

CHAPTER 112

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 93-1058

BY REPRESENTATIVES Tucker, R. Hernandez, June, Keller, Kreutz, Morrison, and Pierson;
also SENATORS Schroeder, Casey, Feeley, Hopper, Traylor, and Weissmann.

AN ACT**CONCERNING DETERMINATIONS REGARDING PLACEMENT OF A CHILD.**

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

SECTION 1. 19-1-115 (4) (c) and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-1-115. Legal custody - guardianship - placement out of the home.
(4) (c) The court shall review any decree or, if there is no objection by any party to the action, the court may, in its discretion, require an administrative review by the state department of social services of any decree entered in accordance with this subsection (4) each six months after the initial review provided in paragraph (a) of this subsection (4). ~~until the permanency planning hearing required in section 19-3-702 is completed.~~ In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review. PERIODIC REVIEWS SHALL INCLUDE THE DETERMINATIONS AND PROJECTIONS REQUIRED IN SECTION 19-3-702 (6).

(6) If the court enters an order removing a child from the home or continuing a child in a placement out of the home pursuant to this title, said order shall contain specific findings, if warranted by the evidence, as follows:

(a) That continuation of the child in the home would be contrary to the child's best interest;

(b) That reasonable efforts have been made to prevent or eliminate the need for removal of the child from the home, or that an emergency situation exists which

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

requires the immediate temporary removal of the child from the home and that it is reasonable not to make efforts to prevent removal of the child from the home due to the emergency situation; and

(c) That reasonable efforts have been made or will be made to reunite the child and the family, or that efforts to reunite the child and the family have failed; AND

(d) THAT PROCEDURAL SAFEGUARDS WITH RESPECT TO PARENTAL RIGHTS HAVE BEEN APPLIED IN CONNECTION WITH THE REMOVAL OF THE CHILD FROM THE HOME, A CHANGE IN THE CHILD'S PLACEMENT OUT OF THE HOME, AND ANY DETERMINATION AFFECTING PARENTAL VISITATION.

SECTION 2. 19-3-502 (3) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-502. Petition form and content - limitations on claims in dependency or neglect actions. (3) All petitions filed alleging the dependency or neglect of a child shall include the following statements:

(b) "If the child is placed out of the home for a period of eighteen months or longer, the court shall hold a permanency planning hearing NO LATER THAN EIGHTEEN MONTHS to determine the future status or placement of the child.";

SECTION 3. 19-3-507, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-507. Dispositional hearing. (1) After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the child and the public. Such evidence shall include, but not necessarily be limited to, the social study and other reports as provided in section 19-1-107.

(2) If the court has reason to believe that the child may have developmental disabilities, the court shall refer the child to the community centered board in the designated service area where the action is pending for an eligibility determination pursuant to article 10.5 of title 27, C.R.S. If the court has reason to believe that the child may be mentally ill, the court shall order a mental health prescreening to be conducted in any appropriate place.

(3) (a) Except as provided in section 19-3-508 (1), the court may continue the dispositional hearing, either on its own motion or on the motion of any interested party, for a reasonable period to receive reports or other evidence.

(b) If the hearing is continued, the court shall make an appropriate order for detention of the child or for ~~his~~ SUCH CHILD'S release in the custody of ~~his~~ SUCH CHILD'S parents, guardian, or other responsible person or agency under such conditions of supervision as the court may impose during the continuance.

(c) In scheduling investigations and hearings, the court shall give priority to proceedings concerning a child who is in detention or who has otherwise been removed from ~~his~~ SUCH CHILD'S home before an order of disposition has been made.

(4) In any case in which the disposition is placement out of the home, except for children committed to the department of institutions, the court shall, at the time of placement, set a review within ninety days, to determine if continued placement is necessary and is in the best interest of the child and of the community. Notice of said review shall be given by the court to all parties and to the director of the facility or agency in which the child is placed and any person who has physical custody of the child and any attorney or guardian ad litem of record. The review shall be conducted in accordance with section 19-3-701 (6).

