are at their peak.” C.S., 83 P.3d at 636-37. Though the court admitted that the mother’s interests in the proceeding were “extremely important,” it stated that “[b]ecause a parent’s right to counsel in a termination proceeding is a statutory right and not a constitutional one, it can be outweighed by considerations of finality, and, most importantly, the best interests of the children.” Id. at 630-31. It ultimately concluded that the “simplicity of the hearing and the weight of the evidence against [the mother] presented at the hearing were such that the absence of counsel did not render the proceeding fundamentally unfair.’ Id. at 637.

In C.S. v. People, 83 P.3d 627, 630-31 (Colo. 2004), the Colorado Supreme Court held that the district court did not abuse its discretion in allowing the mother’s statutorily-appointed counsel to withdraw just prior to the termination hearing and then denying a motion to continue the proceeding so that the mother could seek an attorney to represent her. In order to determine whether such a withdrawal was fair, the court considered whether her right to counsel was merely statutory or whether it rose to constitutional dimensions. Without stating which constitution it was referring to, the court summarily stated that “[a] parent’s right to appointed counsel in termination proceedings is secured by statute and not constitutional mandate.” Id. at 636. As support, C.S. cited only the statutes themselves and a case called People in Interest of V.A.E.Y.H.D. 605 P.2d 916, 919 (Colo. 1980). V.A.E.Y.H.D., however, stated only that “a parent has a right to counsel at a termination of parental rights hearing,” and cited to different sections of the same statute; it never held that there is no state constitutional requirement to counsel or even analyzed the state constitution at all. Id. It may be that the parent in C.S. did not raise the state constitutional issue squarely enough, but however that may be, the C.S. court either chose to forego a state constitutional analysis altogether or, in going on to analyze Lassiter v. Department of Social Services, 452 U.S. 18 (1981), implicitly extended Lassiter and Mathews to the state constitution.

In People ex rel. M.G., a dependency/neglect action, the Colorado Court of Appeals commented that “a parent has no due process right to counsel when the state seeks, not to terminate parental rights, but merely to award custody of the children to other individuals.
Although significant, the parent's interests are not as strong in this context because there is less at stake. If a parent loses custody, he or she nevertheless retains many rights, including the right to petition to regain custody or increase parenting time.” 128 P.3d 332, 334 (Colo. Ct. App. 2005) (citing L.L. v. People, 10 P.3d 1271, 1277 (Colo. 2000).

B. Appointment of Counsel for Parent—Privately Initiated Proceedings

State Court Decisions Addressing Constitutional Due Process or Equal Protection

In re C.A.O. for Adoption of G.M.R., 192 P.3d 508 (Colo. Ct. App. 2008) addressed the lack of a right to counsel in stepparent adoption proceedings. The court in C.A.O. stated that “the constitutional right to assistance of counsel is limited to adult proceedings which are criminal in nature and equivalent juvenile cases,” and cited In re Marriage of Hartley, 886 P.2d 665 (Colo. 1994) in support. Id. at 510. However, in Hartley, a dissolution case, the father had apparently relied exclusively upon Gault and other Sixth Amendment cases, and the Hartley court only addressed the applicability of the Sixth Amendment. It is unclear again whether C.A.O. was addressing both the state and federal constitutions, as the court phrased the challenge as a violation of “[the father’s] constitutional right to due process.” C.A.O., 192 P.3d at 510. After acknowledging that no statute in Colorado covered the situation, the C.A.O. court stated the holding from C.S. that “[d]ue process requires the appointment of counsel in termination proceedings initiated by the state only where the parent’s interests are at their strongest, the state’s interests are at their weakest, and the risks of error are at their peak.” Id. at 511. It noted that other states had used these factors and “applied the Lassiter factors to determine if an indigent parent is entitled to the appointment of counsel in an adoption proceeding between private individuals.” Id. It then concluded that a parent’s interest in opposing termination resulting from a stepparent adoption is “important” and that the state is an “integral part of the process because only the state can officially decree termination of the parental relationship” but hedged on the question of the risk of erroneous deprivation. Id. It then remanded to the trial court for application of the factors, as the trial court had held it had “no authority” to appoint counsel. Id. at 511-12.

C. Appointment of Counsel for Child—State-Initiated Proceedings

State Statutes and Court Decisions Interpreting Statutes

Colorado Revised Statute Section 19-3-203(1) specifies that “[u]pon the filing of a petition under section 19-3-502 that alleges abuse or neglect of a minor child, the court shall appoint a guardian ad litem” (“GAL”), while section 19-1-103(59) specifies that the GAL must be an attorney licensed to practice in Colorado.
For termination proceedings, Colo. Rev. Stat. § 19-3-602(3) states: “A guardian ad litem, who shall be an attorney and who shall be the child’s previously appointed guardian ad litem whenever possible, shall be appointed to represent the child’s best interests in any hearing determining the involuntary termination of the parent-child legal relationship. Additionally, said attorney shall be experienced, whenever possible, in juvenile law. Such representation shall continue until an appropriate permanent placement of the child is effected or until the court’s jurisdiction is terminated. If a respondent parent is a minor, a guardian ad litem shall be appointed and shall serve in addition to any counsel requested by the parent.”

