

CHAPTER 331

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 94-192

BY SENATORS Mendez, Gallagher, Hopper, Rizzuto, Ament, Bishop, Casey, Cassidy, Feeley, Johnson, Mares, Martinez, Peterson, L. Powers, Ruddick, Tanner, Thiebaut, Traylor, Wattenberg, Weissmann, and Wham;
also REPRESENTATIVES Owen, Blue, Clarke, Greenwood, Hernandez, Keller, Kerns, Knox, Linkhart, Nichol, Pierson, Reeser, Rupert, Snyder, Strom, Tucker, and Williams.

AN ACT**CONCERNING A PILOT PROGRAM FOR INTENSIVE FAMILY PRESERVATION PROGRAMS FOR JUVENILE OFFENDERS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 3 of article 11 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-312. Intensive family preservation program - juveniles sentenced to the youthful offender system - legislative declaration - development of a plan for a pilot program - duty of department - report - repeal. (1) (a) THE GENERAL ASSEMBLY DECLARES THAT JUVENILE DELINQUENCY AND VIOLENCE IS A PRESSING ISSUE IN NEED OF RESOLUTION. MANY JUVENILES CONVICTED OF CRIMES AS ADULTS ARE SENTENCED TO INCARCERATION RATHER THAN PROBATION, AND AFTER SERVING A SENTENCE OF INCARCERATION RETURN TO DYSFUNCTIONAL FAMILIES WHERE THE CYCLE OF DELINQUENCY AND VIOLENCE OFTEN ORIGINATES. THE GENERAL ASSEMBLY FURTHER DECLARES THAT, WHEN A JUVENILE HAS NOT LEARNED SELF-DISCIPLINE AND SELF-RESPECT, EFFECTIVE METHODS OF COMMUNICATION, AND RESPECT FOR THE RIGHTS AND PROPERTY OF OTHERS, IT BECOMES NECESSARY TO MAKE PROGRAMS AVAILABLE THAT FOSTER THOSE ATTRIBUTES. HOWEVER, IT IS NOT THE DUTY OF THE STATE OF COLORADO TO ADOPT THE PARENTAL ROLE WHEN A PARENT IS CAPABLE OF LEARNING AND TEACHING THESE BEHAVIORS. IT IS FISCALLY IRRESPONSIBLE AND DETRIMENTAL TO OUR SOCIETY AS A WHOLE FOR THE STATE TO TAKE ON FAMILY RESPONSIBILITIES WHEN IT IS NOT ABSOLUTELY NECESSARY.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE PROVISION OF PROPERLY TARGETED INTENSIVE FAMILY PRESERVATION SERVICES THAT ARE FAMILY-FOCUSED, SKILLS-BASED, GOAL-DRIVEN, AND COST-EFFICIENT IS LIKELY TO RESULT IN THE IMPROVEMENT OF FAMILY FUNCTIONING AND PROVIDES THE NECESSARY TRAINING FOR A JUVENILE OFFENDER TO REMAIN WITH OR REINTEGRATE INTO HIS OR HER FAMILY, THEREBY ALLOWING THE STATE TO USE ALTERNATIVES TO INCARCERATION FOLLOWED BY A JUVENILE OFFENDER'S REINTEGRATION INTO A FAMILY. IT IS FOR THIS PURPOSE THAT THE GENERAL ASSEMBLY HAS ENACTED THIS SECTION.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL DEVELOP A PLAN FOR THE IMPLEMENTATION OF A PILOT PROGRAM THAT ALLOWS FOR THE PROVISION OF INTENSIVE FAMILY PRESERVATION SERVICES FOR JUVENILES WHO: HAVE BEEN CONVICTED AS ADULTS, HAVE HAD THAT SENTENCE SUSPENDED, HAVE BEEN COMMITTED TO A DETERMINATE SENTENCE IN THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF CORRECTIONS, AND HAVE SUCCESSFULLY COMPLETED THE INSTITUTIONAL PHASE IN THE YOUTHFUL OFFENDER SYSTEM AND ARE SUBJECT TO INTENSIVE SUPERVISED COMMUNITY RELEASE AS A CONDITION OF PAROLE. THE EXECUTIVE DIRECTOR, IN DEVELOPING THE PLAN, SHALL BE GUIDED BY THE INTENSIVE FAMILY PRESERVATION PILOT PROGRAM FOR ADJUDICATED JUVENILES SET FORTH IN SECTION 19-2-705.5, C.R.S.

