

CHAPTER 359

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 16-1448

BY REPRESENTATIVE(S) Singer, Buckner, Fields, Ginal, Kraft-Tharp, Lee, Lontine, Melton, Pettersen, Ryden, Vigil, Young; also SENATOR(S) Kefalas and Lundberg, Todd, Donovan, Garcia, Guzman, Heath, Hill, Hodge, Jahn, Johnston, Jones, Kerr, Martinez Humenik, Merrifield, Newell, Roberts, Scheffel, Steadman, Ulibarri.

AN ACT**CONCERNING THE RELATIVE GUARDIANSHIP ASSISTANCE PROGRAM.**

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 26-5-110 as follows:

26-5-110. Guardianship assistance program - legislative declaration - eligibility - rules. (1) THE GENERAL ASSEMBLY DECLARES THAT:

(a) THE STATE OF COLORADO HAS A STRONG INTEREST IN PROVIDING PERMANENCY OPTIONS TO CHILDREN WHO ARE PART OF THE FOSTER CARE SYSTEM;

(b) CHILDREN AND YOUTH IN THE CHILD WELFARE SYSTEM ARE BETTER SERVED WHEN FAMILY TIES ARE PRESERVED AND STRENGTHENED BECAUSE PERMANENT FAMILY CONNECTIONS ARE CRITICAL TO A CHILD'S OVERALL WELL-BEING AND DEVELOPMENT;

(c) THE GENERAL ASSEMBLY HAS ESTABLISHED THROUGH PAST LEGISLATION A STATUTORY PREFERENCE FOR PLACEMENT WITH RELATIVES AND KIN AT ALL STAGES OF A CHILD WELFARE CASE;

(d) TO HELP SUPPORT PERMANENCY WITH FAMILY AND KIN RELATIONSHIPS WHEN ADOPTION AND REUNIFICATION ARE EITHER UNAVAILABLE OR NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD, THE GENERAL ASSEMBLY CREATED THE "RELATIVE GUARDIANSHIP ASSISTANCE PROGRAM" IN 2010, AS AUTHORIZED BY THE FEDERAL "FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008", PUB. L. 110-351;

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

(e) THE STATE OF COLORADO HAS A STRONG INTEREST IN PROVIDING PERMANENCY OPTIONS TO CHILDREN WHO ARE PART OF THE TRADITIONAL FOSTER CARE SYSTEM AND WHO ARE NOT OTHERWISE ABLE TO BE PLACED WITH RELATIVES OR KIN;

(f) IT IS APPROPRIATE TO FURTHER THE GOAL OF PERMANENCY BY PASSING LEGISLATION TO PROVIDE FINANCIAL ASSISTANCE FOR THE CARE OF CHILDREN, WHEN IT IS IN ACCORDANCE WITH FEDERAL LAW, TO RELATIVES, KIN, AND FOSTER PARENTS WHO HAVE A SIGNIFICANT RELATIONSHIP WITH THE CHILD, AS OUTLINED IN STATUTE, AND WHO HAVE ASSUMED LEGAL GUARDIANSHIP OR ALLOCATION OF PARENTAL RESPONSIBILITIES OF CHILDREN WHO THEY PREVIOUSLY CARED FOR AS CERTIFIED FOSTER PARENTS THROUGH THE FEDERAL "TITLE IV-E ADOPTION AND GUARDIANSHIP ASSISTANCE PROGRAM", 42 U.S.C. SEC. 673 (d); AND

(g) IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE GUARDIANSHIP ASSISTANCE PROGRAM WILL BE UTILIZED TO ENHANCE FAMILY PRESERVATION AND PROVIDE A PERMANENCY OPTION FOR CHILDREN WHO HAVE DEVELOPED A SIGNIFICANT RELATIONSHIP WITH THEIR FOSTER PARENT CAREGIVER WHEN REUNIFICATION AND ADOPTION ARE EITHER UNAVAILABLE OR NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD, AND PROVIDE STABILITY IN SAFE AND STABLE PLACEMENTS WITH RELATIVES, KIN, AND FOSTER PARENT CAREGIVERS IN CIRCUMSTANCES SET FORTH IN THIS LEGISLATION.