**Federal Statutes and Court Decisions Interpreting Statutes**

The Indian Child Welfare Act (ICWA), which governs child welfare proceedings in state court, provides the following with regard to any removal, placement, or termination of parental rights proceeding:

The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).


The federal Child Abuse Prevention and Treatment Act (CAPTA) provides:

A State plan submitted under paragraph (1) shall contain a description of the activities that the State will carry out using amounts received under the grant to achieve the objectives of this subchapter, including— ...(B) an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes— ... (xiii) provisions and procedures requiring that in every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early

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³ While the ICWA does not appear to have a definitive statement about jurisdiction, 25 U.S.C. § 1912(b) refers to state law not providing for appointment of counsel. Additionally, 25 U.S.C. § 1912(b) states: “In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child’s tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention.” These provisions, plus the fact that child welfare proceedings typically occur in state court, suggest that ICWA applies in state law proceedings.
childhood, child, and adolescent development, and who may be an attorney or a court
appointed special advocate who has received training appropriate to that role (or both),
shall be appointed to represent the child in such proceedings."

42 U.S.C. § 5106a(b)(2).

D. Appointment of Counsel for Child—Privately Initiated Proceedings

State Statutes and Court Decisions Interpreting Statutes

Judges in Colorado have discretion to provide appointed counsel for children in
dissolution-based custody disputes: “The court may, upon the motion of either party or upon
its own motion, appoint an attorney, in good standing and licensed to practice law in the state
of Colorado, to serve as the legal representative of the child, representing the best interests of
the child in any domestic relations proceeding that involves allocation of parental
(Colo. 1994), the court found that this meant appointment of an attorney whose roles included
both advocacy for the client’s position and representation of the child’s best interests. An
attorney that is appointed pursuant to this section shall be compensated by the state if the
responsible party is indigent. “The court shall enter an order for costs, fees, and disbursements
in favor of the child’s legal representative appointed pursuant to subsection (1) of this section.
The order shall be made against any or all of the parties; except that, if the responsible parties
are determined to be indigent, the costs, fees, and disbursements shall be borne by the state.”

Judges also have discretion to appoint counsel for the child in private child guardianship
cases. Colo. Rev. Stat. § 15-14-205(3) (“If the court determines at any stage of the proceeding,
before or after appointment, that the interests of the minor are or may be inadequately
represented, it may appoint a lawyer to represent the minor, giving consideration to the choice
of the minor if the minor has attained twelve years of age.”).

State Court Decisions Addressing Constitutional Due Process or Equal Protection

In In re Marriage of Hartley, 886 P.2d 665, 675 (Colo. 1994), the court rejected the idea
that a minor in a custody dispute had a right to client-directed counsel (as opposed to the
attorney-GAL provided by statute). The court found that the GAL was required to describe
the child’s wishes and also that the court could revisit custody determinations at a later time,
therefore diminishing the child’s personal interest. Id. It also found the risk of error to be low
because “[t]he GAL’s sole duty is to protect all of the interests of the child with respect to
custody, support and parenting time, including the child's liberty interests.” Id. Finally, it
stated that the government’s interest was significant because “[a]dding another attorney to the

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case would overburden the courts and the parties by increasing costs and causing delays without significantly increasing the fairness of the proceeding.” *Id.*

5. MISCELLANEOUS

   **A. Civil Contempt Proceedings**

   **State Statutes and Court Decisions Interpreting Statutes**

   In *Vela v. District Court In and For Arapahoe County*, 664 P.2d 243, 244 (Colo. 1983), the court rejected the idea that there was statutory authority for appointment of the public defender in a civil contempt proceeding arising from domestic relations matters. The court held that the public defender statute only addressed criminal proceedings and rejected the argument that the punishment in a civil contempt was similar to a criminal proceeding, holding that “the legislature did not include contempt proceedings in the statute, and it is not for us to include them merely because the policy of the statute might support their inclusion.” *Id* at 244.

   **State Court Decisions Addressing Constitutional Due Process or Equal Protection**

   In *People v. Lucero*, 584 P.2d 1208, 1214 (Colo. 1978), the court noted that “[t]he Second, Fourth, and Ninth Circuits of the United States Court of Appeals upheld unanimously the witness’ right to counsel at these civil contempt proceedings,” and held that “the right to counsel must be extended to all contempt proceedings, whether labeled civil or criminal, which result in the imprisonment of the witness.” *Lucero*, though, was not about the right to appointed counsel; the issue was the lower court’s refusal to allow retained counsel to participate in the proceedings, although the federal cases relied upon by *Lucero* were about appointment. Later, in *Padilla v. Padilla*, 645 P.2d 1327, 1328 (Colo. Ct. App. 1982), the court of appeals found a constitutional right to counsel in contempt proceedings because in contempt proceedings “the threat of imprisonment is always present” and “[d]eprivation of liberty has the same effect on the confined person regardless of whether the proceeding is civil or criminal in nature.” *Id*. The court ultimately stated that the right to counsel “must be extended to all contempt proceedings, whether labeled civil or criminal, which result in the imprisonment of the witness . . . .” *Id*. (citing *People v. Lucero*, 584 P.2d 1208 (Colo. 1978)). The court did not explain which constitution (state or federal) it was addressing. It relied upon *Lucero* for the right to counsel in general, and upon an Eighth Circuit case for the right to appointed counsel. Given that *Lucero* and *Padilla* relied entirely on the threat of incarceration, it is likely that these holdings were undone by *Turner v. Rogers*, 131 S.Ct. 2507 (2011) (Fourteenth Amendment does not require right to counsel in civil contempt cases for failure to pay child support, at least where opponent is neither the state nor represented and matter is not “especially complex”), at least with respect to cases within *Turner’s* purview.
B. Paternity Proceedings

