

Essay Prompt 2

“1. Identify which factors the court will consider when it enters permanent orders regarding parenting time. Decision-making responsibility is not at issue.

2. Identify the risks Derrick faces if he refuses to comply with the Temporary Orders. Be sure to describe for Derrick what remedies the court can impose if he continues to refuse to comply with the existing court order.”

This short essay evaluated the applicant’s ability to identify (1) the statutory “best interests of the child” factors relevant to a parenting time determination under C.R.S. § 14-10-124(1.5)(a), and (2) legal remedies available when a parent refuses to follow a court order for parenting time. Points were allocated based on the number of best interests factors the applicant identified, whether the applicant recognized the facts relevant to the best interests analysis, and the number of legal remedies that the applicant addressed. Applicants did not have to write their answer in any particular format, but a high-scoring essay would have included all of the information listed below.

The court determines parenting time by considering the statutory “best interests of the child” factors set forth in § 14-10-124(1.5)(a). Those factors are:

- The wishes of the child's parents as to parenting time
- The wishes of the child if they are sufficiently mature to express reasoned and independent preferences as to the parenting time schedule
- The interaction and interrelationship of the child with their parents, their siblings, and any other person who may significantly affect the child's best interests
- Any report related to domestic violence
- The child's adjustment to their home, school, and community
- The mental and physical health of all individuals involved
- The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party
- Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support
- The physical proximity of the parties
- The ability of each party to place the needs of the child ahead of their own needs

Here, Takeema’s drug use history raises concerns about her physical and mental health. Takeema’s drug use history and recent failed drug test also suggest that she has trouble putting the child’s needs first. In particular, Takeema’s decision to expose the child to Willie, who struggles with addiction, shows that she has difficulty placing the child’s needs first. However, Takeema’s completion of the rehabilitation program reveals that she is capable of placing the child’s needs first.

Although Derrick thinks he is protecting the child by withholding him from Takeema, this fact is relevant to his ability to encourage contact between Takeema and their child.

If Derrick continues not to comply with the Temporary Orders, Takeema can file a motion concerning parenting time disputes under C.R.S. § 14-10-129.5. The court can deny the motion, set it for hearing, or require the parties to mediate. If the court finds that Derrick has failed to comply with the Temporary Orders, the court can modify the order in the child's best interests. The court can also require one or both parents to take parenting classes, order family counseling, or order make-up parenting time. Last, the court can find Derrick in contempt and impose contempt sanctions.