(3) THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT THE PLAN TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1, 1995.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1995.

SECTION 2. Part 7 of article 2 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-2-705.5. Intensive family preservation program - adjudicated juveniles - legislative declaration - pilot program - financing for program - cash fund created - report - repeal. (1) (a) THE GENERAL ASSEMBLY DECLARES THAT JUVENILE DELINQUENCY AND VIOLENCE IS A PRESSING ISSUE IN NEED OF RESOLUTION. MANY ADJUDICATED JUVENILES ARE SENTENCED OR COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, ARE OTHERWISE PLACED IN THE LEGAL CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES AND PLACED OUT OF THE HOME, OR ARE AT IMMINENT RISK OF BEING PLACED OUT OF THE HOME, AND AFTER SERVING A SENTENCE OR COMMITMENT OR AFTER PLACEMENT OUT OF THE HOME RETURN TO DYSFUNCTIONAL FAMILIES WHERE THE CYCLE OF DELINQUENCY AND VIOLENCE OFTEN ORIGINATES. THE GENERAL ASSEMBLY FURTHER DECLARES THAT, WHEN A JUVENILE HAS NOT LEARNED SELF-DISCIPLINE AND SELF-RESPECT, EFFECTIVE METHODS OF COMMUNICATION, AND RESPECT FOR THE RIGHTS AND PROPERTY OF OTHERS, IT BECOMES NECESSARY TO MAKE PROGRAMS AVAILABLE THAT FOSTER THOSE ATTRIBUTES. HOWEVER, IT IS NOT THE DUTY OF THE STATE OF COLORADO TO ADOPT THE PARENTAL ROLE WHEN A PARENT IS CAPABLE OF LEARNING AND TEACHING THESE BEHAVIORS. IT IS FISCALLY IRRESPONSIBLE AND DETRIMENTAL TO OUR SOCIETY AS A WHOLE FOR THE STATE TO TAKE ON FAMILY RESPONSIBILITIES WHEN IT IS NOT ABSOLUTELY NECESSARY.

(b) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE PROVISION OF PROPERLY TARGETED INTENSIVE FAMILY PRESERVATION SERVICES THAT ARE FAMILY-FOCUSED,

SKILLS-BASED, GOAL-DRIVEN, AND COST-EFFICIENT IS LIKELY TO RESULT IN THE IMPROVEMENT OF FAMILY FUNCTIONING AND PROVIDES THE NECESSARY TRAINING FOR AN ADJUDICATED JUVENILE TO SUCCESSFULLY REMAIN WITH OR REINTEGRATE INTO HIS OR HER FAMILY, THEREBY ALLOWING THE STATE TO USE ALTERNATIVES TO INSTITUTIONALIZATION OR OUT-OF-HOME PLACEMENTS FOLLOWED BY AN ADJUDICATED JUVENILE'S REINTEGRATION INTO A FAMILY. IT IS FOR THIS PURPOSE THAT THE GENERAL ASSEMBLY HAS ENACTED THIS SECTION.

(2) (a) ON OR BEFORE OCTOBER 1, 1994, THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT, IN CONSULTATION WITH THE COLORADO FOUNDATION FOR FAMILIES AND CHILDREN AND THE DEPARTMENT OF HUMAN SERVICES, SHALL SELECT TWO URBAN JUDICIAL DISTRICTS AND ONE RURAL JUDICIAL DISTRICT TO PARTICIPATE IN A THREE-YEAR INTENSIVE FAMILY PRESERVATION PILOT PROGRAM TO PROVIDE INTENSIVE FAMILY PRESERVATION SERVICES FOR ADJUDICATED JUVENILES. AT LEAST TWO DIVISION OF YOUTH SERVICES REGIONS SHALL BE INCLUDED IN THE JUDICIAL DISTRICTS SELECTED FOR THE PILOT PROGRAM. THE PILOT PROGRAM IS FOR ADJUDICATED JUVENILES DESCRIBED IN SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (c) OF THIS SUBSECTION (2) FROM THE JUDICIAL DISTRICTS PARTICIPATING IN THE PILOT PROGRAM WHO ARE SUBJECT TO SENTENCING IN ACCORDANCE WITH SECTION 19-2-703.