No law could be located regarding the appointment of counsel for indigent litigants in paternity proceedings.

C. Proceedings for Judicial Bypass of Parental Consent for Minor to Obtain an Abortion

State Statutes and Court Decisions Interpreting Statutes

Colorado provides for discretionary appointment of a guardian ad litem (GAL) and an attorney for minors seeking a judicial waiver of the parental notification requirement to have an abortion, Colo. Rev. Stat. § 12-37.5-107(2)(b).


D. Small Claims Proceedings

State Statutes and Court Decisions Interpreting Statutes

Colorado provides a statutory right to counsel in small claims cases against active military service members facing default judgments, though this right appears to have been created solely to effectuate compliance with the federal “Soldiers’ and Sailors’ Civil Relief Act of 1940,” as amended, 50 USCS § 3931, which protects absent service members from default judgments while they are serving in the military. See Colo. Rev. Stat. § 13-6-407(3) (“In any action to which the federal ‘Soldiers’ and Sailors’ Civil Relief Act of 1940,’ as amended, 50 App. U.S.C. sec. 521, is applicable, the court may enter a default against a defendant who is in the military without entering judgment, and the court shall appoint an attorney to represent the interests of the defendant prior to the entry of judgment against the defendant.”).

E. Education Proceedings

State Statutes and Court Decisions Interpreting Statutes
In proceedings under the School Attendance Law, “[i]f the court finds that it is in the best interest and welfare of the child, the court may appoint both counsel and a guardian ad litem.” Colo. Rev. Stat. § 19-1-105(2).

F. Traffic Proceedings

State Court Rules and Court Decisions Interpreting Court Rules

Co. St. Cty. Ct. Traf. Viol. Rule 7 provides: “(a) Before processing any case in a traffic violations bureau, the clerk shall ascertain that the defendant has been advised in writing of each of the following: . . . (3) The right to be represented by an attorney, and, if the defendant is indigent, to request the appointment of an attorney.” Colo. R.T.V.B. 7(a)(3).

G. Child Support Arrearages Proceedings

State Court Decisions Addressing Constitutional Due Process or Equal Protection

In a case involving a husband’s appeal of a judgment to pay child support arrearages, a Colorado court of appeals ruled that there is “no constitutional right to appointed counsel for an indigent litigant in a civil proceeding brought by a private party involving only property interests.” In re Marriage of McCue, 645 P.2d 854, 857 (Colo. Ct. App. 1982).

H. Civil Forfeiture Proceedings

State Court Decisions Addressing Constitutional Due Process or Equal Protection

In People v. Cobb, 944 P.2d 574 (Colo. Ct. App. 1997), the defendant contended that a judgment of forfeiture must be reversed because she received ineffective assistance of counsel. Id. at 576. The court stated: “The right to assistance of counsel conferred by the Sixth Amendment and Colorado Constitution Art. II, §16, applies only to persons ‘accused’ in ‘criminal prosecutions’ and to defendants in contempt proceedings who face the possibility of imprisonment.” Id. The Cobb court concluded that “[b]ased upon the civil nature of this forfeiture proceeding, ... defendant did not have a constitutional right to counsel and that ineffective assistance of counsel is therefore not a basis for overturning the judgment of forfeiture.” Cobb, 944 P.2d at 576-77.
Law Addressing an Authorization or Requirement to Appoint Counsel in Civil Proceedings Generally

Federal Statutes and Court Decisions Interpreting Statutes

The federal Servicemembers Civil Relief Act (SCRA), which applies to each state\(^4\) and to all civil proceedings (including custody),\(^5\) provides:

If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

50 USCS § 3931(b)(2).

Additionally, 50 USCS § 3932(d)(1), which also applies to all civil proceedings (including custody),\(^6\) specifies that a service member previously granted a stay may apply for an additional stay based on a continuing inability to appear, while § 3932(d)(2) states: “If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.”

\(^4\) 50 USCS § 3912(a) states, “This Act [50 USCS §§ 3901 et. seq.] applies to-- ...(2) each of the States, including the political subdivisions thereof...”

\(^5\) 50 USCS § 3931(a) states, “This section applies to any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance.”

\(^6\) 50 USCS § 3932 applies to “any civil action or proceeding, including any child custody proceeding, in which the plaintiff or defendant at the time of filing an application under this section-- (1) is in military service or is within 90 days after termination of or release from military service; and (2) has received notice of the action or proceeding.” 50 USCS § 3932(a).