(2) THERE IS ESTABLISHED A GUARDIANSHIP ASSISTANCE PROGRAM IN THE STATE DEPARTMENT, REFERRED TO IN THIS SECTION AS THE "PROGRAM". ASSISTANCE FROM THE PROGRAM IS AVAILABLE WHEN A COURT HAS DETERMINED THAT ADOPTION AND REUNIFICATION WITH THE CHILD'S OR CHILDREN'S PARENT OR LEGAL GUARDIAN ARE NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD OR CHILDREN. PROGRAM ASSISTANCE IS AVAILABLE IN THE FOLLOWING SITUATIONS:

(a) TO RELATIVES, KIN, AND PERSONS ASCRIBED BY THE FAMILY AS HAVING A FAMILY-LIKE RELATIONSHIP WITH THE CHILD OR CHILDREN AND WHO:

(I) ARE COMMITTED TO THE CHILD'S OR CHILDREN'S PERMANENCY;

(II) WERE THE CERTIFIED FOSTER PARENT OR PARENTS OF THE CHILD OR CHILDREN FOR A MINIMUM OF SIX CONSECUTIVE MONTHS AT THE TIME THEY ASSUMED GUARDIANSHIP OR ALLOCATION OF PARENTAL RESPONSIBILITIES; AND

(III) HAVE ASSUMED LEGAL GUARDIANSHIP OF OR ALLOCATION OF PARENTAL RESPONSIBILITIES FOR THE CHILD OR CHILDREN; OR

(b) TO A CERTIFIED FOSTER PARENT OR PARENTS WHO DO NOT OTHERWISE QUALIFY FOR THE PROGRAM PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IF:

(I) THE CHILD OR CHILDREN IN THE CERTIFIED FOSTER PARENT'S OR PARENTS' CARE ARE TWELVE YEARS OF AGE OR OLDER, OR IF AT LEAST ONE OF THE CHILDREN IN THE SIBLING GROUP IS ELEVEN YEARS OF AGE OR YOUNGER AND HAS AN OLDER SIBLING WHO RECEIVES ASSISTANCE FROM THE PROGRAM;

(II) THE DEPENDENCY AND NEGLECT COURT FINDS THAT THE CHILD OR CHILDREN HAVE A SUBSTANTIAL PSYCHOLOGICAL TIE TO THE CERTIFIED FOSTER PARENT OR PARENTS, SUCH THAT IT WOULD BE SERIOUSLY DETRIMENTAL TO THE CHILD'S OR CHILDREN'S EMOTIONAL WELL-BEING TO REMOVE THE CHILD OR CHILDREN FROM THE CERTIFIED FOSTER PARENT'S OR PARENTS' CARE, AS DESCRIBED IN SECTION 19-3-702 (5) (a) (III) AND (5) (b), C.R.S.;

(III) ADOPTION AND REUNIFICATION ARE NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD OR CHILDREN, AND THE DEPENDENCY AND NEGLECT COURT FINDS, PURSUANT TO SECTION 19-3-702 (5) (a) (III), C.R.S., THAT THE CHILD'S OR CHILDREN'S CERTIFIED FOSTER PARENT OR PARENTS ARE UNABLE TO ADOPT THE CHILD BECAUSE OF EXCEPTIONAL CIRCUMSTANCES, WHICH DO NOT INCLUDE AN UNWILLINGNESS TO ACCEPT LEGAL RESPONSIBILITY FOR THE CHILD, BUT THEY ARE WILLING AND CAPABLE OF PROVIDING THE CHILD WITH A STABLE AND PERMANENT ENVIRONMENT;

(IV) THE CERTIFIED FOSTER PARENT OR PARENTS OF THE CHILD OR CHILDREN HAVE CARED FOR THE CHILD OR CHILDREN FOR A MINIMUM OF TWELVE MONTHS; AND

(V) THE CERTIFIED FOSTER PARENT OR PARENTS HAVE ASSUMED LEGAL GUARDIANSHIP OF OR ALLOCATION OF PARENTAL RESPONSIBILITIES FOR THE CHILD OR CHILDREN WITH THE CHILD'S OR CHILDREN'S CONSENT WHO ARE TWELVE YEARS OF AGE OR OLDER.

(3) THE STATE DEPARTMENT SHALL PROMULGATE RULES THAT COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC. 673 (d) FOR THE IMPLEMENTATION OF THIS SECTION FOR SITUATIONS WHERE A CHILD OR CHILDREN HAVE BEEN REMOVED FROM THE HOME THROUGH A JUDICIAL DETERMINATION THAT CONTINUATION IN THE HOME WOULD NOT BE IN THE BEST INTEREST OF THE CHILD OR CHILDREN, AND THAT REUNIFICATION AND ADOPTION ARE NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD OR CHILDREN.

SECTION 2. Effective date. This act takes effect October 1, 2016.

SECTION 3. 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 10, 2016