

CHAPTER 231

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 93-1043

BY REPRESENTATIVES Anderson, Armstrong, Epps, Lyle, Pankey, and Pierson;
also SENATORS Hopper and Traylor.

AN ACT

CONCERNING METHODS FOR INVESTIGATING CHILD ABUSE REPORTS.

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

SECTION 1. 19-3-308 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - child protection team. (1) (a) The county department shall ~~make an appropriate investigation~~ **RESPOND** immediately upon receipt of any report of a known or suspected incident of intrafamilial abuse or neglect ~~TO ASSESS THE ABUSE INVOLVED AND THE APPROPRIATE RESPONSE TO THE REPORT. THE ASSESSMENT SHALL BE IN ACCORDANCE WITH RULES ADOPTED BY THE STATE BOARD OF SOCIAL SERVICES TO DETERMINE THE RISK OF HARM TO SUCH CHILD AND THE APPROPRIATE RESPONSE TO SUCH RISKS. APPROPRIATE RESPONSES SHALL INCLUDE, BUT ARE NOT LIMITED TO, SCREENING REPORTS THAT DO NOT REQUIRE FURTHER INVESTIGATION, PROVIDING APPROPRIATE INTERVENTION SERVICES, PURSUING REPORTS THAT REQUIRE FURTHER INVESTIGATION, AND CONDUCTING IMMEDIATE INVESTIGATIONS.~~ **The immediate concern of such ANY ASSESSMENT OR investigation shall be the protection of the child, AND, WHERE POSSIBLE, THE PRESERVATION OF THE FAMILY UNIT.**

(b) THE RULES REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE ADOPTED ON OR BEFORE JANUARY 1, 1994.

SECTION 2. 19-3-308.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-308.5. Recorded interviews of child. (1) (a) ~~Except as otherwise provided~~

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

~~in paragraph (b) of this subsection (1);~~ Any interview of a child conducted pursuant to section 19-3-308, concerning a report of sexual CHILD abuse, may be audiotaped or VIDEOTAPED. ~~if funds are available, such interviews may be videotaped.~~ HOWEVER, INTERVIEWS CONCERNING REPORTS OF SEXUAL CHILD ABUSE ARE STRONGLY ENCOURAGED TO BE VIDEOTAPED. ANY AUDIOTAPED OR VIDEOTAPED INTERVIEW SHALL BE CONDUCTED BY A COMPETENT INTERVIEWER FOR THE AGENCY RESPONSIBLE FOR THE INVESTIGATION IN ACCORDANCE WITH SUCH SECTION; EXCEPT THAT AN INTERVIEW SHALL NOT BE VIDEOTAPED WHEN DOING SO IS IMPRACTICABLE UNDER THE CIRCUMSTANCES OR WILL RESULT IN TRAUMA TO THE CHILD, AS DETERMINED BY THE INVESTIGATING AGENCY. NO MORE THAN ONE VIDEOTAPED INTERVIEW SHALL BE REQUIRED UNLESS THE INTERVIEWER OR THE INVESTIGATING AGENCY DETERMINES THAT ADDITIONAL INTERVIEWS ARE NECESSARY TO COMPLETE AN INVESTIGATION. ADDITIONAL INTERVIEWS SHALL BE CONDUCTED, TO THE EXTENT POSSIBLE, BY THE SAME INTERVIEWER. Such recordings shall be preserved as evidence in the manner and for a period provided by law for maintaining such evidence. In addition, access to such recordings shall be subject to the rules of discovery under the Colorado rules of criminal and civil procedure.

~~(b) If an allegation of sexual abuse arises during the course of a nontaped interview with a child, such interview may proceed with questions concerning sexual abuse without being taped.~~

(c) The provisions of this subsection (1) shall not apply to a videotaped deposition taken in accordance with and governed by section 18-3-413, C.R.S., OR SECTION 13-25-132, C.R.S., and rule 15 (d) of the Colorado rules of criminal procedure. IN ADDITION, THIS SECTION SHALL NOT APPLY TO INTERVIEWS OF THE CHILD CONDUCTED AFTER A DEPENDENCY AND NEGLECT ACTION OR A CRIMINAL ACTION HAS BEEN FILED WITH THE COURT.

~~(d) Nothing in this section shall be construed to require the audiotaping or videotaping of such interviews, except as otherwise provided in paragraph (c) of this subsection (1).~~

(e) (I) ANY AGENCY SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL PROVIDE EQUIPMENT NECESSARY TO VIDEOTAPE INTERVIEWS AND SHALL TRAIN PERSONS RESPONSIBLE FOR CONDUCTING VIDEOTAPED INTERVIEWS IN ACCORDANCE WITH THIS SECTION. THE AGENCY SHALL ADOPT STANDARDS FOR PERSONS CONDUCTING SUCH INTERVIEWS.

(II) THE STANDARDS REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) SHALL BE ADOPTED ON OR BEFORE JANUARY 1, 1994.

SECTION 3. 26-1-111 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

26-1-111. Activities of the state department. (2) The state department shall:

(q) PROMULGATE RULES IN ACCORDANCE WITH SECTION 19-3-308 (1), C.R.S., FOR DETERMINING THE RISK OF HARM TO A CHILD WHO IS THE SUBJECT OF A CHILD ABUSE AND NEGLECT REPORT SETTING FORTH THE APPROPRIATE RESPONSE BY THE COUNTY

DEPARTMENTS TO SUCH RISKS;

(r) ADOPT STANDARDS FOR CONDUCTING VIDEOTAPED CHILD ABUSE INTERVIEWS IN ACCORDANCE WITH SECTION 19-3-308.5 (1) (e), C.R.S.

SECTION 4. Effective date. Section 19-3-308 (1) (b), Colorado Revised Statutes, section 19-3-308.5 (1) (e) (II), Colorado Revised Statutes, and sections 3 through 5 of this act shall take effect upon passage, and the remainder of this act shall take effect January 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, 1993