(b) ANY JUDICIAL DISTRICT THAT WISHES TO PARTICIPATE IN THE PILOT PROGRAM SHALL APPLY FOR CONSIDERATION BY SUBMITTING TO THE STATE JUDICIAL DEPARTMENT A LETTER OF INTENT TO PARTICIPATE. A JUDICIAL DISTRICT'S LETTER SHALL INCLUDE:

(I) STATEMENTS BY THE AFFECTED COUNTY DEPARTMENTS OF SOCIAL SERVICES, THE CHIEF JUDGE OF THE JUDICIAL DISTRICT, THE PLACEMENT ALTERNATIVE COMMISSIONS FOR AFFECTED COUNTIES, AND THE LOCAL JUVENILE SERVICES PLANNING COMMITTEE FOR THE JUDICIAL DISTRICT, WHICH STATEMENTS INDICATE THE WILLINGNESS OF SUCH ENTITIES TO PARTICIPATE IN THE PILOT PROGRAM; AND

(II) A COMMITMENT BY THE JUDICIAL DISTRICT TO EXPEND A PORTION OF MONEYS ALLOCATED TO THE JUDICIAL DISTRICT PURSUANT TO SECTION 19-2-1603 AND A PORTION OF MONEYS ALLOCATED TO THE JUDICIAL DISTRICT BY THE STATE JUDICIAL DEPARTMENT FOR JUVENILE SERVICES TO IMPLEMENT A PLAN FOR ADJUDICATED JUVENILES WHO, AS A CONDITION OF PROBATION, WILL BE REQUIRED TO PARTICIPATE IN THE INTENSIVE FAMILY PRESERVATION PILOT PROGRAM. THE DEPARTMENT OF HUMAN SERVICES AND THE STATE JUDICIAL DEPARTMENT SHALL DEVELOP A PLAN THAT IS CONSISTENT WITH THE CRITERIA SET FORTH IN SECTION 19-2-1602 NO LATER THAN DECEMBER 1, 1994. THE JUDICIAL DISTRICT SHALL COMMIT TO IMPLEMENT THE PLAN AS PART OF THE INTENSIVE FAMILY PRESERVATION PILOT PROGRAM NO LATER THAN JULY 1, 1995.

(c) THE JUVENILE MAY BE PLACED IN THE PILOT PROGRAM, AS FOLLOWS:

(I) (A) ON AND AFTER JULY 1, 1995, BY THE COURT IN SENTENCING THE ADJUDICATED JUVENILE, IF THE COURT FINDS THAT THE ADJUDICATED JUVENILE WOULD BENEFIT FROM THE FAMILY PRESERVATION SERVICES DESCRIBED IN SUBSECTION (4) OF THIS SECTION INSTEAD OF BEING SENTENCED OR COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES. THE COURT SHALL FOLLOW A

RECOMMENDATION MADE BY A JUVENILE PROBATION OFFICER IN A SOCIAL STUDY AND REPORT SUBMITTED IN ACCORDANCE WITH SECTION 19-1-107 FOR AN ADJUDICATED JUVENILE TO PARTICIPATE IN THE PILOT PROGRAM AS A CONDITION OF PROBATION.

(B) AS A PART OF THE SOCIAL STUDY AND REPORT PREPARED IN ACCORDANCE WITH SECTION 19-1-107, A JUVENILE PROBATION OFFICER SHALL DETERMINE WHETHER AN ADJUDICATED JUVENILE WHO MAY BE SENTENCED PURSUANT TO SECTION 19-2-703, INCLUDING ANY JUVENILE WHO MAY BE SENTENCED PURSUANT TO SECTION 19-2-805 (2) (a) (III), CAN BENEFIT FROM PARTICIPATION IN AN INTENSIVE FAMILY PRESERVATION PILOT PROGRAM AS A CONDITION OF PROBATION. IF THE JUVENILE PROBATION OFFICER DETERMINES THAT THE INTERESTS OF THE ADJUDICATED JUVENILE AND THE COMMUNITY ARE BEST SERVED BY THE JUVENILE'S PARTICIPATION IN THE PROGRAM, THE JUVENILE PROBATION OFFICER SHALL MAKE THAT RECOMMENDATION TO THE COURT.

