

AN INTRODUCTION TO THE CHILD AND FAMILY INVESTIGATOR
Larimer County District Court

C.R.S. ' 14-10-116.5 (1). *The court may, upon the motion of either party or upon its own motion, appoint an individual to serve the court as a child and family investigator pursuant to subsection (2) of this section in a domestic relations proceeding that involves allocation of parental responsibilities. The court shall set forth the duties of such individual in a written order of appointment. The same person may not serve as both the legal representative of the child pursuant to section 14-10-116 and as the child and family investigator for the court pursuant to this section.*

What is a Child and Family Investigator?

A Child and Family Investigator (ACFI@) is someone who is appointed by the judge or magistrate in a case to investigate and make recommendations solely from the perspective of the child(ren). The CFI does not work for or represent the views of any parent or party to the case, only the child(ren). The CFI takes his/her instruction only from the judge or magistrate that appointed him/her. The Order appointing the CFI shall be specific as to what the Court is asking the CFI to investigate. Although the CFI might be a licensed attorney, he or she is not acting in that capacity per se. The CFI will not file adversarial pleadings or motions with the court but may make requests of the court if determined to be in the best interests of the child(ren). The CFI is required to make a competent investigation of the issue(s) requested by the judge/magistrate and then file a written report directly to the court which makes recommendations in the best interests of the child(ren). The CFI is required to express the wishes of the child(ren) to the court if the child(ren) makes such wishes known to the CFI.

How does the Child and Family Investigator do his/her job?

The involvement of the Child and Family Investigator is intended to be brief and focused. Any appointed Child and Family Investigator will come from a list of providers approved by the State of Colorado. Each CFI will have his/her own format for investigation but a typical investigation will include a personal interview with each parent or party requesting relief from the court and at least one personal interview with the child(ren). Often the meeting with the child(ren) will be conducted in the home where the child(ren) primarily reside or the CFI=s office. Depending upon the age and capacity of the child(ren) the CFI may request to meet with the child(ren) in each parent=s home. Following this limited investigation the CFI will prepare a written report to the court and supply a copy to each party through their counsel, if represented, or directly, if not represented. You should not expect to have access to the CFI for multiple interviews or telephone calls, because of the brief and limited nature of most Child and Family Investigator appointments.

In some cases the parties may request or the CFI may determine the need to make contact with collateral sources who have relevant information related to the child(ren) or the family. For example, the CFI may contact teachers, counselors, physicians, extended family and the like. The CFI will make such contacts and include that information in his/her report and recommendations. The CFI=s scope or duration of investigation may be extended only by an agreement (stipulation) of the parties or by a request from the CFI or the parties to the court. In either case an order extending the appointment must come from the court.

What recommendations can the Child and Family Investigator make?

The Child and Family Investigator makes recommendations which he/she believes, based upon the investigation, serve the best interests of the child(ren) for the specific issue(s) identified by the Court. Depending upon the issue(s) presented, the CFI=s recommendations may include, but are not limited to, the grant of legal decision making authority between the parties; the division of parenting time between the parties; counseling or other therapeutic intervention for the family; mediation for the family; custody evaluation; or other interventions the CFI feels are in the best interests of the child(ren).

Are recommendations of the Child and Family Investigator Orders of the Court?

No. The recommendations of the CFI are considered by the judge/magistrate as is any other evidence presented by any party. The judge/magistrate will consider the situation of the CFI which is unique in that he/she investigates, reports and makes recommendations solely from the unbiased position of and/or on behalf of the child(ren). The court is hopeful that the recommendations will assist the parties in reaching a mutual resolution to the issue(s) of the case, but the parties are not obliged to accept recommendations they disagree with. The parties still have the right to present relevant evidence to the court which will be weighed along with the evidence of the CFI=s report. The parties may request that the CFI testify at a hearing about his/her investigation and the basis for his/her recommendations to the court.

What is the cost of a Child and Family Investigator?/Who pays?

Typically, the court enters orders for payment of the Child and Family Investigator in its Order which appoints the CFI. The State of Colorado limits the maximum cost for a CFI to \$2,000.00 In Larimer County, the court will order a flat fee of \$1,600.00 and this must be paid before the CFI is required to begin work. The \$1,600.00 is intended to cover the initial investigation and report to the court. If the CFI requests additional time for investigation he/she shall make such request to the court. The judge/magistrate will make orders for additional payment if further investigation is allowed. The court will make such determination on a case by case basis.

Generally, it is the parents/parties who are ordered to pay the fees of the CFI. Child(ren) do not have resources to make payment so the fees are apportioned between the parents/parties to the case. If a party is determined by the court to be indigent, the Order apportioning fees will indicate that the party=s fees may be paid by the State of Colorado. These instances are rare, however, as the party must qualify as indigent pursuant to strict Colorado guidelines.

What if the parties do not pay the retainer fee within the time required by the Order of Appointment?

The parties will be ordered to make payment directly to the CFI within a short period of time, typically within 10 days of the order appointing the CFI. The CFI cannot begin investigation until full payment is made. If either of the parties, or both, do not make payment within the specified time period, the CFI will notify the court that he/she is unable to proceed. Because the original Order imposes a strict time frame within which the CFI shall make his/her report to the court, any delay by the parties in making payment directly interferes with the CFI=s ability to comply with the court=s direction. If the parties still desire the CFI to provide services, they need to contact the court to get direction on how to proceed. The CFI takes his/her direction only from the court. The parties and the CFI may be able to agree upon an extension of

time to proceed with the investigation and report, providing full payment of the retainer is made, but the CFI cannot proceed until the court approves such an extension.

How do parties contact the Child and Family Investigator for the first time?

The CFI will be notified by the court of his/her appointment but may not be provided with information about how to contact the parties. The parties are responsible for initiating contact with the CFI. The court or your attorney, if any, can provide you with the address and phone number to contact the CFI. The CFI will inform you how to make your payment and how to schedule your meetings with him/her. You should not expect to talk with the CFI about the case until the full retainer has been paid.

Are my meetings with the CFI confidential?

There is no attorney/client privilege between the CFI and any party, including the child(ren). Even so, it is critical that all parties and the children are as open and honest as possible with the CFI. It is the court's expectation that all parties will share all necessary and relevant information with the CFI so that he/she can do the most effective job. In making a report and recommendations, the CFI will make every attempt to present the information in a neutral, factual and non-biased way. Parties who are represented by counsel are encouraged to discuss these issues with their counsel in advance of meeting with the CFI. All parties are encouraged to discuss any questions or concerns directly with the CFI at the first meeting.

When is the Child and Family Investigator done?

The responsibility of the Child and Family Investigator to investigate and make recommendations ends with the filing of his/her report unless otherwise stipulated by the parties and/or ordered by the court.

What if one party wants the Child and Family Investigator to testify at a hearing?

Your lawyer (or you directly, if you are not represented) can arrange for the CFI to testify at your hearing, or at a deposition. The cost of preparation and appearing to testify must be paid in advance by the party who subpoenas the CFI.