SECTION 4. 19-3-702 (1), (2), (4), (6), and (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-3-702. Permanency planning hearing. (1) In order to provide stable permanent homes for children IN AS SHORT A TIME AS POSSIBLE, a court on its own motion or upon motion brought by any party shall conduct a permanency planning hearing if a child cannot be returned home under section 19-1-115 (4) (b) for the purpose of making a determination regarding the future status of the child. Such permanency planning hearing ~~may be held prior to~~ SHALL BE HELD AS SOON AS POSSIBLE FOLLOWING THE DISPOSITIONAL HEARING, but shall be held no later than eighteen months after the original placement and from time to time as deemed necessary by the court. The permanency planning hearing shall be combined with the six-month review as provided for in section 19-1-115 (4) (c).

(2) When the court schedules a permanency planning hearing under this section, the court shall promptly issue a notice reciting briefly the substance of the motion. The notice ~~shall be substantially in the form specified in section 19-3-502 and shall set forth the constitutional and legal rights of the child and the child's parents or guardian. The court shall send the notice to the child and his parents, guardian, and legal custodian by certified mail. Notice of the hearing shall be given by the court to the director of the facility or agency in which the child is placed and any person who has physical custody of the child and any attorney or guardian ad litem of record~~ NOTICE OF THE HEARING SHALL BE GIVEN TO THE PARENTS AND ALL PARTIES, INCLUDING THE DIRECTOR OF THE FACILITY OR AGENCY IN WHICH THE CHILD IS PLACED, AND ANY PERSON WHO HAS PHYSICAL CUSTODY OF THE CHILD. Nothing in this section shall require the presence of any person before the court unless the court so directs. The court shall order the county department of social services to develop a permanency plan for the child, which plan shall be completed and submitted to the court at least three working days in advance of the permanency planning hearing as required in this section.

(4) If the court determines that the child cannot be returned to the physical custody of ~~his~~ SUCH CHILD'S parent or guardian and that there is not a substantial probability that the child will be returned to the physical custody of ~~his~~ SUCH CHILD'S parent or guardian within six months, the court shall enter an order determining the future status or placement of the child. ANY COURT ORDER REGARDING FUTURE STATUS OR PLACEMENT OF A CHILD OUT OF THE HOME SHALL INCLUDE SPECIFIC FINDINGS CONCERNING THE PLACEMENT GOAL FOR THE CHILD. SUCH FINDINGS SHALL INCLUDE A DETERMINATION OF WHETHER THE PLACEMENT GOAL FOR THE CHILD IS THAT THE CHILD BE RETURNED TO THE PARENT, CONTINUE IN FOSTER CARE FOR A SPECIFIED PERIOD, REMAIN IN FOSTER CARE ON A PERMANENT OR LONG-TERM BASIS BECAUSE OF SPECIAL NEEDS OR CIRCUMSTANCES, BE PLACED FOR ADOPTION, BE PLACED IN LEGAL

GUARDIANSHIP OR GUARDIANSHIP OF THE PERSON, OR BE CONSIDERED FOR EMANCIPATION OR INDEPENDENT LIVING.

(6) Periodic reviews conducted by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of social services or the department of institutions, as appropriate, ~~subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the treatment plan, and the adequacy of services provided to the child. In the event that an administrative review is ordered, all counsel of record shall be notified and may appear at said review.~~ SHALL DETERMINE THE CONTINUING NECESSITY FOR AND APPROPRIATENESS OF THE PLACEMENT, THE EXTENT OF COMPLIANCE WITH THE CASE PLAN, AND THE EXTENT OF PROGRESS WHICH HAS BEEN MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING PLACEMENT IN FOSTER CARE AND SHALL PROJECT A LIKELY DATE BY WHICH THE CHILD MAY BE RETURNED TO THE HOME, PLACED FOR ADOPTION, LEGAL GUARDIANSHIP OR GUARDIANSHIP OF THE PERSON, OR BE PLACED IN ANOTHER PERMANENT PLACEMENT SETTING.

(7) ~~Permanency planning hearings need not be held if a motion for termination of the parent-child legal relationship under part 6 of this article has been filed or if an action to establish a legal guardianship or appoint a legal guardian under the "Colorado Probate Code", articles 10 to 17 of title 15, C.R.S., or a petition for legal custody pursuant to section 14-10-123, C.R.S., has been commenced.~~

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: April 19, 1993