(II) (A) BY THE COURT IN PLACING THE JUVENILE UNDER THE SUPERVISION OF THE COUNTY DEPARTMENT OF SOCIAL SERVICES AS AN ALTERNATIVE TO PLACING THE JUVENILE IN THE LEGAL CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES AND OUT OF THE JUVENILE'S HOME, IF THE COURT FINDS THAT THE JUVENILE WOULD BENEFIT FROM THE FAMILY PRESERVATION SERVICES DESCRIBED IN SUBSECTION (4) OF THIS SECTION. THE COURT SHALL FOLLOW A RECOMMENDATION MADE BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES IN A SOCIAL STUDY AND REPORT SUBMITTED IN ACCORDANCE WITH SECTION 19-1-107 FOR AN ADJUDICATED JUVENILE TO PARTICIPATE IN THE PILOT PROGRAM UNDER THE COUNTY DEPARTMENT'S SUPERVISION.

(B) AS A PART OF THE SOCIAL STUDY AND REPORT PREPARED IN ACCORDANCE WITH SECTION 19-1-107, THE COUNTY DEPARTMENT OF SOCIAL SERVICES SHALL DETERMINE WHETHER AN ADJUDICATED JUVENILE WHO MAY BE SENTENCED PURSUANT TO SECTION 19-2-703, INCLUDING ANY JUVENILE SENTENCED PURSUANT TO SECTION 19-2-805 (2) (a) (III), WHO MIGHT OTHERWISE BE PLACED IN THE LEGAL CUSTODY OF THE COUNTY DEPARTMENT OF SOCIAL SERVICES, CAN BENEFIT FROM PARTICIPATION IN AN INTENSIVE FAMILY PRESERVATION PILOT PROGRAM UNDER THE SUPERVISION OF THE COUNTY DEPARTMENT. IF THE COUNTY DEPARTMENT DETERMINES THAT THE INTERESTS OF THE ADJUDICATED JUVENILE AND THE COMMUNITY ARE BEST SERVED BY THE JUVENILE'S PARTICIPATION IN THE PROGRAM, THE COUNTY DEPARTMENT SHALL MAKE THAT RECOMMENDATION TO THE COURT.

(III) BY THE JUVENILE PAROLE BOARD UNDER WHOSE SUPERVISION A JUVENILE IS PAROLED, IF THE BOARD DETERMINES THAT THE JUVENILE WILL BENEFIT FROM IMPOSING AS A CONDITION OF PAROLE THAT THE JUVENILE PARTICIPATE IN THE INTENSIVE FAMILY PRESERVATION PILOT PROGRAM.

(d) PLACEMENT IN THE INTENSIVE FAMILY PRESERVATION PILOT PROGRAM PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2) MAY BE MADE ONLY WHEN:

(I) IT APPEARS SATISFACTORY TO THE COURT AND THE STATE JUDICIAL DEPARTMENT, THE COUNTY DEPARTMENT OF SOCIAL SERVICES, OR THE JUVENILE PAROLE BOARD, AS APPLICABLE, THAT THE ENDS OF JUSTICE AND THE BEST INTERESTS OF THE PUBLIC, AS WELL AS THE JUVENILE, WILL BE SERVED;

(II) THE JUVENILE OTHERWISE MEETS FAMILY PRESERVATION ELIGIBILITY CRITERIA ESTABLISHED BY THE DEPARTMENT OF HUMAN SERVICES, PROBATION CRITERIA ESTABLISHED BY THE STATE JUDICIAL DEPARTMENT, OR PAROLE ELIGIBILITY CRITERIA ESTABLISHED BY THE JUVENILE PAROLE BOARD, AS APPLICABLE;

(III) WITH RESPECT TO JUVENILES COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, FAMILY PRESERVATION SERVICES ARE ESSENTIAL TO A SUCCESSFUL PAROLE PROGRAM FOR THE JUVENILE; AND

(IV) THE JUVENILE AND THE APPROPRIATE MEMBERS OF THE JUVENILE'S FAMILY VOLUNTARILY AGREE TO PARTICIPATE IN THE PROGRAM.

(e) IF, AT ANY TIME, A JUVENILE FAILS TO COOPERATE OR PARTICIPATE IN THE PROGRAM, THE CONDITIONS OF THE JUVENILE'S PROBATION OR PAROLE MAY BE MODIFIED, THE JUVENILE'S PROBATION OR PAROLE MAY BE REVOKED, OR A JUVENILE UNDER THE SUPERVISION OF THE COUNTY DEPARTMENT OF SOCIAL SERVICES MAY BE RETURNED TO THE COURT FOR OUT-OF-HOME PLACEMENT.

