

CHAPTER 436

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 09-245

BY SENATOR(S) Sandoval, Boyd, Newell, Tapia, Tochtrop, Keller, Williams;
also REPRESENTATIVE(S) Schafer S., Fischer, Frangas, Gagliardi, Kefalas, Labuda, McFadyen, Ryden, Solano, Todd, Apuan,
Green, Merrifield, Pommer.

AN ACT

CONCERNING CHANGES TO CONFORM TO PORTIONS OF FEDERAL PUBLIC LAW 110-351 RELATING TO KINSHIP, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 19-3-403 (3.6) (a) (III) and (3.6) (a) (IV), Colorado Revised Statutes, are amended to read:

19-3-403. Temporary custody - hearing - time limits - restriction - rules.
(3.6) (a) (III) The court shall advise the parents of the child that the child may be placed with a relative if, in the court's opinion, such placement is appropriate and in the child's best interests. The court shall order the parents to complete the form affidavit and advisement described in subparagraph (I) of this paragraph (a) no later than ~~fifteen~~ SEVEN BUSINESS DAYS after the date of the hearing or prior to the next hearing on the matter, whichever occurs first. The original completed form shall be filed with the court, AND A COPY DELIVERED TO the county department of HUMAN OR social services NO LATER THAN FIVE BUSINESS DAYS AFTER THE DATE OF THE HEARING. Each parent, the guardian ad litem, and counsel for each parent, if any, shall ALSO receive copies of the completed form. The court may advise each parent of the penalties associated with perjury and contempt of court, if necessary. EACH PARENT MAY SUGGEST AN ADULT RELATIVE OR RELATIVES WHOM HE OR SHE BELIEVES TO BE THE MOST APPROPRIATE CARETAKER OR CARETAKERS FOR THE CHILD. IF APPROPRIATE, THE CHILD OR CHILDREN SHALL BE CONSULTED REGARDING SUGGESTED RELATIVE CARETAKERS. The court shall order each parent to notify every relative who may be an appropriate relative CARETAKER for the child that failure to come forward in a timely manner may result in the child being placed permanently outside of the home of the child's relatives, if the child is not able to return to the child's home. In addition, the court shall advise each parent that failure

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

to identify these relatives in a timely manner may result in the child being placed permanently outside of the home of the child's relatives.

(IV) The court ~~may~~ SHALL order a county department of HUMAN OR social services to ~~make reasonable and timely efforts~~ EXERCISE DUE DILIGENCE to contact ~~appropriate identified~~ ALL GRANDPARENTS AND OTHER ADULT relatives within ~~ninety days after the hearing~~ THIRTY DAYS FOLLOWING THE REMOVAL OF THE CHILD AND to inform them about placement possibilities for the child, unless the court determines there is good cause not to contact or good cause to delay contacting the child's relatives, INCLUDING BUT NOT LIMITED TO FAMILY OR DOMESTIC VIOLENCE. A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL PROVIDE NOTICE TO THE RELATIVES THAT THE CHILD HAS BEEN REMOVED FROM HIS OR HER HOME; OPTIONS UNDER FEDERAL, STATE, AND LOCAL LAW TO PARTICIPATE IN THE CHILD'S CARE OR PLACEMENT; OPTIONS THAT MAY BE LOST BY FAILING TO RESPOND; AND REQUIREMENTS TO BECOME A FOSTER PARENT, AND SERVICES AND SUPPORTS AVAILABLE TO THE CHILD PLACED IN A FOSTER HOME. The county department of HUMAN OR SOCIAL SERVICES shall advise each appropriate identified relative that the possibility for placement of the child in his or her home may terminate at a future date; request each such relative who is interested in becoming a placement option for the child to come forward at the earliest possible time to seek placement of the child in his or her home and to cooperate with the county department of HUMAN OR social services to expedite procedures pertaining to the placement of the child in his or her home, if the child cannot be safely returned to the home of the child's parents. THE DEPARTMENT OF HUMAN SERVICES SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SUBPARAGRAPH (IV) AND SUBPARAGRAPH (III) OF THIS PARAGRAPH (a).

SECTION 2. Article 5 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-5-110. Kinship guardianship assistance program - rules. (1) THERE IS HEREBY ESTABLISHED A KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM IN THE STATE DEPARTMENT, REFERRED TO IN THIS SECTION AS THE "PROGRAM". ASSISTANCE FROM THE PROGRAM SHALL BE MADE AVAILABLE TO GRANDPARENTS AND OTHER PERSONS RELATED TO A CHILD WHO:

- (a) ARE COMMITTED TO THE CHILD'S OR CHILDREN'S PERMANENCY;
 - (b) WERE THE FOSTER PARENT OR PARENTS OF THE CHILD OR CHILDREN AT THE TIME THEY ASSUMED GUARDIANSHIP; AND
 - (c) HAVE ASSUMED GUARDIANSHIP OF THE CHILD OR CHILDREN.
- (2) THE STATE DEPARTMENT MAY PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION.

(3) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE STATE DEPARTMENT SHALL NOT IMPLEMENT THE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM UNLESS SECTION 3 OF SENATE BILL 09-245 IS ENACTED IN 2009 AND BECOMES LAW OR UNTIL SUCH TIME AS THE GENERAL ASSEMBLY OTHERWISE APPROPRIATES SUFFICIENT MONEYS FOR THE IMPLEMENTATION OF THE PROGRAM,

WHICHEVER OCCURS FIRST.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to the office of information technology services, for Colorado TRAILS, for the fiscal year beginning July 1, 2009, the sum of eighty-six thousand dollars (\$86,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Effective date. (1) Except as otherwise provided in subsection (2) of this section, this act shall take effect upon passage.

(2) Section 3 of this act shall take effect either upon the effective date of this act or the effective date of House Bill 09-1366, whichever is later; except that section 3 of this act shall take effect only if:

(a) House Bill 09-1366 is enacted and becomes law;

(b) The final fiscal estimate for the 2009-10 fiscal year for House Bill 09-1366, as reflected in the final fiscal analysis prepared by the legislative council staff for said act, shows an anticipated state income tax revenue gain that is equal to or greater than the general fund amount appropriated in section 3 of this act;

(c) House Bill 09-1366, as enacted, leaves unappropriated a portion of the anticipated state income tax revenue gain for the 2009-10 fiscal year that is at least equal to the general fund amount appropriated in section 3 of this act; and

(d) The staff director of the legislative council staff files written notice with the revisor of statutes no later than July 15, 2009, that the requirements set forth in paragraphs (b) and (c) of this subsection (2) have been met.

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 4, 2009