(3) A JUVENILE ADJUDICATED FOR AN ACT THAT WOULD CONSTITUTE A CLASS 1 OR 2 FELONY IF SUCH ACT WERE COMMITTED BY AN ADULT AND WHO HAS BEEN PLACED ON PROBATION AS A RESULT OF SUCH CONVICTION IS PROHIBITED FROM PARTICIPATING IN THE PILOT PROGRAM.

(4) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH THE STATE JUDICIAL DEPARTMENT, SHALL DEVELOP AND IMPLEMENT AN INTENSIVE FAMILY PRESERVATION PILOT PROGRAM FOR ADJUDICATED JUVENILES, WHICH PROGRAM INCLUDES, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(I) SERVICES WHICH FOCUS ON FAMILY STRENGTHS AND EMPOWERING THE FAMILY THROUGH ALTERNATIVE PROBLEM-SOLVING TECHNIQUES, CHILD-REARING PRACTICES, RESPONSES TO LIVING SITUATIONS THAT CREATE STRESS UPON THE FAMILY, AND RESOURCES THAT ARE AVAILABLE AS SUPPORT SYSTEMS FOR THE FAMILY;

(II) CRISIS INTERVENTION, INCLUDING IN-HOME COUNSELING, BY A FAMILY DEVELOPMENT SPECIALIST, WHICH INTERVENTION SHALL BE AVAILABLE ON A TWENTY-FOUR-HOUR BASIS;

(III) CONCENTRATED ASSISTANCE IN THE DEVELOPMENT AND ENHANCEMENT OF PARENTING SKILLS, STRESS REDUCTION, AND PROBLEM-SOLVING FROM A FAMILY DEVELOPMENT SPECIALIST WHO SHALL CARRY A CASELOAD CONSISTING OF NO MORE THAN TWO FAMILIES;

(IV) INDIVIDUALIZED AND GROUP COUNSELING.

(b) FOR PURPOSES OF THIS SECTION, "FAMILY DEVELOPMENT SPECIALIST" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 26-5.5-104 (4) (b), C.R.S.

(c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES MAY CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY IN PROVIDING THE SERVICES DESCRIBED IN THIS SECTION. PRIORITY SHALL BE GIVEN TO VENDORS WITH QUALIFIED

AND TRAINED STAFF WHO PROVIDE THE MOST GEOGRAPHICALLY AND CULTURALLY RELEVANT SERVICES.

(5) ADJUDICATED JUVENILES WHO MEET ONE OF THE FOLLOWING CONDITIONS ARE THE TARGETED POPULATION FOR THE INTENSIVE FAMILY PRESERVATION PILOT PROGRAM:

(a) JUVENILES WHO ARE PARENTS WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED PURSUANT TO THIS TITLE;

(b) JUVENILES WITH ONE OR MORE JUVENILE SIBLINGS LIVING AT THE HOME OF THE JUVENILE'S PARENT OR GUARDIAN; OR

(c) JUVENILES WHO ARE SEVENTEEN YEARS OF AGE OR YOUNGER.

(6) THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH THE STATE JUDICIAL DEPARTMENT, SHALL CONTRACT WITH AN INDEPENDENT ENTITY TO EVALUATE ANNUALLY THE PROGRESS OF THE PILOT PROGRAM. THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH THE STATE JUDICIAL DEPARTMENT, SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 1, 1995, AND ON OR BEFORE THE FIRST OF DECEMBER EACH SUBSEQUENT YEAR, ON THE EFFECTIVENESS OF THE PROGRAM. THE DEPARTMENT SHALL BASE ITS REPORT ON THE INDEPENDENT EVALUATION AND SHALL ADDRESS THE IMPACT ON RECIDIVISM AND ADDITIONAL OUT-OF-HOME PLACEMENTS FOR JUVENILES WHO PARTICIPATE IN THE PILOT PROGRAM, PROJECTED COST-SAVINGS AND COST-AVOIDANCE, AND THE FEASIBILITY OF IMPLEMENTING THE INTENSIVE FAMILY PRESERVATION PROGRAM FOR JUVENILES STATEWIDE.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. Effective date. This act shall take effect July 1, 1994.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1994